



SOUTHERN AFRICAN
MIGRATION PROJECT

M I D S A

Migration Dialogue for Southern Africa



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Report and Recommendations of the MIDSA Workshop on:

The Report of the Global Commission on International Migration and the Harmonisation of Policies and Practices on Migration in Southern Africa

12 – 14 December 2005
Sandton, Republic of South Africa

Countries, Presenters and Observers

The MIDSA Workshop on the Report of the Global Commission on International Migration (GCIM) and Migration Harmonisation in SADC was held in Sandton, Republic of South Africa on 12 – 14 December 2005. The governments of Angola, Botswana, the Comores, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Seychelles, Swaziland, Tanzania, Zambia and Zimbabwe participated. The GCIM, the African Union (AU), the International Labour Organisation (ILO), the United Nations High Commissioner for Refugees (UNHCR), the Common Market for East and Southern Africa (COMESA), the South African Immigration Advisory Board, Save the Children (UK), various Embassies and High Commissions and IOM and SAMP were also represented.

Summary of Proceedings

Opening Session

Mr Hans-Petter Boe, IOM Regional Representative for Southern Africa, and **Dr Jonathan Crush**, Director of the Southern African Migration Project (SAMP) welcomed participants and presenters, and reflected on the importance of the MIDSA process in the context of the growing importance and relevance of migration on the internal policy agenda. They expressed the gratitude of the organisers to the Government of South Africa for hosting and supporting the workshop.

Dr Khalid Koser, on behalf of the GCIM, thanked the MIDSA organisers for the opportunity given to the GCIM to present its report and to engage the governments participating in the MIDSA process in reflecting on and engaging with the contents and recommendations of the report.

Mr. Burton Joseph, representing the South African Department of Home Affairs, welcomed participants on behalf of the South African government. He reflected on the importance of migration at a global, regional, sub-regional and national level, specifically in the African context of poverty and under-development. He noted that there are several African initiatives underway that had to be incorporated into a discussion about the harmonisation of migration in the SADC region, including the Protocol on Facilitation of the Movement of Persons, which had been signed by several SADC Member States. Yet, there was a well-known problem with capacity to deal with these challenges at several levels of governments, and South Africa therefore warmly welcomed IOM's Regional Technical Cooperation Service Centre that was being established in Pretoria in January 2006.

GCIM Report Presentation

Dr. Mamphela Ramphele and **Mr. Jan Karlsson**, the co-chairs of the GCIM provided background and contextual information about the work and mandate of the GCIM and particularly spoke of the relevance of the GCIM report for the African continent. Dr. Ramphele stressed the relationship between issues of migration and the 3 D's; namely, Development, Democracy and Demography and the importance of making sure that Africa benefits from international migration. Mr. Karlsson echoed Dr. Ramphele's comments related to African migration and noted that to a large extent, the norms and standards related to the management of international migration are based on research and data obtained in a North America and European context and emphasised the need for further research in the African context. He also highlighted the need for policy cohesion both within government systems at the national level and at the Regional level. In this regard he reiterated the importance of countries working together in Regional Consultative Processes (RCPs) such as MDSA. He stressed that migration had doubled in volume over the past twenty-thirty years, and was set to continue growing, and government systems were not ready to cope with either controlling it or tapping into the benefits of human mobility. Dr. Khalid Koser presented the key recommendations of the GCIM in the six thematic areas relating to the global labour market, economic development, irregular migration, the normative framework affecting migrants, migrants in society and the governance of international migration and participants were provided with the opportunity to reflect on how the findings and recommendations of the GCIM may impact on SADC member states individually and collectively.

Harmonisation in the Global Context

Ms Michele Klein Solomon, Deputy Director of IOM's Migration Policy Research and Communications Department (Geneva), presented an overview of international developments in the area of migration management and harmonisation with specific reference to the IOM World Migration Report, the last World Bank Report on Global Economic Prospects, the Berne Initiative, and the GCIM report. She noted that interest in migration is at an 'all-time high' at the global level and that there is increasing consensus that well-managed migration has many potential benefits. She described the process leading to the proposed format and contents of UN General Assembly's High Level Dialogue on Migration and Development (HLD), which is due to take place in

September 2006. She encouraged the MIDSA participants to become involved in both the preparations and outcome of the HLD.

Mr. M.A. Ibrahim, Charge D’Affairs and Regional Representative for Southern Africa, African Union (Lilongwe), presented an overview of the African Union’s Strategic Framework on International Migration and outlined the process envisaged for the eventual adoption of the framework by member states of the AU. He noted the particular concern that the AU has for refugees, IDP’s and other vulnerable groups, particularly women and children. Mr. Ibrahim also referred to the Multi-Lateral Framework on Labour Migration that had been submitted to the AU by the ILO and noted that this was all part of a process of developing cohesive migration policies and frameworks for the entire continent. Following decisions made at the margins of the last AU Summit at Sirte, Libya, Member States were asked to provide comments and amendments to the combined document that emerged from Sirte, however not all countries had done so. The next discussion on the document was envisaged for the AU Executive Council in January, 2006. During the subsequent discussions, several participants expressed their concern about the fact that the consultative process as agreed to by AU member states appears to be lacking, or unclear, and encouraged Mr. Ibrahim to take these concerns back to the AU Secretariat.

Ms. Judica Amri-Makheta, Director of the ILO Office in Pretoria, presented an overview of the ILO Conventions related to migration for employment, with a specific focus on the Migrant Workers Convention. She noted that many of the provisions in the ILO convention are designed to prevent the exploitation and abuse of regular migrants workers by affirming their rights and ensuring that they achieve equal treatment with the nationals of the country in which they are working. She also noted that the Migrant Workers Supplementary Convention further affirmed the basic human rights of migrant workers and that it also sets out social rights and entitlements of migrant workers. However very few SADC States had acceded to these Protocols.

Harmonisation in the SADC Regional Context

Mr. Vincent Williams of the Southern African Migration Project (SAMP) provided a summary of the key provisions of the SADC Protocol on the Facilitation of Movement of Persons that was adopted at the SADC Summit that was held in Gaborone, Botswana in August 2005. He expressed the view that the protocol did not represent a significant departure from the current status quo, given that it largely affirms developments already taking place in the region. He also noted that the provisions of the protocol placed substantial obligations on State Parties, in terms of policy and legislative review and amendments, logistical capacity and requirements and international and national co-operation and co-ordination, but that it was silent on the matter of the rights and entitlements of migrants, especially once they were on the territory of another state. He expressed the opinion that the protocol was not likely to have a significant impact on the volumes and patterns of migration in the region.

Professor Jonathan Klaaren, Director of the Mandela Institute at Wits University, presented a summary of the MIDSA Report on Migration and Population Legislation in

the SADC Region. The four key themes of the report reflect on the similarities and differences in policies and legislation of SADC member states related to citizenship, registration of births and deaths and the issuing of identity documents (Population Register), immigration and the protection of refugees and asylum-seekers. He noted that while there were some key differences between the policies and legislation of some member states, that there existed a high degree of consistency that would facilitate the harmonisation of policies and legislation in all four thematic areas.

Country Updates

Participants from all countries were given the opportunity to briefly summarise and to provide an update on the situation in their own countries and steps that they have taken or are intending to take towards the achievement of migration harmonisation. It became apparent from these reports that, despite perceptions to the contrary, most SADC member states have already taken significant steps to promote harmonisation, or at least co-operation in the field of migration management and the facilitation of movement between countries. Of particular significance was the number of reports of bilateral agreements pertaining the visa-free entry of persons from one SADC member state into another SADC member state.

Breakaway Groups

During the break-away session, participants were asked to discuss the desirability and possibilities of harmonising migration policies, legislation and practices in the SADC region and what the obstacles might be to achieving such harmonisation. Participants were also asked to put forward recommendations for steps and actions that could be taken by governments, inter-governmental organisations, civil society organisations and other stakeholders to promote harmonisation. The conclusions and recommendations that were presented in the reports of the groups are synthesised below.

Conclusions and Recommendations

The participants in the MIDSA Workshop on Harmonisation, representing 15 governments in Southern Africa, expressed their appreciation to Dr. Mamphela Ramphele and Mr. Jan Karlsson, the Co-chairs of the Global Commission on International Migration (GCIM) as well as Dr. Khalid Koser of the GCIM Secretariat for their launch, and elaboration, of the findings and conclusions of the GCIM at the MIDSA workshop. Participants noted that while the conclusions and findings were of significant relevance to the sub-region, the specific realities of migration in the sub-region needed to be taken into account to determine the extent to which governments and other actors may implement the recommendations that are contained in the GCIM report.

In terms of working towards the harmonisation of migration policies, legislation and practices in the Southern African sub-region, participants agreed that such efforts were desirable since it contributed to and are consistent with the objectives of regional economic, political and social integration as well as enabling the sharing of capacity, including information, knowledge and expertise to manage migration in the sub-region

collectively. The development of cohesive and complementary migration policies, rules and regulations in the Southern African region could lead to significant advantages in terms of global integration and will have many direct benefits for Southern African states, such as promoting tourism, providing for better and more efficient migration management, enhancing security, developing a common understanding of the rights of migrants and attracting investments. Like GCIM and other discussions had underlined, participants stressed that migration is and will continue to be a reality globally and in the sub-region and that harmonisation could only contribute to the development of better and more efficient management systems and procedures that will be to the advantage of all – including the Southern African sub-region.

It was noted that many initiatives related to harmonisation were already underway, including existing bilateral agreements between member states, the commitment of many Ministers and Heads of State when they signed and adopted the SADC Protocol on the Facilitation of Movement of Persons and in some cases, the review and amendment of existing migration policies and legislation. Participants were of the view that such initiatives and efforts need to be continued and enhanced, not least by the SADC Secretariat.

It was noted, however, that there are many obstacles to the achievement of complete harmonisation. These include issues related to the sovereignty of member states, economic disparities, limited and uneven capacity in terms of infrastructure (technical capacity), human resources and skills, revenue generation and distribution, negative impacts on service provision and infrastructure in host countries, an increase in the brain drain from some countries, as well as concerns that a substantial increase in migration could lead to xenophobic attitudes and behaviour becoming more prevalent.

Recommendations

In view of the above, the following recommendations were put forward by participants:

1. The existing initiatives that promote the harmonization of migration policies, legislation and practices should be continued and enhanced.
2. SADC member states that have not yet signed the SADC Protocol on the Facilitation of the Movement of Persons are encouraged to do so.
3. Existing policies related to migration, and relevant legislation, should be reviewed and amended to the extent required to achieve a greater degree of complementarity and consistency between member states. A SADC-driven process should be encouraged, with the SADC Secretariat in the lead.
4. Technical and other forms of assistance should be provided to states in the sub-region with less capacity and fewer resources, to enable them to participate in the ongoing process of harmonization.
5. The process of harmonization should not be limited to the actions and initiatives of government departments involved in migration regulation, but should include all stakeholders, such as in sectors of education, labour, health and development.

To this effect, consideration should be given to convening national meetings of all relevant stakeholders, including civil society organizations, to discuss the process of migration harmonization in the region, and include the implications of freer human migration on the agendas of other regional ministerial consultations.

6. Public awareness and mass education programmes should be undertaken to popularize the SADC Protocol on the Facilitation of Movement of Persons, to create a broad-based understanding of the benefits of migration harmonization, and to reduce or preempt fears and negative perceptions that might contribute to xenophobic attitudes and behaviour.
7. The process of implementing the SADC Protocol and other steps towards the achievement of harmonization should be facilitated centrally and ideally by the SADC Secretariat (see 3 above).
8. The experiences of migration harmonization in other regions should be analysed and evaluated by the MIDSA Secretariat to extract the potential lessons that can be learnt and applied in the SADC sub-region.
9. High-level meetings to facilitate dialogue and promote ongoing efforts to achieve harmonization should be held at national, sub-regional and regional levels.
10. Consideration should be given to allocating a portion of the MIDSA workshop scheduled for March/April 2006 to assist SADC member states to prepare for the UN General Assembly's High Level Dialogue (HLD) that will take place in New York in September 2006.

Information session on the MIDSA Process

Mr. H.P. Boe, IOM, noting that this had been the first MIDSA event for many of the participants, discussed where MIDSA had been, and where it was heading. It was clear that while the informal and non-binding nature of the workshops had been upheld ever since 2000, many of the recommendations actually made it to decision-making levels in capitals and in regional (SADC) deliberations. For example, several recommendations of the last workshop on Harmonisation (Maseru, December, 2003) had in effect been carried out. He also held out another successful workshop, on Migration and Development (Zanzibar, March, 2004), which had recommended that MIDSA repeat this theme once a year. This had not been possible due to budget constraints, however he was pleased to announce that funding seemed assured to undertake, in line with the recommendation above, a MIDSA event in April, 2006 on Migration, Development and Poverty. This could conceivably occur ahead of the SADC Consultative Conference, which planned for 26-27 April at Windhoek, Namibia. This would also provide a possibly unique and well timed opportunity for MIDSA participants to share, and collect, their thoughts on a Region-wide approach to the UN HLD mentioned above. He took the opportunity to mention that IOM had issued an appeal for \$900,000 for funding of the MIDSA work programme 2006-07 and urged support from participating States. This appeal, if funded would also ensure a small MIDSA secretariat which could undertake vital

communications and follow-up efforts with participating States, which had been difficult up to now.

Participants welcomed the update and concurred with the notion of an HLD-oriented session at the next MIDSA workshop, and that subject to funding, national Treasuries/Ministries of Finance could be invited, in addition to the three Ministries participating at the present workshop. Participants also noted that three workshops in a row had now been held in South Africa and suggested other countries could also host them. Mr. Boe stressed that this was indeed the intention of the organisers, as it was a MIDSA tradition, but that this had more recently been hampered by budgetary and logistical limitations, which he again hoped would improve.

Closing Session

Messrs Williams and Boe, on behalf of the organisers, thanked participants and presenters for a very active and productive workshop, and noted the high level of many participants at this workshop. It was clear that migration was recognized as an emerging feature of globalisation, calling for increased harmonization at bilateral, regional and inter-regional levels. Policy cohesion on migration was also a powerful vehicle for regional integration, including within Southern Africa. However, as was made clear by both GCIM and MIDSA participants during the discussions, governments first had to work toward cohesion and capacity building at the national levels as well as within in the SADC institutions.

Mr. Johann Paschalis, Deputy Director, Multilateral Affairs, Department of Foreign Affairs of South Africa, thanked the organisers, presenters, and participants on behalf of South Africa, for holding this workshop in South Africa. The issue of cohesion and harmonization on migration in SADC was of great interest to South Africa, not least given that it was the current Chair of G-77, which was also engaged in preparing for the HLD.

The MIDSA workshop was declared closed.