

**The Berne Initiative:
Managing International Migration
through Cooperation**

Berne II Conference

Berne, 16 – 17 December 2004

**STATEMENT ON BEHALF OF THE
INTERNATIONAL LABOUR OFFICE (ILO)**

By
Piyasiri Wickramasekara,
Senior Migration Specialist
International Migration Programme
ILO, Geneva.

Chairperson
Distinguished delegates

On behalf of the ILO I wish to express our deep gratitude to the Government of Switzerland, and in particular to the Swiss Federal Office for Refugees, for inviting the ILO to this important Conference. I also wish to congratulate the Swiss Government and the International Organization for Migration for bringing the current phase of the Berne Initiative to a successful completion. Let me also recall that the ILO has been in close collaboration with the Berne Initiative process from the inception, being a member of the Steering Committee, interacting closely with the International Organization for Migration, its Secretariat.

Ladies and gentlemen

For many years, the International Labour Office has been trying to forge an international consensus on managing labour migration as a positive economic and social force in a globalized economy. International migration is nothing new, nor is it something that can be simply wished away as a transient phenomenon. Demographic and other trends indicate that it is likely to increase rather than decrease in the future. There is an emerging international consensus therefore, that the relevant question is not on how to prevent or stop migration, but on how to manage it for the benefit of all the stakeholders concerned.

There is also increasing convergence now on the need for cooperative management of migration and multilateral approaches to migration issues. We note that the Berne Initiative has been pioneering this trend since 2001. The report of the World Commission on the Social Dimension of Globalization entitled "A Fair Globalization, Creating Opportunities for All"¹ called for a fully inclusive and equitable process of globalization and highlighted the need for a multilateral framework to govern cross border labour mobility. The International Labour Conference in 2004 undertook a General Discussion on Migrant workers, and the member countries adopted by consensus a Plan of Action including a non-binding multilateral framework of principles and best practices in identified areas relating to labour migration.² The Global Commission on International Migration is now a major player looking into issues of global governance of migration.

Ladies and gentlemen

Global migration pressures have clearly risen since jobs are not being created in countries where jobs are badly needed. The latest ILO world Employment Report

¹ ILO; WCSDG (2004). A fair globalization: Creating opportunities for all. Geneva, World Commission on the Social Dimension of Globalization and International Labour Office, Geneva, February 2004.

<http://www.ilo.org/public/english/wcsdg/docs/report.pdf>

² ILO (2004). Resolution concerning a fair deal for migrant workers in the global economy, adopted at the 92nd session of the International Labour Conference. Geneva, in: Report of the Committee on Migrant Workers, Provisional Record 22, International Labour Conference, Ninety-second Session, International Labour Office, pp.55-64

<http://www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/pr-22.pdf>

paints a grim picture: some 2.8 billion people were employed globally in 2003, more than ever before. However, of these, nearly 1.4 billion - the highest number ever - are living on less than the equivalent of US\$2 a day and some 550 million are living on under the US\$1 a day poverty line³. Between 2003-2010, some 400 million more people will be joining the global work force - about 50 million more workers to provide gainful employment every year⁴. The bulk of these jobs have to be created in the developing countries, which already face serious unemployment problems.

The major outcome of the General Discussion on Migrant Workers at the International Labour Conference 2004, was the adoption by consensus of 177 member countries a *Resolution concerning a fair deal for migrant workers in a global economy*. This Resolution calls upon the ILO and its constituents to carry out a plan of action in partnership with other relevant international organizations. The Action Plan consists of several elements: Development of a non-binding multilateral framework for a rights-based approach to labour migration; wider application of international labour standards and other relevant instruments; support for implementation of the ILO Global Employment Agenda at national level; capacity building, awareness raising and technical assistance; improving the information and knowledge base; strengthening social dialogue; and mechanisms for follow-up of the plan of action. The most important and innovative component of the Action Plan is the “*development of a non-binding multilateral framework for a rights-based approach to labour migration which takes account of labour market needs, proposing guidelines and principles for policies based on best practices and international standards.*”

The Resolution envisaged it to comprise international guidelines and principles drawn from best practices in origin and host countries wherever they can be found. As a set of non-binding guidelines for policy it will not be limited to only those principles where an international agreement can already be negotiated. It is expected to contain appropriately detailed descriptions of policies and laws that can serve as models for policy reform in some 20 specific areas, taking into account the need of countries for a flexible way in which to progressively align national policies with international principles, from policies on admissions to the treatment of migrant workers, sharing the gains from migration, and social integration.

It is not my intention to go into details of the ILO Action Plan in this brief intervention, but to relate it to the Berne Initiative. Let me first highlight the common elements in the ILO multilateral framework and the International Agenda for Migration management of the Berne Initiative process⁵.

Both initiatives aim at assisting member states to improve their migration policies through reliance on principles and proven good practices – in the Berne Initiative

³ ILO. (2004). World Employment Report 2004-05: Employment, productivity, and poverty reduction. Geneva, International Labour office.

⁴ ILO (2003). Global Employment Trends, Geneva, International Labour office.

⁵ The Berne Initiative (2004). International Agenda for Migration Management: common understandings and effective practices for a planned, balanced, and comprehensive approach to the management of migration. The Berne II Conference: Managing International Migration through Cooperation, 16-17 December 2004. Bern, Switzerland
http://www.asyl.admin.ch/Daten/Migration_und_Flucht/Migrationspolitik/Berner%20Initiative/Conference.htm

termed as ‘effective practices’. The objectives of the two approaches are similar: improving migration policy and its governance; protection of migrant workers, and promoting development and migration linkages. Both the ILO multilateral framework and the International Agenda are non-binding initiatives, which provide only guidelines for policy reform.

Many of the areas identified in the ILO multilateral framework for elaboration of guidelines and best practices are also found in the International Agenda.

ILO supports the identified key common themes, especially the following highlighted in the Chairperson’s summary⁶:

- *If properly managed, migration has positive potential for both countries of origin and destination, as well as for individual migrants and their families.*
- *The central challenge is how to work effectively together to manage migration so as to reduce its negative impacts and maximize its beneficial impacts*

These are also some of the running threads of our report prepared from the International Labour Conference 2004: *Towards a fair deal for migrant workers in the global economy*⁷.

One of the most significant areas of consensus to emerge from the ILO General Discussion is the need for expanding regular migration opportunities in line with labour market needs. This finds a close parallel in point 13 in the common understanding of the International Agenda.

Providing adequate and regular channels for migration is an essential element of a comprehensive approach to migration management.

The issue of loss of skilled persons – the ‘brain drain’ – highlighted by a number of participants is another common issue addressed by both frameworks. The ILO has been advocating circular migration processes to ensure mutual benefits to host and origin societies. Yet current immigration policies of many receiving countries are not conducive to circulation of skills. At this point I like to highlight an existing multilateral framework for promoting regular and temporary migration - GATS mode 4: movement of natural persons- which holds considerable promise but has suffered due to inadequate commitments of member states.

Another area of convergence is the emphasis on capacity building for ensuring effective and credible migration policies, which various participating countries have requested.

A number of delegates and resource persons mentioned the need to address root causes. One participant went to the extreme of advocating a ‘right not to migrate’ – meaning keeping people at home to escape the suffering and exploitation abroad. The ILO Action Plan also recognizes this in the emphasis given to the creation of decent work opportunities in home countries through implementation of the Global

⁶ The Berne Initiative (2004). *Chairman’s Summary, International Agenda for Migration Management: The Berne II Conference: Managing International Migration through Cooperation*, 16-17 December 2004. Bern, Switzerland.

⁷ ILO (2004). *A fair deal for migrant workers in the global economy*, Report VI, International Labour Conference 2004, 92nd Session. Geneva, International Labour Office
<http://www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/rep-vi.pdf>

Employment Agenda to which member states have already made commitments. Experience shows that rapid development of the home country can sustain retention of human resources and attract back those migrants who left for overseas employment.

Now let me highlight a few differences.

- The Berne Initiative process which started in 2001 has now finalized the policy framework – the International Agenda for Migration Management- while the ILO’s multilateral framework is still under development and due to be completed by mid-2005 or so.
- The Berne Initiative process covers all aspects of migration including refugee movements, and internally displaced persons, and border management issues whereas the ILO process is concerned with labour migration workers only.
- The Berne Initiative differs from the ILO framework in that it is described as a **states-owned consultative process** with the goal of obtaining better management of migration at the regional and global level through co-operation between States. The ILO Plan of Action and the multilateral framework are based on ILO’s unique **tripartite process** through consultation among governments, workers, and employers - the three parties with the most important stakes in a better migration order.
- Our multilateral framework is a **rights based approach** to migration in the sense of being based on relevant ILO and other international instruments. The Committee on Migrant Workers came round to the view that there was no contradiction between state sovereignty and a rights based approach. The International Agenda has been described as a ‘**planned, balanced and comprehensive**’ approach.

The ILO believes that international labour standards remain the essential foundation for elaboration of national legislation and policy on migration. These instruments include migrant specific instruments, the fundamental conventions of the ILO enshrined in the Declaration as well as other relevant instruments. We note that the International Agenda refrains from making any specific reference to the three major international migrant worker instruments – the two ILO Conventions - Migration for Employment, 1949 (No.97) and the Migrant Workers Convention, 1975 (No.143) – and the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). It refers by name only to the United Nations Convention against Transnational Organized Crime (2000) and its two associated Protocols. Let us also remind ourselves that international instruments contain international guidelines and good practice achieved through years of multilateral negotiations. The two ILO Conventions and the related Recommendation (which are non-binding) spell out good practices relating to each stage of the labour migration process from pre-departure to return.

In a constructive spirit, I also like to point out that effective practices to deal with irregular migration should not be confined to trafficking and smuggling of human beings as made out in the IAMM. That would leave out the demand aspect completely and ignore the bulk of workers in irregular status who are active in host country labour markets – in the informal sector, underground economy or undeclared work. A couple of weeks back at the IOM Council Meeting in Geneva, Madame Ramphéle, the Co-Chair of the Global Commission on International Migration, pointed out that, *“the world’s more prosperous states bear a significant degree of responsibility for the*

forces which have prompted and sustained the movement of irregular migrants from one country and continent to another”⁸. We need therefore, to identify good practices to deal with migrants in the labour market who are in irregular status.

It is easy enough to highlight common bad practices in dealing with irregular migration. First is the tendency to associate all such migrant workers with criminality. Second, international instruments clearly indicate that mass deportations or expulsions should be avoided because they result in gross violations of human rights. Third, while bilateral labour agreements can be a good practice, some recent agreements resemble ‘glorified repatriation or readmission programmes’. Similarly some Asian labour-receiving countries impose MOUs on origin countries, which sacrifice fundamental worker rights such as the right to join a trade union.

A good practice recommended in both the ILO Migrant Workers Convention No. 143 and the 1990 International Convention is interstate cooperation to curb irregular migration which tallies well with the thrust of the International Agenda. The International Agenda does not mention amnesties and regularization programmes which have been widely adopted by countries the world over. The resource person from Mexico highlighted the relevance of these in the morning session. I recall the 2004 Dutch Presidency Conference discussion in which the Migration Policy Institute argued that regularization programmes can be made successful through proper policies.. In this context, earned adjustment to regularization was also advanced as a good practice⁹. Effective employer sanctions also can be an effective practice to reduce irregular migration.

Ladis and Gentlemen

In the next few months, the ILO will be elaborating on the elements of the multilateral framework of principles and good practices for submission to our Governing Body session in November 2005. We believe the International Agenda of the Berne Initiative to be a valuable resource document in the process. The compendium of common understandings and effective practices listed there will certainly help us in this effort. We also plan to interact closely with the Global Commission on International Migration in this regard.

Ladies and Gentlemen

I think the Chairman’s Summary presented to this Conference raises a very important issue – the way forward – or where do we go from here. A number of delegates also raised the same issue. I can see a number of areas for interaction and collaboration

⁸ Ramphela, M. (2004). Presentation. 88th Session of the IOM Council: International Dialogue on Migration: Valuing Migration - The costs, benefits, opportunities and challenges of migration. Geneva, 30 November-3 December 2004.

⁹ Migration Policy Institute and Patrick Weil (2004). Regular & Irregular Migration: Managing Irregular Migration, and Appendix Two: Example of Earned Regularisation: The Credit System (By the Migration Policy Institute). Workshop II- Session 2, The Presidency Conference on Future European Union Co-operation in the Field of Asylum, Migration and Frontiers. Amsterdam, 31 August -3 September, 2004.

between ILO's action plan and follow up to the International Agenda of the Berne Initiative. There is considerable demand from all stakeholders for capacity building as reflected in the discussions here and also in the ILO Migrant Workers' Committee deliberations and the Action Plan. Mr. Brunson McKinley, the Director General of IOM, also highlighted this in his statement. It is one area where we can collaborate closely. The Chairman's summary has also identified policy research on migration, and development of information sources as promising areas. This is also a priority for us in follow up to the Action Plan component on the development of a global knowledge base. In this context, the theme of the recent IOM Council international dialogue on migration – *valuing migration: the costs and benefits of migration* – is highly relevant and deserves further collaborative work.

Ladies and gentlemen

Please let me draw your attention to another important multilateral initiative – the **High-Level Dialogue on International Migration and Development** – to be held at the Sixty-first session of the General Assembly, 2006.

The UN General Assembly Resolution 58/208 of 13 February 2004 on International Migration and Development called for the organisation of this High Level Dialogue on International Migration and Development in 2006.¹⁰ The purpose of the Dialogue is to discuss the multidimensional aspects of international migration and development in order to identify appropriate ways and means to maximize its development benefits and minimize its negative impacts. This objective is closely related to the initiatives that we have been discussing today. It is the closest to a UN-led international conference or global summit on international migration that a number of countries have been trying to agree on for years without success. It is important that the ongoing processes – the work of the Global commission on International Migration, the International Agenda for Migration Management of the Berne Initiative, and the ILO's multilateral framework of principles and best practices – all provide inputs and support to this global meeting.

Ladies and Gentlemen

Let me end by stating that ILO stands ready to work with all of you – the Swiss government, all other governments, social partners, civil society, international agencies – in this worthy endeavour to create a better society which will ensure benefits of migration to all stakeholders and provide a fair deal to migrant workers as well.

Thank you very much.

¹⁰ http://www.un.org/esa/population/publications/thirdcoord2004/GA_Resolution%2058_208.pdf