

FACILITATING A COHERENT MIGRATION
MANAGEMENT APPROACH IN GHANA, NIGERIA,
SENEGAL AND LIBYAN ARAB JAMAHIRIYA BY
PROMOTING REGULAR MIGRATION AND
PREVENTING FURTHER IRREGULAR MIGRATION

AENEAS 2006

Labour Migration Project for West Africa
(LAMIWA)

REPORT ON THE NATIONAL ASSESSMENT OF LABOUR MIGRATION
POLICIES, LEGISLATION, PRACTICES AND STRUCTURES IN GHANA



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SOME NORMS OF SPECIAL RELEVANCE TO MIGRANTS ON THE WAY AND IN THE COUNTRY OF DESTINATION: FREEDOM OF MOVEMENT AND THE WORKING ENVIRONMENT

Universal Declaration of Human Rights, 1948

- Everyone has the right to freedom of movement and residence within the borders of each State (Article 13.1).
- Everyone has the right to leave any country, including his own, and to return to his country (Article 13.2).

(Article 23):

- Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- Everyone has the right to form and to join trade unions for the protection of his interests.

The 1992 Constitution of Ghana Section 21 (1) (g):

- All persons shall have the right to - (g) freedom of movement, which means the right to move freely in Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana.

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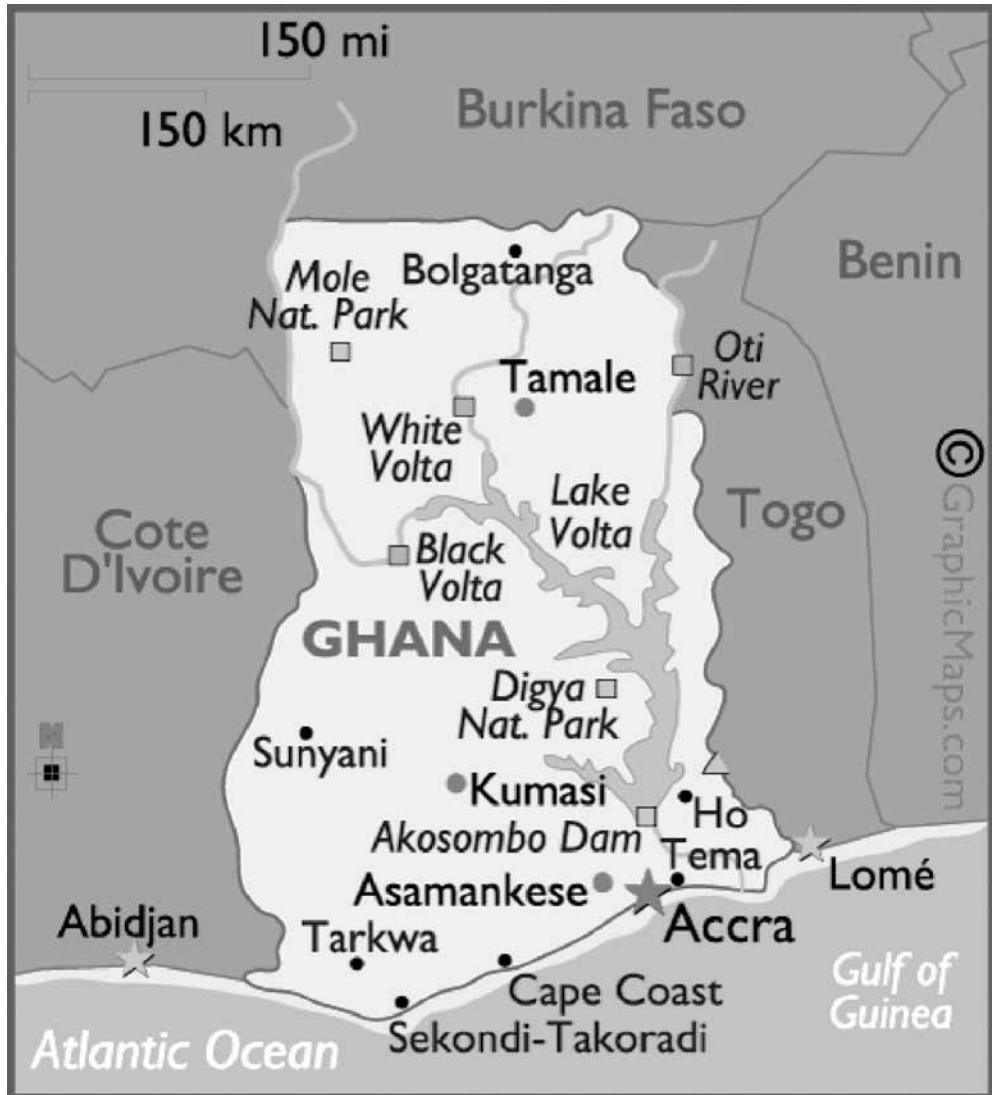
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SELECTED ACRONYMS AND ABBREVIATIONS

BOG	Bank of Ghana
BOP	Balance of Payments
CLO	Chief Labour Officer
CSO	Civil Society Organization
EI	Executive Instrument
ECOWAS	Economic Community of West African States
EU	European Union
GATS	General Agreements on Trade and Services
GHS	Ghana Health Service
GIPC	Ghana Investment Promotion Centre
GIS	Ghana Immigration Service
GLSS	Ghana Living Standards Survey
GPRS	Growth and Poverty Reduction Strategy
GSS	Ghana Statistical Service
GTUC	Ghana Trades Union Congress
ILO	International Labour Organization
IMWG	Inter-Ministerial Working Group
IOM	International Organization for Migration
LI	Legislative Instrument
LMS	Labour Market Survey
LO	Labour Officer
MDAs	Ministries, Departments and Agencies
MMDAs	Metropolitan, Municipal and District Assemblies
MESW	Ministry of Employment and Social Welfare
MOFA	Ministry of Foreign Affairs
MOFEP	Ministry of Finance and Economic Planning
MOH	Ministry of Health
MOI	Ministry of the Interior
MOTI	Ministry of Trade and Industry
MOU	Memorandum of Understanding
MOWAC	Ministry of Women and Children's Affairs
MTO	Money Transfer Organization
NGO	Non-Governmental Organization
NLC	National Labour Commission
NRGS	Non-Resident Ghanaian Secretariat
PEA	Private Employment Agency
PEC	Public Employment Centre
PNDC	Provisional National Defence Council
POEA	Philippine Overseas Employment Agency

THE COUNTRY OF GHANA AND ITS BORDERS

Ghana is located in West Africa. It is bordered on the north by Burkina Faso (formerly Dahomey), on the east by Togo, on the west by La Cote d'Ivoire, also known as Ivory Coast, and on the south by the Gulf of Guinea. The climate is tropical: warm and comparatively dry along the south-east coast, hot and humid in south-west, and hot and dry in the north.



Source: [www: GraphicMaps.com](http://www.GraphicMaps.com).

THE COUNTRY AND ITS LABOUR CONTEXT

Ghana achieved independence on 6 March 1957 and it became a Republic in July 1960. Post-independence Ghana was marked by military coups which made the country unstable. However, in 1992, Ghanaians went back to the polls to vote for a president and this began the country's journey to democratic rule. Presently, Ghana is a constitutional democracy and on 7 January 2009, the third democratically elected president of the fourth Republic was sworn into office.

System of government: Ghana operates a presidential system of government with a 230-member parliament and a Council of State which is an advisory body to the President. In Ghana, all bills have to be published in an Official Gazette to become laws. There are 10 administrative regions and 170 districts. The legal system is based on English common law and customary law.

Ghana is a dualist State in the sense that international treaties that are signed do not have automatic application in the domestic sphere. This is borne out in Article 75 of the Constitution of Ghana, which provides that treaties have to be ratified by an Act of Parliament or a Resolution of Parliament supported by more than half of its members before they are effective in Ghana. Thus, ratification is a condition precedent for the domestic application of international law.

Population and ethnic groupings: According to the Ghana Statistical Service (GSS), Ghana's total population increased from 6.7 million in 1960 to 18.9 million in 2000 (GSS, 2002). The 2008 mid-year estimates put the total population of Ghana at 22,900,927. This figure is projected to reach 23,458,811 by 2010 and further to 31,311,437 in 2025, if the current fertility level and stable mortality trends are sustained (GSS website). The 2000 Census Report revealed that females outnumber males (97.9 males to 100 females). GSS' projection indicates that the male–female ratio would increase from 97.9 males to 100 females recorded in 2000, to 99.1 males to 100 females by 2025.

The official language is English and major ethnic groups in Ghana are the Akan (accounting for 45.3% of the population), Mole Dagbane (15.2%), Ewe (11.7%), Ga Adangbe (7.3%), Guan (4%), Gurma (3.6%), Grusi (2.6%) and Mande Busanga (1%) (2000 Census Report, 2009).

Natural resources and economy: Ghana is well endowed with natural resources and its main export commodities are gold, cocoa, timber, bauxite, aluminum, manganese ore, diamond and horticulture; even so, Ghana remains heavily dependent on international financial and technical assistance. The major sources of foreign exchange are gold and cocoa production, and individual remittances. The

domestic economy continues to revolve around agriculture, which accounts for about 35 per cent of GDP and employs about 55 per cent of the workforce, mainly small landholders. An oilfield which is reported to contain up to 3 billion barrels (480,000,000 m³) of light oil was discovered in 2007. Oil exploration is ongoing, and the amount of oil continues to increase (<http://en.wikipedia.org>).

In 2002, Ghana opted for debt relief under the Heavily Indebted Poor Country (HIPC) programme and signed the Millennium Challenge Corporation (MCC) Compact in 2006, which aims to assist in transforming Ghana's agricultural sector. According to 2007 estimates, about 28.5 per cent of the population live below the poverty line (www.cia.gov/librarythe-world-factbook).

Ghana's economy is largely informal and the sector is the main source of employment. There are several small-scale enterprises in agriculture, manufacturing and services. Many informal sector operators are self-employed and account for about 22 per cent of GDP; in the non-agricultural sector, the sector's contribution accounts for about 52 per cent (trade), 28 per cent (industry), 12 per cent (services) and 8 per cent (transport). In 2000, a total of 6.7 million people were engaged by the informal sector and this represented 80 per cent of the labour force. Females accounted for 52 per cent of the 6.7 million informal sector operators (GSS, 2002).

Education: Education is a fundamental right and Section 25 (1)(a) of Ghana's 1992 Constitution states that: "All persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realization of that right – (a) basic education shall be free, compulsory and available to all".

Presently, Ghana has 18,530 primary schools, 8,850 junior secondary schools, 900 senior secondary schools, 28 training colleges, 20 technical institutions, 4 diploma-awarding institutions, 6 public universities and over 10 private universities. Most Ghanaians have relatively easy access to primary and secondary education. These numbers can be contrasted with the single university and handful of secondary and primary schools that existed at the time of independence in 1957. Ghana's spending on education has varied between 28 per cent and 40 per cent of its annual budget in the past decade. All teaching is done in English, the official language. The country has a six-year primary education system beginning at the age of 6, and under the educational reforms implemented in 1987, students pass on to a three-year junior secondary system to complete their basic education and then afterwards to a three-year senior secondary system. The new educational reforms programme which was introduced in 2007 has now replaced the previous system. The junior secondary school is now junior high school (JHS). At the end of the third year in JHS, there is a Basic Education Certificate Examination (BECE) (<http://en.wikipedia.org>).

Development policies: The country's development agenda is directed by the Growth and Poverty Reduction Strategy which is presently in its second phase (GPRS II). The thematic priorities under the GPRS II, which also provides the framework for development partner assistance, are:

- macroeconomic stability;
- private sector competitiveness;
- human resource development; and
- good governance and civic responsibility.

Labour/industrial relations in Ghana: Industrial relations practice in Ghana is governed by the Labour Act 2003 (Act 651), which was passed by parliament in October 2003, came into force on 31 March 2004 under Executive Instrument 3. The Act sets out the Laws and Regulations for Industrial Relations Practice in Ghana and consolidates Ghana's labour laws into one single Act. The Act applies to all workers and employers except the armed forces, the police service, the prison service and the security and intelligence agencies. It aims broadly to ensure a flexible labour market that is fair to all the players in the market, promotes transparency in employer–employee relations, foster economic growth and employment generation.

Partners in labour/industrial relations in Ghana: There are three main social partners in industrial relations practice in Ghana. These are: organized labour, employers and government (tripartite partners).

- **Organized labour:** there are two main labour centres in Ghana and these are the Ghana Trades Union Congress (GTUC) and the Ghana Federation of Labour (GFL). There is also the National Consultative Forum of Ghana Labour (NCFGL), simply called the Forum. The Forum is comprised of members of the two labour centres and other members.
- **Employers:** The Ghana Employers' Association is the organized body representing the interests of employers in Ghana. It has a large membership that spans small and medium enterprises (SMEs) to multinational corporations.
- **Government:** Under Act 651, the government is an employer when dealing with its workers. However, the government is also government. The government as government is responsible for the formulation of policies and legislation and for setting up of institutions that facilitate harmonious labour relations in Ghana. At the level of the legislature, the government is represented by the Parliamentary Select Committee on Employment, Social Welfare and State Enterprises. The Ministry of Employment and Social Welfare (MESW) is the policy arm of the government. The National Tripartite Committee (NTC) has among its functions the setting of minimum wage. The National Labour Commission is responsible for

ensuring a peaceful and harmonious industrial relations atmosphere. Its core functions are the settlement of industrial disputes and the facilitation of the settlement of industrial disputes. There are other institutions such as the Fair Wages Commission that come under the MESW (see section on MESW).

The National Employment Policy: Some of the key objectives of the National Employment Policy (2007) are improving labour-market information; ensuring supportive population, migration and regional development policies; and creating employment through special employment schemes.

The policy document goes further to outline some of the strategies that would be adopted to achieve its objectives and puts forward among others the following:

- promoting strategies that take advantage of globalization and international legal migration to facilitate employment of Ghanaians abroad;
- establishing the Ghana Overseas Employment Agency (GOEA);
- identifying and targeting receiving countries whose labour needs compliment Ghana's strategic human resource development plan;
- developing bilateral agreements, memorandums of understanding (MOUs) etc.;
- undertaking export labour missions to market Ghanaian skills for overseas employment;
- encouraging the licensing of adequate public and private employment centres at least in every district.

National Population Policy (Revised Edition, 1994): The NPC revised the 1969 National Population Policy in order to incorporate emerging issues such as HIV/AIDS and the environment, in addition to highlighting issues related to gender and adolescents. The Revised National Population Policy has specific policy objectives and strategies on international migration. The policy objectives are to monitor international migration and to stem the "brain drain" of professionals and other skilled people leaving the country

Some of the strategies outlined in the Population Policy include:

- the revision of laws and other procedural rules governing immigration and emigration;
- liaison with other national governments and international agencies to protect the rights of its nationals to work abroad within internationally acceptable laws;
- giving refugees, displaced persons and immigrants lawfully domiciled in Ghana full protection of the law within internationally acceptable laws;

- adopting measures and promoting incentive schemes to facilitate the voluntary return of highly skilled emigrants and their eventual integration into the national economy;
- adopting fiscal and legislative policies or rules to ensure that the nation, specifically communities and families, derive maximum benefit from financial and other resources transferred periodically.

Social security: Ghana has in place a social security system to which all formal sector employees, except those with the security agencies and senior members of the country's universities, are required by law to make a contribution. Under Social Security Law 1991 (PNDCL 247), employers are mandated to pay a total of 17.5 per cent of gross monthly salary (a 5 percent contribution from the employee and 12.5 percent from the employer). The law provides for a fund into which all these contributions shall be paid to in order to provide social protection for the "working population for various contingencies, such as old age, invalidity, and other". Article 45 of the Act defines a "worker" as any person who is employed for pay in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his pay, directly or indirectly, from the employer. Every worker, national or non-national, who pays his contribution shall thus be covered by the social security fund.

Again, Article 41 of the Law stipulates that the Government of Ghana may enter into a reciprocal agreement with a government that has a similar scheme established and may include that: (i) any period of membership of such scheme in the territory may be treated as a period of membership of the scheme and vice versa; and (ii) that any amount standing to the credit of a member of the scheme in Ghana who works for any employer in the territory of that government may be transferred to his credit in such scheme, and vice versa. The main body mandated to deal with social security is the Social Security and National Insurance Trust (SSNIT). The new Pension Act, 2008 (Act 766) outlines a three-tier pension scheme to correct some of the inadequacies of the current pensions system and also incorporate informal sector operators. The Act also includes in its scope of application the right of non-nationals to be eligible for the national pension scheme and the obligation to contribute thereto.

EXECUTIVE SUMMARY

Availability of data/sources/collection mechanisms and credibility

Data is essential for understanding the dynamics of and managing labour migration in Ghana. However, there is very limited national statistics on labour migration, and there is no national database upon which to build or update. The ministries, departments and agencies (MDAs) with some mandate on migration do not keep figures on the number of labour migrants into or out of the country, except for the Labour Department of the Ministry of Employment and Social Welfare (MESW), which established a manual database in January 2008. Again, it is almost impossible to get access to data and in a form that lends itself to analyses. However, some data exist on migration in general. The common sources of migration data are: the Ghana Immigration Service (GIS), the Ghana Living Standards Survey (GLSS), and studies conducted by foreign missions. The data as collected by these bodies are often defined to suit their purposes and so are not comparable. There is often very little disaggregation of data and the GLSS data focuses on internal migration rather than international migration.

Further, a common feature of all the data sources is that data is often collected from official channels and entry points; therefore, the data obtained does not reflect the number of immigrants or emigrants who did not enter or leave through the official ports of entry, or migrants in irregular situations. This means that the data and statistics on migration are not a true representation of what is on the ground. Moreover, although labour immigrants in Ghana are required to obtain working permits before they work, the practices on the ground do not adhere to legal provisions in the law that govern work permits, and those who work in the informal economy are usually not counted. These factors notwithstanding, the data available gives an overview of official entry and exit through Ghana's ports and some information on legal migrants in the country. Some of the mechanisms for obtaining data by these data collecting agencies include information on administrative data, census data and survey data.

Institutional structures and inter-ministerial collaboration in labour migration

Labour migration cuts across many sectors of society and therefore many institutions and organizations; as such policy formulation must include, out of necessity, various government MDAs, international agencies in Ghana, non-governmental organizations (NGOs) and civil society organizations (CSOs). However, Ghana lacks a comprehensive framework on migration in general, and labour migration in particular. In 2006, Cabinet mandated the Ministry of the Interior (MOI) to set up

a Migration Bureau (now Migration Unit). However, it was not until 2008 that the National Migration Bureau was set up in the MOI. The MOI, through the Unit and its various activities, is responsible for the coordination of the activities of public sector institutions whose work relates to migration. On the other hand, the MESW, as the ministry responsible for labour, is spearheading a working group on labour migration set up in the Aeneas 2006 project framework and is working towards the formulation of a National Labour Migration Policy Framework. In the meantime, the government instituted an Inter-Ministerial Working Group (IMWG) to oversee and manage the recruitment of workers for foreign employment. The IMWG is made up of representatives from the MESW; Ministry of Foreign Affairs Integration and NEPAD; Ministry of Justice and Attorney General; MOI; National Security; and the Labour Department of MESW. Although Ghana is now in the process of developing various policies, guidelines and frameworks for the management of migration in general and labour migration in particular, and although for these public institutions, issues of mandates, roles, and inter-agency coordination are still unclear, Ghana recognizes that the various stakeholders must work together to achieve a comprehensive framework on labour migration. Thus, a collaborative approach has been adopted (this information emerged from the interviews).

Recruitment and support services

Recruitment practices and processes impact greatly on whether the rights of migrants as workers and as human beings are respected and guaranteed and whether all the partners involved in labour migration will benefit from it. In Ghana, the laws that govern recruitment for foreign employment is laid out in Labour Regulations, 2007 (Labour Instrument (L.I.) 1833) and the process is supervised by the Labour Department of the MESW. The legal provisions cover: recruitment, the journey, duration of stay in the destination country, and repatriation/return. In the main, public employment centres (PECs) are established by the Executive Instrument and are part of the administrative structure of the LD. Private employment agencies (PEAs), on the other hand, are first required to acquire legal/corporate capacity by registering with the Registrar Generals' Department and then applying to the Minister responsible for Labour for a licence to operate as a PEA.

So far, 13 PEAs have been licensed and there are 63 PECs. The licensing procedure is a way to ensure minimum standards. PEAs are required to submit quarterly reports on their activities to the Minister, failing which the licence can be revoked. The employer is required to print a concise summary of the law relating to the contract both in English and in any local language for the benefit of the employee. The Labour Regulations L.I. 1833 is fairly new and has not been tested to any extent. So far the procedures for licensing have been adhered to. However, whether or not this law is adequate in practice to meet the challenges of recruitment for foreign markets, providing support services to migrants, and monitoring to ensure ethical

recruitment and minimum standards would unfold as Ghana undertakes organized/managed labour migration in the coming years.

Gender dimensions of labour migration

The increasing feminization of labour migration makes it imperative for countries to develop labour migration policies that are gender-sensitive. In Ghana, women make up 51 per cent of the population and are found in all sectors of the economy, although they are predominantly found in agriculture and the informal sector. As regards gender-sensitive policies, there are no clear gender-sensitive policies on labour migration because there is no national policy on labour migration. However, Ghana has made gender-sensitive provisions in its laws and policies. The Labour Act, 2003 (Act 651), for example, in Section 14(e) proscribes discrimination in employment against anyone on the grounds of race, colour, sex and other indicia of discrimination. Again, Part VI of the Act makes specific provisions for the employment of women. These provisions cover nationals as well as foreign nationals working in Ghana, as the law does not make any distinction between workers who are nationals and those who are not.

The law simply talks about workers.

National legislation and international norms

National legislation is of paramount importance because it establishes the relevant legal basis, concepts and categories, and creates a broader framework for migration in general and labour migration in particular. Also, international instruments help to establish international standards; these may include international treaties, bilateral agreements which have been set to address issues of treatment and protection of migrants, and other instruments that are made to reflect agreements between States such as declarations, non-binding guidelines and resolution of organs of international organizations, whether legally binding or not. However, the principle of sovereignty has had a pre-eminent place as far as the status of migrant workers is concerned. Thus, international legal instruments protecting migrant workers do not generally disturb the sovereign rights of States to regulate the admission and non-admission of migrant workers into their territory.

At the national level, there are no coherent legal provisions on labour migration in Ghana. In the absence of a national migration framework, Ghana regulates migration through various Acts and Regulations of parliament, the 1992 Constitution and various ratified treaties, some of which have been incorporated into its municipal laws: the Labour Act, 2003 (Act 651), for example, makes provisions for foreign employment (emigration) and the Immigration Act, 2000 (Act 573) regulates issues of immigration and emigration. All these varied legal provisions are subject to the fundamental law of Ghana, the 1992 Constitution. Immigrants/foreign nationals are required to obtain work permits before they can work in Ghana; this could

be obtained through an immigrant quota system, or by applying for work permits directly from GIS. However, it has been noted that more often than not the practice does not adhere to provisions in the law. For example, work permits are to be obtained before entry into the country, but this is often not the case.

Remittances

Ghana has repealed the Exchange Control Amendment Law 1986 (P.N.D.C. Law 149), which was seen to hinder remittance inflows, and enacted the Foreign Exchange Act, 2006 (Act 723). Also, the Bank of Ghana (BOG) has introduced a centralized data collection and reporting system on inward remittances, which has resulted in better tracking of inflows and increased utilization of formal channels of remittances such as banks and money transfer organizations (MTOs). Again, in 2007, the Ghana Savings Bond/Golden Jubilee Bond was issued to foster savings and investment by Ghanaian migrants and migrant associations.

The impact of the above-mentioned measures is reflected in the increases in the volume of remittances: for example, BOG records indicate that remittance inflows have increased from a low of USD 400.40 million in 1997 to an estimated USD 1,833.81 billion in 2007. The data further indicates that since the year 2000, remittance inflows have surpassed cocoa as a source of foreign exchange for Ghana (year 2000 figures: cocoa, USD 437.10 million; remittances, USD 498.97 million; year 2007 figures: cocoa, USD 1,132.65 billion; remittances, USD 1,833.81 billion). Regional flows show the United States of America and Canada as the most important sources of remittance inflows. The other major sources of regional inflows are the United Kingdom and the European Union. Migrants utilize both formal and informal channels for remittances. The formal channels include banks and non-bank financial institutions and the informal channels range from friends and relatives to transport drivers to churches and couriers.

Summary of Recommendations

- Develop a national database on migration, taking into consideration issues of labour migration.
- Disaggregate the national database so that it can reflect the various professions in the country and their numbers, as well as the number of males and females.
- Explore ways of incorporating the recording of irregular migration in the GIS data collection system at entry and exit points, e.g. recording of duration of visas.
- Explore ways of incorporating in national censuses items that capture labour migration specific data.

- Build the capacity of MDAs such as the GIS and the Labour Department of MESW to capture and analyse labour migration-specific data in collaboration with GSS.
- Integrate gender-sensitive policies into labour migration policies, particularly those on the migration process to improve the decision-making process and address the issue of migrants' rights and welfare in countries of destination.
- Develop pre-departure training to inform would-be female migrants of their rights and the risks of female migration to enable them to make informed decisions and choices.
- Include gender-specific information on information campaigns.
- Develop and disseminate information on programmes and institutional structures which support female migrants abroad.
- Integrate labour migration into Ghana's foreign policy and encourage foreign mission staff in destination countries to protect migrant workers in those jurisdictions.
- Develop and/or enhance existing programmes to direct remittances of female migrants towards investment, by creating facilities for them to save.
- Strengthen female migrants' financial management skills and make credit facilities available to them.
- Design, develop and build a gender-disaggregated database on labour migration.
- Formulate a clear policy on labour migration for Ghana which will guide its management, so that labour migration can benefit both migrants and the society.
- Expand the various pieces of subsidiary legislation that regulate immigration issues. The Immigration Regulations, for example, are too short and do not provide for the details that will effectively implement the mother legislation.
- Ratify international treaties that affect migration in order for Ghana to provide the fullest possible protection for emigrants and immigrants alike.
- Inform policymakers about the various laws that govern labour migration and encourage them to be informed of such laws when entering into bilateral agreements and other forms of partnerships with other countries.
- Explore possibilities and alternatives for negotiating bilateral agreements that ensure the provision of social security benefits to Ghanaian labour migrants (also look at the portability of such benefits).
- Make deliberate and sustained effort to ensure that the terms in bilateral agreements and MOUs are respected and implemented.
- Further refine BOG's reporting system on remittances to capture more disaggregated data. For example, the data on regional distribution comes in percentages, which do not allow one to see immediately the regional volumes.

- Strengthen inter-ministerial collaboration to ensure that all ministries involved in labour migration make inputs to the development of policies that govern migrant remittances to ensure that the interest of different migrant groupings are addressed.
- Develop products that will facilitate investment by migrant workers and migrant associations with a view to linking labour migration to development
- Initiate policies that would facilitate remittance inflows, reduce the cost of sending remittances and encourage greater utilization of formal channels of remittances
- Develop handouts or include information on remittance services available to migrants in the host country and in Ghana in pre-departure orientation.
- Develop a national policy framework on labour migration to guide policymakers and administrators on labour migration management.
- Design a clearly articulated inter-agency collaboration framework that sets out the various MDAs involved in labour migration; their mandates and roles, and issues of inter-agency coordination, with the MESW acting as lead ministry.
- Harness and build on the collaborative effort and process developed in the Aeneas 2006 labour migration working group.
- Tap the expertise of the commissioners of the National Labour Commission (NLC) in labour relations and settling industrial disputes in the process of establishing minimum standards.
- Empower and encourage organizations such as trade unions to reach out with services for migrants both regular and irregular through their international networks.
- Create a database of existing jobs abroad.
- Develop model employment contracts for the various countries with which Ghana has or intends to have bilateral agreements and MOUs.
- Further develop contracts for specified skills categories that set out the minimum standards of employment and address and consider issues of interest to Ghana and the host country. Effort should also be made to promote fundamental human rights and decent work, adherence to labour and social laws and good labour practices, and cultural issues in the host country that impact on working life.
- Urgently undertake a labour market survey to identify, among others, the competencies (skill sets) of the working population and the available labour for employment. This could further inform curriculum development.
- Undertake information campaigns to inform the public of the services of employment agencies and their locations, with the MESW acting as key coordinating ministry.

- Closely monitor and supervise recruitment activities:
 - Use an inter-agency team including GIS, National Security, MESW, etc.
 - Use labour inspections as an ongoing monitoring mechanism.
 - Develop recruitment guidelines in collaboration with recruitment agencies.
 - Use peer-review mechanisms.
 - Develop a list of sanctions and penalties in collaboration with recruitment agencies.
- Capacity-building of the staff of the Labour Department of MESW, especially in recruitment and support services for labour migrants.
- Develop procedures for the verification and recognition of diplomas and certificates in the event that Ghana decides to embark on organized labour migration.
- Develop and disseminate a manual that provides information on the basic legal rights and obligations of migrant workers, basic cultural nuances and differences, and who to contact in cases of emergency in the destination country.
- Ensure that migrant workers have signed a contract before they depart.
- Create a registry of copies of contracts, data on the employer, the employer's agent in Ghana and abroad, the PEA/PEC involved in the recruitment, and other useful information regarding the employer and the worker.
- Develop a complaint-handling mechanism for would-be Ghanaian migrant workers and incorporate this into the work of Ghana's foreign missions, trade unions and all other agencies that come in contact with migrant workers in the destination country. Also, inform and educate foreign employers on the availability of such dispute/grievance-handling mechanisms.
- Include labour migration issues in the activities of the Migration Bureau in MOI.
- Develop a national labour migration framework that has a subregional and regional focus so as to make data, laws, mechanisms for administration and other policies comparable within the ECOWAS subregion.

Introduction and Background

Migration is not a recent phenomenon; for centuries, people have moved across borders for economic and political reasons. African history, for example, is characterized by movement of whole villages, clans or families over long distances and large geographic areas. Over the past decade however, there have been large increases in international migration. According to the United Nations Population Division (2005), there are now almost 200 million international migrants. This has

come about as a consequence of increasing integration of world economies and the changing needs of both destination and origin countries. In the world today, the movement of people is characterized by dynamics that are diverse and sometimes seemingly contradictory. Many countries are origin, transit and destination countries at the same time. Another important feature in international migration is labour migration or the movement of people across borders for employment.

Labour migration is taking on increasing importance in world affairs. The Global Forum on Migration and Development (GFMD, 2007), discussed the need to develop policy environments that could maximize the beneficial effects of labour migration and minimize the risks to migrants, their families and the development efforts of home and host countries. It has been said that migrants who are socially and economically protected and empowered are likely to bring the greatest potential contribution to development back home and in the host country.

Also, the International Labour Organization (ILO) has stated that migration policies are increasingly seen as inherent to a global approach to the monitoring and management of migratory flows, both regular and irregular. However, most often, national migration policies, legislation and practices are inadequate to assure effective management of labour migration (ILO, 2006). Thus, a robust policy framework that ties labour migration planning to policy planning, ensures decent work and standard labour contracts, is gender-sensitive and ensures that the rights of people as human beings and their dignity as migrant workers are respected and protected is essential.

Ghana like most developing countries that have lost a large number of their skilled workforce through migration to developed countries had viewed labour migration negatively in the past, considering labour migration mainly in terms of “brain drain”. However, in the past decade, Ghana has had a paradigm shift and has begun to make deliberate efforts to manage migration so that it can benefit all involved. In the year 2001, the government organized the first-ever Homecoming Summit with the main strategic objective to harness the Ghanaian diaspora for development. The theme for the Summit was “Harnessing the Global Ghanaian Resource Potential for Accelerated National Development”. Also, in 2002, the Ghana Citizenship Regulation Act was passed. The Act made provisions for dual citizenship, that is, for the first time, the law made it possible for Ghanaians to keep their Ghanaian citizenship after obtaining the citizenship of another country. Further, in 2003, a Non-Resident Ghanaian Secretariat (NRGS) was instituted to promote further links with Ghanaians abroad and to encourage return.

Thus Ghana’s development efforts in the area of labour migration have been married with IOM’s Aeneas 2006 programme which seeks to “promote legal migration and prevent further irregular migration”. The National Assessment of Labour Migration

Policies, Legislation, Practices and Structures is a component of this programme. The Assessment is being carried out in Ghana, Nigeria, Senegal and the Libyan Arab Jamahiriya.

The broad objectives of the National Assessment are:

1. to compile comprehensive information and collect data on labour migration policies, practices, structures and legislation in Ghana;
2. to assess the information obtained and analyse data in order to devise a comprehensive roadmap detailing prospective labour migration activities to be carried out.

Thematic Areas of the Assessment and Methodology

Thematic areas: The National Assessment comes under six broad thematic areas and these are:

1. data collection and analyses;
2. institutional structures and inter-institutional collaboration;
3. national legislative basis and international norms;
4. recruitment and support practices;
5. remittances;
6. gender dimensions of labour migration.

Methodology employed: The Assessment was carried out using both qualitative and quantitative methods. Specifically, it included:

1. desk reviews of existing information;
2. interviews of key informants and personnel of key ministries;
3. questionnaire design and administration;
4. participation in IMWG discussions.

Limitations of the Assessment

The findings in this Assessment should be viewed against the background of the following limitations:

The Assessment used a 10-year reference period for data collection. However, sometimes the data available covered a period shorter than the reference period. In such cases, what was available was used and the period covered indicated.

The return rate of the questionnaires was very low. Those returned did not achieve adequate statistical numbers and therefore no statistical analysis was conducted. However, the information obtained was used in the assessment.

Although the statistics indicate migration trends, in reality these are just recordings of entries and exits, which means that tourists, business people, students and other visitors might have been classified as migrants.

One of the main data gaps is the absence of accurate data on the number of Ghanaians living outside the country, the GIS, which has been one of the key sources of data for the National Assessment does not capture data on Ghanaians outside the country. Coupled with this are the difficulties encountered in accessing data from the foreign missions in Ghana, due perhaps to the security implications of releasing such information. Also, although the borders capture entry and exit data, their porous nature means that some movements are not noticed and hence are not captured. Further, the characteristics of immigrants and emigrants are not given because the data available is not disaggregated by sex, age, occupation, level of education and nationality, etc.

Furthermore, although GSS collects information about migration during census, it does not update the database regularly to provide current trends within census periods (10 years). Data is most of the time provided two or three years later when it is almost outdated.

In view of the fact that Ghana has no national framework on migration, there is weak coordination among the MDAs on migration issues. Issues are dealt with in an ad-hoc manner. This sometimes results in a duplication of functions, which limits the extent to which inter-agency collaboration could be harnessed for development. This in turn limits the study to the extent that sometimes some agencies indicate that certain activities have been performed by some other agency, while the agency in question will also indicate that another agency is responsible for said activity, resulting in information and data gaps.

SECTION I - DATA COLLECTION AND ANALYSES

Objective

To assess the availability of data, data sources, data collection mechanisms and the credibility of existing data.

Findings

A desk review and **interviews with some of the stakeholders in labour migration revealed that there are very limited national statistics available on labour migration. Again, there is no existing database upon which to build or update.** The MDAs with some mandate on migration do not keep figures on the number of labour migrants either into or out of the country. However, some data exists on migration in general.

Sources of Data

The sources of data on migration include:

- the GIS
- the GLSS
- Population and Housing Census
- Migration Research Study in Ghana
- Studies conducted by foreign missions.

The **GIS** provides data on immigration and emigration of both Ghanaians and non-Ghanaians. These are collected at ports and official land entry points. The data is not disaggregated to show labour migrants, tourists, the professions or skills levels of migrants, etc. The GIS also does not keep data on the numbers of Ghanaian emigrants living abroad. The data does not make distinction for Ghanaians who have acquired other nationalities; they are recorded as foreigners. Despite these limitations, the GIS data provides an overview of migration flows, covering inflows and outflows.

The **GLSS** conducted by the GSS provides some information on migration and remittances within households in Ghana. However, the survey does not focus solely on migration and does not focus on international migration but on internal migration.

The **Migration Research Study** was conducted by the GSS in 1991 and published in 1995. The study was on both internal and international migration, but this study is outdated.

Studies conducted by foreign missions on the numbers of Ghanaians in their countries collected data at ports and official entry points are defined to meet the purposes of the collecting country.

Data Collection Mechanisms

Discussions with the various bodies that collect migration data revealed that there are three main mechanisms of data collection and these are:

1. administrative data (data sheets at official entry points, visas, work permits, etc.);
2. census data;
3. survey data.

The GIS indicated that, although information on its data sheets at entry points could give more disaggregated data, the information is often not collated or analysed; some of the reasons behind this include: the legibility of handwriting on the sheets, limited personnel to collate and analyse data, and limited resources. On ECOWAS nationals, the GIS indicated that many ECOWAS nationals enter Ghana with no passports; they are allowed entry because of the ECOWAS Protocol that allows free movement of people and goods, including taking up residence of up to 90 days in an ECOWAS country. An officer at GIS suggested that if personal identity (PID) cards (which contain data that GIS is allowed to capture) are recognized as valid travel documents for ECOWAS nationals, a wider number of persons would be captured in GIS data.

Common Features of Data Sources and Mechanisms

A common feature of all data sources is that data is often collected from official channels and entry points; therefore data obtained do not reflect the number of Ghanaian immigrants or emigrants who did not enter or leave through the official ports of entry. This means that current available data and statistics on migration flows are not a true representation of what is on the ground.

Again, data obtained by these bodies is not comparable as different definitions and concepts are used.

Libya: It is difficult to obtain data on Ghanaians legally resident in the Libyan Arab Jamahiriya; however, the data available indicates that the number of official (legal) Ghanaian workers in the Libyan Arab Jamahiriya for any particular year is very low compared to the numbers deported each year. This means that a large number of Ghanaians in the Libyan Arab Jamahiriya have irregular status.

Migration Trends/Entry and Exit Flows

Generally, there have been more outflows of migrants than inflows. However, from 2001 to 2004, arrivals exceeded departures (see Table 1). This could be due to the high expectations of both Ghanaians and other nationals when, for the first time in the history of Ghana, there was a smooth transition from one democratic government to another. From 2005 to 2007, departures increased again over arrivals.

In 2003, there were large inflows of migrants (see Table 1). This could be a result of the National Economic Dialogue (a platform created by the government for the Ghanaian diaspora, people of African descent and bilateral and multilateral investors to come together and discuss Ghana's economy and to develop plans for investment in Ghana). The year 2004 witnessed the lowest volume of departures since 1997.

Table 1: Entry and exit flow trends for all nationals, 1997–2007

Year	Arrivals	Departures
1997	369,274	355,129
1998	491,531	498,266
1999	402,042	418,903
2000	456,275	477,186
2001	609,822	407,772
2002	584,329	492,738
2003	688,970	387,477
2004	582,108	376,620
2005	392,454	410,042
2006	508,199	528,948
2007	580,895	621,564

Source: GIS.

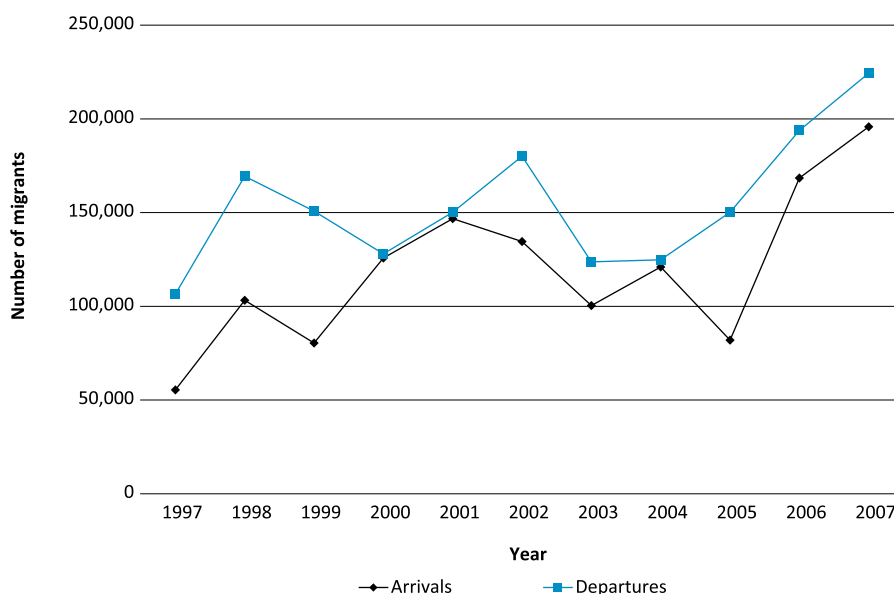
Entry and exit flows of Ghanaians

For the years 1997 to 2007, the statistics indicate that Ghanaians have been departing the country more than arriving, and even for the year 2000, when there was a large number of inflow compared to 1999, departures still exceeded arrivals (see Table 2 and Figure 1). From this then, we can say that Ghana is a country of emigration more than a country of immigration.

Table 2: Entry and exit flows of Ghanaians, 1997–2007

Year	Arrivals	Departures
1997	55,391	106,539
1998	103,222	169,410
1999	80,405	150,805
2000	125,769	128,024
2001	146,805	150,200
2002	134,573	180,109
2003	100,443	123,741
2004	120,967	124,838
2005	81,946	150,200
2006	168,457	193,844
2007	195,817	224,372

Source: GIS.

Figure 1: Migration trends/entry and exit flows for Ghanaians, 1997–2007

Source: GIS.

Ghanaian flows

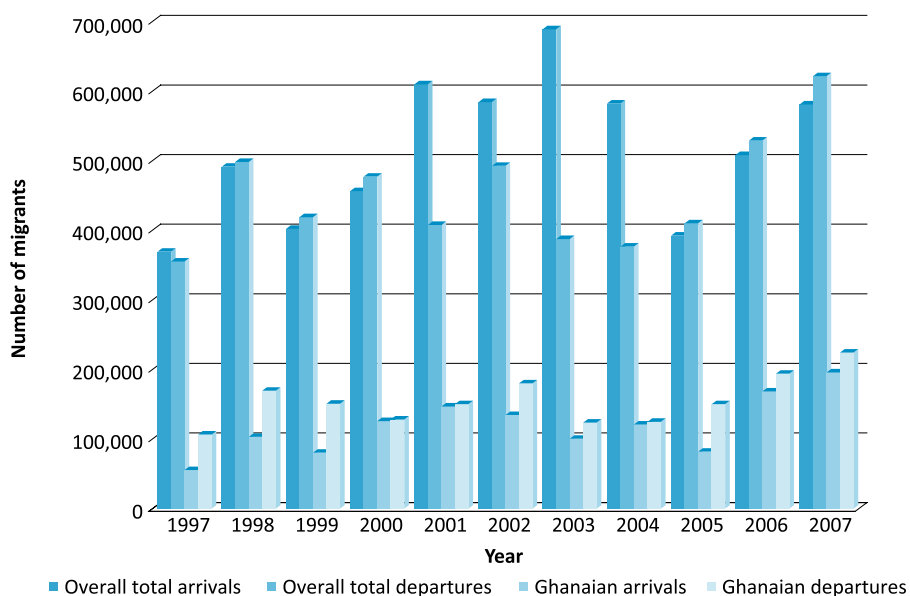
When we compare the entry and exit flows of Ghanaians as a percentage of the total entry and exit flows for all the years (1997–2007), we see the same trend of Ghanaian departures always being higher than arrivals except for the year 2000 (see Table 3 and Figure 2); this compares to the general migration trend among Ghanaians indicated in Table 2 and Figure 1.

Table 3: Ghanaian flows as a percentage of overall arrivals and departures, 1997–2007

Year	Overall total		Ghanaians		Percentage of Ghanaians	
	Arrivals	Departures	Arrivals	Departures	Arrivals	Departures
1997	369,274	355,129	55,391	106,539	15.00	30.00
1998	491,531	498,266	103,222	169,410	21.00	34.00
1999	402,042	418,903	80,405	150,805	20.00	36.00
2000	456,275	477,186	125,769	128,024	27.56	26.83
2001	609,822	407,772	146,805	150,200	24.07	36.83
2002	584,329	492,738	134,573	180,109	23.03	36.55
2003	688,970	387,477	100,443	123,741	14.58	31.94
2004	582,108	376,620	120,967	124,838	20.78	33.15
2005	392,454	410,042	81,946	150,200	20.88	36.63
2006	508,199	528,948	168,457	193,844	33.15	36.65
2007	580,895	621,564	195,817	224,372	33.71	36.10

Source: GIS.

Figure 2: Ghanaian flows as a percentage of overall arrivals and departures, 1997–2007



Source: GIS.

Intraregional Migration Trends

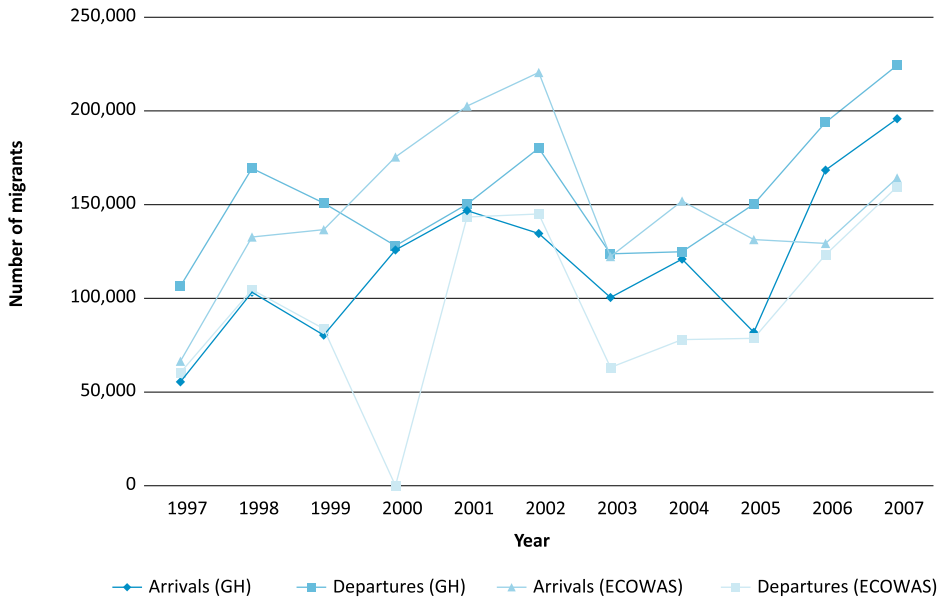
The statistics indicate that for other ECOWAS nationals, Ghana is a country of immigration. This is seen in the large number of arrivals over departures for all the years except for year 2000, when ECOWAS departures exceeded arrivals (see Table 4 and Figure 3). Compared to Ghanaian arrivals and departures, other ECOWAS arrivals exceed Ghanaian arrivals for the 1997–2007 period. It is possible that the ECOWAS Protocol that allows free movement of people and goods, including allowing other ECOWAS nationals to remain in an ECOWAS territory for up to 90 days, accounts for this trend.

Table 4: Intraregional migration of Ghanaians and other ECOWAS nationals, 1997–2007

Year	Ghanaian migrants		Other ecowas migrants	
	Arrivals	Departures	Arrivals	Departures
1997	55,391	106,539	66,469	60,372
1998	103,222	169,410	132,713	104,636
1999	80,405	150,805	136,688	83,781
2000	125,769	128,024	175,410	180,708
2001	146,805	150,200	202,611	143,433
2002	134,573	180,109	220,520	145,038
2003	100,443	123,741	122,332	63,085
2004	120,967	124,838	151,917	78,010
2005	81,946	150,200	131,359	78,694
2006	168,457	193,844	129,327	123,221
2007	195,817	224,372	164,209	159,583

Source: GIS.

Figure 3: Intraregional migration of Ghanaians and other ECOWAS nationals, 1997–2007



Source: GIS.

Interregional Migration Trends

Tables 5a and 5b and Figure 4 show that among the 17 nationalities that frequented Ghana from 1997–2007, ECOWAS nationals, Europeans, Asians, Americans and Australians all have significant flows into and out of Ghana. Ivorians, Burkinabé, Nigerians, Togolese and Liberians are the ECOWAS nationals with significant numbers of arrivals and departures. Among the European countries, the UK, the Netherlands, France and Germany have significant numbers of arrivals and departures. The United States, Canada, Australia and China also post significant numbers.

Table 5a: Seventeen nationalities that frequented Ghana, 1997–2002

Nationality	1997		1998		1999		2000		2001		2002	
	ARR	DEP	ARR	DEP	ARR	DEP	ARR	DEP	ARR	DEP	ARR	DEP
Ghanaian	55,391	106,539	103,222	169,410	80,405	150,805	125,769	128,024	146,805	150,200	134,573	180,109
Ivorian	3,614	10,243	4,811	14,372	3,935	12,083	18,687	11,168	338,65	30,043	6,191	3,873
Burkinabé	3,529	2,916	4,697	4,092	3,842	3,440	1,917	10,044	9,755	4,536	9,603	2,669
Nigerian	8,167	16,959	10,871	23,795	8,891	20,005	28,489	40,753	44,929	53,884	24,718	22,768
Liberian	2,496	3,009	3,322	4,221	2,717	3,549	5,932	7,575	16,343	11,845	4,898	6,757
South African	1,816	9,680	2,417	13,581	1,977	11,418	2,270	2,458	3,100	3,113	3,625	2,844
Togolese	1,697	5,852	2,258	8,211	1,847	6,903	5,906	13,885	21,681	16,420	5,643	4,457
French	3,251	2,228	4,327	3,126	3,539	2,628	2,912	4,658	5,215	4,750	4,270	4,757
German	6,351	3,916	8,453	5,494	6,914	4,619	6,064	5,844	7,810	6,368	9,161	6,817
Dutch	6,624	3,537	8,818	4,962	7,212	4,172	6,682	6,191	8,197	6,146	10,498	10,240
British	5,879	11,643	7,825	16,336	6,400	13,734	11,589	20,957	23,330	61,476	23,969	26,166
American	3,123	16,705	4,157	23,438	3,400	19,705	13,603	116,322	28,421	22,403	34,402	32,225
Canadian	2,653	2,523	3,531	3,540	2,888	2,976	2,969	3,887	4,361	4,270	4,650	4,568
Chinese	885	1,123	1,179	1,576	964	1,325	1,455	1,684	1,962	1,945	2,511	1,706
Indian	2,702	1,551	3,597	2,177	2,942	1,830	2,586	3,116	4,737	3,848	4,752	6,271
Lebanese	1,558	949	2,074	1,332	1,696	1,120	1,558	1,588	2,826	2,807	3,531	5,278
Australian	689	1,265	917	1,775	750	1,492	1,363	24,937	1,537	1,646	1,548	1,336
Total	110,425	200,638	176,476	301,438	140,319	261,804	239,751	403,091	364,874	385,700	288,543	322,841

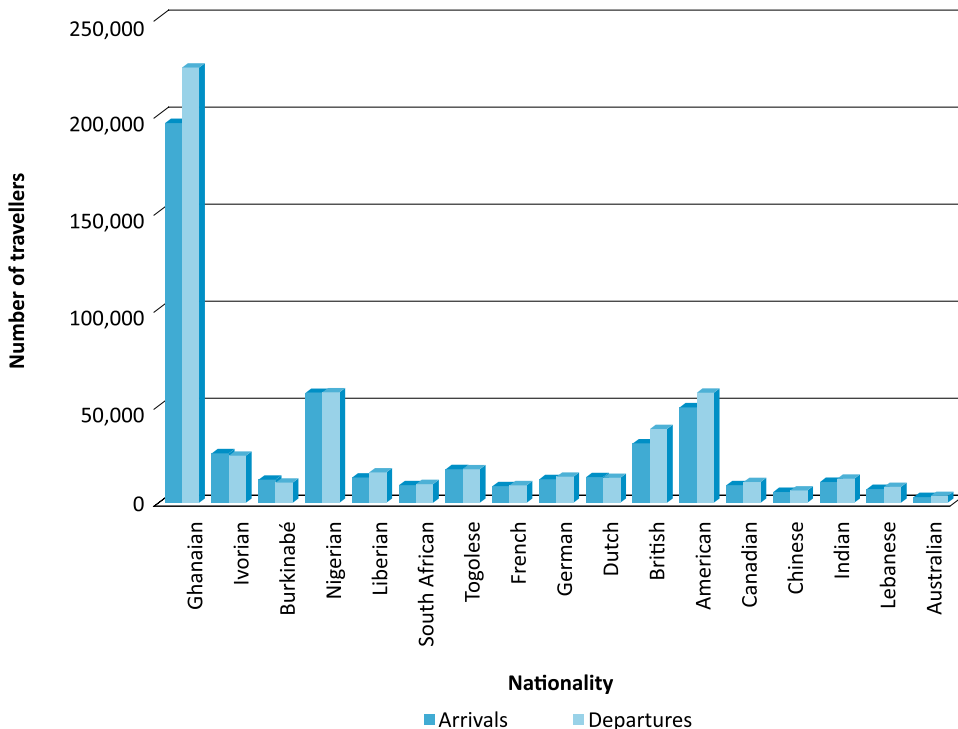
Source: GIS.

Table 5b: Seventeen nationalities that frequented Ghana, 2003–2007

Nationality	2003		2004		2005		2006		2007	
	ARR	DEP	ARR	DEP	ARR	DEP	ARR	DEP	ARR	DEP
Ghanaian	100,443	123,741	120,967	124,838	81,946	150,200	168,457	193,844	195,817	224,372
Ivorian	18,056	15,499	16,921	15,065	15,530	16,402	20,149	21,158	25,550	24,277
Burkinabé	9,117	7,750	8,550	7,532	7,850	8,201	10,164	10,579	11,939	10,422
Nigerian	50,146	30,998	47,025	30,130	43,173	32,803	55,902	42,316	56,702	56,987
Liberian	10,247	11,624	9,680	11,299	6,720	12,301	11,294	15,868	13,037	15,712
South African	7,987	3,875	7,420	3,766	8,980	4,100	9,034	5,290	9,127	9,670
Togolese	13,676	7,493	12,825	7,275	11,774	7,944	15,246	10,322	17,364	17,298
French	4,993	3,441	4,709	3,332	3,925	3,666	5,516	4,856	8,581	9,055
German	8,860	8,007	8,293	7,789	7,593	8,458	9,907	10,836	12,188	13,462
Dutch	9,374	7,623	8,807	7,405	8,107	8,074	10,421	10,579	13,250	12,832
British	18,414	23,249	17,279	22,597	15,878	24,603	20,507	31,737	30,650	38,032
American	36,469	34,873	34,200	33,896	31,399	36,904	40,656	47,605	49,224	56,715
Canadian	9,286	7,581	8,719	7,363	8,019	8,032	10,333	10,410	9,097	10,711
Chinese	4,125	4,309	3,841	4,200	3,491	4,534	4,648	5,724	5,627	6,377
Indian	8,948	7,919	8,381	7,701	7,681	8,370	9,995	10,748	10,765	12,383
Lebanese	4,668	3,766	4,384	3,657	3,816	3,991	5,191	5,181	7,154	8,174
Australian	4,450	3,984	4,166	3,875	4,034	4,209	4,973	5,399	2,965	3,522
Total	319,259	305,732	326,167	301,720	269,916	342,792	412,393	442,452	479,037	530,001

Source: GIS.

Figure 4: Seventeen nationalities that frequented Ghana, 2007



Migration Routes

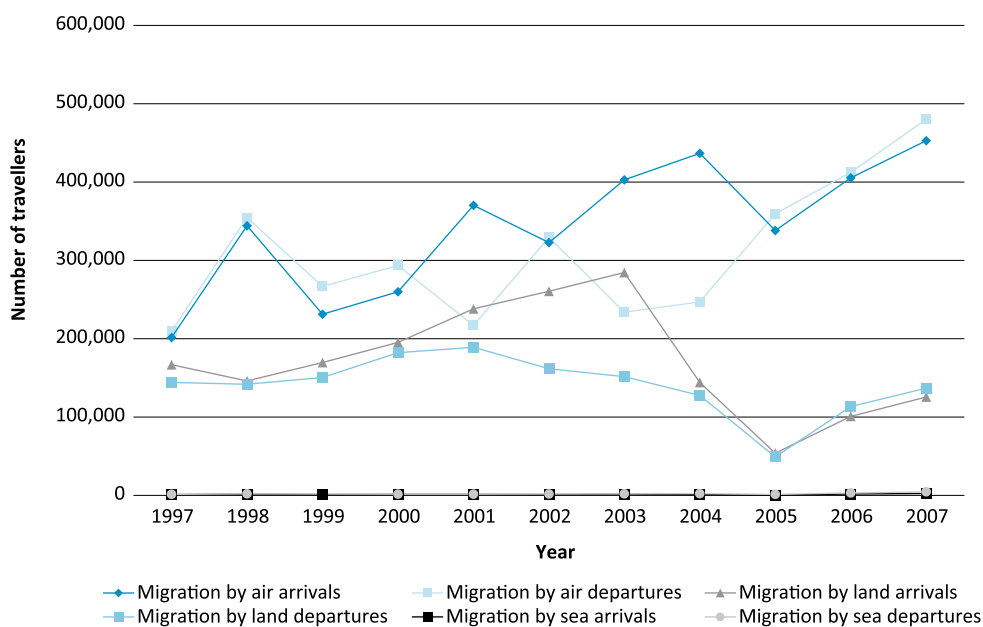
Most migrants who travel to and from Ghana choose to travel by air (see Table 6 and Figure 5). This is shown in the large number of arrivals and departures by air as compared to such routes as land and sea. Sea travel is the least patronized mode of travel by migrants.

Table 6: Migration routes by air, land and sea, 1997–2007

Year	Migration by air		Migration by land		Migration by sea		Total	
	ARR	DEP	ARR	DEP	ARR	DEP	ARR	DEP
1997	201,457	209,761	166,709	144,125	1,108	1,243	369,274	355,129
1998	344,080	354,615	146,025	141,706	1,426	1,945	491,531	498,266
1999	231,309	266,773	169,620	150,410	1,005	1,720	402,024	418,903
2000	259,825	293,518	195,169	182,205	1,281	1,463	456,275	477,186
2001	370,307	217,198	238,235	189,116	1,280	1,458	609,822	407,772
2002	322,701	329,416	260,473	161,654	1,155	1,668	584,329	492,738
2003	402,847	234,030	284,570	151,596	1,553	1,851	688,970	387,477
2004	436,738	246,970	144,192	127,543	1,178	2,107	582,108	376,620
2005	338,063	359,573	53,860	49,110	531	1,359	392,454	410,042
2006	405,442	412,482	100,929	113,429	1,828	3,037	508,199	528,948
2007	452,901	480,247	125,634	136,840	2,360	4,477	580,895	621,564

Source: GIS.

Figure 5: Migration routes by air, land and sea, 1997–2007



Source: GIS.

Work Permits Issued to Immigrants in Ghana

The data indicates that among the ECOWAS nationals, Nigerians have the highest number of work permits, followed by Ivorians. This is comparable with the figures on the entry and exit of ECOWAS nationals. Asians also tend to have a high number of nationals working in Ghana; this is seen in the number of Indian and Chinese nationals issued with work permits in 2007. Among the European countries, the UK and Germany have significant numbers of nationals working in the country (see Table 7).

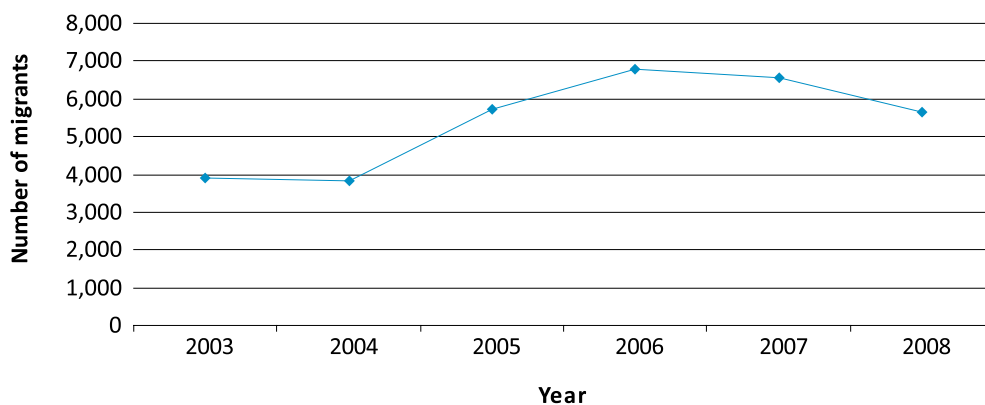
Table 7: Work permits issued to immigrants in Ghana, 2003–2008

Nationality	2003	2004	2005	2006	2007	2008
Beninoise	26	30	38	45	41	40
Burkinabé	9	15	14	16	13	18
Ivorian	45	40	66	78	87	60
Liberian	24	32	36	42	41	30
Nigerian	305	352	450	532	514	441
Togolese	29	35	43	51	48	41
Australian	65	85	96	114	121	92
Canadian	97	85	143	170	156	141
Chinese	818	809	1,204	1,425	1,352	1,201
French	95	84	140	166	162	129
German	184	172	272	321	325	256
Indian	785	698	1,157	1,369	1,347	1,212
Italian	55	46	81	96	84	75
Lebanese	371	365	547	647	598	536
Filipino	115	105	169	200	198	154
South African	102	132	150	178	173	142
South Korean	102	96	150	178	167	135
Dutch	106	102	156	185	169	132
British	278	265	409	484	459	390
American	287	299	423	501	519	432
Total	3,898	3,847	5,744	6,798	6,574	5,657

Source: GIS.

Total work permits: The graphical presentation of the total number of work permits issued over the period 2003–2008 (see Figure 6) shows a downward trend from 2006, indicating that since that year, the number of total work permits issued has been declining.

Figure 6: Total work permits issued to immigrants in Ghana, 2003–2008



Sources of data on work permits issued

Data has been obtained from resident permits based on work and the permits are issued from the following categories:

- Ghana Investment Promotion Centre (GIPC) quota (tied to capital/ investments).
- Immigrant Quota Committee (IQC) (based on expertise).
- Work permits: Temporary arrangement based on expertise which cannot be found in Ghana. This is issued for a limited period of two years within which a Ghanaian with such expertise should have been identified; otherwise, the work permit is renewed on request.
- Such temporary permit indicated above is also issued to NGOs and religious organizations working in Ghana.
- ECOWAS nationals who are shareholders in SMEs and who pay tax are considered for work permits.

* In all cases ECOWAS nationals pay less for work permits.

The Immigrant Quota Committee

The IQC is situated in the MOI and is mandated to grant quotas to employers for the employment of foreign nationals in Ghana. It is made up of various stakeholders, i.e. the MESW, the Ministry of Justice and Attorney General, the MOI, the GSS, the Ministry of Finance and Economic Planning, the National Development Planning Commission, the Ministry of Women and Children's Affairs (MOWAC), the Legon Centre for Migration Studies (CMS), the GIS, etc.

Procedures: The Committee grants quotas to employers that apply to employ foreign nationals (immigrants). The right procedure is for the employer to apply for the quota before the would-be worker arrives in Ghana. However, in practice, most immigrant workers arrive in the country either as visitors, students or other and then go on to look for jobs (issues of irregular migration), after which the employers apply to the Committee to employ him/her under the quota.

Steps: The employer submits an application on behalf of the individual worker (or group of workers) stating the reasons why the person is being employed. By law, the worker should possess skills that cannot be found in Ghana.

As part of that application the employer provides information and documents on company registration, tax clearance certificate, curriculum vitae/resume of the applicant, work contract, etc. The Committee, on receipt of the application and all the required documents, conducts due diligence to verify information and make a decision on whether to grant a quota or not.

If the work permit is granted by the Committee, the individual worker then enters the country with the permit so provided.

The work permit issued under the quota is for a period of three years, after which a Ghanaian must have been trained to replace the immigrant. However, such training does not often occur.

There is no automatic renewal of the work permit granted and so the employer would have to reapply for the quota for the worker if his/her services are still required.

Monitoring and enforcement: The GIS is responsible for monitoring and enforcement. As a result of the ongoing national assessment, the GIS is in the process of redesigning its entry and exit forms to capture more disaggregated data (e.g. data on gender, professions, etc.). It is also part of its plans to develop a database of immigrants in Ghana with work permits and residence permits. This would include such information as country of origin, demographic variables, professions/qualifications, companies they work in, etc. This would improve monitoring and enforcement.

Ghanaians in the Libyan Arab Jamahiriya

Legally resident Ghanaians in the Libyan Arab Jamahiriya

It is difficult to obtain data on Ghanaians legally resident in the Libyan Arab Jamahiriya; however, some data exists on Ghanaians who are legally/officially employed in the Libyan Arab Jamahiriya and the sectors in which they are employed.

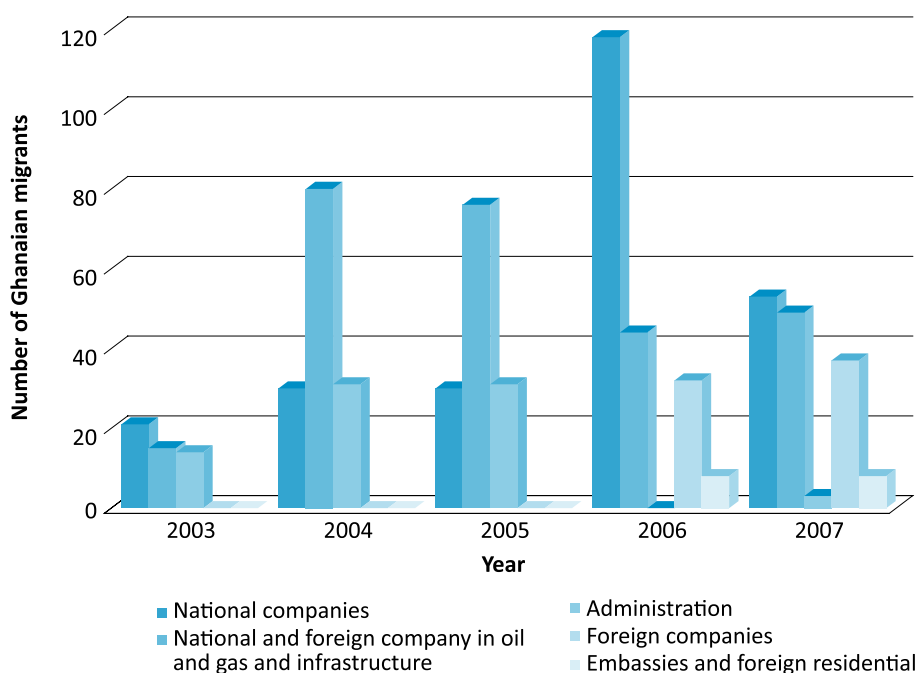
The official (legal) Ghanaian workers in the Libyan Arab Jamahiriya for any particular year is very low (see Table 8 and Figure 7) compared to the numbers deported each year (see Table 10). This means that a large number of Ghanaians in the Libyan Arab Jamahiriya have irregular status.

Table 8: Ghanaian legal labour in different sectors in the Libyan Arab Jamahiriya, 2003–2007

Company/year	2003	2004	2005	2006	2007	Total
National companies	21	30	30	118	53	231
National and foreign company in oil and gas and infrastructure	15	80	76	44	49	249
Administration	14	31	31	0	3	65
Foreign companies	0	0	0	32	37	69
Embassies and foreign residential	0	0	0	8	8	16
Total	50	141	137	202	150	630

Source: General Peoples Committee of Manpower (the Libyan Arab Jamahiriya), Oct 2008.

Figure 7: Ghanaian legal labour in different sectors in the Libyan Arab Jamahiriya, 2003–2007



Source: General Peoples Committee of Manpower (the Libyan Arab Jamahiriya).

Legal labour in the Libyan Arab Jamahiriya for Ghana, Senegal and Nigeria

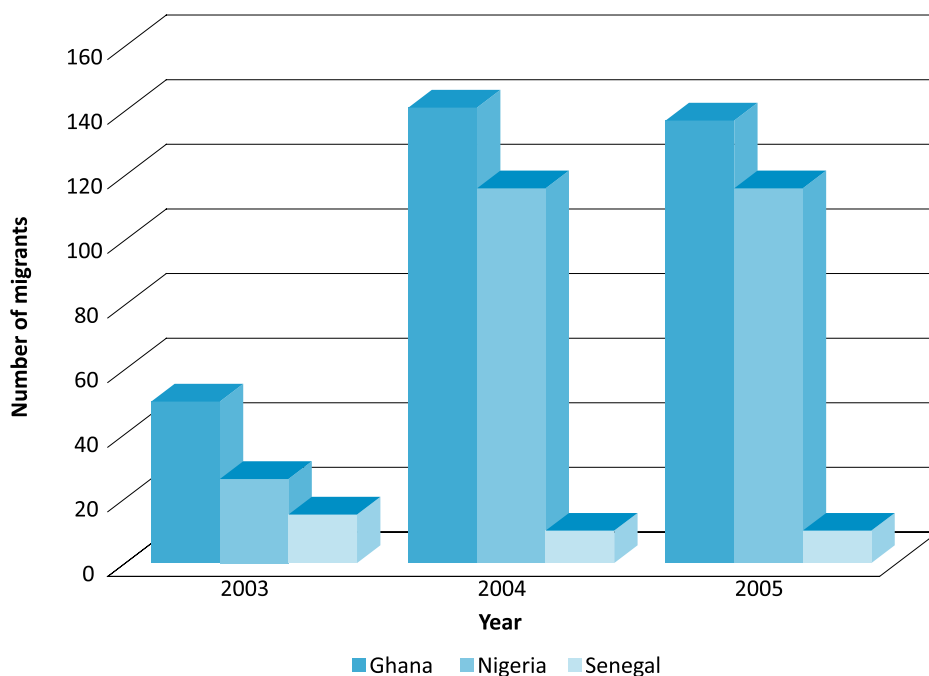
The data indicates that though the numbers are low, at any point in time there are more Ghanaians legally working in the Libyan Arab Jamahiriya than Nigerians and Senegalese (see Table 9 and Figure 8).

Table 9: Ghanaian, Nigerian and Senegalese official labour in Libya, 2003–2005

Nationality	2003	2004	2005	Total
Ghana	50	141	137	328
Nigeria	26	116	116	258
Senegal	15	10	10	35
Total	91	267	263	621

Source: General Peoples Committee of Manpower (Libya).

Figure 8: Ghanaian, Nigerian and Senegalese official labour in the Libyan Arab Jamahiriya, 2003–2005



Source: General Peoples Committee of Manpower (Libya).

Ghanaians, Nigerians and Senegalese in the Libyan Arab Jamahiriya

Deportee statistics for Ghana, Nigeria and Senegal

The data indicates large numbers of deportations from the Libyan Arab Jamahiriya for these three countries (see Table 10 and Figure 9) and perhaps for other foreigners. This could be explained by the dynamics of migration into the Libyan Arab Jamahiriya and subsequent policies to regulate entry and stay of foreign nationals in the country.

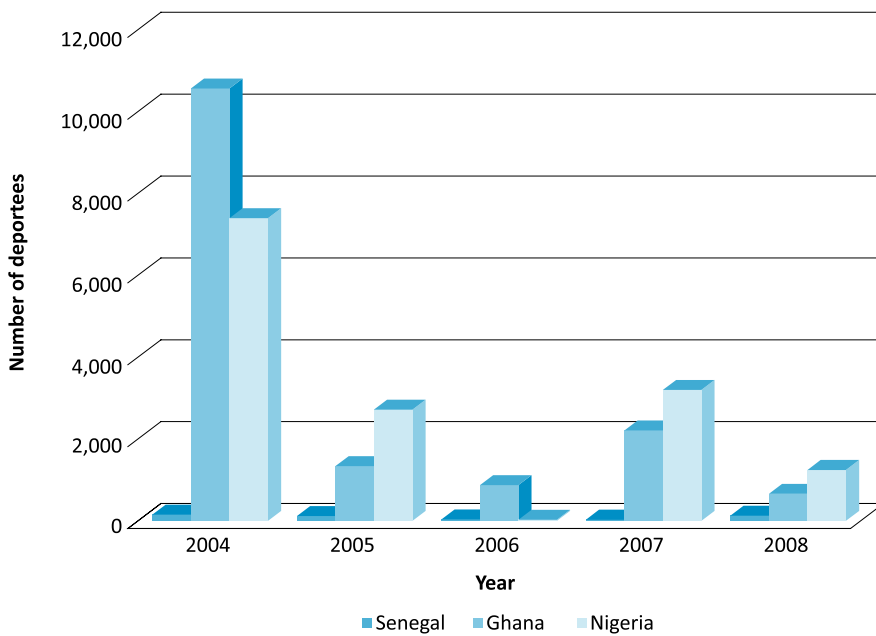
According to information from the General Peoples Committee of Libya, the increased entry of foreigners into the Libyan Arab Jamahiriya coincided with the discovery of oil and its exploitation. Initially, the government established Law No. 17/1962, which aimed to tighten entry and residence of foreigners. However, in the early 1970s, migration policies changed in order to encourage the entry of foreign workers, especially from Arab and African countries. In the late 1990s, the policy in the Libyan Arab Jamahiriya on the conditions of entry and stay of foreigners became strict due to the increasing contributions of national human capital and the emergence of irregular transit migration. This change in policy led to large deportations in any particular year.

Table 10: Ghanaian, Nigerian and Senegalese deportees from Libya, 2004–2008

Nationality	Number of Deportees					Total
	2004	2005	2006	2007	2008	
Senegal	154	117	38	30	128	467
Ghana	10,566	1,340	874	2,209	661	15,650
Nigeria	7,398	2,720	26	3,202	1,245	14,591
Total	18,118	4,177	938	5,441	2,034	30,708

Source: General Peoples Committee of Manpower (Libya).

Figure 9: Ghanaian, Nigerian and Senegalese deportees from Libyan Arab Jamahiriya, 2004–2008



Source: General Peoples Committee of Manpower (Libya).

Deportee statistics for Senegal, Ghana and Nigeria and reasons for deportation

The data on deportations from the Libyan Arab Jamahiriya of Senegalese, Ghanaian and Nigerian nationals indicates that illegal entry was the main reason for deportations in any particular year; other reasons include visa violations and health (see Table 11).

Table 11: Statistics on the deportation of Ghanaian, Nigerian and Senegalese from the Libyan Arab Jamahiriyah and reasons for deportation, 2004–2008

Nationality	Illegal entry	Security reasons	Begging	Illegal immigration	Illegal immigration (Tripoli)	Health reasons	Visa violation	Higher committee	Instructed to travel	Voluntary deportation	Holders travel	Transferred from prisons	Handed over by patrols	Total
2004	Senegal	21	1	0	0	1	0	121	0	0	0	8	0	154
	Ghana	4,800	3	0	1,692	12	9	3,618	0	0	0	188	0	10,566
	Nigeria	3,039	3	0	2,046	30	0	1,736	0	0	0	333	0	7,398
2005	Senegal	13	0	0	100	2	0	0	0	2	0	0	0	117
	Ghana	317	0	0	72	8	4	0	0	683	0	27	0	1,340
	Nigeria	598	2	0	12	719	1	76	1	1,201	0	110	0	2,720
2006	Senegal	18	0	0	15	1	0	0	0	2	1	1	0	38
	Ghana	464	0	0	97	4	0	0	0	0	0	7	49	874
	Nigeria	25	0	0	0	0	0	1	0	0	0	0	0	26
2007	Senegal	14	0	0	13	1	2	0	0	0	0	0	0	30
	Ghana	1,929	4	0	213	1	6	0	0	1	0	21	34	2,209
	Nigeria	2,164	5	1	142	11	16	0	0	0	0	774	88	3,202
2008	Senegal	91	0	0	23	0	0	0	0	14	0	0	0	128
	Ghana	570	3	0	80	2	2	0	0	0	0	4	0	661
	Nigeria	1,090	2	0	121	0	1	0	0	0	0	31	0	1,245
Total	15,153	23	1	1,245	5,040	74	117	5,475	1	1,903	1	1,504	171	30,708

Source: Computer and Statistics - Passports Intelligence Department (Libya).

Ghanaians and Other ECOWAS Nationals in Italy

According to CARITAS MIGRANTES (Statistical Dossier, 16th Report), Africa is the second continent after Europe with the largest population of immigrants in Italy (see Table 12). According to statistics from the Foreign Affairs Ministry reported in the CARITAS Report, in a list of 30 countries of origin of all migrants in Italy in 2005, Ghana was in the 24th position; Nigeria occupied the 23rd spot and Senegal ranked 14th.

Table 12: Total population of immigrants in Italy, including those from Ghana, Nigeria and Senegal, 2005

Total immigrant population	as % of the Italian population	Countries of origin in West Africa	% of immigrant population
3,035,000	5.2%	Ghana	1.0
-	-	Nigeria	1.1
-	-	Senegal	2.0

Source: Caritas Migrantes 16th Ed.

Age, sex and marital status of African migrants in Italy, 2005: According to the report, 67 per cent of all African migrants in Italy are aged 19–40 years and 46.5 per cent of all African migrants in Italy are single. In terms of sex distribution, 15.5 per cent of African migrants are women and of these, 46.6 per cent are Moroccan and 8.5 per cent are Nigerian. Sixty per cent of all Nigerian migrants in Italy in 2005 were women.

Geographic location of migrants: The report states further that most migrants in Italy are in the north, north-east and centre of the country, where most industries and businesses are located. The regions where migrants are mostly found are Lombardy in the north-east (where Milan is located), Piedmont in the north (where Turin is located) and Lazio at the centre (where Tuscany and the region of Rome are found).

Economic sectors where migrants work: On the distribution of migrants according to economic sectors, the report states that, generally, labour migrants are in the construction, domestic and hospitality sectors (see Table 13).

Table 13: Percentage of people hired in the Italian labour market in different sectors, 2005

	Sectors	%
	Construction	14.5
All migrants	Domestic labour and hospitality	10.8
	Services	13.6
West African migrants	Tiles	13.4
	Mechanical	13.6
	Food processing	11.1
	Transport and logistics	12.5

Source: Caritas Migrantes 16th Ed.

Statistics on visas applied for and issued to Ghanaians in 2005: According to the statistics of countries for which most visas were issued in 2005, Ghanaians applied for a total of 7,593 visas (see Table 14). Out of these total applications, 1,943 visas were granted, and of these, 1,673 were for family reunification, 59 were religious visas and the rest were other types of visas.

Table 14: Number and type of visas issued/granted to Ghanaians by Italy, 2005

Total visas applied for	Total visas granted	Type of visas granted	No. granted for each category
7,593	1,943	Family reunion	1,673
-	-	Religious	59
-	-	Others	211

Source: Caritas Migrantes 16th Ed.

Also, 1,000 irregular Ghanaians already resident in Italy in 2005 were regularized under the Italy/Ghana quota system. However, on the list of 30 countries issued with labour visas, Ghana was not represented. This was because a country needed to have at least 450 labour visas in a particular year to be included in the list of 30 countries.

Recommendations

- Develop a national database on emigration and immigration, taking into consideration issues of labour migration.
- Disaggregate the national database so that it can reflect the various professions in the country and their numbers, as well as the number of males and females.

- Explore ways of incorporating the recording of irregular migration in the GIS data collection system at entry and exit points, e.g. recording of duration of visas.
- Explore ways of incorporating in national censuses items that capture labour migration-specific data.
- Build the capacity of MDAs such as GIS, the Labour Department of the MESW, and the Ministry of Foreign Affairs (MOFA), to capture and analyse labour migration-specific data in collaboration with GSS.
- Conduct periodic research to develop evidence-based policies on issues such as foreign market needs for Ghanaian labour and assessing the demand for foreign workers, as well as providing general statistics on labour migration.
- Develop mechanisms with other ECOWAS States for gathering labour migration data across borders to facilitate data sharing and comparability of data within the subregion.
- Develop linkages with destination countries (beginning with the preferred destinations of Ghanaian labour migrants) on data gathering and management mechanisms to facilitate the development of appropriate labour migration policies.
- Institutionalize periodic assessment of available data and updating of data on labour migration.

SECTION II - INSTITUTIONAL STRUCTURES AND INTER-INSTITUTIONAL COLLABORATION

Objective

To analyse existing institutional structures and coordination mechanisms regarding labour migration and to formulate recommendations on how to optimize existing mechanisms in Ghana.

Findings

Labour relations practice in Ghana is marked by tripartism. In this regard there is cooperation between and among the MESW, its departments and agencies particularly the Labour Department, and all other bodies that operate in the area of labour. The MESW collaborates with organized labour, which includes the Ghana Trades Union Congress, the Ghana Employers' Association, and the National Labour Commission. The MESW also has oversight responsibilities over the Factory Inspectorate Department, the Management Development and Productivity Institute, the Department of Social Welfare and the Fair Wages and Salaries Commission. The MESW also works with NGOs and CSOs on various issues.

Inter-Ministerial Collaboration

Ghana lacks a comprehensive framework on migration in general, and labour migration in particular. However, in the absence of a clear policy guideline, the government instituted an IMWG to oversee and manage the recruitment of workers for foreign employment. The IMWG is made up of representatives from the Ministries of Manpower, Foreign Affairs, Justice, Interior and National Security, and the Labour Department of MESW. In addition to this IMWG, there are other working groups on migration.

A National Migration Unit has been set up by Cabinet in the MOI. The MOI through the Unit and its various activities is also responsible for the coordination of the activities of public sector institutions whose activities relate to migration. **There is also a National Working Group on labour migration in the MESW; the Group is set up in the framework of the Aeneas 2006 project on labour migration and is tasked to fashion out a labour migration policy framework for Ghana.**

The various laws of Ghana also help one to see the range of institutions involved in labour migration issues in Ghana. These include the MESW and its departments and agencies, and all other MDAs mentioned above, as well as the Ministry of Women

and Children's Affairs (MOWAC), the GIS and its IQC, the GIPC, the Ghana Refugee Board and the regular courts of law.

However, interviews conducted with some of the public institutions, indicate that they are not clearly aware of their mandates, roles, and issues of inter-agency coordination and do not have proper documentation of labour migration and related data.

It came out from the interviews again that in spite of issues on roles and mandates, **Ghana's approach to the issue of managing labour migration is based on the premise that migration management is multifaceted and can only be addressed comprehensively and effectively through collaboration between and among various stakeholders.**

Thus it can be said that although there is a lack of a comprehensive framework on labour migration, efforts at developing and managing labour migration have been, and continue to be, collaborative, involving the government through its MDAs, academic institutions, United Nations and other international agencies, NGOs and other collaborative institutions.

Profiles of Working Group Institutions

Below are short profiles of some of the collaborating institutions:

The **Ministry of Employment and Social Welfare (MESW)** is the lead ministry responsible for labour policy direction and labour management in the country. Through its departments and agencies, MESW ensures the enforcement of labour laws and policies and regulates labour practices. It is also the ministry that coordinates activities on labour migration. A Labour Migration Desk has been established in the ministry which facilitates activities on labour migration. The Minister responsible for Labour has supervisory functions over the PEAs and PECs through the Labour Department. The Labour Department of MESW is responsible for registering, inspecting and monitoring the activities of PEAs and PECs.

The **Ministry of the Interior (MOI)** exists to ensure the maintenance of internal security for all persons in Ghana (this includes foreigners) in order to promote peaceful socio-economic development. It is responsible for all the security agencies in Ghana. The ministry is responsible for the development of policies and legislation for the management of entry and exit of persons into the country. It is also responsible for the coordination of the activities of public sector institutions whose activities relate to migration; in this direction a National Migration Bureau has been set up by Cabinet. The ministry also manages the IQC, which grants expatriate quotas to companies which intend to use foreign workers and work permits to foreigners who

intend to work in the country, as well as grants citizenship to foreigners who qualify under Ghana's citizenship laws.

In the area of labour migration, the ministry is a member of the working group on labour migration set up in the Ministry of Manpower, Youth and Employment. It collaborates with all MDAs, development partners, academic institutions and the GIPC.

The **Ghana Immigration Service (GIS)** is a paramilitary service under the MOI. GIS works to regulate the movement of people into and out of the country, monitor the activities all foreigners in Ghana, enforce and ensure compliance with immigration laws, issues requisite immigration permits to foreigners, and assists in the prosecution of breaches of immigration laws. Increasingly the GIS is involved in migration management to the extent that a Migration Management Bureau has been established within the services with responsibilities for a Migration Information Bureau and the Refugee and Anti-Human Trafficking Desks. The GIS collaborates with all stakeholders in migration. The GIS also provides statistics on the inflow and outflow of persons in and out of the country. It is a member of the working group on labour migration.

The **National Labour Commission (NLC)**, which was created by Labour Act 651, is mandated to facilitate the settlement of industrial disputes and to settle industrial disputes. The Commission employs the processes of negotiation, mediation and arbitration. It is also part of its mandate to provide education on industrial relations practice in Ghana. It is a tripartite body (government, employers and organized labour) and works with all stakeholders in labour relations. It collaborates with the labour department of MESW on labour inspections and enforcement of the Labour Act, 2003 (Act 651). The Commission does not perform any direct function in labour migration. However, as the law covers both nationals and non-nationals, labour migrants in Ghana could take advantage of the dispute resolution mechanisms of the NLC should the need arise. The NLC is a member of the working group on migration.

The **Ministry of Finance and Economic Planning (MOFEP)** is responsible for the management of the national economy through the mobilization of both external and internal resources and ensuring their effective and efficient utilization by MDAs and metropolitan, municipal and district assemblies (MMDAs) to support the socio-economic development of the country. The Ministry has special relations with the BOG and other financial institutions through which the country's monetary and fiscal policies are implemented.

The external resource mobilization includes loans, grants and remittances from Ghanaian migrants in the diaspora.

The **Ghana Statistical Service (GSS)**, established under PNDC Law 135 in 1985, is mandated to collect, collate, analyse and disseminate statistical data relating to the commercial, industrial, agricultural, social, financial, economic and all other activities and conditions of residents of Ghana. In connection with this, the GSS collects and compiles relevant and quality data based on technically sound and internationally accepted methodology and make them available to stakeholders for good governance and informed decision-making.

As part of its mandate, the GSS conducts statistical surveys and censuses, and collects, compiles, analyses and disseminates data on migration. For instance, the population censuses conducted always had migration modules so that migration-related information can be elicited. Surveys like the GLSS and the Ghana Child Labour Survey (GCLS) also collect information on migration. A Migration Research Study was conducted by GSS in 1991 to help effective decision-making in the country. On migration statistics, GSS collaborates with the MESW, the GIS, the Customs, Excise and Preventive Service (CEPS), the Ghana Police Service, Development Partners and all other relevant institutions. The collaborations have mostly been through the setting up of ad-hoc committees (working groups).

The **Ghana Trades Union Congress (GTUC)** is the main umbrella organization of trade union activities in Ghana. It is comprised of 17 affiliated national unions. These unions are autonomous bodies which pursue their own activities but do so within the framework of their constitutions and their areas of legally accepted jurisdiction. The GTUC is the official mouthpiece of unionized labour in dealing with the government and with employer's associations. The GTUC is non-political; the 1992 Constitution debars all elected officials from identifying with any political party. It currently has a membership of about 500,000.

The GTUC collaborates with the tripartite partners on labour migration issues and it works to create awareness of the issues of migration, with particular emphasis on workers' rights and responsibilities. The **Health Services Workers Union (HSWU)** of the GTUC is working with Public Services International (PSI) on a project dubbed "International Migration and Women Health Workers' Project"; under this project the HSWU undertakes advocacy to sensitize the government to improve the working conditions of women health workers. The HSWU has also developed a "Pre-Decision and Information Kit" under this project.

The **Ministry of Foreign Affairs, Regional Integration and NEPAD** is responsible for the protection of Ghana's interest and Ghanaians abroad. Through its Migration Bureau, the Ministry gathers and analyses data on Ghanaian emigrants. The Legal, Multilateral and Passport Department of the Ministry works closely with the GIS in the processing of Ghanaian passports and is also responsible for the issuance of entry visas to foreigners intending to visit Ghana.

The **Ministry of Justice and Attorney General** is responsible for legal matters in relation to the exercise of the executive powers of the State and for rendering legal advice in relation to legislation and the drafting of legislation to give effect to policy decisions taken by government. The Ministry is essentially a professional and service ministry providing professional legal services to all MDAs of the State. The functions of the ministry include: advising and negotiating all agreements both national and international; preparing legislation and instruments of ratification for the government, private members and parliament, and assisting parliament in its consideration of bills for enactment; acting as counsel in all commissions or committees of enquiry instituted by government; revising laws relating to business with the aim of providing a business-friendly legal environment and framework; broadening the scope of legal aid services to the vulnerable and the excluded; improving economic crime prevention, transparency and public accountability; and preparing and reforming laws to facilitate the realization of the policy objectives of government with regard to economic and social growth.

The **Centre for Migration Studies (CMS)** is an academic institution based in the University of Ghana, Legon. It undertakes research, teaching and training, capacity-building and policy assessment in the areas of migration. An interview with its deputy head revealed that CMS collaborates with the Migration Management Bureau of the GIS, the MOI, and other institutions and departments working in the area of migration. CMS is also a member of the working group on labour migration.

The **Research and Counselling Foundation for African Migrants (RECFAM)** is an NGO engaged in migration. Its activities, as its name depicts, cover research into the issues of migration in general, advocacy on migration and production of documentaries for training purposes. An interview with its executive director revealed that RECFAM collaborates with all major stakeholders in migration in Ghana and beyond the borders of Ghana. It is a member of the working group on labour migration in the MMYE.

The **International Catholic Migration Commission** is a religious civil society organization with offices in various parts of the world, including Ghana. Its activities include dealing with issues of forced labour and repatriation.

International migration has important implications for demographic dynamics and thus for the core mandate of the **United Nations Population Fund (UNFPA)**. UNFPA's approach towards policy and programmatic interventions in this area is rights-based and culture- and gender-sensitive. Among issues of particular concern are the challenges of female migration, including trafficking and smuggling; migration and the vulnerabilities of women and children to HIV/AIDS health; the provision of basic social services, including reproductive health services, in areas of destination; and protection of the human rights of migrants. UNFPA seeks to improve data, research

and institutional capacity for formulating and implementing migration policies and programmes. It is strongly dedicated to providing directed policy, advocacy and technical support to ensure that international migration is recognized as an important factor in development. The UNFPA Ghana office has brought to bear on discussions for the development of a labour migration framework its expertise in demography and the issues that particularly concern migrant women.

The aim of the **United Nations Development Programme (UNDP)** is to maximize the developmental benefits of migration for poor countries and mitigate any negative consequences. UNDP country offices provide capacity development support to governments that wish to develop pro-poor, pro-development and human rights-based migration strategies, as part of their broader MDG-based national development strategies. Particular attention is given to the efficiency and use of remittances, retaining key skills, improving the participation of diasporas, and strengthening local governance and investment in education. Within the international debate on migration, UNDP advocates for a focus on sustainable human development and protecting the rights of migrants, as well as progress on the GATS Mode 4 negotiations on the temporary movement of labour. The UNDP Ghana office brings its experience in development issues and shares experiences from other countries such as the Philippines and Bangladesh that are known labour-exporting countries.

The **International Labour Organization (ILO)**, the United Nations specialized agency on labour issues, has been dealing with labour migration since 1919. It has pioneered international Conventions to guide migration policy and protection of migrant workers. All major sectors of ILO – standards, employment, social protection and social dialogue – work on labour migration within its overarching framework of “decent work for all”. ILO adopts a rights-based approach to labour migration and promotes tripartite participation (governments, employers and workers) in migration policy. It provides advisory services to Member States, promotes international standards, provides a tripartite forum for consultations, serves as a global knowledge base, and provides technical assistance and capacity-building to constituents. ILO has recently developed a multilateral framework on labour migration to guide its constituents in labour migration policy. The ILO office in Ghana has been a key partner in multisectoral discussions on labour migration and shares experiences from other countries that have gone through the process of developing labour migration policies.

The **International Organization for Migration (IOM)**, an intergovernmental organization, is dedicated to promoting humane and orderly migration for the benefit of all. IOM acts with its partners to: uphold the human dignity and well-being of migrants; encourage social and economic development through migration; assist in meeting the growing operational challenges of migration management;

and advance understanding of migration issues. It does these by using its long experience and worldwide presence to provide a full range of services and advice to governments and migrants, from projects and practical solutions to policy and broad strategic approaches, from data collection, research and analysis to the provision of a forum for states, intergovernmental organizations and civil society to exchange views and experiences and promote cooperation and coordination of efforts on international migration issues. The IOM is the main sponsor of the process of developing a labour migration framework in Ghana.

Recommendations

- Develop a comprehensive and coherent national policy framework on labour migration to guide policymakers and administrators on labour migration management.
- Ensure that the development of the national framework takes into consideration other national policies such as the employment policy, national policy on vocational training, and national development policy and strategies.
- Design a clearly articulated inter-agency collaboration framework that sets out the various MDAs involved in labour migration, their mandates and roles, and issues of inter-agency coordination, with the MESW acting as lead ministry.
- Harness and build on the collaborative effort and process developed in the Aeneas 2006 labour migration working group to ensure wide-embracing dialogue, cooperation and consultation on labour migration issues and policies and to facilitate ownership by various stakeholders, including civil society.
- The expertise of the Commissioners of the NLC, in labour relations and settling industrial disputes should be tapped in the process of establishing minimum standards.
- Some key ministries which are not represented in the Aeneas labour migration working group should be contacted and drafted into the group. These include the Ministry of Health (MOH) and MOWAC.
- Facilitate linkages with corresponding MDAs within ECOWAS as a means of institutionalizing collaboration and ensuring a subregional approach to managing labour migration.

SECTION III - NATIONAL LEGISLATION AND INTERNATIONAL NORMS

Objective

To see the extent to which national legislation is in accordance with international standards and to verify the degree to which labour rights, human rights and the dignity of migrant workers are guaranteed in legal provisions.

Findings

In the absence of a national migration framework, Ghana regulates migration through various Acts and Regulations of Parliament, the 1992 Constitution and various ratified treaties, some of which have been incorporated in its municipal laws: the Labour Act, 2003 (Act 651) for example, makes provisions for foreign employment (emigration), and the Immigration Act, 2000 (Act 573) provides for the admission, residence, employment and removal of foreign nationals and other related matters. All these varied legal provisions are subject to the fundamental law of Ghana, the 1992 Constitution.

National Laws

The Constitution of Ghana, 1992

The 1992 Constitution defines who is a citizen of Ghana and delineates various ways by which one becomes a citizen of Ghana (by birth, adoption, marriage or naturalization).

The Constitution further provides for the rights and obligations of citizens. The Constitution was amended in 1996, and by this amendment it is now permissible for a Ghanaian to hold the citizenship of another country. This became effective with the passing of the Citizenship Act, 2000 (Act 591) and the Citizenship Act 2002 (Act 91, Dual Citizenship Act). Thus, the laws of that other country permitting, citizens can, in addition to their citizenship of Ghana, hold the citizenship of that other country.

Immigration/Foreign Nationals

The Constitution provides in Article 266 that only citizens of Ghana may hold a freehold interest in Ghana or hold an interest in land in excess of 50 years at any one time. This clearly excludes foreign nationals, including indefinite residents and persons who have a right of abode status. Persons who held a freehold interest in land before the coming into force of the 1992 Constitution have that interest

automatically converted into leasehold of 50 years. This constitutional provision is relevant for foreign residents in Ghana who may need to acquire interests in land for social or economic purposes.

The Immigration Act, 2000 (Act 573)

The Immigration Act, 2000 seeks to provide in one document all the laws relating to immigration while combining migration and labour issues. It regulates: the admission (entry and departure), residence, employment and removal/deportation of foreign nationals; the exemption and detention of foreign nationals; petitions; and other related matters.

Section 56 of the Immigration Act defines as “foreign national” a person who is not a citizen of Ghana. Thus, anyone who does not fall into the categories stated by the Constitution is a foreign national.

According to Section 4 of the Immigration Act (Conditions of Entry into Ghana):

- (1) Subject to this Act where an immigration officer is satisfied that a person other than a citizen of Ghana entering Ghana:
 - (a) is in possession of a valid passport or other travel document and a valid visa to enter Ghana where applicable;
 - (b) is exempted from obtaining a visa to enter Ghana;
 - (c) has his name endorsed upon a visa and is in the company of the holder of the visa;
 - (d) has applied and been granted an emergency entry permit; or
 - (e) is a person admitted to diplomatic status by the Government of Ghana, the immigration officer may permit that person to enter Ghana for a period that may be specified.

The law also sets out time frames for renewals of permits.

Part II of the Act contains provisions on the residence and employment of foreign nationals in Ghana such as on residence and work permits, the right of abode, the removal of illegal migrants and the establishment of the Immigrant Quota Committee. It also deals with the applicable regulations when a foreign national commences or ceases work in Ghana.

The Immigration Act (Part II, Section 24) provides that **a foreign national who remains in Ghana for a period exceeding three months shall register with the nearest immigration office**. A foreign national who fails to comply with this provision commits an offence and is liable for summary conviction to a fine not exceeding 250

penalty units or to a term of imprisonment not exceeding 12 months, or both fine and imprisonment.

A residence permit may run for a period not exceeding eight years, although the very first residence permit issued to a foreign national shall not exceed four years. One can apply for and be granted indefinite residence status or for “the right of abode” if he/she meets the criteria for such.

The legal consequences of the status of “indefinite residence” and “right of abode”, according to Section 18 (1) of the Immigration Act, is that a person with either status is entitled to remain indefinitely in Ghana, enter Ghana without a visa and to work in Ghana, either as a self-employed person or as an employee and without a work permit. Such a person is also subject to the laws of Ghana. Again, a non-Ghanaian child (natural or adopted child under 18 years) or other non-Ghanaian dependent of a person with indefinite residence status or right of abode status is eligible for a dependency permit issued by the Director (Section 18, (2)–(4)). It is significant that in the case of an “other non-Ghanaian dependent”, there is no age limit for eligibility for a dependency permit.

Employment of immigrants

The Immigration Act established the Immigrant Quota Committee. The Committee, according to Sections 25 and 26, is made up of representatives of various MDAs that interface with immigration and labour matters, the BOG, the GSS and the Ghana Employers Association.

The Committee considers all applications for immigrant quota and work permits and makes recommendations to the Minister for the issue of immigrant quota and work permits. In doing this, the Committee is guided by the investment laws of Ghana. The Minister may, according to Section 26(3), “issue a work permit to any person who is not a prohibited immigrant, a visitor, tourist, transit passenger or student, and who satisfies the Committee that: (a) he wishes to enter Ghana in order to take up work or employment; (b) is qualified to work or undertake employment in the trade, business or calling in respect of which the application is made; (c) his taking up of the work or employment will be to the benefit generally of Ghana; and (d) he is lawfully resident in Ghana and is qualified to work as an employee or a self-employed”.

Regulation 16 of the Immigration Regulations provides that “an employer who wishes to apply for a work permit for a person employed by that employer shall submit an application through the Director, who upon investigation shall submit a report to the Immigrant Quota Committee for consideration and approval. A permit to employ a foreign national shall be as in Form L in the Schedule to the Regulations”.

According to Section 28(1) of the Immigration Act, a “work permit granted for the employment of a foreign national shall specify the number and description of persons authorized to be employed”. Also, subsections (2) and (3) continue by noting that “an approval to fill in an immigrant quota may specify the period for which a foreign national may occupy a particular post while a Ghanaian understudies him to take over on expiry of the period” and that “a work permit issued to a person shall specify the employer by whom that person is to be employed and the holder shall not without the consent in writing of the Committee engage in any form of paid employment or in any business or professional occupation in Ghana, other than the particular employment, business or professional occupation specified in the work permit”.

The Immigration Regulations provides a “**penalty for illegal employment**”. More specifically, Regulation 18 provides that a person shall not employ a foreigner except in accordance with the provisions of the Immigration Act. Any body corporate which violates the provisions of the Immigration Act, Section 24 and employs a foreigner has to pay 10 million Ghana cedis as a penalty to the Immigration Service. Failure to pay the prescribed penalty within seven days is an offence punishable with a fine of 700 penalty units, the equivalent of GH¢ 8,400 (which is about USD 8,400). If an individual fails to pay this penalty, he/she is liable upon conviction to a fine of 350 penalty units (GH¢ 4,200 or about USD 4,200).

A holder of a **work permit may apply to renew the permit within one month of the expiration of the permit (Section 32 of the Immigration Act)**. Such an application shall be treated as if it were a fresh application for a quota or work permit (see the section on permits issued in 2007).

Deportation of immigrants

“A deportation order can only be issued by the Minister of Interior. A person is liable to deportation if he/she: is a prohibited migrant or does not possess a valid permit (or the conditions for which the permit was granted no longer standing) or “his presence in Ghana is in the opinion of the Minister not conducive to the public good” (Section 35 (1) (g)). A court may also make a finding on a person (of being destitute or without means of support or to be of unsound mind or mentally handicapped) and report it to the Minister who can issue the deportation order. Moreover, in cases when a person has committed a punishable offence, a court may as well make a recommendation for deportation to the Minister.

Labour Act, 2003 (Act 651)

The Labour Act, 2003 which was passed by the Parliament in October 2003, sets out the laws and regulations for industrial relations practice in Ghana. It “amends

and consolidates the laws relating to labour, employers, trade unions and industrial relations.”

To this end, the Labour Act consolidates Ghana’s labour laws into a single Act. It creates the National Labour Commission, an independent institution for building and maintaining a framework for dispute resolution based on negotiation and mediation. It furthermore creates more opportunities for partnerships through the formal recognition of the Tripartite Consultative Process and it allows for pluralism of trade unions. The Act also provides for the employment of people with disability and regulates general conditions of employment.

The Act applies to all workers and employers except the armed forces, the police service, the prison service, and the security and intelligence agencies (Part I, Section 1 of the Act).

Part II of the Act makes provisions for **public employment centres (PECs) and private employment agencies (PEAs)** (Labour Act, 2003, Act 651).

Part III of the Act makes provisions for the **protection of employment** and this covers, among other things, the rights and duties of employers (Sections 8–9) and the rights and duties of workers (Sections 10–11). The duties of employers include, inter alia: paying the agreed remuneration, ensuring that the worker is free from risk of personal injury or health, developing human resources through training and retraining, and protecting the workers’ interest.

Sections 10–11 enumerate the rights and duties of workers to include: equal payment for equal work without distinction, the right to have rest, leisure and reasonable limitation of working hours, and the right to form or join a trade union. On the other hand, the duties of the workers (Section 11) include reporting for work regularly and punctually, enhancing productivity and protecting the interests of the employer.

More specifically, Section 14(e) reads: “An employer shall not in respect of any person seeking employment, or of persons already in his employment: discriminate against the person on grounds of gender, race, colour, ethnic origin, religion, creed, social or economic status, disability or politics.”

Section 18(1)(d) states that, in case of termination of a foreign contract, the employer shall pay the expenses and necessities for the journey and repatriation expenses for the worker and members of the family, in addition to other payments mentioned in Section (1) (any remuneration earned and deferred pay due before the termination, and any compensation in respect of sickness or accident). This brings out the fact that the Act covers both nationals and non-nationals.

Furthermore, **Parts IV–X of the Act** deal with the general conditions of employment (leave entitlements, continuous service, interruption of work by public holidays, sickness of worker, sick leave not part of annual leave), employment of women, fair and unfair termination, employment of young persons, protection of remuneration, and provisions on temporary workers and casual workers. These apply to all workers, as stated earlier, although these provisions do not mention foreign nationals specifically, to the extent that foreign nationals with valid work permits work in Ghana, and to the extent that the law applies to all workers in Ghana except for those persons specifically exempted by the law, then these provisions applies to both nationals and non-nationals.

Part XI of the Act makes provisions for trade unions and employers’ associations. Specifically, Section 79 provides for freedom of association and it states in subsection (1) that *“Every worker has the right to form or join a trade union of his or her choice for the promotion and protection of the worker’s economic and social interests”*. This right applies to every worker and therefore to foreign nationals working in Ghana.

The right to collective bargaining also applies to all workers, both nationals and foreigners. This is because Section 96 of the Act bestows the right to conclude collective agreements between one or more trade unions and one or more employers’ organizations. Since the right to form or join a trade union is extended to foreign workers in Ghana, they are thus eligible to be included in collective agreements.

Thus, it is therefore evident that foreign nationals who work in Ghana fall under the provisions of the Labour Act, 2003 (Act 561).

The Ghana Investment Promotion Centre Act, 1994 (Act 478, GIPC Act)

The Act provides for the following immigrant quotas in Section 30:

1. An enterprise with paid-up capital USD 10,000.00 but less than USD 100,000.00 or its equivalent in cedis is entitled to an initial automatic maximum immigrant quota of one person.
2. An enterprise with paid-up capital of USD 100,000.00 but less than USD 500,000.00 or its equivalent in cedis is entitled to an initial automatic maximum immigrant quota of two persons.
3. An enterprise with a paid-up capital of USD 500,000.00 or more or its equivalent in cedis is entitled to an initial automatic maximum immigrant quota of four persons. Section 40 of the Act states that: “capital” means all cash contributions, plant, machinery, equipment, buildings, spare parts, raw materials and other business assets other than goodwill.

Aside from the above immigrant quota allowances, any applications for immigrant quota with respect to an investment in Ghana shall be submitted to the GIPC. Such an application is dealt with by the GIS in consultation with the GIPC.

The Act reserves some enterprises for Ghanaians (Schedule of Section 18) and foreign nationals are not allowed to participate in these enterprises.

Emigration/ Foreign Employment

Labour Regulations 2007 (L.I. 1833)

Labour Regulations 2007 (L.I. 1833) contain specific provisions on foreign employment (Regulations 27–32). As a background, the Regulations provide that a private employment agency which acts as an intermediary for the purpose of procuring employment for a worker or recruiting a worker for an employer shall register with the Registrar-General of Companies in Ghana. It shall then apply to the Minister for a licence as well as pay the required fees (see Regulation 3).

Moreover, a person who induces another person to enter into a foreign contract by way of fraud, falsehood, intimidation, coercion or misrepresentation is liable to pay the remuneration due under the contract and to provide for the repatriation of the worker and authorized persons accompanying the worker, if the worker was brought to the place of employment by the employer. Such a contract is also void (Regulation 33).

The worker and his/her family

A person engaged under a foreign contract may be accompanied to the place of employment by the person's family (Regulation 31, "Right of worker to be accompanied by family"). However, the recruitment of a person shall not be considered to include the recruitment of another member of the person's family. Only one spouse and the worker's children who are under the age of 16 may accompany the worker. No one may prevent such dependants from accompanying a worker or separate them from the worker during the period of employment.

Regulation 27 of the Labour Regulations contains provisions that seek to prevent the separation of a worker from his/ her family for too long. It thus provides that "where the period of service to be stipulated in a re-engagement foreign contract, together with the period already served under the expired contract, involves the separation of a worker from the worker's family for more than 18 months, the worker shall not begin the service stipulated in the re-engagement contract until the worker has had the opportunity to return home at the expense of the employer."

Expenses of journey

Pursuant to Regulation 31(1) of the Labour Regulations “the expenses of the journey of an employee engaged under a foreign contract and the members of the employee’s family authorized to accompany the employee to the place of employment, including expenses incurred for protection during the journey, shall be paid by the employer. The employer shall provide transport to the place of employment for the employee and the accompanying members of the employee’s family. The provision of transport shall include transportation for repatriation.”

Section 15 of the Labour Act provides for the regular termination of employment. In the case of foreign contract of employment, Section 18 provides that such termination carries with it an obligation by the employer to pay the expenses and necessities for the journey and the repatriation expenses in respect of the worker and accompanying members of the family, in addition to any or all of the payments specified in the Section.

Termination of contracts (Regulation 35 of Labour Regulations)

“A foreign contract of employment may be terminated if the employer is unable to fulfil the contract or, if owing to sickness or accident, the worker is unable to fulfil the contract, the contract may be terminated by either party and the worker is entitled to remuneration and deferred pay and compensation due to the worker in respect of sickness or accident, as well as repatriation of a member of the workers family who has accompanied the worker to the place of employment. The worker is also entitled to repatriation expenses unless the agreement for the termination of the contract otherwise provides.”

Pursuant to Regulation 35(3), “a contract may be also terminated by agreement between the parties if approved by a Labour Officer who, before giving the approval, certifies that the worker has freely consented to the termination, and that the worker’s consent has not been obtained by coercion or mistake and monetary liabilities between the parties have been satisfied.”

A contract may also be terminated by the worker with the prior approval of the Chief Labour Officer on grounds of ill-treatment of the worker by the employer.

Lastly, the death of a worker terminates the contract as well, and it does not prejudice the legal right of the worker’s heirs or dependents.

Repatriation (Regulation 36 of Labour Regulations)

Regulation 36 mentions the cases when the employer has to pay the repatriation expenses of his employee and the member of his family that is authorized to accompany him. These cases include the following:

- incapacity of the worker (sickness or accident) during the journey to the work place;
- if the worker is unfit to work (after medical examination);
- expiration of employment period;
- termination of employment (inability of the employer/worker to fulfil the contract, mutual agreement or termination by the employer/worker when the Chief Labour Officer (CLO) or the Labour Officer (LO) directs it in writing);
- any other cause occurring in the course of the worker's employment.

Furthermore, in case of death of the worker (during the course of employment or during the journey to the work place), the employer has to pay the repatriation expenses of the family member authorized to accompany the worker to the workplace.

Failure to pay the repatriation expenses mentioned above constitutes an offence for the employer.

The obligation to pay for the expenses of repatriation may be exempted by the Chief Labour Officer/Labour Officer if the worker has declared in writing or has signified that the he/she does not wish to exercise the right to repatriation and that the worker has been settled at his/her own request or with the worker's consent at or near the place of employment (Regulation 37 of the Labour Regulations). Another exemption from payment of the repatriation expenses arises when the worker fails voluntarily to exercise the right to repatriation before the expiry of the three months from the date of expiry or termination of the employment. The last case of exemption is when the LO has terminated (or approved the termination) of the worker's employment because of a fault that the latter committed.

Regulation 37(2) states as well that "an employer is not liable for subsistence expenses during the period, between the date of expiry of the period of employment and the date of commencement of repatriation, if the repatriation is delayed by the choice of the person to be repatriated."

International Law

Ghana has ratified several international human rights treaties and signed others; this includes the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), 1990. Ghana also signed the two optional Protocols to the Convention on the Rights of the Child, but has not ratified them. However, Ghana has not ratified any of the three ILO Conventions specifically on migration or any of the Conventions relating to labour migration and social security rights.

Tables 15a and 15b gives an overview of the ratification status of UN and ILO treaties.

Table 15a: Ratification status of international treaties (UN, ILO)

Human Rights Treaties (United Nations)	Date of Ratification	Migration-specific Conventions (ILO)	Date of Ratification
International Covenant on Civil and Political Rights (ICCPR)	7 September 2000	Convention No. 97 concerning Migration for Employment	-
International Covenant on Economic, Social and Cultural Rights (ICESCR)	7 September 2000	Convention No. 143 concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	-
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	1 February 1986	Convention No. 181 concerning Private Employment Agencies	-

Source: Culled from UN/ILO documents.

Table 15b: Ratification status of international conventions (UN, ILO)

Human Rights Treaties (United Nations)	Date of Ratification	Migration-specific Conventions (ILO)	Date of Ratification
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	8 September 1966	Convention No. 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security	-
Convention on the Rights of the Child (CRC)	5 February 1990	Convention No. 102 concerning Minimum Standards of Social Security	-
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts	Signed on 24 September 2003	Convention No. 157 concerning the Establishment of an International System for the Maintenance of Rights in Social Security	-
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Signed on 24 September 2003	Convention No. 19 concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents	-
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	7 October 2000	Convention No. 121 concerning Benefits in the Case of Employment Injury	-
Convention on the Rights of Persons with Disabilities (CRPD)	Signed on 30 March 2007	Convention No. 128 concerning Invalidity, Old Age, Survivors' Benefits	-
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)	7 September 2000	Convention No. 130 concerning Medical Care and Sickness Benefits	-
-	-	Convention No.168 concerning Employment Promotion and Protection against Unemployment	-
-	-	Convention No. 183 on Maternity Protection	-
-	-	Maritime Labour Convention	-

Source: Culled from UN/ILO documents.

Although most of the international human rights treaties have been ratified, implementation has been very limited (an example of the gaps between international law and standards and national laws); little or no migration-specific provisions have been made within the national legal framework to cater for their implementation. For example, although the ICRMW has been ratified by Ghana, it has not been implemented, i.e. the labour law, constitution and immigration law have not been revised; neither has a new legislation been drafted in order to accommodate the new standards elaborated in the ICRMW.

* It is important to note that in spite of the low/non-ratification status of ILO labour migration-specific Conventions, Ghana has ratified more than 47 ILO Conventions (listed in the appendix), some of which have been localized in the national laws. Included in these are seven of the eight core Conventions of the ILO and ILO Fundamental Principles and Rights at Work (FPRW). However, Ghana has not ratified Convention No. 138 concerning Minimum Age for Admission to Employment, but the Children’s Act, 1998 (Act 560 of Ghana) incorporates many of the provisions of Convention No. 138.

The ILO Declaration on the Fundamental Principles and Rights at Work, which was adopted at the 1998 International Labour Conference, covers four main broad areas:

1. freedom of association and the right to collective bargaining;
2. elimination of all forms of forced or compulsory labour;
3. abolition of child labour;
4. elimination of discrimination in respect of employment and occupation.

Table 16 shows the ratification status of the ILO Fundamental Conventions.

Table 16: Ratification status of ILO Fundamental Conventions

Conventions	Date of Ratification
Convention No. 29 concerning Forced or Compulsory Labour	20 May 1957
Convention No. 105 concerning the Abolition of Forced Labour	15 December 1958
Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively	2 July 1959
Convention No. 111 concerning Discrimination in Respect of Employment and Occupation	4 April 1961
Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize	2 June 1965
Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value	14 March 1968
Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	13 June 2000
Convention No. 138 concerning Minimum Age for Admission to Employment	-

Source: Culled from ILO documents.

The ILO’s position on these Fundamental Principles and Rights at Work is that *the principles and rights are universal and apply to all human beings in all countries – regardless of nationality or residence or migrant status, and regardless of countries’ level of economic development. These basic principles and rights must be respected even in countries whose governments have not ratified the Conventions concerned; that is, countries should respect these rights by the very fact of their membership of the ILO.* It is therefore important for Ghana to bear these principles in mind as it develops a national framework for labour migration.

Regional Instruments/Other Frameworks

The ILO Multilateral Framework on Labour Migration

The “ILO Multilateral Framework on Labour Migration: Non-Binding Principles and Guidelines for a Rights-Based Approach to Labour Migration” was the negotiated outcome of an ILO tripartite meeting of experts, adopted in November 2006 and subsequently endorsed by the governing body in March 2006.

The objective of the Framework is to provide practical guidance to its tripartite constituents (governments, employers' organizations and workers' organizations) and other stakeholders (civil society, international and regional agencies) on the development, improvement or strengthening, implementation and evaluation of national and international labour migration policies.

The Framework supplements existing ILO and United Nations migrant worker instruments, and takes into account new global challenges and developments, such as: the growth of temporary labour migration programmes; the feminization of migration; the greater role of the private sector in arranging migration across borders; the high incidence of irregular migration, including trafficking and smuggling of human beings; and the growing interest of the international community in migration and development linkages. It is a comprehensive international collection of principles, guidelines and best practices on labour migration policy. It is "rights-based" in the sense that it brings together the principles and rights that apply to labour migration and treatment of migrant workers already contained in various international instruments. The Framework consists of 15 principles and corresponding guidelines organized under nine broad themes, and a collection of 132 best practices found across the globe.

The five major themes that underlie the Framework are:

1. decent work for all;
2. international cooperation;
3. governance and management of migration;
4. promotion and protection of migrant rights; and
5. migration and development.

The Framework recognizes the crucial role of social partners, social dialogue and tripartism in migration policy. It advocates gender-sensitive migration policies that address the special problems faced by women migrant workers and acknowledges the sovereign right of all nations to determine their own migration policies (from the Preface to The ILO Multilateral Framework on Labour Migration).

Since Ghana is yet to develop a national framework on labour migration it is important that this Framework informs the process.

General Agreements on Trade in Services (GATS)

The World Trade Organization's (WTO) General Agreements on Trade in Services (GATS) categorizes trade in service into four "modes":

- **Mode 1:** Cross-border provision with no one actually relocating (e.g. postal services or telecommunications);

- **Mode 2:** Consumption of services abroad through temporary relocation of the consumer (e.g. visiting patient or student);
- **Mode 3:** Commercial presence or subsidiary branches (e.g. banks, hospitals or construction firms that are owned by a foreign company);
- **Mode 4:** Temporary movement of natural persons (workers) across borders to provide services (e.g. executives, doctors).

GATS Mode 4 covers four categories of service personnel, including:

- services' salespersons (e.g. insurance salespersons);
- intra-corporate transferees (e.g. executives, managers and specialists);
- business visitors (e.g. personnel engaged in establishing a foreign office or subsidiary);
- independent contract suppliers (e.g. doctors or architects).

GATS Mode 4 only covers people moving temporarily, although there is no definition of temporary. In effect, the length of stay allowed by GATS Mode 4 is identified by the offers and agreements made in countries' negotiating positions and varies from a few months to a few years depending on the type of work (and usually level of skill) for two or five years. It can cover the self-employed moving to offer a service or those employed by others on whose behalf they travel to offer service.

According to the ILO, GATS Mode 4 does not cover people seeking access to a labour market in general (such people must have a specific sectoral role) or those looking for citizenship, asylum or permanent residence.

There is also some dispute over whether foreigners employed by local firms fall under GATS Mode 4. It is difficult to establish how GATS Mode 4 will impact on the regulation of migrant workers but it is important to bear GATS Mode 4 in mind in developing labour migration policies (ILO, 2008).

ECOWAS Protocols on Free Movement of Persons, Right of Residence and Establishment

The Economic Community of West African States (ECOWAS) was formed in 1975 to, among other things, encourage, foster and accelerate the economic and social development of the Member States in order to improve the living standards of their peoples (ECOWAS Treaty, 1975). The Member States include Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania (presently Mauritania is not a member of ECOWAS), Niger, Nigeria, Senegal, Sierra Leone and Togo. The creation of the Community was based on the conviction that the promotion of harmonious economic development of the Member States required effective economic cooperation and integration largely through a determined and concerted policy of self-reliance.

The recognition of the need for economic integration, including free flow of persons, goods and services, stimulated the enactment of the Protocol on Free Movement of Persons, Right of Residence and Establishment. The provisions of the Protocol include, inter alia:

- (i) 1979 Protocol A/P.1/5/79 relating to Free Movement of Persons, Right of Residence and Establishment;
- (ii) 1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons, Right of Residence and Establishment;
- (iii) 1986 Supplementary Protocol A/SP.1/7/86 on the second phase (Right of Residence);
- (iv) 1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment;
- (v) 1990 Decision A/DEC.2/5/90 establishing a residence card in ECOWAS Member States;
- (vi) 1990 Supplementary Protocol A/SP.2/5/90 on the third phase (Right of Establishment).

The 1979 instrument sets forth the right of the ECOWAS Community citizens to enter, reside and establish in the territory of Member States by establishing a three-phased approach over 15 years. The 1979 Protocol entitled the right of the ECOWAS citizens to enter the territory of a Member State with a valid travel document and an international health certificate (Article 3(1)). There is therefore no need to obtain a visa of entry up to 90 days. However, each State reserves the right to refuse entry, when deemed inadmissible under its legislation (Article 4). The first phase was ratified by all Member States in 1980.

The second phase of the Protocol became effective in July 1986. The 1986 Supplementary Protocol requires Member States to grant to ECOWAS citizens the right of residence for the purpose of seeking and carrying out income-earning employment except in the civil services (Articles 2 and 4). Therefore, they are admitted to enter and reside without a visa, but are obliged to obtain a residence permit. Several provisions also exist as regards protection against expulsion and rights accorded to ECOWAS citizens for equal treatment with nationals with respect to security of employment, participation in social and cultural activities and, in certain cases of job loss, re-employment and training (Article 23). This also has been ratified by all Member States.

The third phase, which is the right of establishment expressed in the 1990 Supplementary Protocol, deals with the facilitation of business through the right of ECOWAS Community citizens to establish enterprises (have access to, carry out

and manage economic activities) in Member States other than their states of origin. This has not been ratified by most Member States and so is yet to come into force.

Some of the challenges faced by Ghana in the implementation of the ECOWAS Protocol on Free Movement of Persons, Goods and Services are similar to those that confront other Member States and they include: political instability, inadequate infrastructural facilities that promote free movement, differences in the level of economic development, border controls and restrictions that hamper free movement, political and ideological differences, and lack of harmonization of national laws and policies on migration. All the challenges hamper the realization of a borderless West Africa.

Political instability in some Member States of ECOWAS has made it difficult for the governments of these States to focus attention on fulfilling their obligations toward the subregional body. In some cases, political unrest has served as a launching pad for the molestation and expulsion of non-nationals. For example, it has been stated that the political crises in the Cote d'Ivoire sparked off hatred for non-nationals, especially Burkinabé. Thus, though technically there is freedom of movement within the subregion, there are restrictive attitudes resulting in expulsions, widespread harassment and denial of the human rights of migrants.

Again, at the time of the coming into force of the Protocol, the road and rail networks of many of the States in the Community were restricted to national borders and little effort was made to expand road and rail networks beyond national borders to facilitate free movement and trade. At present, there have been efforts to expand and link road networks among the Member States, but more needs to be done in this direction.

Furthermore, the different levels of economic development among the Community members have also meant that a few Member States have had their economies stressed by large inflows from the "less developed" Member States. For instance, Nigeria, Cote d'Ivoire, Senegal and Ghana (lately) have been at the receiving end of these population movements. Emphasis should have been placed on acceleration of economic growth and poverty reduction in the various countries in order to make migration a choice rather than a necessity.

Political instability, poor economies, porous borders and the desire to protect the sovereignty of individual States have led most Community members to institute strict border controls in spite of the Protocol. This has meant that Community members have not enjoyed the freedom of movement provided by the Protocol. This might also mean that the rights of migrants have sometimes been abused.

Lack of and/or limited mechanisms for managing entry and exit between and among Member States, including lack of proper/valid travelling documents including birth certificates, has made it difficult to establish the proper identity of Community citizens and made it easy for some to engage in such activities as human trafficking, smuggling of goods across borders and money laundering, though the actual magnitude of such acts have not been established. These have, in turn, led to the tightening of border controls, although this is against the Protocol.

Finally, ECOWAS failed to ensure harmonization of national laws pertaining to migration before the Protocol became effective. For example, Ghana's Immigration Act, 2000 (Act 573) has no specific provisions for citizens from ECOWAS Member States (even though Regulation 3(1) of the Immigration Regulations, 2001 (L.I. 1691) distinguishes between an ECOWAS citizen and another non-national); the same can be said for Labour Act, 2003 (Act 651). As such, these laws fail to address the process of integration as espoused in the ECOWAS treaty. These challenges, and the fact that Ghana, Nigeria and Senegal do not have within their national laws provisions regarding the recruitment of ECOWAS nationals, have adversely affected the smooth implementation of the Protocol on free movement of persons (Clottey and Agyei, 2007).

Recommendations

- Develop a clear policy on labour migration for Ghana which will guide its management, so that it can benefit both migrants and society.
- Expand the various pieces of subsidiary legislation that regulate immigration issues. The Immigration Regulations, for example, are too short and do not provide for the details that will effectively implement the mother legislation.
- Ratify the international Conventions that affect migration and those that have not yet been ratified in order for Ghana to provide the fullest possible protection for emigrants and immigrants alike.
- Inform policymakers about the various laws that govern labour migration and encourage them to be informed of such laws when entering into bilateral agreements and other forms of partnerships with other countries.
- Explore possibilities and alternatives for negotiating bilateral agreements that ensure the provision of social security benefits to Ghanaian labour migrants and also look at the portability of such social security benefits.
- Bring together into a single document the various pieces of legislation in Ghana that regulate emigration and immigration in general and labour migration in particular, and also consider the possibility of developing a national legislation on migration that includes labour migration.
- These policies should be informed by subregional (ECOWAS) and regional (Africa) instruments on migration in general and labour migration in particular.

- Seek ways to establish and/or strengthen legal linkages, including linkages between similar legal bodies and institutions among ECOWAS States, to foster collaboration and coordination in handling issues of emigration and immigration.
- Tripartite partners such as the GTUC need to ensure, by way of lobbying parliament and working closely with other tripartite partners in the subregion, that a rights-based approach is adopted in addressing issues of labour migration, including developing a national framework.

SECTION IV - RECRUITMENT AND SUPPORT PRACTICES

Objective

To examine the existing recruitment practices and support services for Ghanaian migrant workers.

Findings

Ghana has ratified ILO Convention 96 on Fee-Charging Employment Agencies; subsequently, this has been localized in its Labour Act, 2003 (Act 651) and its Regulations. Part II of the Act, makes provisions for PECs and PEAs. Sections 2–7 of the Act deal with the establishment and functions of employment centres and agencies that charge fees to find employment for their clients.

Furthermore, Labour Regulations 27–37 of 2007 (L.I. 1833) make provisions for foreign employment (emigration) and cover: foreign employment, conditions of foreign employment, name of person engaged under a foreign contract to be furnished to the GIS, assignment of contract, right of worker to be accompanied by family, summary of law to be provided, penalty of fraudulently obtaining a contract, expenses of journey, termination of contract, repatriation, and exemption from payment of repatriation expenses.

Duration of stay: There are no specific provisions regarding this but the CLO is mandated to establish contact with the destination countries through various key ministries, e.g. the MOFA and the Ministry of Labour. Therefore, to the extent that it makes provisions for the CLO to establish contact with the destination countries through various ministries of the country where the contract duties are to be discharged, it could be said that the law also makes some provisions for the duration of stay in the destination country.

The CLO has the power to **issue a Notice** declaring that a particular country is a country to which the immigration of workers is lawful. He/she can grant permission for a foreign contract to be made for a period exceeding one year, but not beyond two years. Also, a person, who in the opinion of the CLO or an LO is under the age of 18 years, shall not enter into a foreign contract for employment as a worker.

PEAs and PECs: Requirements for Operation

PEAs and PECs are required to adhere to certain procedures and requirements before they can operate. In the main, **PECs are established by Executive Instrument** and are part of the administrative structure of the Labour Department; therefore,

there are no registration requirements. **PEAs, on the other hand, are first required to acquire legal/corporate capacity by registering with the Registrar-Generals' Department and then applying to the Minister responsible for Labour for a licence to operate as a PEA.** There is an application fee of GH¢ 500 and a renewal fee of GH¢ 300. When the application is made, the Minister, through the Labour Department of the MESW, conducts a **pre-licensing inspection**. The inspection covers office location, the human resource capacity of the PEA and the financial resources available to it. **The PEA is required to make a security deposit of GH¢ 25,000.** The granting of the licence or otherwise is based on the results of the inspection and the recommendations of the inspecting officer(s). The licence also specifies, depending on the application, whether a PEA is allowed to recruit for foreign employment or not. Table 17 below summarizes the types of recruitment agencies in operation and the requirements to operate.

Table 17: Recruitment bodies and requirements for operation

Type	Registration	Licensing Requirements	Fee Charging	Validity of Licence	Deposit	Application Fee
PEA	Corporate body	Legal/corporate capacity Human resource capability Financial capability Marketing capability	Yes	One year (initial) renewable for two years	GH¢ 25,000 For repatriation	GH¢ 500 GH¢ 300 For renewal
PEC	Executive Instrument	No	No	n.a.	n.a.	n.a.

Source: Information from Labour Regulations, 2007 (L.I. 1833).

Monitoring Requirements

The licensing procedure is used as a way of ensuring minimum standards. PEAs are required to submit **quarterly reports on their activities to the Minister, failing which the licence can be revoked.** The employer is required to **print a concise summary of the law relating to the contract both in English and in any local language for the benefit of the employee** (Act 651, Regulation 32(1), L.I. 1833, 2007). This could help widen the number of potential labour migrants as many artisans who may have skills but are less fluent in English often find it difficult to access legal (regular) facilities for migration and therefore fall prey to unscrupulous persons who exploit them. Also, it may help educate prospective labour migrants on the applicable laws regarding their employment in the destination country, as well as facilitate integration.

Foreign contracts to be forwarded to corresponding ministries in the country where the contract duties are to be discharged: This presupposes that employment

agencies, whether private or public, are required to send copies of employment contracts to the CLO. If this requirement is adhered to, it could not only serve as a means of tracking and protecting the labour and human rights of labour migrants, but also serve as a database on labour migration.

Welfare Services

On receipt of a request for migrant workers from Ghana, whether through a PEA or a PEC, the CLO or LO **conducts due diligence on employers** and makes the necessary recommendations, in order to inform the decision as to whether the request would be filled or not.

Also the Labour Department, when contacted, ensures that **contracts are not assigned without the consent of the worker (Labour Regulations, 2007, L.I. 1833)**. This is done through discussions with the prospective worker(s).

Although there is no institutionalized pre-employment orientation and pre-departure orientation, some orientation is done on an ad hoc basis.

Recommendations

- Urgently undertake a labour market survey to identify, among others, competencies (skills sets) of the working population and available labour for employment. This could further inform curriculum development.
- Develop information campaigns to inform the public of the services of the employment agencies and their locations, with the MESW acting as key coordinating ministry.
- Create a database of existing jobs abroad.
- Develop model employment contracts for the various countries with which Ghana has or intends to have bilateral agreements and MOUs.
- Further develop contracts for specified skills categories. Contracts should: set out the minimum standards of employment; address and consider issues of interest to Ghana and the host country; promote fundamental human rights and decent work; promote adherence to labour and social laws and good labour practices; and address cultural issues in the host country that impact on working life.
- Closely monitor and supervise recruitment activities:
 - Use an inter-agency team, including the GIS, National Security, the MESW, etc., for monitoring.
 - Conduct regular labour inspections and on-the-spot inspections for the enforcement of minimum standards and early identification of abuses by PEAs.

- Develop and disseminate a list of offences and sanctions in collaboration with PEAs to minimize abuses committed by these agencies.
 - The MESW should urgently develop, in collaboration with PEAs and PECs, a code of practice that would serve as a basic guide for the work of the recruitment bodies.
 - Introduce systems for rewarding PEAs that adhere to agreed/laid-down standards to ensure the protection of rights of migrants.
- Capacity-building of the staff of the Labour Department of MESW, especially in recruitment and support services for labour migrants.
 - Develop procedures for verification and recognition of diplomas and certificates in the event that Ghana decides to embark on organized labour migration.
 - Develop and disseminate a manual on the basic legal rights and obligations of migrant workers, as well as information on basic cultural nuances and differences, including information on who to contact in cases of emergency in the destination country.
 - Include in pre-departure orientation psychosocial orientation in order to expose would-be migrants to issues of acculturation and perceptions and expectations of life in the destination country, so as to equip them with some coping skills.
 - Ensure that migrant workers have signed a contract before they depart.
 - Create a registry of copies of contracts, data on the employer, the employer's agent in Ghana and abroad, the PEA/PEC involved in the recruitment, and other useful information regarding the employer and the worker.
 - Develop a complaint-handling mechanism for Ghanaian migrant workers and incorporate this into the work of Ghana's foreign missions, trade unions and all other agencies that come in contact with migrant workers in the destination country. Also, inform and educate foreign employers on the availability of such dispute/grievance-handling mechanisms.
 - Include labour migration issues in the activities of the MOI's Migration Bureau.
 - Develop checking systems in the recruitment process to recognize practices that might lead to trafficking in persons and forced labour.
 - Develop support programmes such as counselling, training, employment-generation, and other support services to help reintegrate returned migrants, including irregular migrants.

SECTION V - REMITTANCES

Objective

To ascertain the extent to which existing policies on remittances facilitate flows, protect, and provide financial security for migrant workers.

Findings

Since the liberalization of Ghana's economy (1987–1990), Ghana has made strides in generally improving the macroeconomic environment for growth and facilitating remittance inflows. Specifically, it has repealed the Exchange Control Amendment Law 1986, P.N.D.C. Law 149, which was seen to hinder remittance inflows, and enacted the Foreign Exchange Act 2006 (Act 723). Also, the Bank of Ghana has introduced a centralized data collection and reporting system on inward remittances, which has resulted in better tracking of inflows and increased utilization of formal channels of remittances such as banks and MTOs; this is seen in the number of banks and postal services in Ghana that have gone into alliances with some major MTOs (for example, almost every bank in Ghana now is either a MoneyGram or Western Union agent).

Again, in 2007, the Ghana Savings Bond, also known as the Golden Jubilee Bond, was issued to foster savings and investment by Ghanaian migrants and migrant associations. The Bond was conceived as a means to facilitate relations between Ghana and Ghanaians in the diaspora.

The impact of these measures is reflected in the increases in the volume of remittances; for example, Bank of Ghana records indicate that remittance inflows have increased from a low of USD 400.40 million in 1997 to an estimated USD 1,833.81 billion in 2007. The data further indicates that since the year 2000, remittance inflows have surpassed cocoa as a source of foreign exchange for Ghana (year 2000 figures: cocoa, USD 437.10 million; remittances USD 498.97 million; year 2007 estimates: cocoa, USD 1,132.65 billion; remittances, USD 1,833.81 billion)

Regional flows show the United States and Canada as the most important sources of remittance inflows. The other major sources of regional inflows are the UK and the EU.

Channels of remittances: Migrants utilize both formal and informal channels for remittances. Formal channels include banks and non-bank financial institutions, while informal channels range from friends and relatives to transport drivers to churches and couriers.

Remittances have been defined as “that portion of a migrant’s earnings sent from the migration destination” (Addison, 2005). IOM also defines remittances as “the monetary transfers that a migrant makes to the country of origin; in other words, the financial flows associated with migration”. Others have included non-cash donations, funds invested, gifts and contributions by migrants to the country of origin. Yet others have included transfer of skills, technology and social remittances (Baruah, 2006).

Trends

According to the World Bank, the international remittances received by developing countries in 2005 were around USD 167 billion and have doubled in the last five years (World Bank, 2006). In Ghana, BOG data indicates that remittances to Ghana amounted to over USD 4.5 billion in 2005, and over 30 percent of this amount (USD 1.5 billion) came from individuals. The remaining amount came from religious organizations and NGOs.

In recent years, there has been much discussion about the economic costs and benefits of remittances to a receiving country. It has been argued that migrant remittances are a stable source of foreign exchange which eases foreign exchange constraints and help finance foreign deficits. They are a potential source of savings and investment for capital formation and development and they help reduce income disparity while reducing poverty. There have also been arguments about the possible moral hazards that reliance on remittances could bring. For example, Roberts (2006) argues that reliance on remittances could lead to a reduction in labour effort by recipient families, and this could have a negative impact on growth and development.

Thus, in recent discussions on remittances, policymakers have placed emphasis on how remittance services can be made more cost-effective, accessible, reliable, quick and transparent, and also on how the development potential of remittances can be enhanced. Therefore, we turn our attention to the policies that govern remittances in Ghana, as well as the size and volume of remittances.

According to Addison (2005), there are three ways of reporting remittances. These are:

1. balance of payment (BOP) estimates;
2. micro/household surveys of recipients of flows: for example, inferences made from GLSS;
3. through banks or financial institutions in origin countries.

In Ghana, remittances are reported in the country’s balance of payments. Remittances belong to the group of items classified as “transfers” (Addison, 2005)

and they are recorded specifically as “private transfers” and are comprised of the following three items:

1. workers’ remittances: money sent by workers residing abroad for more than one year;
2. compensation of employees: gross earnings of foreigners residing in abroad for less than a year;
3. migrant transfers: net worth of migrants moving from one country to another (Addison, 2005).

The measurement or recording of private transfers/remittances has been influenced by Ghana’s macroeconomic environment and policies before and after liberalization of the economy (see Table 18).

Table 18: Modes of recording of private transfers

Before Liberalization	After Liberalization
<ul style="list-style-type: none"> • BOP estimates captured on exchange control forms: This made it easy to capture transfers that went through official channels. 	<ul style="list-style-type: none"> • Monthly reporting requirements put in place by BOG requiring all banks to report inward transfers • Later reporting widened to cover other licensed non-bank financial institutions.
<ul style="list-style-type: none"> • However, distortions in exchange rates, and the economy generally, meant that very little went through official channels. 	<ul style="list-style-type: none"> • From January 2004, there have been refinements in the reporting requirements to identify sources of transfers.

Source: BOG.

It should be noted however that, remittances are transmitted through different channels (see Table 19), making it difficult to capture the full amount in official records. Thus it is said that reports on the size and volume of remittance inflows underestimate actual flows.

Table 19: Channels of inward remittances

Formal	Informal
<ul style="list-style-type: none"> • Banks • Non-bank financial institutions such as MTOs, postal services, forex bureaus 	<ul style="list-style-type: none"> • Friends • Relatives • Transport drivers • Business people

Source: BOG.

As stated above, before liberalization, informal channels used to be the dominant channel of inward remittances, but over the years more formal channels are utilized.

Volume of Remittances

The data in Table 20 indicates that there has been an increase in remittance flows into the country from USD 400.40 million in 1997 to USD 1,833.81 billion in 2007. Thus, over the years there has been steady growth in remittance inflows. Remittance inflows declined in 2002, but picked up again in 2003 and have been growing steadily since.

Table 20: Volume of remittances (USD millions), 1997–2007

Year	Volume/Amount
1997	400.40
1998	453.83
1999	471.98
2000	498.97
2001	709.73
2002	680.00
2003	1,017.19
2004	1,287.05
2005	1,549.76
2006	1,644.58
2007	1,833.81

Source: BOG.

Size of remittance flows, ODA and FDI

The remittance data presented in Table 21 and Figure 10 indicates that for the assessment period (1997–2007) remittances have been increasing steadily, while ODA and FDI have seen fluctuations. Also, remittances have been far above ODA and FDI. This shows the importance of remittances in Ghana's BOP.

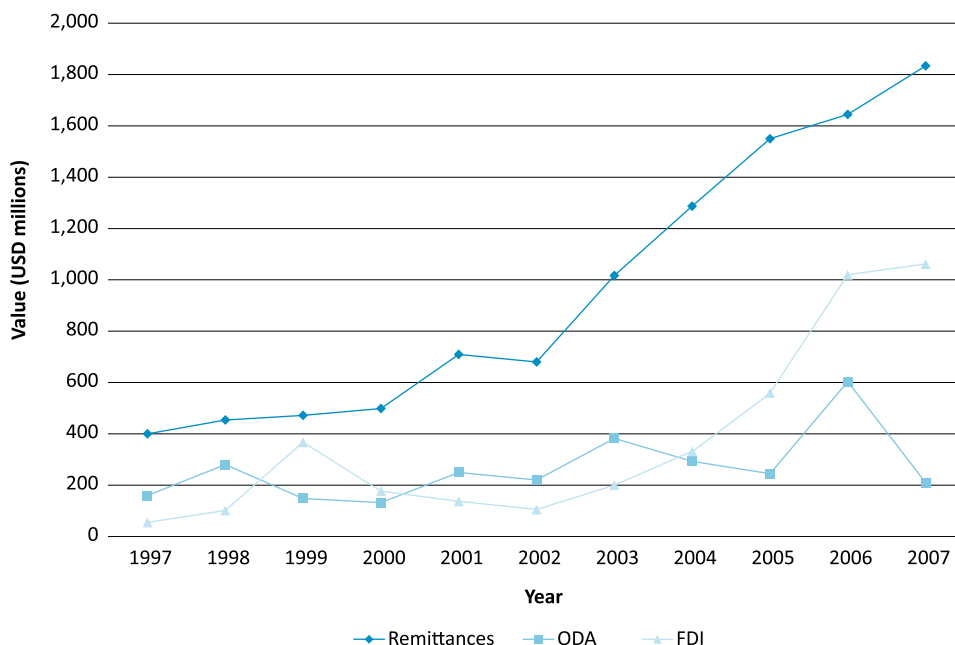
Table 21: Size of remittance flows, ODA and FDI (USD millions), 1997–2007

Type of flows	Year					
	1997	1998	1999	2000	2001	2002
Remittances	400.40	453.83	471.98	498.97	709.73	680.00
ODA	159.70	280.10	148.08	131.88	249.32	220.20
FDI	55.40	101.30	367.30	176.80	137.31	105.66

Type of flows	Year				
	2003	2004	2005	2006	2007
Remittances	1,017.19	1,287.05	1,549.76	1,644.58	1,833.81
ODA	382.01	292.89	244.46	603.68	209.37
FDI	199.91	331.98	559.29	1,019.35	1,061.48

Source: BOG.

Figure 10: Size of remittance flows, ODA and FDI (USD millions), 1997–2007



Source: BOG.

Ghana's cocoa exports compared with remittances

As shown in Table 22 and Figure 11, the data indicates that since the year 2000 remittance inflows have surpassed cocoa as a source of foreign exchange for Ghana. As indicated above, remittances have also been less volatile compared to cocoa. Except for 2002 when there was a drop in remittance inflows (albeit inflows still remained higher than cocoa exports), remittance inflows have continued to grow steadily since then.

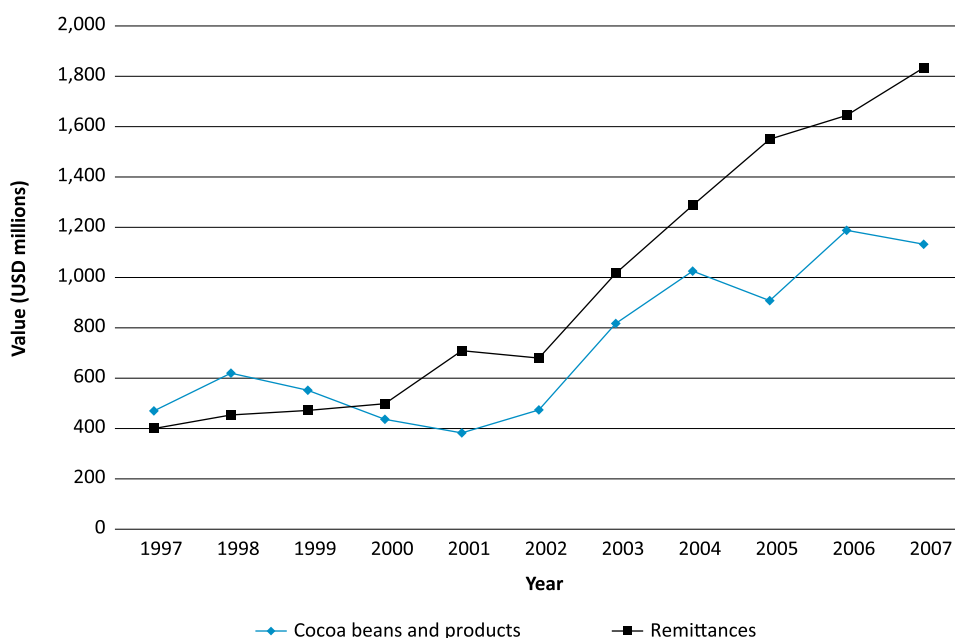
Table 22: Ghana's cocoa exports compared with remittances (USD millions), 1997–2007

Cocoa exports and remittances	Year					
	1997	1998	1999	2000	2001	2002
Cocoa beans and products	470.03	620.42	552.30	437.10	382.70	474.40
Remittances	400.40	453.83	471.98	498.97	709.73	680.00

Cocoa exports and remittances	Year				
	2003	2004	2005	2006	2007
Cocoa beans and products	817.73	1,025.67	908.36	1,187.44	1,132.65
Remittances	1,017.19	1,287.05	1,549.76	1,644.58	1,833.81

Source: BOG.

Figure 11: Cocoa exports and remittances (USD millions), 1997–2007



Source: BOG.

Ghana's major export products compared with remittances

As shown in Table 23 and Figure 12, remittance inflows have surpassed earnings from Ghana's major exports (cocoa, gold and timber). There has been little growth in inflows from timber over the 10-year period (1997–2007). However, even for cocoa and gold which have seen increases, remittance inflows have grown more steadily, especially from 2002 to 2007.

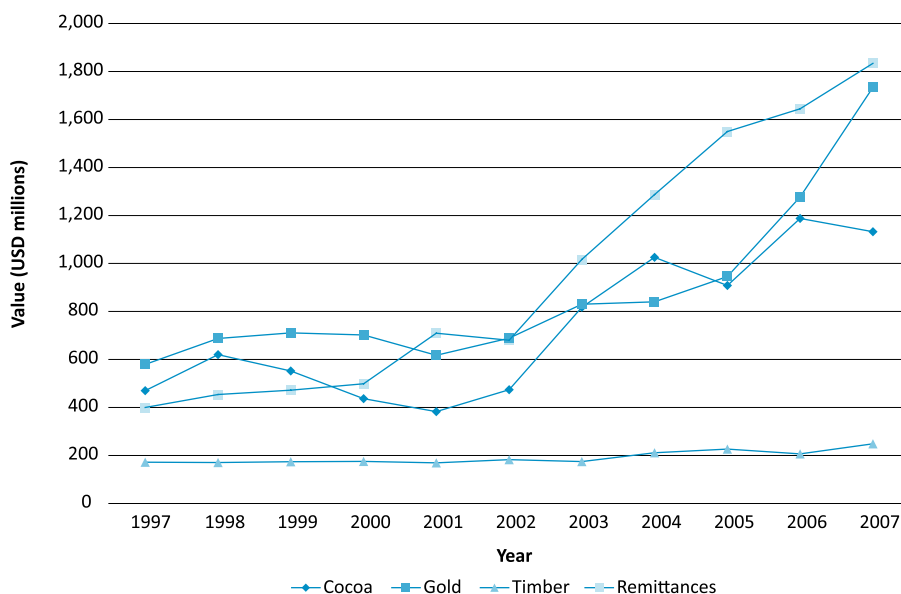
Table 23: Ghana's major export products compared with remittances, 1997–2007

Major exports and remittances	Year					
	1997	1998	1999	2000	2001	2002
Cocoa	470.03	620.42	552.3	437.1	382.7	474.4
Gold	579.21	687.76	710.8	702.0	617.8	689.1
Timber	171.97	171.01	173.8	175.2	169.3	182.7
Remittances	400.40	453.83	471.98	498.97	709.73	680.00

Major exports and remittances	Year				
	2003	2004	2005	2006	2007
Cocoa	817.73	1,025.67	908.36	1,187.44	1,132.65
Gold	830.13	840.21	945.82	1,277.25	1,733.78
Timber	174.74	211.71	226.54	206.71	248.97
Remittances	1,017.19	1,287.05	1,549.76	1,644.58	1,833.81

Source: BOG.

Figure 12: Ghana's major exports and remittances (USD millions), 1997–2007



Source: BOG.

Regional Distribution of Inward Remittances

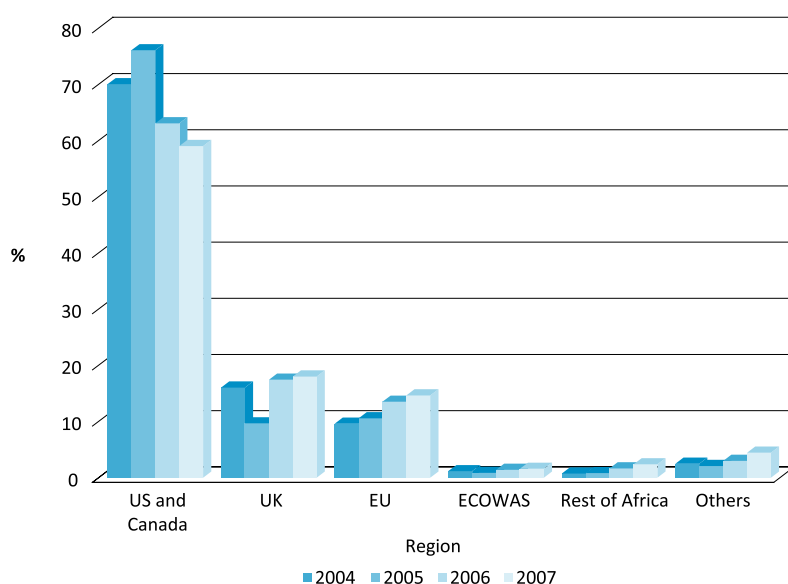
The regional distribution of inward remittances indicates that the United States and Canada are major sources of inflows. In 2004, of all the remittance inflows to Ghana, 70.02 per cent came from these two countries, followed by the UK (16.03%), the EU (9.60%), “others” (2.46%), ECOWAS (1.15%) and the rest of Africa (0.73%). Although inflows from the United States and Canada have been decreasing (from 63.05% in 2006 to 59.01% in 2007), these countries are still the largest contributors to inward remittances in Ghana (see Table 24 and Figure 13).

Table 24: Regional distribution/sources of inward remittances (%), 2004–2007

Most frequent and other nationalities	Year			
	2004	2005	2006	2007
US and Canada	70.02	76.06	63.05	59.01
UK	16.03	9.66	17.42	18.00
EU	9.60	10.56	13.51	14.63
ECOWAS	1.15	0.85	1.38	1.57
Rest of Africa	0.73	0.80	1.64	2.37
Others	2.46	2.07	2.99	4.43

Source: BOG.

Figure 13: Regional distribution/sources of inward remittances (%), 2004



Source: BOG.

Policies

Some of the primary pieces of legislation that govern remittances in Ghana are the following:

Dealings and Transfers in Foreign Exchange and the Foreign Exchange Act, 2006 (Act 723)

This Act provides for the exchange of foreign currency, international payment transactions and foreign exchange transfers. It also regulates foreign exchange businesses. The Act gives the BOG responsibility for its implementation. It also authorizes the BOG to issue licences in relation to the carrying out of business in foreign exchange and the conditions relating to the conduct of foreign exchange business.

Section 15 of the Act provides that each payment in foreign currency, to or from Ghana, between a resident and a non-resident or between non-residents shall be made through a bank. It also provides that each transfer of foreign exchange to or from Ghana shall be made through a person licensed to carry out the business of money transfers or any other authorized dealer.

The BOG is empowered under Section 17 of the Act to make rules to prescribe information required by the bank from a person licensed to carry out a foreign exchange business or foreign exchange transfers between residents and non-residents in connection with the conclusion of a transaction that involves foreign currency, the maintenance of bank accounts within or outside Ghana, and the settlement of the payment by a resident or non-resident.

The bank is also authorized to make rules to prescribe the conditions required to carry out the business of foreign exchange transfers. The bank thus issues from time to time, notices which are published in the gazette and newspapers.

Under Section 20 of the Act, where the Governor of the BOG determines that the country is experiencing or has experienced a severe deterioration in its balance of payments that requires the imposition of exchange controls beyond the ordinary measures provided in the Act and discussed above, he/she may, in consultation with the Minister for Finance, and by notice, make certain restrictions with regard to payments between residents and non-residents or payments to or from the country.

It is important to note that the notices referred to here have the character of subsidiary or subordinate legislation and are comparable to Legislative Instruments, although the latter are required to be approved by parliament and may therefore be a little weightier.

Ghana Investment Promotion Centre Act, 1994 (Act 478)

This Act is for the purpose of establishing the GIPC as an agency of the government for the encouragement and promotion of investments. The Act does not apply to mining and petroleum enterprises. In direct relation to labour migration, the Act provides for immigrant quotas, the eligibility for foreign participation in certain business segments in Ghana and for personal remittances (for details, refer to the legal section).

Promotion Centre (Promotion of Tourism) Instrument, 2005 (L.I. 1817)

The Ghana Investment Promotion Centre (Promotion of Tourism) Instrument (L.I. 1817) is the legislative instrument to the Ghana Investment Promotion Centre Act and is mainly for the promotion of tourism. It makes reference to special priority areas, the monitoring of projects amongst others.

Personal Remittances under the GIPC Act: The GIPC Act provides that expatriate personnel employed or engaged in an enterprise to which the Act applies, shall be provided banking facilities, through authorized dealer banks, for making remittances abroad, where the remittances do not exceed the total official wage of the expatriate personnel.

Recommendations

- Further refine the BOG reporting system on remittances to capture more disaggregated data. For example, the data on regional distribution comes in percentages which do not allow one to immediately see regional volumes.
- Strengthen inter-ministerial collaboration to ensure that all ministries involved in labour migration make inputs to the development of policies that govern migrant remittances, in order to ensure that the interest of different migrant groupings are addressed.
- Develop products that will facilitate investment by migrant workers and migrant associations with a view to linking labour migration to development.
- Initiate policies that would further facilitate remittance inflows and also reduce the cost of remittances.
- Develop policies that would encourage greater utilization of formal channels of remittances.
- Develop handouts or include remittance services available to migrants in the host country and in Ghana in pre-departure orientation.
- Develop and/or enhance linkages and partnerships with ECOWAS Member States in developing policies that facilitates remittances by migrants within and outside the ECOWAS subregion.

SECTION VI - GENDER

Objective

To ascertain the extent to which gender sensitive provisions are included in labour migration policies in Ghana with particular reference to women.

Findings

In Ghana, the promotion of gender equality is provided for by the Constitution, national frameworks and instruments, as well as international conventions and declarations on gender to which Ghana is a signatory. These provide the legal framework upon which gender equality are addressed. Chapter 5 of the 1992 Constitution makes provisions for the equitable engagement of both women and men.

Gender Issues and Institutions Responsible

Since 2001, **Gender issues in Ghana have been championed by MOWAC**. The Ministry was established by Executive Instrument 8 (E.I. 8) in 2001, with a mandate to initiate and coordinate the formulation of policies to promote gender mainstreaming and child development across all sectors, and ensure gender equality and the empowerment, survival, development and growth of women. MOWAC is also responsible for ensuring the protection of the rights of women and children. It works with various MDAs, MMDAs, NGOs and CSOs working in the area of gender.

MOWAC has championed the development of a National Gender and Children Policy (2004) which sets out the strategic direction of the Ministry and all other MDAs as regards gender and gender-related issues. The goal of the policy is to mainstream gender and children's concerns into the national development process in order to improve the social, legal/civic, political, economic and cultural conditions of the people of Ghana, particularly women and children. Some of the strategies outlined in the document for achieving the aims of the National Policy include, inter alia:

- sensitization and training of planners in gender and child analysis skills;
- ensuring women-responsive development planning at all levels (national, regional, district, area council and unit committee levels);
- promoting a gender and development (GAD) approach that is based on the understanding of gender roles and social relations of women and men, as well as the women in development (WID) approach which focuses on women specifically;
- promoting and carrying out research into gender-related concerns;
- advocating gender equality at all levels;
- establishing effective mechanisms to monitor and evaluate gender issues.

As part of the Programme of Work (POW) for the implementation of the National Gender and Children Policy, all sectors are to develop sector-specific gender policies. So far, the Ministries of Health and Education have developed their sectoral policies.

Gender Desks have been created in all MDAs manned by Gender Desk Officers (GDOs). The role of these GDOs is to facilitate gender mainstreaming in the areas of legislation, policy formulation, policy implementation, planning, advocacy, accountability and networking, with the ultimate aim of changing attitudes, values, beliefs, rules, procedures, etc. and thereby ensuring equality and equity for men and women. In 2002, MOWAC developed a set of terms of reference (TORs) to guide the activities of the GDOs; however, this has not been implemented and the Ministry has plans to use the TORs as a training tool for the GDOs and other gender-focused organizations so as to foster the achievement of the goal of gender mainstreaming.

MOWAC has designated District Assemblies as the main machinery for the implementation, monitoring and evaluation of action plans at the district and community levels. The assemblies are to gather, collate, analyse and disseminate gender-disaggregated information at the district level and identify pertinent gender issues for incorporation into annual district, sector and national plans, among others.

Also, gender issues are incorporated into the work of various MDAs and, as a country, Ghana has made gender-sensitive provisions in its laws and policies. The Labour Act 2003 (Act 651), for example, in Section 14(e) proscribes discrimination in employment against anyone on the grounds of race, colour, sex and other indicia of discrimination. Again, Part VI of the Act makes specific provisions for the employment of women. These specific provisions cover: night work or overtime by pregnant women; prohibition of assignment of pregnant women; and maternity, annual and sick leave. **These provisions cover nationals as well as foreign nationals working in Ghana.**

Other policies developed and/or facilitated by MOWAC include: the Early Childhood Care and Development Policy (ECCD), the Orphan and Vulnerable Children's Policy (OVCP), the National Plan of Action for Women and the Domestic Violence Act, 2007. The Millennium Development Goals (MDGs) assigned onto by Ghana also have specific implications for the work of MOWAC in general and gender issues in particular. For this reason, MOWAC collaborates with other stakeholders to work to achieve the MDGs: for example, MDG 3 states specifically "promote gender equality and empower women", while the aim of MDG 5 is to "improve maternal health". Critically, the entire eight goals have gender implications.

The business support unit of MOWAC has a microfinance scheme that provides microcredit to women groups as a first step to empowering women. The unit also

trains women on financial management to help improve their business management skills. Under this same programme, mothers of trafficked children have been supported with microcredit to help reduce the burden of taking care of the family, a burden which sometimes leads women to give their children away.

As the three-year Strategic Implementation Plan (2005–2008) developed by MOWAC to facilitate the achievement of the objectives of the National Women and Children’s Policy expires/concludes at the end of 2008, the Ministry has set in motion a process to develop a Medium Term Development Plan (MTDP) which would serve as the blueprint for all sectors to develop their sectoral gender plans. The broad aim/goal of this MTDP as set by MOWAC is “ensuring development of women and children by promoting equality, equity and mainstreaming children issues in the development process within the context of a decentralized democratic environment”. Two of the specific objectives of the MTDP are providing women with microcredit and ensuring women participation in district assemblies.

Some of the international instruments that have influenced the work of MOWAC in the area of gender include: the Beijing Declaration and Platform of Action, 1995; the Universal Declaration of Human Rights (UDHR), 1948; the International Covenant on Economic Social and Cultural Rights (ICESCR), 1966; the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979**; the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, 1993; the Cairo Declaration on Population and Development (ICPPD), 1994; the African (Banjul) Charter on Human and People’s Rights, 1981; and the Protocol to the African (Banjul) Charter on Human and People’s Rights on the Rights of Women in Africa, 2003.

Although MOWAC works extensively on human trafficking, especially child trafficking, which has implications for child labour, it does not have any specific policy on labour migration and does not have any ongoing programme on labour migration. However, it is a member of a number of committees and working groups that are working on fashioning a migration framework for Ghana.

Thus, Ghana lacks a gender-specific framework on labour migration but efforts are being made in this direction.

Recommendations

- Integrate gender issues into a national labour migration framework.
- Integrate gender-sensitive policies into labour migration policies, particularly on the migration process to improve the decision-making process; address the issue of migrants’ rights and welfare in countries of destination.

- Develop pre-departure training to inform would-be female migrants of the rights and risks of female migration to enable these migrants to make informed decisions and choices.
- Include gender-specific information on information campaigns.
- Develop and disseminate information on programmes and institutional structures which support female migrants abroad.
- Integrate labour migration into Ghana's foreign policy and encourage foreign mission staff in destination countries to protect migrant workers in those jurisdictions.
- Develop and/or enhance existing programmes to direct remittances of female migrants towards investment, by creating facilities for them to save.
- Strengthen female migrants' financial management skills and make credit facilities available to them.
- Design, develop and build a gender-disaggregated database on labour migration.
- Organizations such as trade unions should be empowered and encouraged to reach out with services for female migrants both regular and irregular through their international networks.
- Forge linkages with various gender-focused organizations to develop evidenced-based gender policies on labour migration.

CASE EXAMPLES - BILATERAL AGREEMENTS

The case examples given below are intended to give some insight into recruitment practices and issues arising from bilateral agreements and the implementation of agreements. All three cases are from the health sector, which is spearheaded by the MOH with the Ghana Health Service (GHS) as a major service provider.

Case A: Ghana and Jamaica

The agreement was for Ghana to supply a certain number of general nurses on a three-year basis; in return, Jamaica was to assist Ghana with technical expertise and training in three areas (paediatrics, accident and emergency care, and critical care).

- 1. Recruitment:** The GHS recruited the nurses with input from its Jamaican counterparts and also provided pre-departure orientation for those selected. The recruitment process involved verification and validation of certificates, as well as assessment of practical competency. The practical competency was possible because the GHS as the employer had access to verifiable information that would not have been readily so to an “outsider”. The first batch of 30 nurses left in 1995/96 and returned in 1999 and the second batch left in the same year. A total of 60 nurses benefited from the programme.
- 2. Issues:** Ghana’s Jamaican Counterparts did not fulfil their part of the agreement. Also, the Jamaicans entered into direct agreements with individual nurses, who preferred to stay in Jamaica rather than return to Ghana after the three-year period. Some of the nurses proceeded to the UK to work because the UK had reciprocal licensing with Jamaica; once the Ghanaian nurses obtained a Jamaican licence, they were eligible to work in the UK.

Case B: UK National Health Service Trust and Ghana MOH, 1998–2000

This agreement was similar to the Jamaican agreement.

- 1. Recruitment:** The GHS conducted the selection interviews and the verification and validation of certificates with representation from the UK. There was pre-departure orientation which included working practices in the UK and living in the UK in general. An initial batch of 30 nurses was sent to the UK for a period of two years. According to the Director of HR of the GHS, Dr. Ken Sagoe, the involvement of the Service ensured that nurses selected were properly trained and had the capability to perform the tasks. This was confirmed in later discussion with the Trust after the nurses had assumed work in the UK.

- 2. Issues:** From 1998 to 2000, the partners respected the agreement and adhered to it, but from 2000, the Trust began to recruit directly without reference to the MOH. By 2003, anybody in Ghana could recruit for the UK.

Case C: Ghana and the African Medical Foundation (AMF)

The AMF, an NGO based in the United States, entered into an agreement with the Ghana MOH to recruit nurses to work in the UK.

- 1. Recruitment:** The GHS assisted in the recruitment and 30 nurses were initially sent to the UK.
- 2. Issues:** After the initial recruitment, the NGO began recruiting on its own from its Trade Fair offices in Accra. Also, issues such as withholding of passports, deductions from pay and substandard housing (the nurses were put up in hostels instead of being allowed to find their own accommodation) came to the fore, and most of the nurses after a while left the hostel. Some returned to Ghana but many remained in the UK.

Source: Interview with Dr. Ken Sagoe CEO, Tamale Teaching Hospital who was formerly the Director of the Human Resource Directorate of the Ghana Health Service (HQ).

* All these agreements were made before the coming into force of Labour Act 651 and its Regulations which provide for foreign employment.

****Note:** It is important for stakeholders to be informed of the practices and issues that these cases bring to the fore, so that these would inform policies, procedures and practices on labour migration, especially as Ghana is in the process of developing its policies.

CONCLUSION

In the last decade, Ghana has made deliberate efforts to harness migration so that it benefits all involved. In the year 2001, the government organized the first-ever Homecoming Summit, with the main strategic objective of harnessing the Ghanaian diaspora for development. In 2002, the Ghana Citizenship Regulation Act was passed, which made provisions for Ghanaians to have dual citizenship, and in 2003, a Non-Resident Ghanaians Secretariat (NRGS) was instituted to promote further links with Ghanaians abroad and to encourage return. Several other efforts have been made; however, Ghana lacks a National Migration Framework. In the absence of a national framework, Ghana regulates migration through various Acts and Regulations of Parliament, the 1992 Constitution and various ratified international treaties.

In spite of these efforts, gaps exist in legislation and practices that govern labour migration in Ghana. For example, although Ghana has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), and all except one of the eight ILO core Conventions (Convention No. 138 concerning Minimum Age for Employment was not ratified), Ghana has not ratified any of the migration-specific ILO Conventions. These conventions include Convention No. 97 concerning Migration for Employment (Revised 1949), Convention No. 143 concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, and Convention No. 181 concerning Private Employment Agencies. Other Conventions that provide protection for migrant workers, such as Convention No. 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security, Convention No. 102 concerning Minimum Standards of Social Security, and Convention No. 157 concerning the Establishment of an International System for the Maintenance of Rights in Social Security, have not been ratified either.

The Assessment also revealed that there is very little harmonization of the laws and practices on labour migration in the ECOWAS subregion.

Moreover, even for the ratified Conventions; provisions have not been made in the local laws, either through an update or revision, to reflect them.

Gaps also exist in data as there are very limited national statistics available on labour migration and there is no existing database upon which to build or update. Also, the institutions with some mandate on labour migration are not clear about their roles and issues of inter-institutional collaboration.

For these reasons and because of the other findings of the Assessment, it is recommended that Ghana ratify the necessary ILO migration-specific Conventions,

as well as other Conventions that protect migrant workers, and that the country update her national laws to conform to international standards. There is also a need to work towards the harmonization of labour migration laws in the ECOWAS subregion to foster collaboration and sharing of expertise. The development of a National Framework to guide the management of labour migration is also very crucial if all stakeholders are to benefit from labour migration. The government should also be encouraged to enter into bilateral agreements to help regulate labour migration and foster the protection of the human and labour rights of Ghanaian labour migrants.

The development of labour market information systems is a necessary first step in developing a database of available skill sets in Ghana and negotiating job-matching schemes, and embarking on organized labour migration.

Special attention needs to be paid to the gender dimensions of labour migration as labour migration is becoming increasingly feminized. Other issues such as the linkages between human trafficking and forced labour and the vulnerability of children to abuse should also be borne in mind.

Ghana needs to learn from other labour-sending countries that have developed laws and systems to manage labour migration (e.g. Asian countries such as the Philippines and Sri Lanka).

On the whole, Ghana needs to adopt a comprehensive and coherent approach to harnessing labour migration for economic and social development.

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- Citizenship Regulations, 2001 (L.I. 1690)
- ECOWAS Protocol Relating to Free Movement of Persons, Right of Residence and Establishment, 1979
- Foreign Exchange Act, 2006 (Act 723)
- General Agreement on Trade in Services, 1994 (as it applies to labour migration)
- Ghana Investment Promotion Centre (Promotion of Tourism) Instrument, 2005 (L.I 1817)
- Ghana Investment Promotion Centre Act, 1994 (Act 478)
- Growth and Poverty Reduction Strategy Document II
- Human Trafficking Act, 2005 (Act 694)
- Immigration Act, 2000 (Act 573)
- Immigration Regulations, 2001 (L.I 1691)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965
- Convention on the Rights of the Child (CRC), 1989
- International Covenant of Economic, Social and Cultural Rights (ICESCR), 1966
- International Covenant on Civil and Political Rights (ICCPR), 1966
- Labour Act, 2005 (Act 651)
- Labour Regulations, 2007 (L.I 1833)
- Refugee Law,1992 (P.N.D.C.L 305D)
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ANNEXES

Annex 1: PEA Inspection

REPUBLIC OF GHANA
LABOUR DEPARTMENT
MINISTRY OF EMPLOYMENT AND SOCIAL WELFARE

Report on the Inspection of a Company for the Purpose of Issuing a Certificate as a Private Employment Agency under Act 651

Information on issues required	Responses	Remarks
1. Company particulars a. Name of company b. Physical location c. Official tel. no. d. Fax no. e. Whether registered with the Registrar-General's Dept.		
2. Company certification to commence business a. Certificate of incorporation (No.) b. Date of incorporation c. Certificate of commencement (No.) d. Date of certification		
3. Particulars of managing director a. Name of managing director b. Office telephone no. c. Mobile phone no. d. Residential phone no. e. E-mail f. Fax no.		
4. Names of three major directors a. b. c.		

<p>5. Financial capability</p> <ul style="list-style-type: none"> a. Evidence of security deposit (paid-up capital) b. Ability to pay agency licensing fees c. Statement of assets and liabilities d. Surety bond 		
<p>6. Recruitment capability</p> <ul style="list-style-type: none"> a. Evidence of trained recruitment staff/ specialists (No.) b. Documentation officers (No.) c. Clearance of adverse record (criminality) 		
<p>7. Managing capability</p> <ul style="list-style-type: none"> a. Qualifications of managers b. Inventory of office equipment c. Inventory of office facilities 		
<p>8. Marketing capability</p> <ul style="list-style-type: none"> a. Evidence of recruitment/ service agreement b. Evidence of job order/ labour request c. Special Power of Attorney 		
<p>Recommend/Disrecommend</p>		
<p>Reasons</p>		

.....
SIGNATURE, CHIEF LABOUR OFFICER

.....
DATE

Annex 2: L.I. 1833

L.I. 1833

LABOUR REGULATIONS, 2007 ARRANGEMENT OF REGULATIONS

Regulation

Employment Agencies

1. Employment data
2. Public employment centre
3. Private employment agency

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4. Right of a worker to training and confidentiality
5. Probation
6. Hours of work
7. Employment of young persons in hazardous work
8. Remuneration during interdiction
9. Victimization prohibited

Organized Labour

10. Collective bargaining certificate
11. National Tripartite Committee

Employment of Persons with Disability

12. Establishment of Disablement Unit for persons with disability
13. Duties of Disablement Unit
14. Disablement Unit to be attached to Public Employment Centres
15. Access to public service
16. Returns
17. Special incentives for employing persons with disability

Health and Employment

18. Occupational safety and health at work
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20. Essential services

Restriction on Recruitment

21. Restriction on recruitment of children and trafficked person
22. Definition of human trafficking
23. Consent not a defence
24. Prohibition of trafficking
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28. Conditions for foreign employment
29. Name of person engaged under a foreign contract to be furnished to Immigration Service
30. Assignment of contract
31. Right of worker to be accompanied by family
32. Summary of law to be provided
33. Penalty for fraudulently obtaining a contract
34. Expenses of journey
35. Termination of contract
36. Repatriation
37. Exemption from payment of repatriation expenses

Miscellaneous provision

38. Offence
39. Revocation and savings
40. Transitional provision
41. Interpretation

SCHEDULE

L.I. 1833

LABOUR REGULATIONS, 2007

In exercise of the powers conferred on the Minister responsible for Manpower, Youth and Employment by Section 174 of the Labour Act, 2003 (Act 651) these regulations are made this 28th day of May 2007

Employment Agencies

Employment Data

1. An employer shall supply employment data specified in the Schedule and any other information that the Labour Department may prescribe.

Public Employment Centre

2. (1) The Minister shall, by Executive Instrument, establish Public Employment Centres
- (2) A public employment centre shall give vocational guidance and advice to persons between the ages of fifteen and twenty-one.

Private Employment Agency

3. (1) A private employment agency means a body corporate which acts as an intermediary for the purpose of procuring employment for a worker or recruiting a worker for an employer.
- (2) A person who desires to establish and operate a private employment agency shall:
 - (a) register the agency with the Registrar-General as a body corporate before applying to the Minister to be granted a licence;
 - (b) pay a licence fee of five million cedis; and
 - (c) pay a security deposit of GH¢ 25,000 (twenty-five thousand Ghana cedis) as security to cover operations in case of repatriation of illegal or illegitimate worker who may be sent abroad by them or have to be repatriated at the cost to the country.
- (3) A person who desires to establish a private employment agency shall submit a licence registration form and pay an initial fee of five million cedis for a period of one year from the date of the granting of the licence by the Minister.
- (4) An existing licence shall be renewed two months before the expiration of the licence with a renewal form and the payment of three million cedis for a period of two years from the date of the renewal being granted.
- (5) The Minister shall direct the Chief Labour Officer or a Factory Inspector to inspect the premises, facilities and the staff of the private employment agency within one month after receipt of the application, before a licence is granted to the agency.
- (6) The Minister shall issue the licence if satisfied with the report of the Chief Labour Officer or Factory Inspector that the premises and facilities meet the requirement of an employment agency.
- (7) Where the conditions for the grant of application are not satisfied, the licence or refusal shall be refused, and if a licence has already been granted, it shall be revoked and the Minister shall give reasons for refusal or revocation.
- (8) The criteria for the grant or refusal of a licence shall include availability of human resource and management capacity of the agency.

Conditions of Employment

Right of a worker to training and confidentiality

4. (1) Where the need arises, the employee shall be trained by the employer having regard to the relevance of the training on the job and the enterprise.
- (2) An employment agency shall respect a worker's rights, including the right to confidentiality of data which shall be limited to the qualifications and professional experience of the worker.

Probation

5. Where, as a condition for engagement of an employee, a contract of employment requires probation, the contract shall specify the duration of the probation for the employee.

Hours of work

6. (1) The Minister shall direct the Chief Labour Officer or a Labour Officer to determine shorter hours of work for manual labour and work declared likely to be injurious to the health of the employee with the employer.
- (2) The working hours shall be included in a Collective Agreement.
- (3) The employer shall deposit two copies of the Collective Agreement with the National Labour Commission and the Chief Labour Officer.

Employment of young persons in hazardous work

7. (1) An employer shall not engage a young person in work which involves:
 - (a) manual lifting of loads, the weight of which exceeds twenty-five kilograms,
 - (b) work on scaffold and other structures at a height exceeding two and a half metres,
 - (c) the use of substances and materials that emit:
 - (i) radiation, or
 - (ii) poisonous gases or fumes,
 - (d) the use of dangerous chemicals,
 - (e) excessive noise,
 - (f) the felling of timber,
 - (g) night work exceeding eight continuous hours, or
 - (h) other situations considered by the Chief Labour Officer as hazardous.
- (2) An employer shall not engage a young person:
 - (a) for the production and screening of pornographic materials, or

- (b) to work at areas in a hotel which are likely to corrupt the moral development of that young person.

Remuneration during interdiction

- 8. (1) Where an employer interdicts an employee, the employer shall:
 - (a) pay not less than fifty percent of the employee's salary for six months, during investigations, disciplinary or criminal proceedings for an offence for which the employee has been charged, and
 - (b) pay the employee the salaries withheld during the interdiction if the employee is exonerated from the offence for which the employee has been charged.
- (2) Sub-regulation (1) shall not prejudice the terms agreed upon in a collective agreement between the employer and the employee.

Victimization prohibited

- 9. An employer shall not discharge or otherwise discriminate against a person because that person has made a complaint or given evidence or assisted in respect of the initiation or prosecution of a complaint or other proceedings under these Regulations.

Organized Labour

Collective bargaining certificate

- 10. (1) Where it comes to the notice of the Chief Labour Officer that there exists more than one trade union in an undertaking, representing the same class of employees, the Chief Labour Officer shall invite the unions to a meeting to undertake verification to determine which union represents the majority of the workers to be issued with a bargaining certificate, except that the union issued with the certificate shall consult or, where appropriate, invite other unions in the course of negotiations to participate in the negotiation process.
- (2) Where two or more persons or employers desire to form a trade union or employers association they shall register with the Chief Labour Officer and pay a registration fee of three million cedis for a Registration Certificate.
- (3) Where there still remains a dispute, the matter shall be referred to the National Labour Commission for a binding resolution.

National Tripartite Committee

11. For the purpose of enhancing the performance of the National Tripartite Committee:
 - (a) Members of the Committee may attend meetings of the Committee with their advisors; each member shall be entitled to one advisor at a time, and
 - (b) a permanent secretariat shall be established to facilitate activities of the Committee by the Ministry

Employment of Persons with Disability

Establishment of Disablement Unit for persons with disability

12. There is established under these Regulations a Disablement Unit in each District.

Duties of Disablement Unit

13. (1) Each Disablement Unit shall keep a register of persons with disability in which shall be recorded the names of persons with disability who apply for registration.
(2) On receipt of the application, the person with disability in charge of the Unit, or any other person authorized by the Disablement Resettlement Officer, shall enter the name of the applicant in the appropriate register and issue to the applicant a certificate of registration in the prescribed form.

Disablement Units to be attached to Public Employment Centres

14. A Disablement Unit for the registration of persons with disability shall be attached to a public employment centre for the registration of persons with disability seeking employment and securing employment for them.

Access to public service

15. A public or private agency shall put in place the necessary facilities and equipment that will make the service available and accessible to a person with disability.

Returns

16. An employer shall forward to the appropriate Disablement Unit quarterly returns in the prescribed form giving particulars on:
- (a) the vacancies filled by the employment of persons with disability,
 - (b) the vacancies remaining unfilled and why they are unfilled, and
 - (c) any other matter related to the employment of a person with disability.

Special incentive for the employing of persons with disability

17. (1) An employer who:
- (a) engages up to five persons with disability, or
 - (b) engages more than five persons with disability

shall be given a tax rebate that the Minister of Finance, on the recommendations of the Minister for Labour, may determine.

- (2) A person with disability who engages in an enterprise shall be given a special incentive that the Minister may determine.

Health and employment

Occupational safety and health at work

18. (1) An employer shall take appropriate measures to safeguard the health and safety of employees.
- (2) An employer of business premises where:
- (a) an occupational accident or disease occurs, or
 - (b) an employee dies or is incapacitated from work as a result of an accident or disease

shall report to the Chief Labour Officer or the Inspector of Factories if the accident or disease occurs during or in the course of the employment of the employee.

- (3) An employer shall ensure that the business environment is not rendered unsafe by the business operations.

Medical examination of workers

19. (1) An employer shall not permanently engage an employee in any work unless a recognized medical practitioner certifies at a pre-employment examination that the employee is in good health and is medically fit for the work assigned to the employee.

- (2) An employee who works in hazardous situations such as contact with fumes and gaseous substances shall undergo a periodic medical examination once a year.

Essential services

20. The following services are considered to be essential services under the Labour Act, 2003 (Act 651):
 - (a) water supply services,
 - (b) electricity generation, transmission and distribution services,
 - (c) health and hospital services,
 - (d) sanitary services,
 - (e) air traffic control,
 - (f) meteorological services,
 - (g) fire services,
 - (h) air transport services,
 - (i) supply and distribution of fuel, petrol, power and light,
 - (j) telecommunications services,
 - (k) public transport services,
 - (l) ports and harbours services, and
 - (m) Bank of Ghana.

Restriction on recruitment

Restriction on recruitment of children and trafficked person

21. (1) An employer shall not employ a trafficked person or a victim of trafficking as defined by the Human Trafficking Act, 2005 (Act 694).

Definition of human trafficking

22. (1) Human trafficking means the recruitment, transportation, transfer, harbouring, trading or receipt of persons within and across national borders by:
 - (a) the use of threats, force or other forms of coercion, abduction, fraud, deception, the abuse of power or exploitation of vulnerability;
 - (b) giving or receiving payments and benefits to achieve consent.
- (2) Exploitation includes at the minimum, induced prostitution and other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
- (3) Placement of sale, bonded placement, temporary placement, placement as service where exploitation by someone else is the motivating factor constitutes trafficking.

Consent not a defence

23. Where children are trafficked, the consent of the child, parent or guardian of the child cannot be used as a defence in prosecution under Act 694, regardless of whether or not there is evidence of abuse of power, fraud or deception on the part of trafficker or whether the vulnerability of the child was taken advantage of.

Prohibition of trafficking

24. (1) A person shall not traffic another person within the meaning of Section 1 of Act 694 as an intermediary for the trafficking of a person.
- (2) A person who contravenes sub-regulation (1) commits an offence and is liable on summary conviction to a term of imprisonment of not less than five years.
- (3) For purposes of this regulation, an intermediary is someone who participates in or is concerned with any aspect of trafficking under Act 694 who may or may not be known to the family of the trafficked person.
- (4) To be concerned with an aspect of trafficking means:
- (a) to send to, take to, consent to the taking to or to receive at any place any person for the purpose of trafficking, or
 - (b) to enter into an agreement whether written or oral, to subject any party to the agreement or subject any other person to trafficking.

Giving out or receiving a victim of trafficking prohibited

25. (1) A person who gives out or receives another person for purposes of trafficking commits an offence even where the person is a parent.
- (2) A person who contravenes sub-regulation (1) commits an offence and is liable on summary conviction to a term of imprisonment of not more than five years.

Re-engagement or use of services of a victim of trafficking

26. A person who uses the services of a victim of trafficking commits an offence and is liable on summary conviction to a term of imprisonment of not more than five years.

Foreign employment

27. Where the period of service to be stipulated in a re-engagement foreign contract, together with the period already served under the expired contract, involves the separation of a worker from the worker's family

for more than eighteen months, the worker shall not begin the service stipulated in the re-engagement contract until the worker has had the opportunity to return home at the expense of the employer.

Conditions for foreign employment

28. (1) The Chief Labour Officer shall ensure that an employer does not engage a worker under a foreign contract without proper documentation.
- (2) The provision of sub-regulation (1) does not apply to a sea-going vessel except for service in a country specified in a notice under these regulations.
- (3) The Chief Labour Officer may by notice declare a country to be a country to which immigration of workers is lawful.
- (4) A person who, in the opinion of the Chief Labour Officer or a Labour Officer, is under the age of eighteen years shall not enter into a foreign contract for employment as a worker.
- (5) Subject to the provisions of this regulation, a foreign contract shall not be binding or be valid for a period of more than one year from the date of execution.
- (6) The Chief Labour Officer may grant permission in writing for a foreign contract to be made for a period exceeding one year but not exceeding two years from the date of the execution.
- (7) A copy of each foreign contract shall be forwarded by the Chief Labour Officer to the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Manpower Youth and Employment of the country where the contract duties are to be discharged.
- (8) Upon the making of a foreign contract, the employer shall pay to the Chief Labour Officer or a Labour Officer in respect of each worker, a capitation fee.
- (9) A capitation fee shall be determined by the Minister in consultation with the Chief Labour Officer.
- (10) The Chief Labour Officer shall ascertain, from the country of origin of the employer or agent of the employer recruiting the worker, the corporate background of the agent and the genuineness of the employment offer before signing the contract.

Name of person engaged under a foreign contract to be furnished to Immigration Service

29. The Chief Labour Officer or a Labour Officer who attests to a foreign contract shall furnish the Director of Immigration or an Immigration Officer at the port of embarkation or place of departure with the name of the worker engaged.

Assignment of contract

30. (1) An employer shall not assign a contract without the consent of the worker and the endorsement by the Chief Labour Officer or a Labour Officer.
- (2) Before making the endorsement, the Chief Labour Officer or a Labour Officer shall ascertain whether the worker has freely consented to the assignment and the consent of the worker has not been obtained by coercion or undue influence or as a result of misrepresentation or mistake.
- (3) The Chief Labour Officer or a Labour Officer shall ensure that the requirements have been complied with prior to the endorsement
- (4) A contract assigned otherwise than in accordance with the provisions of this regulation is void.

Right of worker to be accompanied by family

31. (1) A person engaged under a foreign contract may be accompanied to the place of employment and attended to during the period of the employment by the person's family, except that the recruitment of a person shall not be considered to include recruitment of another member of the person's family.
- (2) The persons who may accompany a worker shall not exceed one spouse and the number of the worker's children that are under the age of sixteen years.
- (3) A person shall not:
 - (a) prevent a worker from being accompanied by a member of the worker's family other than those the employer has authorized,
 - (b) attempt to prevent a member of the worker's family from accompanying the worker to the place of employment, or
 - (c) except at the express request of the person concerned, separate or cause a member of the worker's family who has accompanied the worker to a place of employment to be separated during the period of the employment.

Summary of law to be provided

32. (1) The Chief Labour Officer or a Labour Officer may request an employer to print a concise summary of the law relating to the contract both in English and in any local language for the benefit of the employee.
- (2) The Chief Labour Officer or a Labour Officer may request an employer to post the summary in conspicuous places on the premises of the employer for the benefit of the employees.

- (3) An employer who fails to comply with a request by the Chief Labour Officer or a Labour Officer commits an offence.

Penalty for fraudulently obtaining a contract

33. (1) A person shall not by fraud, falsehood, intimidation, coercion or misrepresentation induce another person to enter into a foreign contract.
- (2) A contract made under sub-regulation (1) is void.
- (3) The employer is liable to pay the remuneration due under the contract and to provide for the repatriation of the worker and authorized persons accompanying the worker, if the worker was brought to the place of employment by the employer.

Expenses of the journey

34. (1) The expenses of the journey of an employee engaged under a foreign contract and of the members of the employee's family authorized to accompany the employee to the place of employment, including expenses incurred for protection during the journey, shall be paid by the employer.
- (2) The expenses of the journey shall include the necessaries for the journey.
- (3) The employer shall provide transport to the place of employment for the employee and the accompanying members of the employee's family.
- (4) The provision of transport shall include transportation for repatriation.

Termination of contracts

35. (1) Where an employer is unable to fulfil the contract or if, owing to sickness or accident, the worker is unable to fulfil the contract, the contract may be terminated by either party and the worker is entitled to remuneration earned, deferred pay and compensation due to the worker in respect of sickness or accident as well as repatriation of a member of the worker's family who has accompanied the worker to the place of employment.
- (2) A worker is entitled to repatriation expenses unless the agreement for the termination of the contract otherwise provides.
- (3) A contract may be terminated by agreement between the parties, if approval of the agreement to terminate the contract has been endorsed by a Labour Officer who, before giving the approval, certified that:
 - (a) the worker has freely consented to the termination and that the worker's consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake, and

- (b) monetary liabilities between the parties have been satisfied.
- (4) Where the Chief Labour Officer gives prior approval, a contract may be terminated by the worker on the grounds of ill-treatment of the worker by the employer.
- (5) A contract is terminated by the death of the worker before the expiry of the term for which the contract is made.
- (6) The termination of a contract by the death of the worker does not prejudice the legal rights of worker's heirs or dependants.

Repatriation

36. (1) Subject to sub-regulation (3) of Regulation 31, an employee engaged under a foreign contract and the member of the employee's family authorized to accompany the worker to the place of employment shall be repatriated at the expense of the employer in the following circumstances:
- (a) on the incapacity of the worker through sickness or accident during the journey to place of employment;
 - (b) on the worker being found on medical examination to be unfit for employment;
 - (c) on the expiration of the period of employment;
 - (d) on the termination of employment because of the inability of the employer to fulfil the undertakings in the contract;
 - (e) on the termination of the employment because of the inability of the worker to fulfil the undertakings of the contract owing to sickness or accident;
 - (f) on the termination of the employment by mutual agreement between the employer and the worker unless the agreement otherwise provides;
 - (g) on the termination of the employment by the employer or the employee where the Chief Labour Officer or a Labour Officer directs in writing; or
 - (h) any other cause occurring in the course of the worker's employment.
- (2) The family member of a worker authorized to accompany the worker to the place of employment shall be repatriated at the expense of the employer when the worker dies during the journey to the place of employment or during the course of the worker's employment.
- (3) An employer who contravenes sub-regulations (1) and (2) commits an offence.

Exemption from payment of repatriation expenses

37. (1) The Chief Labour Officer or a Labour Officer may exempt an employer from liability for the expenses of repatriation if the Chief Labour Officer or a Labour Officer is satisfied
- (a) that the worker has declared in writing or has signified that the worker does not wish to exercise the right to repatriation and that the worker has been settled at the worker's own request or with the worker's consent at or near the place of employment,
 - (b) that the worker voluntarily failed to exercise the right to repatriation before the expiry of three months from the date of expiry or termination of the employment, or
 - (c) that the employment has been terminated by, or with the approval of a Labour Officer, in consequence of a fault of the worker.
- (2) An employer is not liable for subsistence expense during the period, between the date of the expiry of the period of employment and the date of commencement of repatriation, if the repatriation is delayed by the choice of the person to be repatriated.

Miscellaneous provisions

Offence

38. (1) A person who contravenes any of these regulations commits an offence and is liable on summary conviction to a fine of twenty-five penalty units.
- (2) Where a body corporate commits an offence under these Regulations:
- (a) every director of the body corporate shall be considered to have committed that offence unless the director proves that the offence was committed without the director's consent or connivance, or that the director exercised due diligence to prevent the commission of the offence as the director ought to have exercised having regard to the nature of the director's functions and circumstances, and
 - (b) in the case of a partnership or a firm every partner of the partnership or firm shall be considered to have committed that offence.

Revocation and savings

39. (1) The following Regulations are hereby revoked:
- (a) Labour Health Areas Regulations 1965 (L.N. 140),
 - (b) Labour Regulations 1969 (L.I. 632), and
 - (c) Non-disruption of Central Banking Services Instrument, 2004 (L.I.1792).

- (2) Despite the revocation in sub-regulation (1), rights or interests acquired under the revoked instruments shall continue in force until they are expressly cancelled or terminated.
- (3) These regulations shall not affect a norm, practice, custom, tradition or agreement between an employer and employee which ensures a more favourable condition than those provided by these Regulations.

Transition provision

40. Public Employment Centres in existence and operated by the Labour Department in the country before the commencement of the Regulations shall continue to exist and operate as Public Employment Centres.

Interpretation

41. In these regulations unless the context otherwise requires
 - “business” includes occupation, profession or trade;
 - “enterprise” means an industry, project, undertaking or business for commercial purposes or any part of it;
 - “Minister” means the Minister responsible for Manpower, Youth and Employment;
 - “necessaries” includes services and items that are required by a person being engaged in a foreign contract;
 - “private employment agency” means anybody corporate which acts as an intermediary for the purpose of procuring employment for a worker or recruiting a worker for an employer, and includes:
 - (a) services for matching offers and applications for employment without the private employment agency becoming a party to the employee relationship which may arise from there,
 - (b) services consisting of employing workers with a view to making them available to a third party who may be a natural or legal person referred to as “user enterprise” which assigns their tasks and supervises the execution of these tasks, and
 - (c) other services relating to job-seeking determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment, and
 - (d) “young person” means a person of or above eighteen years of age but below twenty-one years.

LABOUR REGULATIONS, 2007

SCHEDULE

Employment Data
(Regulation 1)

- (a) The name and address of the employer;
- (b) a description of the occupation of the employer;
- (c) a description of the nature of the employment;
- (d) the rate of wage or salary at which the employee is employed;
- (e) the date on which the employment begins;
- (f) the number of employee's Labour Registration;
- (g) the name of the employee;
- (h) a description of the nature of the contract on which the employee is employed; and
- (i) the rate of wage of salary at which the employment begins.

HON. ABUBAKAR SADDIQUE BONIFACE, MP
Minister responsible for Manpower, Youth and Employment

Date Gazette notification: 8th June, 2007
Entry into force: 31st July, 2007

Annex 3: ILO Conventions Ratified by Ghana

Convention No.		Ratification Registered on
1	Limiting the Hours of Work in Industrial Undertakings to Eight in the Day and Forty-eight in the Week, 1919	19.6.73
8	concerning Unemployment Indemnity in Case of Loss or Foundering of the Ship, 1920	18.3.65
11	concerning the Rights of Association and Combination of Agricultural Workers, 1921	14.3.68
14	concerning the Application of the Weekly Rest in Industrial Undertakings	19.6.73
15	Fixing the Minimum Age for the Admission of Young Persons to Employment as Trimmers or Stokers, 1921	20.5.57
16	concerning the Compulsory Medical Examination of Children and Young Persons Employed at Sea , 1921	20.5.57
19	concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents, 1925	20.5.57
22	concerning Seamen's Articles of Agreement, 1926	18.3.65
23	concerning the Repatriation of Seamen, 1926	18.3.65
26	concerning the Creation of Minimum Wage-Fixing Machinery, 1928	2.7.59
29	concerning Forced or Compulsory Labour, 1930	20.5.57
30	concerning the Regulation of Hours of Work in Commerce and Offices, 1930	19.6.73
45	concerning the Employment of Women on Underground Work in Mines of all Kinds , 1935	20.5.57
50	concerning the Regulation of Certain Special Systems of Recruiting Workers, 1936	20.5.57
58	Fixing the Minimum Age for the Admission of Children to Employment at Sea (Revised) , 1936	20.5.57
59	Fixing the Minimum Age for Admission of Children to Industrial Employment (Revised), 1937	20.5.57
64	concerning the Regulation of Written Contracts of Employment of Indigenous Workers, 1947	20.5.57
65	concerning Penal Sanctions for Breaches of Contracts of Employment by Indigenous Workers, 1939	20.5.57
69	concerning the Certification of Ships' Cooks, 1946	18.3.65
74	concerning the Certification of Able Seamen, 1946	18.3.65
81	concerning Labour Inspection in Industry and Commerce, 1947	2.7.59
87	concerning Freedom of Association and Protection of the Right to Organize, 1948	2.6.65
88	concerning the Organization of the Employment Service, 1948	4.4.61
89	concerning Night Work of Women Employed in Industry (Revised), 1948	2.7.59

Convention No.		Ratification Registered on
90	concerning the Night Work of Young Persons Employed in Industry (Revised), 1948	4.4.61
92	concerning Crew Accommodation on Board Ship (Revised), 1949	18.3.65
94	concerning Labour Clauses in Public Contracts, 1949	4.4.61
96	concerning Fee-Charging Employment Agencies (Revised), 1949	21.8.73
98	concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, 1949	2.7.59
100	concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951	14.3.68
103	concerning Maternity Protection (Revised), 1952	27.5.86
105	concerning the Abolition of Forced Labour, 1957	15.12.58
106	concerning Weekly Rest in Commerce and Offices, 1957	15.12.58
107	concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, 1957	15.12.58
108	concerning Seafarers' National Identity Documents, 1958	19.2.60
111	concerning Discrimination in Respect of Employment and Occupation, 1958	4.4.61
115	concerning the Protection of Workers against Ionizing Radiations, 1960	7.11.61
116	concerning the Partial Revision of the Conventions Adopted by the General Conference of the International Labour Organization at its First Thirty-two Sessions for the Purpose of Standardizing the Provisions regarding the Preparation of Reports by the Governing Body of the International Labour Office on the Working of Conventions, 1961	27.8.63
117	concerning Basic Aims and Standards of Social Policy, 1962	18.6.64
119	concerning the Guarding of Machinery, 1963	18.3.65
120	concerning Hygiene in Commerce and Offices, 1964	21.11.66
147	concerning Minimum Standards in Merchant Ships, 1976	10.05.05
148	concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, 1977	27.5.86
149	concerning Employment and Conditions of Work and Life of Nursing Personnel, 1977	27.5.86
150	concerning Labour Administration: Role, Functions and Organization, 1978	27.5.86
151	concerning Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service, 1978	27.5.86
182	concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999	13.6.00

Annex 4: Extracts from POEA Rules

General Rules

- a. to uphold the dignity and fundamental human rights of Filipino migrant workers and promote full employment and equality of employment opportunities for all;
- b. to protect every citizen desiring to work overseas by securing the best possible terms and conditions of employment;
- c. to allow the deployment of Filipino migrant workers only in countries where their rights are protected;
- d. to provide an effective gender-sensitive mechanism that can adequately protect and safeguard the rights and interest of Filipino migrant workers;
- e. to disseminate and allow free flow of information which will properly prepare individuals into making informed and intelligent decisions about overseas employment;
- f. to ensure careful selection of Filipino workers for overseas employment in order to protect the good name of the Philippines abroad;
- g. to institute a system to guarantee that migrant workers possess the necessary skills, knowledge or experience for their overseas jobs;
- h. to recognize the participation of the private sector in the recruitment and placement of overseas workers to serve national development objectives;
- i. to deregulate recruitment activities progressively taking into account emerging circumstances which may affect the welfare of migrant workers;
- j. to support programmes for the reintegration of returning migrant workers into Philippine society; and
- k. to cooperate with duly registered non-government organizations, in a spirit of trust and mutual respect, in protecting and promoting the welfare of Filipino migrant workers.

Private Employment Agencies

Section 1. Qualifications. Only those who possess the following qualifications may be permitted to engage in the business of recruitment and placement of Filipino workers:

- a. Filipino citizens, partnerships or corporations at least seventy five percent (75%) of the authorized capital stock of which is owned and controlled by Filipino citizens.
- b. A minimum capitalization of two million pesos (P2,000,000.00) in case of a single proprietorship or partnership and a minimum paid-up capital of two million pesos (P2,000,000.00) in case of a corporation; Provided that those with existing licences shall, within four years from effectivity hereof,

increase their capitalization or paid-up capital, as the case may be, to two million pesos (P2,000,000.00) at the rate of two hundred fifty thousand pesos (P250,000.00) every year.

- c. Those not otherwise disqualified by law or other government regulations to engage in the recruitment and placement of workers for overseas employment.

Section 2. Disqualification. The following are not qualified to engage in the business of recruitment and placement of Filipino workers overseas:

- a. travel agencies and sales agencies of airline companies;
- b. officers or members of the Board of any corporation or members in a partnership engaged in the business of a travel agency;
- c. corporations and partnerships, when any of its officers, members of the board or partners, is also an officer, member of the board or partner of a corporation or partnership engaged in the business of a travel agency;
- d. persons, partnerships or corporations which have derogatory records, such as but not limited to the following: [...]

Issuance of Licence

Section 1. Requirements for Licensing. Every applicant for licence to operate a private employment agency shall submit a written application together with the following requirements:

- a. a certified copy of the Articles of Incorporation or of Partnership duly registered with the Securities and Exchange Commission (SEC), in the case of corporation or partnership or Certificate of Registration of the firm or business name with the Department of Trade and Industry (DTI), in the case of a single proprietorship;
- b. proof of financial capacity: [...]
- c. proof of marketing capability [...]
- d. clearance of all members of the Board of Directors, partner, or proprietor of the applicant agency from the National Bureau of Investigation (NBI) and other government agencies as may be required; [...]

the deployed workers and his personal belongings when the need arises.

For the purpose of compliance with item (1), the agency may require the worker to undergo trade testing and medical examination only after the worker has been pre-qualified for employment.

- e. In case of corporation or partnership, verified undertaking by its officers, directors, partners that they will be jointly and severally liable with the company over claims arising from employer–employee relationship.

Individual income tax return of the proprietor, partners, stockholders/incorporators, as the case may be, for the past two (2) years.

- f. Proof of possession by the sole proprietor, partner or chief executive officer, as the case may be, of a bachelor’s degree and three years business experience.
- g. List of all officials and personnel involved in the recruitment and placement, together with their appointment, biodata and two (2) copies of their passport-size pictures as well as their clearances from the National Bureau of Investigation and the Anti-illegal Recruitment Branch of the Administration.
- h. Copy of contract of lease or proof of building ownership, indicating the office address, providing for an office space of at least one hundred (100) square metres.
- i. Proof of publication of notice of the application with the names of the proprietor, partners, incorporators and officers.
- j. Certificate of attendance of owner and/or chief executive officer in a pre-application seminar conducted by the Administration.

Only applications with complete supporting documents shall be processed.

Section 2. Payment of filing fee. Upon receipt of an application with complete requirements, the Administration shall require payment of a non-refundable filing fee of P10,000.00 and submission of proof of payment thereof.

Section 3. Action upon the application. Within fifteen (15) calendar days from receipt of an application with complete requirements including proof of payment of the filing fee of P10,000.00, the Administration shall evaluate the pertinent documents, inspect the offices and equipment and determine whether or not to grant or deny the application. Denial of an application will result in the forfeiture of the filing fee.

Section 4. Payment of Fees and Posting of Bonds. Upon approval of the application, the applicant shall pay a licence fee of P50,000.00. It shall submit an Escrow Agreement in the amount of P1,000,000.00, confirmation of escrow deposit with an accredited reputable bank and a surety bond of P100,000.00 from a bonding company acceptable to the Administration and accredited with the Insurance Commission. [...]

Section 6. Validity of the Licence. Except in case of a provisional licence, every licence shall be valid for four (4) years from the date of issuance unless sooner cancelled, revoked or suspended for violation of applicable Philippine law, these rules and other pertinent issuances. Such licence shall be valid only at the place/s stated therein and when used by the licenced person, partnership or corporation.

Section 7. Non-transferability of License. No licence shall be transferred, conveyed or assigned to any person, partnership or corporation. It shall not be used directly or indirectly by any person, partnership or corporation other than the one in whose favor it was issued.

In case of death of the sole proprietor and to prevent disruption of operation to the prejudice of the interest of legitimate heirs, the licence may be extended upon request of the heirs, to continue only for the purpose of winding up business operations.

Section 8. Change of Ownership/Relationship of Single Proprietorship or Partnership. Transfer or change of ownership of a single proprietorship licensed to engage in overseas employment shall cause the automatic revocation of the licence.

A change in the relationship of the partners in a partnership duly licensed to engage in overseas employment which materially interrupts the course of the business or results in the actual dissolution of the partnership shall likewise cause the automatic revocation of the licence.

Section 16. Renewal of License. An agency shall submit an application for the renewal of its licence on or before its expiration. Such application shall be supported by the following documents:

- a. surety bond duly renewed or revalidated;
- b. renewed escrow agreement in the amount of P1,000,000.00 with a commercial bank to primarily answer for valid and legal claims of recruited workers as a result of recruitment violations or money claims;
- c. audited financial statements for the past two years with verified corporate or individual tax returns. In case the equity of the agency is below the minimum capitalization requirement, it shall be given thirty (30) days from release of the renewed licence to submit proof(s) of capital infusion, such as SEC certification of such infusion or bank certification corresponding to the amount infused and treasurer's affidavit duly received by the SEC. Otherwise, the licence shall be suspended until it has complied with the said requirement;
- d. clearances from the National Bureau of Investigation and the Anti-illegal Recruitment Branch for the Board of Directors and responsible officers; and

e. other requirements as may be imposed by the Administration. [...]

Section 24. Classification, Ranking and Incentives. The Administration shall undertake the classification and ranking of agencies. In recognition of their exemplary performance, the Administration shall issue guidelines for entitlement of agencies to schemes for incentives and rewards such as extension of validity of licence, express processing and in-house documentation.

Inspection of Agencies

Section 1. Inspection for Purposes of Establishment/Transfer of Office. Before issuance of a licence, the Administration shall conduct an inspection of the premises and facilities including the pertinent documents of the applicant. Inspection shall likewise be conducted on the new premises in case of transfer of office.

Section 2. Routine/Regular Inspection. All agencies shall be subject to periodic inspection of offices, studios or pre-departure orientation seminar (PDOS) venues by the Administration to determine compliance with existing rules and regulations.

Section 3. Spot Inspection. Inspection may be conducted by the Administration upon receipt of a complaint or report of violation of existing rules and regulation.

Section 4. Authority to Inspect. An authority to inspect shall be issued by the Administration before any inspection may be conducted. Such authority, stating the purpose and subject of inspection, shall be presented to the agency before inspection.

Section 5. Scope of Inspection. Depending on the purpose of inspection, the Administrator or his duly authorized representative may inspect the premises and require the presentation of necessary documents, records and books of accounts of the agency and examine the same.

Section 6. Inspection Programme and Procedures. The Administration shall conduct inspection in accordance with the Inspection Programme and Procedures of the POEA.

Section 7. Violations Found in the Course of Inspection. Violations found in the course of inspection, such as non-compliance with the existing laws, rules and regulations, shall be grounds for the imposition of appropriate sanction or for the denial of application for issuance or renewal of licence.

A copy of the results of inspection shall be endorsed to the appropriate unit for the conduct of necessary proceedings.

Departure and Arrival of Overseas Filipino Workers

Section 1. Departure of Workers. All departing OFWs shall be monitored through the POEA assistance centres established by the Administration at international airports and other exit points in the country to ensure that they are properly documented before proceeding to their overseas job sites. Workers without proper documents shall not be cleared by the centre.

Section 2. Overseas Employment Certificate (OEC) Issuance at the Centre. Departing overseas Filipino workers may secure overseas employment certificate at the labour assistance centres under such circumstances as may be determined by the Administration. POEA shall cease issuing OECs as soon as the computerized ID system is implemented.

Section 3. Arrival of Workers. The LAC shall support OWWA and other government agencies in providing assistance to arriving workers particularly those who are in distress.

Section 4. POEA Clearance for Special Cases. The POEA shall issue special clearances for travel abroad in accordance with guidelines which may be issued by the Administration.

Employment Standards

Section 1. Employment Standards. The Administration shall determine, formulate and review employment standards in accordance with the market development thrusts and welfare objectives of the overseas employment programme and the prevailing market conditions.

Section 2. Minimum Provisions of Employment Contract. Consistent with its welfare and employment facilitation objectives, the following shall be considered the minimum requirements for contracts of employment of land-based workers:

- a. guaranteed wages for regular work hours and overtime pay, as appropriate, which shall not be lower than the prescribed minimum wage in the host country, not lower than the appropriate minimum wage standard set forth in a bilateral agreement or international convention duly ratified by the host country and the Philippines or not lower than the minimum wage in the Philippines, whichever is highest;
- b. free transportation to and from the worksite, or offsetting benefit;
- c. free food and accommodation, or offsetting benefit;
- d. just/authorized causes for termination of the contract or of the services of the workers, taking into consideration the customs, traditions, norms,

- mores, practices, company policies and the labour laws and social legislations of the host country;
- e. the Administration may also consider the following as basis for other provisions of the contract:
 1. existing labour and social laws of the host country;
 2. relevant agreements, conventions, delegations or resolutions;
 3. relevant bilateral and multilateral agreements or arrangements with the host country; and
 4. prevailing condition/realities in the market.

Section 3. Freedom to Stipulate. Parties to overseas employment contracts are allowed to stipulate other terms and conditions and other benefits not provided under these minimum requirements; provided the whole employment package should be more beneficial to the worker than the minimum; provided that the same shall not be contrary to law, public policy and morals, and provided further, that Philippine agencies shall make foreign employers aware of the standards of employment adopted by the Administration. [...]

Welfare Services

Section 1. Responsibility to Workers. The Administration shall ensure that workers deployed overseas are amply protected and that their interest, well-being and welfare are promoted. Agencies shall be responsible for the faithful compliance by their foreign principals of all obligations under the employment contract.

Section 2. Request for Assistance. The Administration shall take cognizance of any request for assistance from the worker and/or his family on matters relating to overseas employment.

Section 3. Call for Action and Submission of Reports. The Administration shall require an agency to act on complaints or problems brought to its attention or to submit reports on the status or condition of the worker.

Section 4. Administrative Sanctions. Deliberate failure by agencies and/or employers to act on requests for assistance and/or complaints of workers and/or families shall warrant imposition by the Administration of such sanctions as it may deem appropriate.

Section 5. Welfare Programmes and Activities. The Administration, in coordination with other institutions, shall initiate and undertake such projects and activities that will enhance the welfare and promote the interest of workers and their families including those that will facilitate the psychosocial and economic reintegration of OFWs who have decided to return home for good.

Repatriation of Workers

Section 1. Repatriation of Workers. The repatriation of the worker and the transport of his personal belongings shall be the primary responsibility of the agency which recruited or deployed the worker overseas. All costs attendant to repatriation shall be borne or be charged to the agency concerned and/or its principal. Likewise, the repatriation of remains and transport of the personal belongings of the deceased worker and all costs attendant thereto shall be borne by the principal and/or the local agency. However, in cases where termination of employment is due solely to the fault of the worker, the principal/employer or agency shall not in any manner be responsible for the repatriation of the former and/or his belongings.

Section 2. Repatriation Costs When Employment is Terminated. The principal or agency shall advance the cost of plane fare without a prior determination of the cause of the termination of the workers employment. However, the principal/agency may recover the cost of repatriation from the worker upon his return to the Philippines if termination of employment is due solely to worker's fault.

Section 3. Repatriation Procedure. When the need for repatriation arises and the principal fails to provide for the costs, the Philippine Embassy/Consulate/Overseas Labour Office at worksite shall simultaneously notify the Administration and OWWA of such need. The Administration shall require the agency to provide the plane ticket or a pre-paid ticket advice to the Philippine Embassy/Consulate / Overseas Labour Office and to report its compliance to the Administration which shall advise OWWA accordingly.

Section 4. Administrative Sanction for Non-Compliance. If the employment agency fails to provide the ticket or pre-paid ticket advice within 48 hours from receipt of notice, the Administration shall suspend the documentary processing of the agency or impose such sanctions, as it may deem necessary. The Administration may request OWWA to advance the costs of repatriation with recourse to the agency and/or employer. The administrative sanction shall be lifted after the agency or employer shall have reimbursed OWWA of the costs of repatriation.

Annex 5: POEA schedule of penalties

POEA REVISED SCHEDULE OF PENALTIES
IMPOSED BY POEA FOR OFFENCES COMMITTED BY
LICENSED EMPLOYMENT AGENCIES/MANNING AGENCIES
AND CONTRACTING COMPANIES
1987–1990

Nature of offences	Penalty
A. OFFENCES VS. WORKERS	
<p>1. Collecting, charging, imposing, receiving, or requiring directly or indirectly from workers any amount, fees, bond deposits, guarantees, goods or services not authorized by the POEA or that which is greater than the authorized fees in consideration of overseas employment.</p>	<p>Suspension of licence for two (2) months and until settlement of the claims or fine equal to the amount collected or received but not less than 20,000 pesos plus restitution of the amount collected or received in both instances.</p> <p>The act of collection from each Complainant or worker constitutes one count of violation of Article 32 or 34 of the Labour Code or of both, and the above penalty shall be imposed cumulatively provided that if the suspension period totals 12 months, the penalty of cancellation shall instead be imposed.</p>
<p>2. Recruitment or deployment of workers under false documents or through false representation or the use of deceit or other illegal machination, e.g. using false WTEP, passports, airline tickets, accreditation, job offers, or causing the publication of false advertisement, making false statement as to availability of jobs, substitution or altering employment contract duly approved by POEA, deploying workers to principals projects or vessels other than for which they were processed, and other falsities or deceitful acts.</p>	<p>Suspension of licence for two (2) months or fine of 20,000 pesos.</p> <p>The manner of application of penalty shall be the same as that under offence 1.</p>
<p>3. Withholding of travel and employment documents of workers for reasons not authorized by the Labour Code.</p>	<p>Suspension of licence until return of documents.</p>

Nature of offences	Penalty
4. Refusal or failure to deploy workers without valid reasons within the prescribed period.	Suspension of licence for two (2) months and until either (a) deployment of the workers or (b) return of his documents and refund of his expenses for documentation and placement fee or equal to the amount collected from the workers but not less than 20,000 pesos plus refund of his documentation and placement fee expense.
5. Influencing or attempting to influence any person or entity to prevent the employment of any worker or inducing a worker to transfer from or leave his employment to another unless such transfer is advantageous or beneficial to the worker.	Suspension of licence for six (6) months or fine of 50,000 pesos.
6. Withholding of workers' salaries or remittances without justifiable reasons.	Suspension of licence for two (2) months or a fine equal to the salary withheld but not less than 20,000 pesos plus restitution of the amount withheld in both instances.
A. OFFENCES IN RELATION TO SECURING OR USE OF LICENCE	
1. Act of misrepresentation or giving false notice, information, statements, or documents in connection with securing a licence without which no licence could have been issued.	Cancellation of the licence.
2. Allowing other persons or entities to use the licence issued by the Minister: (a) When applicant worker suffers damage by reason of the use by another of the licence; (b) When no damage is caused directly on applicant workers.	Suspension of licence for six (6) months or fine of 50,000 pesos. Suspension of licence for (two) 2 months or fine of 20,000 pesos.
3. Appointing or designating agents or representatives or operating outside of authorized office without prior approval of POEA: (a) When applicant worker suffer damage by reason of the use by another of the licence; (b) When no damage is caused directly on applicant workers.	Suspension of licence for six (6) months or fine of 50,000 pesos. Suspension of licence for (two) 2 months or fine of 20,000 pesos.
4. Failure to post or replenish cash bond or to renew surety bond.	Suspension of licence until compliance.

5. Other acts of misrepresentation in connection with the renewal of licence.	Suspension of licence for (two) 2 months or fine of 20,000 pesos.
C. OFFENCES AGAINST POEA OPERATIONAL PROCEDURES	
1. Obstructing or attempting to obstruct inspection by the Minister or his duly authorized representatives.	Suspension of licence for (two) 2 months or fine of 20,000 pesos.
2. Recruiting or deploying workers in violation of the POEA accreditation and processing procedures.	Suspension of licence for (two) 2 months or fine of 20,000 pesos.
3. Failure to file report as required or may be required by POEA.	Suspension of documentary processing until compliance.
4. Failure to conduct PDOS for workers sent overseas.	Suspension of licence for (two) 2 months or fine of 20,000 pesos.
5. Publishing or causing the publication of overseas job vacancies in violation of the prescribed Rules.	Suspension of licence for (two) 2 months or fine of 20,000 pesos.
6. Disregard of lawful orders, summons or notices.	Suspension of documentary processing until compliance.
D. OTHER OFFENCES	
1. Engaging in recruitment and placement of workers to jobs harmful to health, morality, dignity of the Republic of Philippines.	Suspension of licence for six (6) months or fine of 50,000 pesos
The penalty of cancellation shall likewise be imposed when the offender has been previously penalized with suspension, the total period of which is 12 months or more.	
In cases where two or more violations or offences are established, the penalties that the offences carry shall be imposed cumulatively. Other offences or violations not herein listed shall be penalized in accordance with the specific regulations or policy issuance that penalizes them or other rules which the POEA may promulgate.	
Offences or violations that may be taken cognizance of the POEA in the exercise of judiciary functions shall be penalized in accordance with the provision of the Labour Code on the rules that the POEA may promulgate.	

Annex 6: Assessment Questionnaire

Assessment Questionnaire

Vivian AUBYN

ASSESSMENT OF LABOUR MIGRATION POLICIES, LEGISLATION AND PRACTICES IN GHANA.

This Research is an assessment of labour migration policies, legislation and practices in Ghana. I would like you to take some time to answer the questions. The questionnaire consists of seven parts: background information, data sets and data collection mechanisms, institutional structures and inter-institutional collaboration, national legislation on migration and international norms, recruitment and support services, gender and remittances.

You do not have to write your name. Any information collected will be kept confidential.

Background and Identification Information

1. Name of organization
2. Status of organization (Select from options)
 - Ministry
 - Department under Ministry
 - Agency for Ministry
 - Foreign mission
 - NGO
 - Academic institution
 - Judiciary
 - Other (Specify)
3. Responsibilities/role of respondent.....
4. Role of organization in labour migration/areas covered by organization in labour migration
-
-

Data Sets and Data Collection

5. Does your organization collect data on labour migration?
Yes..... No.....

6. How does your organization obtain (collect/receive) data on labour migrants?
- into the country
 - out of the country
7. Do you know of any organization/body that collects data on labour migration?
Yes..... No.....
8. If yes, write the name of the organization.....
9. What mechanisms are in place for collecting data on labour migration?
Please state
-
-
-
10. What data is currently available in your organization on labour migration?
Please state
-
-
-
11. Is the data disaggregated? Yes..... No.....
12. If yes, how is it disaggregated: Select (v) as many as apply in the list below
- Professions/occupations of labour migrants
 - Gender
 - Educational level
 - Age
 - Destination/countries
 - Highly skilled
 - Other, specify
- Unskilled
 - Low skills
 - Annually
 - Quarterly
 - Monthly
-
-
13. Are there systems for cross checking and validating data obtained?
Yes..... No.....
14. If yes, what are these systems?
-
15. Are there presently ongoing projects/programmes on labour migration data in your organization? Yes..... No.....

16. If yes, name them.
.....

Institutional Structures and Inter-Institutional Collaboration

17. Do you know any organization/committee that is involved in migration and or labour migration? Yes..... No.....

18. If yes, please write the name(s)
.....
.....

19. Are you currently working with any partner organization on labour migration issues? Yes..... No.....

20. Is your organization a member of any working group/committee/team on labour migration? Yes..... No.....

21. If yes, what is the name of this committee, etc.?
.....
.....

22. Who are the other member institutions/organizations in the working group? Name them
.....
.....

23. How long have you been working together? Please state
.....

24. What is the duration of your mandate? Please state
.....

25. Does your team have the power to enforce policies, decision, agreements etc made by you? Yes No

26. Are there linkages between the team and implementing agencies? Yes..... No.....

27. If yes, what is/are the name(s) of the implementing agencies?
.....

28. State the kind of linkage
-
-
29. Do you have any mechanisms for monitoring the implementation of the policies, agreements, etc.? Yes..... No.....
30. If No, why?
-
31. If Yes, what are these mechanisms?
-
-

National and International Legislation

32. Do you work with any national law(s) on labour migration?
Yes..... No.....
33. If yes, please name them.....
-
34. If no, why?
-
35. Are there provisions in the Labour Act 651 on labour migration or employment of foreign labour? Yes..... No.....
36. If yes, please list them
-
-
37. Does the 1992 Constitution of Ghana make provisions for labour migration? Yes..... No.....
38. To what extent in your view does the Immigration Act 573, address issues on labour migration?
- to a large extent
 - above average
 - to average but adequate
 - poor, does not address enough issues

39. Has Ghana ratified ILO Convention No. 97 concerning Migration for Employment (Revised 1949)? Yes..... No.....
40. Has Ghana ratified ILO Convention No. 143 concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (1975)? Yes..... No.....
41. Has Ghana ratified the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) (1990)? Yes..... No.....
42. Are there any Conventions on labour migration that Ghana needs to ratify? Yes..... No.....
43. If yes, please name them.....

44. Has Ghana made any provisions for the implementation of the AU Migration Policy Framework – labour migration component? Yes..... No.....
45. If yes, what are these provisions?

46. Has Ghana made any provisions in its laws to ensure the implementation of the ECOWAS Protocol on the Free Movement of Persons, Rights of Residence and Establishment? Yes..... No.....
47. If yes, what are these provisions?

48. Are you aware of any bilateral agreements on labour migration between Ghana and its foreign partners? Yes No
49. If yes, name them

50. To what extent do these laws and legal instruments on labour migration contribute to the National Development Plan?
- to a large extent
 - above average
 - to average but adequate
 - poor, does not contribute to any extent

Recruitment and Support Services

51. Has Ghana ratified ILO Convention No. 181 concerning Private Employment Agencies (1997)? Yes..... No.....
52. Has Ghana ratified ILO Convention No. 96 concerning Fee-Charging Employment Agencies (Revised 1949)? Yes..... No.....
53. Does Labour Act 651 make provisions for Private Employment Agencies? Yes..... No.....
54. If yes, please state the sections
55. Are there any Private Employment Agencies licensed to recruit for foreign placements? Yes..... No.....
56. Are there established standards for human resource/personnel of these Private Employment Agencies? Yes..... No.....
57. Please state
58. Is there a Register of Licensed Private Employment Agencies? Yes..... No.....
59. Do the Private Employment Agencies charge fees? Yes..... No.....
60. Are Private Employment Agencies required by law to provide pre-departure orientation and training for foreign employment? Yes..... No.....

61. Are there reporting requirements for Private Employment Agencies?
Yes No
62. If yes, name them
.....
.....
63. Are there set minimum standards for foreign employment contracts?
Yes..... No.....
64. If yes, please look at the list below and tick (v) as many as apply
- remuneration/wages/salary
 - working hours and holidays
 - emergency medical
 - dispute settlement procedures
 - transportation to place of work
 - protection during the journey
 - return journey/repatriation
 - other

65. What is the role of Public Employment Centres in recruitment for foreign placement?
.....
.....

66. What are the institutions that regulate employment for foreign placement?
.....
.....

Remittances

67. Do you know of any law or legal provision (s) governing remittance flows in Ghana? Yes..... No.....

68. If yes, please name them
.....
.....

69. What role does your organization play in the regulation and implementation of policies on remittances?
.....
.....

70. Are there any central bank (Bank of Ghana) policies and/or regulations on remittances? Yes..... No.....
71. If yes, please name them
.....
.....
72. Do you know of any money transfer organization or agency?
Yes..... No.....
73. If yes, please name them
.....
.....
74. Is there any organization/institution beside the Bank of Ghana that has been mandated to:
- a. develop policies on remittances Yes..... No.....
 - b. regulate remittances Yes..... No.....
 - c. If yes, name this organization.....
75. Are there any policies that foster savings and investments by Ghanaian migrant associations? Yes No.....
76. If yes, please list them.....
.....
.....
77. Do you know of any financial instruments that have been developed to facilitate investment by Ghanaians in the diaspora?
Yes..... No.....
78. If yes, please list them.....
.....
79. Is there any legislation that hinders remittance flows in Ghana (e.g. exchange controls)? Yes..... No.....
80. If yes, please name them.....
.....
.....

81. What unofficial/informal networks and systems are available in Ghana for facilitating remittances from Ghanaian emigrants? Please name them
-
-
82. Do employment and recruitment agencies include pre-departure orientation and or advice on available options for remittances?
Yes..... No.....
83. Do you know of any programme/project by the Bank of Ghana that seeks to create linkages between the formal systems of remittances (i.e. banks, MTOs) and other informal mechanisms for remittances?
Yes..... No.....
84. If yes, name the programme/project
-
-

Gender

85. Has Ghana ratified Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979? Yes..... No.....
86. 86. Are there specified provisions for the recruitment of women for foreign placements? Yes..... No.....
87. Please specify
-
-
88. Are Private Employment Agencies required to make special provisions for the recruitment and placement of women in foreign countries?
Yes..... No.....
89. Please specify
-
-
90. Are you aware of any advocacy group or NGO that works to promote women migrant workers' rights in Ghana?

Annex 7: List of interviewees and questionnaire respondents

LIST OF PEOPLE INTERVIEWED

Name	Position/Title	Organization/ Institution
Grace Akrofi	Chief Manager, Research Department	Bank of Ghana (BOG)
Inusah M. Fuseini	Ag. Director Bilateral Cooperation Bureau	Ministry of Foreign Affairs (MOFA)
Judith Dzokoto	Assistant Director	Ghana Immigration Service (GIS)
Florence Oku	Head, Governance Unit	Ministry of Finance and Economic Planning (MOFEP)
Adeliade Anno-Kumi	Director	National Migration Bureau
Esther Cofie	-	National Population Council
Mathew Dally	Programme Manager	International Labour Organization (ILO), Ghana office
Delali Badasu		Regional Institute for Population Studies (RIPS), University of Ghana
Peter Quartey	Deputy Director	Centre for Migration Studies
Akwasi Danso-Acheampong	Deputy Chairperson	National Labour Commission (NLC)
Ken Sago	Chief Executive Officer	Tamale Teaching Hospital
Alberta Laryea-Djan	Head, International Desk	Ghana Trades Union Congress (GTUC)
Charles Bempong Yeboah	Head Consultancy Unit	Ghana Employers Association (GEA)
Akuffo	Chief Director	Ministry of Employment and Social Welfare (MESW)
Samuel Archer	Director PPME	MESW
Quist	Director, Human Resource	MESW
Anna Nyarko Senkyire	International Desk	Labour Dept. of MESW

MEMBERS OF THE LABOUR MIGRATION WORKING GROUP

- Ministry of Employment and Social Welfare
- Ministry of Finance and Economic Planning
- Ministry of the Interior
- Ministry of Foreign Affairs
- Ministry of Justice and Attorney General
- Legon Centre for Migration Studies
- National Population Council
- Ghana Trades Union Congress (representing organized labour)
- Labour Department (MESW)
- Ghana Statistical Service
- Ghana Immigration Service
- Regional Institute of Population Studies (Legon)
- United Nations Development Programme
- International Labour Organization
- International Organization for Migration (Sponsors)
- Labour Migration Expert - Ghana

LIST OF QUESTIONNAIRE RESPONDENTS

- Judith Dzokoto – Assistant Director, Ghana Immigration Service
- Florence Oku – Head, Governance Unit, MOFEP
- Adelaide Anno-Kumi – Director, National Migration Bureau
- Esther Coffie – National Population Council
- Mbinglo Nsodu – Director, Research and Counselling Foundation for African Migrants (RECFAM)
- Mathew Dally – Programme Manager, ILO, Ghana Office
- Delali Badasu - Regional Institute of Population Studies, University of Ghana, Legon
- Alberta Laryea-Djan – Head, International Desk, Ghana Trades Union Congress
- Charles Bempong-Asante – Head, Consultancy Unit, Ghana Employers Association
- Anna Nyarko Senkyire – International Desk, Labour Department, MESW
- Edward Boadu – Executive Secretary, National Labour Commission
- Faisal Disu
- Abu Osman
- Samuel Archer- Director, PPME, MESW
- Jemima Allotey – Assistant Director, MESW

Annex 8: Terms of reference

TERMS OF REFERENCE FOR THE NATIONAL ASSESSMENT OF LABOUR MIGRATION POLICIES, LEGISLATION AND PRACTICES IN GHANA

The National Assessment of Labour Migration Policies, Legislation, and Practices is guided by the following fifteen Terms of Reference”

1. Review the existing data on labour migration from internal sources and data readily available from EU Member States to give a better overview of the current situation of labour migration into and from Ghana.
2. Obtain data regarding the number of legally resident Ghanaian migrant workers in Libya and update estimates concerning numbers of migrants who remain stranded in Libya.
3. Assess the availability of data, data sources, and the credibility of existing data to be able to ascertain the means and functioning of the database for the placement and matching of Ghanaian workers into the Italian labour market.
4. Analyse the roles and responsibilities of existing institutional structures responsible for managing labour migration in Ghana, including the scope and functioning of inter-ministerial and inter-institutional collaboration.
5. Analyse current national legislation in Ghana regarding the departure of national workers and existing bilateral labour agreements.
6. Collaborate with local legal expertise to ascertain the extent to which legal provisions prescribed in international conventions are in place and functioning in Ghana.
7. Ascertain whether the government of Ghana has ratified these international conventions and assess the obstacles and requirements for ratification.
8. Analyse the existing legal basis for the employment of foreign workers in Ghana.
9. Identify and address the obstacles encountered by Ghana in ensuring the freedom of movement of ECOWAS citizens and recommend ways in which to overcome them.
10. Examine current recruitment practices to identify to what extent licensing and monitoring of Private and Public Recruitment entities is taking place in Ghana.
11. Recommend ways to improve these practices in Ghana based on best practices in other countries.
12. Determine how potential labour migrants obtain information about work opportunities.

13. Examine candidate profiling and recruitment procedures of potential migrant workers from Ghana departing for EU member States, especially Italy and Spain.
14. Examine welfare services that are currently in place for departing migrants.
15. Scrutinize the degree to which the human rights and dignity of migrant workers are guaranteed in legal provisions in Ghana.

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