



Stakeholder Consultations for the Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration

Protecting migrants through rights-based border governance and border management measures

(addressing GCM objectives 4, 8, 9, 10, 11, 13, 21)

Thursday, 19 November 2020, 11:00-14:30 hrs. (*Bangkok time*)

Online (Zoom)

Concept Note

1. Introduction

In the context of the Regional Review of the Global Compact for Migration scheduled to be held in Bangkok from 10 to 12 March 2021, the United Nations Regional Network on Migration for Asia and the Pacific¹ is committed to enabling the meaningful engagement of stakeholders with the regional review process, in line with the principles underpinning a whole-of-society approach.

Therefore, the Regional Network is organizing four stakeholder consultations to inform the implementation of the Global Compact for Migration. The consultations are being organized in line with the clusters of the Global Compact indicative objectives of the roundtables envisaged for the IMRF according to General Assembly resolution 73/326.

The second stakeholder consultation is on:

Protecting migrants through rights-based border governance and border management measures

This consultation addresses the following objectives of the Global Compact for Migration:

4. Ensure that all migrants have proof of legal identity and adequate documentation
8. Save lives and establish coordinated international efforts on missing migrants
9. Strengthen the transnational response to smuggling of migrants
10. Prevent, combat and eradicate trafficking in persons in the context of international migration
11. Manage borders in an integrated, secure and coordinated manner
13. Use migration detention only as a measure of last resort and work towards alternatives

¹ The Regional Network is comprised of all United Nations agencies at Asia and the Pacific regional level wishing to join. The Regional Office of IOM, Asia-Pacific serves as the Coordinator and Secretariat of the Regional Network. The Executive Committee of the Regional Network comprises of ESCAP, ILO, IOM, OCHA, OHCHR, UNAIDS, UNDP, UN DRP, UNFPA, UNHCR, UNICEF, UNODC, and UN Women.

21. Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

Border governance and border management broadly are central to achieving safe, orderly and regular migration. They are also central to the migration experience. What migrants expect to experience at the border informs their decisions throughout the migration cycle: the routes they take, how they live and work in transit and when they reach their destination, and their options for return.

Objective 4: Ensure that all migrants have proof of legal identity and adequate documentation

The right to a nationality is a fundamental human right connected to all other human rights, as well as being necessary to access regular migration pathways. Being able to prove nationality affects every aspect of the migration experience and is essential to the orderly administration of migration and prevention of statelessness. All countries in Asia and the Pacific are States Parties to the Convention on the Rights of the Child, which addresses the right to birth registration and to acquire a nationality. However, very few have acceded to conventions that address statelessness, and birth registration in practice remains complicated, especially for migrants in an irregular situation. In this context, civil registration and vital statistics (CRVS) can play a critical role in achieving inclusive, equitable and people-centred development. Countries in the region have agreed to a Regional Action Framework on CRVS (2014), and to proclaiming 2015-2024 as the Asia and Pacific CRVS Decade.

Objective 8: Save lives and establish coordinated international efforts on missing migrants

Search and rescue is a vital element of border management and of ensuring safe migration. States are obligated under international law to make every effort to protect the right to life, whenever a person is at risk on water or on land and regardless of their nationality or status or the circumstances in which they are found. Numerous migrants have died or gone missing in mixed movements along their migration routes within and outside the region, and many deaths and disappearances go unreported and unrecorded. There are, to date, no regional mechanisms ensuring safe, equitable and predictable disembarkation of people in distress at sea.

Objective 9: Strengthen the transnational response to smuggling of migrants

Smuggling of migrants is prevalent in the Asia-Pacific region. Migrants resort to smugglers due to the costs and barriers associated with regular migration, and smugglers exploit and profit from the need of people to migrate. Thus, migrant smuggling is deeply embedded in the socioeconomic dynamics of the region. The lack of accessible, safe and legal pathways for migration fuels this activity, exposing migrants to human rights violations and legal jeopardy. States are called upon to cooperate broadly in addressing these crimes, beyond efforts on intercepting irregular movements. Many States in the Asia-Pacific region have criminalized migrant smuggling in some form, and some have introduced related legislation to protect migrants who have been smuggled. Notwithstanding such developments, incorporation of migrant smuggling into national law has been uneven.

Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

Trafficking in persons in the Asia-Pacific region is a significant problem. It is a crime as well as a human rights violation and has also been recognized as a development issue. Several Asia-Pacific States have taken steps to ensure that trafficked persons are not prosecuted for violations of immigration laws, and most have ratified the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000). Despite action at national

and subregional levels and in multi- and bilateral cooperation, the challenges presented by human trafficking require a more comprehensive approach that centres on the human rights of trafficked persons and ensures increased access to safe migration and decent work.

Objective 11: Manage borders in an integrated, secure and coordinated manner

Secure borders are essential elements of a comprehensive and holistic approach to migration governance, enabling States to ensure the security of all those within their jurisdiction. In exercising this prerogative, States need to fulfil their obligations relating to protection of the rights of people on the move, including those arriving at borders with varying needs. Multi agency coordination at the national level, along with international cooperation across borders, are essential components of effective border management. Cross-border movements in the Asia-Pacific region are vast, varied and complex. Borders across the region are also increasingly digital, raising new concerns for data protection and privacy risks for migrants. There have been several initiatives focused on rights-based training of border officials in the region, including with a focus on gender-responsive law enforcement. However, enhanced capacity-building is needed, in particular with regard to gender-inclusive law enforcement and child-sensitive responses at international borders.

Objective 13: Use migration detention only as a measure of last resort and work towards alternatives

Detention is a frequent response to irregular migration in Asia and the Pacific, and in many cases is, de facto, open-ended, constituting arbitrary detention. The right to personal liberty is an essential component of legal systems, and benefit of the rule of law is guaranteed under the international human rights framework. Therefore, migrants should not be detained solely on the basis of their irregular entry or residence, including for children, on grounds of their or their parents' migration status, and detention should only be used as an exceptional measure. Although some States and subregional actors are seeking to limit detention and explore alternatives, especially for children, there is room for improvement in reducing or eliminating the practice of immigration detention, and in the use of non-custodial, community-based alternatives.

Objective 21: Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

States have sovereign prerogatives to determine who may enter and remain on their territory, subject to their obligations under international law. In Asia and the Pacific, many migrants return to their origin country without assistance, and most return movement within the region is intraregional. Voluntary return should always be promoted in preference to forced or coerced return. However, several States do not fully comply with their non-refoulement obligation not to expel, return or extradite a person to another State, even when substantial evidence indicates they would be in danger of torture or other serious human rights violations. In some countries in the region, migrants also often face situations amounting to collective expulsion. Support for reintegration of returned migrants should be strengthened, with a view to more rights-based, gender-responsive and child-sensitive programmes for returning migrants.

2. Objectives of the consultations

The purpose of the stakeholder consultations is to facilitate and expand collaboration, participation in the regional review process, and in particular to elicit stakeholder experiences and views around the review objectives, namely:

- Take stock of the overall progress of implementation of objectives to date
- Identify key challenges, opportunities, gaps and emerging issues
- Identify established and emerging good practices and lessons learnt

- Identify resource requirements and capacity building needs
- Formulate recommendations

3. Content and format

The consultation will consist of an opening followed by two rounds of three simultaneous working groups and a closing plenary (please see agenda for more details). The working groups will address all seven relevant objectives of the Global Compact for Migration as follows:

- **Working Group 1:** objectives 4, 8 and 21
- **Working Group 2:** objectives 9 and 10
- **Working Group 3:** 11 and 13

The consultation is a closed meeting and will not be recorded. In order to have open and frank discussions, we will follow the Chatham House Rule, which means that participants are free to use the information received, but may not reveal the identity or the affiliation of the speaker(s), or of any other participant.

A summary note of the consultation will be drafted and made publicly available after the consultation. Registration will close on Sunday 15 November at 24:00 hrs (midnight) (*Bangkok time*).

4. Organizing team

This stakeholder consultation is co-designed and implemented by a team of stakeholders and United Nations agencies.²

5. Participants

Participation in the stakeholder consultations should be balanced with regard to geography/region, gender and area of work/sector (please see stakeholder categories, as identified in General Assembly resolution 73/195 and 73/326 and listed in the background note on stakeholder engagement for the regional review in Asia-Pacific, listed below).

In the interest of ensuring diverse representation at the consultation, we ask that only one person per organization participates.

Please feel free to forward the invitation to colleagues and partners. Please remember that all participants need to register for the meeting by Sunday 15 November at 24:00 hrs (midnight) (*Bangkok time*).

6. Expected outcomes and next steps

To ensure meaningful, inclusive, transparent and diverse participation by stakeholders with respect to reviewing progress towards GCM objectives 4, 8, 9, 10, 11, 13, 21.

² The organizing team includes Asia Pacific Mission for Migrants, Asia Pacific Refugee Rights Network, Bonigi, Dhaka Ahsania Mission, Udyama, Help- Hilfe zur Selbsthilfe, International Detention Coalition, Lord's Universal College of Education - University of Mumbai, OHCHR, UNICEF, UNODC.

Summary report drafted by the Regional United Nations Network on Migration (with input by relevant stakeholders participating in the consultation) and to be posted on the ESCAP, and United Nations Network websites.

7. Background

In resolution 73/195 (“Global Compact for Safe, Orderly and Regular Migration”), the United Nations General Assembly:

- Committed to a whole-of-society approach promoting broad multi-stakeholder partnerships to address migration in all its dimensions by including migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, national human rights institutions, the media and other relevant stakeholders in migration governance (para 15 (j)).
- Committed to implementing the Global Compact at the national, regional and global levels in cooperation with all relevant stakeholders including migrants, civil society, migrant and diaspora organizations, faith-based organizations, local authorities and communities, the private sector, trade unions, parliamentarians, National Human Rights Institutions, the International Red Cross and Red Crescent Movement, academia, the media and other relevant stakeholders (para 41 and 44).

8. Background documents

[Concept Note: Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration](#)

[Ensuring meaningful engagement of civil society and all relevant stakeholders in the Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration](#), 23 July 2020

Additional information is available on the UN ESCAP dedicated [website](#)