



International
Labour
Organization

**A global comparative study
on defining recruitment fees
and related costs**

**Interregional research on law,
policy and practice**



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A global comparative study on defining recruitment fees and related costs: Interregional research on law, policy and practice

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Contents

Acronyms and abbreviations	vii
Definitions of terms used	viii
Acknowledgement	x
Executive summary	xi
1. Introduction	1
2. Methodology and limitations	5
2.1. Methodology.....	6
2.2. Coverage.....	7
2.3. Limitations of the study.....	8
3. International labour standards relevant to recruitment fees and related costs	9
3.1. Guidance on what constitutes recruitment fees and related costs.	10
4. Review of national policies on recruitment fees and related costs	17
4.1. The ratification of ILO Conventions Nos 88, 96 and 181.....	20
4.2. Regulation of fee and cost charging by private employment agencies.....	22
4.3. Regulation of public employment services	23
4.4. Prohibition of recruitment fees and related costs for workers	24
4.5. Regulation of recruitment fees and related costs	31
4.6. Application of regulations to national and international recruitment.....	34
4.7. National definitions, cost categories and cost-sharing arrangements.....	36
4.8. Policies prohibiting or limiting fees and costs: Focus on skills, specific sectors and gender.....	41
4.9. Compliance and sanctions	45
4.10. International cooperation through bilateral agreements and memoranda of understanding	46
4.11. Commitment to regional obligations	50
4.11.1. The EU Directive on Temporary Agency Work	50
4.11.2. African migration policy frameworks	51
5. Business-led, trade union and multi-stakeholder initiatives	53
5.1. Organizations with a general statement on “no fee charging” of workers	55
5.2. Organizations with detailed listings of costs	56
5.3. Self-regulation	60

6. What workers pay in practice: Findings from international and national research on recruitment fees and related costs	61
6.1. Global surveys to measure migration costs.....	62
6.2. National research reports.....	64
7. Towards a definition of recruitment fees and related costs	69
7.1. The recruitment process and associated costs.....	70
7.2. The hidden costs of corruption	72
7.3. The most comprehensive definitions of recruitment fees and costs provided in national policies.....	73
7.4. Comprehensive definitions provided in business-led and multi-stakeholder initiatives	78
7.5. Comparison of cost categories and cost-sharing arrangements in national laws and policies, bilateral agreements and multi-stakeholder initiatives.....	79
8. The Definition of Recruitment Fees and Related Costs	83
References	88

List of boxes

Box 1. List of related recruitment cost items mentioned in at least one legislation or policy.....	37
Box 2. New Zealand: Recognised Seasonal Employer scheme.....	41
Box 3. Bilateral agreements of Mexico with Canada and the United States ...	48

List of figures

Figure 1. Policies and their application to national or international recruitment	35
Figure 2. Cost-sharing arrangements stipulated in laws and policies of 27 economies that have detailed recruitment costs and fees....	38

List of tables

Table 1. National policies on regulating fee charging of recruitment fees and related costs to workers	19
Table 2. Ratification of the Private Employment Agencies Convention, 1997 (No. 181), the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), and the Employment Service Convention, 1948 (No. 88), by region	21
Table 3. Selected examples of policies that prohibit the charging of recruitment fees.....	26
Table 4. Policy approaches in regulating recruitment fees and related costs	32
Table 5. National policies on recruitment fees and related costs: Focus on specific sectors.....	44
Table 6. Provisions in national policy to sanction violations	45
Table 7. Definition and itemization of recruitment fees and related costs according to the policies of selected countries	74
Table 8. No. of mentions of cost categories in national laws/policies, bilateral agreements, and business-led and multi-stakeholder initiatives, with no. of indications of whether workers should pay said costs.....	80

Appendix

Appendix 1. Definitions of recruitment fees, related costs and cost sharing arrangements	92
Appendix 2. Definitions of recruitment fees and itemization of related costs by selected multi-stakeholder initiatives/organizations.....	106
Appendix 3. Bilateral agreements and their definition of recruitment....	114



► Acronyms and abbreviations

ALP	Association of Labour Providers
ATEST	Alliance to End Slavery and Trafficking
AU	African Union
BA	bilateral agreement
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEO	Chief Executive Officer
CGF	Consumer Goods Forum
CIETT	Confédération internationale des agences d'emploi privées (International Confederation of Private Employment Agencies)
ECOWAS	Economic Community of West African States
EPS	Employment Permit System [Republic of Korea]
EU	European Union
IHRB	Institute for Human Rights and Business
IOM	International Organization for Migration
IRIS	International Recruitment Integrity System
ITUC	International Trade Union Confederation
KNOMAD	Global Knowledge Partnership on Migration and Development
MOEAF	Myanmar Overseas Employment Agencies Federation
MOU	memorandum of understanding
OEP	Overseas Employment Promoter [Pakistan]
OWGLMR	Open Working Group on Labour Migration and Development
RBA	Responsible Business Alliance
RSE	Recognised Seasonal Employer [New Zealand]
SADC	Southern African Development Community
SDG	Sustainable Development Goal
TORs	terms of reference
UN	United Nations
WEC	World Employment Confederation

▶ Definitions of terms used

The definitions adopted in this paper are taken from the ILO General Principles and Operational Guidelines for Fair Recruitment and include:

- ▶ **The term “employer”** refers to a person or an entity that engages employees or workers, either directly or indirectly.

- ▶ **The term “enterprise”** refers to employers, labour recruiters other than public employment services, and other service providers involved in the recruitment process.

- ▶ **The term “labour recruiter”** refers to both public employment services and to private employment agencies and all other intermediaries or subagents that offer labour recruitment and placement services. Labour recruiters can take many forms, whether for profit or non-profit, or operating within or outside legal and regulatory frameworks.

- ▶ **The term “migrant worker”** means a person who migrates or has migrated to a country of which he or she is not a national with a view to being employed otherwise than on his or her own account.

- ▶ **The term “recruitment”** includes the advertising, information dissemination, selection, transport, placement into employment, and – for migrant workers – return to the country of origin, where applicable. This applies to both jobseekers and those in an employment relationship.



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Ma. Alcestis (Thetis) Mangahas, senior labour migration expert and former Regional Deputy Director of the ILO in Asia and the Pacific, carried out the global comparative study. She was supported by five regional experts who produced the regional reports:

- ▶ The Americas – Ms Donna Cabrera. The regional report is published as a stand-alone publication: ILO, *Regional Study on Defining Recruitment Fees and Related Costs: The Americas*, 2020.
- ▶ Asia – Mr Geoffrey Ducanes. The regional report is published as a chapter in ADBI, OECD, and ILO, *Innovative Approaches for the Management of Labour Migration in Asia*, 2020.
- ▶ Arab States – Mr Ray Jureidini.
- ▶ Africa – Ms Zaheera Jinnah. The regional report is published as a section in Mansour Omeira, *The Recruitment of Migrant Workers to, within, and from Africa* (ILO, forthcoming).
- ▶ Europe – Mr Piotr Plewa.

The ILO would like to extend thanks to the numerous technical staff who provided invaluable inputs to the report. Maria Gallotti and Heike Lautenschlager coordinated the overall production and finalization of the Global Study. Katerine Landuyt contributed the chapter on “International labour standards relevant to recruitment fees and related costs”. Eliza Marks, Regis Blanc and Sandra Berger verified in detail the data contained in charts and tables. Technical comments to the report were provided (in alphabetical order) by Nilim Baruah, Helene Bohyn, Igor Bosc, Ryszard Cholewinski, Neha Choudhary, Phil Fishman, Adam Greene, Basanta Kumar Karki, Christiane Kuptsch, Jesse Mertens, Henrik Moller, Alix Nasri, Victor Hugo Ricco, Max Tunon, Anna Olsen, Cristina Campayo Soriano, Nguyen Thi Mai Thuy, and Lisa Wong.

The report was copyedited by John Maloy and graphic design was completed by Dina Alwani. The responsibility for any errors or misrepresentation rests solely with the authors.

Note on COVID-19 (June 2020).

This report was conceptualized, researched (including quantitative and qualitative data collection) and finalized by the ILO prior to the COVID-19 pandemic. The pandemic's impact on the recruitment fees and costs paid by migrant workers is being monitored by the ILO – including through the SDG 10.7.1 methodology. The analyses of laws and policies on recruitment fees and related costs remain relevant as governments plan for the immediate and long-term response to COVID-19. For further information on how COVID-19 has impacted international recruitment practices, please see ILO, “Ensuring Fair Recruitment During the COVID-19 Pandemic”. ILO Brief. June 2020.

► Executive summary

At the time of publication of this Global Study, the COVID-19 pandemic is having an enormous impact on workers' mobility across borders, particularly due to the imposition of strict limitations on international travel. The unprecedented reduction in economic activity is critically impacting all workers, including migrant workers, putting them in economic peril, and endangering their health and psychosocial wellbeing. Nevertheless, countries and business are and will continue recruiting workers nationally and internationally, in particular into those sectors considered essential.¹ While recruitment practices are adapting quickly to respect COVID-19 prevention measures, a grave concern is that the contraction of the global labour market will increase pressure on migrant workers to pay high recruitment fees and related costs as they are forced to "compete" for scarce jobs abroad, particularly the low-wage jobs most often accessible to migrant workers. In this rapidly changing context during the crisis, the implementation of agreed international labour standards, in particular the ILO Employment Service Convention, 1948 (No. 88) and ILO Private Employment Agencies Convention, 1997 (No. 181), in addition to General Principles and Operational Guidelines on Fair Recruitment is essential.²

Already prior to the pandemic, evidence has repeatedly shown that the payment of recruitment fees and related costs significantly increases the risk to workers of experiencing forced labour, debt bondage and human trafficking. The ILO has found that the "costs of coercion were approximately US\$21 billion, with the total amount of underpaid wages estimated to be US\$19.6 billion, with the remaining US\$1.4

billion attributed to illegal recruitment fees" (ILO 2014b, 10). At the same time, recruitment costs are a significant subset of labour migration costs, and survey data has shown that recruitment costs can amount to nine months or more of average monthly earnings in some corridors (ILO 2017a, para. 166). As the COVID-19 pandemic continues to spread across the world, workers are now facing new challenges in their recruitment processes, but the issue of payment of recruitment fees and costs persists. Workers may no longer be able to be (re)deployed due to travel restrictions and delays in processing of documentation, with the obvious risk of losing their jobs. They may already have paid fees and costs related to their recruitment or deployment and face difficulties in obtaining reimbursements³. The analyses of laws and policies on recruitment fees and related costs presented in this Global Study can serve as a useful guidance and reference point while governments and social partners plan and implement the immediate and long-term response to COVID-19, including the prevention of abusive and fraudulent recruitment practices.

This global comparative study (Global Study) was concluded in order to advance the ILO's work on promoting Fair Recruitment, in particular to reduce recruitment fees and related costs paid by workers. The ILO General Principles and Operational Guidelines for Fair Recruitment provide a definition of "recruitment fees or related costs", as "any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection". Principle 7 expressly prohibits the charging of these

-
- 1 Agriculture, care work, manufacturing and construction, among others, and depending on national context.
 - 2 The ILO's General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs clearly identify that governments have a responsibility to respect human rights and labour rights and to promote fair recruitment at all times, both within and across national borders, including in conflict and crisis situations (Operational Guideline 12).
 - 3 An ILO survey of 3,093 Association of Southeast Asian Nations (ASEAN) migrant workers identified a number of respondents whose migration plans had stalled; an ILO survey with recruitment agencies in the Philippines reported the same issue, from the perspective of the recruitment agencies.

fees and related costs to workers. Given the absence of a globally accepted “definition of fees and related costs”, the experts participating at the Tripartite Meeting of Experts that adopted the ILO General Principles and Operational Guidelines on Fair Recruitment suggested the subject was something that future work by the ILO might make more precise. The Office was subsequently mandated to convene a tripartite meeting of experts in order to review, amend and adopt draft definitions on recruitment fees and related costs based on a global comparative study (ILO 2017c).

The Global Study was based on five regional reports, aimed to identify and analyse the national and international responses to addressing issues of high recruitment fees and related costs through a comparison of relevant national laws and policies in different regions. In particular, the study focused on:

- a. the definition of recruitment fees and related costs in national laws and policies, including bilateral and multi-country agreements, the cost categories and itemized costs, and how these were charged;
- b. an analysis of policy differences across the five regions, including their application to workers and jobseekers applying for employment nationally or internationally, as well as regulations applied to specific sectors or migration corridors, and the use of monitoring mechanisms and the imposition of penalties and sanctions for non-compliance; and
- c. a review of multi-stakeholder initiatives providing guidance on the implementation of a no-fee-charging policy to workers and jobseekers.

While it is not meant to be a comprehensive global survey, the study nevertheless reviewed:

- a. policies of 90 countries that took a position or definition on the regulation or prohibition of recruitment fees and related costs;
- b. 18 bilateral agreements (BAs) and memoranda of understanding (MOUs) that provided information on recruitment fees and related costs; and
- c. 12 private voluntary guidance documents from diverse stakeholders, including business groups, large multinationals in global supply chains, and civil society organizations. Promoting the “employer pays” or “workers do not pay” principles, these documents provided a definition or details of recruitment fees and related costs.

In total, the study reviewed 99 policies, as eight countries⁴ had more than one relevant policy with different scopes and purposes.⁵ The analysis of findings provides a clearer picture of how Member States have addressed the issue of recruitment fees and related costs at the policy level. In summary:

- Of the 59 countries with a policy prohibiting charging fees to workers, 44 (75 per cent) apply their policy to both national and international recruitment. Of the 36 countries with a policy regulating fees and related costs to workers, 13 (36 per cent) apply their policy to both national and international recruitment.
- Prohibition of fees for workers is the dominant policy approach, which has been adopted by 63 national policies (63 per cent). The majority of these 63 policies (44, or 70 per cent) cover both national and cross-border recruitment;

4 Countries with multiple policies: Belgium (2), Ethiopia (2), India (2), Malta (2), New Zealand (2), the Philippines (2), United Arab Emirates (2) and Qatar (3).

5 For example, Ethiopia prohibits fee charging by public employment services for national recruitment, while regulating fees and related costs to be charged to workers being recruited internationally by private employment agencies. India has a state policy prohibiting fees charged to domestic workers being recruited nationally, while regulating fees and related costs charged to workers recruited internationally. Qatar has separate policies for migrant workers recruited into the domestic work and construction sectors. The Philippines sets a maximum ceiling on recruitment fees and identifies related cost items to be charged to workers recruited internationally, while prohibiting recruitment fees for domestic workers (though they can still be charged related costs).

11 (17 per cent) exclusively refer to international recruitment; and 8 (13 per cent) pertain only to national recruitment.

- ▶ Thirty-six policies regulate fees and related costs. Over a third (13, or 36 per cent) refer to both national and international recruitment; 19 (53 per cent) refer to only international recruitment; and 4 (11 per cent) cover only national recruitment. There are distinct policy differences among the regions. For example, European countries largely prohibit any form of fee charging to workers and tend to apply this to both national and international recruitment and specifically to temporary employment agencies. While in Asia and the Pacific, where a separate ministry has often been created to govern labour migration, most countries regulate the charging of fees and related costs through international labour migration laws and policies, and hence half the policies focus exclusively on international recruitment. The Arab States tend to prohibit fee charging to workers recruited from abroad. The Americas have more countries prohibiting fee charging than regulating fees and related costs. Policies from countries in the Africa region are evenly divided across these two options.
- ▶ Only in a few cases do national laws and regulations focus on a specific sector – for example agriculture,⁶ domestic work⁷ or construction.⁸
- ▶ Sixty-six countries (73 per cent) have legal provisions to sanction violations of policies on fees and related costs, including suspension, revocation of licences, imposition of fines and penalties, and criminal charges. Monitoring and enforcement of national laws and policies on fee and related cost charging, however, is limited.

- ▶ Twenty-seven countries have formulated full or partial definitions of recruitment fees and related costs. Six have included a full definition of their recruitment fees and costs, while the others have itemized cost categories and identified cost-sharing arrangements.

While the agreement of global initiatives and targets on reducing recruitment costs might imply that there is a common understanding of what these costs are, this Global Study clearly demonstrated that different stakeholders have variant perspectives on what indeed constitute “recruitment fees and related costs”. More problematic was the fact that a literature review of research conducted to understand the perspectives of migrant workers demonstrated that recruited workers, when asked, were often unable to deconstruct or reconstitute the cost breakdown of their payments related to their recruitment processes. The extreme situation is when workers and jobseekers are sceptical of job offers that require no payments for application and access to employment.

The data for the study was collected in 2018, but is being published in 2020, after the adoption of the Definition of Recruitment Fees and Related Costs. Therefore, the adopted Definition is provided in full as the concluding chapter. The legislations and policies referenced in the analysis have also been published in the [ILO’s Global Database: Definition of Fees and Related Costs in National Laws and Policies](#), and are available for public consultation. For a database of definitions of recruitment fees and related costs by multi-stakeholder or business initiatives, readers may refer to the [Global Business Network on Forced Labour website](#). The Definition is already being used by a number of stakeholders and international organizations to revise their policy frameworks.⁹

6 Australia, Mexico, New Zealand, and the United Kingdom of Great Britain and Northern Ireland.

7 Jordan, Kuwait, Lebanon, the Philippines, Qatar, Sri Lanka.

8 Qatar.

9 A number of business initiatives (for example, [Electronics Watch, Responsible Recruitment](#)) have integrated the ILO’s definition into their work; The International Trade Unions Congress (ITUC) has adjusted the definition of recruitment fees and related costs used for its [Recruitment Advisor](#); and the International Organization for Migration has integrated the definition into their [International Recruitment Integrity System \(IRIS\)](#).

The report is composed of eight sections. After summarizing the need and mandate that guided the completion of the study in the first section, the second section explains the study methodology and its limitations. The third section of the report reviews the international labour standards that are relevant to recruitment fees and related costs, and examines to what extent definitions of fees and costs or cost items have been included in employment, sectoral and migration-related Conventions and Recommendations of the ILO.

The fourth, and most substantial, section presents the analysis of national policies on recruitment fees and related costs. The policies are analysed in terms of:

- i. their stance on the prohibition or regulation of the charging of recruitment fees and related costs to workers;
- ii. their application to national and/or international recruitment;
- iii. the cost categories and cost-sharing arrangements they have identified;

- iv. whether they apply to certain skill levels or sectors; and
- v. whether they include provisions to ensure compliance and sanctions for non-compliance.

Section 4 also analyses 18 BAs and MOUs between countries of origin and destination that provide information on cost categories and cost-sharing arrangements.

As the role of social partners is essential in the development of national policies as well as to monitor and eliminate worker-paid recruitment fees and related costs, section 5 reviews trade union, business-led and multi-stakeholder initiatives that have taken a stance on the definition of recruitment fees and related costs. Section 7 looks into the amounts migrant workers pay in practice, and Section 8 provides a roadmap towards a definition of recruitment fees and related costs as well as a comparative analysis of the approach taken by various actors. Section 9 concludes by introducing the ILO-adopted Definition of Recruitment Fees and Related Costs.



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Introduction





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For many years, the ILO and other United Nations (UN) agencies have been raising concerns over recruitment-related abuses, in particular the collection of recruitment fees and related costs from workers, and the risks of debt bondage and human trafficking linked to repayment of recruitment fees (ILO 2016a). Recruitment processes – whether occurring within or across boundaries – always entail costs. In many national practices, these expenses are considered part of labour costs borne by hiring employers. However, with recruitment processes becoming more complex (for example, with the addition of screening tests and placement in more remote work locations), workers willingly or not – have assumed more expenses in their search for desired jobs.

Already when the ILO was founded, the ILO's constituents (governments, workers' organizations and employers' organizations) argued that if the costs were charged to workers, such that job placement of workers was considered a commercial transaction, possible abuses could occur and labour would be reduced to a commodity.¹⁰ The principle that workers should enjoy free placement and employment services has

been recognized in ILO standards for almost 100 years. There is less clarity, however, on what could constitute recruitment fees and related costs.

Evidence shows that recruitment fees significantly increase the risk to workers of experiencing forced labour, debt bondage and human trafficking. The ILO found that the “costs of coercion were approximately US\$21 billion, with the total amount of underpaid wages estimated to be US\$19.6 billion, with the remaining US\$1.4 billion attributed to illegal recruitment fees” (ILO 2014b, 10). At the same time, recruitment costs are a significant subset of labour migration costs, and survey data has shown that recruitment costs can amount to nine months or more of average monthly earnings in some corridors (ILO 2017a, para. 166).

Public and private employment agencies, when appropriately regulated, play an important role in the efficient and equitable functioning of labour markets by matching available jobs with suitably qualified workers. However, evidence shows that unscrupulous recruiters take significant resources away from migrants and other workers through the charging

¹⁰ As implied in section 1 of Part XIII of the Treaty of Versailles and explicitly confirmed in Article I(a) of the 1944 Declaration of Philadelphia; see also ILO 2010, para. 186.

of recruitment fees and through broader economic exploitation. Research has also found that “layers of intermediaries and collusion between local and foreign agents act to the detriment of migrant workers” (Thame, unpublished). Many workers borrow heavily to pay fees and charges related to their search for employment. Low-skilled workers, especially in construction, agriculture and domestic work, tend to be particularly vulnerable to high recruitment costs. Moreover, in order to recover their initial costs as well as support their families abroad and accumulate some savings, migrant workers may risk overstaying their visas or permitted stays and become even more vulnerable to exploitative practices. Failure to pay debts can result in severe personal and social impacts, and eventually workers find themselves trapped in harsh working conditions, low-wage work and abusive situations (Verité and ManpowerGroup 2016). Often, workers themselves do not know what specific costs they are being charged or the reasons that drive up individual cost components.

In response to these challenges, the international community has increasingly recognized that fair recruitment is critical to prevent forced labour, reduce labour migration costs and improve development outcomes for migrant workers and their families. In 2014, the UN Secretary-General at the United Nations General Assembly High-Level Dialogue on International Migration and Development unequivocally stated: “There are enormous gains to be made by lowering costs related to migration, such as the transfer costs of remittances and fees paid to recruiters, especially by low-skilled migrant workers” (UN 2014, para. 113). The Addis Ababa Action Agenda of the Third International Conference on Financing for Development also underscored the need to reduce the costs of labour migration, in particular the cost of recruitment, as these costs pose serious barriers to realizing sustainable development outcomes (UN 2015, para. 111). With the cost of recruitment now a recommended indicator for Sustainable Development Goal (SDG) Target 10.7, the agreement upon a definition of “recruitment fees and related costs” became

an urgent priority for measuring progress (Leighton 2017). Furthermore Objective 6 of the Global Compact for Safe, Orderly and Regular Migration calls on Member States to “facilitate fair and ethical recruitment and safeguard conditions that ensure decent work”, to “prohibit recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers in order to prevent debt bondage, exploitation and forced labour”.¹¹ Businesses, especially those working in global supply chains, have also increasingly recognized that fair recruitment is critical to prevent forced labour, reduce labour migration costs and thereby improve development outcomes for migrant workers and their families. This has led to a proliferation of industry-led initiatives to promote fair recruitment and to eliminate the recruitment fees and costs paid by workers across global supply chains.

ILO efforts to address recruitment-related abuses have gained further impetus in recent years. In 2014, the International Labour Office (henceforth “the Office”) adopted a five-year strategy to strengthen action towards elimination of forced labour and human trafficking. The strategy underlines that a “relevant entry point to prevent forced labour is to stop abuse and deception of workers during recruitment, transportation and placement, whether within or across countries” (ILO 2014c, para. 14). That same year the Report of the ILO Director-General to the International Labour Conference on Fair Migration: Setting an ILO Agenda noted that “instituting fair recruitment processes” was a key future area of work for the ILO and announced the Fair Recruitment Initiative (ILO 2014a, paras 121–125).

The ILO convened a three-day Tripartite Meeting of Experts to Develop Guidance on Fair Recruitment in September 2016, with the objective of adopting comprehensive guidelines on fair recruitment, encompassing both cross-border and national recruitment. Although originally stimulated by a tripartite discussion on labour migration, the principles and guidelines “approach fair recruitment globally and refer both to the context of

11 [Global Compact for Safe, Orderly and Regular Migration, Intergovernmentally negotiated and agreed outcome, Objective 6\(b\)](#), July 2018.

labour migration and to the broader range of employment and work, both domestically and internationally” (ILO 2016a, para. 4).

The ILO General Principles and Operational Guidelines for Fair Recruitment provide a definition of “recruitment fees or related costs”, as “any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection”. Principle 7 expressly prohibits the charging of these fees and related costs to workers. Given the absence of a globally accepted “definition of fees and related costs”, the experts participating at the abovementioned Tripartite Meeting of Experts suggested the subject was something that future work by the ILO might make more precise.

The resolution concerning the second recurrent discussion on fundamental principles and rights at work, adopted by the 106th International Labour Conference in June 2017 called on the ILO to “mainstream fundamental principles and rights at work across the activities of the Organization, including in the areas of future of work, global supply chains, export processing zones, non-standard forms of employment, migrant workers, rural workers and workers in the informal economy, and fair recruitment” (ILO 2017b, para. 5(c)).

Finally, the outcomes of the 2016 Tripartite Meeting of Experts informed the general discussion on labour migration at the International Labour Conference in June 2017, which in its conclusions recognized fair recruitment as an area warranting special attention and called on the Office to “pursue efforts in developing and testing a methodology to measure recruitment costs under target 10.7 of the 2030 Agenda for Sustainable Development and further work on the definition of recruitment fees and related costs” (ILO 2017c, appendix para. 2). The Office was subsequently mandated to convene a tripartite meeting of experts in order to review, amend and adopt draft definitions on recruitment fees and related costs based on a global comparative study (ILO 2017c).

This Global Comparative Study on Recruitment Fees and Related Costs (henceforth “Global Study”) was prepared

ahead of the Tripartite Meeting of Experts on Recruitment Fees and Related Costs, which took place in Geneva from 14 to 16 November 2018. Its summary was published in the form of a background paper for discussion and included a proposed definition that was subject to negotiation by the experts.

Upon adoption of the Definition of Recruitment Fees and Related Costs, the experts clarified that the definition should be read and disseminated together with the General Principles and Operational Guidelines for Fair Recruitment, which clearly recognize the principle that workers shall not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment. Furthermore, the Definition should support the implementation and enforcement of laws, policies and measures aimed at the protection of workers’ rights, and also support delivery of effective regulation of recruitment to combat non-compliance, provide transparency of recruitment practices and enhance the functioning of labour markets.

The agreed Definition of Recruitment Fees covers all types of recruitment, in all sectors and for all workers, regardless of whether they were recruited nationally or internationally. Experts determined that related costs were expenses integral to the recruitment and placement process within and across borders, taking into account that the widest set of related recruitment costs were incurred for international recruitment. Identified recruitment-related costs were consequently listed in the Definition. The experts found it important to include the possibility of further definition of cost categories at the national level, and allowed flexibility to determine exceptions to their applicability, consistent with international labour standards and the conditions identified in the Definition. The experts also agreed to include a specific subsection that identified the illegitimate, unreasonable and undisclosed costs that should never be charged to any actor in the recruitment process (ILO 2019a).

This report contains the full Global Study, including findings from the five regional case studies from Africa, the Americas, Arab States, Asia and Europe.

2**Methodology
and limitations**

▶ 2.1. Methodology

The Global Study identified and analysed the national and international response to addressing high recruitment fees and related costs paid by workers through a mapping and comparison of relevant national laws and policies in five different regions (Africa, the Americas, Asia and the Pacific, Europe and the Arab States) and applied to public employment services and private employment agencies. National laws and policies were reviewed in 2018 and the ILO acknowledges that some may have been amended since.

In looking at formal channels of national and international recruitment, the study focused on:

- a. the definition of recruitment fees and related costs in national laws and policies, including bilateral and multi-country agreements, the cost categories and itemized costs, and how these were charged;
- b. an analysis of policy differences across the five regions, including their application to workers and jobseekers applying for employment nationally or internationally, as well as regulations applied to specific sectors or migration corridors, and the use of monitoring mechanisms and the imposition of penalties and sanctions for non-compliance; and
- c. a review of multi-stakeholder initiatives providing guidance on the implementation of a no-fee-charging policy to workers and jobseekers.

The study also focused exclusively on recruitment fees and related costs for national and international recruitment, while noting that, regarding labour migration, broader migration costs can include costs associated with transferring remittances; poor working conditions; denial of basic rights; deskilling; and social protection elements such as the loss of social security entitlements or earned benefits; double

taxation due to the absence of social security agreements; or the payment of mandatory/voluntary insurance schemes.

The study's research team consisted of six consultants led by a global consultant and five consultants preparing regional reports for Africa, the Americas, Asia and Pacific, Europe and the Arab States. The two-part methodology included a literature and online review of relevant research, followed by selected semi-structured interviews of key informants/experts from government, social partners and representatives of multi-stakeholder and business-led initiatives.

On hearing of the intended research to define recruitment fees and related costs, the Colombo Process Forum, a platform of 12 Asian countries of origin for migrant workers (Afghanistan, Bangladesh, Cambodia, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Viet Nam) supported the need for the research, arguing strongly for a global definition of recruitment fees and costs. The Forum recognized that a globally accepted definition of recruitment fees and costs would accelerate (their) efforts to curb high recruitment fees and advance (their) commitment to promoting fair recruitment models, and that such a global definition of recruitment fees and costs would enable the effective measurement of recruitment costs under Target 10.7 of the 2030 Agenda for Sustainable Development, which members strongly support. The Colombo Process countries have further stated that a globally-agreed definition of fees and costs would be vital not only to address fee-charging practices that contribute to debt bondage and forced labour, but also to create an agreed benchmark for research on fees and costs so as to make possible a comparison of trends across regions and migration corridors. While this input was not solicited by the ILO, it was a welcome contribution to understanding stakeholders' views on the need for and purpose of the Global Study on defining recruitment fees and related costs.

▶ 2.2. Coverage

While it was not meant to be a comprehensive global survey, the study nevertheless reviewed:

- i. policies of 90 countries that took a position or definition on the regulation or prohibition of recruitment fees and related costs;
- ii. 18 relevant bilateral agreements (BAs) and memoranda of understanding (MOUs) that provided more information on recruitment fees and related costs; and
- iii. 12 private voluntary guidance documents from diverse stakeholders, including business groups, large multinationals in global supply chains, and civil society organizations. Promoting the “employer pays” or “workers do not pay” principles, these documents presented comprehensive overviews of detailed recruitment fees and related costs.

The study also analysed policy differences across the regions, including whether they apply to national and/or cross-border recruitment, sectors or specific migration corridors, and whether reference is made to monitoring mechanisms and imposition of penalties and sanctions for non-compliance.

In Asia and the Pacific, the regional study examined 19 countries and one Special Administrative Region (Hong Kong, China) and their policies and legislations concerning recruitment fees and related costs as they apply to migrant workers. Of the 20 economies that were part of the regional review, five are mainly countries of origin in South Asia (Bangladesh, India, Nepal, Pakistan and Sri Lanka); seven are mainly labour-sending countries in East and South-East Asia (Cambodia, Indonesia, the Lao People’s Democratic Republic, Mongolia, Myanmar, the Philippines and Viet Nam); five are mainly labour-receiving economies in East and South-East Asia (Hong Kong (China), Malaysia, Republic of

Korea, Singapore and Thailand); and three countries (two are mainly receiving and one is mainly sending) are from the Pacific (Australia, New Zealand and Vanuatu). In the course of the global consolidation, policies in China and Japan were also added from the Asia Pacific region, totalling 22 economies examined from Asia.

The Africa regional report provides an overview of policies, practices, and definitions of recruitment, and associated fees and costs across 15 countries¹², six of which had ratified the ILO Private Employment Agencies Convention, 1997 (No. 181). The countries included at least one from each subregion (excluding Central Africa) and provided a mixture of typologies of migration patterns and policy frameworks.

In the Arab States, the regional report considered the country legislations and policies of the six Gulf Cooperation Council countries as well as Jordan and Lebanon. Thirty bilateral agreements (BAs), mostly between Middle East countries of destination and Asian countries of origin, were analysed for how they included references to recruitment fees and costs, with some being far more detailed than others.

The regional study for Europe analysed regulations of 26 countries. An interesting feature of this regional study is the analysis of the Directive on Temporary Agency Work (2008/104/EC), adopted by the European Union (EU) Parliament and the Council in 2008. The Directive aims to guarantee a minimum level of protection to temporary workers by recognizing temporary work agencies as employers. According to article 6.3, a temporary work agency shall not charge workers any fees “in exchange for arranging for them to be recruited by a user undertaking, or for concluding a contract of employment or an employment relationship with a user undertaking after carrying out an assignment in that undertaking”.

¹² Algeria, Ethiopia, Ghana, Kenya, Mali, Morocco, Namibia, Niger, Nigeria, South Africa, Togo, Tunisia, Uganda, Zambia, Zimbabwe.

In the Americas, the study reviewed 21 countries' national legislations on the operation of private employment agencies, and analysed their application to international recruitment processes and the extent to which they defined recruitment fees and related costs. Five bilateral agreements (BAs) were analysed to see if and how recruitment fees and related costs are considered. The agreements cover selected migration corridors including Mexico–United States of America, Costa Rica–Nicaragua, Spain–Colombia, Spain–Dominican Republic and Spain–Ecuador. The study also analysed how recruitment fees and related costs are defined (or not) in the case of temporary foreign worker

programmes from Mexico to the United States and Canada. The literature review also considered the proposed US Federal Acquisition Regulation's definition of recruitment fees; a definition that applies to workers recruited by entities participating in US government contracts. The proposed definition was opened to comments from all stakeholders between 2015 and 2017. For the purposes of this study, the main comments and concerns raised by the different stakeholders were selected for review in order to understand areas of consensus and discrepancy. The final definition was issued in December 2018 with an effective date of January 2019.

► 2.3. Limitations of the study

The study is based primarily on a content analysis of law, policy, implementing rules as well as selected multi-stakeholder initiatives accessible to the researchers. Often, these laws and policies can be dispersed, especially where there are different government offices and institutions responsible for national and international recruitment and employment, or when relevant supplementary regulations were not accessible. Since countries have multiple policy combinations, there are challenges in having a straightforward classification of primary policy directions. In addition, due to time constraints, the research team did not carry out a systematic analysis of anti-trafficking laws and policies, though a few of them were included in the study to the extent they provide a definition of fees and costs.

The Global Comparative Study is an effort to bring together the findings of five regional studies that are able to stand on their own as independent studies of recruitment fees and related costs in each the different regions. These studies provide regional specificities and distinct perspectives that have not all been captured in the process of consolidation.



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3

**International
labour
standards
relevant to
recruitment
fees and
related costs**



► 3.1. Guidance on what constitutes recruitment fees and related costs

The principle that public placement and employment services should be made available free of charge has been recognized by the ILO since it was founded in 1919. An examination of the ILO standards containing provisions relating to “fees”, “charges” or “costs” in connection with the recruitment and placement of workers may shed some light on the approach taken by the tripartite constituents in determining what constitutes recruitment fees and related costs.

ILO standards on forced labour

ILO standards on forced labour aim to protect workers from recruitment-related abuses. While the Forced Labour Convention, 1930 (No. 29), does not explicitly refer to the issue of recruitment fees and related costs, the Protocol of 2014 to the Forced Labour Convention, 1930, calls for measures to prevent forced or compulsory labour to protect “persons, particularly migrant workers, from abusive and fraudulent practices during the recruitment and placement process” (Article 2(d)). The Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), calls on Member States to “facilitate regular and safe migration and to prevent trafficking in persons, including coordinated efforts to regulate, license and monitor labour recruiters and employment agencies, and eliminate the charging of recruitment fees to workers to prevent debt bondage and other forms of economic coercion” (Paragraph 4(i)). In particular: “Members should

take measures to eliminate abuses and fraudulent practices by labour recruiters and employment agencies, such as eliminating the charging of recruitment fees to workers” (Paragraph 8(a)). However, neither the instruments, nor the preparatory discussions prior to their adoption, define the scope of “recruitment fees”. The ILO supervisory bodies have referred to the practice of fee charging on several occasions, observing that this practice increases migrant workers’ vulnerability to forced labour and highlighting that charging high recruitment fees, or the lack of regulations in this regard,¹³ as well as the continued practice of charging recruitment fees to workers,¹⁴ constitute exploitative practices against migrant workers.

ILO standards on employment

ILO employment instruments establish that fees and costs related to recruitment and placement should not be borne by workers; however, the instruments provide little guidance on the manner in which recruitment fees and related costs should be defined. One of the first instruments adopted by the ILO in 1919, the Unemployment Convention, 1919 (No. 2), requires Member States to establish a system of free public employment agencies under the control of a central authority,¹⁵ whereas the Unemployment Recommendation, 1919 (No. 1),¹⁶ explicitly recommended that Members take measures to prohibit the establishment of fee-charging agencies. Subsequently, the Fee-Charging

13 Malaysia – Committee of Experts on the Application of Conventions and Recommendations (CEACR), Convention No. 29, Observation, published in 2016; Thailand – CEACR, Convention No. 29, Observation, published in 2017. The CEACR also noted that the Government of Thailand had prohibited the imposition of recruitment fees on migrant workers, except for certain costs, such as the cost of preparing documents and transportation expenses (section 42 of the Notification of the Department of Employment on the Identification of List of Foreign Workers and the Rate of Service Fee and Cost Fee and Cost Form in Bringing in Foreign Workers to Work with Employers in the Kingdom, dated 14 November 2017).

14 Qatar – CEACR, Convention No. 29, Observation, published in 2016.

15 Article 2(1); Convention No. 2 has been ratified by 57 Member States, and denounced by three. Convention No. 2 recognizes that public and private free employment agencies may exist in a country and, where this is the case, calls on Member States to coordinate the operations of these agencies on a national scale (Article 2(2)).

16 The Recommendation was withdrawn in 2002.

Employment Agencies Convention, 1933 (No. 34), called for the progressive abolition of fee-charging employment agencies with a view to profit (Article 2(1)), providing for narrow exceptions from this requirement, but only in exceptional cases and only after consultation with the organizations of employers and workers concerned (Article 3(1)).¹⁷ Fifteen years later, ILO constituents adopted the Employment Service Convention, 1948 (No. 88), which reaffirms the principle that States should maintain a free public employment service (Article 1(1)). Article 11 of Convention No. 88 contemplates “effective cooperation between the public employment service and private employment agencies not conducted with a view to profit”, calling on the competent authorities of the Member State to take necessary measures to ensure such cooperation.¹⁸ The following year saw the revision of Convention No. 34 through the adoption of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).¹⁹ The Preamble to Convention No. 96 again affirms the principle that a free public employment service should be available to all categories of workers, including migrant workers. Convention No. 96 gives Member States the choice between accepting the obligations of Part II, calling for the progressive abolition of fee-charging employment agencies and the regulation of other agencies, or Part III, which provides for the regulation of fee-charging employment agencies (both for profit and not-for-profit). Both Parts II and III provide that the competent authority will fix a scale of “fees and expenses” that may be charged, but that may not be exceeded (Articles 6(b) and 11(b)). Almost three decades later, ILO constituents

revised Convention No. 96, through the adoption of the Private Employment Agencies Convention, 1997 (No. 181). Convention No. 181 is now considered to be the most up-to-date instrument in this area. (Table 2 provides a list of countries that have ratified Conventions Nos 88, 96 and 181.)

Pursuant to Convention No. 181 – which applies to both situations of national and international recruitment and which reaffirms the need to protect workers, in particular migrant workers,²⁰ against abuses – “private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers” (Article 7(1)). The Convention does not, however, define the meaning of “fees or costs”. The Convention enables governments to carve out narrow exceptions to this principle following consultation with the social partners and only where they are in the interest of the workers.²¹ The discussions preceding the adoption of Convention No. 181 focused primarily on the types of exceptions to the general principle in Article 7(1) rather than a definition of fees and costs. While Members could agree with the possibility of exceptions regarding specified types of services and certain categories of workers, they were not in agreement on the possibility of exempting certain sectors of economic activity, resulting in the adoption of paragraph 2 of Article 7 (ILO 1997a, 43–46; ILO 1997b, 16, 34–35). It was noted that, due to advances in communications and data processing, many employment information services were available for the price of a mere phone call.²² A number of Member States considered that exceptions

17 See ILO 2010, para. 189. Convention No. 34 was ratified by 11 Member States. Over the years, ten countries denounced the Convention, as nine of them ratified more recent instruments in this area (Conventions Nos 96 and 181). Convention No. 34 currently remains in force for one remaining country: Chile.

18 The adoption of Convention No. 88 paved the way for a dual system of employment services, recognizing to a significant degree the contribution that private employment agencies could make to achieving the best possible organization of the labour market as part of the national programme to achieve and maintain full employment and the development and use of productive resources (Article 1(2)); see also ILO, *Employment Services Organisations*, Report IV(I), International Labour Conference (1947), p. 5.

19 Convention No. 96 has to date been ratified by 42 Member States, and denounced by 19.

20 The Preamble of Convention No. 181 refers to Conventions Nos 88, 96, 97 and 143.

21 Article 7(2) provides that in the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of Article 7(1) in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.

22 Per ILO 1997a, p.66. The example was given of the Netherlands where placement and information are free for both workers and employers, but payment for additional services, such as specific vocational training, may be necessary.

to the general principle of free employment services for workers could include provision of services to certain categories of workers, such as artists, professional sportspersons, high-level professionals and executives, or the provision of specific services, such as access to computer databanks containing information about vacancies, specialized training services or special employment-related services. Most constituents agreed that the principle of free employment services should apply to placement services in the strict sense, but flexibility should exist with regard to, for example, training and information services.

In its comments on Convention No. 181, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) has consistently recalled the principle that jobseekers and workers should not be charged recruitment fees or related costs, directly or indirectly. However, while a number of CEACR comments have addressed exemptions from the “prohibition of fee charging” under national law as contemplated under Article 7(2) of the Convention, these have not addressed the meaning of “fees or costs”.²³ With regard to the possibility of authorizing exceptions, the CEACR has noted that making use of the provisions of Article 7(2) is subject to:

- a. consultation of the most representative organizations of employers and workers prior to authorization;
- b. transparency through the creation of an appropriate legal framework indicating

that the authorization is limited to certain categories of workers, or specific types of services, and indicating that it constitutes an explicit exception, as well as including the complete disclosure of all fees and costs; and

- c. reporting to the ILO the reasons for making use of the exception provision (ILO 2010, para. 334).

The CEACR has also recommended that States review their national legislation to ensure “adequate protection” for all workers employed by private employment agencies in accordance with the Convention. However, the CEACR comments focus primarily on the need for governments to provide further information on any exemptions authorized, on sanctions imposed in cases of non-compliance, on remedies and on available complaint procedures.²⁴

ILO standards on migrant workers

The principle that migrant workers should benefit from free public employment services was also retained in the Migration for Employment Convention (Revised), 1949 (No. 97). Convention No. 97 specifically provides that services by public employment agencies to migrant workers should be provided free of charge (Article 7(2)), while its Annexes I and II²⁵ specify that these services relate to the recruitment, introduction or placement of migrant workers. Article 4(2) of Annex

23 It should be noted that the Private Employment Agencies Recommendation, 1997 (No. 188), is silent on the issue of fees or costs.

24 See for example, Fiji – CEACR, Convention No. 181, Direct Request, published in 2016 (the fourth Schedule of the 2008 Employment Relations (Employment Agencies) Regulations only displays the fees for the most basic services and enables agencies to charge for unspecified “additional services”. Section 4(6) of the 2008 Regulations allows fees to be charged to applicants for employment for the provision of unspecified employment-related services); Portugal – CEACR, Convention No. 181, Direct Request, published in 2016 (the Government indicated that section 187(5) of the Labour Code, as amended, prohibits agencies from imposing any financial charges whatsoever on temporary workers, particularly for vocational guidance and training services. In the context of these activities, agencies must ensure that services for jobseekers are free of charge and may not collect any amounts in cash, directly or indirectly); Israel – CEACR, Convention No. 181, Direct Request, published in 2015 (section 69(c) of the Employment Service Law allows private employment agencies to receive “permitted payments” prescribed by the Minister of Industry, Trade and Labour. For its part, section 12 of the Employment of Employees by Manpower Contractors Law provides that the prohibition of charging fees to workers does not apply to payment for vocational training, if being provided to a candidate for employment before his/her employment by a manpower contractor, in order to train him/her for his/her job).

25 See Barbados – CEACR, Convention No. 97, observation, published in 2018; Grenada – CEACR, Convention No. 97, direct request, published in 2014. In the context of migrant workers from Barbados and Grenada under the Canada-Caribbean Seasonal Agricultural Workers Programme, the Committee noted that workers were obliged to remit 25 per cent of their earnings to the Government directly from Canada as mandatory savings, 5 per cent of which was retained to pay the administrative costs. The worker also agreed to pay to the employer part of the transportation costs and the employer, on behalf of the worker, will advance the work permit fees and be reimbursed by the government agent.

II – which only applies to government-sponsored arrangements – further clarifies that the administrative costs of recruitment, introduction and placing shall not be borne by the migrants, but provides no definition of “administrative costs”.²⁶ Only on a few occasions has the CEACR raised concerns regarding the payment of administrative costs, transportation costs and other fees by the migrant workers. Furthermore, in situations where national legislation required employers to pay a levy when hiring migrant workers, the CEACR has also considered that allowing the deduction of this levy from the wages of the foreign workers would result in less favourable treatment of these workers than for nationals.²⁷

In addition, Convention No. 97 refers to the principle that adequate and free services should be provided to assist migrants for employment, particularly to provide them with accurate information

(Article 2). The Migration for Employment Recommendation (Revised), (No. 86), provides that such services could include, for example, advice on questions that may be of interest to migrant workers; facilities for migrant workers and their families with regard to administrative formalities and other steps taken in connection with return; and preparatory courses, where necessary, to inform migrants of the conditions and methods of work in the country of immigration, and to instruct them in the language of the country. Regarding the cost of medical examinations, Convention No. 97 requires ratifying Members to maintain appropriate medical services responsible for ensuring that migrant workers and members of their families enjoy adequate medical attention at the time of departure, during the journey and on arrival in the country of destination.²⁸ The Convention does not, however, specify who should bear the costs of the medical examination.

26 Article 4 of Annexes I and II.

27 See Malaysia – CEACR, Convention No. 97, Observation, published in 2016.

28 [Convention No. 97](#), Article 5(b).





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Annex II of Convention No. 97 and Recommendation No. 86, as well as the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), provide some guidance regarding the cost of return. Annex II to Convention No. 97 recognizes that, under certain conditions, migrant workers should not have to pay the cost of their return or those of the members of their families, notably when the migrant worker, for reasons for which the worker is not responsible, fails to secure the employment for which they have been recruited or other suitable employment. In that event, the cost of return should not be charged to the worker (Annex II, Article 9). The Model Agreement annexed to Recommendation No. 86 recognizes that the cost of the return journey of migrant workers, and dependent family members, who have been introduced under organized migration between the public authorities of the two States, and who have to leave the country for reasons for which they are not responsible, shall not be borne by the migrant (Article 26(1)(a)).

With regard to migrant workers in an irregular situation covered by Part I of Convention No. 143, the CEACR has considered that for “cases where migrant workers were in irregular situations for reasons which cannot be attributed to them (such as redundancy before the expected end of contract, or where the employer failed to fulfil the necessary formalities), ... the cost of their return, as well as the return of family members, including transport costs, should not fall upon the migrant workers” (ILO 2016b, para. 318).

The Model Agreement also includes provisions regarding expenses for education and vocational training (Article 9) and travel and maintenance (Article 12). With regard to education costs, the preparatory work on Recommendation No. 86 indicates that the constituents preferred not to specify who should bear these costs. In relation to travel expenses, it seems clear from the preparatory work on the Model Agreement that it was not intended that the cost of travel from the place of their residence to the place of employment and the cost of their maintenance during the journey and during their stay in an assembly or a selection or reception centre should be borne by the migrants. This would also appear to include the cost of transport of personal belongings and tools (ILO 2016b, 64). The costs of these belongings and tools should be determined by the parties to the agreement.

The maritime instruments

The role played by private recruitment and placement agencies for seafarers is addressed by the Recruitment and Placement of Seafarers Convention, 1996 (No. 179),²⁹ which prohibits charging fees or other costs to seafarers for recruitment or for the provision of employment (Article 4(1)). While Convention No. 179 is no longer in force and has been proposed for withdrawal, it is still useful to look at the preparatory work on Convention No. 179 to understand the constituents’ intention in terms of what would constitute “costs” under the

²⁹ Conventions Nos 34, 88, 96 and 181 all explicitly exclude seafarers.

Convention. For example, it has been noted that: “An employer will not ... be responsible for meeting the costs of the documentation that evidences a seafarer’s basic eligibility to be recruited at all. His statutory certificates, his basic medical certificate – his personal travel documents, such as passport and national seafarer’s book. An employer would, though, be required to meet the cost of any special document or examination required by him in connection with a specific placement” (ILO 1996, 15).

The Maritime Labour Convention, 2006, as amended (MLC, 2006), incorporates and updates the provisions of Convention No. 179 in Regulation 1.4, which deals with recruitment and placement services and which requires ratifying States to regulate such services (if they operate within their territory). The details, specified in Standard A1.4, or recommended in Guideline B1.4, are largely drawn from the texts of Convention No. 179 and its accompanying Recommendation No. 186. According to the MLC, 2006, a Member adopting a system of private recruitment and placement services shall, in its laws and regulations or other measures, at a minimum:

require that no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer’s book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner (Article 5(b)).

The MLC, 2006, also provides that Members shall ensure that seafarer recruitment and placement services operating in their territory establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers’ employment agreement to meet its obligations to them. However, the preparatory work on the MLC, 2006, does not provide additional information on the definition of “fees or charges” (ILO 2006, 34–35). Some other provisions of the MLC, 2006, as amended in 2014, regarding repatriation may nonetheless be useful for the purpose

of defining “costs of repatriation”. In particular, Article 10 of Standard A2.5.2 on financial security in the event of the abandonment of seafarers provides that the cost of repatriation shall cover “travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer’s home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges” arising from the abandonment.

ILO standards on domestic work

The Domestic Workers Convention, 2011 (No. 189), provides that, in order to effectively protect domestic workers – including migrant domestic workers recruited or placed by private employment agencies – against abusive practices, “each Member shall take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers” (Article 15(1)(e)). In addition, Paragraph 23 of the Domestic Workers Recommendation, 2011 (No. 201), provides that: “Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).” To date, the comments of the ILO supervisory bodies have not provided further guidance on the nature of the recruitment fees or related costs that may not be charged to or deducted from the remuneration received by domestic workers. During the second discussion in relation to the development of the instruments, the debate around repatriation costs for migrant domestic workers suggests that most constituents considered that, except in cases of serious misconduct or fraud, the migrant domestic worker should not be required to bear the costs of repatriation (ILO 2011). On this point, Paragraph 22 of Recommendation No. 201 provides that Members should, after consulting with social partners, “consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited”.



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Review of national policies on recruitment fees and related costs



The core of the Global Study pivots on the review of national policies defining recruitment fees and related costs. This followed a process of assessing among others, the following:

- a. the country's position on the prohibition or the regulation of charging of recruitment fees and related costs, as applied to private employment agencies and public employment services, and the types of policy approaches in regulating fees and costs;
- b. the applicability of these policies to either or both national and international recruitment;
- c. the inclusion of a definition of recruitment fees and/or related costs and the itemization of such related costs;
- d. the focus on specific sectors of the economy and groups of workers; and
- e. the range of sanctions on non-compliance or violations of policy mentioned in the examined law or policy.

In all, the study reviewed 99 policies, as eight countries³⁰ had more than one relevant policy with different scopes and purposes³¹. The 90 countries included in the study have either:

- a. ratified ILO Convention No. 181 and/or ILO Convention No.88, demonstrating a commitment to the principle of free recruitment and placement services;
- b. adopted laws or promulgated policies in the form of proclamations, circulars or executive orders (hereafter referred to as "policies") showing that the country is either prohibiting the fee-charging of workers and jobseekers or regulating the fees and costs that could be charged. For the purpose of this paper "regulating fees or related costs" is used to mean:
 - articulating a general policy statement that allows labour recruiters to charge fees for their services; or

- capping of the fees, that is, prescribing a maximum amount to be paid by the hired worker or jobseeker;
 - detailing costs and charges that should not be charged to the workers or describing which costs are to be charged to employers, workers and labour recruiters;
- c. organized a labour recruitment programme or scheme bringing in migrant workers for employment into selected industry sectors; or
 - d. negotiated bilateral agreements (BAs) on the recruitment and placement of workers in foreign employment.

The analysis of findings provides a clearer picture of how governments have addressed the issue of recruitment costs and related fees. In summary:

- Of the 59 countries with a policy prohibiting fees to workers, 44 (75 per cent) apply their policy to both national and international recruitment. Of the 36 countries with a policy regulating fees and related costs to workers, 13 (36 per cent) apply their policy to both national and international recruitment.
- Prohibition of fees for workers is the dominant policy approach (table 1), and has been adopted by 63 national policies (63 per cent). The majority of these 63 policies (44, or 70 per cent) cover both national and cross-border recruitment; 11 (17 per cent) exclusively refer to international recruitment; and 8 (13 per cent) pertain only to national recruitment.
- Thirty-six policies regulate fees and related costs (table 1). Over a third (13, or 36 per cent) refer to both national and international recruitment; 19 (53 per cent) refer to only international recruitment; and 4 (11 per cent) cover only national recruitment. There are distinct policy differences among

30 Countries included: Belgium (2), Ethiopia (2), India (2), Malta (2), New Zealand (2), the Philippines (2), UAE (2) and Qatar (3).

31 For example, Ethiopia prohibits fee charging by public employment services for national recruitment, while regulating fees and related costs to be charged to workers being recruited internationally by private employment agencies. India has a state policy prohibiting fees charged to domestic workers being recruited nationally, while regulating fees and related costs charged to workers recruited internationally. Qatar has separate policies for migrant workers recruited into the domestic work and construction sectors. The Philippines sets a maximum ceiling on recruitment fees and identifies related cost items to be charged to workers recruited internationally, while prohibiting recruitment fees for domestic workers (though they can still be charged related costs).

the regions. For example, European countries largely prohibit any form of fee charging to workers and tend to apply this to both national and international recruitment. While in Asia and the Pacific, where a separate ministry has often been created to govern labour migration, most countries regulate the charging of fees and related costs through international labour migration laws and policies, and hence half the policies focus exclusively on international recruitment. The Arab States tend to prohibit fee charging to workers recruited from abroad. The Americas have more countries prohibiting fee charging than regulating fees and related costs. Policies from countries in the Africa region are evenly divided across these two options.

- ▶ Only in a few cases do national laws and regulations focus on a specific sector – for example agriculture,³² domestic work³³ or construction.³⁴
- ▶ Sixty-six countries (73 per cent) have legal provisions to sanction violations of policies on fees and related costs, including suspension, revocation of licences, imposition of fines and penalties, and criminal charges. Monitoring and enforcement of national laws and policies on fee and related cost charging, however, is limited.
- ▶ Twenty-seven countries have formulated full or partial definitions of recruitment fees and related costs. Six have included a full definition of their recruitment fees and costs, while the others have itemized cost categories and identified cost-sharing arrangements.

▶ **Table 1. National policies on regulating fee charging of recruitment fees and related costs to workers**

Region (countries) *	No. of policies on recruitment fees and related costs	No. of policies prohibiting the charging of fees and costs to workers and jobseekers	No. of policies regulating charging of fees and costs to workers and jobseekers
Africa (15)	16	12	4
Americas (21)	21	16	5
Asia and the Pacific (22)	25	3	22
Europe (26)	28	23	5
Arab States (6)	9	9	–
Total (90)	99	63	36

– = nil; Countries with multiple policies: Belgium (2), Ethiopia (2), India (2), Malta (2), New Zealand (2), Philippines (2), United Arab Emirates (2), Qatar (3).

Source: Author's compilation.

32 Australia, Mexico, New Zealand, the United Kingdom of Great Britain and Northern Ireland.

33 Jordan, Kuwait, Lebanon, the Philippines, Qatar, Sri Lanka.

34 Qatar.

▶ 4.1. The ratification of ILO Conventions Nos 88, 96 and 181

An important starting point in the scanning of national laws and policies is a country's commitment to establish a national regulatory framework for the recruitment and employment of its nationals, whether for national or international employment. This commitment is demonstrated by its ratification of the relevant international labor standards and in its efforts to offer employment services through state institutions, and/or with the participation of private employment agencies.

The provision of free recruitment and placement for workers and jobseekers is a central theme of ILO Employment Service Convention, 1948 (No. 88), which provides general parameters for the regulation of the recruitment and employment of workers through public employment institutions and calls for "effective co-operation between the public employment service and private employment agencies not conducted with a view to profit" (Article 11). With the growth of private labour intermediation, ILO labour standards also evolved. The Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), enabled ratifying States to indicate whether they aimed for "the progressive abolition of fee-charging employment agencies conducted with a view to profit and the regulation of other agencies" or "the regulation of fee-charging employment agencies including agencies conducted with a view to profit" (Article 2).

The ILO Private Employment Agencies Convention, 1997 (No. 181), specified its purpose as "to allow the operation of private employment agencies as well as the protection of the workers using their services" (Article 2(3)). The Convention guides Member States to establish clear policies, legislation and implementing mechanisms

for effective registration and licensing of private employment agencies, reiterating the principle of no-fee charging of workers and jobseekers. Article 7 of Convention No. 181 stipulates, "Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers." The Convention also encourages Member States to "establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies" (Article 13(1)) with the view to creating conditions that enable efficient matching of labour demand and supply, while also providing an avenue for ensuring the protection of jobseekers and workers, especially against abusive practices.

Eighty-eight ILO Member States have ratified the Convention No. 88; 23 have ratified Convention No. 96;³⁵ and 34 have ratified Convention No. 181 (table 2). Considering all three Conventions, Europe leads the number of ratifications per region, followed by Africa and the Americas. The Asia and the Pacific region accounts for 10 per cent of the ratifications. Three countries in the Arab States have ratified Convention No. 88, but only one has ratified Convention No. 97 and none have ratified Convention No. 181.

The majority of ratifying countries have adopted laws, policies and programmes to achieve the intention of the Conventions. The Global Study examined the laws and policies in 25 countries that had ratified Convention No. 181³⁶, finding that the majority of these countries have enacted laws and policies that prohibit fee charging (21 out of 25, or 84 per cent),³⁷ and that where these laws and policies are in place, the majority are applicable to both national and international recruitment (18 out of 21, or 86 per cent)³⁸.

35 The Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), is now proposed for withdrawal (ILO 2019b).

36 At the time of writing, there was limited or inconclusive information for Bosnia and Herzegovina, Fiji, France, Georgia, North Macedonia and Serbia.

37 These countries include: Albania, Algeria, Belgium, Bulgaria, the Czech Republic, Ethiopia, Finland, Hungary, Italy, Lithuania, Mali, Morocco, the Netherlands, Niger, Panama, Portugal, Slovakia, Spain, Suriname, Uruguay, and Zambia.

38 These countries include: Albania, Belgium, Bulgaria, the Czech Republic, Finland, Hungary, Italy, Lithuania, Mali, Morocco, the Netherlands, Niger, Panama, Portugal, Slovakia, Suriname, Uruguay and Zambia.

► **Table 2. Ratification of the Private Employment Agencies Convention, 1997 (No. 181), the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), and the Employment Service Convention, 1948 (No. 88), by region**

Region	Convention No. 181		Convention No. 96		Convention No. 88	
	No.	Countries	No.	Countries	No.	Countries
Africa	8	Algeria, Ethiopia, Madagascar ¹ , Mali, Morocco, Niger, Rwanda, Zambia	9	Côte d'Ivoire, Djibouti, Egypt, Eswatini, Gabon, Ghana, Libya, Mauritania, Senegal	20	Algeria, Angola, Central African Republic, Democratic Republic of the Congo, Djibouti, Egypt, Ethiopia, Ghana, Guinea-Bissau, Kenya, Libya, Madagascar, Mali, Mauritius, Mozambique, Nigeria, Sao Tome and Principe, Sierra Leone, Tunisia, United Republic of Tanzania
Americas	3	Panama, Suriname, Uruguay	6	Argentina, Plurinational State of Bolivia, Costa Rica, Cuba, Guatemala, Mexico	18	Argentina, Bahamas, Belize, Plurinational State of Bolivia, Brazil, Canada, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Nicaragua, Panama, Peru, Suriname, Bolivarian Republic of Venezuela
Asia and the Pacific	3	Fiji, Japan, Mongolia	3	Bangladesh, Pakistan, Sri Lanka	11	Australia, India, Indonesia, Japan, Malaysia, Mongolia, New Zealand, Philippines, Republic of Korea, Singapore, Thailand
Europe	20	Albania, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Finland, France, Georgia, Hungary, Israel, Italy, Lithuania, Netherlands, North Macedonia, Poland, Portugal, Republic of Moldova, Serbia, Slovakia, Spain	4	Ireland, Luxembourg, Malta, Turkey	36	Albania, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Israel, Kazakhstan, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, North Macedonia, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey
Arab States	-	None	1	Syrian Arab Republic	3	Iraq, Lebanon, Syrian Arab Republic
Total	34		23		88	

¹ The Convention will enter into force for Madagascar on 11 Jun 2020; - = nil.

Source: ILO NORMLEX information system on international labour standards.



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► 4.2. Regulation of fee and cost charging by private employment agencies

National policies and regulations on recruitment fees and costs pertaining to practices by private employment agencies (PEAs) were found to be embedded in:

- a. national labour codes within a section on labour intermediation;
- b. specific legislation governing the licensing and regulation of private employment agencies;
- c. legislation or policies on the protection of migrant workers; and, more recently,
- d. legislation or policies on action against trafficking in persons.

There were also some instances of recruitment cost items being regulated at the corridor level through bilateral agreements (BAs) between governments.

Governments recognize the importance of PEAs in the labour intermediation process and their impact in the labour market functioning at the national level. Licensing is a common

regulatory response to monitoring their practices, especially in terms of facilitating employment and also protecting recruited workers and jobseekers. In obtaining a licence to establish a PEA, there are typically stringent requirements. Applying agencies follow a registration process; are assessed according to prescribed criteria; and, when successful, are granted licences by the Ministry of Labour or the designated national authority.

The grant of a licence comes with an attached set of conditions on responsible use of the licence. This can include sanctions such as the suspension or revocation of the licence, or the imposition of fines and penalties in case of violations of recruitment regulations, including the countries' policies on the charging of fees and related costs or the use of deception or fraud in employment contracts. PEAs may be scrutinized through an inspection process. Once the authorization is granted, PEAs are expected to provide regular information about their activities. However, more often action against agencies takes place only when there are complaints about agency performance.

In the case of international recruitment, countries may also establish specialized government agencies or institutions responsible for migration. These include, in countries of origin, those overseeing the recruitment and placement of workers into jobs abroad, and in countries of destination, those supervising the entry and stay of

migrant workers. These institutions are likely to establish different criteria for licensing or accreditation of PEAs seeking to recruit workers in international employment. These criteria tend to be quite strict, requiring, among others, higher security and other bonds to use for claims arising out of such employment.

▶ 4.3. Regulation of public employment services

The ILO has always maintained a strong historical commitment to the principle of free placement services. Eighty-eight countries have ratified ILO Convention No. 88 on employment services, with its commitment to maintain a free public employment service (Table 2). Public employment services recruit both nationally and internationally. In the last decade, public employment services have become particularly relevant as government-to-government programmes managing international recruitment have regained importance, with some explicitly limiting or excluding the role of private employment agencies (Open Working Group on Labour and Migration 2017).

The Global Study identified four countries of destination – Australia, Canada, New Zealand and Republic of Korea – that provide examples of recurring recruitment and employment programmes for lower-skilled migrant workers who have relied on government employment services.³⁹ These countries, all ratifying States of ILO Convention No. 88, adopted common employment contracts and recruitment arrangements for workers hired in targeted sectors. While small in comparison to private sector recruitment efforts, these programmes are able to target additional development objectives (reducing migration costs and increasing employment opportunities in hard-to-access communities with high unemployment, for example).

Studies of these programmes show that government-to-government agreements have radically reduced recruitment costs, but have not been able to eliminate them

(Wickramasekara 2015). This is especially the case with the Employment Permit System (EPS) of the Republic of Korea (Kim 2015), where the average cost paid by a worker has been reduced from US\$3,509 under the now-defunct Industrial Trainee Scheme in 2002, to US\$927 under the EPS system in 2011, in part through higher transparency (Wickramasekara 2015). Since the average monthly wage under the EPS is close to US\$1,000, these costs would still represent a month's wage. Currently in government-to-government programmes, the workers often pay for such services as pre-departure training orientation, visas and work permits, medical checks, language classes, insurance schemes, and travel, among other expenses.

The Global Study also found instances where public employment services were the preferred authority to conduct recruitment in particular sectors. For example, according to 2014 report by Wasser, Argentina has banned PEAs from providing recruiting workers into seasonal employment in the agriculture sector – a sector with a significant workforce of internal and international migrants (as cited in ILO 2020a). Following the adoption of a 2013 regulation, public employment services are now the only institutions authorized to provide intermediation services in this sector. A similar approach has been adopted in Ecuador (ILO 2020a).

³⁹ Other countries, such as Morocco and Tunisia, also use the public employment services for international recruitment, including bilateral agreements (BAs) with Italy and Spain.

▶ 4.4. Prohibition of recruitment fees and related costs for workers

The prohibition of the charging of recruitment fees was found to be the dominant policy approach of most countries (table 1). Fifty-nine of the 90 countries studied have at least one policy that prohibits fee charging to workers. As some countries have one or more policies on the matter, the Global Study found a total of 63 policies that prohibit fee charging. The coverage of these policies might be limited to a specific sector or type of labour recruiter. A key limitation of the approach taken in many such policies is that once a general statement against fee charging is articulated, the policies are silent on related costs.

Ten countries that prohibit fees have also identified different cost items,⁴⁰ mostly related to internal and international travel, and in some cases visas, workers' documentation, medical tests and pre-departure training. In terms of regional differences, while the large majority of examined countries in Africa, the Americas, Europe and the Arab States have adopted the prohibition of fee-charging of workers, nearly all of the examined countries in Asia and the Pacific have instead opted for policies that regulate the charging of recruitment fees and costs to workers (discussed further in section 4.5). Table 3 provides examples of legislation prohibiting fee charging to workers from each region.

Most African countries included in the regional study prohibit charging fees to workers. Such prohibition may be for both national and international recruitment, as in Algeria, Mali, Morocco, Namibia, South Africa, Zambia and Zimbabwe. For example, South Africa prohibits fee charging by public employment services and PEAs through the same instrument: The Employment Services Act (No. 4 of 2014)

stipulates that public employment services are to be provided free of charge to members of the public in a manner that is open and accessible (section 5). With respect to PEAs, the Act provides that no person may charge a fee to any jobseeker for providing employment services to that jobseeker (section 15).⁴¹ The prohibition of recruitment fees may also apply only international recruitment, as in Tunisia. Tunisia's Decree No. 2010-2948 of 9 November 2010 Setting the Conditions, Modalities and Procedures for Granting Authorization for Private Institutions to Carry out Placement Activities Abroad stipulates that it is prohibited for private institutions to receive directly or indirectly, in whole or in part, financial compensation or any other costs from the candidate for a placement abroad (section 4).

Other countries in the region explicitly prohibit the charging of fees while identifying some costs that could be charge to the workers. For example, in Morocco, the Labour Code prohibits PEAs from charging workers fees or costs directly or indirectly, in part or in whole (section 480). The Labour Code stipulates that PEAs through which a foreign employment contract has been concluded must bear the costs of the worker's return to his or her country and all costs incurred by the worker in the event of non-performance of the contract for reasons beyond the worker's control (section 490). Without derogating from the fact that their service is free of charge for the worker, the Labour Code indicates that any fees incurred by the worker benefiting from a contract of employment abroad are to be determined in accordance with terms of reference (TOR)⁴² that the concerned agencies agree to respect when they submit their application for authorization

40 These countries include Canada, Colombia, Morocco, Qatar, Saudi Arabia, Togo, the United Kingdom, the United States (a proposed definition), the Bolivarian Republic of Venezuela, and Zambia.

41 The Employment Services Act (No. 4 of 2014) does add that the Minister may, after consulting the Employment Services Board, by notice in the Gazette, permit PEAs to charge fees in terms of a specified fee to specified categories of employees or for the provision of specialized services. A PEA must not deduct any amount from the remuneration of an employee or require or permit an employee to pay any amount with respect to the placement of that employee with an employer.

42 In February 2005, Minister of Employment and Vocational Training Order No. 349-05 specified the model TORs that PEAs are to respect, including conditions relating to the determination of the costs to be borne by a worker benefiting from an employment contract abroad.

to practice (section 489). The model TORs require the PEA to inform candidates about the amount of any costs they may have to bear if they receive a contract for employment abroad. The amount of costs that can be charged to the worker is capped at one month's average net salary as per the contract, calculated over the year. Payment may only be received after the applicant has received the contract duly approved by the labour authority of the country of employment. The PEA must issue a receipt for these payments and transfer them to the register maintained pursuant to section 486 of the Labour Code. The amount must be returned to the worker if the contract could not be executed for a reason not attributable to the worker, and this refund must be made within a period of no more than one month from receipt of the applicant's repayment request.

There are of course nuances to a general prohibition of recruitment fees and/or related costs. In Latin America, while it was generally observed that surveyed countries' regulations expressly prohibit PEAs from charging fees to workers for their services, there are certain conditions under which exceptions can be made after an evaluation by the ruling authority – for example:

- ▶ certain sectors of employment (agriculture in the case of Ecuador and Argentina);
- ▶ specific occupations (footballers in the case of Peru and highly skilled professionals in the case of Honduras and Peru);
- ▶ a specific geographic scope; or
- ▶ a particular visa category.

PEAs can be granted an exemption to charge a fee to a jobseeker or worker who provides specialized services. There are limited details on the types of specialized services for which PEAs are authorized to charge workers; however, during interviews with public employment services and PEAs in Colombia, it was explained that the fees might cover specialized career orientation services, coaching, or access to selected job offers. Certain visa categories or countries of destination may in fact have stricter prohibition applied to them: In Jamaica,

the Minister regulates the fees to be charged by employment agencies for their services. Nevertheless, the Recruiters Act states that PEAs shall not charge any fees to persons under employment with a United States H-2B visa, or if fees are prohibited in the country where the job placement will take place.

Despite none of the countries in the Arab States having ratified ILO Convention No. 181, Bahrain, Qatar, Saudi Arabia and the United Arab Emirates have prohibited workers from being charged recruitment fees or related costs. Jordan, Kuwait, Qatar and the United Arab Emirates have also enacted separate laws to regulate the recruitment of domestic workers, each explicitly stating that workers should not pay for their recruitment.⁴³



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43 Jordan Domestic Worker Regulation, No. 90, 2009; Kuwait Domestic Worker Law, No. 68 of 2015, Article (4); Qatar Domestic Workers Law, Qatar Law No. 15 of 22 August 2017, Section 8; United Arab Emirates Domestic Workers Law, Federal Law No. 10 of 2017.

▶ **Table 3. Selected examples of policies that prohibit the charging of recruitment fees**

Region	Policies prohibiting the charging of recruitment fees
Mali (ratified Convention No. 181)	<p>The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.</p> <p>Extract of relevant policies</p> <ul style="list-style-type: none"> ▶ Article 304 of the Labour Code (Code du Travail) states that all fees are to be borne by the employer only. ▶ Article L.304 of the Labour Code: Placement fees collected by fee-charging employment agencies shall be borne entirely by the employers without any payment being received from the workers. ▶ Article L.305 of the Labour Code: Paid employment agency managers and their agents are prohibited from collecting or accepting from time to time any transactions made by them, deposits of surety of any kind whatsoever. <p>Link to relevant policy La Loi No. 92-020 du 23 septembre 1992 portant Code du travail en République du Mali as amended by Loi No. 2017-021 du 12 juin 2017.</p>
Morocco (ratified Convention No. 181)	<p>The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.</p> <p>Extract of relevant policies</p> <ul style="list-style-type: none"> ▶ Public employment services are free of charge for workers. Private employment agencies are also not allowed to charge workers any fees for their services. In case of a recruitment of a Moroccan worker abroad, the agency also has to pay the worker's repatriation costs. ▶ Article 476 of the Labour Code: L'intermédiation en matière d'emploi est assurée par des services créés à cette fin par l'autorité gouvernementale chargée du travail. Les prestations fournies par ces services aux demandeurs d'emploi et aux employeurs sont gratuites. ▶ Article 480 of the Labour Code: "Il est interdit aux agences de recrutement privées de percevoir, directement ou indirectement, des demandeurs d'emploi des émoluments ou frais, en partie ou en totalité." ▶ Article 490 of the Labour Code: L'agence de recrutement privée, par l'entremise de laquelle un contrat de travail à l'étranger a été conclu, se charge des frais de retour du salarié à son pays ainsi que de tous les frais engagés par lui en cas de non exécution du contrat pour des raisons indépendantes de sa volonté. <p>Link to relevant policy Livre IV of the Labour Code, No. 5210, 2004, as amended up to 2017.</p>

South Africa The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.

Extract of relevant policies

- ▶ Employment Services Act, Chapter 3, Article 15 (private employment agencies):
- ▶ No person may charge a fee to any work seeker for providing employment services to that work seeker.
- ▶ Despite subsection (1), the Minister may, after consulting the Board, by notice in the Gazette permit private employment agencies to charge fees in terms of a specified fee to specified categories of employees or for the provision of specialized services.
- ▶ A notice in terms of subsection (2) may specify categories of employees by reference to the work performed or to the earnings of such employees.
- ▶ A private employment agency must not deduct any amount from the remuneration of an employee or require or permit an employee to pay any amount in respect of the placing of that employee with an employer.
- ▶ Any agreement between a private employment agency and a client in terms of which employees perform work for the client, must specify separately the remuneration that employees will receive and the fee that the client is paying to the private employment agency.

Note: As of May 2020 no exception under Art. 15(2) has been allowed by the Minister.

Link to relevant policy

[Employment Services Act, No. 4 of 2014.](#)

Mexico The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.

Extract of relevant policies

- ▶ Article 539(2) of the Federal Labor Law states that the Secretariat of Labour and Social Welfare will authorize, register and supervise the operation of private employment agencies in the country and that the operation of these agencies can be regulated. In this regard, in 2006 the President issued a Recruitment Regulation, which prohibits the charging of any fees to workers for employment services for both private and public employment agencies (Art. 5).
- ▶ According to Article 28(1)(a) of the Federal Labour Law, the labour contracts of Mexicans working abroad must prescribe that the employer has to bear any repatriation costs.

Links to relevant policies

- ▶ [Ley Federal del Trabajo \(ultima reforma publicada 2019\)](#)
- ▶ [Reglamento de agencias de colocación de trabajadores, 2006 \(as last amended in 2014\).](#)

Peru The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited. Payment for services of PEAs is assumed by employers (Art. 6 of Supreme Decree No. 020-2012). It makes specific exception with regards to football players and specialized advisory services for highly skilled workers.

Extract of relevant policies

Decreto Supremo No. 020-2012-TR. – Decreto Supremo que aprueba Normas Reglamentarias para el Funcionamiento de las Agencias Privadas de Empleo, Artículo 6°. Prohibición de realizar cobros a los buscadores de empleo:

El pago por el servicio de colocación laboral que brinda la Agencia Privada de Empleo, es asumido íntegramente por los ofertantes de empleo. Queda prohibido realizar cobro alguno a los buscadores de empleo como consecuencia del servicio de colocación, así como condicionar la colocación a la adquisición de un bien o servicio.

No se consideran dentro de esta prohibición las transferencias de futbolistas profesionales así como la prestación de servicios de asesoramiento especializado para profesionales de alta calificación.

Link to relevant policy

[Decreto Supremo No. 020-2012-TR.](#)

Chile The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited. Under no circumstances can the temporary placement agencies charge any fees to the worker, either for training or placing them.

Extract of relevant policies

Código de Trabajo, Artículo 183-S - En ningún caso la empresa de servicios transitorios podrá exigir ni efectuar cobro de ninguna naturaleza al trabajador, ya sea por concepto de capacitación o de su puesta a disposición en una usuaria.

Link to relevant policy

[Codigo de Trabajo, as amended in 2017.](#)

Germany This policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited. This policy applies to temporary agency workers only.

Extract of relevant policies

According to Article 9(1)(5) of the Temporary Employment Act, workers may not be charged any fees by the agency for placing them on the job.

Link to relevant policy

[Gesetz zur Regelung der Arbeitnehmerüberlassung \(Arbeitnehmerüberlassungsgesetz - AÜG\), zuletzt geändert 2020 .](#)

Finland
(ratified
Convention
No. 181)

The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.

Extract of relevant policies

- ▶ Chapter 12, Section 5, para. 1, of the Act on public employment and business service prohibits private employment agencies to charge a jobseeker for their services.
- ▶ Chapter 12, Section 5, para. 1 of the Act states that providers of private employment services must not charge fees (prohibition of charges for employment exchange) from individual clients for services provided that correspond to employment exchange services referred to in Chapter 3, section 2, distribution of information and giving advice on vacant jobs and jobseeking, referred to in Chapter 4, section 1, or registration as a jobseeker referred to in Chapter 2, section 1. No charge may be collected from a temporary agency worker who, after the termination of an assignment, transfers to the employment of a user enterprise, referred to in Chapter 1, section 1, of the Employment Contracts Act.

Links to relevant policies

- ▶ [Act on public employment and business service, 2012, as amended up to 2015, as amended up to 2019;](#)
- ▶ [Penal Code, as amended in 2016.](#)

Hungary

The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited. This policy applies to temporary agency workers only.

Extract of relevant policies

- ▶ Employee should not pay temporary work agency for the assignment, or for entering into a relationship with the user enterprise.
- ▶ Section 216, para. 3 of the Labor Code: An [temporary agency work] agreement shall be considered invalid if ... it contains a clause to stipulate the payment of a fee by the employee to the temporary-work agency for the assignment, or for entering into a relationship with the user enterprise.
- ▶ Section 217, para. 4 of the Labor Code: Unless otherwise agreed, the temporary-work agency shall be required to cover all employment-related expenses specified in Subsection (2) of Section 51, such as the employee's costs of travel and the costs of a medical examination if one is required for employment.

Link to relevant policies

- ▶ [Labor Code, 2012, as amended in 2019.](#)

Bahrain The policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.

Extract of relevant policies

Article 23(C) of Act No. 19 (2006) with Regard to the Regulation of the Labour Market: It is prohibited for any person to receive any moneys or obtain any benefit or advantage from an employee in lieu of issuing him a work permit or in return for the employment of such an employee or his retention in his job.

Link to relevant policy

[Act No. \(19\) With Regard to the Regulation of the Labour Market, 2006.](#)

United Arab Emirates This policy applies to both national and international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.

Extract of relevant policies

Article 18 of the Labour Law, 1980, states that no licensed employment agent or labour supplier shall demand or accept from any worker, whether before or after the latter's admission to employment, any commission or material reward in return for employment, or charge him for any expenses thereby incurred, except as may be prescribed or approved by the Ministry of Labour and Social Affairs.

Link to relevant policy

[Labour Law, 1980, as amended in 2007.](#)

Qatar This policy applies to international recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.

Extract of relevant policies

- Article 33 of the Labour Law No. 14 of 2004: The person who is licensed to recruit workers from abroad for others shall be prohibited from doing the following:
 - To receive from the worker any sums representing recruitment fees or expenses or any other costs.
 - To carry out in the office any other business other than the recruitment of workers from abroad for others.

Link to relevant policy

[Labour Law, No. 14 of 2004.](#)

New Zealand This policy applies to national recruitment of workers. The charging of recruitment fees and/or related costs to the worker is prohibited.

Extract of relevant policies

Article 12A(1) of the Wages Protection Act states: No employer or person engaged on behalf of the employer shall seek or receive any premium in respect of the employment of any person, whether the premium is sought or received from the person employed or proposed to be employed or from any other person.

Link to relevant policy

[Wages Protection Act, 1983 \(No.143\), as amended up to 2018.](#)

▶ 4.5. Regulation of recruitment fees and related costs

Countries that choose to regulate recruitment fees and costs do so in three ways:

- ▶ articulating a general policy statement that allows labour recruiters to charge fees for their services;
- ▶ capping of the fees, that is, prescribing a maximum amount to be paid by the worker or jobseeker; or
- ▶ detailing costs and charges that should not be charged to the workers or describing which costs are to be charged to employers, workers and labour recruiters.

The Global Study found 36 countries that regulate the payment of recruitment fees and related costs through one of these three means: 8 have issued general statements allowing the charging of fees and related costs to workers; 13 have capped the allowable fees

and related costs; and 21 have detailed or itemized different cost categories (table 4).

Among the countries that fix a ceiling for the fees collected from workers, some have chosen to include more stringent requirements for certain sectors. For example, in the Philippines, the Revised Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Filipino Workers of 2016 put a cap on recruitment fees equivalent to one month's basic salary as stated in the approved contract. However, fees cannot be charged to domestic workers, seafarers and for those workers recruited to countries where the collection of recruitment fees is prohibited.

In some countries, fees are payable only if the agency's efforts result in employment. There are laws that combine the capping of fees with a detailed list of recruitment costs that workers can be asked to pay or should be exempt from.



▶ **Table 4. Policy approaches in regulating recruitment fees and related costs**

Region ¹	Policies regulating recruitment fees and related costs			
	Total no. of countries with at least one policy	General statement regulating fee charging	Capping costs (maximum amount to be charged)	Itemizing costs with who pays
Africa	4	1	1	4
Americas	5	0	2	3
Asia and the Pacific	22	5	9	12
Europe	5	2	0	2
Arab States	0	0	0	0
Total	36	8	13	21

¹ Countries/territories with policies that cover more than one category (general statement, capping costs and/or itemizing): Ethiopia (2), Hong Kong (China) (2), Malaysia (2), the Philippines (2), Uganda (2), Viet Nam (2).

Source: Compiled by authors.

Economies in the Asia and the Pacific region, where the overseas recruitment process is dominated by private employment agencies (PEAs), have largely adopted policies regulating the charging of recruitment fees and related costs. In instances where a cap is set on these recruitment fees and related costs, a number of countries state the absolute amount or a limit in terms of wages—usually one or two months in wages if the job contract is for two years or more. For example, in India, in accordance with article 25 of the Emigration Rules, the cap on recruitment fees is set at the equivalent of 45 days of wages (as stated in the employment contract) and is limited to no more than 30,000 rupees (approximately US\$435 in 2019)⁴⁴. Apart from the payment for the professional services of the PEA, this is also expected to pay for the visa fee, the airfare to destination, the medical exam, and initial hotel stay at host country, as well as any other costs associated with overseas employment. Any amount exceeding 30,000 rupees is to be shouldered by the foreign employer. In

the case of Nepal, the Foreign Employment Act 2007 gives the Government the authority to put a cap on recruitment fees, which may be country- and company-specific. Following the implementation of the “Free Visa, Free Ticket” policy, the cap on recruitment fee was set at US\$100. Hong Kong, China, has combined a general cap on recruitment fees with an itemized list of costs that are to be reimbursed by the employer. The Second Schedule, Part II, of the Employment Agency Regulation (cap. 57, section 62) states:

- ▶ The maximum commission which may be received by an employment agency shall be—
 - e. from each person applying to the employment agency for employment, work or contract or hire of his services, an amount not exceeding a sum equal to ten per cent of the first month’s wages received by such person after he has been placed in employment by the employment agency.

⁴⁴ Previously, India’s Emigration Act of 1983 made the cap on recruitment fee dependent on the skill level of the worker (similar to Bangladesh), with skilled workers charged 5,000 rupees, semi-skilled workers 3,000 rupees, unskilled workers 2,000 rupees, and 10,000 rupees for workers classified differently.

At the same time, the Hong Kong, China, government publication Practical Guide for Employment of Foreign Domestic Helpers – What Foreign Domestic Helpers and their Employers Should Know states that employers in Hong Kong, China, will be responsible for reimbursing the following costs to the workers they employ:

- ▶ 100 Hong Kong dollars as a daily goods and travel allowance for the worker’s journey to Hong Kong, China;
- ▶ free passage for return, usually an air ticket covering airport tax and a daily food and travelling allowance of 100 Hong Kong dollars per day; and
- ▶ reimbursable fees are not prescribed but the guide notes the following categories: mandatory insurance, medical examination fee, notarization fee, visa fee, government fee, others. The worker must produce receipts for each of these costs.

In Africa, it is those countries that have recently begun regulating the recruitment of migrant workers for employment in the Arab States that regulate recruitment fees; these countries include Ethiopia, Ghana, Kenya, Nigeria and Uganda. The three typologies noted above for the regulation of fees and related costs are seen on the continent:

- ▶ Ghana has articulated a general policy statement that allows labour recruiters to charge fees for their services. The Labour Act, 2003, (Act 651) stipulates that fee charging to workers is allowed. The Minister may make regulations prescribing the scale of fees chargeable by PEAs (section 174(h)). The Act also specifies that a PEA must refund 50 per cent of the fees paid to it by a client, if the PEA is unable to secure a job placement for the client within three months (section 7(7)). According to principle 3 of the Ghana Association

of Private Employment Agencies Code of Conduct, PEAs may charge fees for their services; however, these fees must be “appropriate” in relation to the costs of the agency. No definition of “appropriate” is provided.

- ▶ Uganda has prescribed a maximum amount that can be charged to the worker. The Rules and Regulations Governing the Recruitment and Employment of Ugandan Migrant Workers, 2005, addresses in section 29 the fees chargeable to migrant workers by PEAs. Workers may be charged up to 50,000 Ugandan shillings for recruitment and deployment services as administration costs. Workers may also be charged a placement fee to cover related costs, such as a trade or skill tests, medical examinations, and passport and visa costs. These fees may only be collected once the employment contract has been signed, and receipts need to be issued upon payment.
- ▶ In Ethiopia, the Overseas Employment Proclamation No. 923/2016 provides a detailed articulation of which expenses are to be paid by the worker and which by the employer.

From a worker’s point of view, it is not only key to minimize the costs associated with migration in general, and recruitment in particular, but also to obtain transparent and precise information on recruitment costs and related fees, so as to better understand the conditions of their recruitment and employment. If asked to pay, workers need to understand what they are being charged for in detail, and why a fee is being charged. As recruitment fees and related costs can negatively affect workers’ incomes and working conditions, this information is especially important when considering various options for employment.

▶ 4.6. Application of regulations to national and international recruitment

Globally, most countries' policies prohibiting the payment of recruitment fees and related costs apply generally to all jobseekers regardless of whether they are searching for jobs on the domestic or international labour markets. Fifty-nine countries in the Global Study have at least one policy prohibiting fee charging to workers, the majority of which cover both national and cross-border recruitment. Analysis of these policies – of which there are 63 in total – shows that 70 per cent cover both national and cross-border recruitment; 17 per cent exclusively refer to international recruitment; and 8 (13 per cent) pertain only to local/national recruitment. There are 36 countries with at least one policy regulating worker-paid recruitment fees and related costs, over half of these policies (53 per cent) refer to international recruitment only; 13 (36 per cent) refer to both national and international recruitment; and only 4 (11 per cent) are exclusively for national recruitment (figure 1).

There are distinct regional differences that should be highlighted. In **Europe**, countries seem to have opted to largely prohibit fees and to regulate national and international recruitment through the same regulatory or policy instrument. This is in contrast to **Asia**, where distinct policies have been put in place only to regulate international recruitment. The regional study identified 15 such policies. The existence of dedicated labour migration ministries distinct from ministries of labour, and the region's rich history of regulating migration might have led to provisions that are more detailed regarding recruitment fees and related costs. Such provisions are located within labour migration-specific laws and policies.

The regional research in **Asia and the Pacific** took a particular look at five destination

countries in the region: Australia, Malaysia, the Republic of Korea, Singapore and Thailand. In Australia and Singapore, national and migrant workers are essentially treated equally. In the case of Singapore, for both national workers and foreign workers, recruitment fees are capped at one month's salary for each year of the period of employment, subject to a maximum of 2 months' salary.⁴⁵ In Australia, neither national workers (whether for employment in Australia or outside Australia) nor foreign workers are expected to pay a recruitment fee.

In Malaysia, the Republic of Korea and Thailand, however, the regulation of recruitment fees is different for national and migrant workers. In Malaysia, the cap on recruitment fees is lower for national workers (whether for domestic or foreign employment) at only 25 per cent of the basic wages for the first month; whereas it is a full one month's basic wages for migrant workers employed in Malaysia.⁴⁶ In Thailand, it is somewhat the reverse, as foreign workers are not expected to pay a recruitment fee,⁴⁷ whereas the law allows employment agencies to collect a service charge from national workers for both domestic or foreign employment⁴⁸. The Republic of Korea is somewhat similar to Thailand in that there is a provision in law that would allow employment agencies to collect a fee from national workers if permitted by the Ministry of Employment and Labor,⁴⁹ whereas foreign workers do not pay any placement fee under the Employment Permit System (EPS), although they do cover other costs.

In **Latin America** most regulations examined did not include a specific reference to migrant workers, nor did they differentiate between national and international recruitment processes. Typically, the legislations

45 Employment Agencies Rules 2011.

46 Private Employment Agencies Act 2017.

47 Royal Ordinance Concerning Rules on Bringing Migrant Workers to Work with Employers in the Kingdom, 2016.

48 Employment and Jobseeker Protection Act, B.E. 2528 (1985).

49 Employment Security Act.

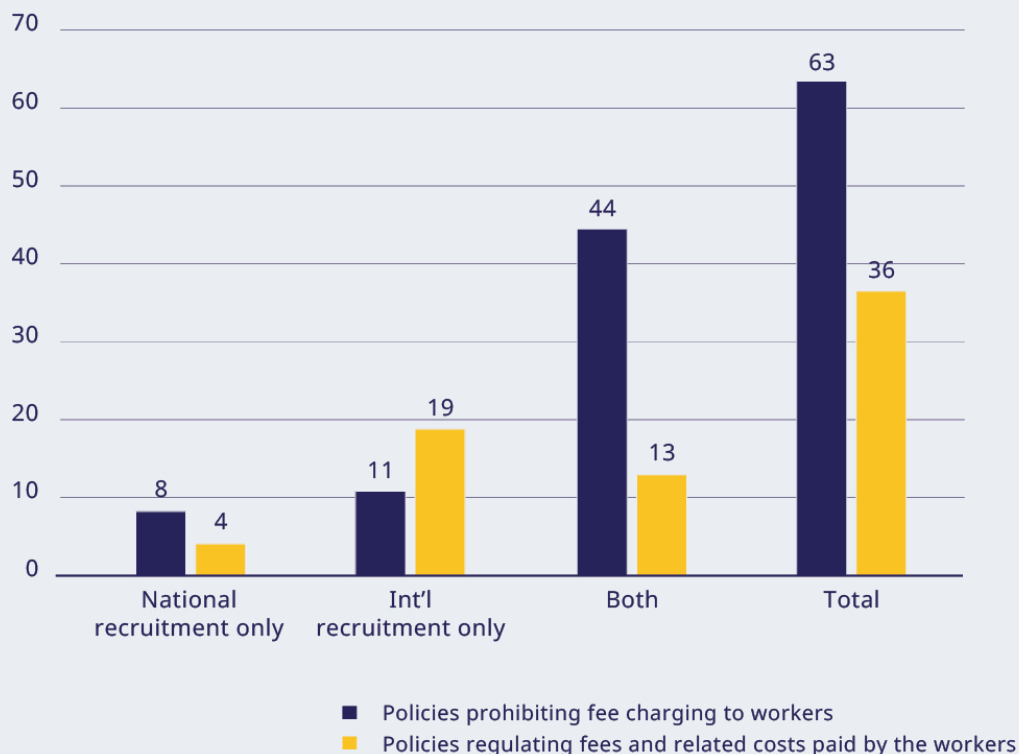
recognize equality of treatment for all persons and workers, and state that PEAs should not discriminate against workers based on their nationality. During the interviews to validate the data collected, it was clarified that these pieces of legislation typically cover national workers as well as migrants in a regular situation in the country. The regional study in Latin America did highlight the regulations of three countries that choose to explicitly regulate international recruitment processes:

- ▶ Colombia has a specific resolution for regulating PEAs that recruit for employment abroad (Resolution

1481, 2014), in addition to other regulations that govern national labour intermediation.

- ▶ Honduras issued the Agreement STSS-252-2008 in 2008 to regulate international recruitment, and subsequently introduced further regulations in 2015–16 to regulate the operation of PEAs regarding national recruitment.⁵⁰
- ▶ Peru includes the regulation of national and international recruitment within the same instrument (Decree No. 020-2012-TR).

▶ Figure 1. Policies and their application to national or international recruitment



⁵⁰ While regulations in the South American countries are very recent – for instance, 2012 in Peru and 2014 in Colombia – Honduras is interesting because of the gap between regulations for international recruitment and national recruitment. This could be explained, in part, because Honduras is mainly a country of origin for recruitment abroad.

▶ 4.7. National definitions, cost categories and cost-sharing arrangements

The Global Study identified 27 economies⁵¹ that have comprehensively or in part defined recruitment fees and related costs. The most detailed definitions include an overarching summary description together with a listing of prohibited or regulated fees and costs and, if applicable, cost-sharing arrangements. Six of these countries (Pakistan, the Philippines, Qatar⁵², Uganda, the United Kingdom and the United States) have formulated full definitions with all of these elements. The remaining 21 countries' definitions enumerate different fees or related cost items for which workers should never pay or for which costs are shared among employers, workers and/or PEAs. Ten countries that prohibit fee/cost charging to workers also itemize the different fees and costs that should not be charged to a worker. Seventeen countries that regulate fee charging also detail related costs. Appendix III lists these 27 economies and their corresponding definitions.

The review of national laws and policies showed a multiplicity of definitions of "recruitment fees" and "recruitment costs". The term "recruitment fees" is sometimes used interchangeably with agency placement fees or service fees. In some countries, the term includes not only the service fee charged by the labour recruiter, but also other cost items. For instance, Cambodia's Ministry of Labour and Vocational Training defines "recruitment fees" as payment to employment agencies for professional services to a worker and is inclusive of a registration fee, pre-departure training and the placement of the worker in the destination country. Meanwhile, the Ministry of Labour and Vocational Training defines "recruitment costs" as expenses related to the worker's personal documents, such as an overseas worker card, passport, visa, work permit and residence permit, in addition

to a medical check-up and transportation. Private sector groups, in particular the PEAs, have additional items that they would include among recruitment costs. For instance, the Myanmar Overseas Employment Agencies Federation (MOEAF) thinks that recruitment costs should include the costs of advertising jobs for new workers, the cost of organizing job fairs for overseas jobs, and the agency's staffing costs.⁵³ By way of contrast, Malaysia's Ministry of Human Resources defines the terms very differently, identifying "recruitment fees" as fees regulated by law and "recruitment costs" as fees not regulated by law.

The study also showed that countries are detailing cost categories differently, although there is some convergence on certain items. Out of the 28 cost items that were mentioned in at least one piece of legislation or policy (see box 1), countries frequently included the following:

- ▶ the worker's documentation
- ▶ country of destination and country of origin requirements
- ▶ travel and transportation
- ▶ medical tests
- ▶ return travel.

Other items that were listed in fewer instances included: skills testing and additional training; pre-departure training, exceptional costs and administrative costs. In terms of the level of detail given, there are countries that identify two or three cost items, while others enumerate more than ten cost items. For example, the cost items covered by the legislations and policies of these 27 economies range from only one (recruitment fee, in Vanuatu) up to 16 (in the Philippines).

51 Antigua and Barbuda, Australia, Canada, Colombia, El Salvador, Ethiopia, Guyana, Hong Kong (China), Indonesia, Kenya, Morocco, Nepal, New Zealand, Pakistan, the Philippines, Poland, Qatar, Saudi Arabia, Singapore, Thailand, Togo, Uganda, the United Kingdom, the United States, the Bolivarian Republic of Venezuela, Viet Nam and Zambia.

52 The definition for Qatar has been adopted by the Supreme Committee for Delivery and Legacy and applies only to the construction sector for projects linked to the FIFA World Cup

53 Survey response of MOEAF to survey questionnaire for the regional report for Asia and the Pacific.

► **Box 1. List of related recruitment cost items mentioned in at least one legislation or policy**

Workers' documentation

1. Passport
2. Police clearance
3. Birth certificate
4. School record/education credentials
5. Skills certificate for job applied for/ certificate of occupational competency

Medical

6. Medical test
7. Vaccinations
8. Skills tests and additional training
9. Skills test
9. Language testing
10. Additional tests (medical or skills)

Pre-departure and training

11. Pre-departure training
12. Additional training, as needed

Country of origin government requirements

13. Approval of foreign contracts
14. Contribution to welfare fund
15. Enrolment in social security, health and other national insurance
16. Miscellaneous taxes*

Country of destination government requirements

17. Visa
18. Work permit
19. Levy

Travel and transportation

20. Internal travel and accommodation while processing
21. Outward international air travel
22. Local transport from airport to place of work

Exceptional costs

23. Breach of contract
24. Security deposits and other collateral

Administrative and other costs

25. Notary, attestations and other legal fees**
26. Photographs

Return

27. Return international air travel
28. Allowances for return travel

*Miscellaneous taxes may refer to airport tax, exit clearance, among others

**Including translation costs

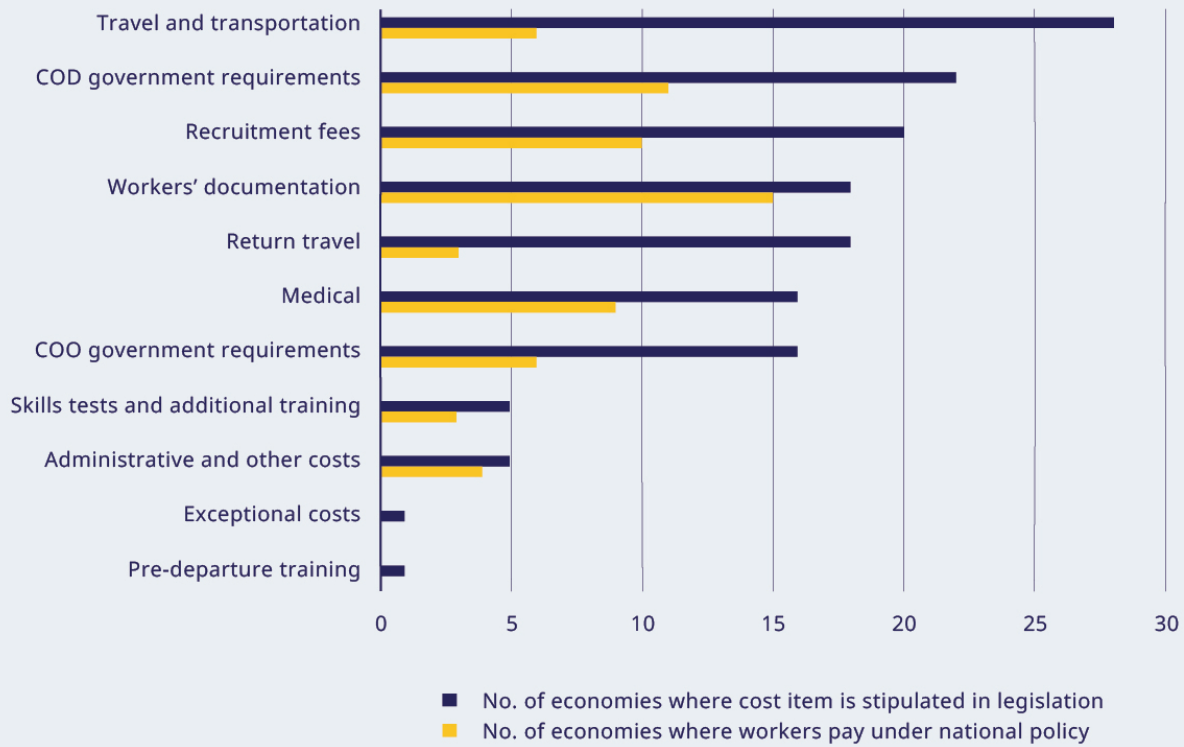
There are instances when regulations will assign specifically which costs should be covered by the employer, the worker, the PEA or a government authority; this study labels these specificities as “cost-sharing arrangements”. There is much diversity among the regulations covered. In general, the study observed that a country prohibiting the charging of recruitment fees and costs to workers may also detail cost categories that should or should not be charged to a worker, and/or those costs to be borne by the employer or PEA. There is no unanimity among the economies, not only on the cost categories but also on which of the itemized costs are to be paid by workers, employers or other stakeholders in the recruitment process. Using the data from the 27 countries that have

detailed recruitment costs and fees, figure 2 provides more information on:

- costs that have been itemized in national/territorial laws and policies;
- the number of times these costs are mentioned in national/territorial laws and policies; and
- whether workers are asked to pay these costs.

Travel and transport, cost of return, as well as country of destination requirements are frequently detailed as costs not to be charged to the workers.

▶ **Figure 2. Cost-sharing arrangements stipulated in laws and policies of 27 economies that have detailed recruitment costs and fees.**



There are regional differences in the cost categories, including in the cost-sharing arrangements:

In the **Asia and the Pacific** economies in the study, all the cost categories are present in legislation. However, across economies the cost categories differ widely in terms of the cost items that are covered, and also on who is expected to pay the cost items. The number of cost items covered by legislations and policies ranges from only one in Vanuatu (recruitment fee) to at least 16 in the Philippines. There is also much heterogeneity in the assignment of responsibility for payment. On one end, Mongolia, which has ratified ILO Convention No. 181, stipulates that workers shall not, directly or indirectly, be charged any fees related to their recruitment and placement. On the other end there are countries such as Indonesia and Viet Nam, where workers are required by law or policy to shoulder most of the costs.

In **Europe**, where many countries have prohibited fee-charging, it is perhaps not surprising that legal provisions tend to be silent on the types of recruitment-related costs charged to workers. Only one European country in the study, Poland, features in the list of countries that are regulating recruitment fees and/or related costs. Poland has identified four cost items that employment agencies can charge for: return transportation, visa issuance, medical examinations and translation of documents.

In the **Arab States**, where legal provisions mostly prohibit fee charging to workers, policies are quiet regarding the cost items that are imposed in countries of origin, but are more explicit concerning costs charged in the countries of destination (for instance, work and residence permits), which should, in most cases, be borne by the employer. Recently, Gulf countries have made some efforts to address high fees and costs charged to migrant workers. For example,

the United Arab Emirates is in the process of establishing “visa offices” in countries of origin; while Qatar is establishing Qatar Visa Centers in countries of origin to monitor recruitment, promote fair recruitment and prevent contract substitution. As of September 2020, 14 Visa Centers have been opened in six countries –Bangladesh, India, Nepal, Pakistan, the Philippines and Sri Lanka – with Ethiopia, Indonesia, Kenya and Tunisia to come.

As for **the Americas**, only a small number of countries have defined or itemized recruitment fees and related costs in their regulations. Cost categories include only medical and skills tests, governmental clearances and travel/transportation arrangements. Employers are expected to bear these costs. Although there is not a direct definition of what recruitment fees and related costs are, Colombian legislation specifically prohibits charging any fees or related recruitment costs for collecting and preparing documents for the selected worker, evaluating or testing for specific skills, medical exams or vaccinations, passports or visas, and airport tax. The legislation states that the recruitment fee should be borne by the employer once the contract has been signed. In El Salvador the charging of recruitment fees and/or related costs to the worker is regulated, and PEAs can charge fees. However, costs of travel to and from the place of employment should be borne by the employer, including repatriation costs, if necessary. Repatriation costs must also be borne for Salvadoran seafarers who work on foreign ships.⁵⁴ Another example of a regulation that has attempted to identify some recruitment-related costs items is article 65 of the Labour Law, 2012, of the Bolivarian Republic of Venezuela. The law states that a foreign employer hiring a Venezuelan worker should deposit a guarantee in a Venezuelan bank to cover the cost of repatriation and the cost of transportation to the place of residence. The employment contract should specify that travel, food and immigration-related costs are covered by the employer.

In **Africa**, all the cost categories are found in the region’s policies, with workers most often expected to bear the costs of their

documentation and medical and skills tests. All other cost categories tend to be the responsibility of employers, according to the examined laws and policies. Ethiopia has elaborated the most detailed and itemized definition of which costs are to be borne by the worker and which are to be borne by the employer with regard to recruitment for employment overseas. According to the Overseas Employment Proclamation No. 923/2016, the employer covers the following expenses of the worker:

- ▶ entry visa fee to the country of destination;
- ▶ round trip transport costs;
- ▶ work permit fee;
- ▶ residence permit fee;
- ▶ insurance coverage;
- ▶ visa costs and costs related to document authentication paid to the embassy of the destination country; and
- ▶ employment contract approval service fee, which is paid to Ministry of Labour and Social Affairs.

The migrant worker covers the following expenses:

- ▶ passport issuance fee;
- ▶ costs associated with the authentication of the contract of employment received from overseas;
- ▶ criminal record clearance certificate;
- ▶ medical examination fee;
- ▶ vaccination fee;
- ▶ birth certificate issuance fee; and
- ▶ expenses for certificates of occupational competence.

With many countries clearly prohibiting the payment of recruitment fees and costs by workers for employment, research continues to show that enforcing these policies is not straightforward and that migrant workers continue to pay exorbitant fees for their recruitment (see section 7).

⁵⁴ El Salvador, Labour Law, Decree 682, 1996.



► 4.8. Policies prohibiting or limiting fees and costs: Focus on skills, specific sectors and gender

In general, the reviewed national laws and policies apply to all occupations, regardless of skill level or sector, but there are a few exceptions analysed herewith. A small number of countries have developed sector-specific legislation, policies or programmes to address the protection needs of certain categories or groups of workers (table 5). For example, Australia, Canada, New Zealand (box 2) and the United Kingdom have designed short-term seasonal hiring programmes to bring migrant workers into the agriculture and horticulture sectors.⁵⁵ The policy approach for these programmes is to regulate fees and costs, with costs shared between employers and workers. Domestic work is also sometimes regulated

separately, with at least nine countries having national laws or policies prohibiting the charging of fees and related costs for either national or international recruitment of domestic workers.⁵⁶ The construction sector receives specific attention in Qatar, where the Workers Welfare Standards contain a clear definition of “recruitment fees and processing costs” and stipulate that these should not be charged to the worker.⁵⁷ The Republic of Korea’s EPS system focuses on the recruitment of workers for small- and medium-sized companies in the manufacturing sector, and the approach of Human Resource Development Korea has been to closely monitor the total and itemized costs that workers pay.

► Box 2. New Zealand: Recognised Seasonal Employer scheme

In 2006, New Zealand introduced the Recognized Seasonal Employer (RSE) scheme to fill labour shortages in the horticulture and viticulture industries. Under this scheme, New Zealand employers can apply for RSE status to fill vacant positions, with priority given to migrants coming from the Pacific (Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu). The primary objective is to encourage a mutually beneficial relationship where employers have access to a secure labour supply and workers gain entrance into the New Zealand labour market. Workers admitted under this programme cannot transfer to another type of permit and are required to return to their country of origin at the end of their contract. Under the RSE scheme, employers must pay half of the travel costs; offer wages at market rates for work performed; guarantee payment for at least 240 hours of work; ensure hours of work average to 30 hours per week; provide healthcare, accommodation and in-country transportation costs; and must contribute to finding a worker who fails to return home at the end of their employment. Immigration costs are borne by the worker and include application cost, a visa application centre service fee and courier fees.

55 Australia’s Pacific Seasonal Worker Pilot Scheme, Canada’s Seasonal Agricultural Worker Program, the Republic of Korea’s EPS and New Zealand’s Recognised Seasonal Employer scheme.

56 Includes Bangladesh, Jordan, Kuwait, Lebanon, the Philippines, Qatar, Saudi Arabia and Sri Lanka. Domestic work is also the focus of several migration bilateral agreements, discussed in another section. In India, the Chhattisgarh Private Placement Agencies (Regulation) Act, 2013, prohibits private placement agencies in Chhattisgarh State from charging any fee to a domestic worker.

57 This is pertinent given the great global attention on reports of indebtedness of migrant workers employed in Qatar’s construction sector for infrastructure related to the Football World Cup. See: Qatar, Workers Welfare Standards, 2nd ed., 2018.

There is an administrative limit or cap on the number of RSE places that can be taken up in any one year. This cap was set at 5,000 places when the scheme was established in 2007, but the success of RSE has led to increased demand from employers, and the cap was increased to more than 11,000 in 2017.

Source: New Zealand n.d.

These specific laws and policies have been designed with the view to addressing the well-documented risks faced by workers in specific sectors or at specific skill levels due to high costs of recruitment, among other reasons (Kuptsch 2006). In these sectors, where employers do not always invest in long-term contracts, the large supply of low-skilled worker applicants and the relative shortage of foreign employment opportunities enable jobseekers willing to pay high fees to “jump to the front of the queue”. As a result, some low-skilled migrant workers may end up paying very high recruitment fees and related costs, with costs in some corridors being as much as 12 months’ salary (World Bank, ILO and KNOMAD 2017). On the other hand, employers often pay the recruitment fees and related costs for more highly skilled workers because of relative scarcity of available skilled workers and the importance of instituting proper job-matching procedures for this recruitment (Kuptsch 2006).

Digging a little deeper into some country examples from the **Asia and the Pacific** region, the prescribed fee for the same recruitment cost item (for the same origin country) may differ across different destinations and occupations. For instance, a Vietnamese worker going to Taiwan, China, as a manufacturing or construction worker has to pay a maximum of US\$1,500 in brokerage fees, whereas one going to Taiwan, China, as a healthcare worker will pay a maximum of just US\$800. If that same Vietnamese construction worker were to be recruited to Brunei Darussalam, they would have to pay a maximum of only US\$350 in brokerage fees. Caps are typically based on the salary the worker will receive during employment, which varies by occupation (or worker’s skill) and destination country.

In general, national laws and policies do not distinguish between the needs of male and female workers or jobseekers, and usually make no difference in regulating the recruitment fees and related costs paid by women and men. One unique example is seen in Viet Nam, where the cap on the recruitment fee for Vietnamese workers going to Malaysia is based on the sex of

the worker, with the cap for men at US\$300 and the cap for women at US\$250. In general terms, the respective employment opportunities of women and men often reflect the existing gender segregation of the labour market, with women mainly recruited in the caregiving sector as nurses or domestic workers, or in food preparation, such as seafood processing; while it is more common for men to be recruited in the agricultural and construction sectors. Women migrant workers often report relatively higher deficits in working conditions compared to men, in terms of contractual status, regularity of wage payments, working hours, occupational safety and health, freedom of association, and discrimination (Aleksynska, Aoul and Petrencu 2017).

Some national legislation does focus specifically on female-dominated sectors, such as domestic work. In certain cases, policies exempt women domestic workers from paying recruitment fees; though things are often different in practice, with domestic workers being charged significantly higher related costs while also receiving particularly poor wages (GFMD 2016). In Nepal, domestic workers going abroad are not to be charged any cost at all. In some countries restrictions have been put in countries of origin on women migrating for domestic work (for example, Sri Lanka and Myanmar), and this can drive up migration costs as well as push women to go through irregular channels, where they have even less access to protection (Napier-Moore 2017). In Sri Lanka, the mandatory Family Background Report forbids women from working as domestic workers if they have children under the age of five; if the children are older than 5, she has to prove arrangements have been made for the protection and care of her children. Sri Lanka has also specified a minimum age requirement for women recruited into domestic work, which varies by country of destination, and if the women meets the above requirements, she is still required to go through a series of approvals from various government offices and has to receive the endorsement of her husband.



► **Table 5. National policies on recruitment fees and related costs:
Focus on specific sectors**

Americas

Canada Seasonal Agriculture Worker Program ¹	Canadian agriculture; workers from Central America and the Caribbean	Regulated
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Asia and the Pacific

Australia Pacific Seasonal Workers Programme (2006)	Horticulture industry in Australia with workers from Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu and Vanuatu	Regulated, with cost-sharing arrangements
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Republic of Korea Employment Permit System (2003) ²	Low- and medium-skilled workers working in small- and medium-sized enterprises	Regulated
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Philippines – An Act Instituting Policies for the Protection and Welfare of Domestic Workers, 2012, sections 12 and 36	Domestic work	Regulated – fees are prohibited for workers, though costs can be charged
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New Zealand Recognised Seasonal Employer scheme (2007) ³	Horticulture and viticulture industries	Regulated
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Europe

United Kingdom Gangmasters and Labour Abuse Authority ⁴	Agriculture, food processing, packaging and shellfish gathering	Prohibited
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Arab States

Jordan Domestic Worker Regulation No. 90, 2009, section 4.	Domestic workers	Regulated - the employer is required to cover the yearly cost for issuing the residency and work permits and pay for the ticket from the worker's home country and return ticket after two years of employment
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United Arab Emirates Domestic Workers Law, Federal Law No. 10 of 2017, article 4(1)	Domestic workers	Prohibited –An agency may not, “on its own or through a third party, solicit or accept from any worker, whether prior to or after employment, any form of commission in exchange for employment.”
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Kuwait Domestic Workers' Law, 2016, article 4	Domestic workers	Prohibited – the licensee or its employees or its associates within or outside Kuwait are not permitted to charge the domestic worker any fees in return for employing the worker, whether such charges are direct or indirect.
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Qatar Law No. 15 of 22 August 2017, section 8	Domestic workers	Prohibited – “An employer shall be prohibited from deducting any fees, expenses or commissions from a worker's wage in return for the procedures of recruitment from abroad.”
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Qatar – Workers' Welfare Standards ⁵	Construction	Prohibited
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¹ Canada n.d.; ² Yi 2013; ³ New Zealand n.d.; ⁴ United Kingdom 2014.; ⁵ Qatar 2018.

► 4.9. Compliance and sanctions

An important component of national laws and policies are provisions that aim at ensuring compliance, including through monitoring and enforcement, as well as sanctions for non-compliance. Penalties and sanctions for violating national policies on the charging of recruitment fees and related costs to workers include the imposition of fines and penalties, the suspension and revocation of PEA licenses, and in serious cases, criminal charges. Information on the application of sanctions and effectiveness of enforcement was not always readily available, and it was not the focus of this study to compile such information. The general impression from interviews, however, is that there are

many challenges associated with ensuring compliance.

Of the 99 national laws and policies reviewed in the Global Study, 66 explicitly provide sanctions for violations of prohibitions or limitations on fee charging. Among those 66 national laws/policies, the sanctions most frequently imposed are fines and penalties (59 per cent), including refunds of the recruitment fees and related costs paid by workers; followed by criminal prosecution and penal sanctions (32 per cent); and the revocation or suspension of the licence of the labour agencies (30 per cent) (table 6).

► Table 6. Provisions in national policy to sanction violations

Region	Total no. of policies	Provision for sanctions ¹				No sanctions provided
		General statement	Revocation/ suspension	Penalties and fines	Criminal/ penal	
Africa	16	2	6	6	1	3
Americas	21	3	5	7	4	8
Asia and the Pacific	25	0	8	13	11	5
Europe	28	1	0	10	4	14
Middle East	9	0	1	3	1	3
Total	99	6	20	39	21	33
Percentage of all sanction types	n.a.	9%	30%	59%	32%	n.a.

¹ A particular law or policy may contain more than one type of sanction; n.a. = not applicable.

▶ 4.10 International cooperation through bilateral agreements and memoranda of understanding

ILO instruments have long recognized the potential of bilateral agreements (BAs) as a good practice in the governance of labour migration flows between countries, and in contributing to the protection of migrant workers. The ILO Migration for Employment Convention (Revised), 1949 (No. 97), recommends that in cases where numbers of migrants are sufficiently large, the governments concerned should, whenever necessary or desirable, conclude agreements to regulate migration for employment (Article 10). To give practical effect to this, the accompanying ILO Migration for Employment (Revised) Recommendation, 1949 (No. 86), contains a Model Agreement on Temporary and Permanent Employment in its Annex that has influenced the development of bilateral labour arrangements across the globe.

International cooperation to facilitate the governance of migration processes and the protection of migrant workers takes multiple forms, ranging from multilateral and regional to national-level agreements. Bilateral cooperation has become increasingly popular, as seen through the development of bilateral agreements (BAs) and memoranda of understanding (MOUs) on labour migration in all regions of the world. Findings from a 2015 ILO study on BAs and MOUs showed that 62 per cent of agreements included a reference to recruitment. However, “ethical recruitment” or “ethical practice” was mentioned only in eight agreements – all of them in Asia – and “fair and transparent” recruitment was mentioned only in the India–United Arab Emirates 2011 MOU. Only one agreement, the Saudi Arabia domestic worker agreement with the Philippines has a provision (under article 3) to “regulate or endeavour to control recruitment costs in both countries” (Wickramasekara 2015, 37).

The Global Study identified 18 BAs and MOUs between countries of origin and destination that provide information on cost categories and cost-sharing arrangements (see Appendix 3).⁵⁸ In most cases, these BAs or MOUs concern low-skilled migration, the category of workers that tends to have highest migration costs. Although these legal instruments do not have explicit definitions of what recruitment fees and related costs could be, some of these agreements do spell out a few recruitment fees and related cost items, and in the process specify whether employers or workers are responsible for paying them. In some instances, MOUs and BAs require recruitment procedures to comply with relevant laws of both countries, which may lead to contradictions when country of origin governments allow employment agencies to charge workers (as a function of wage level) while country of destination governments forbid workers from being charged. A country of origin may negotiate multiple agreements with a country of destination (for example, one BA for general workers and one for a specific sector) with differences in provisions on payment of recruitment fees and related costs.⁵⁹ Further shortcomings found in MOUs and BAs may include a total lack of reference to recruitment fees or related costs, or the articulation of only one cost category, most often travel expenses.

The BAs analysed for the Global Study most frequently mentioned the following costs categories to be paid for by employers:

- ▶ return international air travel;
- ▶ internal travel and accommodation while processing;
- ▶ local transport from residence to work; and

58 These 18 BAs and MOUs do not include the mandatory MOUs imposed under the EPS of the Republic of Korea, the Australia Seasonal Worker Programme, and the Recognised Seasonal Employer (RSE) scheme of New Zealand.

59 For example, a Cambodia–Malaysia MOU regarding general workers going from Cambodia to Malaysia states that the airfare is to be borne by the worker. However, for Cambodian domestic workers going to Malaysia under a separate MOU, airfare is to be borne by the employer.



- private employment agency fees.

Employer-paid costs that are mentioned less frequently include:

- breach of recruitment;
- specialized interviewing and selection;
- language courses; visa;
- medical tests;
- specialized training;
- specialized testing; and
- social security enrolment.

Some agreements cite the following costs to be borne by the worker:

- the medical examination in the country of origin and before departure;
- training courses if required by the job placement; and

- administrative processes related to travelling, if they are not borne by the employer.

The ways recruitment costs are specified and cost-sharing arrangements are defined in BAs can change as the agreements are re-negotiated, and may also depend on the negotiation process between the two countries, resulting in different definitions of recruitment fees and related costs along different migration corridors from the same country of origin/to the same country of destination. An interesting example of such changes is seen in the example of Mexico (see box 3), which has developed different schemes for regulating the recruitment processes of its nationals abroad to specific countries of destinations. Within the agreements, the costs to be borne by the employer and worker differ, based on the negotiation processes.

► Box 3. Bilateral agreements of Mexico with Canada and the United States

The Braceros Agreement (1942–1964) between the United States and Mexico is one of the first examples of a bilateral agreement on migratory issues. It was conceived as a means to address labour supply shortages in the agricultural sector in the United States, while protecting the labour rights of Mexicans participating in the scheme. Firstly, contracts were to be written in Spanish with the supervision of the Mexican Government. Secondly, all transportation costs (from the place of origin to destination and return), living costs, transport of personal belongings up to 35 kilograms per worker, and any expenses of a migratory nature were to be covered by the employer. Thirdly, workers were required to have access to health services and occupational safety in equal conditions as local workers in the agriculture sector. The agreement explicitly stated that charging any fee or commission to the worker was illegal¹. The labour conditions were agreed to according to Mexican labour law in force at the time.

The Braceros Agreement ended in 1964 following a series of public denunciations by civil society organizations and the media about the precarious working conditions experienced by the workers. Low-skilled temporary labour migration between the two countries is currently managed using H-2A visas for workers in the agricultural sector, and H-2B visas for workers in other sectors. These visas, meant to facilitate the participation of workers in sectors with labour shortages, can be issued once an employer obtains authorization from the US Departments of Labour and Homeland Security. This scheme is managed unilaterally by the United States and establishes a series of requirements to be filled by workers and employers on a repeated basis, although they are linked to seasonal job vacancies.

In 1974, Mexico started to participate in Canada's Seasonal Agriculture Worker Program (SAWP). In the framework of this programme, Canada established MOUs with different countries in the region, in particular with Mexico and Caribbean countries, to fill vacancies not covered by Canadians and permanent residents. The SAWP allows employers to hire temporary foreign workers (TFWs) for activities related primarily to agriculture. The competent authorities are Employment and Social Development Canada (ESDC) and the National Employment Service (NES) in Mexico. Under this programme, fees are not to be charged to the worker, and the recruitment process in Mexico is carried out by the NES.

When applying to the programme, workers who meet the selection criteria must provide a valid identification document and a certificate of residence. Once the documentation is verified, the worker takes a test to validate their knowledge of agriculture. If the test is passed, the worker should procure a passport, medical exam, authorization letter and visa. The ESDC has developed a template of an employment contract in Spanish and English. The working conditions included in the contract and the explanation of deductions constitute another source of information on what could be considered recruitment fees and related costs.

Documentation costs, understood as referring to passports and visas, are borne by the worker, and therefore all specific requirements and any additional costs for procuring these documents are also to be borne by the worker. Employers must always arrange and pay for the round-trip transportation (for example, by plane, train, boat, car or bus) of the TFW to the location of work in Canada, and back to the TFW's country of residence. A portion of these costs can be recovered through payroll deductions in all Canadian provinces, except in British Columbia. The maximum amount that can be deducted is specified in the employment contract, entitled "Agreement for the employment in Canada for SAWP". Employers must provide to the TFWs, where required, no-cost transportation to and from the on-site/off-site housing location to the work location. Employers must provide TFWs with adequate, suitable and affordable housing as defined by the Canadian Mortgage and Housing Corporation. Employers are responsible for any costs that may be associated with having the housing inspected. Employers cannot recover these costs from the TFWs.

Although the template for the contract is publicly available, workers might not be aware of the conditions set in the document, and employers might add some modifications to the different clauses, resulting in different working conditions or deductions for the workers. The lack of knowledge of labour conditions and protection mechanisms for migrant workers and the different conditions offered in each Canadian province are factors that contribute to the existence of abuses and vulnerabilities for workers. Workers' organizations have recorded complaints about abuses of labour rights, including wage deductions – which may constitute a form of recruitment fees and related costs. A further factor to be considered is that despite the existence of an employment contract template, there is the possibility that the conditions may be interpreted differently, and that parties may agree to different conditions.

¹ "There shall be considered illegal any collection by reason of commission or for any other concept demanded of the worker." Agreement between the United States of America and Mexico Regarding the Temporary Migration of Mexican Agricultural Workers, 1942.

▶ 4.11. Commitment to regional obligations

As countries engage more deeply in and regional, multi-country alliances there is growing commitment on joint policy directives on political, economic and social issues. While these regional alliances have sought to harmonize employment and workplace policies, including those on recruitment and hiring, only the European Union has actually taken a binding position on the prohibiting temporary work agencies from charging recruitment fees and related costs to workers and jobseekers.

4.11.1. The EU Directive on Temporary Agency Work

In the European Union, following article 1.3 of the Council of Europe's revised European Social Charter, the right to work implies the obligation of States to establish or maintain free employment services for all workers. Further, article 29 of the EU Charter of Fundamental Rights grants to everyone the right of access to a free placement service. In practice, EU residents have relied on both public employment services and private employment agencies. Those who are lesser skilled, particularly in Eastern Europe, have been more likely to depend on PEAs, especially if the jobs they were looking for were not lodged in the databases of public employment agencies.⁶⁰

In 2008 the EU Parliament and the Council adopted the Directive on Temporary Agency Work (2008/104/EC). The Directive aims to guarantee a minimum level of protection to temporary workers by recognizing temporary work agencies as employers⁶¹. According to article 6.3, a temporary work agency shall not charge workers any fees "in exchange for arranging for them to be recruited by a user undertaking, or for concluding a contract of employment or an employment relationship

with a user undertaking after carrying out an assignment in that undertaking". The Directive does not prescribe how this provision should be applied, leaving it open for EU Member States to do so through licensing systems, or through legislative, regulatory or administrative provisions. Article 10 of the Directive prescribes that EU Member States must ensure that "adequate administrative or judicial procedures" are in place to enable enforcement of obligations contained in the Directive. However, in divergence with ILO standards, while agencies cannot charge any recruitment fees to workers, they may charge for certain ancillary services, such as transportation, accommodation, etc. These ancillary fees may sometimes be deducted from workers' wages.

Some EU States, for example, the Netherlands, had prohibited PEAs from charging fees to workers prior to the Directive. Germany introduced the prohibition of fees through modification of their labour laws. In some countries (such as Austria and Italy), the transposition of the EU Directive into national laws strengthened sanctions; while in others there was no visible effect as of 2012, because the Member State claimed their sanctions were adequate (such as in Spain and the Netherlands). France, Luxembourg and Poland considered their pre-existing national legislations to already be compliant with the Directive and therefore did not require any amendment upon the Directive's entry into force. Even though all European States transposed the 2008/104/EC Directive, the exceptions allowed by the Directive and other loopholes – especially those related to agency licensing – have not prevented workers' from incurring recruitment-related costs charged by temporary work agencies.

60 Directive 2014/36/EU of the European Parliament and of the Council 26 February 2014 on the condition of entry and stay of third-country nationals for the purpose of employment as seasonal workers.

61 According to article 3 of the Directive, "temporary-work agency" means any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction.

4.11.2. African migration policy frameworks

The promotion of fair recruitment has become a major concern in African migration policy frameworks as stakeholders have increasingly recognized the evident links between unfair and irregular recruitment processes and the risks of forced labour, child labour, trafficking in persons and debt bondage. At the continental level, the African Union (AU) Revised Migration Policy Framework for Africa and Plan of Action (2018–2030) offers multiple recommended strategies relevant to the fair recruitment of migrant workers, including:

- ▶ 2.1. (ii) Create transparent (open) and accountable labour recruitment and admission systems, based on clear legislative categories and immigration policies that are harmonized with labour laws.
- ▶ 2.1. (iv) Align national laws, policies and regulations; bilateral and multilateral agreements; and voluntary codes of conduct with the ILO General Principles and Operational Guidelines for Fair Recruitment.
- ▶ 2.1. (vi) Monitor and enforce compliance with recruitment regulations, including standardized contracts of employment which are free, fair, fully consented to, transparent and enforceable.
- ▶ 2.1 (vii) Promote consolidation and professionalisation in the recruitment industry, reigning in the maze of subagents that are often involved, with the aim of turning (public and private) recruiters into comprehensive “one-stop shops” for employers and migrants,

offering comprehensive services, including training and skills certification, job placement and travel arrangements

- ▶ 5.2. (ii) Explore opportunities to put special procedures in place for citizens working overseas, including limiting recruitment fees; introducing licensing requirements, contract registration and review/approval mechanisms that only allow businesses to send workers abroad once a contract is approved by the authorities; putting in place measures to better secure the rights of workers, including frequent labour inspections, due payment of wages, banning deductions from wages for accommodation, and introducing severe ban periods and fines for employers who violate labour requirements.

The AU Protocol on Free Movement of Persons in Africa stipulates that “the Nationals of a Member State shall have the right to seek and accept employment without discrimination in any other Member State in accordance with the laws and policies of the host Member State” (art. 14(a)).⁶²

At the subregional level, eight regional economic communities are active players in Africa’s political economy.⁶³ For most regional economic communities, provisions on recruitment, where they exist, are contained in labour migration agreements. None of these agreements, however, explicitly mention the regulation of recruitment fees or related costs. Some highlights include the following:

- ▶ In West Africa, the Economic Community of West African States (ECOWAS) Common Approach on Migration, the ECOWAS Regional Migration Policy, and

⁶² The AU Protocol on Free Movement of Persons in Africa has been signed by 32 countries and ratified by Mali, Niger, Rwanda, and Sao Tome and Principe (as of July 2019). Earlier, the 2014 African Union Commission’s Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development in Africa (under Key Priority Area 5: Labour Migration and Regional Economic Integration) refers to several strategies that Member States can adopt to promote fair recruitment. Among these strategies are to “[d]evelop legal frameworks to ensure that the private placement agencies engaged in international recruitments are operating according to national and international standards, including through bilateral and multilateral agreements in consideration of international fair and ethical recruitment and repatriation in order to guarantee availability of skills pool required for the development of African countries”. Another is to “[c]reate institutional mechanisms for regular dialogue on migration, between countries of origin, transit and countries of destination; including issues around travel restrictions (i.e. HIV and AIDS) and create structured recruitment management systems in both the countries of origin, transit and destination”.

⁶³ The eight regional economic communities are the following: the Arab Maghreb Union; the Economic Community of West African States (ECOWAS); the East African Community (EAC); the Intergovernmental Authority on Development; the Southern African Development Community (SADC); the Common Market for Eastern and Southern Africa; the Economic Community of Central African States; and the Community of Sahel-Saharan States.

the ECOWAS General Convention on Social Security all cite fair recruitment. The ECOWAS Protocol on the Free Movement of Persons, Residence and Establishment is, however, silent on recruitment. Even so, recent efforts by the ILO to develop a first-ever Decent Work Programme for West Africa, and to strengthen employment services in the subregion hold potential to improve mobility and the housing and sharing of data through the proposed “Accueil-Emploi” programme (FMM West Africa 2016; ILO 2017d).

▶ The Southern African Development Community (SADC) adopted the Labour Migration Policy Framework in 2014 and thereafter the associated 2016–2019 Action Plan. The former includes:

- recognition of the need for “[h]armonisation of legislations & policies on recruitment & conditions of employment of SADC migrant workers & third country nationals towards a minimum floor of rights” (SADC 2013, 10);

- efforts to improve data collection by “Mapping of socio-economic actors involved in the organisation of low-skilled migration (labour brokers, employment agencies, ethnic networks and associations)” (SADC 2013, 15); and
- efforts to regulate informal and illegal brokers, agencies and work (SADC 2013).

▶ The Protocol on the Establishment of the East African Community (EAC) Common Market, which entered into force on 1 July 2010, contains provisions recognizing the free movement of workers (article 10). It further “provides for entitlement of workers in regard to application for employment, free movement in Partner States, conclude contracts of employment, and enjoy rights and freedoms of association” (EAC n.d.).

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5

**Business-led,
trade union
and multi-
stakeholder
initiatives**



True social dialogue with the full participation of employers' and workers' representatives is essential to the development and implementation of effective policies to eliminate human trafficking and forced labour in the recruitment process (ILO 2018). In this context, the role of social partners is essential in the development of national policies as well as to monitor and eliminate worker-paid recruitment fees and related costs.

In the last decade, the private sector – including PEAs and their associations, buyers and brands, and trade unions and workers' organizations – have actively promoted the principle of “no-fee charging” of recruited workers, primarily in response to global and local calls for action against debt bondage, human trafficking and forced labour. The advocacy for eliminating recruitment fees and related costs centres on the “employer pays principle”, called for by the Institute for Human Rights and Business (IHRB) Leadership Group for Responsible Recruitment, which asserts that: “No worker should pay for a job. The costs of recruitment should be borne not by the worker but by the employer” (IHRB 2016a, 1). The World Employment Confederation (WEC), actively engaged in the promotion of the “employer pays principle”, also endorses Convention No. 181 and encourages members to lobby for its ratification and implementation in their respective countries. A further example is the Consumer Goods Forum (CGF), made up of over 60 of the largest multinational corporations in the world, which has explicitly endorsed the “employer pays principle”.

Taking this action against charging of fees to workers presents a strong business case, as this practice poses: “serious risks to brand value and company reputation, particularly in consumer industries, threatening investor, stakeholder and consumer relations” (UN Global Compact and Verité 2015, 3). Explicitly committing to a “no recruitment fee to workers” policy, business organizations have gone beyond formulating corporate policy statements to incorporating the no-fee-charging principle in company risk assessments as well as monitoring compliance. There have been occasions when companies have, on discovery of situations of irregularity, reimbursed worker-paid recruitment fees. While these guidelines do not have the force of law, they have great influence, as they have been widely adopted by major corporations and

employers hiring hundreds and thousands of national and migrant workers in their supply chains both in-country and abroad. Many of the recent guideline documents represent an important contribution of the private sector regarding actions that can and should be taken in addressing or preventing recruitment abuses, as encouraged by the ILO General Principles and Operational Guidelines for Fair Recruitment.

Companies need to comply with the national laws in place in the country of operation. However, where the recruitment takes place cross-border, corporations often seek guidance from international labour and human rights standards for their global operations. Managing human resources across a global supply chain can be challenging, with the need to examine not only the recruitment practices in their own operations but also engagement in these practices among actual and potential partners in their supply chains.

Trade unions have also joined forces in denouncing unethical practices in recruitment, in particular, on exacting high levels of recruitment fees and related costs (PSI 2016a). Promoting a “zero placement fee policy”, the position of trade unions, in particular Public Services International (PSI), against worker-paid recruitment fees is premised on the key principle that workers should not pay to obtain decent work, whether in their home country or in a foreign country. The unions point out that workers are often desperate to find work abroad, and in that desperation they might assume substantial debt to pay for the recruitment fees and related costs. Burdened by heavy debt, migrant workers often find themselves unable to complain about poor working conditions, negotiate better working conditions or join unions. PSI (2016b) further argues strongly against the misconception that charging of excessive recruitment fees only affects low-paid occupations such as domestic work. Nurses, teachers and other professionals – who are mainly women and young workers – are also vulnerable.

The Global Study reviewed ten voluntary guidance documents that have addressed forced labour risks in global supply chains, and that support a stronger government role in enforcing fair and ethical recruitment (see sections 5.1 and 5.2 below). Six of these guidance documents refer specifically to international recruitment;⁶⁴ four others do not clearly

64 The six that refer specifically to international recruitment are those by: (1) Alliance on Slavery and Trafficking; (2) Institute for Human Rights and Business (IHRB) and the Leadership Group for Responsible Recruitment; (3) Open Working Group on Labour Migration and Recruitment; (4) UN Global Compact and Verité; (5) International Organization of Migration's International Recruitment Integrity System (IRIS), and (6) Responsible Business Alliance.

differentiate between national and international recruitment⁶⁵. In addition to creating and implementing self-regulation on standards for the recruitment and employment of national and migrant workers, the voluntary guidelines have also committed to the full transparency of services and costs related to recruitment and placement. The voluntary guidance documents are a rich source of detail on recruitment fees and related costs that workers should not pay for. Appendix 2 provides the full list of 12

voluntary initiatives: the ten presented here together with two surveys on recruitment fees and costs.

Associations of private employment agencies have also taken initiatives to raise industry standards, such as drawing up voluntary codes of conduct that their members should comply with. In some instances these codes of conduct include references to recruitment fees and related costs.

► 5.1. Organizations with a general statement on “no fee charging” of workers

This section comprises a non-exhaustive list of organizations or initiatives, many of which are business-related, that have adopted codes and/or engaged in campaigns to eliminate the charging of recruitment fees and related costs to workers.

World Employment Confederation

The membership of World Employment Confederation (WEC) (rebranded from the International Confederation of Private Employment Agencies (CIETT) in 2016) consists of private recruitment and employment agencies globally. The group represents employment industry members from 50 countries, including seven of the largest labour recruitment companies in the industry: The Adecco Group; Gi Group; Kelly Services; ManpowerGroup; Randstad; Recruit Global Staffing; and Trenkwalder.

The WEC has committed itself to the prevention of human trafficking, and first adopted a Code of Conduct on 27 November 2006. Guiding Principle No. 3 of the WEC’s current Code is “Respect for free-of-charge provision of services to jobseekers”, and it states: “Private employment services shall not charge directly or indirectly, in whole or in part, any fees or costs to jobseekers and workers, for the services directly related to temporary assignment or permanent placement” (WEC 2017a, 3). Using the Code of Conduct as a baseline, the WEC

(2017b) has produced an overview of the quality and compliance instruments of their members on the national level.

Consumer Goods Forum

An organization bringing together consumer goods retailers and manufacturers globally, the Consumer Goods Forum (CGF) provides a platform for the world’s retailers and manufacturers to collaborate alongside other key stakeholders to secure consumer trust and drive positive change, including greater efficiency. Identifying three of the most problematic yet often common employment practices across the world that could lead to cases of forced labour, the CGF produced their Priority Industry Principles to help eliminate forced labour. The most relevant principle for this report is: “No worker should pay for a job”; with the other two principles being: “Every worker should have freedom of movement” and “No worker should be indebted or coerced to work” (CGF 2018).

Verité

Verité is a global, independent non-profit organization that has established benchmarks of good industry practice that include, among others, the Sample Benchmarks of Good Practice in Recruitment and Hiring (Verité 2011). Under the sample benchmarks a company

⁶⁵ The four that do not clearly differentiate between national and international recruitment are those by: (1) World Employment Confederation (WEC); (2) Consumer Goods Forum (CGF); (3) Verité; and (4) Association of Labour Providers.

should have a written policy declaring that: workers shall not pay any amount to secure a job; the company's job advertisements should have a statement on non-charging of fees; and the company should only engage with

brokers, agents and subagents who do not charge fees to jobseekers. Verité maintains a website pooling resources and good practices on responsible recruitment (<http://www.responsiblerecruitment.org/>).

▶ 5.2. Organizations with detailed listings of costs

This section comprises a non-exhaustive list of business-led, trade union and multi-stakeholder initiatives that provide rich detail on the itemization of recruitment fees and costs.

The Institute for Human Rights and Business and the Leadership Group for Responsible Recruitment⁶⁶

The Institute for Human Rights and Business (IHRB) is a think tank with the mission to shape policy, advance practice and strengthen accountability on human rights for business. The IHRB convenes a group of major companies and experts under the Leadership Group for Responsible Recruitment to address recruitment practices, including the payment of recruitment fees by workers (IHRB 2016b). While agreeing that labour intermediaries can help connect workers and employers and should be compensated for their services, the initiative says that, in practice, workers are forced to shoulder the cost of their own recruitment, which makes them increasingly vulnerable to exploitation. The IHRB has been publicly committed to the “employer pays principle” and its implementation throughout supply chains to ensure they are slavery free.

The IHRB (2016a, 1) defines recruitment fees as “travel, visa and administrative costs, and other various forms of unspecified ‘fees’ and ‘service charges’”. These fees may be treated as “loans with high rates of compound interest”.

The IHRB also authored the Dhaka Principles, which call for no fees to be charged to migrant workers.

The Alliance to End Slavery and Trafficking

The Alliance to End Slavery and Trafficking (ATEST) defines recruitment fees as including:

Any and all fees, charges, costs, assessments or other financial obligations associated with the recruiting process regardless of the manner or timing of their imposition or collection, including fees, charges, costs, assessments or other financial obligations assessed against workers in sending, receiving, or transit countries (ATEST 2016, 1).

The definition also spells out the manner and mode of payment of these fees:

Any fee, charge or cost may be a recruitment fee regardless of whether it is deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe or tribute, remitted in connection with recruitment, or collected by an employer or a third party, including but not limited to agents, recruiters, staffing firms, subsidiaries/affiliates of the employer and any agent or employee of such entities (ATEST 2016, 2).

66 The Leadership Group includes Marks & Spencer, Tesco, Walmart, Hewlett Packard, IKEA and Coca Cola.

The Association of Labour Providers

The Association of Labour Providers (ALP) is a specialist trade association composed of labour providers in the United Kingdom with the stated goal to promote “responsible recruitment and good practice for organizations that supply the workforce to the food processing, agricultural and wider consumer goods supply chain” (Clearview 2017, 10). The ALP’s practical guide on “Eliminating Recruitment and Employment Fees Charged to Workers in Supply Chains” (ALP 2017) provides a breakdown of nearly 40 fees and related costs that employers must cover in the recruitment of workers, and aim to ensure that workers do not shoulder the costs of getting a job. The ALP’s vision is to eliminate recruitment and placement fees charged to workers in order to ensure that companies are slavery-free, in recognition of the connection between fees and debt bondage and forced labour. The ALP also argues that while abolishing recruitment fees has a strong moral case, there is also a strong business case for the “employer pays principle” (Clearview 2017).

The Open Working Group on Labour Migration and Recruitment

Coordinated by Migrant Forum in Asia, the Open Working Group on Labour Migration and Recruitment is a network of 109 civil society organizations organized through a global online platform that aggregates information on campaigns and initiatives, events, news, policies and international conventions on labour migration and recruitment. The Open Working Group has developed a policy brief on recruitment and a Recruitment Reform Campaign Glossary that presents a definition for recruitment fees. While taking elements from the definition of Recruitment Fees from the 2016 ILO General Principles and Operational Guidelines on Fair Recruitment, the Open Working Group’s definition also presents 23 elements that would constitute a recruitment fee payment. These elements include labour broker services, pre-departure and post-arrival skills training, advertising, certification of

applications, visas and any fees to facilitate visa applications, government mandated fees, levies, insurances; photographs and identity documents; documentation services; medical examinations and vaccinations; transport and subsistence costs; bribes or tributes; security deposits and bonds; contract breach fees; notary or legal fees; insurances; and worker welfare funds (Open Working Group on Labour Migration & Recruitment 2016).

Responsible Business Alliance⁶⁷

The Responsible Business Alliance (RBA) is a non-profit coalition comprised of electronics, retail, auto and toy companies committed to supporting the rights and well-being of workers and communities worldwide affected by the global electronics supply chain. RBA members commit to and are held accountable to a common code of conduct, and utilize a range of training and assessment tools to support improvement in the social, environmental and ethical responsibility of their supply chains. In 2015, the RBA (then called the EICC) updated its Code of Conduct to include language that workers are not to pay recruitment fees, and in the event that a worker does pay such fees, they are to be reimbursed. Along with the changes to the Code of Conduct, the “EICC Trafficked and Forced Labor – “Definition of Fees” June, 2015” was also introduced to provide more clarity in defining the prohibited fees including stipulating that workers should not be required to pay fees for their employment, whether these workers are temporary, migrant student, contract or direct employees. Workers should not be required to pay application, recruiting, hiring, placement or processing fees at any time and should not be required to pay any fees once they have been made an offer, aside basic items such as CV copies or replacement of passport / visa / permit that are due to employee loss or fault. The definition includes a more detailed list of costs in relation to international recruitment: pre-departure fees and costs, documentation and permits, transportation and lodging, arrival and on-boarding, and other legal requirements. The RBA Definition of Fees document has been reviewed and revised over the years. The latest version (2021) of the document includes in-transit subsistence

67 Formerly the Electronic Industry Citizenship Coalition (EICC). See www.responsiblebusiness.org.

costs and clarification that costs of medical exams/screening during the repatriation stage are also not to be paid by workers.

UN Global Compact and Verité

The UN Global Compact (n.d.) is a “voluntary initiative based on CEO commitments to implement universal sustainability principles and to take steps to support UN goals”.⁶⁸ With Verité, the two organizations issued a policy brief on international labour migration and recruitment fees including definitions and guidelines on how businesses can take action against exploitative employment practices. According to this brief:

Recruitment fees refer to any and all fees associated with the recruitment process regardless of when, how and by whom they are collected. They can include, but are not limited to, payments for the following:

- Services such as advertising, recruiting, short-listing, interviewing, referring, retaining, transferring or placing job applicants or potential employees
- Pre-departure or post-arrival training, skills-testing or orientation
- Pre-departure or receiving country medical examinations, including immunizations
- Visas, work permits, residency certificates or security clearance
- Documentation services, including translation or notarization
- Government-mandated fees, levies or insurance
- Transport or subsistence costs from point of origin to worksite, including airfare
- Security deposits or bond
- Breach of contract fees
- Employer notary or legal fees
- bribes, tips or tributes (UN Global Compact and Verité 2015).

International Organization of Migration’s International Recruitment Integrity System

The International Organization of Migration’s International Recruitment Integrity System (IRIS) is a social compliance scheme that is designed to promote ethical international recruitment. It works by defining and setting a benchmark for ethical recruitment (the [IRIS Standard](#)), and through establishing a voluntary certification scheme for ethical labour recruiters, and a compliance and monitoring mechanism (IOM n.d.). IRIS aims to change the recruitment industry by identifying and supporting ethical labour recruiters; promoting the “employer pays principle”; improving due diligence by companies, governments and workers; and increasing transparency in recruitment processes and labour supply chains.

Finally, the following global surveys/platforms provide an itemized definition of recruitment fees and related costs:

The International Trade Union Confederation’s RecruitmentAdvisor

As part of the ILO’s Fair Recruitment Initiative, the International Trade Union Confederation (ITUC) has recently started an online platform to advise hired workers on the recruitment process, including recruitment fees and costs. The RecruitmentAdvisor asks inquiring workers registered with their platform to answer a specific survey on employment agencies, with detailed listing of recruitment fees and questions on pre-departure orientation, the employment contract, working and living conditions in the country of destination, and return. The listing of recruitment fees paid gives an indication of the key cost components of a schedule of recruitment fees and related costs in labour migration (RecruitmentAdvisor n.d.).

⁶⁸ As of May 2018, UN Global Compact had 9,500-plus members.

ILO/World Bank Global Knowledge Partnership on Migration and Development Initiative⁶⁹

The World Bank Global Knowledge Partnership on Migration and Development (KNOMAD) initiative and the ILO undertook surveys of worker-paid migration costs in several migration corridors using a standard questionnaire applied to low-skilled employed or returning migrant workers in countries of destination or origin, respectively. The surveys are relevant to this study as they identified a detailed list of fees and costs for the purpose of measuring the migration costs paid by workers. These fees and related costs included all fees paid to intermediaries, whether they were informal job brokers, licensed agents, or relatives and friends who secured job offers and work visas, as well as governments for travel documents and various exit requirements. Included in the fees and related costs were informal payments, including bribes, and costs associated with deficiencies in working conditions. Including the pilot surveys, some 31 migration corridors were covered, and some 5,854 workers interviewed.

SDG 10.7.1

The United Nations 2030 Sustainable Development Agenda, under its Goal 10.7 calls for facilitating orderly, safe, and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies. This goal includes the indicator 10.7.1: "Recruitment cost borne by an employee as a proportion of monthly income earned in country of destination. As custodians of indicator 10.7.1, the ILO and the World Bank have developed, through a consultation process with national statistical offices, guidelines and an operational manual to support national statistical offices in producing the statistics needed to calculate the 10.7.1 indicator. As such, the guidelines refer to "Recruitment costs" as 'any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection' and include a list of items to be considered as "recruitment costs" for the purpose of the definition. It also specify the scope of recruitment costs by limiting them to those costs that are "borne by the workers", defined as "all payments should be included which are directly or indirectly paid by the worker and has been defined to be within scope for 10.7.1. This is regardless of when, by whom and how the costs are first paid". At the time of publication of this report the recruitment costs surveys have been conducted/are ongoing in 9 countries.

69 See the KNOMAD initiative website: <https://www.knomad.org/thematic-working-groups>.

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► 5.3. Self-regulation

Leading PEAs and their associations have developed mechanisms of self-regulation at the national level that promote good business practice and reinforce their status as key players in the labour market. Self-regulation is seen as complementary to the efforts of national government legislators and law enforcement agencies to protect workers' rights, and to balance the interests of the PEAs in facilitating employment. Regulation, according to these associations, is seen as ensuring that their members offer their services in the interests of their clients while supporting overall national development goals and improving the functioning of the labour market. However, self-regulation mechanisms should not serve as tools to restrain competition and create unnecessary burdens for the agencies. In Asia, the Viet

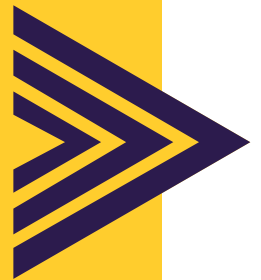
Nam Association of Manpower and Supply, for example, urges its members to collect fees in accordance with law and policy; to provide complete information to workers on all fees; and to provide receipts. The Myanmar Overseas Employment Agencies Federation (MOEAF) has similar provisions in its own Code of Conduct. In response to a survey for this study, the MOEAF said that it was of the opinion that recruitment costs should include the costs of advertising jobs for new workers, the cost of organizing job fairs for overseas jobs, and the agency's staffing costs. The Sri Lanka Bureau of Foreign Employment has prepared a Code of Ethical Conduct for Licensed Foreign Employment Agencies/ Licensees that all licensed agencies are obligated to comply with.



6

What workers pay in practice:

**Findings from
international and
national research
on recruitment fees
and related costs**



There is a significant difference between the rhetoric of law and policy and the reality of what workers pay for their recruitment, whether they use the services of PEAS or public employment services. The following sections presents the findings of international and national research studies on recruitment

fees and related costs. The research findings provide different and more realistic observations on the nature, characteristics and levels of recruitment fees and related costs paid by workers around the world, beyond what is stated in national law/policy, bilateral agreements or voluntary initiatives.

▶ 6.1. Global surveys to measure migration costs

The KNOMAD initiative, in conjunction with the ILO, implemented a series of surveys on worker-paid migration costs in several migration corridors starting in 2014.⁷⁰ The surveys provide the first comparative evidence of the variety of modalities through which workers find jobs in other countries; what it costs them to do so; and why they still migrate despite the high costs involved. As co-custodians of SDG Indicator 10.7.1, expressed as “Recruitment cost borne by an employee as a proportion of monthly income earned in country of destination”, and drawing on the experience of the KNOMAD surveys, the ILO and the WB, through consultations with National statistical Offices, have developed a statistical methodology to produce data for measuring such costs. Guidelines on SDG indicator 10.7.1, including a modular questionnaire template which can be implemented as part of an LFS or as a stand-alone survey, as well as a detailed Operational Manual have therefore been prepared with a view to working with national statistical offices and other UN agencies to produce the statistics needed to calculate the 10.7.1 indicator. The methodology includes a list of items that should be generally consider the “recruitment costs” for the purpose of data collection. Such items are broadly aligned, in a simplified fashion, with the adopted definition of recruitment fees and costs. The methodology has been used in surveys conducted by National Statistical Offices in selected countries.

Findings from these surveys show that government rules on regulation of recruitment fees and related costs are consistently breached and have failed to overcome the strong market forces at play. There are important difficulties in comparing the fees and costs paid by workers – when workers are asked about specific items they paid for, many practical problems can arise, particularly when the migrants themselves do not know what specific costs they were charged for. This is symptomatic of the serious lack of transparency that is a feature of many recruitment processes. In summary, the KNOMAD surveys, and the subsequent SDG 10.7.1 surveys point to the following:

1. There are considerable differences in recruitment costs paid by worker migrants along various migration corridors. The costs of migrating for work to the Arab States were much higher compared to movements to Mexico, Russia and Spain. The cost differences are partially explained by factors related to distance to destination (cross-border or further), social networks (isolated or engaged), and migration policies (restrictive or not). For instance, migrant workers in Mexico mainly come from neighbouring countries in Central America, and in Russia, workers mostly come from Central Asia and strong social networks are a big factor. Migrant workers in Spain are mainly seasonal workers from countries with free movement arrangements within the EU.

⁷⁰ Using standard questionnaires the surveys sought detailed information on what workers spent to migrate for employment, including all fees paid to intermediaries (formal or informal); fees paid to governments for travel documents and various exit or entry requirements; and informal payments, including bribes. Interviewing low-skilled migrants who are working, or who have recently returned, from jobs in one of three sectors—agriculture, services, and construction. Pilot surveys with small samples were first conducted in Spain, Kuwait, and the Republic of Korea. Overall, the 31 surveys count some 5,854 worker interviews from 31 migration corridors (Abella and Martin 2014; GFMD 2016).

2. For a single country of destination, there can be wide variation of costs that workers pay, depending on their country of origin. To illustrate, the average costs to take up employment in Saudi Arabia ranged from US\$309 paid by workers from the Philippines, to US\$ 769 paid by those from Nepal, US\$1,015 by those from Ethiopia, US\$1,386 by those from India, and US\$4,460 by those from Pakistan. Since the costs workers are willing to incur also depend on what they expect to earn, these costs were then expressed as a ratio of costs to monthly earnings abroad. Migrants from Pakistan incurred the highest costs relative to earnings at 10.5 months of income, as compared to 0.7 months for the Philippines and 4.5 months for India.
3. Cost variations can also be high within the same corridor. Migrants' characteristics – occupation, education level, age, sex and years working outside their country of origin – appear to account for 20–25 per cent of these cost variations. Other important factors were found to include the size of the employer (that is, corporations versus small/medium-sized employers versus households), and the “mode of application” (that is, whether the application was made through a job broker, licensed agent, relatives/friends, or directly with their employer). Those who found their jobs through informal job brokers and licensed agencies incurred higher costs than those who were recruited with the help of relatives/friends or who were directly recruited by their employers.
4. Recruiters in Asia and the Middle East have not adopted a standard for the fees they charge for their services. In these corridors, the market for recruitment services often has monopolistic features, such as the recruiter's ability to dictate the price, since they have exclusive information about the job and the all-important link with the employer abroad. The temptation to take advantage of this market power (such as auctioning jobs to the highest bidders) is only constrained by social norms. The constraints imposed by social norms may not be insignificant in

certain contexts, especially in small rural communities where everyone knows each other. As there are many more jobseekers than jobs on offer, recruiter are tempted to price their services according to what the market will bear.

5. Even in the face of high migration costs, the desire and intention to seek foreign employment are unabated, and this is mostly explained by the large wage differences between origin and destination countries. Many workers with little education and who are employed in agriculture and in urban sectors see foreign employment as the only possibility to advance their economic and social position, and their only access to jobs abroad is through labour recruiters.



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▶ 6.2. National research reports

Reports of high recruitment fees and related costs are strongly associated with the flows of migrant workers from Asia, and increasingly Africa, to the Arab States. An assessment of regional and sectoral research also indicates the prevalence of the charging of recruitment fees and related costs in other regions, including the Americas and Europe.

The Americas

Research on temporary migration programmes to the United States have revealed that many migrant workers arrive in the United States already in debt. Through interviews with migrant workers, federal officials and advocacy groups, the US Government Accountability Office identified cases of abuse during the recruitment process including: third-party recruiters charging workers prohibited fees; not providing information about a job, when required, such as on wages; and providing false information about job conditions (United States 2015). Both low-skilled and high-skilled workers faced issues of fraud, discrimination, economic coercion, retaliation and, in the extreme, indentured servitude, debt bondage and human trafficking (United States 2017). Findings from another survey of returning Mexican migrant workers confirmed that many migrant workers were ordered to pay pre-recruitment expenses, such as transportation and passport fees. Workers often had to take out loans, sometimes with high interest rates, with workers putting up their own land or property as collateral. Workers borrowed funds and paid fees upwards of US\$1,250 with interest on loans charged at a rate of 10–15 per cent (CDM 2018).

A study on the recruitment of temporary migrant workers from Guatemala to Canada also points to the same disconnect between policies and practices on the charging of recruitment fees and related costs (Gesualdi-Fecteau et al. 2017). Canada's immigration policies forbid employers to recoup any costs incurred from recruiting the employee from outside the country; however, violations are

reported frequently. While provincial labour legislation is supposed to cover temporary foreign workers, these laws cannot remedy the effects of abusive recruitment practices that have occurred abroad. The territorial limit of legislation is one of the main obstacles migrant workers face when seeking protection from abusive recruitment practices.

Europe

In Italy, as in many European countries, neither temporary work agencies nor PEAs are allowed to demand or receive (directly or indirectly) any payment from workers. Any form of sign-up fee is forbidden, including fees to finalize the employment contract or to participate in trainings organized by the temporary work agencies. However, a survey of 305 West African migrants travelling to Italy between July 2016 and February 2017 revealed the levels of fees and costs that workers pay in order to work in Europe (Cingolani, Pastore and Salis 2017).⁷¹ Most of the survey respondents (252, or 82 per cent) entered Italy through irregular channels as undocumented migrants, yet the average cost paid by these irregular migrants (US\$1,295) was lower than those paid by respondents who entered Italy through regular migration channels as a result of payments for agency fees, security clearances and skills certificates. Among regular migrants surveyed, those with a study visa had the highest average migration costs (US\$1,833), compared to those with a work visa (US\$1,617) or a family visa (US\$1,371). Nigerians, who constituted the largest group of migrants surveyed, had the highest average costs (US\$1,979). Economic migrants experienced a higher average migration cost (US\$1,684) than those who migrated to Italy in search of protection (US\$1,328). Migration costs decreased overtime from US\$1,918 in 2012 to US\$1,255 in 2016, apparently due to the growing competition among smuggling networks and reduction in travel and border-crossing costs.

In 2017 the ILO (Kouba 2018) examined the recruitment of Chinese specialty cooks to Germany based on an agreement signed between Germany's International Placement

⁷¹ It should be noted that a quarter of the 305 survey participants could not recall their migration costs, largely due to a long period having passed since their migration.

Agency (ZAV) and China's International Contractors' Association (CHINCA). In the recruitment and placement of workers of Chinese worker in Germany, ten enterprises have officially qualified to carry out the recruitment in China, and the agreement does allow for fees and costs to be charged to the applicant. CHINCA acknowledged that Chinese jobseekers going abroad through CHINCA may be charged up to about 25,000 Chinese yuan (approx. US\$3,910). The estimated fee total includes:

- ▶ the costs of a cooking exam (2,500 yuan, US\$391);
- ▶ authentication of applicants' certificates (€500-700, US\$586-821);
- ▶ compilation and translation of required application documents through Chinese authorities/labour recruitment agencies (4,000 yuan, US\$594);
- ▶ expenses of language and other training in China; and
- ▶ placement with employers in Germany.⁷²

It is not clear whether any of the costs associated with recruitment shall be borne by the future employer. According to information provided by Chinese restaurant owners in Germany who have recruited specialty cooks through this visa scheme, all costs, including airfare, are paid by the migrant worker. One reason why employers may have been averse to "investing" in migrants was the German law requirement that workers may only be employed for up to four years, after which they must leave Germany.

When asked about their migration costs the interviewed Chinese cooks stated that their total migration costs (including travel) ranged between 60,000 and 80,000 yuan (US\$8,700-11,600). Agency fees made up the bulk of the expenses incurred. Smaller recruitment agencies in the Chinese countryside identified jobseekers and forwarded their applications to the ten big urban recruitment agencies that

are recognized by CHINCA to officially recruit workers. The workers paid 1,500 yuan for certification by local officials.⁷³ Agencies had not disclosed the list of charges the workers were likely to incur throughout recruitment process. All workers believed they were charged more than they should have been charged and ended up paying more than they expected based on initial, non-itemized agency estimates. Only one worker said that the agency gave him a "discount" since he had been referred to it by a friend. Only one worker mentioned having considered other alternatives of overseas work.

Despite high charges and facing up to one year in debt, workers did not regret their decision due to the relative difference between what they could have earned in their rural Chinese communities should they have stayed and what they ended up saving in Germany. Chinese cooks reported remitting approximately €1,000 every three to four months. These remittances supported their Chinese families' housing and child education expenses.

Africa

A rare description of prevailing recruitment policy and practices in the African region, in particular on recruitment fees and costs, can be found in a recent ILO study on migration governance in Ethiopia (Lindgren, Uamnuay and Emmons 2018). The use of informal recruiters and smugglers is common in Ethiopia, with smuggling rife between Ethiopia and the Arab States. Overall, Ethiopian migrant workers paid an average of 14,200 Ethiopian birrs (US\$650) as a recruitment fee, representing 17 per cent of their overall annual wage or equivalent to slightly more than two months' worth of wages. The costs incurred on average are not in line with the cost schedule specified in the Ethiopia Overseas Employment Proclamation 923/2016, which limits worker-paid fees and costs (see section 4.7)⁷⁴. By way of contrast, workers who obtained placements through irregular channels paid more (an average of 15,900 birrs).

⁷² According to ZAV, while the first three items have ceilings specified in the agreement, the last two do not;

⁷³ Confirmed by German Association of Chinese Gastronomy Employers (VCGD).

⁷⁴ According to the Overseas Employment Proclamation No. 923/2016, the employer covers the following expenses of the worker: entry visa fee to the country of destination; round trip transport costs; work permit fee; residence permit fee; insurance coverage; visa costs and costs related to document authentication paid to the embassy of the destination country; and employment contract approval service fee, which is paid to Ministry of Labour and Social Affairs. The migrant worker covers the following expenses: passport issuance fee; costs associated with the authentication of the contract of employment received from overseas; criminal record clearance certificate; medical examination fee; vaccination fee; birth certificate issuance fee; and expenses for certificates of occupational competence.

Asia and the Pacific and the Arab States

With the large numbers of Asian workers recruited and hired through temporary work schemes mainly to the Arab States, there are more research studies on the Asia and the Pacific region compared to the others. Like other regions, there are numerous challenges associated with fair recruitment for low-skilled migrant workers from the region and the need for more effective ways to address irregular migration and violations of migrant workers' rights (ADB, OECD and ILO 2017). Governance challenges are significant, particularly in the supervision of labour recruiters, whether for the recruitment and placement of low-skilled workers in the Arab States (Agunias 2012) or within Asia itself – for example, the intra-Asian migration to Malaysia, Taiwan (China) and Thailand (Verité 2015).

An ILO survey of 1,200 workers found that the mean total cost for a migrant worker from Cambodia, the Lao People's Democratic Republic or Myanmar to come and work in Thailand was US\$461. Cambodian workers paid the most (US\$517), followed by Lao workers (US\$503), and workers from Myanmar (US\$394). Regular migrant workers paid, on average, slightly more than workers in an irregular status

(US\$497 vs US\$474) (ILO 2020b). The fees and costs workers paid were much lower when they had not migrated through an agency or labour broker. The most common recruitment cost items paid for included passports, visas, international travel, and work permits, and to a lesser extent, medical exams, internal travel, and Thai registration cards.

While the above-mentioned fees and costs are significant, and against the ILO standard of workers not bearing the fees and costs for their recruitment, an ILO (2016c) survey has shown that the costs for migrants travelling to the Arab States are even higher. For example, the average costs paid by Pakistani workers to find a job and start work in Saudi Arabia was US\$4,290, or US\$2,358 for the United Arab Emirates. A 2017 review of the Gulf countries' construction industry and its business models for recruitment detailed the recruitment practices and range of costs faced by migrant workers. These costs included medical testing; screening for appropriate skills; visa and permit processing; and travel from rural areas to Gulf country destinations. The study showed that Bangladeshi workers pay the highest cost of recruitment, ranging from US\$1,675 to US\$5,150 (Segall and Labowitz 2017). A report on the labour recruitment industry between the United Arab Emirates, India's Kerala State



and Nepal reviewed the recruitment process and governance structure in each country (IOM 2016). Most Indian and Nepalese workers consider high recruitment fees as a given whenever they seek a job abroad. They usually resort to family and friends for informal loans so they can afford such fees. The study argues for the importance of information campaigns to spread awareness among workers regarding state caps on recruitment fees. Industry reforms are necessary to shift from an “employee pays” to an “employer pays” model.

Research reports on the use of public employment services as part of recurring employment programmes and bilateral agreements are also available, showing that workers hired through these programmes pay fees and incur costs as part of the recruitment process. Through the use of surveys of employers and migrant workers, it has been possible to monitor financial costs incurred by migrant workers under the Employment Permit System of the Republic of Korea. Based on the records of the Ministry of Employment and Labor, the recruitment cost declined from US\$3,509 for the worker in 2001 to US\$950 in 2012. Nevertheless, migrant workers are still assuming most of these migration costs. The majority of surveyed migrant workers had paid for their visa application, their passport, the costs of the medical exam in the home country, and airfare to the Republic of Korea. In certain cases, they also paid for their language training programmes and subsequent testing. Sometimes, irregular payments to agents or direct payments to employers were made (Rapid Asia 2014). To meet these costs, migrants borrowed money from family and friends or used their own savings. Others sold assets and asked for cash advances from moneylenders. The overall share of these expenses and charges against the workers’ monthly wages is small; employment in the Republic of Korea remains a preferred choice of many workers, even though entry requirements and documentation (skills training for some countries, language tests training and tests) may be stringent (Abella and Martin 2014).

Reports on Australia’s Seasonal Worker Programme have concluded that, while the programme continues to deliver significant advantages – not just for Australian farmers, but also for the workers and their households and communities in participating Pacific Island

countries – more could be done to increase the benefits flowing through the region. A 2018 World Bank research report on the programme provides some information on workers’ pre-departure expenses. Among the expenses borne by the workers are: passports, internal travel, medical clearance, visa expenses, travel costs (only 500 Australian dollars is required to be borne by the Australian employer) and work clothing. As in other migration cost studies, the variation in costs among the Pacific Islander workers are due to cost structures in the country of origin. For example, the cost of a passport is similar across participating countries, except in Vanuatu where it is more expensive (AU\$94 as compared to an average cost across countries of AU\$67). Internal travel costs vary according to the geographic features of a country and are negligible when a worker is from the main island or lives near an international airport. In some countries of origin, the costs of the Australian temporary work visa are subsidized. Given an expected income for a six-month period of 18,918 Australian dollars, the pre-departure expenses of 1,474 Australian dollars represents half a month’s wages. The report recommended that the Australian Government should examine the scope for reducing pre-departure expenses, including through earlier flight bookings, subsidizing visa fees and setting up a clothing exchange for departing workers.

As of January 2020, the Australian Government has identified expenses and deductions that employers are authorized to charge to Seasonal Workers in Schedule 1 to the Deed of Agreement for the Seasonal Worker Programme (2020) and the Seasonal Worker Programme Approved Employer Guidelines (2020).⁷⁵ Employers must cover the first 300 Australian dollars of return international airfare and domestic transportation; the remainder may be deducted from the workers’ salary. The Approved Employer is entirely responsible for covering all recruitment costs, including agent fees, when engaging an agent. According to Schedule E9 of the Deed, costs that must never be deducted from the workers’ salary include expenses in relation to: selection, recruitment, and arrangement of accommodation and transport, employer’s travel to countries of origin, obtaining a license to recruit, using a recruitment agent, welfare and well-being costs, uniforms, measures, training and personal protective equipment, and administrative expenses.

⁷⁵ Employers must pay for the upfront full costs of the return international airfare for seasonal workers,





Towards a definition of recruitment fees and related costs



As noted above, ILO Conventions and Recommendations have for decades been consistently against workers paying any recruitment fees or related costs to secure employment, but there was no international instrument defining what constituted these fees and costs. In November 2018 the ILO sought to rectify this gap when a tripartite meetings of experts was convened in Geneva to produce the Definition of Recruitment Fees and Related Costs, to be read in conjunction with the General Principles and Operational Guidelines for Fair Recruitment. Like the Guidelines, the Definition is intended to be all-encompassing, applicable to the recruitment of all workers, within or across national borders, whether hired directly by employers or through intermediaries or hired through temporary work agencies, and to cover all sectors of the economy. This chapter examines the lead up to that meeting, considering the relevant parts of the recruitment process and definitions of recruitment fees and related costs developed by various countries and business-led or multi-stakeholder initiatives. It will be followed in chapter 9 by a look at the Definition itself.

Under section 2 of the General Principles and Operational Guidelines, recruitment fees and related costs are those “incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing, or location of their imposition or collection”. According to the General Principles and Operational Guidelines, recruitment fees and related costs should not be collected from workers, directly or indirectly, but as noted in earlier chapters, this often is not what happens in practice. Workers might find recruitment fees and related costs being imposed or collected in cash or in kind; fees and costs might be imposed on or collected from workers in advance, during the recruitment process itself, or at the end of the process. These expenses may also have been advanced to workers by employers and recovered through wage deductions during the period of employment. Workers might incur these fees and costs either at the place of recruitment, in transit, or at the place of work or employment.

► 7.1. The recruitment process and associated costs

In considering the required scope of a definition of recruitment fees and related costs, it is useful to outline the recruitment process and look at the costs associated with each step from the perspective of a worker/jobseeker. A full accounting of the recruitment fees and related costs incurred by workers/jobseekers in practice would enable these costs to be accounted for in the Definition, and consequently determine those fees and costs that should not to be charged to workers.

Whether a jobseeker is applying for a job nationally or internationally, the steps in the recruitment processes are similar; however, the amount of recruitment fees and costs charged at each step are markedly different. Recruitment fees and costs that are specific to international employment include government-imposed fees and related costs for contract vetting, exit

clearances in the country of origin, and counterpart residence and work permits required in countries of destination. These fees and costs can balloon, especially when there are hidden costs of corruption, such as kickback payments and bribes to a number of different actors in order to guarantee access to employment. As there is often a very high demand for foreign employment – especially for certain destinations, for example East Asia, Europe, or the Americas – employers or their agents may impose additional training and qualification requirements as an easy way to reduce the numbers of job applicants. Additional associated costs also arise from international travel (international travel documents, airfares, visas, additional identity documents, etc.).

Ten stages in the recruitment process and their associated fees and related costs were identified as follows:

1. **Job search:** This involves tapping different information sources for local and foreign employment opportunities. This implies engaging a network of friends, relatives, informal or formal brokers, job fairs or online job searches. Associated fees and related costs include payments for referrals, applications and recommendations, among others, that are paid to different parties, in some cases only once employment is secured.
2. **Application for a vacancy:** This commences when the jobseeker starts gathering documentation to demonstrate eligibility for the job opening. Fees and related costs at this stage can include obtaining the prescribed application form, securing educational certificates, previous employer references and other credentials (school and training certificates), and other relevant administrative documents, such as local community, police and other security clearances. Costs for photographs, general health certificates and other incidentals may also be incurred during this phase. Travel expenses and opportunity costs from time off work are also incurred.
3. **Pre-selection:** This involves shortlisting of candidates and interviews. Labour recruiters often organize three to five candidates per job opening. Interviews showed that as a PEA incurs direct costs at this stage (for example for interview facilities), they also tend to expect an initial payment of recruitment fees by employer or worker. At times, the worker advances the payments and can seek reimbursement from the employer. The jobseeker's costs consist of travel and lodging expenses related to the interviews.
4. **Medical examination:** This usually occurs following a successful interview. Costs of these examinations are usually paid directly to pre-selected medical clinics or hospitals, or through the labour recruiter. In some cases, treatment of a pre-existing condition is needed and the associated costs also form part of this stage of the recruitment process.
5. **Skills testing:** This aims at verifying the skills of the workers against requirements, and may include language testing. In some cases, the worker is accepted under the condition that they undertake additional skills training courses.
6. **Contract signing:** On passing these tests, the worker is informed of the full contractual terms and conditions (including the timeline to start) and is asked to sign the contract. At this time, the worker is expected to complete and submit the documentary requirements for the vetting of their contract and enrolment in mandatory government protective schemes – welfare funds, social security, housing programmes, among others. In the case of international recruitment, the worker also has to prepare documentation for visa and travel applications. Additional costs at this stage are incurred, among others, to notarize and authenticate documents or have them officially translated.
7. **Pre-departure orientation:** This is a mandatory requirement in many countries of origin to prepare migrant workers for employment abroad, especially to inform them of their rights and responsibilities at work.
8. **Travel, transportation and lodging:** Costs associated with this stage can be significant, especially when the worker is living away from the capital city where the labour recruiter is based. The costs of relocation whether for an in-country or international transfer of residence can be steep. For international workers, cross-border transportation is an important part of travel costs.
9. **Entry into destination country:** Countries of destination often impose requirements for visas, residency and work permits, levies, an additional medical examination, etc., which generate costs at this stage of the recruitment process.
10. **Return:** These are expenses incurred for transportation to the worker's residence when a job terminates or where there is premature termination of the contract due to a failure of the recruitment process.

▶ 7.2. The hidden costs of corruption

An important cost item in the recruitment process is payments of bribes by and to various stakeholders, resulting from the intense competition among labour recruiters operating in a limited labour market. With the view to securing recruitment quotas, labour recruiters sometimes offer to cover employers' travel expenses for skills testing and selection of recruits in the country of origin. Luxury accommodation and entertainment are often part of the offer. The funds for the kickback payments and employer travel expenses are built into the charges that agencies foist upon the low-skilled migrant workers as part of the "recruitment costs". The extent of the

kickback and other payments to personnel of the employing company will also be factors in the amounts that migrant workers pay.

Worker payments may be used to pay various local officials in origin and destination countries to process paperwork more quickly or to prevent deliberate delays. There are kickback payments to "a range of government officials in both origin and destination countries to fraudulently approve a host of applications or facilitate discretionary decisions including, but not limited to, foreign worker quotas, demand set attestations, visas, medical certificates and work permits" (Freedom Fund and Verité 2016, 2).



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▶ 7.3. The most comprehensive definitions of recruitment fees and costs provided in national policies

A comprehensive definition of recruitment fees and costs in national law or policies would include: a summary that provides an overarching description, followed by a listing of fees and costs that are associated with the recruitment process, and where relevant, who pays (or does not pay) for these costs. This section examines six countries that have good examples of comprehensive definitions, including three countries of origin – Pakistan, the Philippines and Uganda – and three countries of destination – Qatar, the United Kingdom and the United States.⁷⁶ A closer look at these definitions is instructive to better understand both the diversity and common ground in constructing definitions of recruitment fees and costs (table 7).

- ▶ **Policy directions:** Whether the country's policies prohibit or limit recruitment fees and costs, having detailed definitions serves to clarify the scope of the fees and costs covered by the policies, rather than leaving inclusions and exclusions for others to interpret. Qatar, the United Kingdom and the United States have adopted the general principle of prohibiting fee charging; Pakistan, the Philippines and Uganda regulate recruitment fees and related costs by detailing cost categories and identifying who is responsible for paying the specific cost items. Qatar has the only policy of the six examined that is limited in scope – it applies only to those workers recruited for construction work related to the 2022 FIFA World Cup.
- ▶ **Recruitment:** All six country definitions refer to a recruitment, placement or deployment process, regardless of whether the policies are associated with countries of origin or destination.
- ▶ **Reference to a labour recruiter:** The definitions refer to payments or collections by the employment agency (Pakistan), charges of the employment agency (Philippines), services provided by the licence holder (United Kingdom), and private employment agencies (Uganda). Qatar and the United States take a broader approach and not only refer to labour recruiters but also employers, and in the case of the United States, to third parties, including but not limited to agents, recruiters, staffing firms, subsidiaries/affiliates of the employer, any agent or employee of such entities, and subcontractors at all tiers.
- ▶ **Types of payment:** Pakistan refers to financial expenses; the Philippines and Uganda refer to costs or amounts charged. The United States' proposed definition identifies that a charge, cost or assessment may be: a recruitment fee regardless of whether the payment is in property or money; deducted from wages; paid back in wage or benefit concessions; paid back as a kickback, bribe, in-kind payment, free labour, tip, or tribute; or remitted in connection with recruitment. A recruitment fee can be charged during or after the job placement takes place. The United States' definition tries to include all the known actors that might intervene in matching supply and demand in the labour market, specifically in a labour migration process, and who are not allowed to charge workers or potential workers with recruitment fees. Qatar's definition specifically prohibits deductions from wages "prior to or during" employment to pay for recruitment fees and a number of recruitment-related costs.
- ▶ **National or international recruitment:** Pakistan, the Philippines, Qatar and Uganda specifically refer to international recruitment; the United Kingdom and the United States, with a definition relating to procurement throughout the supply chain, apply also to national recruitment.

⁷⁶ At the time of writing, the United States had a proposed definition only.

▶ **Table 7. Definition and itemization of recruitment fees and related costs according to the policies of selected countries**

Country	Definition of recruitment fee and itemization of recruitment-related costs
Pakistan	<p>Itemization</p> <p>An employment agency can collect from the workers actual expenses for air ticket, medical, work permit, levy, visa and documentation. Employers bear the cost of the worker's return journey upon completion of contract. Costs are specifically for air ticket and visa. Fees charged depend on the monthly salary of the worker and length of the employment contract. The maximum fee of 6,000 Pakistani rupees (approximately US\$50) for service charges is fixed by the Bureau of Emigration and Overseas Employment. Three days after the emigrant's departure, the concerned Overseas Employment Promoter (OEP) submits a certificate to the office of the Protector of Emigrants requesting the release of the service charge. By law, an emigrant who has secured employment overseas through a licensed OEP is required to deposit a sum of 5,000 rupees as a service charge (welfare fund, 2,000 rupees; insurance premium, 2,500 rupees; registration, 500 rupees).</p>
Philippines	<p>Definition</p> <p>Any and all amounts charged by a recruitment agency from a worker for its recruitment and placement services as prescribed by the Secretary of Labor and Employment.</p> <p>Itemization</p> <p>A placement fee may be charged against the overseas Filipino worker equivalent to one month's basic salary specified in the Philippine Overseas Employment Agency-approved contract, except for the following:</p> <ul style="list-style-type: none"> a. domestic workers; and b. workers to be deployed to countries where the prevailing system, either by law, policy or practice do not allow, directly or indirectly, the charging and collection of recruitment/placement fees. <p>In addition, workers pay for documentation costs: passport; National Bureau of Investigation/Police/local community clearance; Philippine Statistics Authority's authenticated birth certificate; transcript of records and diploma; professional licence authenticated by Department of Foreign Affairs' certificate of competency; Department of Health's prescribed health examination and membership with social security, health insurance, housing and other requirements of the Philippine Government.</p> <p>The employer must pay for visas, including stamping fees; work permit and residence permits; round-trip airfare; transportation from the airport to the job site; the Philippine Overseas Employment Agency processing fee; Overseas Workers Welfare Administration membership fee and additional trade test/assessment, if required.</p>

Qatar

Definition

Placement fees: Means any monies or fees paid to legalize employment such as commissions, costs or expenses paid for travel to Qatar, medical tests and, applying for a work permit and a residence permit in Qatar.

Recruitment and processing fees: Means any fees, costs or expenses charged by a recruitment agent or a contractor with respect to a proposed worker obtaining employment in the State of Qatar.

Itemization

The definition of recruitment and processing fees includes “any fees, costs or expenses related to medical tests, police clearances, recruitment advertisements, interviews, insurance, government taxes in the country of origin, pre-departure orientations, airline tickets and airport taxes and any fees, costs or expenses charged by the recruitment agent to recuperate any placement fees”.

Section 10.3. Any deductions from wages may only be made strictly in accordance with the requirements of Law. Specifically, the contractor shall not make any deduction from wages for items provided prior to or during the term of the employment contract including:

- a. recruitment and processing fees;
- b. relocation or visa costs;
- c. accommodation;
- d. bedding;
- e. food;
- f. transportation;
- g. training and development;
- h. recreation facilities at the accommodation site; or
- i. medical insurance and prescribed health care.

Uganda

Itemization

Agencies may charge their principals a “fee to cover services rendered in the recruitment and deployment of Ugandan migrant workers. However, recruitment agencies shall charge a nominal fee from the Ugandan migrant workers for their recruitment and deployment services as administration costs.”

Section 1. Fees chargeable against principals:

Agencies shall charge from their principals a service or recruitment fee to cover services rendered in documentation and placement of workers.

Section 2. Fees/costs chargeable from workers:

- a. Private employment agencies may charge placement fees as may be authorised by the permanent secretary from a hired worker to cover costs of placement and services such as trade or skill testing, medical examination, passport, visa, clearances, inoculation, airport terminal fees, notaries, among others.

The above charge shall be collected from a hired worker only after he/she has signed the employment contract and shall be covered by receipts clearly showing it.

- b. Recruitment agencies shall charge a minimal fee not exceeding 50,000 Uganda shillings from Ugandan migrant workers for its recruitment and placement services.

Section 3. No other charges shall be imposed on the worker.

United Kingdom

Definition

Fees for “work-finding services”, which include services provided by a licence holder for finding or seeking to find a person work.

Itemization

A license holder must not charge fees to workers for recruitment services and must not make the provision of work-finding services conditional on the worker. Costs include introduction fees, administration fees and placement fees.

United States (proposed) ¹

Definition

Recruitment fees include, but are not limited to, fees, charges, costs, assessments, or other financial obligations assessed against employees or potential employees, associated with the recruiting process, regardless of the manner of their imposition or collection. Any fee, charge, cost or assessment may be a recruitment fee regardless of whether the payment is in property or money, deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe, in-kind payment, free labour, tip or tribute, remitted in connection with recruitment, or collected by an employer or a third party, including, but not limited to agents, recruiters, staffing firms, subsidiaries/affiliates of the employer, any agent or employee of such entities and subcontractors at all tiers.

Itemization

(1) ...

- i. for soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, testing, training, providing new-hire orientation, recommending, or placing employees or potential employees;
- ii. for covering the cost, in whole or in part, of advertising;

- iii. for any activity related to obtaining permanent or temporary labor certification;
 - iv. for processing petitions;
 - v. for visas and any fee that facilitates an employee obtaining a visa such as appointment and application fees;
 - vi. for government-mandated costs such as border-crossing fees;
 - vii. for procuring photographs and identity documentation, including any non-governmental passport fees;
 - viii. charged as a condition of access to the job opportunity, including procuring medical examinations and immunizations and obtaining background, reference and security clearance checks and examinations; additional certifications;
 - ix. for an employer's recruiters, agents or attorneys, or other notary or legal fees; and
 - x. for language interpreters or translators.
- (2) Any fee, charge, cost, or assessment may be a recruitment fee regardless of whether the payment is in property or money, deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe, in-kind payment, free labor, tip, or tribute, remitted in connection with recruitment, or collected by an employer or a third party, including, but not limited to –
- i. agents;
 - ii. recruiters;
 - iii. staffing firms (including private employment and placement firms);
 - iv. subsidiaries/affiliates of the employer;
 - v. any agent or employee of such entities; and
 - vi. subcontractors at all tiers.

¹ The proposed definition was published in the [US Federal Register](#), Vol. 81, No. 91, on 11 May 2016, for the Federal Acquisition Regulation. The proposed definition, though not adopted at the time of drafting this report, is particularly relevant not only for its comprehensiveness, but also for the influence it has already had on other initiatives in this area. It should be noted that a separate regulation, Executive Order 13627 of 25 September 2012 on Strengthening Protections Against Trafficking in Persons in Federal Contracts prohibits the charging employees of recruitment fees (section 2.A.ii), and requires for portions of contracts and subcontracts payment of return transportation costs upon the end of employment for certain groups of workers.

▶ 7.4. Comprehensive definitions provided in business-led and multi-stakeholder initiatives

In various guidance documents, including the recruitment surveys, nine of the initiatives/ organizations⁷⁷ analysed above provided detailed listings of recruitment fees and related costs. These definitions have all been formulated within the last five years, evidence of the growing commitment to and endorsement of eliminating or reducing recruitment fees and charges to workers and jobseekers. The following presents an analysis of the components of the definitions offered by these initiatives/organizations.

- ▶ **Policy directions:** Five initiatives/ organizations endorse the “employer pays principle”. All five organizations - ATEST, IHRB, UN Global Compact/Verite, RBA and the Open Working Group on Labour Migration and Recruitment (OWGLMR) have adopted a policy to prohibit the charging of fees and recruitment related costs to workers. These organizations have gone into further detail - to varying degrees of specification - as to which cost items or cost categories workers should not be charged for (Appendix II).
- ▶ **Recruitment:** Four initiatives/organizations - ATEST, IHRB, OWGLMR and Global Compact/Verité - refer specifically to the recruitment and placement processes. One organization (RBA) explicitly expands the prohibition of charging fees to workers beyond the recruitment phase to the employment period itself, noting that “workers shall not be required to pay fees to obtain or retain their employment” (RBA 2021, section IV, para. 1).
- ▶ **Reference to an employment agency:** With one exception (IHRB), none of the initiatives/ organizations’ definitions refer specifically to payments to employment agencies, but all expand payments to include many parties - the employer or a third party, including but not limited to agents, recruiters, staffing firms, subsidiaries/affiliates of the employer, any agent or employee of such entities, and subcontractors at all tiers.
- ▶ **Type of payment:** All nine initiatives/ organizations refer to all charges, costs or assessments, regardless of whether payment is in money or property; deducted from wages; paid back in wage or benefit concessions; paid back as a kickback, bribe, in-kind payment, free labour, tip, or tribute; or remitted in connection with recruitment.
- ▶ **National or international recruitment:** Three organizations - ATEST, IHRB and OWGLMR - specifically refer to migrant workers and international recruitment in their summary definitions. Two other organizations - RBA and UN Global Compact/Verité - refer to both national and international recruitment in their summary descriptions and have included specific recruitment and travel costs related to international recruitment. The RBA definition also refers to recruitment of internal migrant workers.

⁷⁷ These initiatives/organizations and the detailed definition they use are provided in Appendix II.



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► 7.5. Comparison of cost categories and cost-sharing arrangements in national laws and policies, bilateral agreements and multi-stakeholder initiatives

As discussed earlier, there is no unanimity in setting up cost categories and cost-sharing among different source documents or policies. The research has made the following general observations on: (1) the definition of recruitment fees and itemization of related cost items and how they are regulated; (2) how costs are currently shared; and (3) how costs are applied in practice.

A number of national laws and policies, as well as business-led and multi-stakeholder initiative guidance documents, go into some detail on different cost categories. Bilateral agreements (BAs), however, tend to address fewer specific cost items. Per table 8 below, the ten most frequently mentioned cost categories in the aforementioned instruments are international travel, international return travel, visas, medical tests, local travel, internal travel, passports, enrolment in benefit schemes, pre-departure orientation, work permits, and police clearances.

The voluntary guidance documents from business-led and multi-stakeholder initiatives

generally present the most extensive itemization of costs, including many more mentions of one-time impositions that are a heavy burden for workers and jobseekers – for example, breach of contract expenses. For several fee and related cost items, these guidance documents seem to take a stricter approach regarding the fees and related costs that can be charged to workers than what is typically found in national laws/policies and BAs. This discrepancy highlights efforts by these voluntary initiatives to build on the minimum requirements foreseen by laws and regulations. For example, all the analysed voluntary guidance documents require employers to pay recruitment fees, while this is not always true for national law and policies. A similar trend can be seen in a number of other cost categories, including workers' documentation, medical tests, skills tests, and country of origin permits and clearances. Post-arrival and induction programmes and costs related to exceptional situations (such as breach of contract, security deposits, and collateral fees) are only mentioned in the voluntary guidance documents.

► **Table 8. No. of mentions of cost categories in national laws/policies, bilateral agreements, and business-led and multi-stakeholder initiatives, with no. of indications of whether workers should pay said costs**

Cost item	National laws/policies (n=26) (mention/worker pays)	BAs/MOUs (n=18) (mention/worker pays)	Business-led and multi-stakeholder initiatives (n=9) (mention/worker pays)	All (n=53) (mention/worker pays)
Workers' documentation				
Passports	7/7	4/0	6/0	17/7
Police Clearance	5/2	0/0	6/0	11/2
Birth certificate	2/2	0/0	2/0	4/2
School records/credentials	1/1	0/0	4/1	5/2
Training/skills certificates	3/3	0/0	4/1	7/4
Medical tests				
Medical tests	13/7	3/2	8/0	24/9
Vaccinations	3/2	0/0	4/0	7/2
Skills tests				
Skills tests	4/3	-/-	6/-	10/3
Language test	-/-	-/-	2/-	2/-
Pre-departure orientation				
Pre-departure orientation	1/-	-/-	8/-	9/-
Additional training	-/-	4/-	6/-	10/-
Country of origin clearances				
Contract approvals	1/-	-/-	3/-	4/-
Welfare fund contribution	3/1	-/-	3/-	6/1
Enrolment in benefit schemes	8/3	5/-	5/-	18/3
Country of destination permits				
Visa	12/6	4/1	9/-	25/7
Work permits	7/3	3/1	5/-	15/4
Levy	3/2	1/1	3/-	7/3
Travel and transportation				
Internal travel	3/-	8/-	8/1	19/1

International air travel	16/4	11/1	9/-	36/5
Local travel	9/2	8/-	6/-	23/2
Exceptional costs				
Breach of contract	-/-	-/-	4/-	4/-
Security deposits	1/-	2/1	4/-	7/-
Administrative costs				
Notary public	4/3	-/-	4/-	8/3
Photographs	1/1	-/-	4/-	5/1
Return travel				
International air travel	17/3	9/-	6/-	32/3
Allowances	1/-	-/-	1/-	2/-
Total no. of cost categories cited	23	12	25	26

- = nil.

► **Recruitment fees** – also often referred to as agency and broker fees – are payments for the services of intermediaries, including expenses for advertising and commissions for subagents and other referrals. Recruitment fees are mostly prohibited for workers by national law and policy, bilateral agreements, and business-led and multi-stakeholder initiative guidance documents. However, some countries and regions allow for exemptions from the prohibition on charging recruitment fees. In practice, recruitment fees are often charged by layers of informal subagents and brokers that may or may not be associated with formal licensed agencies. Agency fees may multiply when there are several sets of intermediaries in the country of origin and in the country of destination.

► **Workers' documentation** consists of costs for identity documents, including passports necessary for cross-border recruitment; certificates and credentials for schooling, training and experience; and police clearances. These documents are needed to prove workers' eligibility (for example, school records or skills certificates) and identity (for example, birth certificate, passport). While some of these documents will only be procured by the worker with the view to obtaining a

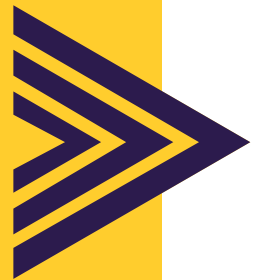
specific job, and hence relate strictly to the recruitment process, these documents are usually considered personal property that can be used in multiple job applications and for other purposes. Hence, national law and policy often requires individuals and workers to pay for them. It is noteworthy that business-led and multi-stakeholder initiatives, most of which are focused on cross-border recruitment, often do not see these as costs to be borne by the worker.

► **Medical tests/clearance** involve medical examination at different stages of the recruitment process; associated preventive treatment, such as vaccination; and referral to medical specialists. The cost of assessing fitness to work is sometimes charged to the workers, the argument being that physical ability to work can be considered as an eligibility requirement. While the basic cost of medical tests may be absorbed by the employer, interviews with stakeholders highlighted cases where clinics or examiners led workers to pay for additional treatment in order to be cleared. In cases where the employer imposes specialized additional medical tests for certain types of jobs, in practice, these are generally paid for by the employer. In business-led and multi-stakeholder initiatives, medical tests and vaccinations are usually at the expense of the employer.

- **Skills tests** involve testing for specific skills (for example, knowledge of software applications for administrative staff or basic auto repair for personal car drivers). In some cases, they may include testing for language skills. Workers often seek additional skills training of their own volition to better improve their chances of participating in the labour market, in which case the worker normally bears the cost. Alternatively, if they have been selected to fill a particular vacancy and there are skills to learn or improve, in practice, the employer generally bears these costs. Some testing centres may ask the worker to take additional training to qualify for the position and, as with medical exams, jobseekers would voluntarily pay in order to qualify. Skills and language tests were only mentioned in a limited sample of national laws and policies, the cost of which were primarily the responsibility of the worker. In the three instances skills tests were mentioned in business-led and multi-stakeholder initiatives, they were to be paid for by the employer.
- **Pre-departure orientation:** In the context of cross-border recruitment, these seminars are a requirement in many countries of origin to provide information on contractual obligations and an introduction to life and work expectations of the country of destination. These seminars also inform workers of family responsibilities, financial literacy and available services in the event of difficulties and emergencies, among others. Pre-departure orientation and additional training directly benefit both the employer and workers and, in practice, the employer generally pays these costs.
- **Government country of origin clearances:** In the context of cross-border recruitment, these expenses involve contract approvals or processing, exit clearances, membership to welfare funds and miscellaneous taxes. Some of these expenses include government charges for contract assessment and accreditation of employers, among others, which, in practice, are generally payable by the employer.
- **Government country of destination permits:** In the context of cross-border recruitment, these expenses are incurred for entry (visas), and residence and work permits, among others, and, in practice, these expenses are generally paid by employers.
- **Arrival and induction programmes:** These costs are associated with mandatory or voluntary information programmes for newly hired workers in their new workplaces and, in the context of cross-border recruitment, residences. The costs for arrival and induction programmes are considered an expense of the employer.
- **Travel and transportation costs refer to different travel arrangements** – internal transportation and accommodation costs during the interview, selection and work documentation processes; travel costs associated with transfer of workplace and residence; as well as travel costs to return at the end of contract. Travel and transportation arrangements are very often included in national laws and policies as being paid by the employer. When travel and transportation arrangements are for the workers' relocation (from province to town centre, then from town centre to crossing provincial or international borders), these expenses are generally easy to identify and are normally paid for by the employer. Costs for travel and accommodation during the job search are normally covered by the jobseeker. Travel and transportation costs related to selection and processing periods can be difficult to document due to the existence of several layers of recruiters and there is no clear common treatment of these costs. Travel and transportation for return in the case of cross-border recruitment upon termination of contract or contract completion are also usually considered an employer expense.
- **Exceptional costs** are atypical expenses, and include costs such as breach of contract penalties, incurred along with return travel costs in situations where the workers are asked to return early. Observed also was the occasional use of security deposits to guarantee a continued relationship with a specific recruitment agent or aimed at ensuring that workers returned home at the end of their contract. Exceptional costs are not mentioned in national laws and policies, but are often mentioned in multi-stakeholder guidance documents. They are treated on a case-by-case basis, where it is possible, depending on circumstances, to be borne pro-rata by the worker.
- **Administrative costs** include expenses for notary and legal services, photographs and other miscellaneous photocopying and are often considered as the workers' expense.



The Definition of Recruitment Fees and Related Costs



The Tripartite Meeting of Experts on Defining Recruitment Fees and Related Costs was held in Geneva from 14 to 16 November 2018.⁷⁸ It was attended by eight experts nominated after consultations with the Government group, eight experts nominated after consultations with the Employers' group and eight experts nominated after consultations with the Workers' group. The meeting was chaired by an independent Chairperson, Mr Pietro Mona (Switzerland). The Vice-Chairpersons were Ms Annemarie Muntz (Employer, Netherlands), Ms Shannon Lederer (Worker, United States), and Mr Iskandar Zalami (Government, United Arab Emirates). There were Government observers from seven countries (Belgium, Brazil, Chile, Indonesia, Panama, the Philippines and the Republic of Korea), as well as representatives from the International Organisation of Employers and the International Trade Union Confederation and from the following intergovernmental organizations and international non-governmental organizations: the EU, the International Organization for Migration, the World Bank, the Alliance of Asian Associations of Overseas Employment Service Providers, the Migrant Forum in Asia, the New York University Stern Center for Business and Human Rights, and Verité.

The meeting focused on the negotiation of the draft Definition of Recruitment Fees and Related Costs. This definition was included in the background paper prepared by the Office on the basis of a global comparative research, which analysed different Member States' national laws and policies, bilateral labour agreements, and international voluntary codes and guidance on recruitment fees and related costs. The experts clarified that the definition should be read and disseminated together with the General Principles and Operational Guidelines for Fair Recruitment, which clearly recognize the principle that workers shall not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment. Furthermore, the definition should support the implementation and enforcement of laws, policies and measures aimed at the protection of workers' rights, and also support delivery of effective regulation of recruitment to combat non-compliance, provide transparency of recruitment practices and enhance the functioning of labour markets.

The agreed Definition of Recruitment Fees covers all types of recruitment, in all sectors and for all workers, regardless of whether they were recruited nationally or internationally. Experts determined that related costs were expenses integral to the recruitment and placement process within and across borders, taking into account that the widest set of related recruitment costs were incurred for international recruitment. Identified recruitment related costs were consequently listed in the definition. The experts found it important to include the possibility of further definition of cost categories at the national level, and allowed flexibility to determine exceptions to their applicability, consistent with international labour standards and the conditions identified in the Definition. The experts also agreed to include a specific subsection that identified the illegitimate, unreasonable and undisclosed costs that should never be charged to any actor in the recruitment process.

The experts also discussed the possible modalities of dissemination and implementation of the agreed Definition, within the broader umbrella of the ILO Fair Recruitment Initiative. They recommended that the Definition should be translated into the official ILO languages, published online, and always distributed together with the General Principles and Operational Guidelines for Fair Recruitment. The experts also suggested that the dissemination of the Definition should be pursued through partnerships. These could include multi-stakeholder initiatives and partnerships within the United Nations Network on Migration, which was established to support implementation of the Global Compact for Safe, Orderly and Regular Migration. Other avenues include the Global Alliance to Eradicate Forced Labour, Modern Slavery, Human Trafficking and Child Labour (Alliance 8.7), the International Organization for Migration's IRIS system and the World Bank's KNOMAD. The experts requested the ILO to collaborate with the social partners to identify priority regions and countries for the promotion of fair recruitment and practical implementation of the General Principles and Operational Guidelines for Fair Recruitment, thereby disseminating and utilizing the adopted Definition. The development and updating of practical tools and provision of capacity-building to constituents in this area was also discussed as a means to disseminate and promote the effective application of the definition.

78 This chapter is derived from ILO 2019a.

► Definition of Recruitment Fees and Related Costs

I. Scope

1. The Definition of Recruitment Fees and Related Costs is guided by international labour standards and should be read together with the ILO General Principles and Operational Guidelines for Fair Recruitment. As such, it recognizes the principle that workers shall not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment.
2. The definition is based on the findings of the ILO's global comparative research which analysed different Member States' national laws and policies and international voluntary codes and guidance on recruitment fees and related costs. It takes into account the practical realities and context-specific conditions that workers, labour recruiters, enterprises and employers face.
3. The definition identifies fees and related costs in recruitment practices. It is intended to support the development, monitoring, implementation and enforcement of laws, policies and measures aimed at the protection of workers' rights, including that workers should not be required to pay for access to employment. It is also intended to support the delivery of effective regulation of recruitment practices, notably of public and private employment agencies, to combat non-compliance, provide transparency of recruitment practices and enhance the functioning of labour markets.
4. It is also recognized that costs for workers recruited internationally can be significantly higher than those for workers recruited nationally due to a range of factors, including a lack of consistency and transparency on what these costs constitute in different national contexts. Furthermore, workers who are recruited across borders may find themselves in situations of particular vulnerability.

5. For the purpose of this definition of recruitment fees and related costs, the definitions of the General principles and operational guidelines for fair recruitment apply. The term "workers" includes jobseekers.

II. Definition of recruitment fees and related costs

6. The terms "recruitment fees" or "related costs" refer to any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection.
7. Recruitment fees or related costs should not be collected from workers by an employer, their subsidiaries, labour recruiters or other third parties providing related services. Fees or related costs should not be collected directly or indirectly, such as through deductions from wages and benefits.
8. The recruitment fees and related costs considered under this definition should not lead to direct or indirect discrimination between workers who have the right to freedom of movement for the purpose of employment, within the framework of regional economic integration areas.

A. Recruitment fees

Recruitment fees include:

9. payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment;
 - a. payments made in the case of recruitment of workers with a view to employing them to perform work for a third party;
 - b. payments made in the case of direct recruitment by the employer; or
 - c. payments required to recover recruitment fees from workers.

10. These fees may be one-time or recurring and cover recruiting, referral and placement services which could include advertising, disseminating information, arranging interviews, submitting documents for government clearances, confirming credentials, organizing travel and transportation, and placement into employment.

B. Related costs

11. Related costs are expenses integral to recruitment and placement within or across national borders, taking into account that the widest set of related costs are incurred for international recruitment. These costs are listed below and may apply to both national and international recruitment. Depending on the recruitment process and the context, these cost categories could be further developed by the governments and the social partners at the national level. It is recognized that the competent authority has flexibility to determine exceptions to their applicability, consistent with relevant international labour standards, through national regulations, and after consulting the most representative organizations of workers and employers. Such exceptions should be considered subject, but not limited, to the following conditions:

- i. they are in the interest of the workers concerned;
- ii. they are limited to certain categories of workers and specified types of services; and
- iii. the corresponding related costs are disclosed to the worker before the job is accepted.

12. When initiated by an employer, labour recruiter or an agent acting on behalf of those parties; required to secure access to employment or placement; or imposed during the recruitment process, the following costs should be considered related to the recruitment process:

- i. Medical costs: payments for medical examinations, tests or vaccinations;
- ii. Insurance costs: costs to insure the lives, health and safety of workers, including enrolment in migrant welfare funds;
- iii. Costs for skills and qualification tests: costs to verify workers' language

proficiency and level of skills and qualifications, as well as for location-specific credentialing, certification or licencing;

- iv. Costs for training and orientation: expenses for required trainings, including on-site job orientation and pre-departure or post-arrival orientation of newly recruited workers;
- v. Equipment costs: costs for tools, uniforms, safety gear; and other equipment needed to perform assigned work safely and effectively;
- vi. Travel and lodging costs: expenses incurred for travel, lodging and subsistence within or across national borders in the recruitment process, including for training, interviews, consular appointments, relocation, and return or repatriation;
- vii. Administrative costs: application and service fees that are required for the sole purpose of fulfilling the recruitment process. These could include fees for representation and services aimed at preparing, obtaining or legalizing workers' employment contracts, identity documents, passports, visas, background checks, security and exit clearances, banking services, and work and residence permits.

13. Enumeration of related costs in this definition is generalized and not exhaustive. Other related costs required as a condition of recruitment could also be prohibited.

14. These costs should be regulated in ways to respect the principle of equality of treatment for both national and migrant workers.

C. Illegitimate, unreasonable and undisclosed costs

15. Extra-contractual, undisclosed, inflated or illicit costs are never legitimate. Anti-bribery and anti-corruption regulations should be complied with at all times and at any stage of the recruitment process. Examples of such illegitimate costs include: bribes, tributes, extortion or kickback payments, bonds, illicit cost-recovery fees and collaterals required by any actor in the recruitment chain.



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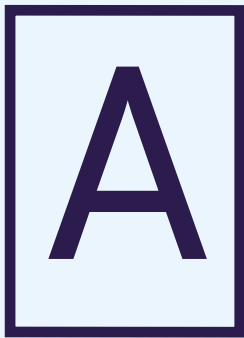
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Appendices



▶ Appendix I

Definitions of recruitment fees, related costs and cost-sharing arrangements (26 countries, 1 proposed definition: United States)

Source	Definition of recruitment fees	Provisions on recruitment fees and cost categories
1. Antigua and Barbuda Recruiting of Workers Act (Cap. 372 No. 41 of 1941)		Regulated. Article 8. The expenses of the recruited workers and their families to the place of employment, including all expenses incurred for their protection during the journey, shall be borne, and necessities for the journey shall be provided, by the recruiter (not being a worker-recruiter) or employer. Article 9 stipulates employers should cover costs related to return.
2. Australia Pacific Seasonal Worker Pilot Scheme , 2006		Regulated. Employer pays for the full cost of each seasonal workers' return international airfare and domestic transfer arrangements up front, and can recoup from the combined cost any amount over \$500 from seasonal workers' pay over time. Employers are also required to conduct an on-arrival and an on-return briefing at no charge to Seasonal Workers. "Add-on" Skills Training is paid by the Australian Government.
3. Canada Seasonal Agricultural Worker Program , 1966		Prohibited. Employers do not need to use the services of a third-party representative in order to hire a temporary foreign worker (TFW); however if they choose to do so, they must pay for all the fees associated with this service. Employers cannot deduct or recover these fees from the wage of the worker. Employers must always arrange and pay for the round-trip transportation (for example plane, train, boat, car, bus) of the TFW to the location of work in Canada, and back to the TFW's country of residence. A portion of these costs can be recovered through payroll deductions in all provinces, except in British Columbia. The maximum amount that can be deducted is specified in the employment contract entitled "Agreement for the employment in Canada for SAWP". Employers must provide to the TFWs, where required, no-cost transportation to and from the on-site/off-site housing location to the work location. Employers must provide TFWs with adequate, suitable and affordable housing as defined by the Canadian Mortgage and Housing Corporation. Employers are responsible for any costs that may be associated to having the housing inspected. Under no circumstances can employers recover these costs from the TFW. The insurance coverage purchased by the employer must correspond with the TFW's first day of work in Canada and the costs must not be recovered from the TFWs. Seasonal agricultural workers who are anticipated to arrive in Canada on or after 1 January 2017 are responsible for paying their work permit fees directly to Immigration, Refugees and Citizenship Canada.



4. [Colombia](#)
[Decree No. 722](#), 2013.
[Resolution 1481](#), 2013

Prohibited. Charging fees to workers is prohibited. Agencies authorized to recruit or place applicants abroad must specify that no recruitment fees should be paid by workers. Other costs, such as passport, visas and airport tax can only be paid by employers.
Art 4 (5) of Resolution 1481 (which covers only recruitment of Colombians abroad) stipulates that recruitment agencies rules and regulations must specify that no recruitment fees should be paid by workers, and that other costs, such as passport, visas and airport tax could be paid by workers but only upon signature of the employment contract.
Art 10: Charges for basic services. Agencies authorized to recruit or place workers abroad shall not charge the migrant worker any sum for the provision of their services. Neither can they make additional service charges, such as: a) For the placement and collection of the jobseeker's or pre-selected worker's documentation; b) Specific skills tests; c) Medical examinations and vaccines; d) Passports and visas; e) Airport taxes.
5. [El Salvador](#)
[Decree 682](#), 1996

Regulated. Placement services will be provided free of charge by the National Employment Directorate. However private employment agencies can charge fees, but operate under the supervision of the government. Hiring Salvadorians for working abroad is allowed and should be authorized by the Ministry of Labour. Travelling costs to and from the place of employment should be borne by the employer, including repatriation costs, if necessary.
6. [Ethiopia](#)
[Overseas Employment Proclamation No. 923/2016](#)

Regulated. Article 10: The employer shall cover the following expenses: (a) entry visa fee to the country of destination; (b) round-trip transport cost; (c) work permit fee; (d) residence permit fee; (e) insurance coverage; (f) costs associated with visa and document authentication paid to the embassy of country of destination which hosts in Ethiopia; and (g) employment contract approval service fee.
The worker shall cover the following expenses: (a) passport issuance fee; (b) costs associated with authentication of contract of employment received from overseas and certificate of clearance from crime; (c) medical examination fee; (d) vaccination fee; (e) birth certificate issuance fee; and (f) expenses for certificate of occupational competence.
7. [Guyana](#)
[Recruiting of Workers Act \(Cap. 98:06\)](#), 1943

Regulated. Article 7. The expenses of the recruited workers and their families to the place of employment, including all expenses incurred for their protection during the journey, shall be borne, and necessities for the journey shall be provided, by the recruiter (not being a worker-recruiter) or employer. Article 8 stipulates employers should cover costs related to return.

8. [Hong Kong Practical Guide For Employment of Foreign Domestic Helpers And Code of Practice for Employment Agencies, Labour Department Agency regulations \(Cap.57, section 62\)](#)
- “Prescribed commission”: means the maximum commission which may be charged and received by an employment agency as specified in regulation 10 and Part II of the Second Schedule of Employment Agency Regulations, which is no more than 10% of the first-month’s wages received by the job-seeker after he/she has been placed in employment by the employment agency.. (Code of Practice for Employment Agencies, Section 2.1.1)
- Regulated.**
Employment Agency Regulations, Section 10. Maximum fees and commissions
(2) The maximum commission which may be charged and received by an employment agency in connexion with the employment of any person shall be that set out in Part II of the Second Schedule. (8 of 2018 s. 10)
Part II. Second Schedule. Maximum Commission which may be Received by an Employment Agency
The maximum commission which may be received by an employment agency shall be—
(a) from each person applying to the employment agency for employment, work or contract or hire of his services, an amount not exceeding a sum equal to ten per cent of the first month’s wages received by such person after he has been placed in employment by the employment agency.
- [Practical Guide For Employment of Foreign Domestic Helpers:](#)
- Employers must reimburse costs to the workers:
- ▶ HKD100 daily food and travel allowance for his/her journey to Hong Kong, China.
 - ▶ free passage for return, usually an air ticket covering airport tax and a daily food and travelling allowance of HKD100 per day.
 - ▶ Reimbursable fees are not prescribed but the guide notes the following categories: mandatory insurance, medical examination fee, notarization fee, visa fee, government fee, others. The worker must produce receipts for each of these costs.
9. [Morocco: Book IV of the Labour Code, No. 5210, 2004](#)
- Prohibited:**
Art. 379: “In the establishments covered by arts 376 and 378 above, it is prohibited for the employer or his representative to demand of an employee, as a condition of his employment, either at the time his employment contract is concluded or during the course of its execution, any payment to cover fees, the reimbursement of costs or for any reason whatsoever.”
Art. 476: “Employment intermediation is provided by services established for this purpose by the governmental authority responsible for labour issues. The facilities provided to jobseekers and employers by these services are free of charge.”
Art. 480: “It is prohibited for private recruitment agencies to collect fees or costs from jobseekers, directly or indirectly, in part or in full.”
Art. 490: “The private recruitment agency through which an employment contract has been concluded abroad is responsible for the cost of the return of the employee to his country and for all the costs incurred by him in the event of the non-fulfilment of the contract for reasons beyond his control.”

10. [Indonesia Law No.18/2017 on the Protection of Indonesian Migrant Workers](#)

Regulated. Under art. 30 of Law No. 18/2017 on the Protection of Indonesian Migrant Workers, migrant workers are not responsible for covering any costs associated with his/her placement overseas except for costs related to getting his/her own Indonesian National ID Card (e-KTP), passport, medical check-up and competency/certification exam.

According to Kemnaker Decree No. 588/2012, section 10, fees for the placement of Indonesian workers in the domestic work sector in Singapore are limited to between 8 and 16 million Indonesian rupiah depending on the background of the worker.

Article 13 states that migrant workers are responsible for securing the following documents: certificate of marital status, for the already married person, to attach a copy of the marriage certificate; certificate of consent from a husband or wife, parents, or guardian acknowledged by the village head or village chief; certification of occupational competence; medical certificate based on the results of medical and psychological examination; passport issued by local immigration office; work visa; Indonesian Migrant Worker Agreement of Placement; and employment agreement.

11. [Kenya Labour Institutions Act of 2007 Labour Institutions \(Private Employment Agencies\) Regulations, 2016](#)

Regulated. In the case of recruitment for foreign employment, the costs of recruitment should be met by the recruitment agent or the employer, including visa fees, airfare and a surety bond. However, a service fee could be charged to the worker to cover administrative fees or costs rendered during the recruitment, such as medical or occupational tests, provided that they did not exceed one quarter of the worker's first monthly salary.

Article 57.2: "No person shall charge or receive in respect of anything done or to be done at an employment agency— (a) any fee or other payment or reward at a rate higher than that which may, from time to time, be prescribed for any particular area and class of business; or (b) any fee or other payment or reward, unless provision has been made for the charging of such fee, payment or reward in regulations made under this Act.

[Labour Institutions \(Private Employment Agencies\) Regulations, 2016](#)

Article 7. Fees and Commission "Agencies shall charge their principals a service fee for the recruitment, documentation and placement of workers."

Article 8. Costs to be met by agents or employer: A foreign contract of employment shall specify the party responsible for the payment of the visa fee, airfare and medical examinations. Provided that reasonable administrative costs may be charged by the agent in respect of trade test, occupational test and the administrative fees shall not exceed the job seeker's proposed one month's salary.

12. Kingdom of Saudi Arabia [Labour Law, 2005](#)
- Prohibited.** Article 40. An employer shall incur the fees pertaining to recruitment of non-Saudi workers, the fees of the residence permit (*Iqama*) and work permit together with their renewal and the fines resulting from their delay, as well as the fees pertaining to change of profession, exit and re-entry visas and return tickets to the worker's home country at the end of the work contract.
13. Nepal [Foreign Employment Act, 2064 \(2007\)](#) [The Foreign Employment Rules, 2064 \(2008\)](#) (implementing Rules for above Act).
- Article 2.h. Service charge means as "a sum of money charged by a foreign employment entrepreneur for sending a worker abroad".
Article 24.(2)
"Promotional costs means the visa fee chargeable for sending a worker for employment and miscellaneous expenses made within and outside the country, in the course of receiving the quota of workers".
- Regulated.** Article 24 (1) "The Government of Nepal may, in relation to any specific country or company, specify the upper limit of amount, including the "service fee" and "promotional costs" that the institution can collect from each worker." Contribution to welfare fund is also required (Rules, Chapter 7 Article 24).
- As per "free visa, free ticket" policy (ministry level decision) workers going to Saudi Arabia, Qatar, United Arab Emirates, Kuwait, Oman, Bahrain and Malaysia need to pay maximum of Nepal rupee (NPR) 10,000 only as service charge to the recruitment agencies.
14. [New Zealand Recognised Seasonal Employer scheme, 2007](#)
- Regulated.** Employers pay for half of the airfare from the workers' country of origin to New Zealand. Immigration costs include application cost, visa application centre service fee and courier fee borne by the worker.
15. Pakistan [Emigration Rules, 1979](#) (updated 2012)
- Regulated.** A recruitment agency can collect from the workers actual expenses for air ticket, medical, work permit, levy, visa and documentation. Employers bear the cost of the worker's return journey upon completion of contract. Costs are specifically for air ticket and visa. Fees charged depend on the monthly salary of the worker and length of employment contract. The maximum fee of PKR6,000 (e.g. approximately US\$50) for service charges is fixed by the Bureau of Emigration and Overseas Employment (BEOE). Three days after the emigrant's departure, the concerned Overseas Employment Promoter (OEP) submits a certificate to the office of the Protector of Emigrants requesting the release of the service charge. By law, an emigrant who has secured employment overseas through a licensed OEP is required to deposit a sum of PKR5,000 as a service charge (welfare fund PKR2,000, insurance premium PKR2,500, registration PKR500).

<p>16. Philippines Revised Philippine Overseas Employment Administration Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Filipino Workers of 2016</p>	<p>Placement fee: Any and all amounts charged by a recruitment agency from a worker for its recruitment and placement services as prescribed by the Secretary of Labor and Employment.</p>	<p>Regulated. A placement fee may be charged against the overseas Filipino worker equivalent to one (1) month's basic salary specified in the Philippine Overseas Employment Administration approved contract, except for the following: (a) domestic workers; and (b) workers to be deployed to countries where the prevailing system, either by law, policy or practice, do not allow, directly or indirectly, the charging and collection of recruitment/placement fees.</p> <p>In addition, workers pay for documentation costs: passport; National Bureau of Investigation/Police/Barangay clearance; National Statistics Office-authenticated birth certificate; transcript of records and diploma; professional licence authenticated by the Department of Foreign Affairs; certificate of competency; Department of Health-prescribed health examination and membership with Philhealth, Pag-ibig and the social security system.</p> <p>Employer must pay for visa including stamping fee; work permit and residence permit; round-trip airfare; transportation from the airport to the job site; Philippine Overseas Employment Administration processing fee; Overseas Worker Welfare Administration membership fee and additional trade test/assessment if required.</p>
<p>17. Poland Act of 20 April 2004 on the promotion of employment and labour market institutions</p>		<p>Regulated. Art. 19 d. 1(1) states that employment agencies (and other institutions mentioned in art. 18c) cannot charge (job seekers) other fees than those specified in art. 85.2.7. Art. 19d.1(2) further specifies that the agencies must inform job seekers of charging them any costs, fees and other dues associated with placement on the job and work, including those authorized by art. 85.2.7, in writing. According to art. 85.2.7, the four categories of costs that employment agency can charge for are:</p> <ol style="list-style-type: none"> a) Return transportation (international) b) Visa issuance c) Medical examinations d) Documents' translations.
<p>18. Qatar Labour Law No. 14 of the Year 2004 and Workers Welfare Standards Qatar 2022 Edition 2 Supreme Committee for Delivery and Legacy, World Cup 2022</p>	<p>Workers' welfare standard: Placement Fees: Means any monies or fees paid to legalise employment in Qatar such as commissions, costs, or expenses paid for travel to Qatar, medical tests in Qatar, applying for a work permit and a residence permit in Qatar.</p>	<p>Prohibited. Art. 33, Labour Law No. 14 of 2004: The person who is licensed to recruit workers from abroad for others shall be prohibited from doing the following:</p> <ol style="list-style-type: none"> 1. To receive from the worker any sums representing recruitment fees or expenses or any other costs. 2. To carry out in the office any other business other than the recruitment of workers from abroad for others.

Recruitment and Processing Fees: Means any fees, costs or expenses charged by a Recruitment Agent or a Contractor in respect of a proposed Worker obtaining employment in the State of Qatar including any fees, costs or expenses related to medical tests, police clearances, recruitment advertisements, interviews, insurance, government taxes in the country of origin, pre-departure orientations, airline tickets and airport taxes and any fees, costs or expenses charged by the Recruitment Agent to recuperate any Placement Fees.

Workers Welfare Standards

6.4 The contract between the Contractor and its Recruitment Agent must:

(a) stipulate that a Worker is not to be charged any Recruitment or Processing Fees including any upfront deposits or security-payments for the provision of recruitment services;

10.3. Any deductions from wages may only be made strictly in accordance with the requirements of Law. Specifically the contractor shall not make any deduction from wages for items provided prior to or during the term of the employment contract including: recruitment and processing fees; relocation or visa costs; accommodation bedding; food; transportation; training and development; recreation facilities at the accommodation site; or medical insurance and prescribed health care.

19. Singapore [Employment Agencies Act \(Chapter 92\)](#); Ordinance 47 of 1958; revised edition 2012

Regulated. Article 14. Fees for Services Rendered

14(1) It shall be lawful for a licensee to charge and receive such fees as may be prescribed from time to time

14 (2) No licensee shall charge or receive any form of fees, remuneration, profit or compensation otherwise than as provided in this Act.

The law prohibits employment agencies (EAs) operating in Singapore from collecting more than two months' salary, and no more than one month for each year of service.

[Ministry of Manpower](#): Employers are responsible for paying administrative costs, including levies and fees for work pass applications and renewals, as they are part of the cost of employing a foreign worker. They are not allowed to recover the fees (directly or indirectly) from their foreign employees. Likewise, EAs should not be recovering such fees from workers. EAs that do so would be considered to be committing or abetting an offence. EAs are also not allowed to charge agency fees for work pass renewals.

20. Thailand [Job Placement and Job Seekers' Protection Act, B.E. 2528 \(1985\)](#) Section 4. "Service charge" means money or other benefits paid as consideration in return of employment.

Regulated.

Section 26. No domestic employment licensee shall demand or receive any money or property from a job-seeker other than service charge or expense. Service charge or expense under paragraph one shall be demanded or received not exceeding the rate as determined by the Minister.

Section 38. No overseas employment licensee shall demand or accept service charge or expense from a job-seeker in advance for exceeding thirty days before departure date.

Section 47 quinqué: No skill testing licensee shall demand or receive any money, property, or other benefits from a job seeker other than skills testing fee.

21. [Togo Act No. 2006-010 of 13 December 2006 concerning the Labour Code](#)
- Prohibited.** The Code specifically prohibits the charging of fees or costs for workers by public and private employment agencies.
Article 197. Article 197. Placement fees collected by fee-charging employment agencies shall be borne entirely by the employers without any payment being received from the workers.
Article 198. The managers of fee charging employment agencies and their agents shall not collect or accept deposits of surety of any kind for their operation.
Section II – Travel and transport – Art. 161: travel expenses of a worker recruited outside of Togo, the travel expenses shall be borne by the employer.
22. [Uganda Rules and Regulations governing the Recruitment and Employment of Ugandan Migrant Workers Abroad](#)
- Regulated.**
Rule IV Placement Fees and Contributions:
Section 1. Fees Chargeable to Principals: Agencies shall charge from their principals a fee to cover services rendered in the recruitment and deployment of Ugandan migrant workers. However, recruitment agencies shall charge a nominal fee from the Ugandan migrant workers for their recruitment and deployment services as administration costs”.

Rule VI elaborates on the issue as follows:
Placement fees and documentation costs
Section 1. Fees chargeable against principals: Agencies shall charge from their principals a service or recruitment fee to cover services rendered in documentation and placement of workers.
Section 2. Fees/costs chargeable from workers:
(a) Private employment agencies may charge placement fees as may be authorized by the Permanent Secretary from a hired worker to cover costs of placement and services such as trade or skill testing, medical examination, passport, visa, clearances, inoculation, airport terminal fees, notaries, among others.
The above charge shall be collected from a hired worker only after he/she has signed the employment contract and shall be covered by receipts clearly showing it.
(b) Recruitment agencies shall charge a minimal fee not exceeding Uganda shillings fifty thousand (UGX50,000/=) from Ugandan migrant workers for its recruitment and placement services.
Section 3. No other charges shall be imposed on the worker.
23. [United Kingdom Employment Agencies Act 1973](#)
[The Conduct of Employment Agencies and Employment Businesses Regulations 2003](#)
- Gangmasters and Labour Abuse Authority: Fees for “work-finding services” which include services provided by a licence holder for seeking to find or finding a person work.
- Prohibited.**
[Employment Agencies Act 1973](#), Section 6: Restrictions on charging persons seeking employment, etc.
6 (1) Except in such cases or classes of case as the Secretary of State may prescribe, a person carrying on an employment agency or an employment business shall not demand or directly or indirectly receive from any person any fee for finding him employment or for seeking to find him employment.
6 (2) any person who contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

[Gangmasters and Labour Abuse Authority and Gangmasters and Labour Abuse GLA Brief Issue 38 – June 2014: Job-Finding Fees and Providing Additional Services](#)

Gangmasters and Labour Abuse Authority: Fees for “work-finding services” which include services provided by a licence holder for seeking to find or finding a person work.

Further detail is provided in [The Conduct of Employment Agencies and Employment Businesses Regulations 2003](#):

- ▶ Part III requirements to be satisfied before services are provided; Notification of charges and the terms of offers
- ▶ Part VI Client accounts and charges to work-seekers
- ▶ Schedule 3: Occupations in respect of which employment agencies may charge fees to work-seekers:
 - Actor, musician, singer, dancer, or other performer;
 - Composer, writer, artist, director, production manager, lighting cameraman, camera operator, makeup artist, film editor, action arranger or coordinator, stunt arranger, costume or production designer, recording engineer, property master, film continuity person, sound mixer, photographer, stage manager, producer, choreographer, theatre designer;
 - Photographic or fashion model;
 - Professional sports person.

[Gangmasters and Labour Abuse Authority](#) Standard 7.1

- ▶ A licence holder must not charge fees to workers for recruitment services.
- ▶ A licence holder must not make providing work-finding services conditional on the worker:
 - Using other services or hiring or purchasing goods provided by the licence holder or any person connected to them; or
 - Giving or not withdrawing consent to disclosing information about that worker

Examples of charges for goods or services which breach Licensing Standard 7.1 include:

- ▶ Providing information, advice and guidance on vacancies and work placements
- ▶ Checking documents required as part of the recruitment process, such as checking the authenticity of identity documents or medical certificates necessary for the work in question. This also includes any checks which are mandatory in the UK or country of origin
- ▶ Interview and assessment

- ▶ Completing documents required as part of the recruitment process which the licence holder would otherwise complete for free if the worker did not opt for the service
- ▶ Charging each worker for translating a document which is non-specific to the individual worker. There should be no charge for translating a standard document used by all workers that has only needed to be translated once
- ▶ Sending documents to the hiring employer that the licence holder would otherwise send if the worker did not opt for the service
- ▶ Any fee associated with guaranteeing a placement or work for the following year
- ▶ Providing information on details about the job.

It does not matter if these goods or services are optional. If the worker is charged for any of the above, then Licensing Standard 7.1 will be breached.

24. [United States Federal Acquisition Regulation \(proposed\)](#)

Recruitment fees include, but are not limited to, fees, charges, costs, assessments, or other financial obligations assessed against employees or potential employees, associated with the recruiting process, regardless of the manner of their imposition or collection. Any fee, charge, cost, or assessment may be a recruitment fee regardless of whether the payment is in property or money, deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe, in-kind payment, free labour, tip, or tribute, remitted in connection with recruitment, or collected by an employer or a third party, including, but not limited to: agents, recruiters, staffing firms, subsidiaries/affiliates of the employer, any agent or employee of such entities and subcontractors at all tiers.

Prohibited.

- ...
- i. for soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, testing, training, providing new-hire orientation, recommending, or placing employees or potential employees;
 - ii. for covering the cost, in whole or in part, of advertising;
 - iii. for any activity related to obtaining permanent or temporary labour certification;
 - iv. for processing petitions;
 - v. for visas and any fee that facilitates an employee obtaining a visa such as appointment and application fees;
 - vi. for government-mandated costs such as border-crossing fees;
 - vii. for procuring photographs and identity documentation, including any non-governmental passport fees;
 - viii. charged as a condition of access to the job opportunity, including procuring medical examinations and immunizations and obtaining background, reference and security clearance checks and examinations; additional certifications;
 - ix. for an employer's recruiters, agents or attorneys, or other notary or legal fees; and
 - x. for language interpreters or translators.

		<p>(2) Any fee, charge, cost, or assessment may be a recruitment fee regardless of whether the payment is in property or money, deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe, in-kind payment, free labour, tip, or tribute, remitted in connection with recruitment, or collected by an employer or a third party, including, but not limited to –</p> <ol style="list-style-type: none"> i. agents; ii. recruiters; iii. staffing firms (including private employment and placement firms); iv. subsidiaries/affiliates of the employer; v. any agent or employee of such entities; and vi. subcontractors at all tiers.
<p>25. Bolivarian Republic of Venezuela Labour Law, 2012, No. 6'076</p>		<p>Prohibited. Art 65: A foreign employer willing to hire a worker should deposit in a Venezuelan bank a guarantee to cover cost of repatriation and of transportation to the place of residence, and should provide the worker with a contract of employment specifying that travel, food, and immigration-related costs are covered by the employer.</p>
<p>26. Law on Vietnamese Workers Working Abroad under Contract, 2006 Joint circular No. 16/2007/TTLT-BLDTBXH-BTC, specific regulation on brokerage and service fee in the operation of sending Vietnamese labourers to work abroad under contracts, 2007</p>	<p>Art. 20 of the Law on Vietnamese Workers Working Abroad under Contract defines brokerage commission as an amount a licensed enterprise (i.e. recruitment agency) shall pay to the broker (in destination country) in order to sign and perform a labour supply contract.</p> <p>Art. 21 of the Law on Vietnamese Workers Working Abroad under Contract defines service charge as an amount paid by a worker to a licensed enterprise (i.e. recruitment agency) for the performance of contract for sending workers for overseas employment".</p> <p>Art. 27 of the Law on Vietnamese Workers Working Abroad under Contract obliges recruitment agencies to directly recruit workers without collecting recruitment fees. Brokerage commission and service charge (which the law allow to be charged to migrant workers) are not considered to be a recruitment fee.</p>	<p>Regulated. Article 20.(1) Workers shall refund to the licensed enterprise a part or the whole of brokerage commission under regulations of the Ministry of Labour, War Invalids, and Social Affairs. Article 20 (3) The Ministry of Labour, War Invalids, and Social Affairs, with the Ministry of Finance, define the ceiling brokerage commission rates, the management and use of brokerage commission. Article 21 (2). Licensed enterprises shall reach agreement with workers on the one-off collection of service charge prior to the workers' emigration or by instalments during the time the workers work abroad.</p> <p>Joint Circular No. 16/2007/TTLT dated 4 Sep. 2007 sets the ceiling on the brokerage commission to be not higher than one month's net salary per worker per year (Section II. Article 2.a). The salary which (calculated by month) serves as a basis to determine the brokerage rate is the basic salary under the contract excluding overtime working, bonuses and other benefits. For the officers and crewmen of the sea carrier, the salary which, under the contract (calculated by month) to serve as a basis to determine the brokerage rate, is the salary including the basic salary and leave salary (Article 2d).</p>

27. [Zambia
Employment
Act, 2017](#)

Prohibited.

Art. 59: (1) An employment agency shall charge a prospective employer such fees as may be agreed between them. (2) The employment agency shall not charge the prospective employee for any services rendered. (3) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence.

Art. 13.1: Whenever an employee has been brought from a place within Zambia to a place of employment by the employer, or by an employment agency acting on behalf of the employer, the employer shall pay the expenses of repatriating the employee to the place from which he was brought, in the following circumstances: Repatriation: (a) on the expiry of such period of service as may be specified in the contract of service; (b) on the termination of the contract of service by reason of the inability, refusal or neglect of the employer to comply with all or any of the provisions of such contract; (c) on the termination of the contract of service by agreement between the parties unless the contract otherwise provides; (d) on the termination of the contract of service by reason of the inability of the employee to comply with the provisions thereof by reason of illness or accident not occasioned through his own fault. Further detail on exceptions as well as what the expenses of repatriation include can be found in art. 13.2–13.4.

Section 80-The Employment Regulations

4. (1) Upon the attestation of any contract of foreign service, the employer, or his authorised agent, shall pay to the Government an attestation fee in respect of each person so engaged at the rate of one fee unit for every month, or part thereof, during which the said contract is to endure.

Art. 15: "An employment agency shall not charge or receive fees in excess of the following scales: (a) where employers notify a vacancy: eight fee units in respect of each vacancy filled by an employee introduced by the agency; (b) in the case of applicants: two fee units initial registration fee and up to 5 per centum of the applicant's first month's earnings in the event of being placed in employment by the agency."



▶ Appendix II

Definitions of recruitment fees and itemization of related costs by selected multi-stakeholder initiatives/organizations

A- Guidance documents

Definition of recruitment fees	Itemization of related costs
1. Alliance to End Slavery and Trafficking	
<p>Recruitment fees include any and all fees, charges, costs, assessments or other financial obligations associated with the recruiting process regardless of the manner or timing of their imposition or collection, including fees, charges, costs, assessments or other financial obligations assessed against workers in sending, receiving, or transit countries.</p>	<p>Recruitment fees include, but are not limited to, payments in any form for</p> <ul style="list-style-type: none"> a. submitting applications, making recommendations, recruiting, reserving, committing, soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, or placing potential job applicants, potential employees, persons who may be referred or contracted for employment, and employees; b. labour broker services, both one-time and recurring; c. pre-departure or post-arrival skills testing, training, or orientation, including, but not limited to, testing of competency or skill level in foreign languages, strength, or machinery use; d. covering the cost, in whole or in part, of advertising; e. certifying labour applications; f. processing petitions; g. visas and any fee that facilitates an employee obtaining a visa such as appointment, application fees, exit clearances or certificates; h. work permits, residence certificates, and security clearances (including renewals); i. sending, transit and receiving country government-mandated fees, levies, and insurance, including, but not limited to, border-crossing fees; j. procuring photographs and identity documentation, including any non-governmental passport fees; k. documentation services including notarization and translation; l. fees charged as a condition of access to the job opportunity, including procuring medical examinations and immunizations and obtaining background, reference and security clearance checks and examinations; m. pre-employment medical examinations or vaccinations in the sending country; n. receiving country medical examinations; o. transportation and subsistence costs while in transit including, but not limited to, airfare or costs of other modes of international transportation, terminal fees, and travel taxes associated with travel from sending country to receiving country and the return journey at the end of the contract;

- p. transportation and subsistence costs from the airport or disembarkation point to the worksite;
- q. bribes, tips or tributes;
- r. security deposits and bonds;
- s. the inclusion of a collateral requirement, such as land deeds, in contracts; contract breach fees;
- t. an employer's recruiters, agents or attorneys, or other notary or legal fees; insurance;
- u. contributions to worker welfare funds or government provided benefits in sending countries required to be paid by supplier.

Source: ATEST, [Recruitment fees](#), 2016

2. Institute for Human Rights and Business

Employer Pays Principle: No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer. IHRB mentions that migrant workers frequently pay fees to agencies and brokers for recruitment and placement in jobs abroad.

Fees may cover costs including the recruitment itself, travel, visa and administrative costs and other various forms of unspecified "fees" and "service charges". IHRB recommends that employers:

- ▶ pay the full costs of recruiting workers
- ▶ Ensure no worker is required to pay a deposit or bond to secure work, nor have to pay any reimbursements to cover their recruitment fees and costs.

Source: [Recruitment Fees \(IHRB Briefing, May 2016\)](#)

3. Open Working Group on Labour Migration & Recruitment

Any and all fees, charges, or costs associated with the recruiting process, whether they are charged legally or illegally, in countries of origin, transit or destination. Workers, employers, or both employers and workers often pay recruitment fees.

Any fee, charge or cost may be a recruitment fee regardless of whether it is deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe or tribute, remitted in connection with recruitment, or collected by an employer or a third party, including but not limited to agents, recruiters, staffing firms (including private employment and placement firms), subsidiaries/affiliates of the employer and any agent or employee of such entities.

Recruitment fees include, but are not limited to, payments in any form for submitting applications, making recommendations, recruiting, reserving, committing, soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, or placing potential job applicants, potential employees, persons who may be referred or contracted for employment, and employees; labour broker services, both one-time and recurring; pre-departure or post-arrival skills testing, training, or orientation, including, but not limited to, testing of competency or skill level in foreign languages, strength, or machinery use; covering the cost, in whole or in part, of advertising; certifying labour applications; processing petitions; visas and any fee that facilitates an employee obtaining a visa such as appointment, application fees, exit clearances or certificates; work permits, residence certificates, and security clearances (including renewals); sending, transit and receiving country government-mandated fees, levies and insurance, including, but not limited to, border crossing fees; documentation services including notarization and translation; fees charged as a condition of access to the job opportunity, including procuring medical examinations and immunizations and obtaining background, reference and security clearance checks and examinations; pre-employment medical examinations or vaccinations in the sending country; receiving country medical examinations; transportation and subsistence costs while in transit, including, but not limited to, airfare or costs of other modes of international transportation, terminal fees, and travel taxes associated with travel from sending country to receiving country and the return journey at the end of the contract; transportation and subsistence costs from

the airport or disembarkation point to the work site; bribes, tips or tributes; security deposits and bonds; the inclusion of a collateral requirement, such as land deeds, in contracts; contract breach fees; an employer's recruiters, agents or attorneys, or other notary or legal fees; insurance; and contributions to worker welfare funds or government provided benefits in sending countries required to be paid by supplier.

Source: [Recruitment Reform Campaign Glossary, Open Working Group on Labour Migration & Recruitment \(June 2016\)](#)

4. Responsible Business Alliance

Workers should not be required to pay application, recommendation, recruiting, skills testing, interviewing, selecting / hiring, placement, and processing fees, of any kind or at any stage, including agent, sub-agent, intermediary, or employer operating, administrative and overhead costs associated with the recruitment, selection, consideration, hiring, and placement of those workers.

The following recruitment related costs are not to be paid by migrant workers:

- Pre-departure fees and costs: skills tests; additional certifications; medical exams/screening if required by the employer or law; training/orientation; requirements to access the job opportunity; agent, attorney, notary or legal fees; language interpretation or translation fees; background and reference checks.
- Documentation / permits and associated costs: new or renewed passport/identity documents needed for the purposes of obtaining or retaining employment; visas (including renewals); photos for new passport or visas and renewals; temporary work or residence permits (including renewals); police clearance fee; birth certification fee; certificate of good behavior fee
- Transportation and in-transit lodging costs:
International migrant workers: transportation and in-transit lodging costs after the employment offer has been made and accepted, from their habitual place of residence in their COO to the port of departure; transportation from COO to COD port of entry (airfare or other mode of transportation cost, terminal fees and travel taxes); transportation from COD port of entry to supplier's facility or provided accommodations; border-crossing fees; relocation costs if asked to move once employment has begun; return transportation to employee's habitual place of residence at end of employment.
- Internal migrant workers: transportation and in-transit lodging costs after the employment offer has been made and accepted, from their habitual place of residence to the place of work; relocation costs if asked to move once employment has begun.
- Arrival /on-boarding including: New-hire training /orientation; medical exams/screening; immunizations
- Other legal requirements: deposits and/or bonds; government-mandated migrant levies and worker welfare funds; fees or related costs associated with regularizing migrant workers; obtaining permanent or temporary labor certification.

Workers should not expect to be reimbursed for basic items to prepare for the interview such as CV preparation, copies of existing documents and certificates, and incidentals.

These costs can be paid by worker, without mark-up, if noted in their contract and a receipt or record of payment is provided.

- (a) Basic expense item to prepare for the interview such as CV copies, copies of existing documents and certificates, incidentals
- (b) Costs to meet minimum qualifications for the job such as degree or certification
- (c) Passport replacement cost due to employee fault. For replacing visas/permits this also includes photo(s), providing/photocopying any documents, etc.
- (d) Dormitory and meals (must be fair market value and meet international health & safety standards)
- (e) Costs for any legally-allowable levies may be charged but must be deducted in a pro-rata manner.

Source: RBA: [RBA Trafficked and Forced Labor – "Definition of Fees" 2021](#)

5. UN Global Compact/Verité

Any and all fees associated with the recruitment process regardless of when, how and whom they are collected.

Recruitment fees can include, but are not limited to, payments for the following:

- ▶ Services such as advertising, recruiting, short-listing, interviewing, referring, retaining, transferring or placing job applicant or potential employees;
- ▶ pre-departure or post-arrival training, skills-testing or orientation;
- ▶ pre-departure or receiving country medical examinations, including immunizations;
- ▶ visas, work permits, residency certificates or security clearance;
- ▶ documentation services, including translation or notarization;
- ▶ government-mandated fees, levies or insurance;
- ▶ transport or subsistence costs from point of origin to worksite, including airfare;
- ▶ security deposits or bond;
- ▶ breach of contract fees;
- ▶ employer notary or legal fees and
- ▶ bribes, tips or tributes.

[United Nations Global Compact and Verité: Eliminating recruitment fees charged to migrant workers, 2015, p. 3.](#)

6. Association of Labour Providers

Recruitment fees include any fee, charge, or cost, regardless of whether the payment is in property or money, deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe, in-kind payment, free labour, tip, or tribute, remitted in connection with recruitment, or collected by an employer or a third-party, including, but not limited to: labour providers providing recruitment and/or employment services; subsidiaries/affiliates of the employer; any agent or employee of such entities; and subcontractors, sub-agents and brokers at all tiers.

Employers must cover the following fees:

1. General overhead and processing fees:

- 1.1. Any operating, administrative and overhead costs associated with the recruitment, selection, hiring, placement and retaining of workers including any fees for applications, recommendations, soliciting, identifying, considering, referring, interviewing and processing, of any kind, at any stage.
- 1.2. Any fees for covering the cost, in whole or in part, of advertising.
- 1.3. Any fees for an employer's recruiters, agents or attorneys, or other notary or legal fees.
- 1.4. Any fees for language interpreters or translators.

2. Pre-departure:

- 2.1. Interview skills tests.
- 2.2. Any fees related to obtaining permanent or temporary labour certification.
- 2.3. Any additional certifications beyond those required for job eligibility.
- 2.4. Medical exams/screening/immunizations if required by the employer or law.
- 2.5. Pre-departure orientation and job-skills training.
- 2.6. Transportation and associated costs to and from the interview where workers have already been through a selection process by the labour provider and have been pooled for interview with the user enterprise.
- 2.7. Any other fees to access the job opportunity.

3. Documentation costs after the employment offer has been made:

- 3.1. New passport/identity documents needed for the purpose of obtaining employment, including photographs required for such documentation, renewal(s) required for the purpose of retaining employment and any fees associated with obtaining a passport/identity documents such as appointment and expedite fees.
- 3.2. Visas (including renewals and any fees associated with obtaining a visa such as appointment and expedite fees).
- 3.3. Temporary work or residence permits (including renewals).
- 3.4. Background, reference and police/security clearance fees.
- 3.5. Birth certificate fee.
- 3.6. Certificate of good conduct fee.
- 3.7. Other certifications, identity or clearance documents required for residing and working in the destination country, completed pre-departure.
- 3.8. Replacement of any stolen documentation.

4. Transit costs after the employment offer has been made:

- 4.1. Transportation, lodging and subsistence costs (including all taxes and fees) after the employment offer has been made and accepted from the worker's home to the port of departure.
- 4.2. Transportation from port of departure to receiving country port of entry including but not limited to airfares or costs of other modes of international transportation, terminal fees and travel taxes.
- 4.3. Transportation, lodging and subsistence costs from receiving country port of entry to workplace or provided accommodations.
- 4.4. Border-crossing fees.
- 4.5. Return transportation, lodging and subsistence to worker's home in the origin country at the end of the employment contract.
- 4.6. Any costs associated with travel arrangements, e.g. travel agents' fees.

5. Arrival:

- 5.1. New-hire orientation and job-skills training.
- 5.2. Medical exams/screening.
- 5.3. Any certifications, identity or clearance documents required for residing and working in the destination country, completed post-arrival.
- 5.4. Legal requirements including, but not limited to, deposits and/or bonds (including non-legislated).

6. During employment:

- 6.1. Relocation costs if asked to move once employment has begun.
- 6.2. Any costs associated with paying the worker's salary (e.g. bank fees).
- 6.3. Where a contract is extended, any costs associated with extending the work visa or paying any agent fees.
- 6.4. Any deductions which take pay below the legal minimum wage which are not allowed by law.
- 6.5. Any fees associated with guaranteeing shifts or work.

6.6. Any fees for transport to and from the workplace which is a mandatory requirement of the job, i.e. the only reasonable mode of transportation to arrive at the place of work.

6.7. Any fees for labour provider- or user enterprise-provided accommodation and subsistence that are not truly optional.

6.8. All other initial and ongoing employment expenses and fees for work-related equipment, tools, and apparel shall be borne by the employer. If other costs are added by any agent, sub-agent, or intermediary which are not required by law or by the employment site, the worker shall not be required to pay.

7. End of employment and early leave:

7.1. No fees or deductions should be charged to the worker as a penalty for termination of employment. Workers should receive payment for all hours worked. Employers can make lawful deductions, for example for overpayment of holiday, provided this is clearly stipulated in the worker’s contract.

Source: [Eliminating Recruitment and Employment Fees Charged to Workers in Supply Chains, A Practical Step-by-Step Guide for Retailers, Brands, Employers and Labour Providers \(November 2017\)](#)

7. International Recruitment Integrity System (IRIS) – International Organization for Migration

Recruitment fees refer to all fees and costs associated with a migrant worker taking up employment overseas – including during the pre-departure, employment and return stage.

This includes costs relating to international travel (i.e. passport, visa, return flights etc.), medical and training costs, and any administrative or overhead fees associated with job placement. Recruitment fees include costs that are paid in money or property, deductions from wages or benefits, kickbacks or bribes, and in-kind payments such as free labour. The labour recruiters must not charge directly or indirectly, in whole or in part, any fees or related costs to migrant workers, for the services related to recruitment for temporary or permanent job placement or employment. The labour recruiter is prohibited to charge recruitment fees and related costs to migrant workers, irrespective of where or how they are recruited; the migrant worker are not responsible for those costs; and labour recruiters are in the obligation to inform jobseekers during the recruitment process that they do not bear any cost related to it.

Source: [IOM IRIS Standard](#)

8. World Bank’s Global Knowledge Partnership on Migration and Development (KNOMAD)/ILO

Recruitment costs defined to include all out-of-pocket expenses paid by migrants to get a job abroad, including all formal and informal payments (i.e. bribes), to intermediaries (job brokers/licensed agencies, or friends and relatives) or employers, for work visas (including informal costs), interest paid on loans, and for local and foreign travel.

Costs paid to:

- a. obtain information about the job or apply for it with a local agent;
- b. learn the language in country of employment;
- c. learn skills necessary to apply for the job;
- d. obtain a passport;
- e. take the medical exams;
- f. take any skills tests required by the recruiter/employer;
- g. obtain police/security clearance;
- h. obtain approval of employment contract /exit clearance by national authorities;
- i. take required pre-departure training;

- j. acquire necessary health/life insurance;
- k. obtain the work visa;
- l. become member of welfare fund for migrant workers (required in some origin countries);
- m. other costs, including informal payments (e.g. bribes);
- n. pay for local transportation and accommodation while applying for the job;
- o. pay for international transportation, including all taxes (e.g. departure tax);
- p. pay for recruitment fees if not included in other fees paid.

9. International Trade Union Confederation (ITUC) Recruitment Adviser

Recruitment fees include agency fee/service charge/placement fee, medical examination, insurance, pre-departure orientation, passport application/renewal, visa, flight ticket, accommodation during recruitment, skills training and others.

Source: ITUC, [Recruitment Advisor](#) (2017)

B- General statements on recruitment fees and related costs

Organization	Statement on recruitment fees and related costs
1. World Employment Confederation	<p>Private employment services shall not charge directly or indirectly, in whole or in part, any fees or costs to jobseekers and workers, for the services directly relates to temporary assignment or permanent placement.</p> <p>Source: WEC Code of Conduct, principle 3</p>
2. The Consumer Goods Forum	<p>No worker should pay for a job. Fees and costs associated with recruitment and employment should be paid by the employer, not the employee. Fees can cover a wide array of 'costs', including legal fees, travel, passport and visa processing, medical exams, in-country support services and languages classes. Fees can also include service charges for which there is no real choice, and that may be overpriced or fraudulent. Recruitment agents may even act as moneylenders, charging excessive interest or exchange rates. Payment of recruitment fees can be hidden as deduction from wages, or collected by forcing workers to buy services at inflated rates. Even optional chargeable services should be considered a recruitment fee if they are integral to the process of obtaining work, for example: providing information, advice and guidance on job vacancies; interview and assessment fees; completing, translating or sending documents to the employer.</p> <p>Source: The Consumer Goods Forum, Priority industry principles (2017)</p>
3. Verité	<p>The employer covers all recruitment and processing fees, costs, and expenses, including those associated with securing identity cards, medical certificates and examinations, skills testing, and travel.</p> <p>Source: Verité, Sample benchmarks of good practice in recruitment and hiring (2011)</p>



► Appendix III

Bilateral agreements and their definition of recruitment fees and related costs

Region	Bilateral agreement	Year	Provisions on fee and related recruitment cost charging and cost categories identified
Asia-Pacific Internal	1. MoU between the Government of Malaysia and the Government of the Kingdom of Cambodia on the recruitment and employment of workers	2015	<p>With respect to related recruitment costs, the agreement specifically states that workers are to shoulder the cost of transport to Malaysia while employers are responsible for return travel to the capital (Phnom Penh) upon completion of the contract. The employer is also responsible for a security deposit required by the Immigration Department, processing fees, visit pass (temporary employment), and medical examination. The worker is responsible for any expenses incurred in Cambodia in accordance with Cambodian laws. The policy states that the workers are responsible for the payment of levy, pass, visa and processing fee (but these are to be advanced by the employer in the first year and deducted from income) as well as travel documents and medical and other expenses incurred in Cambodia.</p> <p>Source: MoU between the Government of Malaysia and the Government of the Kingdom of Cambodia on the recruitment and employment of workers [accessed 9 Aug. 2018].</p>
Asia-Pacific/ Arab States	2. Agreement on workers recruitment between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Saudi Arabia	2016	<p>The agreement with Saudi Arabia seeks to:</p> <p>Art. 3(2): Ensure the recruitment of workers through recruitment offices, companies or agencies that practice ethical recruitment and are licensed by their respective governments.</p> <p>(3): Regulate or endeavour to control recruitment costs in both countries.</p> <p>(4): Ensure that recruitment offices, companies or agencies of both countries and the employer shall not charge or deduct from the salary of the worker any cost attendant to his/her recruitment and deployment or impose any kind of unauthorized salary deductions.</p> <p>Under the Standard Employment Contract for Cambodia Domestic Workers Bound for Saudi Arabia:</p> <p>Art. 7: Employer shall pay for the transportation of the domestic worker from the point of origin in Cambodia to the site of employment and back.</p> <p>Art. 15(c): The employer shall not deduct any amount from the regular salary of the domestic worker.</p> <p>Art. 15(d): The employer shall pay the cost of the domestic worker's residence permit (<i>Iqama</i>), exit/re-entry visa and final exit visa, including the renewals and penalties resulting from delays.</p> <p>Source: Agreement on workers recruitment between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Saudi Arabia [accessed 9 Aug. 2018].</p>

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|----|--|------|--|
| 3. | Agreement between the Government of the State of Qatar and the Government of the Kingdom of Cambodia concerning the regulation of manpower employment in the State of Qatar | 2011 | <p>Art. 8.A: The employer shall bear all travel expenses of the workers from the Kingdom of Cambodia to the place of work in the State of Qatar when they first join work and shall also bear their travel expenses from Qatar at the end of their employment contract. The employer shall also bear the workers' two-way travel expenses during the leave period under the work contract. Such expenses shall not include the cost of passport issuance and payment of any deposits.</p> <p>Source: Agreement between the Government of the State of Qatar and the Government of the Kingdom of Cambodia concerning the regulation of manpower employment in the State of Qatar [accessed 9 Aug. 2018].</p> |
| 4. | Agreement regulating the employment of workers
China-Qatar BLA | 2018 | <p>Art. 10.A: The employer shall bear all expenses for the travel of workers from the People's Republic of China to the place of work in the State of Qatar upon their first employment, as well as the expenses of their return upon completion of their employment. The employer shall also bear the travel expenses of the worker during the period of leave provided for in the contract of employment. These expenses do not include the cost of obtaining a passport.</p> <p>Source: Agreement regulating the employment of workers [accessed 9 Aug. 2018].</p> |
| 5. | MoU on manpower between the Government of India and the Government of the Hashemite Kingdom of Jordan | 1988 | <p>Art. 6: Employer undertakes to pay travel expenses from his residence in his home country to his workplace and upon termination of the employment contract and in the case of the cancellation of the contract unilaterally by the employer or unsatisfactory performance by the worker during the probation period his return trip expenses to his home country. The return travel expenses shall not be borne by the employer if the worker quits the job or cancels the contract before its expiry date unilaterally</p> <p>Source: MoU on manpower between the Government of India and the Government of the Hashemite Kingdom of Jordan [accessed 9 Aug. 2018].</p> |
| 6. | MoU between the Government of the Hashemite Kingdom of Jordan represented by the Ministry of Labour, the Government of the Republic of Indonesia represented by the Ministry of Manpower and Transmigration on the Placement and Protection of Indonesian Domestic Workers | 2009 | <p>Art. 4: Employer shall obtain the required working and residency permits at his/her expense for the Indonesian domestic worker.</p> <p>Art. 8: The employer shall obtain and pay a life insurance policy for the benefit of the Indonesian Domestic Worker.</p> <p>Source: MoU between the Government of the Hashemite Kingdom of Jordan represented by the Ministry of Labour and the Government of the Republic of Indonesia represented by the Ministry of Manpower and Transmigration on the Placement and Protection of Indonesian Domestic Workers [accessed 9 Aug. 2018].</p> |

7. Standard employment contract for Filipino household services workers bound for Jordan, and Principles and Controls for Regulating Deployment and Employment of Filipino Domestic Workers between the Government of the Hashemite Kingdom of Jordan/ Ministry of Labor and the Government of the Republic of the Philippines/ Department of Labor and Employment
- 2013
- Third:
(a) Employer is to pay the fees and costs of obtaining the work and residency permits for the worker.
...
(g) The employer, at own expense, shall provide the worker with plane tickets for expatriation to Jordan, and repatriation upon the expiration of the worker's contract period of two years.
...
(j) The employer shall be obliged to obtain a medical, life, accident and repatriation insurance for the worker.
- Source: [Standard employment contract for Filipino household services workers bound for Jordan](#) [accessed 9 Aug. 2018] and [the Principles and Controls for Regulating Deployment and Employment of Filipino Domestic Workers between the Government of the Hashemite Kingdom of Jordan/ Ministry of Labor and the Government of the Republic of the Philippines/ Department of Labor and Employment](#)

8. General Agreement in the Field of Manpower Nepal-Jordan BLA
- 2017
- Art. 3(a): Both parties to control and regulate costs related to recruitment and employment in both countries.
Art. 4(b): Ensure that the costs to be incurred for visa, travel expenses, insurance [life and disability, Art. 13], medical expenses, and other processes related to the recruitment of the workers in Jordan shall be borne by the employer.
Art. 5(f): Ensure that workers have not been charged any fees by recruitment agencies in Nepal beyond those stipulated by the Government of Nepal.
Art. 10(e): Nepal Government to ensure workers undergo a fair and transparent recruitment process, including an assurance that migrant workers shall not be charged any fees or costs by recruitment agencies facilitating their recruitment above those stipulated by relevant laws.

9. Agreement between His Majesty's Government of Nepal and the Government of the State of Qatar concerning Nepalese manpower employment in the State of Qatar
- 2005
- Under the agreement with Qatar, art. 6(1): The employer shall bear all travel expenses of the workers from the Kingdom of Nepal to the place of work in the State of Qatar upon entering the service for the first time as well as the expenses of the return passage. The employer shall also bear the round-trip travel costs of the second party on leave periods as provided for in the employment contract. These expenses shall not cover costs of acquiring a passport or payment against any guarantees.
- Source: [Agreement between His Majesty's Government of Nepal and the Government of the State of Qatar concerning Nepalese manpower employment in the State of Qatar](#) [accessed 9 Aug. 2018].

Asia– Pacific–Europe	10.	Philippines–Italy BLA	2016	<p>The whole cost of the search, selection and potential professional inclusion of workers will be covered by Italian employers and authorized bodies (art. 10.3) and that Philippine candidates will not bear any costs (art. 10.4).</p> <p>The Philippine candidates will not bear any costs of their linguistic and vocational training in order to meet the requirements of the labour market for qualified professional profiles (art. 12.1–2).</p> <p>The Italian party will cover the cost of the possible training within the limits of the human, instrumental and financial resources provided by the national legislation in force or through financial resources funded by European programmes (art. 12.3).</p> <p>Source: Agreement on bilateral cooperation on labour migration between the Government of the Italian Republic and the Government of the Republic of the Philippines, 2016. Italian version available at: http://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/accordi-bilaterali/Documents/accordo-flippine.pdf.</p>
	11.	Agreement on bilateral cooperation on labour migration between the Government of the Italian Republic and the Government of the Democratic Socialist Republic of Sri Lanka	2011	<p>Art. 11 (Selection of candidates: “As for search, selection and potential professional insertion of workers, candidates from Sri Lanka will not bear any cost.”</p> <p>Art. 12 (Training courses): Candidates from Sri Lanka will not bear any costs.</p> <p>Source: Agreement on bilateral cooperation on labour migration between the Government of the Italian Republic and the Government of the Democratic Socialist Republic of Sri Lanka [accessed 9 Aug. 2018].</p>
Americas Internal	12.	Agreement between the United States of America and Mexico respecting the temporary migration of Mexican agricultural workers	1942	<p>Charging any fee or commission to the worker is illegal. Contracts must be written in Spanish with the supervision of the Mexican Government; all transportation from the place of origin to destination and return, living costs, transport of personal belongings up to 35 kilos per worker, and any expenses of a migratory nature will be covered by the employer; and workers will have access to health services and occupational safety in equal conditions as local workers in the agricultural sector.</p> <p>Source: Agreement between the United States of America and Mexico respecting the temporary migration of Mexican agricultural workers [accessed 10 Aug. 2018].</p>
	13.	Labour migration agreement between the Government of Costa Rica and the Government of the Republic of Nicaragua to regulate the entry and stay of non-resident migrant workers	1993	<p>Employers in Costa Rica will pay for transportation both at the entrance and exit; both Governments will negotiate for providing passports, safe conducts and visas free of charge to workers participating in the scheme.</p> <p>Source: Convenio de mano de obra migrante Entre el gobierno de Costa Rica y el gobierno de la republica de Nicaragua para regular el ingreso y permanencia de trabajadores migrantes no residentes [accessed 11 Aug. 2018].</p>

	14.	Agreement between the Kingdom of Spain and the Republic of Ecuador concerning the regulation and management of migration flows	2001	<p>Medical exams are to be taken by selected worker before travelling though it is not clear who will pay for them; Administrative processes related to travelling will be borne by the migrant or the employer.</p> <p>Source: Acuerdo entre el reino de España y la república del Ecuador relativo a la regulación y ordenación de los flujos migratorios [accessed 10 Aug. 2018].</p>
Africa–Europe	15.	MoU between the Italian Ministry of Labour and Social Policies and the Egyptian Ministry of Manpower and Migration concerning the implementation of the agreement on cooperation on bilateral labour migration	2005	<p>Art. 5 (Selection of candidates): “As for search, selection and potential professional insertion of workers, candidates from Egypt will not bear any cost. Art. 6 (Training courses): Candidates from Egypt will not bear any costs.</p> <p>Source: MoU between the Italian Ministry of Labour and Social Policies and the Egyptian Ministry of Manpower and Migration concerning the implementation of the agreement on cooperation on bilateral labour migration [accessed 9 Aug. 2018].</p>
	16.	BLA Italy–Morocco Bilateral labour agreement between the Government of the Republic of Italy and the Government of the Kingdom of Morocco, supplemented by protocol giving effective execution to the agreement. (protocollo esecutivo, 2007)	2005	<p>Art. 5: The selection of candidates will be at the charge of employers or their representatives, if necessary with the collaboration of ANAPEC. Art. 6: Selected jobseekers must enjoy health conditions that ensure their eligibility for the type of work for which they are being hired in Italy and they might be required to undertake to be paid by employers.</p> <p>Source: Protocollo esecutivo, 2017 dell’ Acoordo bilaterale in material di lavoro tra il Governo della Repubblica Italiana e il Governo del regno del Marocco, (protocol of execution of the bilateral agreement between the Government of Italy and the Government of Morocco) [accessed 9 Aug. 2018].</p>
Europe Internal	17.	MoU between the Italian Ministry of Labour and Social Policies and the Ministry of Labour, Social Affairs and Equal Opportunities of the Republic of Albania concerning the implementation of the agreement on labour migration	2008	<p>Art. 5 (Selection of candidates): “As for search, selection and potential professional insertion of workers, candidates from Albania will not bear any cost. Art. 6 (Training courses): Candidates from Albania will not bear any costs.</p> <p>Source: MoU between the Italian Ministry of Labour and Social Policies and the Ministry of Labour, Social Affairs and Equal Opportunities of the Republic of Albania concerning the implementation of the agreement on labour migration [accessed 9 Aug. 2018].</p>
	18.	Agreement between the Spain and Ukraine concerning the regulation and management of migration flows	2011	<p>Art 4 (3): the pre-selection and selection of workers will have to respect the principle of equality of opportunities and gratuity for workers</p> <p>Source: Acuerdo entre España y Ucrania relativo a la regulación y ordenación de los flujos migratorios laborales entre ambos estados (accessed on 9 August)</p>





This Global Comparative Study on Recruitment Fees and Related Costs was prepared ahead of the Tripartite Meeting of Experts on Recruitment Fees and Related Costs, which took place in Geneva from 14 to 16 November 2018. It brings together the findings from five regional reports that examined 90 national government responses, 18 bilateral agreements and 12 multi-stakeholder initiatives. The analysis of findings provides a clearer picture of how Member States have addressed the issue of recruitment fees and related costs at the policy level. Overall, the report advances ILO's work on promoting Fair Recruitment, in particular to reduce recruitment fees and related costs paid by workers.

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