

# MECHANISMS FOR LABOUR MIGRATION IN THE CARIBBEAN

Antigua and Barbuda | The Bahamas | Barbados | Belize | Dominica | Dominican Republic | Grenada | Guyana | Haiti | Jamaica | Montserrat | Saint Kitts and Nevis | Saint Lucia | Saint Vincent and the Grenadines | Suriname | Trinidad and Tobago



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This publication was made possible through the support provided by the United States of America Department of State Bureau of Population, Refugees and Migration under the framework of the IOM Western Hemisphere Program. However, the views expressed do not necessarily reflect the official policies of the Government of the United States of America.

Publisher: International Organization for Migration (IOM)  
Regional Office for North America, Central America and the Caribbean  
San José  
Costa Rica  
Tel: +(506) 2212-5300  
Email: [rosanjose@iom.int](mailto:rosanjose@iom.int)  
Website: [www.rosanjose.iom.int](http://www.rosanjose.iom.int)

This publication has not been officially edited by IOM.

Program Coordinator: Alexandra Bonnie  
Program Support Officer for the Caribbean: Brendan Tarnay  
Author: María Gabriela Párraga Espinoza  
Research Coordinator: Estela Aragón  
Collaborators: Briana Mawby, Michela Machiavello, Fabio Jiménez, Karla Picado, Fabian Solano and Nicholas Peters  
Graphic design: Letra Maya Editorial

Required citation: Párraga, M. 2021. *Mechanisms for Labour Migration in the Caribbean*. International Organization for Migration (IOM), San José.

ISBN 978-92-9068-975-1 (PDF)

ISBN 978-92-9068-976-8 (print)

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PUB2021/048/R

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# FOREWORD

Labour migration is increasingly critical to the development of many countries. This movement benefits not only countries of origin, which receive remittances and can experience reduced pressure in their labour markets, but also countries of destination, where some sectors of the economic depend significantly on the migrant labour force and where migrants make important financial and sociocultural contributions.

The International Organization for Migration works to promote synergies between labour migration and development, providing support to open regular channels for labour migration as an alternative to irregular migration. Additionally, IOM seeks to facilitate the development of policies and programmes that will benefit migrants and society, providing effective protection and assistance to migrants and their families.

Seeking to manage labour migration flows effectively, countries of origin and destination in the Caribbean have developed a range of strategies and programmes, including treaties, agreements, Memorandums of Understanding, to guide labour migration. In addition to these ongoing efforts, the region must strengthen and renew these mechanisms, overcoming the existing limitations in data collection about the implementation, use and effectiveness of mechanisms facilitating labour migration. These limitations hinder data-driven decision-making and, as a result, the creation of solutions that benefit both States and migrants.

This study responds to the need to fill these information gaps, seeking to promote the creation of regular means of migration that are integrated into comprehensive labour migration policies. Creating effective policies requires an understanding of the existing challenges for migration governance, and analysis of current policies and practice is crucial to fully address the needs of Caribbean States in relation to the regulation of labour migration.

This study expands the understanding of the regular migration channels available in the region for migrant workers. It evidences the need to adapt existing mechanisms and, at the same time, to create new processes that respond to changing migration trends and contribute to safe and orderly labour migration.

We are confident that this study, the only of its kind in the Caribbean, will provide useful information to governments, the private sector, and other key decision makers about the implementation, use, and status of existing mechanisms. This research identifies opportunities for improvement to promote labour migration mechanisms that facilitate ethical recruitment, improve working conditions and strengthen return and reintegration processes. This study highlights the policy and practical elements that are key for responding to the needs of labour markets in the region and fortifying the protection of the rights of migrant workers.



Michele Klein Solomon  
IOM Regional Director for Central America, North America and the Caribbean

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## ACRONYMS AND ABBREVIATIONS

<b>CARICOM</b>	Caribbean Community
<b>CARIFORUM</b>	Caribbean Forum
<b>CARIFORUM-EU EPA</b>	Caribbean Forum-European Union Economic Partnership Agreement
<b>CSME</b>	CARICOM Single Market and Economy
<b>CVQ</b>	Caribbean Vocational Qualification
<b>DHS</b>	United States of America Department of Homeland Security
<b>DOL</b>	United States of America Department of Labor
<b>DOS</b>	United States of America Department of State
<b>ECEU</b>	Eastern Caribbean Economic Union
<b>IRCC</b>	Immigration, Refugees and Citizenship Canada
<b>IRIS</b>	International Recruitment Integrity System
<b>JET</b>	Japan Exchange and Teaching Programme
<b>LMIA</b>	Labour Market Impact Assessment
<b>MoU</b>	Memorandum of Understanding
<b>OECS</b>	Organisation of Eastern Caribbean States
<b>SAWP</b>	Seasonal Agricultural Workers Program
<b>TVR</b>	Regional Visitor Card (acronym in Spanish)
<b>TVTF</b>	Visitor Card Programme for Cross Border Workers (acronym in Spanish)
<b>WHD</b>	Wage and Hour Division

## EXECUTIVE SUMMARY

Migration flows in the Caribbean are mainly driven by economic factors, primarily the search for employment opportunities.<sup>1</sup> Caribbean countries register high levels of unemployment, especially among youth, that may lead tertiary educated medium- and high-skilled workers to seek better employment abroad.<sup>2</sup> Furthermore, workers who move within the region tend to find work in informal sectors where there are few guarantees for the protection of their rights.<sup>3</sup>

Recognizing the importance of labour migration and mobility to both countries of origin and destination, Caribbean States, States outside the region and other stakeholders have developed mechanisms to facilitate regular and safe labour migration. These mechanisms were established at different times and by different stakeholders, among other variables. In the framework of this report, mechanisms are classified into five types: bilateral agreements, memorandums of understanding, multilateral free movement agreements, temporary work programmes and commercial agreements with labour migration clauses.

These channels for regular labour migration are key elements in regional and national migration governance structures. However, while these constitute an important step forward, the challenge remains to fully incorporate protective measures for workers into existing mechanisms, and to ensure that mechanisms are able to respond to the changing needs of labour markets. Additionally, this study showcases the existing limitations regarding available information on the results and compliance with the objectives of the different agreements, memorandums and programmes. The lack of monitoring and evaluation systems, as well as the gaps in use, participation, and implementation data collection create challenges for identifying the effects and benefits for migrants as well as communities of origin and destination.

This report presents a series of findings that make it possible to better understand the challenges and good practices within Caribbean labour migration mechanisms. The study also presents recommendations to strengthen these mechanisms within the framework of comprehensive policies to maximize the benefits of labour migration for all stakeholders involved.

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<sup>1</sup> IOM, 2018.

<sup>2</sup> Downes, 2006.

<sup>3</sup> Ibid.

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## MAIN FINDINGS OF THE STUDY

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- The greatest number of Caribbean nationals who migrate for work using the mechanisms identified in this report do so through mechanisms for facilitating movement to countries outside of the region, such as the United States of America and Canada.
- The greatest number of mechanisms identified in this study – ten of the 13 identified – are multilateral in nature. Multilateral negotiations and coordination for the establishment of mechanisms is a common practice in the region, a trend that reflects the strong history of regional integration and multilateralism in the Caribbean.
- Almost 46 per cent of all mechanisms identified were classified as temporary work programmes, representing the most common type of mechanism found in the region.
- Caribbean labour emigration flows contain significant numbers of highly skilled workers. However, out of the 13 mechanisms found, only 4 of them focus on high-skilled labour migration. This may be linked to labour demand in destination countries, as sectors requiring low- and medium-skilled labour often have a more limited domestic labour supply in countries of destination.
- Available data indicate that mechanisms in the region have not accomplished the desired effects for guiding labour migration and mobility flows, as more workers use alternative or irregular means for working abroad than formal labour migration mechanisms. A significant challenge for the implementation and continuation of labour migration mechanisms is the difficulty to adapt their provisions to dynamic labour markets and migration flows.
- Some of the identified challenges for workers to access labour migration mechanisms include: (a) the requirement to have a job offer before applying to migrate; (b) the expectation for workers to pay for the initial or total application, transportation and/or accommodation fees; and (c) the lack of available or accessible information on these mechanisms and how to use them.
- Overarchingly, the mechanisms identified do not contain provisions for gender mainstreaming during the recruitment process, the period working abroad or the return and reintegration of migrant workers. Furthermore, data reflect low female participation in some of the mechanisms, especially those for agricultural or low-skilled jobs.
- Provisions to support the return and reintegration of workers are scarce. Most mechanisms focus on the recruitment and departure phases. Additionally, provisions for the portability of pensions and other social security benefits are very limited for mechanisms involving extraregional countries as destinations. Intraregionally, the



Caribbean has made significant progress in establishing the portability of social security benefits but still faces challenges in standardizing the implementation of these regional efforts at the national level.

- Public–private partnerships are an under-utilized resource in many of the mechanisms identified. During interviews, representatives of the private sector noted their interest in dialogue with government officials to guide the creation of mechanisms that respond to their labour supply needs.
- Monitoring and evaluation systems tend to be more consolidated in mechanisms involving countries outside of the region. In the Caribbean, governments tend to prefer ad hoc groups, meetings and communications with countries of destination for following up on the results and implementation of mechanisms.
- There is a perception that, in mechanisms that involve States outside of the region, these countries of destination often lead the development and structure of the mechanisms. Cooperation between countries of origin and destination should continue to strengthen the exchange of information and monitoring and evaluation processes throughout the labour migration cycle for more effective implementation of these mechanisms.
- In the context of the COVID-19 pandemic, countries applied measures to help safeguard the health of workers while keeping sectors productive. Some destination countries adapted migration procedures for the reapplication of migrant workers already in the country who were reaching the end of their visas or created travel restriction exceptions. Countries of origin also strengthened sanitation and health measures to ensure the protection of workers.

# INTRODUCTION

In 2020, there were an estimated 280 million migrants worldwide,<sup>4</sup> and approximately 164 million were migrant workers in 2017.<sup>5</sup> Labour migration, if adequately managed, has the potential to provide significant benefits to countries of origin and destination and to migrant workers. Effective labour migration governance depends on the development of evidence-based policies and mechanisms that respond to the needs of labour migrants as well as the needs of the labour markets in both countries of origin and destination.

The Caribbean region experiences dynamic labour migration and mobility flows, both intra- and extraregionally.<sup>6</sup> Intra-regional migration has increased rapidly in recent years, which highlights the need to strengthen regional governance structures and promote the standardization of processes to manage migration, particularly within the existing free movement regimes.<sup>7</sup> On the other hand, numbers on extraregional emigration remain significantly higher than those for intra-regional migration. Extraregional emigration is intrinsically linked to the labour market dynamics in the Caribbean, particularly levels of unemployment for the overall population and for highly qualified persons.

Effective migration governance relies on interinstitutional coordination as well as consolidated partnerships between countries within and outside the region, international organizations, civil society, private sector stakeholders and other stakeholders.<sup>8</sup> Mechanisms that facilitate labour migration and mobility emerge as important tools for the migration governance, providing guidelines for the protection of migrant rights and maximizing the potential benefits and opportunities of labour migration. These considerations are especially relevant because migrant workers are often more significantly exposed to situations of vulnerability than local workers,<sup>9</sup> and certain economic sectors in many destination countries depend on a migrant labour force seasonally and permanently.<sup>10</sup> These mechanisms are a fundamental piece in promoting regular channels of migration.

This study reviews different labour migration agreements and other mechanisms that facilitate the regular movement for labour in the Caribbean; it also provides an overview of their current level of implementation and responsiveness to labour market needs in participating countries.

A better understanding of these dynamics will facilitate the improvement of existing mechanisms or the creation of new ones in order to respond to current needs and to provide appropriate solutions to some of the challenges for effective management of labour migration flows.

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<sup>4</sup> UN DESA, 2020.

<sup>5</sup> ILO, n.d.b.

<sup>6</sup> For the purpose of this study, the Caribbean region will include the following countries: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

<sup>7</sup> IOM, 2020a.

<sup>8</sup> Ibid.

<sup>9</sup> ILO, 2017.

<sup>10</sup> IOM, 2019d.

# METHODOLOGY

The methodology consisted of the following five steps:



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## SECONDARY DATA COLLECTION METHODS

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IOM followed the principles of rigor, transparency and replicability to structure the literature review. This process included a review of different sources, such as reports from international organizations, academic research studies, legislation and other official documentation from Caribbean countries. For the purpose of this study, the Caribbean region will include the following countries: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. These countries are the Member States of the Caribbean Forum (CARIFORUM). The literature review allowed IOM to identify the different mechanisms that facilitate labour migration and mobility in the region. The desk review also included information on existing mechanisms that facilitate regular labour migration and mobility even if they were not specifically intended for this purpose.

IOM created a secondary data matrix to classify the mechanisms based on their geographic coverage and type of mechanism, which comprised:

- a) Bilateral labour agreements;
- b) Memorandums of Understanding;
- c) Multilateral free movement agreements;
- d) Temporary work programmes;
- e) Commercial agreements with labour clauses.

Additionally, IOM identified and analysed other migration channels that were not specifically designed for labour migration purposes but are used by some migrant workers.

With this system of classification, IOM identified the existing mechanisms that facilitate labour migration and mobility in the Caribbean, which of these are legally binding and whether they facilitate extraregional or intraregional movement.

A stakeholder map was constructed to determine key actors from the academia, civil society, government and private sector:

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## PRIMARY DATA COLLECTION METHODS

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The preliminary list of mapped mechanisms was verified with different actors, such as members of academia, and IOM staff in Caribbean countries, who in some cases were able to verify these with government officials from the relevant countries. Most mechanisms, however, were not officially verified by governments of the countries included in this report due to a lack of response, likely related to challenges caused by the COVID-19 pandemic.<sup>11</sup> Therefore, the list included should not be considered exhaustive.

Formal interviews were also conducted with members of the private sector and the academia. These interviews centred on the use and implementation of the mechanisms identified as well as on the monitoring and evaluation systems available to assess their effects. Interviews provided insight on success stories, challenges in the implementation process, and the relationship between these mechanisms and the labour market gaps.

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## CASE STUDIES

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IOM analysed the mechanisms selected for case studies using an instrument developed by the researchers. The instrument was structured using 15 indicators and 55 sub-indicators related to the implementation process of these mechanisms, the participation of governments and private sector and the compliance with national and international labour standards and good practices. The results were coded following the three phases of the labour migration cycle:

- Phase 1: Recruitment
- Phase 2: Work abroad
- Phase 3: Return and reintegration

Gender-based perspectives and gender mainstreaming were also considered in each of the three steps as a cross-cutting pillar, with specific criteria to assess how gender is considered in the framework and implementation of each mechanism.

The mechanisms selected for the case studies were chosen based on their relevance to the Caribbean context and the degree to which they were used in the last year.

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<sup>11</sup> Please refer to the limitations section of this methodology for more information on the effects and challenges the COVID-19 pandemic posed for this study.



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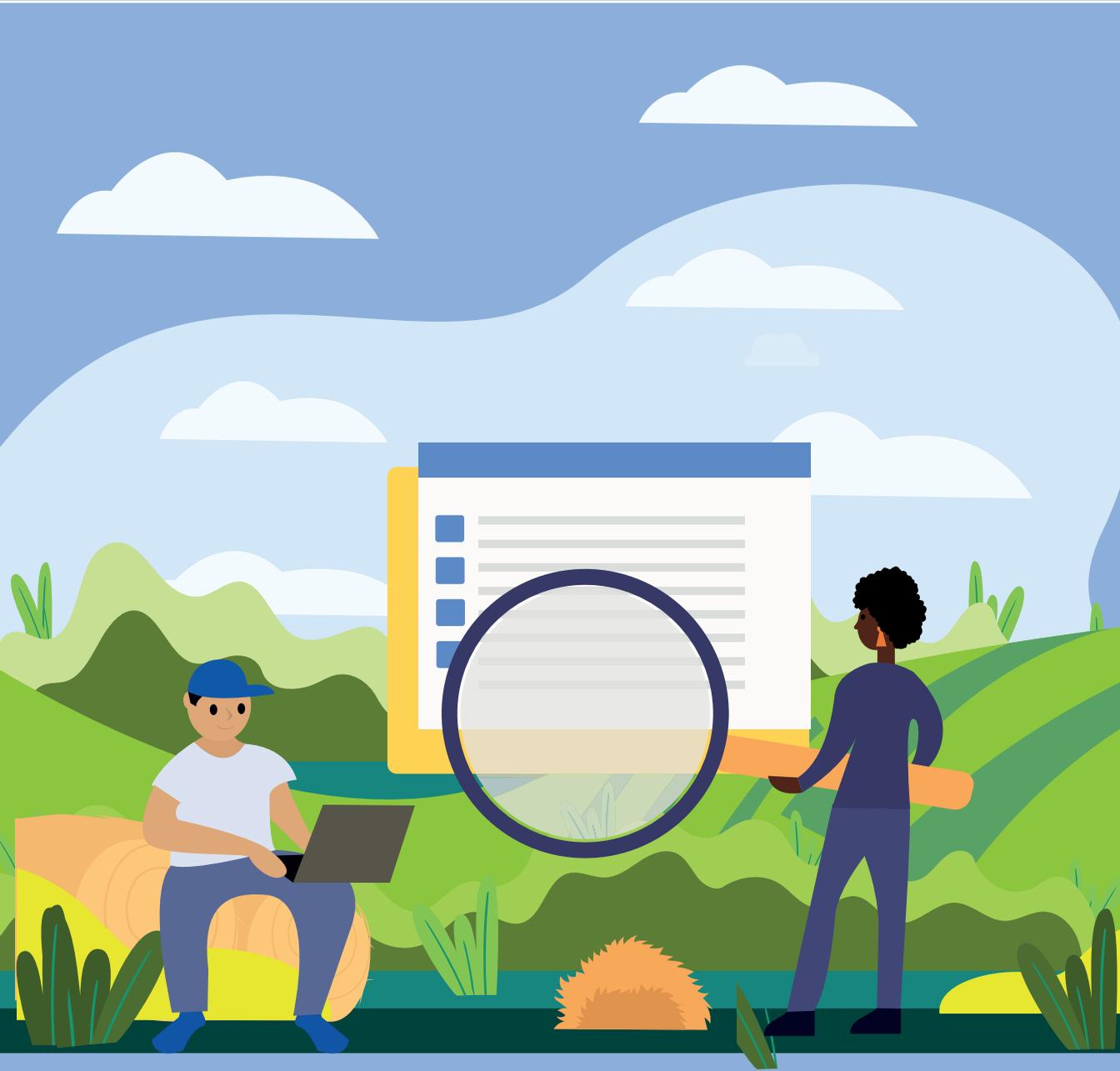
## LIMITATIONS

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IOM conducted this study in the context of several key limitations which the researchers sought to overcome. The challenges listed below are important considerations when reading the findings and recommendations of this document.

- The research was completed during the COVID-19 pandemic, making it more difficult for IOM to reach some stakeholders. The demands on government officials to address COVID-19-related challenges, including related to migration management, limited the time they were available to meet. In other cases, technical challenges made conducting interviews remotely or virtually difficult. For example, while the research team did interview some private sector stakeholders, the report would have benefited from a greater number of perspectives from the private sector.
- IOM included additional information about how the COVID-19 pandemic affected the functioning and implementation of mechanisms discussed in this report, though it is important to note that the established health and sanitation restrictions and measures may change or be lifted.
- Information on labour mechanisms in the Caribbean is extremely scarce, and it was often difficult to find formal documentation of mechanisms or data on the number of workers who migrate via a particular mechanism. The limited availability of information was especially prevalent in the lack of centralized data regarding the implementation of the different mechanisms. The information included in this report is based on the most recent data available for each of the mechanisms.
- This study focused on the policy and legal side of labour mechanisms, involving interviews with government officials, academics, and private sector stakeholders. The scope of this study was limited; however, additional research that centres the critical perspectives of labour migrants is necessary in order to better understand their experiences using the mechanisms discussed in this report.

# 1 LABOUR MIGRATION AND MOBILITY IN THE CARIBBEAN



# 1. LABOUR MIGRATION AND MOBILITY IN THE CARIBBEAN

This chapter provides a general overview of labour migration in the Caribbean, including a description of the main labour migration and mobility trends and an overview of the labour migration governance systems: the laws, protocols, agreements and institutions that guide labour migration flows.

## LABOUR MIGRATION AND MOBILITY IN THE CARIBBEAN

The Caribbean has a history of intraregional and extraregional movement. However, migration trends in the Caribbean have shifted over the last decade and people are moving now more than ever.



### Remittances

In 2019, remittances amounted to approximately 16 per cent of the Jamaican GDP, 8 per cent of the Dominican GDP, and 8 per cent of the Guyanese GDP.<sup>12</sup>



### Emigration

Of the total population of 10.7 million, 1.5 million Dominican Republic nationals lived abroad in 2019. 1.4 million of them lived in North America and Europe.<sup>13</sup>

One of these changing trends is the increasing number of immigrant populations. Since 2010, many countries in the region, including Barbados, Belize, Saint Lucia and Trinidad and Tobago, have reached a migrant population size that is at least two per cent of the total population.<sup>14</sup> In some countries it is considerably higher, such as Belize, in which immigrants made up 15 per cent of the population in 2019, and this percentage has remained relatively stable since 2010.<sup>15</sup> Nevertheless, the regional emigration rate remains significantly higher than the immigration rate. Most Caribbean countries are net sending countries, with the exception of the Bahamas, which registered a net migration rate of 2.6 per cent in 2019.<sup>16</sup> In Jamaica, for example, the

<sup>12</sup> World Bank, n.d.

<sup>13</sup> UN DESA, 2019.

<sup>14</sup> ECLAC and ILO, 2017.

<sup>15</sup> UN DESA, 2019.

number of emigrants abroad represented approximately 38 per cent of the national population in 2019 and, in that same year, the Jamaica-United States of America migration corridor was among the most dynamic corridors in Latin America and the Caribbean.<sup>17</sup> Similarly, 60,600 nationals of Saint Vincent and the Grenadines lived abroad in 2019, representing almost 55 per cent of the population in-country.<sup>18</sup>

Table 1. Caribbean migration overview per country, mid-year 2019

Country	Total population	Immigration stock	Emigration stock	Emigrants as percentage of the population
<b>Antigua and Barbuda</b>	97,118	29,207	55,089	56.7
<b>Bahamas</b>	389,482	62,962	46,467	11.9
<b>Barbados</b>	287,025	34,807	112,925	39.3
<b>Belize</b>	390,353	59,900	68,144	17.4
<b>Dominica</b>	71,808	8,264	78,634	109.5
<b>Dominican Republic</b>	10.7 million	567,648	1.5 million	14
<b>Grenada</b>	112,003	7,124	75,784	67.6
<b>Haiti</b>	11.2 million	18,756	1.5 million	13.3
<b>Jamaica</b>	2.9 million	23,468	1.1 million	37.9
<b>Saint Kitts and Nevis</b>	52,823	7,587	124,941	236.5
<b>Saint Lucia</b>	182,790	8,383	63,605	34.8
<b>Saint Vincent and the Grenadines</b>	110,589	4,692	60,655	54.8
<b>Suriname</b>	581,372	46,157	423,517	72.8
<b>Trinidad and Tobago</b>	1.3 million	59,249	334,304	25.7

Source: UN DESA, 2019 and World Bank, 2019.

While migration from Caribbean countries is connected to multiple factors and complex dynamics, most push-pull factors – the factors that drive people to leave their country of origin and the factors that attract them to the country of destination, respectively<sup>19</sup> – are related to the economy or the labour market.

Some of the main push factors in the region include high unemployment levels, low per capita income and stagnant labour markets in communities of origin.<sup>20</sup>

<sup>16</sup> A net migration rate is the difference between the number of immigrants and the number of emigrants in one country throughout a specific year. Source: Migration Data Portal, 2019.

<sup>17</sup> IOM, 2019d.

<sup>18</sup> UN DESA, 2019.

<sup>19</sup> IOM, 2019b.

<sup>20</sup> IOM, 2018.

High levels of unemployment, especially among youth,<sup>21</sup> are a concern for most countries in the region. In 2015, nearly one in every four young people in the Caribbean was unemployed, compared to 2 in every 25 adults. Additionally, unemployment among young women in the Caribbean is greater than 30 per cent, compared to 20 per cent for young men.<sup>22</sup>

Labour migration and mobility in the Caribbean involve two main flows: (a) the emigration of workers in search of employment, mainly to the United States of America, Canada and the United Kingdom; and (b) the intraregional flows of Caribbean workers within the region.<sup>23</sup>



Labour migration refers to the movement of persons from one State to another, or within their own country of residence, for the purpose of employment.<sup>24</sup>

Labour mobility, for the purpose of this study, is used in the context of free movement agreements and regimes.

Extraregional dynamics revolve around medium- to high-skilled labour migration, and the region has one of the highest emigration rates of skilled workers or individuals with tertiary education worldwide.<sup>25</sup> One of the most common economic activities for Caribbean emigrants is health-care work. High emigration rates of Caribbean nurses to countries such as the United States of America and the United Kingdom create short and long-term challenges in countries of origin, such as nurses' vacancy rates averaging 40 per cent.<sup>26</sup>

The United Nations Department for Economic and Social Affairs estimated that there were 896,763<sup>27</sup> intraregional immigrants in Caribbean countries in 2019, which represented about 59 per cent of the total immigration stock in the region that same year.<sup>28</sup> Currently, the Bahamas, Barbados and Trinidad and Tobago are important countries of destination for workers from the region.<sup>29</sup>

Although both extra- and intraregional labour migration are increasing, information on migrants' access to labour markets remains scarce. The main source of data on integration of migrants into local labour markets is the population census, which is conducted every ten years in most

<sup>21</sup> There is no universal agreement about the international definition of the youth age group. For statistical purposes, however, the United Nations—without prejudice to any other definitions made by Member States—defines 'youth' as those persons between the ages of 15 and 24 years. Source: UN, n.d.

<sup>22</sup> Nelson, 2016.

<sup>23</sup> Pienkos, 2006.

<sup>24</sup> IOM, 2019b.

<sup>25</sup> IOM, 2018.

<sup>26</sup> Rolle Sands et al., 2020.

<sup>27</sup> This calculation considers the emigration stock of the following Caribbean countries and territories to the Caribbean: Anguilla, Antigua and Barbuda, the Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Cuba, Curaçao, Dominica, Dominican Republic, Grenada, Guadeloupe, Guyana, Haiti, Jamaica, Marshall Islands, Martinique, Montserrat, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sint Maarten, Suriname, Trinidad and Tobago, Turks and Caicos Islands and United States Virgin Islands.

<sup>28</sup> UN DESA, 2019.

<sup>29</sup> IOM, 2019a.

countries in the region.<sup>30</sup> However, available information shows there is a mismatch in labour supply and demand in the region, meaning that the skills required by employers or enterprises are not always being met by the existing skills in the local labour force.<sup>31</sup> This is partially due to some recent changes in the production systems, which has increased the demand for services-oriented skills in the region, including in the tourism, transportation and manufacturing sectors.<sup>32</sup> While there is a significant highly skilled labour force in the region, estimates indicate that an average of 66.2 per cent of the total employed labour force in the Caribbean engages in low-skilled jobs in the service industry.<sup>33</sup> This is especially relevant for women, who are over-represented in the service sector and other low-skilled industries.<sup>34</sup>

The data on migrants working in the informal sector are even more limited. Nevertheless, the existing information shows that it is another important trend in the Caribbean region. Although there is no definitive calculation of the number of migrants working in the informal economy, informal activities within Caribbean countries accounted for an estimated 29–37 per cent of the regional GDP in 2017.<sup>35</sup> In addition, an IOM study developed in 2019 that highlighted concerns about many migrants using the existing formal mechanisms for international migration, including the free mobility provisions within the CARICOM Single Market and Economy (CSME), and then finding work in the informal economy. The same study proposed that this might be because even if citizens from CARICOM Member States can travel to and remain in another Member State for up to six months, the requirements to obtain the right to work – a verified Skills Certificate – are not standardized across all countries, and CSME nationals may lack information about the certification process.<sup>36</sup>

Regardless of these challenges, the CSME and the Eastern Caribbean Economic Union (ECEU) of the Organisation of Eastern Caribbean States (OECS) — the two free movement regimes operational in the region — fundamentally shape how people move across the Caribbean region. Their provisions offer some of the most important regular channels through which thousands of people move every year in search of work, and this number is expected to continue increasing in the coming decades.<sup>37</sup>

Understanding the migration and mobility dynamics within the region is key to creating more formal mechanisms or adjusting the existing ones in order to ensure that migration and mobility in the region benefits migrants, employers and States.

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<sup>30</sup> Government of Saint Lucia, n.d.

<sup>31</sup> IOM, 2019a.

<sup>32</sup> ECLAC, 2004.

<sup>33</sup> IOM, 2019a, p.24.

<sup>34</sup> ILO, 2017, p.7.

<sup>35</sup> Peters, 2017.

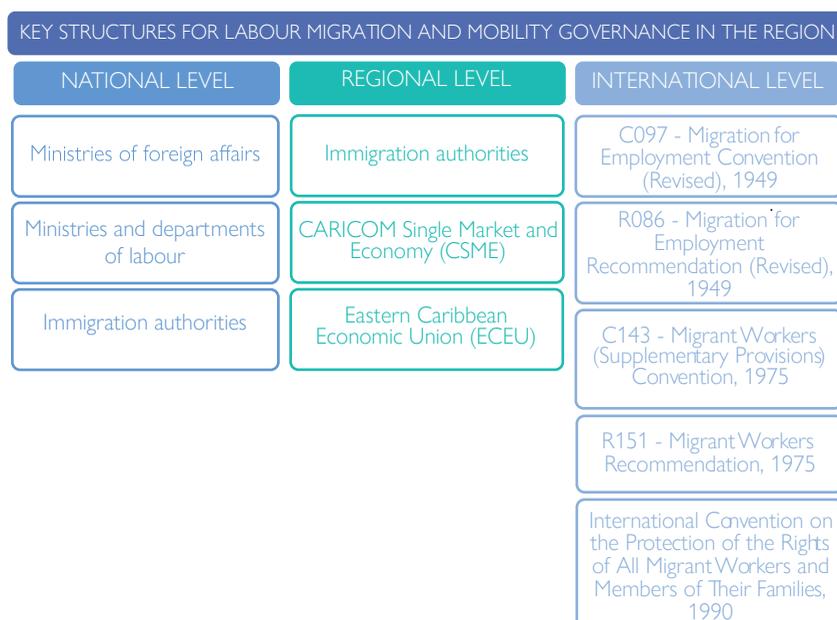
<sup>36</sup> IOM, 2019a, p.24.

<sup>37</sup> Ibid.

## THE GOVERNANCE OF LABOUR MIGRATION AND MOBILITY IN THE CARIBBEAN

Regional integration has created a group of multilateral organizations, agreements and consultative processes that have shaped the approach to labour migration governance in the Caribbean. These structures have been created to address topics such as labour mobility management and the economic, social and environmental challenges that face the region. Additionally, they are intended to enable collaboration in trade and legislative standardization to address pressing labour migration governance needs and gaps.

Figure 1. Structures and instruments for labour migration governance in the region<sup>38</sup>



Source: Author's elaboration.

At the national level, most Caribbean countries have specific legislation regulating labour and migration matters, outlining the circumstances and categories under which migrant workers can access national labour markets. However, these national laws are not always amended to reflect compliance with regional legislation, known as Community Law. Community Law is a legal system for the Caribbean Community that facilitates stronger and legally binding coordination for key thematic areas.<sup>39</sup>

<sup>38</sup> For more information on migration governance, please refer to the Migration Governance Framework (MIGoF). Source: IOM, 2020a.

<sup>39</sup> Nelson, 2011.

Similarly, all countries have dedicated agencies or departments responsible for managing labour migration flows, issuing work permits and, in the case of CSME Member States, the issuance of CARICOM Skills Certificates.<sup>40</sup> In some cases, like Jamaica, Grenada, Saint Lucia and Suriname, the ministries of labour are in charge of managing labour migration and mobility. In other countries like the Bahamas, Belize, the Dominican Republic and Trinidad and Tobago, this role is mainly assumed by the immigration authorities.

There is limited information on the role of national employment agencies in the recruitment of Caribbean nationals intraregionally. Furthermore, key stakeholders identified private employment agencies as the predominant source that individuals consult for labour opportunities in the region.

At the regional level, there have been notable advances in the management of labour migration and mobility derived from regional cooperation. For instance, it has made it possible to implement standardized Labour Force Surveys in several countries.<sup>41</sup> Caribbean countries have also consolidated efforts for standardizing labour legislation and enabling designated officials to facilitate joint work with other countries in the region. CSME Member States have appointed CSME focal points that oversee cooperation and coordination related to mobility and labour mobility under CSME provisions. The CSME also created a Labour Market Information System (LMIS), with the support of the International Labour Organization (ILO), to collect and share labour market-related information throughout the CSME.<sup>42</sup>

Additionally, within the framework of CARICOM, the *Revised Treaty of Chaguaramas* established the Caribbean Court of Justice (CCJ) to create the aforementioned Community Law. While Community Law enables a regional approach to labour migration and mobility governance, there are opportunities for improving its implementation in order to emphasize the positive contributions it makes to the growth and development of both sending and receiving countries and to the well-being of migrant workers.<sup>43</sup> This also includes strengthening national institutions to increase their implementation capacity and to train front-line officers for ensuring the implementation of Community Law.<sup>44</sup>

The Caribbean Migration Consultations (CMC), launched in 2016, also plays a role in regional migration governance. The CMC is a regional consultative forum under development in the Caribbean, made up of more than 20 governments and 10 international organizations that exchange information and best practices on migration issues. The CMC facilitates data collection, sharing and analysis – including for labour migration – in the region.<sup>45</sup>

A key challenge hampering the effective management of labour migration in many Caribbean countries is difficulty in establishing comprehensive data collection systems on the national and migrant labour force. This is caused by the limited capacity of most national statistical

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<sup>40</sup> IOM, 2019a.

<sup>41</sup> Ibid.

<sup>42</sup> CSME, 2016.

<sup>43</sup> IOM, 2018.

<sup>44</sup> CARICOM, 2018.

<sup>45</sup> CMC, 2018.

units, as well as the lack of processing or translating administrative records for the design or evaluation of public policies on migration. Most countries have the available technology to collect administrative records on migration, but there are cases in which technology is outdated or there is a lack of financial resources to make full use of the appropriate technological tools for labour migration management and registration of information.<sup>46</sup>

The lack of opportunities for non-governmental stakeholders to participate in decision-making related to labour migration governance is a challenge. Shifting the perspective that migration is primarily a security issue to a view that migration can be part of a broader economic, social and cultural development process can help ensure that migration through safe, dignified and orderly conditions fully contributes to the region's sustainable development.<sup>47</sup>

While both regional and national challenges may be significant, important efforts are being made to improve labour migration governance in the region. For example, many governments have explicitly highlighted the importance of strengthening regional cooperation to improve the existing governance structures and channels that facilitate labour mobility and to provide clear information to Caribbean nationals about their opportunities and rights to move across the region in search of employment opportunities.<sup>48</sup>

However, several opportunities for improvement remain, such as: (a) mainstreaming the migration component into many relevant regional and institutional efforts; and (b) strengthening coherence in the implementation of regional policy, as many countries continue to operate in an isolated and ad hoc manner. Additionally, there is an emphasis on the management of movement of persons across borders that may occasionally be prioritized over the protection of migrants, such as measures to prevent work exploitation and forced labour.<sup>49</sup>

There are also limitations to the number of countries that have ratified of international conventions for the protection of migrant workers in the Caribbean. The *Forced Labour Convention (No. 29)* is the only out of the seven main ILO conventions on migration and labour rights that has been ratified by all countries in the region. The *Private Employment Agencies Convention (No. 181)* has been ratified only by Suriname, and the *Migrant Workers (Supplementary Provisions) Convention (No. 143)* has not been ratified by any country in the region. Generally, more countries in the region have ratified the older conventions than the more recent ones. No convention has been ratified by more than three Caribbean countries since the *Migration for Employment Convention (revised) (No. 97)* of 1949. Ratifying international conventions should be prioritized, as it reaffirms countries' commitments to adhering to international labour standards and protecting the rights of migrant workers.

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<sup>46</sup> IOM, n.d.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> IOM, 2018.

Table 2. Ratification of international conventions for the protection of migrant workers, per country

	<i>Antigua and Barbuda</i>	<i>Bahamas</i>	<i>Barbados</i>	<i>Belize</i>	<i>Dominica</i>	<i>Dominican Republic</i>	<i>Grenada</i>	<i>Haiti</i>	<i>Jamaica</i>	<i>Saint Kitts and Nevis</i>	<i>Saint Lucia</i>	<i>Saint Vincent and the Grenadines</i>	<i>Suriname</i>	<i>Trinidad and Tobago</i>
<b>Forced Labour Convention, 1930 (No. 29)</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)</b>			✓			✓		✓						
<b>Migration for Employment Convention (Revised), 1949 (No. 97)</b>		✓	✓	✓	✓		✓		✓		✓			✓
<b>Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)</b>				✓					✓		✓			
<b>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990</b>														
<b>Private Employment Agencies Convention, 1997 (No. 181)</b>													✓	
<b>Domestic Workers Convention, 2011 (No. 189)</b>						✓	✓		✓					

Source: Author's elaboration with data from ILO, n.d.c.

# 2

## MECHANISMS THAT FACILITATE LABOUR MIGRATION IN THE CARIBBEAN



## 2. MECHANISMS THAT FACILITATE LABOUR MIGRATION IN THE CARIBBEAN

In an interdependent world, improving migration governance is critically important. Caribbean countries have made great progress towards regional integration, and this facilitates cooperation on intraregional migration. However, the Caribbean is a region of predominant emigration trends, and it is crucial that Caribbean States formally negotiate and establish mechanisms involving extraregional partners, such as countries of destination or multinational and foreign enterprises. This is essential to guarantee labour and human rights of migrants and to contribute to the implementation of safe, regular and orderly migration channels. Effective labour migration governance constitutes an important pathway for resolving issues related to migration flows and helps improve diplomatic relations between countries, especially if migration has been a cause of friction for them in the past.<sup>50</sup>

Several instruments can facilitate the management of regular labour migration and mobility as a part of migration governance structures. Countries may subscribe to international treaties or create national frameworks to regulate recruitment and standardize contracts, disseminate information on migration and the dangers of fraudulent or exploitative recruitment practices, provide consular assistance to their nationals abroad and implement labour inspections, especially in sectors where migrants make up a large proportion of the labour force. Additionally, countries may establish formal mechanisms bilaterally or multilaterally for facilitating regular labour migration, usually for a specific sector or activity.<sup>51</sup>

Figure 2. Instruments used to manage labour migration



Source: Author's elaboration.

<sup>50</sup> IOM, 2010.

<sup>51</sup> IOM, 2019c.

Countries often choose to create formal mechanisms to regulate labour migration and mobility because, in theory, they are intended to promote decent and humane treatment to workers and allow for the consideration of the interests of both sending and receiving countries.<sup>52</sup> Moreover, the availability of tailored and consolidated labour mechanisms may offer a series of opportunities from which countries, the private sector, communities and individuals may benefit.

Figure 3. Benefits of well-managed labour migration



Source: Author's elaboration.

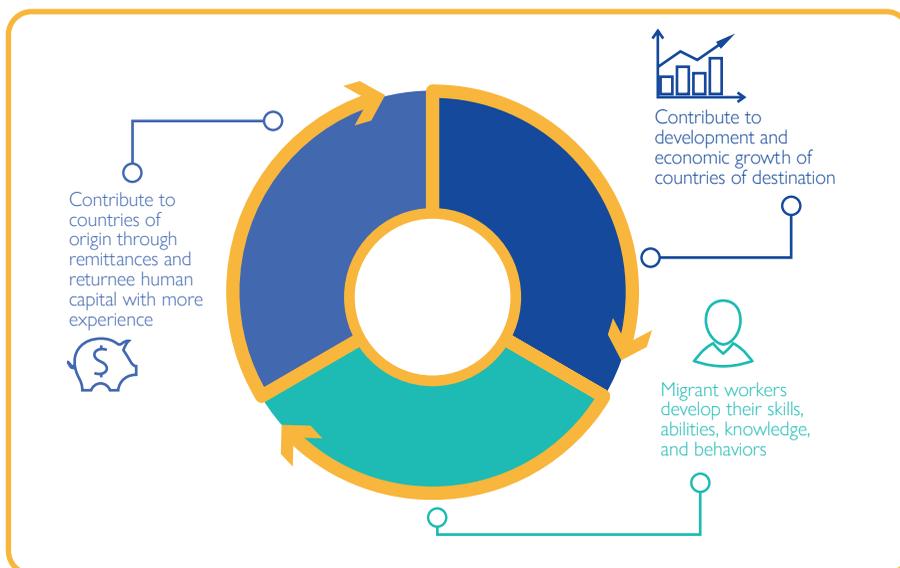
The mechanisms for facilitating labour migration and mobility in the region also provide benefits for all the stakeholders involved: countries of origin and destination, employers, workers and their families.

Not all of the labour migration mechanisms in the Caribbean are fully implemented and not all remain operational. In the context of this research study, it was possible to identify 13 mechanisms that facilitate labour migration directly or indirectly. The mechanisms mapped are all current, although not always operational.<sup>53</sup>

<sup>52</sup> ILO, 2014.

<sup>53</sup> While multiple sources of information, including consultations with government, were reviewed for mapping the different mechanisms, this is not an exhaustive list.

Figure 4. Opportunities labour mechanisms provide for countries of origin, countries of destination and migrants



Source: Author's elaboration.

The mechanisms identified for the purpose of this study are classified in the following categories:<sup>54</sup>

1. Bilateral labour agreements
2. Memorandums of understanding (MoUs)
3. Multilateral free movement agreements
4. Temporary work programmes
5. Commercial agreements with labour clauses

The following pages include information on the different mechanisms found in these five categories, their use and implementation. This information varies depending on the data available for each mechanism.

Although these types of mechanisms exist throughout the region, some migrants may use other migration channels as means for labour migration, even if that is not the purpose for which they were originally intended. This study also provides a list of these channels, though it is not exhaustive, and discusses the risks for their use and the challenges they may pose for the successful functioning of labour mechanisms.

<sup>54</sup> This classification has been made according to the documents found during the desk review.

## BILATERAL LABOUR AGREEMENTS

Bilateral labour agreements are agreements concluded between two States that are essentially concerned with inter-State cooperation on labour migration and are legally binding for both signatory parties.<sup>55</sup> These mechanisms usually provide options for the exchange of workers in order to fill long-term gaps in the labour market of one or both of the signatory countries. The following table presents the available data regarding the name, participating countries, year of ratification and relevant economic sector for each of the bilateral agreements identified in the Caribbean.

Table 3. Identified bilateral labour agreements in the Caribbean

NAME OF THE AGREEMENT	PARTICIPATING COUNTRIES	YEAR RATIFIED	ECONOMIC SECTOR	IN IMPLEMENTATION
<b>Agreement for the Regulation and Organization of Labour Migration Flows</b>	Spain–Dominican Republic	2002	All sectors	x
<b>Guatemalan Temporary Migrant Workers Programme</b>	Guatemala–Belize	2014	Agriculture	x

Source: Author's elaboration.

The following is a short description of the characteristics and available information on the implementation status of the two bilateral agreements identified in the region:

- The *Agreement for the Regulation and Organization of Labour Migration Flows* was ratified in 2002 by Spain and the Dominican Republic. It established provisions for regulating the recruitment of nationals in both countries and the dissemination of information about open vacancies through the websites of their consular offices. This mechanism was gradually discontinued and is no longer in implementation.
- The *Guatemalan Temporary Migrant Workers Programme* was ratified in 2014 by Guatemala and Belize to establish government coordination for recruitment of Guatemalan nationals in Belize. Although several meetings were held by a binational working group previous to its signature, the mechanism was never put in implementation.

<sup>55</sup> IOM, 2019b.

## MEMORANDUMS OF UNDERSTANDING

Memorandums of Understanding (MoUs) are administrative or private agreements that are not legally binding, even when signed by States. Rather, they are subject to the labour, migration and administrative laws of the participating countries.<sup>56</sup>

Table 4. Identified Memorandums of Understanding in the Caribbean

NAME OF THE AGREEMENT	PARTICIPATING COUNTRIES	YEAR RATIFIED	ECONOMIC SECTOR	IN IMPLEMENTATION
<b>MoU between Spain and the Dominican Republic for the establishment of a Joint Working Group for the promotion of trade, investment and production chains</b>	Spain–Dominican Republic	2019	All sectors	✓

Source: Author's elaboration.

One MoU was found for the region. The available information on its implementation and characteristics is found below:

- The *Memorandum of Understanding between Spain and the Dominican Republic for the establishment of a Joint Working Group for the promotion of trade, investment and productive chains* was signed in 2019. This document states the intention to consolidate collaborative work in trade, investment and production chains, including labour. However, it does not include actions or specific provisions for the promotion of labour migration schemes or recruitment. This mechanism is not focused on implementation and therefore does not include provision for a specific implementation process.<sup>57</sup>

<sup>56</sup> IOM, 2010.

<sup>57</sup> For more information on this please refer to the second challenge, “developing action plans for the implementation of mechanisms,” listed on page 32.

## MULTILATERAL FREE MOVEMENT AGREEMENTS

Multilateral free movement agreements are legally binding agreements that allow the freedom of entry and residence in another State that is a party to the agreement.<sup>58</sup> Some agreements establish regimes in which the full free movement of persons is allowed, including mobility for labour, while others have more restrictive provisions, allowing mobility for only people with certain skills or employed in particular economic activities.<sup>59</sup>

Table 5. Identified multilateral free movement agreements in the Caribbean

NAME OF THE AGREEMENT	NAME OF THE MECHANISM	PARTICIPATING COUNTRIES	YEAR RATIFIED	ECONOMIC SECTOR	IN IMPLEMENTATION
<b>Revised Treaty of Chaguaramas</b>	CARICOM Single Market and Economy (CSME)	Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago	2002–2006 (series of agreements)	Communications, entertainment (music, art), sports, high- or medium-skilled workers.	✓
<b>Number of CARICOM Skills Certificates issued per country (2017)</b> Antigua and Barbuda: 12 Barbados: 95 Belize: 3 Dominica: 1 Jamaica: 161 Saint Vincent and the Grenadines: 2 Trinidad and Tobago: 211					
<b>Revised Treaty of Basseterre</b>	Eastern Caribbean Economic Union (ECEU)	Antigua and Barbuda, Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines.	2014	All sectors	✓
<b>No data are available on the number of people mobilized through the ECEU.<sup>60</sup></b>					

Source: Author's elaboration.

<sup>58</sup> IOM, 2019a.

<sup>59</sup> Ibid.

<sup>60</sup> This mechanism allows for free movement of persons, including labour mobility. For this reason, no data are available on people who move for labour purposes.

There are two free movement regimes in the region, both of which include provisions for labour mobility. The available information about their main goal and level of implementation is found below:

- The CARICOM Single Market and Economy (CSME) undertakes a phased approach for the implementation of labour mobility provisions. The regime was established in 2001 with the signing of the *Revised Treaty of Chaguaramas*. Its mobility arrangements allow for the movement of nationals with verified Skills Certificates as well as for people covered under the right of establishment and the provision of services.<sup>61</sup> While data are not available for all CSME Member States, 1,165 Skills Certificates were issued and 212 were verified in 2017.<sup>62</sup>
- The Eastern Caribbean Economic Union (ECEU), established in 2010 under the *Revised Treaty of Basseterre*, allows for the full free movement of labour, meaning that all Organisation of Eastern Caribbean States (OECS) nationals can travel and work in any OECS Protocol Member State under the same conditions as nationals. There are no data on the number of persons utilizing these labour mobility provisions; however, key informants have reported that its implementation has been highly successful and closely matches the intended purpose as established in the Treaty.

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<sup>61</sup> IOM, 2019a.

<sup>62</sup> CSME nationals who do not fulfil the criteria to receive a Skills Certificate may apply for a work permit according to the legislation of the receiving country.

## TEMPORARY WORK PROGRAMMES

A seasonal worker is a migrant worker whose job is dependent on seasonal or temporary conditions.<sup>63</sup> Temporary work programmes may vary in structure, but they are usually legally binding for at least one of the participating countries and sometimes allow for circular migration. However, these mechanisms may include formal agreements between States, ministries, or departments, but they may also include less formal agreements between businesses or employment agencies.<sup>64</sup> The information presented in the table below provides general data regarding the temporary work programmes found for Caribbean nationals and the number of beneficiaries in 2019, when available.

Table 6. Identified temporary work programmes for Caribbean nationals

NAME OF THE PROGRAMME	PARTICIPATING COUNTRIES/TERRITORIES	YEAR RATIFIED	ECONOMIC SECTOR	DURATION PERIOD	IN IMPLEMENTATION		
<b>Seasonal Agricultural Workers Program (SAWP)</b>	Canada–Anguilla, Antigua and Barbuda, Barbados, Dominica, Grenada, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago	1974	Agriculture	Maximum of eight months per term	✓		
<p><b>Number of SAWP applicants approved and refused (2019):</b></p> <table> <tbody> <tr> <td> <p><b>Barbados:</b> Approved: 159 Refused: 0</p> <p><b>Dominica:</b> Approved: 139 Refused: 1</p> <p><b>Grenada:</b> Approved: 122 Refused: 0</p> <p><b>Jamaica:</b> Approved: 8,874 Refused: 123</p> <p><b>Saint Kitts and Nevis:</b> Approved: 1 Refused: 0</p> </td> <td> <p><b>Saint Lucia:</b> Approved: 141 Refused: 2</p> <p><b>Saint Vincent and the Grenadines:</b> Approved: 315 Refused: 5</p> <p><b>Trinidad and Tobago:</b> Approved: 865 Refused: 6</p> </td> </tr> </tbody> </table>						<p><b>Barbados:</b> Approved: 159 Refused: 0</p> <p><b>Dominica:</b> Approved: 139 Refused: 1</p> <p><b>Grenada:</b> Approved: 122 Refused: 0</p> <p><b>Jamaica:</b> Approved: 8,874 Refused: 123</p> <p><b>Saint Kitts and Nevis:</b> Approved: 1 Refused: 0</p>	<p><b>Saint Lucia:</b> Approved: 141 Refused: 2</p> <p><b>Saint Vincent and the Grenadines:</b> Approved: 315 Refused: 5</p> <p><b>Trinidad and Tobago:</b> Approved: 865 Refused: 6</p>
<p><b>Barbados:</b> Approved: 159 Refused: 0</p> <p><b>Dominica:</b> Approved: 139 Refused: 1</p> <p><b>Grenada:</b> Approved: 122 Refused: 0</p> <p><b>Jamaica:</b> Approved: 8,874 Refused: 123</p> <p><b>Saint Kitts and Nevis:</b> Approved: 1 Refused: 0</p>	<p><b>Saint Lucia:</b> Approved: 141 Refused: 2</p> <p><b>Saint Vincent and the Grenadines:</b> Approved: 315 Refused: 5</p> <p><b>Trinidad and Tobago:</b> Approved: 865 Refused: 6</p>						
<b>H-2A Visa Program for Temporary Agricultural Workers</b>	United States of America–Barbados, Grenada, Jamaica, Saint Vincent and the Grenadines	1986 <sup>65</sup>	Agriculture	Maximum of three years (including renewals)	✓		

<sup>63</sup>United Nations General Assembly, 1990.

<sup>64</sup>IOM, 2010.

<sup>65</sup>Government of the United States of America, 1986.

**Number of H-2A approved applicants (2019):**

**Barbados:** 0  
**Dominica:** 51  
**Grenada:** 0  
**Jamaica:** 5,030  
**Saint Vincent and the Grenadines:** 0

<b>H-2B Visa Program for Non-Agricultural Workers</b>	United States of America–Barbados, Grenada, Jamaica, Saint Vincent and the Grenadines	1986	Various, (mainly hospitality and services) in seasonal, peak load and intermittent needs, or one-time occurrences.	Maximum of three years (including renewals)	✓
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**Number of H-2B beneficiaries (2019):**

**Dominica:** 101  
**Jamaica:** 10,076  
**Barbados:** 3  
**Grenada:** 1  
**Saint Vincent and the Grenadines:** 0

<b>J1 visa Exchange Visitor Program</b>	United States of America–Citizens of almost all countries may apply through a sponsor	1961 <sup>66</sup>	Various (camp counsellors, interns, physicians, professors, research scholars and short-term scholars, specialists, summer work travel, teachers, trainees)	Subject to sponsor's terms	✓
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**Number of J1 beneficiaries (2019):**

**Antigua and Barbuda:** 16  
**The Bahamas:** 48  
**Barbados:** 35  
**Belize:** 51  
**Dominica:** 9  
**Dominican Republic:** 7,218  
**Grenada:** 34  
**Haiti:** 185  
**Jamaica:** 9,063  
**Saint Kitts and Nevis:** 3  
**Saint Lucia:** 20  
**Saint Vincent and the Grenadines:** 17  
**Trinidad and Tobago:** 184

<b>Japan Exchange and Teaching Programme (JET)</b>	Japan–Barbados, Jamaica, Trinidad and Tobago, Saint Vincent and the Grenadines	1987	Education (teachers), international relations and sports	Maximum of five years (including reapplications)	✓
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**Number of JET beneficiaries (2019):**

**Jamaica:** 111  
**Barbados:** 13  
**Saint Vincent and the Grenadines:** 2  
**Trinidad and Tobago:** 61

<sup>66</sup> Government of the United States of America, 1961.

<b>Visitor Card Programme for Cross Border Workers (TVTF) for Belizeans and Guatemalans in Campeche, Chiapas, Tabasco and Quintana Roo</b>	Mexico–Guatemala and Belize	2012	All sectors (mainly construction, agriculture and services)	Maximum of one year	✓
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**Number of TVTF beneficiaries (2019):**

**Belizeans: 3**

Source: Author's elaboration.

Temporary work programmes account for 46 per cent of all identified mechanisms and are the most common type of mechanism found in the region. Most are signed bilaterally but negotiated multilaterally. Additionally, most of these programmes focus on specific needs from countries of destination in order to fill labour market gaps. A brief characterization of the identified temporary work programmes for the Caribbean is outlined below:

- The Seasonal Agricultural Worker Program (SAWP) is signed bilaterally between several Caribbean countries and Canada each year. The mechanism is currently being implemented; governments from sending countries participate in negotiating the worker contracts and station government liaisons to Canada for the well-being of nationals during their period of working abroad. Female participation in the program tends to be significantly lower. In 2019, 10,160 male migrant workers were registered in the programme, while only 725 female migrant workers were registered.<sup>67</sup>
- The H-2A and H-2B visas of the Government of the United States of America were created in the framework of the *Immigration Reform Act of 1986*. These visas are currently accessible to citizens from various countries worldwide including Barbados, Grenada, Jamaica and Saint Vincent and the Grenadines. H-2A visas are directed towards agricultural workers and there is no limit to the number of visas issued per year. H-2B visas are for non-agricultural work of seasonal, peak or temporary need and have a cap of 66,000 accepted applicants from all participant countries worldwide per fiscal year. Caribbean countries are involved in negotiating contract guidelines with the United States of America, that must be followed by employers. However, in the context of COVID-19, issuing H-2B visas was suspended from July through December 2020. During this period, workers already in the United States of America could apply for a visa extension beyond the previous maximum of three years.<sup>68</sup>
- The J-1 exchange visitor visa of the Government of the United States of America is available to all Caribbean countries. It allows temporary workers of medium and high skill levels to access temporary employment in the defined professions and

<sup>67</sup> Data provided by the Government of Canada upon request by the research team.

<sup>68</sup> Government of the United States of America, 2020b.



programmes. There is no established cap on the maximum number of persons accepted per term, since accepted applications are dependent on the number of workers required by the employers in the programme. Persons interested in applying must contact one of the registered employers directly.

- The Japan Exchange and Teaching Program (JET) is currently available for teachers, sportspersons and medium- and high-skilled workers from Barbados, Jamaica, Saint Vincent and the Grenadines and Trinidad and Tobago. Relatively few Caribbean nationals make use of this programme, but it allows for reapplication for a maximum of five years if the work is deemed satisfactory by the employers and programme officials in Japan.
- The Visitor Card Programme for Cross Border Workers (TVTF for its Spanish acronym) allows citizens from Belize and Guatemala to work in the Mexican states of Campeche, Chiapas, Tabasco and Quintana Roo. The programme was created to better manage incoming flows of temporary migrant workers. However, the use of this card is very low for Belize, as only three Belizeans were registered in 2019<sup>69</sup> and six were registered in 2020.<sup>70</sup>

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<sup>69</sup> Government of Mexico, 2019a, p.15

<sup>70</sup> Government of Mexico, 2020, p.113.

## COMMERCIAL AGREEMENTS WITH LABOUR CLAUSES

The inclusion of labour migration clauses in commercial agreements, including free trade agreements, is considered a good practice for labour migration management, as is reflected in ILO *Convention No. 97 Concerning Migration for Employment*, adopted in 1949. Including these clauses allows for a more inclusive implementation process and supports respect of human rights.<sup>71</sup> There were two identified commercial agreements that allowed for movement for the provision of services or business purposes in the region. The table below includes general information on these agreements, as well as their status of implementation.

Table 7. Identified commercial agreements with labour clauses in the Caribbean

NAME OF THE AGREEMENT	PARTICIPATING COUNTRIES	YEAR RATIFIED	LABOUR CLAUSE	IN IMPLEMENTATION
<b>Agreement between the Caribbean Community (CARICOM) and the Government of the Republic of Costa Rica</b>	Costa Rica–Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago	Signed: 2005 Different dates for entry into force. <sup>72</sup>	Chapter XI: Temporary Entry: (a) nationals who are intra-company transferees (managers, executives, specialists) and business visitors; (b) nationals who are providing after-sales services related to the exportation of goods by an exporter of that same Party into the territory of the other Party; (c) spouses and children of nationals described in (a) above; and (d) legal residents in the territory of one of the Parties who are intra-company transferees and have been continuously employed by the company at least one year preceding the date of application for entry, provided they comply with immigration requirements of the other Party.	✓

<sup>71</sup> IOM, 2010.

<sup>72</sup> The agreement is signed but not in force for the following countries: Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Suriname.

<b>Economic Partnership Agreement between the CARIFORUM States and the European Community (CARIFORUM-EU EPA)</b>	European Community–Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, <sup>73</sup> Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago	Signed and entry into force for all countries except Haiti: 2008  Haiti: Signed in 2009, never ratified.	Chapter 4: Temporary Presence of Natural Persons for Business Purpose Article 80 - Coverage and Definitions Article 81 - Key Personnel and Graduate Trainees Article 82 - Business Services Sellers Article 83 - Contractual Services Suppliers and Independent Professionals Article 84 - Short-term Visitors for Business Purposes	
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Source: Author's elaboration.

The study identified two commercial agreements with clauses that contain provisions for temporary movement with labour purposes, with the following implementation processes:

- The *Agreement between the Caribbean Community (CARICOM) and the Government of the Republic of Costa Rica* includes labour clauses for the temporary entry of persons, including the entry of nationals who are intra-company transferees or business visitors, nationals who are providing after-sales services directly related to the exportation of goods, and the spouses and children of the visitors. However, no information is available on persons who benefited from this clause for labour purposes because the tourist visa for Costa Rica already includes people entering the country for business or professional purposes, as long as these purposes do not imply remuneration or profit within Costa Rica.<sup>74</sup> For this reason, the Agreement does not have any significant distinguishable effect from a tourism permit or visa for facilitating entry.
- The *Economic Partnership Agreement between the CARIFORUM States and the European Community (CARIFORUM-EU EPA)* includes clauses for the temporary entry of contractual service suppliers, independent professionals and business services sellers, transferees and visitors for business purposes. The implementation of the agreement is monitored by the participating governments through periodical evaluations for its impact and compliance.<sup>75</sup>

<sup>73</sup> While Haiti signed the CARIFORUM-EU EPA in 2009, it has not ratified it yet and is therefore not in implementation as of the date of this report.

<sup>74</sup> Government of Costa Rica, 2019.

<sup>75</sup> European Union, 2014.

## Migration channels that are used for labour migration

In addition to the labour migration mechanisms described in the previous section, this study identified other migration and protection channels that are used for labour migration, although they were not created for this purpose. These do not fit under any formal classification and are not meant to be recognized formally as labour mechanisms.

Table 8. Identified migration channels that are used for labour migration in the Caribbean

NAME OF THE MECHANISM	PARTICIPATING COUNTRIES	YEAR RATIFIED	IN IMPLEMENTATION
<b>Tourist visas</b>	All countries in the region possess this migration channel	N/A	✓
<b>Asylum applications</b>	All countries in the region possess this migration channel	N/A	✓
<b>Regional Visitor Card (TVR)</b>	Mexico–Guatemala, Belize, El Salvador and Honduras	2019	✓

Source: Author's elaboration.

While these migration channels were not established for promoting labour migration, key informants recognized that they have been used for this purpose, possibly due to general knowledge of their existence and because their application processes are usually thought to be more accessible.

Tourism visas and asylum applications are other channels that can be accessed by eligible citizens of all countries in the region. Some informants mentioned that because registration and application processes for these channels are fairly straight forward and are often managed quickly, migrants may apply for these statuses with the ultimate purpose of accessing the labour market.

The Regional Visitor Card (TVR for its Spanish acronym) permits the entry of visitors from Belize to the Mexican states of Campeche, Chiapas, Tabasco and Quintana Roo for seven days at a time with a maximum validity of five years. The TVR cards were created with the purpose of allowing the temporary entry of persons who wish to visit family members residing in Mexico. When comparing card emissions, TVR cards, which are not intended for labour, are significantly more used by Belizeans than TVTF cards, which are specifically intended for labour migration to Mexico. Government informants indicated concerns regarding the occasional misuse of TVR cards for accessing the labour market informally.

Data collected in the framework of this study show that the level of use of some labour migration mechanisms remains relatively low when compared to the use of other non-labour migration specific channels that are used by migrant workers, such as visitor cards, tourist visas and special permits for asylum-seekers and refugees. An example of this is the low number of Belizean workers who have used the Visitor Card Programme for Cross Border Workers (TVTF) and the significantly higher use of the Regional Visitor Card (TVR), intended exclusively for temporary visitors.<sup>76</sup> In this case, key informants expressed concerns regarding the lack of public awareness about the TVTF cards in Belize and the possible misuse of the TVR cards for joining the labour market in the informal sector.

This is also the case for the six-month stay facilitated as part of the CSME.<sup>77</sup> This stay does not include the right to work, but key informants reported that this stay has been used occasionally to access labour markets informally. A lack of knowledge about the provisions for movement within the CSME can also contribute to the higher prevalence of use of work permits rather than CSME Skills Certificates. The Skills Certificates should eventually come to replace long-term work permits; however, available data from the CSME Unit show that in 2017, approximately 1,165 Skills Certificates were issued, compared to 2,468 long-term work permits.<sup>78</sup>

Limited governmental capacity for data collection and centralization may hinder the appropriate registration and control over the use of migration channels not originally intended to facilitate labour migration. The use of these channels for regular labour migration is difficult to measure since, by definition, they were not designed for this purpose. Persons using these mechanisms may prefer to stay hidden for fear of retaliation, forced return or legal consequences, which limits available information on the effect of these movements over labour migration trends in the region.<sup>79</sup> In this sense, while the use of other channels by migrant workers may explain the gaps between the large numbers of emigrants from the Caribbean and the relatively low use registered by mapped labour migration mechanisms, there are no data to confirm whether this is the sole or primary reason.

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<sup>76</sup> Government of Mexico, 2019b.

<sup>77</sup> IOM, 2019a.

<sup>78</sup> Ibid.

<sup>79</sup> GMG, 2017.

# 3

## ANALYSIS OF THE MECHANISMS THAT FACILITATE LABOUR MIGRATION AND MOBILITY FOR THE CARIBBEAN



### 3. ANALYSIS OF THE MECHANISMS THAT FACILITATE LABOUR MIGRATION AND MOBILITY FOR THE CARIBBEAN

Labour migration and mobility can occur through different channels and conditions that vary greatly depending on the characteristics of migrant populations and institutional frameworks. For this reason, it is fundamental that besides having tools to regulate these flows, there is a clear understanding of the main trends and uses of these mechanisms in order to identify if they are meeting their intended purpose.

Based on the available information, this chapter discusses (a) the main trends of the mechanisms identified; (b) challenges for their implementation; and (c) the monitoring and evaluation systems incorporated into these mechanisms.

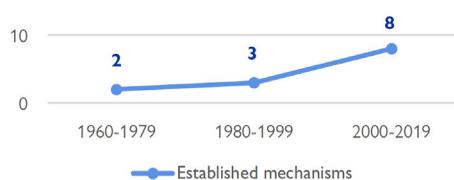
#### KEY TRENDS IN MECHANISMS THAT FACILITATE LABOUR MIGRATION IN THE CARIBBEAN

The existing formal mechanisms in the Caribbean share several features, including the ways in which they were developed, their areas of focus, the economic sectors involved and the period in which they were created or ratified. These aspects also serve as indicators of the regional approach to labour migration governance. In the framework of this study, six main trends were identified:



#### 1. An increase in the creation of formal mechanisms

Figure 5. Number of mechanisms established, by decade



Source: Author's elaboration.

The number of formal labour migration mechanisms in the Caribbean has increased in the last two decades. Out of the 13 mechanisms identified in the region, 8 were established after the year 2000. This increase also coincides with a rise in intra- and extraregional migration flows. This may be a sign of an acknowledgement by States that gaps in skills, training and legislation can negatively impact the functioning of both Caribbean and extraregional labour markets.<sup>80</sup>

<sup>80</sup> Goswami et al., 2013.



## 2. Preference for regional multilateralism

Of the 13 identified mechanisms, only 3 were signed bilaterally. Nine of the mechanisms involve more than one country from the region. While this does not necessarily mean that all of these mechanisms involve regional negotiations and cooperation, it does reflect a preference by countries to take a multilateral approach or to coordinate as a bloc when creating labour mechanisms. Furthermore, Caribbean countries have occasionally participated in joint agreements and negotiations not only among themselves, but also as a collective counterpart. Particularly, commercial or free trade agreements tend to be signed collectively and ratified individually. Key informants noted that in many cases, Caribbean States often coordinate in order to ensure their joint and mutual benefit when negotiating with countries with larger economies.

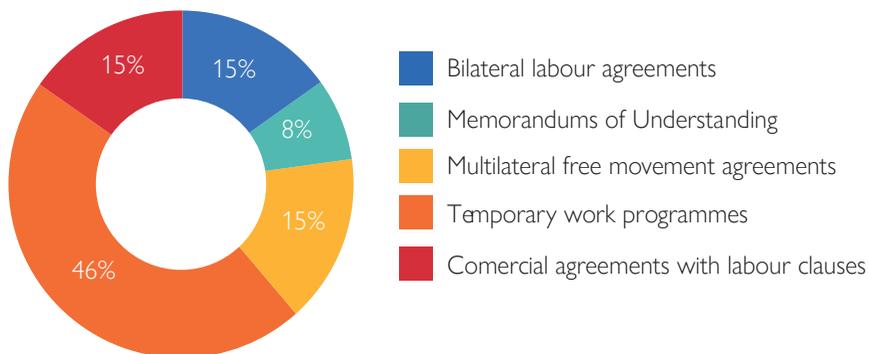
This type of coordination is a component of broader regional economic integration, in which Caribbean countries seek to increase productivity, diversify their production and ultimately boost growth.<sup>81</sup> The CSME, within the framework of CARICOM, and the ECEU, established by the OECS, have played a key role advancing regional integration and coordination. However, standardizing regional processes is still a pressing challenge. Multilateral cooperation for labour migration governance has been especially key to fill gaps in labour markets in the region and reduce unemployment.



## 3. Prevalence of temporary work programmes

In the region, temporary work programmes were the most commonly found mechanisms, amounting for 46 per cent of them. These programmes tend to involve extraregional destination countries, particularly the United States of America or Canada, and are focused on the temporary emigration of Caribbean workers in order to fill skills gaps in specific sectors of foreign labour markets.

Figure 6. Prevalence of types of labour mechanisms, by classification



<sup>81</sup> Moreira and Mendoza, 2007.

The prevalence of temporary work programmes may be influenced by the following factors:<sup>82</sup>

- Temporary work programmes can be easily targeted towards specific economic sectors or activities that have labour supply shortages and are significant to the development of destination countries, such as agriculture.
- Countries of destination can better control and periodically adjust the quotas and number of workers they accept by sector or year.
- These programmes facilitate the centralization and organization of recruitment processes.
- Employers are usually directly engaged in and benefit from these programmes.
- They allow for circular labour migration,<sup>83</sup> promoting the growth of the economies in countries of origin and destination.<sup>84</sup>
- Usually temporary work programmes are not legally binding, but most are in alignment with the legislation of the receiving country. Moreover, temporary work programmes related to visas tend to be established following guidelines stipulated in the immigration laws of destination countries.



#### **4. Lack of mechanisms targeted at medium- and high-skilled migrants**

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Only four of the identified mechanisms focus on high skilled labour migration. This may be linked to labour demand in countries of destination, as sectors requiring low- and medium-skilled labour often rely on a more limited domestic labour supply. In some extraregional countries of destination, certain sectors, such as hospitality, caretaking, agriculture and construction, rely almost entirely on a migrant labour force.<sup>85</sup> Although information on the Caribbean labour force is scarce, available data show that a significant percentage of those emigrating outside the region are medium- and high-skilled workers. This highlights a gap between the needs of foreign labour markets and the profile of the Caribbean migrant workers.



#### **5. Inclusion of labour clauses in commercial agreements**

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In the Americas, labour clauses in commercial agreements tend to focus on the standardization of international labour standards rather than facilitating processes for the exchange of workers. The Caribbean is a distinctive case, since some of these agreements include clauses that specifically serve to facilitate the temporary movement of persons. The CARIFORUM-EU EPA, for example, facilitates entry for the provision of services in both the Caribbean and the European Union. This means that, if implemented thoroughly, the inclusion of labour clauses in commercial agreements in the Caribbean could not only play a key role on maximizing the

<sup>82</sup> OSCE, IOM and ILO, 2006.

<sup>83</sup> Circular migration is a migration form that allows repeated entry of persons between two or more countries both ways. IOM, 2019b.

<sup>84</sup> According to the IOM Glossary, precaution is required when designing programmes that allow circular labour migration since this form of migration might not be ideal for labour market sectors with long-term structural gaps. It is also crucial to consider the social benefits to which migrants may not have access if they are engaged in renewed short periods of temporary labour contracts.

<sup>85</sup> IOM, 2019d.

social and economic benefits of trade and reducing the negative effects on labour markets,<sup>86</sup> but also fill certain gaps in labour market supply and demand with temporary migrant labour force.



## 6. Lack of gender mainstreaming

Most mechanisms identified in the region do not explicitly consider gender or include gender-responsive provisions. The mechanisms rarely included provisions for gender in any of the phases of the labour migration cycle – recruitment, period of working abroad, and return and reintegration. Gender can be mainstreamed more effectively through the formalization of non-discrimination clauses, implementation of equal pay for all gender, comprehensive health care and family care-related provisions, and ensuring gender-based discrimination and gender-based violence are addressed appropriately.

## CHALLENGES FOR THE IMPLEMENTATION OF MECHANISMS THAT FACILITATE LABOUR MIGRATION AND MOBILITY IN THE CARIBBEAN

Having identified the key trends in existing labour migration mechanisms in the Caribbean in the previous section, this section identifies challenges that limit the ability of Caribbean States to maximize the potential benefits of regular labour migration and mobility in the region. In some cases, these challenges may jeopardize the protection of migrant workers throughout the process. While this report identifies important challenges and obstacles throughout this report, this section focuses on the most common challenges for the implementation of identified mechanisms.



### 1. Promptly adapting to changes in migration flows or labour market trends

One of the key challenges for most States is to be able to promptly adapt their mechanisms to highly dynamic labour markets and migration flows. Mechanisms such as the *Guatemalan Temporary Migrant Workers Programme* in Belize were ratified but never implemented because by the time they were planned to enter into action changes in the labour market or migration flows made them no longer relevant to the context of initial demand for foreign labour in the specific economic sectors considered for the mechanism. In some mechanisms, implementation may be cut completely when migration flows and economic factors change, protecting local markets but limiting opportunities for migrant workers. Planning for changing markets and economies can help countries to have the flexibility required to avoid ending implementation completely and instead to adjust the number of workers or type of qualifications they recruit according to changing conditions.

<sup>86</sup> ILO, 2016.



## 2. Developing action plans for the implementation of mechanisms

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Not all mechanisms include implementation plans, guidelines for their operationalization or standard operating procedures. Some do not incorporate clear provisions for facilitating labour migration and mobility processes, but instead focus on stating objectives. This is usually the case for non-legally binding mechanisms like MoUs, which are mostly utilized to solidify intentions for cooperation among stakeholders. The *MoU between Spain and the Dominican Republic for the establishment of a Joint Working Group for the promotion of trade, investment and productive chains*, for example, does not include an implementation plan, designated authorities or specific actions to meet the objectives stated in the document.

As another example, legally binding agreements often lack action plans for implementation, as is the case for the *Guatemalan Temporary Migrant Workers Programme* in Belize. Without an implementation plan, a designated budget or defined leading authorities, it was easier for this mechanism to be discontinued rather than updated to adapt to fluctuations in labour markets. Establishing clear lines of action, budgets and responsible institutions can strengthen the implementation of mechanisms and ultimately their effectiveness.



## 3. Adapting national legislation for the implementation of mechanisms

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For many mechanisms, national legislation is required to adapt bilateral or multilateral agreements for domestic implementation. However, this may be a difficult and lengthy process, which may hamper timely compliance with the terms agreed in the framework and coordination with partners. For example, the CARIFORUM-EU EPA includes clauses for the temporary movement of contractual services suppliers, independent professionals and business services sellers. An official ex-post evaluation of this agreement found that these clauses were never fully implemented in a reciprocal manner because several European receiving countries were not able to adapt their national legislation to do so. As a consequence, service suppliers recognized under the CARIFORUM-EU EPA still faced difficulty in obtaining visas, and these issues were exacerbated for CARIFORUM countries that did not have consular representation in EU countries.<sup>87</sup>

Similarly, one of the main factors hindering coherent implementation of the provisions included in the *Revised Treaty of Chaguaramas* is the difficulty of adapting national law to reflect Community Law. In this sense, regional legislation in the framework of this mechanism is not always implemented in a standardized form across all Member States because of challenges regarding their incorporation in national legislations.

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<sup>87</sup> European Union, 2014.



#### 4. Distributing information about the mechanisms

Government officials and other key informants have reported concerns about the lack of awareness about the existence of formal mechanisms available and their conditions. For example, they have identified a lack of publicly available information on the provisions of the CARIFORUM-EU EPA,<sup>88</sup> as well as on the rights and responsibilities of both CARICOM and OECS citizens as stated in the *Revised Treaty of Chaguaramas* and the *Revised Treaty of Basseterre*, respectively.<sup>89</sup> If nationals are not aware of their options for regular intra- and extraregional movement for work, they may seek different means for this purpose that may expose them to situations of vulnerability. For this reason, communication about regular mechanisms for labour migration and mobility with clear steps and requirements is key for governments to better manage these movements.

## MONITORING AND EVALUATION SYSTEMS

Monitoring and evaluation systems refer to a process of measuring changes in programmes, policies or agreements to assess their impact and progress.<sup>90</sup> Monitoring and evaluation systems focus on performance, assessing outputs and outcomes achieved, informing effective performance management, accountability and planning.<sup>91</sup> Identifying these systems in the existing mechanisms that facilitate labour migration and mobility provides insight on their use and implementation.

Figure 7. Purposes and benefits of monitoring and evaluation systems in agreements and other mechanisms



<sup>88</sup> Ibid.

<sup>89</sup> IOM, 2019a.

<sup>90</sup> OECD, 2011.

<sup>91</sup> ILO, 2012.

Countries of origin and destination share a responsibility for ensuring the adequate living and working conditions of migrant workers who use and benefit from these mechanisms.<sup>92</sup> Actively incorporating the insights yielded through monitoring and evaluations systems is of high importance to ensure the protection of migrants throughout the process and the achievement of the mechanism's goals.

There is limited information about the monitoring and evaluation systems embedded in the identified mechanisms. Interviews with government officials and key stakeholders revealed that most countries in the region are still working to strengthen and create these systems, and that most of these are established solely in the framework of internal or administrative processes, such as periodic meetings, phone calls and communications, rather than in formal or publicly available reports. This section focuses on the monitoring and evaluation practices that are in place in the identified mechanisms and assesses key needs for these systems in the region.



### ***1. Monitoring and evaluation systems are more consolidated in mechanisms with extraregional countries***

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The CARIFORUM-EU EPA and the Seasonal Agricultural Workers Program (SAWP) include the most robust monitoring and evaluation systems related to labour migration governance in the region, both of which are mechanisms coordinated between Caribbean countries and extraregional counterparts. In the framework of the CARIFORUM-EU EPA, countries execute written evaluations every five years on the implementation of the agreement by all parties, compliance with the terms of the agreement and follow-up communications and meetings. This system facilitates transparency and the identification of gaps, challenges and good practices in the implementation process. Additionally, the periodical evaluations allow for a close assessment of the mechanism's achievements and challenges and promote its continuity and sustainability. The SAWP incorporates systems for gathering data, mandates periodic labour inspections to supervise and evaluate living and working conditions and maintains channels of communication between parties for the protection of migrant workers. These systems facilitate a systematic review of the contracting terms of agricultural workers and compliance with the terms and objectives of the programme. This practice is especially relevant to identify areas of improvement in the implementation of this mechanism and make the necessary adjustments for the following periods.



### ***2. Bilateral or multilateral coordination committees are more common than monitoring and evaluation systems***

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Government officials and key informants reported that countries in the region prefer using government committees or periodical meetings as the primary tools for evaluating mechanisms, rather than formal monitoring and evaluation practices or publicly available reports on

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<sup>92</sup> ILO, 2004, p.1.

implementation. For example, the contracts under the SAWP are negotiated in yearly meetings between government committees formed by Caribbean countries and Canada. Another case is the H-2A and H-2B visas in the United States of America; although contracts are created directly by employers, these contracts should follow general guidelines. Caribbean countries participating in the programme meet periodically with the Government of the United States of America to discuss the terms in these guidelines. While contracts may vary per position, they must comply with the standards mandated by the H-2A and H-2B visa regimes.

Communications between the coordination committees usually involve phone calls, emails, as well as in-person and virtual meetings. While there are advantages to reinforcing diplomatic and intergovernmental relations through ad hoc meetings and communications, formal written negotiations and evaluations, including those performed by independent evaluators, could provide stronger support for ensuring continuity and effective implementation.



### **3. Publicly available information on monitoring and evaluation systems is scarce**

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As most of the monitoring and evaluation systems involve bilateral or multilateral meetings and communications, stakeholders noted during interviews that most of the information regarding the follow up of mechanisms is administrative or non-public data, such as meeting minutes and notes, emails or end result products, including modified contracts or renewal documents. Therefore, data compilation and publication, including administrative data, is one of the main gaps identified for the Caribbean.<sup>93</sup> This regional challenge is not only limited to data monitoring and evaluation systems, but also to migration data availability in general. Publicly available information may facilitate transparency, partnerships with non-governmental actors and the development of data-driven actions. It also allows States to identify the needs, good practices and challenges related to labour migration governance.



### **4. Identified good practices for monitoring and evaluating labour mechanisms**

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While monitoring and evaluation systems are scarce in labour migration mechanisms in the region, it is possible to identify some good practices for the consolidation of such systems:

#### **Partner engagement**

- Work in partnership with non-governmental entities such as recruiting agencies, employers, trade or labour unions, or civil society organizations.
- Define clear responsibilities between parties.
- Establish coordination meetings or committees between parties as additional or initial measures for monitoring implementation.
- Adopt a whole-of-government approach for coordination between public institutions across different government levels or from different branches.

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<sup>93</sup> IOM, n.d.

## Renewal periods

- Establish conditions for the renewal of the agreement or mechanism.
- Continue data collection processes after the established period of the mechanism to ensure sustainability of results.
- Continue monitoring and evaluation systems in mechanisms that renew automatically to ensure implementation and update the terms.
- Ensure information regarding monitoring and evaluation is publicly disseminated before every renewal period.

## Migrant protection

- Implement labour and housing inspections, when applies, to ensure adequate and dignified conditions for workers.
- Include gender disaggregation in data collection and registry.
- Consider indicators and provisions to assess if workers are remunerated as stated in the contract and if there are instruments to inform them about their rights in order to avoid abuse and exploitation.

# 4

## CASE STUDIES: MECHANISMS THROUGH THE THREE PHASES OF THE LABOUR MIGRATION CYCLE



## 4. CASE STUDIES: MECHANISMS THROUGH THE THREE PHASES OF THE LABOUR MIGRATION CYCLE

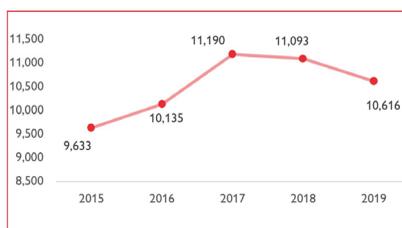
This chapter presents an in-depth analysis of three of key mechanisms shaping labour migration in the Caribbean:

1. Seasonal Agricultural Workers Program (SAWP)
2. CARICOM Single Market and Economy (CSME) Skilled Nationals Regime
3. H-2B Visas for Non-Agricultural Workers

These mechanisms were selected for deeper and more detailed analysis based on criteria such as the status of implementation of the agreements and the level of usage. The three mechanisms chosen for case studies are in current implementation and are used often and continuously by migrant workers in the Caribbean. Each case study is divided according to the three phases of the labour migration cycle: recruitment, work abroad and return and reintegration. The cases are analysed through these phases, incorporating indicators related to gender-responsiveness, good practices, and alignment with international standards and conventions.<sup>94</sup>

### CASE 1: SEASONAL AGRICULTURAL WORKERS PROGRAM (SAWP)

Figure 8. Number of participants from Caribbean countries accepted into SAWP, by year<sup>95</sup>



Source: Government of Canada, 2020i.

The SAWP was created in 1966 through a bilateral agreement with Jamaica and continued to expand through a series of bilateral agreements signed between Canada and other Caribbean countries.<sup>96</sup> This programme allows Canadian employers to hire temporary foreign workers from 11 participating Caribbean countries and Mexico to work in activities related to farm

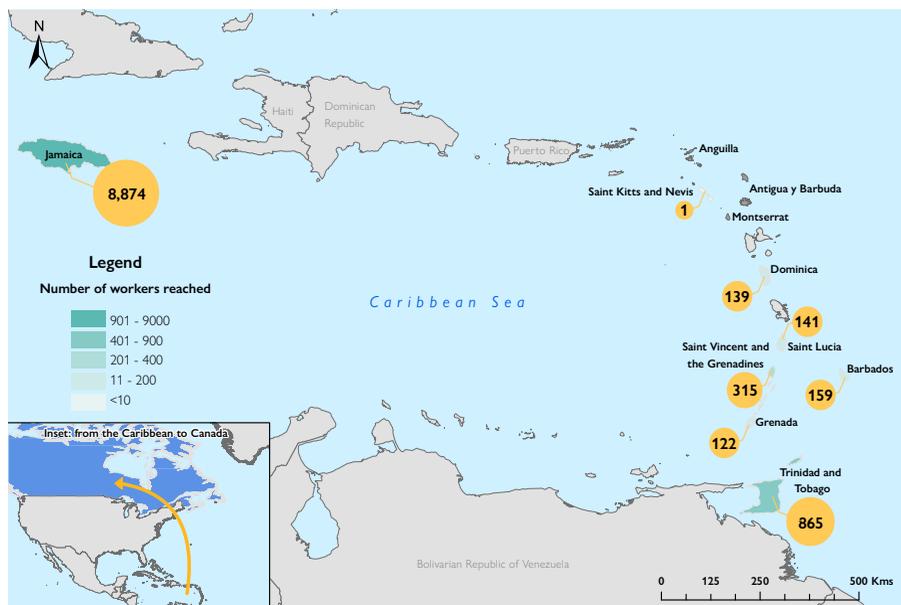
<sup>94</sup> Please refer to Annex 1 for more information on the different international standards and good practices and their specific articles, principles or guidelines used in each phase of the labour migration cycle.

<sup>95</sup> These numbers only include the available data for Barbados, Dominica, Grenada, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago.

<sup>96</sup> The Caribbean countries that participate in this programme are: Anguilla, Antigua and Barbuda, Barbados, Dominica, Grenada, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, and Trinidad and Tobago.

primary agriculture when the demand for labour cannot be met locally.<sup>97</sup> The number of participants accepted from Caribbean countries has been decreasing since 2017, and the refusal rates remain below two per cent on average.

Map 1. Number of workers accepted into the SAWP in 2019, by country<sup>98</sup>



Basemap source: ESRI and UN World Map.

This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

## PHASE 1: RECRUITMENT

The recruitment process for the SAWP is managed directly by ministries and departments of labour in participating Caribbean countries. These entities receive and process applications from nationals interested in participating in the programme and select the individuals that best meet the requirements. The ministries and departments send the reviewed applications directly to Immigration, Refugees and Citizenship Canada (IRCC), which is the Canadian entity that manages migration flows and is responsible for processing the work permits for the selected participants.

<sup>97</sup> Government of Canada, 2020f.

<sup>98</sup> Upon an official custom request to the Statistical Reporting Group of Immigration, Refugees and Citizenship Canada (IRCC), there were no data available to be provided for the number of participants from Anguilla, Antigua and Barbuda, and Montserrat.



## SAWP REQUIREMENTS:<sup>99</sup>

### Requirements for workers

- ✓ Have experience in farming
- ✓ Be at least 18 years old
- ✓ Be a citizen of one of the participating countries
- ✓ Be able to satisfy Canadian immigration laws and laws of the worker's home country

### Requirements for employers

- ✓ Production must be in one of the specific commodity sectors established by the Government of Canada
- ✓ The activity must be related to farm primary agriculture
- ✓ Present required documentation and pass the inspections in the Labour Market Impact Assessments (LMIA)

The SAWP is based on public-private partnerships, combining a whole-of-government approach and collaboration with employers from the private sector. In this regard, employers interested in participating in the programme must present an application to the Canadian Government and submit a Labour Market Impact Assessment (LMIA) – a process created to measure the impact of foreign labour on the Canadian job market and the employer's compliance with national legislation – to Service Canada which operates under Employment and Social Development Canada (ESDC), the department responsible for managing social programmes and regulating the labour market at the federal level.<sup>100</sup> Service Canada serves as a point of access for the Government of Canada's most widely used programmes, including the SAWP. As part of the LMIA, territorial, provincial, or municipal authorities conduct housing and workplace inspections and issue certificates of compliance. These certificates are required for employers to participate in the programme. A positive LMIA, which remains valid for six months from the date of issue, will show that there is a need for a foreign worker to fill the position and that there is no Canadian worker or permanent resident to fill the position.<sup>101</sup>



Workers are required to provide biometrics as part of their applications to the SAWP. Due to the COVID-19 pandemic, some biometric collection sites were closed or did not offer biometrics collection. Applications were not refused or closed if a worker could not provide this information due to the sites being closed.<sup>102</sup>

<sup>99</sup> Government of Canada, 2020h.

<sup>100</sup> Government of Canada, 2020d.

<sup>101</sup> Ibid.

<sup>102</sup> Government of Canada, 2020c.

Statistics Canada, the government statistics agency, compiles information on the number of participants, the demographics of participants and acceptance and refusal rates each year. This information can be shared upon request.

Information on the contract and requirements is available to workers before they apply to the programme. The standard non-modifiable contract, initially negotiated bilaterally by Caribbean countries and Canada, is available in English through the website [www.canada.ca](http://www.canada.ca).<sup>103</sup> The contract must be made available in the language of the signatory's choice.<sup>104</sup> This allows the worker to be able to understand the terms before submitting an application or signing the contract.

Principle number seven of the International Labour Organization (ILO) *General Principles and Operational Guidelines for Fair Recruitment* states that no recruitment fees or related costs should be charged to, or otherwise be borne by, workers or jobseekers.<sup>105</sup> This concept is also enshrined in the International Recruitment Integrity System (IRIS) employer pays principle, which states that no worker should pay for getting a job, but that the costs of recruitment should be borne by the employer instead.<sup>106</sup>



In the context of COVID-19, temporary foreign workers were still allowed to travel to Canada as a result of their inclusion in the travel restriction exemptions announced in March 2020. However, changing travel restrictions may have affected the recruitment process.<sup>107</sup>

The SAWP partially complies with the aforementioned principles. The programme specifies that employers must always arrange and pay for the worker's travel between their country of residence and their place of work in Canada.<sup>108</sup> Employers must also provide housing and necessary protective equipment, supervision and trainings. However, the programme also states that employers can recover some of these costs by deducting a portion of the worker's wages.<sup>109</sup> Deductible costs include those related to the physical and financial protection of workers, airfare, contributions to the National Insurance Scheme in the countries of origin, supplementary medical coverage when the worker is not eligible for local medical insurance, medical exams, government administrative fees, ground transportation, lodging during transit to and from Canada, orientation sessions, legal assistance, examination of worker accommodations and required background checks.<sup>110</sup>

<sup>103</sup> Government of Canada, 2020b.

<sup>104</sup> Ibid.

<sup>105</sup> ILO, 2019, p.13.

<sup>106</sup> IRIS, n.d.

<sup>107</sup> Government of Canada, 2020e.

<sup>108</sup> Government of Canada, 2020b.

<sup>109</sup> Ibid.

<sup>110</sup> Government of Canada, 2020b.



As of 10 June 2020, the SAWP prioritized certain occupations that were considered essential during the COVID-19 pandemic. The programme waived minimum recruitment requirements through 31 December 2020 for a list of nine categories of occupations, which can be found on the SAWP website of the Government of Canada.<sup>111</sup>

These deductions can only be made with the consent of the worker and may not exceed USD 5.45 per working day. The worker must pay the cost of the specified goods and services directly if they do not provide consent.

In the SAWP, the worker is also responsible for paying work permit fees to Immigration, Refugees and Citizenship Canada.<sup>112</sup> No work permit fees are required when transferring from one employer to another within the programme. The Montreal Recommendations on Recruitment state that governments should take measures in order to eliminate the charging of recruitment fees and related costs to workers and jobseekers.<sup>113</sup>

Key informants indicated that the programme prohibits the disclosure of workers' private and personal data without a court order. This information is held by the Federal Government of Canada and the respective provincial government and can only be released to other Canadian government institutions as needed for the proper administration of the programme.<sup>114</sup>



On 12 May 2020, Immigration, Refugees and Citizenship Canada announced a Temporary Public Policy that allowed some temporary foreign workers already in Canada to change jobs before a final decision was made on their work permit application.<sup>115</sup>

Within the framework of this study, it was not possible to identify any gender-responsive provisions within the SAWP recruitment process, and there is no information on specific measures taken to ensure equal opportunity among genders during the recruitment phase. Nevertheless, government officials reported that both Canada and some Caribbean countries have expressed interest in providing more opportunities to women workers within the SAWP. This would be particularly impactful in Caribbean countries, such as Jamaica, where many women who are the sole heads of their households are not consistently employed and experience higher probabilities of being unemployed in the agricultural sector.<sup>116</sup>

<sup>111</sup> Government of Canada, 2020g.

<sup>112</sup> Ibid.

<sup>113</sup> IOM, 2020b.

<sup>114</sup> Government of Canada, 2020b.

<sup>115</sup> Government of Canada, 2020g.

<sup>116</sup> The latest available comparative data on female to male unemployment in agriculture in the region are very dated. However, in this study made by the University of Vermont and the University of West Indies, women in Jamaica were 4.34 per cent more likely to be unemployed in the agriculture sector than men. In Trinidad and Tobago, this ratio was of 4.99 per cent. Seguino, 2003.

## PHASE 2: WORK ABROAD

The respective governments from Canada and the Caribbean countries participating in the SAWP share the responsibility and take an active role in ensuring that working conditions for workers are appropriate. Government officials stated during interviews that, as part of the SAWP, each of the participating Caribbean countries have designated government agents or liaison officers to protect their nationals while they are working abroad. Liaison officers facilitate communication between workers and their countries of origin, and they receive and register complaints from workers about discrimination, mistreatment, abuse or harassment. Liaison officers send these complaints and supporting information to ESDC and share records of complaints with the appropriate ministries and departments of labour in the Caribbean. ESDC has the responsibility to protect temporary migrant workers in Canada, including processing complaints. ESDC can initiate integrity inspections, if deemed appropriate, and ensures compliance with non-retaliation policies.<sup>117</sup> Workers may also contact Service Canada, or a hotline available in each province to report mistreatment, abuse, discrimination or harassment. When it is found that a worker has been victim of abuse, they may be removed from their current employer. Contracts are tied to a specific employer, though workers have the right to transfer to another SAWP employer if they experience abuse or exploitation.<sup>118</sup>



Due to COVID-19, employers were temporarily given Housing Inspection Report (HIR) flexibility, which applied only if the employer could prove that the appropriate authority was unable to conduct an inspection.<sup>119</sup>

In Canada, a temporary open work permit allows for foreign workers in vulnerable situations to change employers and be removed from abuse. However, these permits have an expiry date and cannot be renewed. Workers must apply for another work permit before the open work permit expires if they want to stay and work in Canada.

The *Canadian Human Rights Act* protects all persons from harassment or discrimination on the basis of gender, race, age or sexual orientation.<sup>120</sup> The SAWP requires that temporary foreign workers must be granted the same wages and benefits as those provided to Canadian citizens and permanent resident employees working in the same occupations, thus providing protection to temporary workers on the same bases.

Moreover, workers in the SAWP have the right to join unions. The *Canada Labour Code* states that all employees are free to join the trade union of their choice and to participate in its lawful activities, though only Canadian citizens or permanent residents may be appointed members of the board.<sup>121</sup> SAWP non-modifiable contracts state that workers in unionized environments

<sup>117</sup> Ibid.

<sup>118</sup> Government of Canada, 2020a.

<sup>119</sup> Government of Canada, 2020g.

<sup>120</sup> Government of Canada, n.d.

<sup>121</sup> Government of Canada, 1985.

must be paid the wage rate as established under the collective bargaining agreement.<sup>122</sup>

The programme also includes provisions to ensure adequate living and working conditions for participants during their work abroad. Employers must present proof of legitimacy, demonstrate that they follow national laws and pass labour and housing inspections before they can participate in the programme. This helps reduce the risk that workers will be subjected to exploitation or forced labour. Territorial, provincial or municipal authorities conduct housing and workplace inspections to ensure that the living and working conditions of participants are appropriate. According to these guidelines, employers must provide fully equipped housing facilities, including furnishing and meeting a required level of cleanliness.<sup>123</sup>



Interviewees stated that the Canadian Government offered financial support to participating employers to provide information on COVID-19, promote hygiene and sanitation measures on farms and provided housing.

The SAWP contract also includes provisions to protect the health and safety of workers, such as prohibiting excessive working hours. The Ministry of Health in Canada provides the appropriate provincial or territorial health insurance to the workers during their stay. If workers cannot receive health benefits or insurance from the Ministry, the employers must assume this cost. Government liaisons work in partnership with employers to ensure proper medical attention is provided to workers in a timely fashion.<sup>124</sup>

Workers have the right, without penalty or consequence of any kind, to decline to perform duties for which they have not received complete and proper training, in accordance with provincial and territorial legislation.<sup>125</sup> In some circumstances, including when being removed from situations of abuse or exploitation, workers may also choose to transfer to another employer within the programme with no additional fees.

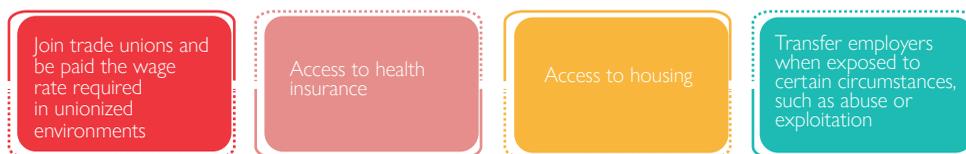
<sup>122</sup> Government of Canada, 2020b.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> Government of Canada, 2020b.

Figure 9. Migrant workers' rights under the SAWP



Source: Author's elaboration.

The SAWP does not provide terms for the facilitation of visas to spouses or dependents of workers, which does not comply with international standards such as the *Workers with Family Responsibilities Convention* of 1981. Canada has not signed the *Workers with Family Responsibilities Convention* of 1981. This convention is regarded as part of a system of international labour standards and good practices, which are “are an essential component in the international framework for ensuring that the growth of the global economy provides benefits to all.”<sup>126</sup> The facilitation of visas for dependents or spouses could help enable persons with family responsibilities to exercise their right to engage in employment without being subject to discrimination or without causing conflict between their employment and family responsibilities.<sup>127</sup>

The programme's standardized contracts do not include provisions for short-term parental or family leave. Currently, these considerations are subject to the employers' internal policies. However, if a worker must return to his or her country of origin due to personal or domestic issues, they may terminate their contract early. The costs of return transportation in these cases are covered in its entirety by the employer if the worker was requested by name, or partially (25%) by the Government if the worker has completed more than half of their term. Otherwise, the costs of return are borne fully by the worker.<sup>128</sup>

### PHASE 3: RETURN AND REINTEGRATION PHASE

In order to assist the return of migrant workers, employers participating in the SAWP are obliged to pay for two-way air transportation between the Caribbean country of origin and Canada.<sup>129</sup> In cases of early cessation for non-compliance, refusal to work, or inappropriate conduct of the worker, employers must consult with the government liaison and notify the worker seven days prior to dismissal. In such cases workers must pay, partially or entirely, the expenses related to their return.

If workers need to return home due to a physical or medical condition presented prior to their departure from their country of origin, the worker must pay the full cost of their return, which could be a significant financial burden and could penalize individuals with chronic or

<sup>126</sup> ILO, n.d.a.

<sup>127</sup> ILO, 1981.

<sup>128</sup> Government of Canada, 2020b.

<sup>129</sup> Ibid.

serious conditions. Medical information is not collected as part of the formal application process. However, interviews with government officials suggest that in these cases financial governmental aid for repatriation may be accessible through the liaison, even with pre-existing medical conditions.

Once workers complete their contract and return to their country of origin, they may reapply an indefinite number of times. Employers may also request specific workers to reapply.<sup>130</sup> Key informants stated during interviews that there are cases in which employers have requested reapplications for several consecutive years, resulting in some individuals working in the programme on a yearly basis.



### Factors that contribute to successful returns

- ✓ Time spent in the country of destination
- ✓ Experiences during the migration process
- ✓ Skills and knowledge learned abroad
- ✓ Development opportunities offered by the country of origin<sup>131</sup>

A remaining challenge in the return phase is improving the coordination between sending and receiving countries to ensure access to social security benefits for circular and temporary migrant workers. This has been achieved in Jamaica, where the social security benefits that accrue for the income earned through the SAWP are deducted from the worker's salary in Canada. These deductions are sent back to Jamaica, where it can be added to previous contributions to the national social security scheme, that includes pensions. This allows for Jamaican workers to participate in the programme without worrying about losing or putting their contributions on hold.<sup>132</sup>

Some Caribbean countries include returnee workers as beneficiaries of relevant government programmes. During interviews, government officials stated that while there are no specific return and reintegration programmes, assistance is occasionally provided for health purposes or for finding employment. These programmes could be further strengthened by providing psychosocial assistance to returnees when necessary, or by implementing a gender-based approach that considers the differentiated hardships women often face in their return.

The SAWP incorporates data collection processes that allow for regular communication and data exchange. Data sharing between countries of origin and destination is a good practice for

<sup>130</sup> Government of Canada, 2020b.

<sup>131</sup> IOM, 2019d.

<sup>132</sup> This information is for the year 2018. It was not possible to verify if this arrangement is still applicable for 2020.

ensuring a safer and more effective return and reintegration processes,<sup>133</sup> especially if migrant workers are returning due to employment disputes, inadequate housing or labour conditions, medical conditions, or accidents.

No measures were identified that allow for the recognition of skills and certificates acquired abroad or for facilitating the dissemination or exchange of knowledge with other nationals upon return.

### Good practices

- Promotes public–private partnerships.
- Contracts are negotiated between Canada and participating Caribbean countries every year.
- Publicly available and centralized information on the SAWP website.
- Periodic labour and housing inspections to ensure adequate working and living conditions.
- Employers are required to partially cover expenses related to accommodation and access to health care.
- Allows for portability of social security benefits in some countries.
- Enables the possibility of regular circular labour migration.

### Challenges

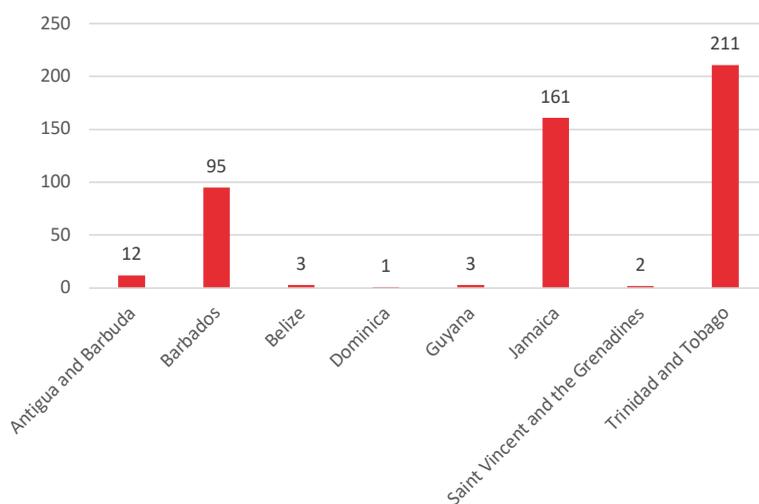
- Recruitment costs are not always borne by employers and may be recovered through deductions to workers' wages.
- No specific provisions for ensuring gender equality or non-discrimination during the recruitment process.
- No provisions for parental or family leave.
- Visas are not granted for spouses or dependents within the framework of the programme.
- Workers may need to pay for the return to their country of origin if related to a physical or pre-existing medical condition.
- No specific reintegration programmes in countries of origin.
- No measures identified that allow for the recognition of skills and certifications acquired abroad or for facilitating the dissemination or change of knowledge with other nationals upon return.

<sup>133</sup> Danish Refugee Council, 2008, p.62.

## CASE 2: CARICOM SINGLE MARKET AND ECONOMY (CSME) SKILLED NATIONALS REGIME

The Caribbean Community (CARICOM), the oldest surviving integration process in the world, was created in 1973 and consists of 15 Member States and five Associate Members.<sup>134</sup> The CARICOM Single Market and Economy (CSME) was created in 2001 through the *Revised Treaty of Chaguaramas* and established in 2006 in order to deepen regional integration through policy harmonization.<sup>135</sup> While the CSME encompasses multiple regimes focused on integrating capital, services, assets and job markets, this case study will focus specifically on the Skilled Nationals regime, which allows individuals who have been granted a Skills Certificate to travel and work freely in all CSME Member States. Free movement of persons is being implemented through a phased approach, and 12 categories of Skilled Nationals are currently able to move using a Skills Certificate, for which they must provide proof of a certain level of educational or skills attainment. Each of the categories is defined and requires a specific type of proof of qualification.

Figure 10. Number of Skills Certificates issued by country, 2017



Source: IOM, 2019a.

<sup>134</sup> CARICOM, n.d.

<sup>135</sup> Ibid.

## PHASE 1: RECRUITMENT

Map 2. CARICOM Single Market and Economy (CSME) Member States



Basemap source: ESRI and UN World Map.

This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

The CSME created guidelines for permitting the free movement of skilled workers without the need for a prearranged contract or employer.<sup>136</sup> The CSME is one of the only mechanisms identified for the region that incorporated provisions for the mobility of highly skilled nationals.

CSME nationals who hold a Skills Certificate can move and work freely in another CSME Member State under the same conditions as nationals, without the need for a work permit.<sup>137</sup> At the time of this report, 12 categories of Skilled Nationals are approved for free movement, some of which require a Caribbean Vocational Qualification (CVQ) to prove expertise in that skill.<sup>138</sup> Skills Certificate holders may apply for and hold any position for which they are hired; Skills Certificates are not tied to specific employers.

<sup>136</sup> For more information on the CSME and on free movement of persons in the Caribbean, please see IOM, 2019a.

<sup>137</sup> Government of Jamaica, 2018.

<sup>138</sup> IOM, 2019a.

Table 9. Approved categories for movement under the Skilled Nationals regime

Fully implemented by 12 Member States	Implemented by Jamaica, Guyana, Grenada, Saint Vincent and the Grenadines, and Suriname	Not yet implemented
Sportspersons	Non-graduate teachers	Agricultural workers
Musicians	Non-graduate nurses	
Artists	Household domestics with CVQs	
Media workers	Artisans with CVQs	Security guards
University graduates	Persons with associate degrees or CAPE or "A" levels	

Source: IOM, 2019a.

Skills Certificates do not expire, but they are linked to passport numbers as a unique identifier of the certificate. When these passports expire, usually after 10 years, nationals may choose to update the Skills Certificate with a new passport number or to amend the information with higher or different skill levels gained.<sup>139</sup> Member States have designated officials and institutions responsible for CSME-related duties, such as issuing and verifying Skills Certificates.



In 2018, 71 per cent of Skills Certificates issued were to University Graduates, followed by Holders of Associate Degrees (11%) and Artisans (5%).<sup>140</sup>

CSME Member States have the right to verify the qualifications of nationals travelling with a Skills Certificate through their national competent authority. However, verification processes are not standardized across CSME countries, occasionally causing issues for Skills Certificate holders who may not have clarity about the requirements or duration of the process.<sup>141</sup>



During the COVID-19 pandemic, some CSME Member States temporarily closed the government offices that processed Skills Certificate applications or restricted the number of people who can enter a building at a time to apply. For this reason, Member States sought to enhance their online application systems for Skills Certificates. Guyana has been the only country able to move all applications online.

<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

Nationals who wish to move for work but are not holders of a Skills Certificate may still apply for a regular work permit in any CARICOM country. Work permits are country-specific and do not allow movement for work outside of the country of application. In many countries, they are also tied to a specific employer. Although Skill Certificates were created with the aim of eliminating work permits for specific categories of workers, most countries issue twice as many long-term work permits as Skills Certificates, with the exceptions of Trinidad and Tobago, Barbados and Belize.<sup>142</sup>

Article 46 of the *Revised Treaty of Chaguaramas* states that Member States shall establish appropriate legislative, administrative and procedural arrangements to create instruments for certification and equivalency of degrees as well as for accrediting institutions. This facilitates the recognition of skills and degrees of workers when applying for a job in one of the CSME Member States.



According to key stakeholders, CSME Member States implemented different mobility restrictions during the COVID-19 pandemic, including for those travelling with Skills Certificates. Limited data show that movement decreased during the pandemic.

There are no public–private alliances enshrined in the framework of this mechanism. However, key informants recognized that regional enterprises and businesses benefit from the movement of qualified nationals to help fill gaps in labour markets. During interviews with private sector representatives, they highlighted their interest in participating in CSME discussion spaces in order to provide input on labour market needs and concerns.

## PHASE 2: WORK ABROAD

A Skills Certificate allows its holder to enter a CSME Member State and to participate in the labour market under the same conditions as that State's nationals. They are entitled to the same benefits and protections as a national.<sup>143</sup>

The CSME has created a procedure for CSME nationals to report complaints if they are not allowed to enter a CSME Member State, and it is possible for nationals to elevate complaints to the Caribbean Court of Justice (CCJ), CARICOM's highest court.<sup>144</sup>

Regional integration and CARICOM institutions are key for ensuring that workers may move within the Skilled Nationals regime. The *CSME Protocol on Contingent Rights* states that spouses and dependents of individual moving within the Skilled Nations regime are allowed to move, access work, health and education services in other CSME Member States.<sup>145</sup> Although all

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<sup>142</sup> Ibid.

<sup>143</sup> Ibid.

<sup>144</sup> Ibid.

<sup>145</sup> CARICOM, 2018.

Member States signed the Protocol, they implement these provisions differently and some have yet to adapt their national legislation in order to achieve full implementation.<sup>146</sup> Standardizing implementation across Member States could facilitate movement of families and enhance their ability to support themselves financially while working in another Member State. Furthermore, the possibility of being accompanied by their family and spouse may facilitate a more equitable division of household labour and sharing of caretaking activities.<sup>147</sup> Labour inspections are currently done by each Member State, but as the region consolidates and harmonizes policies on the movement of people, it is possible that regional policy may play a greater role in inspections, guaranteeing decent work conditions and promoting the exchange of information, experiences and good practices.

A 2019 IOM study also identified the limited awareness of CSME nationals about their rights and the appropriate channels to present complaints as a key challenge.<sup>148</sup> It is crucial that CSME nationals know and understand their rights under the *Revised Treaty of Chaguaramas*. Promoting public awareness and communication campaigns could help protect Skilled Nationals during their work abroad, and provide them with information on their rights and systems for reporting complaints. Promoting awareness in the diaspora could also highlight opportunities for those returning to the region.

Figure 11. Migrant workers' rights under the CSME



Source: Author's elaboration.

### PHASE 3: RETURN AND REINTEGRATION

Within the CSME, all holders of Skills Certificates can leave or return to their home country whenever they want and at their own expense.

The regime's provisions for the recognition of skills enables nationals who decide to further their education in another Member State to return to their country of origin with recognized degrees, facilitating their economic reintegration.

In order to support the protection of workers in the regime, Article 46 of the *Revised Treaty of Chaguaramas* also states that Member States shall establish appropriate legislative, administrative and procedural arrangements for the harmonization and transferability of social security

<sup>146</sup> IOM, 2019a.

<sup>147</sup> IOM, 2014.

<sup>148</sup> IOM, 2019a.

benefits.<sup>149</sup> The *CARICOM Agreement on Social Security* allows countries to coordinate social security programmes, including pensions for invalidity, disablement, old age or retirement, survivors' benefits and death benefits. All Member States have signed this agreement, except for Haiti and Suriname.<sup>150</sup>

### Good practices

- Movement for labour with a Skills Certificate is not bound to a specific employer or country.
- Ensures equal access to employment under the same conditions as other CSME nationals.
- There is a procedure for CSME nationals to report complaints if they are denied entry into a CSME Member State.
- There is a regional agreement for contingent rights.
- Allows dependents and spouses of Skilled Nationals to access health care and education. Spouses of Skilled Nationals may also work in the same country as their spouse, without a Skills Certificate.
- Recognizes degrees and skills acquired in other Member States.
- There is an agreement to allow the portability of social security benefits.

### Challenges

- Processes for the verification of Skills Certificates are not standardized across CSME Member States.
- Skills Certificates were aimed at eventually replacing many long-term work permits, but the latter are currently used almost twice as often as Skills Certificates.
- Although all Member States signed the Protocol of Contingent Rights, they implement these provisions differently, and some have yet to adapt their national legislation in order to allow full implementation.
- There is evidence that many CSME nationals have limited knowledge about their rights under the Revised Treaty of Chaguaramas and the appropriate channels to present complaints.

<sup>149</sup> CARICOM, 2001, p.2.

<sup>150</sup> CARICOM, 2010.

## CASE 3: H-2B VISAS FOR TEMPORARY NON-AGRICULTURAL WORKERS

The United States of America issues H-2B Temporary Non-Agricultural Workers visas as authorized under the *Immigration and Nationality Act* (INA). This visa allows United States employers and agents who meet specific requirements to recruit foreign nationals from 81 countries to fill temporary non-agricultural jobs.<sup>151</sup> In 2020, the Caribbean countries that participated in this programme included Barbados, Grenada, Jamaica and Saint Vincent and the Grenadines.<sup>152</sup> Each fiscal year, the number of migrants who may be issued an H-2B visa is capped at 66,000; 33,000 may begin employment between 1 October and 31 March, and 33,000 may begin employment between 1 April and 30 September.<sup>153</sup> The United States of America and participating Caribbean countries meet periodically to negotiate the arrangements of their participation in this programme and the conditions of employment for Caribbean workers. These arrangements are made bilaterally between the United States of America and each Caribbean State.

Table 10. Number of H-2B visas issued by nationality, per fiscal year

Country	2017	2018	2019	2020
<b>Antigua and Barbuda</b>	2	5	5	0
<b>Barbados</b>	4	4	3	1
<b>Belize</b>	281	43	99	2
<b>Dominican Republic</b>	112	153	71	8
<b>Grenada</b>	1	0	1	0
<b>Jamaica</b>	6813	8541	9942	3715

Source: Government of the United States of America, n.d.

The participating countries for the H-2B visa programme are defined each year. The countries in this table are all the participating countries from the Caribbean for 2017-2020. While Saint Vincent and the Grenadines participated in the programme in 2020, no visas issued to its nationals between 2017 and 2020. For this reason, Saint Vincent and the Grenadines is not included in Table 10. Source: Government of the United States of America, n.d.

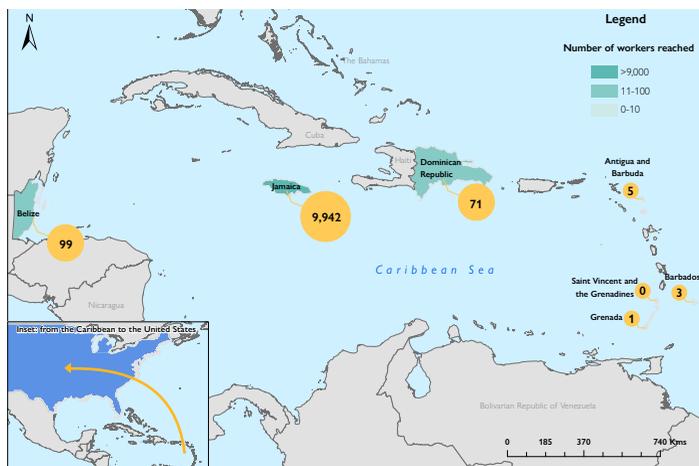
<sup>151</sup> Government of the United States of America, 2020a.

<sup>152</sup> These four countries were the only Caribbean countries participating in the programme as of 19 January 2020. The participating countries change every year, and have included Antigua and Barbuda, Belize and Dominican Republic in previous years. For more information on H-2B visa-eligible nationals, please see [www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers](http://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers).

<sup>153</sup> Government of the United States of America, 2020a.

## PHASE 1: RECRUITMENT

Map 3. Number of H-2B visas issued in 2019, per country



Basemap source: ESRI and UN World Map.

This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

H-2B visas for temporary non-agricultural workers are issued by the United States Department of State (DOS). The United States Department of Labor (DOL) is in charge of granting H-2B work certificates to employers interested in recruiting temporary foreign workers. Employers must receive temporary labour certification from the Department of Labor and then must file a petition for a non-immigrant visa on a prospective worker's behalf.



In the context of COVID-19, H-2B visas were suspended via an executive order until December 31, 2020.<sup>154</sup> As a result, the Department of Homeland Security temporarily removed certain limitations on employers or agents seeking to hire or extend the stay of H-2B workers already in the United States of America to provide temporary labour or services essential to the food supply chain.<sup>155</sup>

In order to acquire temporary labour certification, employers must demonstrate their temporary need for foreign labour or services and their inability to fulfil this need from the national labour force.<sup>156</sup> Employers' requests may be considered temporary if they show a one-time occurrence, a seasonal need, a peak load need or an intermittent need.<sup>157</sup>

<sup>154</sup> Government of the United States of America, 2020b.

<sup>155</sup> Government of the United States of America, 2020c.

<sup>156</sup> Government of the United States of America, 2015b.

<sup>157</sup> Government of the United States of America, 2020a.

Additionally, employers must prove that employing H-2B workers will not adversely affect the wages and working conditions of national workers employed in similar work.<sup>158</sup>

Employers are required to publish their vacancies for United States workers for a minimum of 21 days. Job advertisements should be published online, through community organizations and other means.<sup>159</sup> The advertisements should include: the geographic location of the position, the employer's name and contact information, and a description of the training provided during the time of employment, if applicable. This requirement helps reduce the risk of exploitation or abuse by allowing prospective workers to assess the legitimacy of the employers in the programme.

The employers from the private sector coordinate with the Department of Homeland Security (DHS) and the DOL. Both institutions are in charge of verifying the legitimacy of employers and overseeing regulations governing employer certification and compliance with all applicable federal, state and local employment-related laws. The DOL makes recommendations to the DHS about which employers are considered legitimate.<sup>160</sup>

Ministries and departments of labour in the Caribbean also distribute information about the job advertisements to their nationals. However, persons interested in the positions must apply directly with the employers. Information on the duration, conditions for termination or renewal of contracts is also publicly available on [www.uscis.gov](http://www.uscis.gov).

Potential H-2B foreign workers must first go through a preselection process and are advised that their selection is dependent upon the lack of United States workers who are able, willing, qualified and available to fill the vacant positions.



## H-2B VISA REQUIREMENTS:<sup>161</sup>

### Requirements for workers

- ✓ Complete the application process (including paying fees) for every H-2B application
- ✓ Be a national of and physically reside in a participating country
- ✓ Having experience in farming

### Requirements for employers

- ✓ Prove that the vacancies cannot be filled by national labour force
- ✓ Ensure that employing H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers
- ✓ Demonstrate the need for the prospective worker's services or labour is temporary, regardless of whether the underlying job can be described as temporary

<sup>158</sup> Government of the United States of America, 2020a.

<sup>159</sup> Ibid.

<sup>160</sup> Government of the United States of America, 2015b.

<sup>161</sup> Government of the United States of America, 2020a.

Work contracts are created directly by the employers, but they must follow the rules and regulations for H-2B visas as defined in the *Federal Register*.<sup>162</sup> Employers must provide workers with a job order containing the terms and conditions of their work, including wages, hours and worksite, no later than the first day of work. This job order is provided in a language understood by the worker. Key informants stated that while Caribbean governments do not participate in the creation of contracts, they hold meetings and communications to establish guidelines and conditions of the contracts.

After approval of the employer-submitted petition for nonimmigrant workers by United States Citizenship and Immigration Services (USCIS), which is an agency of the Department of Homeland Security that manages naturalization and immigration processes, workers must apply for an H-2B visa with the Department of State at a United States of America embassy or consulate abroad.<sup>163</sup>

Principle number seven of the International Labour Organization (ILO) *General Principles and Operational Guidelines for Fair Recruitment* states that no recruitment fees or related costs should be charged to, or otherwise be borne by, workers or jobseekers.<sup>164</sup> In the H-2B programme, employers are required to pay visa and related fees; inbound transportation and subsistence costs of workers who complete 50 per cent of the job order period; and the inbound and outbound transportation and subsistence expenses of employees who complete the entire job order period.<sup>165</sup>

Despite these requirements, there is a gap in protection for workers who may have to leave their job for medical purposes. All transportation and subsistence costs are reimbursed after 50 per cent and 100 per cent of job completion, meaning that workers must pay these costs in order to participate in the programme and receive reimbursement later. Additionally, employers may also deduct fees from workers' wages that are primarily intended for the benefit of the worker, such as passport fees.<sup>166</sup>

The programme includes several provisions to ensure transparency and to prevent adverse effects on the national labour force. Employers and their attorneys, agents or employees are prohibited from seeking or receiving payment of any kind from workers for any activity related to obtaining H-2B temporary labour certification or employment, including recruitment and related costs.<sup>167</sup>

The programme also requires employers to assure the DOL that there is no strike or lockout at any of the employer's worksites in the area of intended employment for which the employer is requesting H-2B certification.<sup>168</sup> This measure was established to protect United States workers' right to participate in organized labour.

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<sup>162</sup> Ibid.

<sup>163</sup> Government of the United States of America, 2020a.

<sup>164</sup> ILO, 2019, 13.

<sup>165</sup> Government of the United States of America, 2015b.

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

Non-discriminatory hiring practices are promoted through the requirement that the job opportunity be open to any qualified worker regardless of race, colour, national origin, age, sex, religion, disability, or citizenship.<sup>169</sup> However, these protections are only explicitly applicable to United States workers that apply to the posted positions and are not specifically applied to migrant applicants. No measures are in place to prevent gender-based violence, harassment or discrimination during the recruitment process and transportation.

## PHASE 2: WORK ABROAD

Interviews with key informants stated that there are no Caribbean institutions specifically in charge of the protection of nationals during their work abroad in the H-2B visa programme. In the United States of America, the DOL conducts general investigations and verifies compliance with H-2B programme regulations, issuing sanctions for noncompliant employers.

Employers are not required to provide living arrangements in the framework of this programme. Providing accommodations is mentioned in the possible deductions from workers' wages, including reasonable costs or fair value of board, lodging and furnished facilities.<sup>170</sup> Additionally, daily subsistence costs are paid by workers and then reimbursed to those who have completed the period of employment.<sup>171</sup> These costs, initially borne by workers, may lead to hardships for some temporary workers who may experience financial constraints. The requirement for workers to pay initial costs does not comply with international standards such as the Employer Pays Principle found in the Dhaka Principles for Migration with Dignity, which states that no fees should be charged to migrant workers.<sup>172</sup>

DOL representatives may enter and inspect any premises, land, property, worksite, vehicles, structure, facility, place and records at any time or when a complaint has been filed. Inspectors may also take any necessary evidence or means for data collection, such as transcriptions, photographs, videos or photocopies, and question any person as deemed appropriate.<sup>173</sup> If employers fail to cooperate with DOL investigations, their temporary labour certification may be revoked. This effort complies with Dhaka Principle 7 and Principle 8, which state that migrant workers should enjoy safe, decent and hygienic conditions in their workplace and accommodations.<sup>174</sup>

Workers are protected from retaliation, including retaliation based on contact or consultation with an attorney or an employee of a legal assistance organization or contact with labour unions, worker centres and community organizations, which frequently have the first contact with temporary foreign workers when they seek help to correct or report perceived abuses. This protection applies to oral complaints and complaints made internally to employers, and it

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<sup>169</sup> Ibid.

<sup>170</sup> Government of the United States of America, 2015a.

<sup>171</sup> Government of the United States of America, 2015b.

<sup>172</sup> IHRB, n.d.

<sup>173</sup> Government of the United States of America, 2015b.

<sup>174</sup> IHRB, n.d.

covers current, former and prospective workers.<sup>175</sup> This highly developed reporting system and its guidelines greatly enhance the protection of migrant workers and their integrity.

Figure 12. Migrant workers' rights under the H-2B visa



Source: Author's elaboration.

The H-2B visa programme requires employers to disclose their use of foreign labour recruiters and to pay workers at least every two weeks in order “to protect financially vulnerable workers”.<sup>176</sup> Employers must also provide workers copies of the job order and earnings statements that clearly specify hours worked and offered as well as deductions made from the worker's wages. Additionally, employers are obliged to display a printed poster provided by the DOL that states (a) employee rights and protections, (b) the workers' right to file confidential complaints and (c) the telephone number for the Wage and Hour Division (WHD)'s confidential toll-free help line.<sup>177</sup> This poster is available in English and Spanish, and any needed translations can be requested both by workers or employers at any given moment. While the purpose of this poster would be undermined if workers cannot read the notice, DOL cannot guarantee that it will have available translations of the notice in any given language.<sup>178</sup>

The H-2B visa programme allows for the worker's spouse and unmarried children under 21 years of age to apply to accompany them under an H-4 non-immigrant classification visa.<sup>179</sup> This complies with the *Workers with Family Responsibilities Convention* of 1981, which states that countries should “enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.”<sup>180</sup> However, H-4 visa holders are not eligible for employment or a Social Security number, and they are notable to purchase health insurance under the United States of America health insurance marketplace. This does not comply with Article 4 of the *Workers with Family Responsibilities Convention*, which advocates for countries to take account of the needs of the worker's family or dependents in terms of employment and in Social Security contributions.<sup>181</sup> The United States of America has not signed the *Workers with Family Responsibilities Convention* of 1981. This convention is regarded as part of a system of international labour standards and good practices,

<sup>175</sup> Government of the United States of America, 2015a.

<sup>176</sup> Government of the United States of America, 2015b.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid.

<sup>179</sup> Government of the United States of America. 2020a.

<sup>180</sup> ILO, 1981.

<sup>181</sup> Ibid.

which are “are an essential component in the international framework for ensuring that the growth of the global economy provides benefits to all.”<sup>182</sup>



In the context of COVID-19, the Department of Homeland Security published a temporary final rule on 14 May 2020 to allow certain H-2B workers to stay beyond the three-year maximum period of stay in the United States of America.<sup>183</sup>

### PHASE 3: RETURN AND REINTEGRATION

As H-2B workers return to their countries of origin, employers are required to pay for return transportation as long as the worker completes the assigned work period. The guidelines do not include provisions to facilitate the repatriation of those needing to return for medical reasons, but the requirement for the employer to pay outbound transportation still applies for cases in which the worker experienced an issue that created an untenable working situation, such as discrimination or sexual harassment.<sup>184</sup>

There is no limit to the number of times a person can apply for the H-2B programme. In this sense, a person could reapply after finishing their work period or seek an extension. However, persons who have held a H-2B non-immigrant status for three years must leave the United States of America for a minimum period of three months before seeking readmission under an H-2B visa.<sup>185</sup>

There is no publicly available information regarding coordination efforts between sending and receiving countries for the portability of pensions and other social security benefits.

The thorough guidelines and procedures to report abuse, discrimination or harassment and to prevent retaliation mean that these issues may be documented clearly. If workers experience difficulty during their stay in the United States of America, they may require assistance after they return to their country of origin. Based on this strong system for reporting complaints in the United States of America, that information could be shared with Caribbean States to facilitate the inclusion of returning migrant workers in national welfare programmes or other national programmes for support.

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<sup>182</sup> ILO, n.d.a.

<sup>183</sup> Government of the United States of America, 2020a.

<sup>184</sup> Government of the United States of America, 2015b.

<sup>185</sup> Government of the United States of America, 2020a.

## Good practices

- There is publicly available information on the requirements and application process for both employers and workers.
- Specific non-discrimination hiring policies are in place.
- Spouses and dependents of H-2B visa holders may accompany them under a H-4 non-immigrant visa, if granted.
- Reporting systems for harassment, abuse or discrimination are highly developed.
- Labour inspections assess if workplaces are in adequate condition and in compliance with the requirements of the mechanism.
- If early termination of the contract is caused by situations of discrimination or harassment, employers must reimburse costs to workers.
- Possibility to seek extensions for up to three years.

## Challenges

- The general guidelines negotiated by Caribbean countries and the United States of America are not publicly available.
- Workers must initially pay their visa fees and related costs and are reimbursed only after partial or total job completion. Additionally, employers may deduct some fees from workers' wages.
- No measures are in place to prevent gender-based violence, harassment or discrimination during the recruitment process and transportation.
- While there are specific visas for spouses and dependents of H-2B visa holders, they are not allowed to work in the United States of America, access Social Security or purchase health insurance through the U.S. health insurance marketplace during their stay.
- There is no coordination between sending and receiving countries for the portability of social security benefits.
- There are no formal reintegration programmes in countries of origin.

# CONCLUSIONS AND RECOMMENDATIONS

This report deepens the existing knowledge on the main mechanisms for facilitating labour migration in the Caribbean. This study identified 13 mechanisms for labour migration and provided an in-depth analysis of three. Although the information available on the current implementation status is scarce for most mechanisms, data obtained through the desk review and interviews with key stakeholders allowed for the identification of the following conclusions and recommendations.

**The greatest number of mechanisms identified are multilateral in nature, but countries face challenges in harmonizing national legislation with the mechanisms:**

The greatest number of mechanisms implemented in the Caribbean are multilateral, and all mechanisms for intraregional movement are multilateral. Caribbean countries have built systems of regional integration and often work multilaterally to negotiate with extraregional countries and to gain from the benefits of labour mobility. The existence of common institutions within CARICOM and the OECS strengthens this multilateralism.

In multilateral mechanisms, aligning national legislation more closely with regional policy or international agreements made could maximize the rewards of increased labour migration and mobility. Implementation of some of the mechanisms identified in this report has experienced challenges due to a mismatch between practices mandated by the formal mechanisms and the national migration laws in the participating countries. While mechanisms guiding intraregional movement are all multilateral, agreements with extraregional destination countries are often bilateral. Harmonizing multilateral and bilateral efforts with national normative frameworks, migration management processes and legislation in all the countries involved would have a positive effect on labour migration governance in countries of origin and destination. Integrating labour migration into comprehensive migration policies and strategies is also key to ensure effective and consistent implementation of labour mechanisms.

**Stakeholders must strengthen compliance to international standards throughout the labour migration cycle:**

The frameworks for most of the mechanisms identified focus on facilitating regular entry for labour, regulations and procedures for the recruitment of workers and workers' entry into specific sectors. Countries of origin and destination have consolidated efforts to serve as a link between workers and employers, integrate international standards and good practices and avoid fraudulent recruitment and abuse. However, compliance with international standards can often be increased in other stages of the labour migration cycle. For example, some mechanisms do not comply with important principles, including those aimed at ensuring migrant workers do not pay recruitment fees or related costs and that these are instead borne by employers.<sup>186</sup>

<sup>186</sup> IOM, 2020b, p.6.

Active coordination between countries of origin and destination, as well as with consulate staff and nationals abroad may prove beneficial for protecting migrant workers. Countries of origin and destination should aim to create “spaces with multilingual staff for migrants to seek information about migration, employment, labour recruiters, access to health care, housing and grievance and dispute resolution mechanisms;” these spaces may also facilitate access to free legal assistance.<sup>187</sup> Creating public–private alliances may also allow governments to oversee the implementation of mechanisms and adopt measures to eliminate unethical practices.<sup>188</sup>

**Most mechanisms in the Caribbean focus on facilitating labour migration for low- and medium-skilled workers:** The majority of mechanisms found focus on low- and medium-skilled workers, who are essential for economic activities in receiving countries. There is a significant number of highly skilled emigrants from the Caribbean, but very few mechanisms focus on high-skilled work.

Mechanisms that focused on medium- to high-skilled jobs sometimes received twice as many workers than mechanisms that offered low-skilled positions, even if both provided a pathway to the same country of destination.

**Limited information available on the existing mechanisms restricts the understanding of the impacts of each mechanism:** This study serves as a starting point to improve the understanding about the existing labour mechanisms in the Caribbean. However, more research is needed to generate information on the potential options for labour mobility, and the steps required to create mechanisms responsive to a shifting context. Additionally, stronger data collection processes and the capacity to disaggregate data are a critical need for many countries in the region; more data are critical a critical foundation for additional research. Creating publicly available data bases in countries of origin and destination can also improve the implementation of the current mechanisms, as well as the establishment of new mechanisms. For this reason, the exchange of information between countries of origin and destination is crucial for strengthening the effectiveness of labour migration mechanisms.

**Most mechanisms do not explicitly consider gender or include gender-responsive provisions:** Women represent high percentages of workers, and in the Caribbean, a majority of unemployed youth are female. The mechanisms identified rarely included provisions for gender in any of the phases of the labour migration cycle, representing an important area for improvement. In the framework of this study, the following opportunities were identified for mainstreaming gender in the labour mechanisms:

**In the recruitment phase:**

- Include measures for the prevention and protection against gender-based violence.
- Broaden non-discrimination clauses to include gender, sexual orientation, gender identity, disability and pregnancy, among others.

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<sup>187</sup> Ibid, 19.

<sup>188</sup> Ibid, 5.

- Ensure the implementation of equal pay and conditions to nationals for all genders.

#### **In the period of working abroad:**

- Provide comprehensive parental and family leave benefits.
- Ensure access to health care, including sexual and reproductive health care.
- Include provisions for family reunification and facilitate the ability of spouses to access the labour market.
- Provide childcare support for migrant workers travelling with children.
- Create gender-sensitive and non-victimizing systems for reporting complaints, abuse, harassment, sexual harassment and/or discrimination.

#### **In the return and reintegration phase:**

- Provide assistance to workers who experienced harassment, discrimination, sexual harassment and/or abuse, particularly when gender-related, through programmes for psychosocial assistance after their return.

**Provisions for return and reintegration assistance are not included in most mechanisms, and States have not created formal reintegration programmes:** Most mechanisms do not include provisions for the return and reintegration of migrant workers to their country of origin. This is especially relevant for mechanisms for temporary labour, as workers may depart and return cyclically.

Furthermore, social and economic reintegration is fundamental for ensuring that migrants can return to their countries of origin, join the labour market and benefit from the skills they gained abroad and find economic security. Some identified good practices and opportunities for facilitating safe and effective return and reintegration processes in labour mechanisms are the following:

- Provide workers information on their local labour market upon their arrival to facilitate economic reintegration.
- Countries of origin and destination should share information on the cases of harassment, discrimination, or abuse their workers reported abroad in order to provide psychosocial assistance to returnees, when needed.
- Formally recognize or document skills and certificates gained abroad so that migrants can benefit from these skills as they integrate into the labour market of their country of origin.
- Facilitate knowledge-sharing between returning migrants and the population of the country of origin upon return for the skills and knowledge learned abroad.
- Ensure portability of pensions and other social security benefits so that contributing workers may withdraw all or part of their contributions to state-sponsored benefits.

**Challenges remain for migrant workers to access social security benefits:** Within CARICOM, Member States allow for the portability of social security benefits. While this is an important achievement, there are limitations in the standardization of procedures and countries may apply them differently. Extraregionally, most mechanisms do not contain

specific measures for the portability of social security benefits. This presents several challenges for Caribbean workers, who may engage in temporary work programmes for years without registering any contributions to government insurance or social security schemes.

It is critical for countries of origin and destination to take this into consideration during negotiations of agreements and built upon existing good practices.

**Mechanisms in the region lack of monitoring and evaluation systems:** Monitoring and evaluation systems are scarce among the identified mechanisms. This limitation further restricts the already pressing challenge of data collection and centralization in the Caribbean. The lack of monitoring and evaluation systems limits the information available on the successes and challenges of the existing mechanisms, hampering governments' ability to improve them or review them when the context and needs have changed.

Information resulting from monitoring and evaluation systems is “valuable in conducting root cause analysis that policymakers can use to identify gaps in policy that need to be examined and addressed”.<sup>189</sup> To ensure the efficiency of evaluation systems, it is crucial to involve both countries of origin and destination, use sustainable tools and procedures, and work through a whole-of-government approach. These systems must be applied throughout all phases of the labour migration cycle: recruitment, period of work abroad and return and reintegration.

**The use of formal labour migration mechanisms remains low when compared to regional migration flows:** The data available on the mechanisms analysed in this report, though limited, indicate that the use of formal labour migration mechanisms remains low<sup>190</sup> when compared to other regular migration channels that are used by migrant workers, even if their intended purpose is not to facilitate movement for labour. The use of other channels may lead to workers staying irregularly in the country and finding employment in informal sectors, which can contribute to migrants' vulnerability or expose them to violations of their rights.

Labour migration mechanisms may be underutilized because workers are often required to obtain a job offer before migrating or because workers may experience challenges in the application process, including recruitment, transportation or application fees. The low rate of usage of formal labour migration mechanisms may also be linked to the lack of information available on the mechanisms. Some Caribbean governments share information on the mechanisms and application processes, but key actors noted the need to increase the awareness of formal mechanisms. Relevant authorities should ensure that the information disseminated is clear in objectives and tailored to individual destination countries, including information about migrants' rights and systems for presenting complaints, discrimination and harassment.<sup>191</sup>

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<sup>189</sup> Ibid, 9.

<sup>190</sup> An important consideration for measuring the use of mechanisms is that some mechanisms only provide data for the number of accepted participants, and not a refusal rate or total number of applications.

<sup>191</sup> Ibid, 20.

### **Extraregional destination countries play a strong role in defining the mechanisms' terms:**

In the mechanisms that involve an extraregional destination country, these countries often play a predominant role in defining the terms of reference or purpose of the mechanism as they seek to match the labour supply from the Caribbean with their national labour market demand. Considering the importance of labour mobility for both countries of origin and destination, as well as the shared responsibility of ensuring safe migration, all participating countries should have an equally active role in the decision-making process regarding conditions and terms.

### **Health and safety protections during the COVID-19 pandemic are key for migrant protection:**

To ensure their continuity of labour mechanisms, governments must create health guidelines for workers that adhere to international health standards, as well as IOM and ILO guidelines for the protection of migrant workers during recruitment and work abroad in the context of COVID-19.

Mechanisms could provide for the inclusion of migrants and non-national workers in social protection schemes before departure, or after recent unemployment due to the health crisis. This reduces the vulnerability of workers who were involved in temporary work schemes or other mechanisms and whose employment is terminated due to economic repercussions of the pandemic or closures related to hygiene and sanitation regulations.

While some mechanisms, such as ones with countries of destination outside of the region, have taken advantage of online systems for providing information and accepting applications, other mechanisms have been affected by their in-person application procedures in the context of COVID-19. Building secure and accessible online systems for application processes and document submissions can also reduce the risk of exposure for migrants in the recruitment process.

# ANNEX: TABLE OF INTERNATIONAL STANDARDS AND GOOD PRACTICES

The following table presents the documents used to structure the analysis of mechanisms for the case studies.

Document	Recruitment	Work abroad	Return and reintegration
<b>International standards</b>			
Migration Governance Framework (MiGOF)	Principles 1, 2 and 3, Objectives 1, 2 and 3	Principles 1 and 3, Objectives 1, 2, and 3	Principle 1, 2 and 3 Objectives 1, 2, and 3
Sustainable Development Goals (SDG)	<ul style="list-style-type: none"> <li>- Goal 5 (gender equality): target 5.2.</li> <li>- Goal 8 (decent work and economic growth): targets 8.5 and 8.7.</li> <li>- Goal 10 (reduced inequalities): targets 10.2, 10.3 and 10.7.</li> <li>- Goal 16 (peace, justice and strong institutions): targets 16.2 and 16.7.</li> <li>- Goal 17 (partnerships for the goals): 17.14 and 17.17.</li> </ul>	<ul style="list-style-type: none"> <li>- Goal 5 (gender equality): targets 5.2 and 5.C.</li> <li>- Goal 8 (decent work and economic growth): targets 8.5 and 8.8.</li> <li>- Goal 10 (reduced inequalities): targets 10.2, 10.3 and 10.7.</li> <li>- Goal 16 (peace, justice and strong institutions): targets 16.2 and 16.3.</li> <li>- Goal 17 (partnerships for the goals): 17.14 and 17.17.</li> </ul>	<ul style="list-style-type: none"> <li>- Goal 5 (gender equality): target 5.C.</li> <li>- Goal 10 (reduced inequalities): targets 10.2 and 10.3.</li> <li>- Goal 16 (peace, justice and strong institutions): target 16.3.</li> <li>- Goal 17 (partnerships for the goals): 17.14 and 17.17.</li> </ul>
Global Compact for Safe, Orderly and Regular Migration	Objectives 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 17, 18 and 23	Objectives 1, 3, 6, 7, 10, 14, 15, 16, 17, 18 and 23	Objectives 1, 3, 7, 11, 14, 16, 17, 18, 21, 22 and 23
Migration for Employment Convention (Revised), 1949	Articles 3, 4, 5, 6 and 7	Articles 5, 6 and 8	Article 6
Migrant Workers (Supplementary Provisions) Convention, 1975. (No.143)	Articles 1, 10 and 12	Articles 1, 9, 12 and 13	Articles 1 and 4
Migration for Employment Recommendation (Revised), 1949 (No. 86)	Articles 5, 6, 8, 9, 11, 13, 14, 16 and 17	Articles 5, 10 and 16	Articles 16, 18 and 20
Domestic Workers Convention, 2011 (No. 189)	Articles 2, 4, 7, 8, 9 and 11	Articles 2, 3, 5, 6, 7, 12, 13, 14, 15 and 17	Article 5
Workers with Family Responsibilities Convention, 1981 (No. 156)	Articles 3, 4 and 6	Articles 3, 4, 6, 7, 8 and 9	Articles 4, 5 and 6
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990	Articles 7, 59, 61, 65, 66 and 68.	Articles 7, 11, 12, 13, 14, 16, 21, 22, 23, 25, 26, 27, 30, 33, 37, 38, 39, 40, 43, 44, 45, 53, 59 and 61	Articles 7, 8, 46, 47, 48, 59 and 67

Worst Forms of Child Labour Convention, 1999 (No.182)	Articles 6 and 7	Articles 6 and 7	N/A
Minimum Age Convention, 1973 (No. 138)	Articles 1, 2, 3 and 9	N/A	N/A
Private Employment Agencies Convention, 1997 (No. 181)	Articles 2, 4, 5, 6, 7, 8, 9, 11, 12, 13 and 14	Articles 8, 11, 12 and 14	N/A
General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs	General principles 1–13 Operational guidelines 1–31	Operational guideline 8	Operational guideline 31
Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, 2000	Articles 9 and 12	N/A	Article 8
The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979	Articles 2, 3, 5, 6 and 11	Articles 3, 5, 11 and 12	Article 5
<b>Good practices</b>			
International Recruitment Integrity System (IRIS)	General principle A and B Principle 1–5	N/A	N/A
The Montreal Recommendations on Recruitment: A Road Map towards Better Regulation	Recommendations 1, 3, 7, 8, 9, 12, 15, 22, 39, 41 and 42	Recommendations 5, 15, 22, 34, 36, 37, 40, 46 and 48	N/A
Dhaka Principles for migration with dignity	Core Principle A and B Principles 1, 2, 3, 4, 6 and 10	Core Principle A and B Principles 3, 4, 5, 7, 8 and 9	Core Principle A and B Principle 10
Guidelines for the Development of Bilateral Labour Agreements in the Southern African Development Community	Document used as a general reference across the three phases of the labour migration cycle		
Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination	Document used as a general reference across the three phases of the labour migration cycle		
Return and Reintegration: Women's Participation and Gender-Responsive Interventions. A Participatory Action Research	Document used as a general reference across the three phases of the labour migration cycle		



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