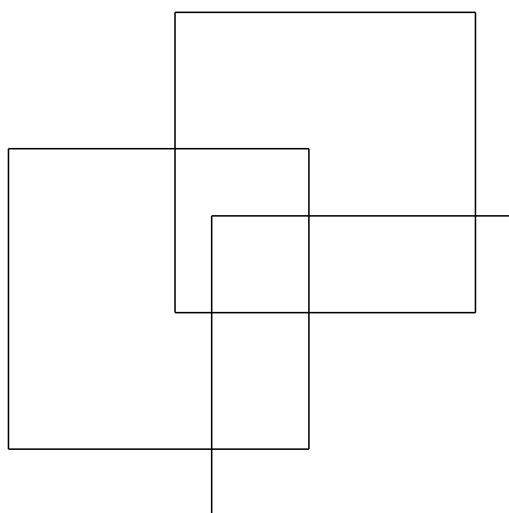




Findings from the global comparative study on the definition of recruitment fees and related costs

**Background paper for discussion at the Tripartite Meeting
of Experts on Defining Recruitment Fees and Related Costs**
(Geneva, 14–16 November 2018)



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Conditions of Work and Equality Department

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Geneva, 2018

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Acronyms

ALP	Association of Labour Providers
ATEST	Alliance to End Slavery and Trafficking
BAs	bilateral agreements
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEO	Chief Executive Officer
CGF	Consumer Goods Forum
CIETT	<i>Confédération internationale des agences d'emploi privées</i> (International Confederation of Private Employment Agencies)
EAs	employment agencies
IHRB	Institute for Human Rights and Business
ILO	International Labour Organization
INS	Institutional Section of the ILO's Governing Body
IOM	International Organization for Migration
IRIS	International Recruitment Integrity System
ITUC	International Trade Union Confederation
KNOMAD	Global Knowledge Partnership on Migration and Development
M&S	Marks & Spencer
MOUs	memoranda of understanding
OEP	Overseas Employment Promoter (Pakistan)
RBA	Responsible Business Alliance
SDG	Sustainable Development Goal
UN	United Nations
WB	World Bank
WEC	World Employment Confederation

Definitions of terms used

The definitions adopted in this paper are taken from the 2016 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.

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- The term “labour recruiter” refers to both public employment services and to private employment agencies and all other intermediaries or sub-agents 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.

1. Introduction

1. For many years, the International Labour Organization (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.¹ Recruitment processes – whether occurring within or across boundaries – always entail costs. However, already when the ILO was founded, constituents 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.² 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.
2. 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”.³ 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.⁴
3. 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 of recruitment fees and broader economic exploitation.
4. Research shows that “layers of intermediaries and collusion between local and foreign agents act to the detriment of migrant workers”.⁵ 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. Failure to pay debts has had severe personal and social impacts, and eventually workers find themselves trapped in harsh working conditions, low wages and

¹ ILO: *Report for discussion at the Tripartite Meeting of Experts on Fair Recruitment Principles and Operational Guidelines*, Geneva, 5–7 September 2016, MEFR/2016.

² 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: *General Survey concerning employment instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization*, Report III (Part 1B), International Labour Conference, 99th Session, 2010, para. 186.

³ ILO: *Profits and poverty: The economics of forced labour* (Geneva, 2014), p. 10.

⁴ ILO: *Addressing governance challenges in a changing labour migration landscape*, Report IV, International Labour Conference, 106th Session, Geneva, 2017, para. 166.

⁵ C. Thame: *Recruitment of migrants in countries of origin: International standards and current mechanisms, and best practices from source countries*, ILO Yangon Briefing Paper (Yangon, ILO, 2017).

abusive situations.⁶ Often, workers themselves do not know what specific costs they are being charged and the reasons that drive upward individual cost components.

5. 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. 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.”⁷ The Addis Ababa Action Agenda of the Third International Conference on Financing for Development⁸ also underscored the need to reduce the costs of labour migration, in particular of recruitment, as these are serious barriers to realizing sustainable development outcomes. 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 has become an urgent priority for measuring progress.⁹ Furthermore objective 6 of the Global Compact for safe, orderly and regular migration, which is expected to be adopted by December 2018, 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”.¹⁰ Businesses, especially those working in 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.
6. In this context, ILO efforts to address recruitment-related abuses have gained further impetus in recent years. In 2014, 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”.¹¹ That same year the Report of the ILO Director-General to the International Labour Conference on *Fair*

⁶ Verité and ManpowerGroup: *An ethical framework for cross-border labor recruitment: An industry/stakeholder collaboration to reduce the risks of forced labor and human trafficking* (2016).

⁷ UN: *International migration and development*, Report of the Secretary-General, A/68/190, General Assembly, 68th session (New York, NY, 2014), p. 21, para. 113.

⁸ UN: *Addis Ababa Action Agenda of the Third International Conference on Financing for Development*, A/RES/69/313 (New York, NY, 2015), para. 111.

⁹ M. Leighton: *ILO-WB partnership on measuring recruitment costs: Progresses on SDG Indicator 10.7.1*, presentation at the 15th Coordination Meeting on International Migration, New York, Feb. 2017.

¹⁰ *Global Compact for Safe, Orderly and Regular Migration*, Intergovernmentally negotiated and agreed outcome, Objective 6(b), July 2018.

¹¹ ILO: *Matters arising out of the work of the 103rd Session of the International Labour Conference: Follow-up to the adoption of the Protocol and Recommendation on supplementary measures for the effective suppression of forced labour*, GB.322/INS/4/2, Governing Body, 322nd Session, Geneva, 2014.

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.¹²

7. 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 labour migration and to the broader range of employment and work, both domestically and internationally”.¹³
8. 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.
9. 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”.¹⁴
10. 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”.¹⁵ 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.¹⁶
11. This present report and the proposed definition contained therein were prepared on the basis of the findings of the global comparative study on the definition of recruitment fees and related costs (ILO, forthcoming). The proposed definition, subject to negotiation by the

¹² ILO: *Fair migration: Setting an ILO agenda*, Report of the Director General, Report I(B), International Labour Conference, 103rd Session, Geneva, 2014.

¹³ ILO: *Report for discussion at the Tripartite Meeting of Experts on Fair Recruitment Principles and Operational Guidelines*, op. cit., para. 4.

¹⁴ ILO: *Reports of the Committee for Fundamental Principles and Rights at Work: Resolution and Conclusions submitted for adoption by the Conference*, Provisional Record No. 11-1, International Labour Conference, 106th Session, Geneva, 2017, para. 5(c).

¹⁵ ILO: *Matters arising out of the work of the 106th Session (2017) of the International Labour Conference: Follow-up to the resolution concerning fair and effective labour migration governance*, GB.331/INS/4/1(Rev.), Governing Body, 331st Session, Geneva, 2017, para. 2 of the appendix.

¹⁶ *ibid.*

experts participating at the Tripartite Meeting of Experts on Defining Recruitment Fees and Related Costs, is contained in Appendix I.

2. Summary findings of the global comparative study on the definition of recruitment fees and related costs

12. The study aimed to identify and analyse the national and international response 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 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 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 above information was analysed and used to draft the proposed definition of recruitment fees and related costs.

2.1. Methodology

13. The global research study scoped the national laws and policies applied to public and private employment agencies and focused on formal channels of recruitment.
14. The study also focused exclusively on recruitment fees and related costs for national and international recruitment, while noting that, in terms of labour migration, broader migration costs can include costs associated with: transferring remittances; poor working conditions, denial of basic rights; deskilling;¹⁷ 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.
15. 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.
16. While it is 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 covering all regions;
 - (ii) eighteen relevant bilateral migration agreements and memoranda of understanding that provided more information on recruitment fees and related costs; and

¹⁷ Global Forum on Migration and Development: *Reducing migration costs*, background paper, 2016; and M. Aleksynska, S.K. Aoul and V. Petrencu: *Deficiencies in conditions of work as a cost to labor migration: Concepts, extent, and implications*, Global Knowledge Partnership on Migration and Development (KNOMAD) Working Paper No. 28 (KNOMAD, 2017).

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- (iii) twelve 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.

2.1.1. Limitations of the study

- 17. 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.

2.2. International labour standards relevant to recruitment fees and related costs

2.2.1. Guidance on what constitutes recruitment fees and related costs

- 18. 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 constituents in determining what constitutes recruitment fees and related costs.

ILO standards on forced labour

- 19. 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 ¹⁸ as well as the continued practice of charging recruitment fees to workers ¹⁹ constitute exploitative practices against migrant workers.

ILO standards on employment

20. 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, ²⁰ whereas the Unemployment Recommendation, 1919 (No. 1), ²¹ explicitly recommended that Members take measures to prohibit the establishment of fee-charging agencies. Subsequently, the Fee-Charging 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, only in exceptional cases and only after consultation with the organizations of employers and workers concerned (Article 3(1)). ²² 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. ²³ The following year saw the revision of Convention No. 34, through the adoption of the Fee-Charging Employment Agencies Convention (Revised),

¹⁸ *Malaysia* – 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 Nov. 2017).

¹⁹ *Qatar* – CEACR, Convention No. 29, observation, published in 2016.

²⁰ 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)).

²¹ The Recommendation was withdrawn in 2002.

²² See ILO: *General Survey concerning employment instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization*, Report III (Part 1B), International Labour Conference, 99th Session, 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.

²³ 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, Geneva, 1947, p. 5.

1949 (No. 96).²⁴ 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. (Appendix II provides a list of countries that have ratified Conventions Nos 88, 96 and 181.)

21. 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,²⁵ 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.²⁶ 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 7.²⁷ 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.²⁸ A number of member States considered that exceptions 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.

²⁴ Convention No. 96 has to date been ratified by 42 member States, and denounced by 19.

²⁵ The Preamble of Convention No. 181 refers to Conventions Nos 88, 96, 97 and 143.

²⁶ 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.

²⁷ ILO: *Revision of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)*, Report IV(2), International Labour Conference, 85th Session, 1997, pp. 43–46; ILO: *Report of the Committee on the Revision of Convention No. 96, Record of Proceedings*, International Labour Conference, 85th Session, 1997, p. 16(Rev.)/34–35.

²⁸ ILO: *Revision of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)*, Report IV(1), International Labour Conference, 84th Session, 1997, 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.

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22. 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”.²⁹ 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.³⁰ 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, remedies and available complaint procedures.³¹

ILO standards on migrant workers

23. 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 II³² specify that these services relate to the recruitment, introduction or placement of

²⁹ It should be noted that the Private Employment Agencies Recommendation, 1997 (No. 188), is silent on the issue of fees or costs.

³⁰ ILO: *General Survey concerning employment instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization*, op. cit., para. 334.

³¹ See for example, *Fiji* – CEACR, Convention No. 181, direct request, published in 2016 (the fourth Schedule of the 2008 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).

³² 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,

migrant workers. Article 4(2) of Annex 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”.³³ Only on a few occasions, the Committee of Experts has raised concerns regarding the payment of administrative costs, transportation costs and other fees by the migrant worker. Furthermore, in situations where national legislation required employers to pay a levy when hiring migrant workers, the Committee 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.³⁴

24. In addition, the Convention 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.³⁵ The Convention does not, however, specify who should bear the costs of the medical examination.
25. 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 he or she has 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”.³⁶

on behalf of the worker, will advance the work permit fees and be reimbursed by the government agent.

³³ Article 4 of Annexes I and II.

³⁴ See *Malaysia* – CEACR, Convention No. 97, observation, published in 2016.

³⁵ [Convention No. 97](#), Article 5(b).

³⁶ ILO: *General Survey concerning the migrant workers instruments*, Report III (Part 1B), International Labour Conference, 105th Session, 2016, para. 318.

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26. The Model Agreement also includes provisions regarding education and vocational training (Article 9) and travel and maintenance (Article 12) expenses. With regard to education costs, the preparatory work on the Recommendation 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.³⁷ The costs of these belongings and tools should be determined by the parties to the agreement.

The maritime instruments

27. The role played by private recruitment and placement agencies for seafarers is addressed by the Recruitment and Placement of Seafarers Convention, 1996 (No. 179),³⁸ 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 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".³⁹
28. 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. 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)).
29. The Convention 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

³⁷ *ibid*, p. 64.

³⁸ Conventions Nos 34, 88, 96 and 181 all explicitly exclude seafarers.

³⁹ ILO: *Record of Proceedings*, International Labour Conference, 84th (Maritime) Session, Geneva, 1996, Second sitting, p. 15.

information on the definition of “fees or charges”.⁴⁰ 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

30. 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 the domestic worker. 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.⁴¹ On this point, Paragraph 22 of Recommendation No. 201 provides that Members should, after consulting with the 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”.

2.3. The review of national policies on recruitment fees and related costs

31. The 90 countries included in the study have either:

- ratified ILO Convention No. 181 as elaborated in section 2.3.1.;
- adopted laws, regulations, or policies (hereafter referred to as “policies”) that either prohibit fee charging of workers or regulate fees and related costs. 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

⁴⁰ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I(1A), International Labour Conference, 94th (Maritime) Session, 2006, Geneva, pp. 34–35.

⁴¹ ILO: *Decent work for domestic workers*, Report IV(2A), International Labour Conference, 100th Session, Geneva, 2011; Recommendation No. 201, Para. 22.

- 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;
- organized a labour recruitment programme or scheme enabling nationals to work abroad or bringing in migrant workers for employment in selected sectors; or
- negotiated bilateral labour agreements on the recruitment of workers in foreign employment.

32. The analysis of findings provides a clearer picture of how member States 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.
- In total, the study reviewed 99 policies, as eight countries ⁴² have more than one relevant policy with different scope and purpose. ⁴³
- Prohibition of fees for workers is the dominant policy approach (table 1), which has been adopted by 63 national policies (63 per cent). The majority of these policies (44 or 70 per cent) cover both national and cross-border recruitment; 11 (17 per cent) exclusively refer to international recruitment; and eight (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 four (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. 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.

⁴² Countries with multiple policies: Belgium (2), Ethiopia (2), India (2), Malta (2), New Zealand (2), Philippines (2), United Arab Emirates (2) and Qatar (3).

⁴³ 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 recruitment 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).

- Only in a few cases do national laws and regulations focus on a specific sector – for example agriculture,⁴⁴ domestic work⁴⁵ or construction.⁴⁶
- Sixty-six countries (75 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-Pacific (22)	25	3	22
Europe (26)	28	23	5
Arab States (6)	9	9	0
Total (90)	99	63	36

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

Source: Global comparative study on the definition of recruitment fees and related costs.

2.3.1. Regulation of private employment agencies

- 33.** The ratification of Convention No. 181 is an important milestone in a country's commitment to establish a national regulatory framework for the participation of private employment agencies in the national labour market and the principle of no fees and related costs being charged to workers, as established in Article 7. While governments retain authority over employment policy, the expected collaborative work arrangements between public employment services and private employment agencies could lead to the more efficient matching of labour demand with supply, and provide an avenue for ensuring the protection of jobseekers and workers especially against abusive practices.
- 34.** Laws and policies were examined in 26 countries that had ratified Convention No. 181,⁴⁷ whereby it was found that the majority of laws and policies prohibited fee charging (71 per

⁴⁴ Australia, Mexico, New Zealand, United Kingdom.

⁴⁵ Jordan, Kuwait, Lebanon, Philippines, Qatar, Sri Lanka.

⁴⁶ Qatar.

⁴⁷ At the time of writing, there was limited or inconclusive information for Bosnia and Herzegovina, Fiji, France, Georgia, the former Yugoslav Republic of Macedonia and Serbia.

cent) and were applicable to both national and international recruitment (64 per cent). See [Appendix II](#) for a list of countries that have ratified Convention No. 181.

35. National policies and regulations on recruitment fees and costs pertaining to practices by private employment agencies were found to be embedded either in national labour codes within a section on labour intermediation; specific legislation governing the licensing and regulation of private employment agencies; or alternatively, in legislation or policies on the protection of migrant workers and, more recently, on action against trafficking in persons.
36. Governments recognize the importance of private employment agencies 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 private employment agency, there are typically stringent requirements. Applying agencies follow a registration process; are assessed according to prescribed criteria; and, when successful, granted licences, most often by the Ministry of Labour or the designated authority of the country. 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 fees and related cost charging or the use of deception or fraud in employment contracts. Private employment agencies may be scrutinized through an inspection process. However, more often action against agencies takes place only when there are complaints on agency performance.
37. 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 foreign jobs, and in countries of destination, those supervising the entry and stay of migrant workers in the country of destination. These institutions are likely to establish different criteria for licensing or accreditation of private employment agencies seeking to recruit workers in international employment. These criteria tend to be quite strict, requiring, among others, higher security and other bonds to use on claims arising out of such employment.

2.3.2. Regulation of public employment services

38. The ILO has always maintained a strong historical commitment to the principle of free placement services. Eighty-six countries have ratified ILO Convention No. 88 on employment services, with its commitment to maintain a free public employment service. As with ILO Convention No. 181, European countries lead in the ratification of this Convention. See [Appendix II](#) for a list of countries that have ratified Convention No. 88, as well as Convention No. 181.
39. 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.⁴⁸
40. The global study identified four countries of destination (Australia, Canada, Republic of Korea and New Zealand) that provide examples of those with recurring recruitment and employment programmes for lower-skilled migrant workers who have relied on government

⁴⁸ Open Working Group on Labour Migration and Recruitment: "Government-to-government recruitment benefits and drawbacks", Policy Brief No. 3 (n.d.).

employment services.⁴⁹ 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 undertake additional development objectives (reducing migration costs and increasing employment opportunities in hard-to-access communities with high unemployment, for example). Their operational structure of fees and costs are instructive in how recruitment fees and costs could be better understood.

41. Studies of these programmes show that government-to-government agreements have radically reduced recruitment costs, but have not been able to eliminate workers' costs.⁵⁰ This is especially the case with the employment permit system (EPS) of the Republic of Korea,⁵¹ where the average cost paid by a worker has been reduced from US\$3,509 under the trainee system in 2002, to \$927 under the EPS system in 2011, in part through higher transparency.⁵² Since the average wage under the EPS is close to \$1,000, this would still represent a month's wage. Currently, in the abovementioned 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.

2.3.3. Prohibition or regulation of recruitment fees and related costs for workers

42. Globally, the prohibition of fee charging is the dominant policy approach (table 1) in regulating the functions of labour recruiters. Fifty-nine of the 90 countries studied have at least one policy that prohibits fee charging to workers. The coverage of these policies might be limited to a specific sector or type of labour recruiter. In addition, once a general statement against fee charging is articulated, many such country policies turn silent on related costs. Ten countries who are prohibiting fees have also identified different cost items,⁵³ mostly related to internal and international travel, and in some cases visas, workers' documentation, medical tests and pre-departure training.
43. Of the 36 countries analysed that regulate the levels of recruitment fees and related costs through the three means identified earlier, eight 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 2).
44. Among countries that fix a ceiling for the fees collected from workers, some have chosen to make exemptions for certain sectors. For example, specific provisions in the Philippines for domestic workers prohibit placement fee charging, while workers employed in other sectors may be charged the equivalent of one month's basic salary. In some cases, fees are payable

⁴⁹ Other countries, such as Morocco and Tunisia, also use the public employment services for international recruitment, including the bilateral labour agreements (BLAs) for Italy and Spain.

⁵⁰ P. Wickramasekara: *Bilateral agreements and memoranda of understanding on migration of low skilled workers: A review* (Geneva, ILO, 2015).

⁵¹ M.J. Kim: *The Republic of Korea's Employment Permit System (EPS): Background and rapid assessment* (Geneva, ILO, 2015).

⁵² P. Wickramasekara, op. cit.

⁵³ This includes Canada, Colombia, Morocco, Qatar, Saudi Arabia, Togo, United Kingdom, Bolivarian Republic of Venezuela, United States (a proposed definition) and Zambia.

only if the agency's efforts result in employment. There are laws that combine capping of fees and a detailed list of costs that workers can pay or should be exempt from.⁵⁴

45. 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 charged for in detail, and why a fee is 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.

Table 2. Policy approaches in regulating recruitment fees and related costs

Region	Policies regulating recruitment fees and related costs			
	Total	General statement regulating fee charging	Capping costs (maximum amount to be charged)	Itemizing costs with who pays
Africa	4	1	2	4
Americas	5	0	2	3
Asia-Pacific	22	5	9	12
Europe	5	2	0	2
Arab States	0	0	0	0
Total	36	8	13	21

Source: Global comparative study on the definition of recruitment fees and related costs.

2.3.4. National recruitment and international recruitment

46. Most country policies prohibiting the payment of recruitment fees and related costs apply generally to all jobseekers whether they are searching for jobs on the domestic or international labour market. Fifty-nine countries have at least one policy prohibiting fee charging to workers, the majority of which cover both national and cross-border recruitment. Analysing their policies, of which there are 63, figure 1 shows that 70 per cent cover both national and cross-border recruitment, 17 per cent exclusively refer to international recruitment, and eight (13 per cent) pertain only to local/national recruitment. Of the 36 countries with at least one policy regulating (though not necessarily prohibiting) worker-paid recruitment fees and related costs the majority pertain to international recruitment only. Over half of their policies (53 per cent) refer to international recruitment only, 13 (36 per cent) refer to both national and international recruitment, and only four (11 per cent) are exclusively for national recruitment (figure 2). It should be noted that from Asia alone, 15 policies on regulating exclusively international recruitment were identified. The existence of dedicated ministries on labour migration and the region's rich history of regulating the subject might have led to more detailed provisions on recruitment fees and related costs within labour migration-specific laws and policies. In Europe, on the other hand, countries seem to have opted to largely prohibit fees and to jointly regulate national and international recruitment.

⁵⁴ For example, Hong Kong (China), Philippines, Poland, Singapore, Thailand, Uganda and Viet Nam.

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

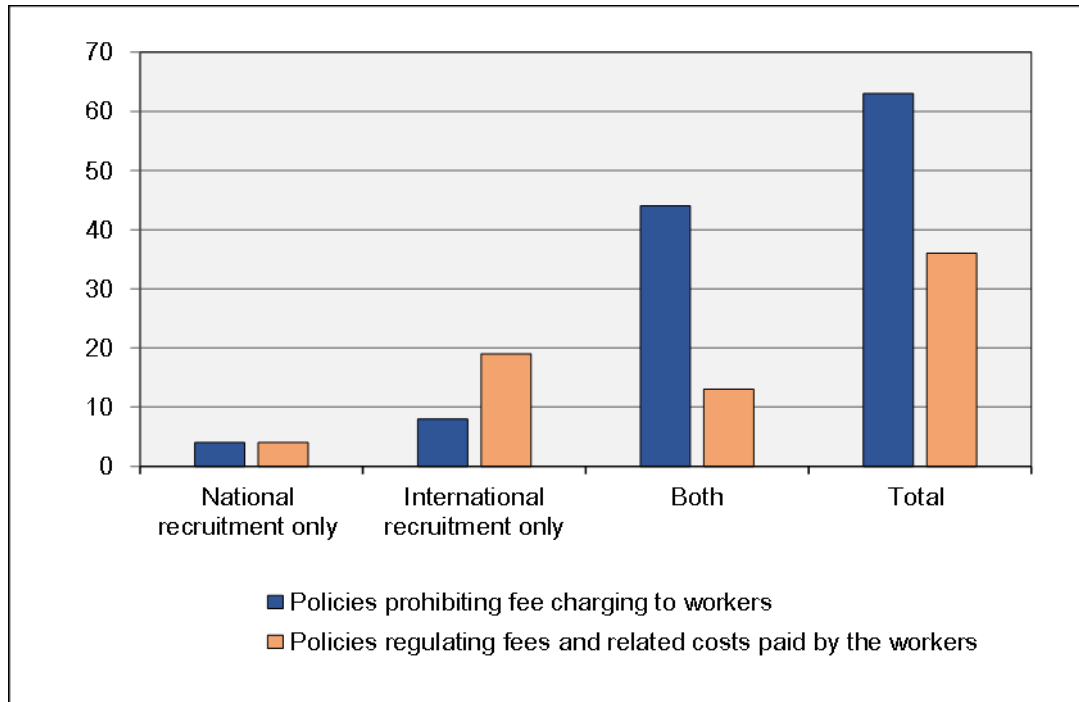
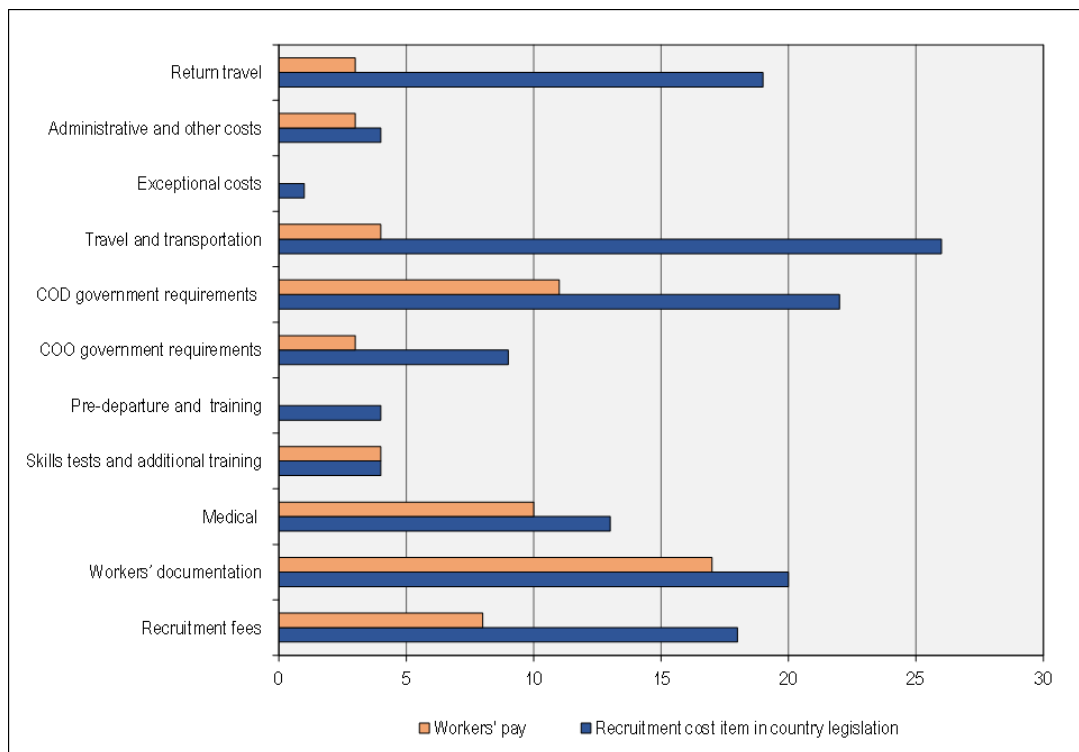


Figure 2. Cost-sharing arrangements in national laws and policies



2.3.5. National definitions, cost categories and cost-sharing arrangements

47. The global study identified 27 countries⁵⁵ 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, Philippines, Qatar, Uganda, United Kingdom, and United States with a proposed definition) have formulated full definitions with all of these elements. The remaining 21 countries' definitions enumerate different fees or related cost items that either workers should never pay for or for which costs are shared among employers, workers or private employment agencies. Ten countries that prohibit the 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 countries and their corresponding definitions.
48. 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 recruitment 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. In contrast, in Malaysia, the 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.
49. The study also show 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 legislation or policy (see box), countries frequently included the following: the worker’s documentation, country of destination and country of origin requirements, travel and transportation, medical tests and return travel. Other items that were listed in fewer instances included skills testing and additional training, pre-departure training, exceptional costs and administrative costs.

⁵⁵ Antigua and Barbuda, Australia, Canada, Colombia, El Salvador, Ethiopia, Guyana, Hong Kong (China), Indonesia, Kenya, Morocco, Nepal, New Zealand, Pakistan, Philippines, Poland, Qatar, Saudi Arabia, Singapore, Thailand, Togo, Uganda, United Kingdom, Bolivarian Republic of Venezuela, Viet Nam, Zambia and United States (a proposed definition).

Box	
List of related recruitment cost items mentioned in at least one legislation or policy	
Workers' documentation	Country of destination government requirements
1. Passport	17. Visa
2. Police clearance	18. Work permit
3. Birth certificate	19. Levy
4. School record/education credentials	Travel and transportation
5. Skills certificate for job applied for/ certificate of occupational competency	20. Internal travel and accommodation while processing
Medical	21. Outward international air travel
6. Medical test	22. Local transport from airport to place of work
7. Vaccinations	Exceptional costs
Skills tests and additional training	23. Breach of contract
8. Skills test	24. Security deposits and other collateral
9. Language testing	Administrative and other costs
10. Additional tests (medical or skills)	25. Notary, attestations and other legal fees
Pre-departure and training	26. Photographs
11. Pre-departure training	Return
12. Additional training, as needed	27. Return international air travel
Country of origin government requirements	28. Allowances for return travel
13. Approval of foreign contracts	
14. Contribution to welfare fund	
15. Enrolment in social security, health and other national insurance	
16. Miscellaneous taxes	

50. A country prohibiting the charging of recruitment fees and costs to workers may also detail cost categories which should or should not be charged to a worker, and/or those costs to be borne by the employer or recruitment agency. There is no unanimity among countries not only on the cost categories but also on the itemized costs that are 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: the itemized costs; the number of times they are mentioned in national laws and policies; and also indicating 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.

2.3.6. Policies prohibiting or limiting fees and costs: Attention to skills, specific sectors and gender

51. In general, the reviewed national laws and policies apply to all occupations, regardless of skill levels or sectors, with 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 3). For example, Australia, Canada, New Zealand and the United Kingdom have designed short-term seasonal hiring

programmes to bring migrant workers into the agriculture and horticulture sectors.⁵⁶ The policy approach for these programmes is to regulate fees and costs, with costs shared between employers and workers. Domestic work is also 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.⁵⁷ The construction sector receives specific attention in Qatar, where the Workers Welfare Standards contain a clear definition of “recruitment fees and processing costs” and stipulates that these should not be charged to the worker.⁵⁸ The Government of the Republic of Korea’s Employment Permit 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.

52. These specific laws and policies have been designed with the view to addressing the well-documented risks faced by these workers, among others, due to high costs of recruitment.⁵⁹ 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, selected low-skilled migrant workers can sometimes end up paying very high recruitment costs, with costs in some corridors as much as 12 months’ salary.⁶⁰ 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.⁶¹
53. National laws and policies also do not in general distinguish between the needs of male and female hired workers or jobseekers, and usually make no difference in regulating the recruitment fees paid by women and men. However, 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

⁵⁶ Australia’s Pacific Seasonal Worker Pilot Scheme, Canada’s Seasonal Agricultural Worker Program, the Republic of Korea’s Employment Permit System and New Zealand’s Recognised Seasonal Employer scheme.

⁵⁷ Includes Bangladesh, Jordan, Kuwait, Lebanon, 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 from charging any fee to a domestic worker.

⁵⁸ 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: Supreme Committee for Delivery & Legacy: *Workers Welfare Standards*, edition 2.

⁵⁹ C. Kuptsch (ed.): *Merchants of labour* (Geneva, International Institute for Labour Studies, 2006).

⁶⁰ World Bank Group: *Migration and remittances: Recent developments and outlook – Special topic: Return migration*, Migration and Development Brief No. 28 (Washington, DC, 2017). See also: KNOMAD and ILO: *Migration costs surveys 2016*.

⁶¹ C. Kuptsch (ed.), op. cit.

of association, and discrimination.⁶² Some national legislation does focus on female-dominated sectors, such as domestic work. In these cases, policy exempts women from paying recruitment fees, though the practice differs and workers are charged significantly higher related costs while also receiving particularly poor wages.⁶³

Table 3. National policies on recruitment fees and related costs: Attention to specific sectors

Country policy/scheme	Sector	Policy approach
Americas		
Canada Seasonal Agriculture Worker Program ¹	Canadian agriculture; workers from Central America and the Caribbean	Prohibited
Asia and the Pacific		
Australia Pacific Seasonal Workers Pilot Scheme 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
Republic of Korea Employment Permit System 2003 ²	Low- and medium-skilled workers working in small and medium-sized enterprises	Regulated
Philippines – An Act Instituting Policies for the Protection and Welfare of Domestic Workers, 2012, sections 12 and 36	Domestic workers	Regulated – fees are prohibited for workers, though costs can be charged
New Zealand Recognised Seasonal Employer scheme 2007 ³	Horticulture and viticulture industries	Regulated
Europe		
United Kingdom Gangmasters and Labour Abuse Authority ⁴	Agriculture, food processing, packaging and shellfish gathering	Prohibited
Arab States		
Jordan Domestic Worker Regulation No. 90, 2009	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
United Arab Emirates Domestic Workers Law, Federal Law No. 10 of 2017	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”.

⁶² M. Aleksynska, S.K. Aoul and V. Petrencu, op. cit.

⁶³ Global Forum on Migration and Development: *Reducing migration costs*, background paper, 2016.

Country policy/scheme	Sector	Policy approach
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.
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.
Workers' Welfare Standards, Qatar, 2022, Supreme Committee for Delivery & Legacy	Construction	Prohibited

¹ Government of Canada: *Hire a temporary worker through the Seasonal Agricultural Worker Program – Overview*, 2017. ² S. Yi: *Low-skilled labor migration: Korea's Employment Permit System*, World Bank People Move blog, 2013. ³ New Zealand Immigration: *Recognised Seasonal Employer (RSE) scheme*, 2018. ⁴ Gangmasters Licensing Authority: “Job-finding fees and providing additional services”, GLA Brief No. 38 (June 2014).

Source: Global comparative study on the definition of recruitment fees and related costs.

2.3.7. Compliance and sanctions

54. An important component of national policies aims at ensuring compliance, including through monitoring and enforcement, and sanctions for non-compliance. Information on sanctions is not always readily available, and it was not the main focus of this study to compile such information. The general impression from interviews, however, is that there are many challenges associated with ensuring compliance.
55. Sixty-six per cent of national policies on recruitment fees and related costs explicitly provide for sanctions on the violations of the prohibition or the limitation of fee-charging 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 4).

Table 4. National policies on sanctions used against violations of fee charging of workers
(more than one type of sanction is possible)

Region	Policies	General statement	Revocation/suspension	Penalties and fines	Criminal/penal	No mention
Africa	16	2	6	6	1	3
Americas	21	3	5	7	4	8
Asia-Pacific	25	0	8	13	11	5
Europe	28	1	0	10	4	14
Arab States	9	0	1	3	1	3
Total	99	6	20	39	21	33

Source: Global comparative study on the definition of recruitment fees and related costs.

2.3.8. International cooperation through bilateral agreements and memoranda of understanding

56. 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 – whereas “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”.⁶⁴
57. The research identified 18 ([Appendix V](#)) BAs and MOUs between countries of origin and destination that provide information on cost categories and cost-sharing arrangements.⁶⁵ 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 an explicit definition of what recruitment fees and related costs could be, some of these agreements do spell out a few recruitment fees and related costs items, and in the process specify whether employers or workers are responsible for paying them.
58. The analysed BAs 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 private employment agency fees. Employer-paid costs which are mentioned less frequently include: breach of recruitment; specialized interviewing and selection; language courses; visa; medical test; specialized training; specialized testing; and social security enrolment. Costs borne by the worker include 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.

2.4. Business-led, trade union and multi-stakeholder initiatives

59. 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.⁶⁶ 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.
60. In the last decade, the private sector – including private employment agencies and their associations, buyers and brands, trade unions and workers’ organizations – have actively

⁶⁴ P. Wickramasekara, op. cit.

⁶⁵ These 18 BAs and MOUs do not include the mandatory MOUs imposed under the EPS of the Republic of Korea, the Australia Agreement and the Recognised Seasonal Worker scheme of New Zealand.

⁶⁶ ILO: *Reports of the Recurrent Discussion Committee: Social dialogue and tripartism: Resolution and conclusions submitted for adoption by the Conference*; Provisional Record No. 6A, International Labour Conference, 107th Session, Geneva, 2018.

promoted the principle of “no fee-charging” of recruited workers, primarily in response to global and local calls for action against debt bondage, trafficking in persons and forced labour. The advocacy for eliminating recruitment fees and related costs centres on the “employer pays principle”, called for by the Institute for Business and Human Rights (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.”⁶⁷ 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 includes 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”.

61. Taking this action against recruitment agencies 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”.⁶⁸ 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.⁶⁹ While these guidelines do not have the force of law, they have great influence, as these have been widely adopted by major corporations and employers hiring hundreds and thousands of national and migrant workers in their supply chain both in-country and abroad. Many of the recent documents are an important contribution of the private sector on 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*.
62. Companies need to comply with the national laws in place in the country of operation. However, where the cross-border recruitment takes place, 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 through their business relationships.
63. Trade unions have also joined forces in denouncing unethical practices in recruitment, in particular, on exacting high levels of recruitment fees and related costs.⁷⁰ Promoting a “Zero Placement Fee Policy”, the trade unions’ position, in particular Public Services International, 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 as the workers are often desperate to find work abroad, they can assume substantial debt to pay for the recruitment fees and related costs. Burdened by heavy debt, migrant workers often find themselves afraid to complain about poor working conditions, negotiate better working conditions or join unions. Public Services International further

⁶⁷ IHRB: “Recruitment fees”, IHRB Briefing (May 2016).

⁶⁸ United Nations Global Compact and Verité: *Eliminating recruitment fees charged to migrant workers*, 2015, p. 3.

⁶⁹ *ibid.*

⁷⁰ Public Services International: “Manifesto for zero fees in the recruitment process” (Ferney-Voltaire, France, 2017).

argues against the misconception that charging of excessive recruitment fees only affects low-paid occupations such as domestic work. Nurses, teachers and other professions, mainly women and young workers, are also vulnerable.⁷¹

64. The global study reviewed ten voluntary guidance documents that have addressed forced labour risks in global supply chains, supporting a stronger government role in enforcing fair and ethical recruitment. Five⁷² of these guidance documents refer specifically to international recruitment; five⁷³ others do not clearly differentiate between national and international recruitment. In addition to creating and implementing self-regulation on ethical 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 of 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 IV](#) provides the full list of 12 voluntary initiatives, together with two surveys on recruitment fees and costs.

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

65. The following is 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: Code of Conduct (2016)⁷⁴

66. 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 and seven of the largest labour recruitment companies in the industry: The Adecco Group; Gi Group; Kelly Services; ManpowerGroup; Randstad; Recruit Global Staffing; and Trenkwalder.
67. The WEC has committed itself to the prevention of human trafficking and adopted a Code of Conduct on 27 November 2006. Principle 3 of the Code: “Respect for free-of-charge provision of services to jobseekers: 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”.⁷⁵ The WEC has also

⁷¹ Public Services International: [Zero fees in the recruitment process](#) (2016).

⁷² Alliance on Slavery and Trafficking; Institute for Human Rights and Business (IHRB) and the Leadership Group for Responsible Recruitment; Open Working Group on Labour Migration and Recruitment Policy Brief on Recruitment; UN Global Compact and Verité; and International Organization of Migration International Recruitment Integrity System.

⁷³ World Employment Confederation: [Code of Conduct](#); Consumer Goods Forum (CGF): Priority Industry Principles; Verité: Sample benchmarks of good practice in recruitment and hiring; Association of Labour Providers; and Responsible Business Alliance.

⁷⁴ WEC: “Defining the business case: Ethical recruitment” (Brussels, 2016).

⁷⁵ WEC: Code of Conduct, Principle 3.

produced an overview of quality and compliance instruments of their members on the national level.⁷⁶

The Consumer Goods Forum: Priority industry principles⁷⁷

68. 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 the priority industry principles to help eliminate forced labour. The most relevant principle is: "No worker should pay for a job", along with "Every worker should have freedom of movement" and "No worker should be indebted or coerced to work".

Verité: Sample benchmarks of good practice in recruitment and hiring (2011)⁷⁸

69. Verité is a global, independent non-profit organization that has established benchmarks of good practice that include, among others, that the company has a written policy declaring that workers shall not pay any amount to secure a job; the company's job advertisements has a statement on non-charging of fees; and the company only engages with brokers, agents, and sub-agents who do not charge fees to jobseekers. Verité maintains a website pooling resources and good practices on responsible recruitment (www.responsiblerecruitment.org).

2.4.2. Guidance documents with a detailed listing of costs

70. In addition, the following guidance documents, also from business-led, trade unions and multi-stakeholders initiatives, provide rich detail on the itemization of recruitment fees and costs.

The Institute for Human Rights and Business and the Leadership Group for Responsible Recruitment⁷⁹

71. 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 the payment of recruitment fees by workers.⁸⁰ 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.⁸¹ The IHRB has been publicly committed to the "employer pays principle" and its implementation throughout supply chains to ensure these are slavery free.

⁷⁶ WEC: *Compendium of voluntary initiatives promoting ethical recruitment practices*.

⁷⁷ The Consumer Goods Forum: *Priority industry principles* (2017).

⁷⁸ Verité: *Sample benchmarks of good practice in recruitment and hiring* (2011).

⁷⁹ The Leadership Group includes M&S, Tesco, Walmart, Hewlett Packard, IKEA and Coca-Cola.

⁸⁰ IHRB: *Introducing the Leadership Group for Responsible Recruitment* (2016).

⁸¹ WEC: "Defining the business case: Ethical recruitment" (Brussels, 2016).

The IHRB defines: “Placement fees ... as travel, visa and administrative costs, and other various forms of unspecified ‘fees’ and ‘service charges’. Fees may be treated as loans with high rates of compound interests.” 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 ⁸²

- 72.** The Alliance to End Slavery and Trafficking (ATEST) provides a definition of recruitment fees to 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”. 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.”

The Association of Labour Providers ⁸³

- 73.** 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”. The ALP draft guide provides a breakdown of nearly 40 fees and related costs that employers must cover in the recruitment of workers and aims to ensure that workers do not shoulder the costs of getting a job. Its 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”.

The Open Working Group on Labour Migration and Recruitment Policy Brief on Recruitment

- 74.** 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.
- 75.** This Working Group has developed a Policy Brief on recruitment that presents seven criteria for ethical recruitment, including no fees for workers. The costs related to recruitment and deployment have to be borne by the employer, while those related to eligibility for the job (training courses, etc.) or items that will become personal property (identity documents) should be shouldered by the worker. Upon hiring, agencies should not charge any fees or require workers to post a bond in cash or in kind. Workers should also be informed of their right to recruitment without fees.

⁸² ATEST: [Recruitment fees](#) (2016).

⁸³ Clearview: “Code of practice for the responsible sourcing and supply of workers” (2017).

76. 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 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 published *RBA trafficked and forced labor – Definition of fees*, ⁸⁵ which stipulates 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. 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.

UN Global Compact and Verité ⁸⁶

77. The UN Global Compact is a “voluntary initiative based on CEO commitments to implement universal sustainability principles and to take steps to support UN goals”. ⁸⁷ 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 immunisations;
- visas, work permits, residency certificates or security clearance;
- documentation services, including translation or notarisation;
- 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. ⁸⁸

⁸⁴ Formerly the Electronic Industry Citizenship Coalition. See www.responsiblebusiness.org.

⁸⁵ RBA: *RBA Trafficked and Forced Labor – “Definition of Fees”* (2015).

⁸⁶ United Nations Global Compact and Verité, op. cit.

⁸⁷ As of May 2018, UN Global Compact had 9,500-plus members.

⁸⁸ United Nations Global Compact and Verité, op. cit.

- 78.** The International Organization of Migration (IOM) International Recruitment Integrity System (IOM-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, as well as a compliance and monitoring mechanism. ⁹⁰ 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.
- 79.** Finally, the following global surveys/platform provide an itemized definition of recruitment fees and related costs.

The International Trade Union Confederation Recruitment Advisor ⁹¹

- 80.** As part of the ILO’s Fair Recruitment Initiative, ⁹² the International Trade Union Confederation (ITUC) has recently started an online platform to allow hired workers to rate their recruitment experience with a particular recruitment agency. The Recruitment Advisor asks inquiring workers registering on their platform to answer a specific survey on recruitment agencies, with detailed listings of recruitment fees and questions on pre-departure orientation, the employment contract, and working and living conditions in the countries 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.

ILO/World Bank Global Knowledge Partnership
on Migration and Development initiative ⁹³

- 81.** 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 with the purpose of measuring the migration costs paid by workers. These fees and related costs included all fees paid to intermediaries, whether these were informal job brokers or licensed agents or to relatives and friends who secure job offers and work visas, to governments for travel documents and various exit requirements, as well as informal payments including bribes, and costs of deficiencies in working conditions. Including the pilot surveys, some 31 migration corridors were covered, and some 5,854 workers interviewed.

⁸⁹ IOM: *What is IRIS?* (2017).

⁹⁰ *ibid.*

⁹¹ “About”, *Recruitment Advisor*, 2017.

⁹² M. Leighton, *op. cit.*

⁹³ See the KNOMAD initiative website: <https://www.knomad.org/thematic-working-groups>; See also ILO: *Fair Migration with a Focus on Recruitment*, background note for the Information Session, 16th Asia and the Pacific Regional Meeting, Bali, Indonesia, 6–9 December 2016.

2.5. Comparison of cost categories provided by national laws and policies, bilateral agreements, and multi-stakeholder initiatives

82. With regard to recruitment cost categories, national laws and policies, as well as business-led and multi-stakeholder initiative guidance documents, go into some detail on different cost categories. There are, however, fewer specific cost items in the bilateral cooperation agreements (table 5). The voluntary guidance documents have itemized the cost items even more extensively, for example, including many more instances of one-time impositions that are a heavy burden for workers and jobseekers, for example breach of contract expenses. For several fees and related cost items, business-led and multi-stakeholder initiative guidance documents seem to take a stricter approach regarding the fees and related costs that can be charged to workers. This 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 for a number of other cost categories, including workers' documentation, medical tests, skills tests, and country of origin permits and clearances.

Table 5. Frequency of mention of fees and cost categories in national laws and policies, BAs/MOUs, and business-led/multi-stakeholder initiatives, with indications of whether workers pay

Cost item	National laws and policies (n=26) (mention/worker pays)	BAs/MOUs (n=18) (mention/worker pays)	Business-led and multi-stakeholder initiatives (n=9) (mention/worker pays)
Workers' documentation			
Passports	7/5	4/0	5/1
Police clearance	4/3	0/0	5/1
Birth certificate	3/3	0/0	4/1
School records/credentials	2/2	0/0	4/2
Training/skills certificates	4/4	0/0	4/2
Medical tests			
Medical tests	11/8	4/3	8/0
Vaccinations	2/2	0/0	2/0
Skills tests			
Skills tests	4/4	0/0	3/0
Language test	0/0	0/0	2/0
Pre-departure orientation			
Pre-departure orientation	2/0	4/0	6/0
Additional training	2/0	0/0	5/1
Country of origin clearances			
Contract approvals	1/0	0/0	1/0
Welfare fund contribution	2/1	0/0	3/0
Enrolment in benefit schemes	6/2	3/0	5/0

Cost item	National laws and policies (n=26) (mention/worker pays)	BAs/MOUs (n=18) (mention/worker pays)	Business-led and multi-stakeholder initiatives (n=9) (mention/worker pays)
Country of destination permits			
Visa	14/8	3/1	7/0
Work permits	6/2	2/0	4/0
Levy	2/1	1/1	1/0
Travel and transportation			
Internal travel	3/0	8/0	7/1
International air travel	17/3	10/0	7/1
Local travel	6/1	8/0	5/0
Exceptional costs			
Breach of contract	0/0	0/0	2/0
Security deposits	1/0	2/0	1/0
Administrative costs			
Notary public	4/3	0/0	2/0
Photographs	0/0	0/0	2/0
Return travel			
International air travel	18/2	8/0	7/1
Allowances	1/1	0/0	0/0

Source: Global comparative study on the definition of recruitment fees and related costs.

3. Constructing the definition on recruitment fees and related costs

83. The ILO *General principles and operational guidelines for fair recruitment* anchors the definition of recruitment fees and related costs. Like the *Guidelines*, the proposed 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.
84. Referring to the definition provided in the *Guidelines*, recruitment fees and related costs are those which are incurred by workers in the recruitment process in order to secure employment or placement, regardless of the manner, timing, or location of their imposition or collection.⁹⁴ These fees and costs can be imposed or collected in cash or in kind; imposed or collected in advance, during the recruitment process itself, or collected at the end of the process. These expenses may also have been advanced by employers and recovered through wage deductions during the period of employment. The fees and related costs can be incurred either at the place of recruitment, in transit, or at the place of work or employment.

3.1. The recruitment process and associated costs

85. It is useful to outline the recruitment process and look at the costs associated with each step from the perspective of the jobseeker and worker in order to ensure that all legitimate recruitment fees and related costs are included in the definition. 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.).
86. Ten recruitment process stages 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 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

⁹⁴ ILO: *General principles and operational guidelines for fair recruitment*, section II: Definitions and terms (Geneva, 2016).

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. **Preselection:** This involves shortlisting of candidates and interviews. Labour recruiters often organize three to five candidates per job opening. Interviews showed that as a private employment agency 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.

3.1.1. The hidden costs of corruption

87. 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 differences that migrant workers pay.

88. 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".⁹⁵

3.2. Definitions provided in national laws and policies

89. A comprehensive definition of recruitment fees and costs in national law or policies would include: a summary which 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.
90. The following three countries of origin (Pakistan, Philippines and Uganda) and three countries of destination (Qatar, the United Kingdom and the United States with a proposed definition), have good examples of comprehensive definitions. A closer look at these definitions is instructive to better understand both the diversity and common ground in constructing the definitions of recruitment fees and costs (table 6).
- **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 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 definition refers to payments or collections by the recruitment agency (Pakistan), charges of the recruitment 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.

⁹⁵ The Freedom Fund and Verité: *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016).

- **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, 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.

Table 6. Definition and itemization of recruitment fees and related costs according to policies of selected countries

Country	Definition of recruitment fee and itemization of recruitment-related costs
Pakistan	<p>Itemization: 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>
Philippines	<p>Definition: 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 (1) month's basic salary specified in the POEA-approved contract, except for the following:</p> <ol style="list-style-type: none"> domestic workers; and 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 fee. <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>The 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>

Country	Definition of recruitment fee and itemization of recruitment-related costs
Qatar	<p>Definition:</p> <p>Placement fees: Means any monies or fees paid to legalize 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>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.</p> <p>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”.</p> <p>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:</p> <ul style="list-style-type: none"> (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	<p>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.”</p> <p>Section 1. Fees chargeable against principals:</p> <p>Agencies shall charge from their principals a service or recruitment fee to cover services rendered in documentation and placement of workers.</p> <p>Section 2. Fees/costs chargeable from workers:</p> <ul style="list-style-type: none"> (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. <p>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.</p> <ul style="list-style-type: none"> (b) Recruitment agencies shall charge a minimal fee not exceeding Uganda shillings fifty thousand (USh0,000/=) from Ugandan migrant workers for its recruitment and placement services. <p>Section 3. No other charges shall be imposed on the worker.</p>
United Kingdom	<p>Definition: Fees for “work-finding services” which include services provided by a licence holder for seeking to find or finding a person work.</p> <p>Itemization: A licence 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</p>

Country	Definition of recruitment fee and itemization of recruitment-related costs
United States (proposed) *	<p>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.</p> <p>Itemization:</p> <ul style="list-style-type: none"> (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.

* 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.

Source: Global comparative study on the definition of recruitment fees and related costs.

3.3. Definitions provided in business-led and multi-stakeholder initiatives

91. In various guidance documents, including the recruitment surveys, nine initiatives/organizations ⁹⁶ analysed above provided detailed (not comprehensive) listings of recruitment fees and related costs. These definitions have been formulated in 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 analyses the components of the definitions offered by these initiatives/organizations.

92. Policy directions: Five initiatives/organizations endorse the “employer pays principle”. Three organizations – ATEST, IHRB and Global Compact/Verité – have adopted a policy to prohibit the charging of all fees/related costs to workers. Two other organizations – Open Working Group on Labour Migration and Recruitment (OWGLMR) and RBA – while endorsing the general principle, have nevertheless identified costs such as passports and other identity documentation for which workers are to pay.

⁹⁶ These initiatives/organizations and the detailed definition they use are provided in [Appendix IV](#).

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- 93. Recruitment:** Four initiatives/organizations (ATEST, IHRB, OWGLMR and Global Compact/Verité) refer specifically to the recruitment and placement processes. One organization (RBA) expands the timeline, referring to the process's purpose as to "obtain and retain employment".
- 94. Reference to a recruitment agency:** With one exception (IHRB), the initiatives/organizations' definitions do not refer specifically to payments to recruitment 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.
- 95. Type of payment:** All of the 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.
- 96. National or international recruitment:** Three organizations (ATEST, IHRB and OWGLMR) specifically refer to migrant workers and international recruitment in their summary definitions. The two other organizations (RBA and Global Compact/Verité) refer to both national and international recruitment in the summary descriptions and have included specific recruitment and travel costs related to international recruitment.

3.4. Summary of cost categories and cost-sharing arrangements in national laws and policies and multi-stakeholder initiatives

- 97.** As discussed earlier, there is no unanimity in setting up cost categories and cost-sharing in different source documents or policies. In this situation, a tripartite-agreed definition would enhance the implementation of the ILO *General principles and operational guidelines for fair recruitment* and serve as a guide to support the updating of national legislation, policy and practice around labour recruitment or intermediation, which would better protect workers from debt bondage and forced labour, and support business in eliminating recruitment fees in their supply chains. A tripartite-agreed definition would also help workers and jobseekers better appreciate the full costs of national and international recruitment vis-à-vis their expected earnings.
- 98.** The research has made the following observations on the definition of recruitment fees and itemization of related cost items and how they are regulated, how costs are currently shared and how they are applied in practice.
- 99. Recruitment fees:** Also often referred to as agency and broker fees. These are payments for the services of intermediaries, including expenses for advertising and commissions for sub-agents and other referrals. Recruitment fees are mostly prohibited for workers by national law and policy, bilateral labour 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 sub-agents 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.
- 100. 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 the 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.

- 101. 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.
- 102. Skills tests:** Involves 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 mentioned in business-led and multi-stakeholder initiatives, they were to be paid for by the employer.
- 103. 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 difficulty 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.
- 104. 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.
- 105. 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.
- 106. 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.

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- 107. Travel and transportation (including for return):** These 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 the 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.
- 108. Exceptional costs:** These are not usual 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. These are not mentioned in national laws and policies but are often mentioned in multi-stakeholder guidance documents. These are treated on a case-by-case basis, where it is possible, depending on circumstances, to be borne pro-rata by the worker.
- 109. Administrative costs:** These include expenses for notary and legal services, photographs and other miscellaneous photocopying and are often considered as the workers' expense.

4. Towards a proposed definition of recruitment fees and related costs

110. In September 2016, the ILO convened a three-day Tripartite Meeting of Experts to Develop Guidance on Fair Recruitment with the objective of adopting comprehensive guidelines on fair recruitment. These principles and guidelines cover the recruitment of all workers, including migrant workers, whether directly by employers or through intermediaries. They apply to recruitment within or across national borders, as well as to recruitment through temporary work agencies, and cover all sectors of the economy.
111. The ILO *General principles and operational guidelines for fair recruitment* reaffirmed the long-established principle that: “No recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers” (Principle 7), defining recruitment fees and 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”. The operational guidelines also tasked governments to undertake measures to eliminate the charging of recruitment fees and related costs to workers and jobseekers (per Operational Guideline 6):
- 6.1. These measures should aim particularly at preventing fraudulent practices by labour recruiters, abuse of workers, debt bondage and other forms of economic coercion. Governments should also take measures to prevent and/or deter the solicitation and collection of illicit money from workers in exchange for offering them employment contracts.
- 6.2. Prospective employers, public or private, or their intermediaries, and not the workers, should bear the cost of recruitment. The full extent and nature of costs, for instance costs paid by employers to labour recruiters, should be transparent to those who pay them.
112. Further guidance was given to enterprise and public employment services under operational guideline 17 to eliminate the charging of recruitment fees or related costs to workers, including taking measures to:
- ... communicate this policy externally via guidelines and other means, including contracts to all prospective and current business partners and relevant stakeholders. Enterprises should determine whether private employment agencies and other labour recruiters charge recruitment fees to workers or impose other related costs on them, and should not engage workers through agencies and other labour recruiters known to charge recruitment fees or related costs to workers.
113. Given the absence of a globally accepted “definition of fees and related costs”, the experts participating in the Tripartite Meeting of Experts suggested the subject was something that future work by the ILO might make more precise. In the *Matters arising out of the work of the 106th Session (2017) of the International Labour Conference: Follow-up to the resolution concerning fair and effective labour migration governance (GB.331/INS/4/1(Rev.))*, the ILO was mandated to convene a tripartite meeting of experts in order to: (a) review, amend and adopt draft definitions on recruitment fees and related costs developed by the Office based on a global comparative study and thorough analysis of definitions of recruitment fees and costs; and (b) recommend ways to disseminate and use the adopted definition at the national and international levels by constituents.

Appendix I

Proposed definition of recruitment fees and related costs

I. Scope

1. The proposed definition of recruitment fees and related costs is guided by international labour standards and should be read in conjunction with the ILO *General principles and operational guidelines for fair recruitment*, which recognize the principle that workers shall not be charged directly or indirectly, in whole or in part, any fees or costs for their recruitment.
2. The proposed 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.
3. The proposed definition is intended to support the development, monitoring and implementation of laws and policies as well as practices of recruitment of all workers within or across national borders.¹ For the purpose of this definition the term "workers" includes jobseekers.²
4. It is also recognized that costs for workers recruited internationally can be significantly higher than for workers recruited nationally due to a lack of consistency and transparency on what these costs constitute in different national contexts, and that workers who are recruited across border may find themselves in situations of particular vulnerability. For this reason, the proposed definition includes a section dedicated to costs associated with recruitment across international borders.

II. Definition of recruitment fees and related costs

5. These refer to any or all fees, charges, expenses or financial obligations incurred in the recruitment process in order for workers to secure employment, regardless of the manner, timing or location of their imposition or collection, and whether they are deducted from wages, paid back in wages or benefit concessions, remitted in connection with recruitment, or collected by an employer or a third party, including but not limited to agents, labour recruiters, staffing firms, subsidiaries/affiliates of the employer and any agent or employee of such entities.

A. Recruitment fees

6. Recruitment fees include:
 - (a) payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment, or in employing workers with a view to making them available to a third party which assigns their tasks and supervises the execution of these tasks;
 - (b) payments made in the case of direct hire by employers.
7. These fees may be one-time or recurring and cover services for advertising and disseminating information, arranging interviews, submitting documents for government clearances, and organizing

¹ ILO *General principles and operational guidelines for fair recruitment*, scope: "These principles and guidelines are intended to cover the recruitment of all workers, including migrant workers, whether directly by employers or through intermediaries. They apply to recruitment within or across national borders, as well as to recruitment through temporary work agencies, and cover all sectors of the economy."

² This is in line with the ILO Private Employment Agencies Convention, 1997 (No. 181), Art. 1, and the ILO *General principles and operational guidelines for fair recruitment* which define the term "recruitment" as applicable "to both jobseekers and those in an employment relationship".

travel and transportation, including in the case of migrant workers, placement into employment and return to the country of origin where applicable.

B. Related costs

8. Related costs are expenses integral to the recruitment process within or across national borders. Depending on the recruitment process and the context, these costs could include the following:

- (i) **Costs for medical tests:** these refer to payments for the obligatory medical examinations and specialized tests that are necessary to complete any stage of the recruitment process.
- (ii) **Costs for skills and qualification tests and training:** these include the costs incurred for verification tests on workers' level of skills and qualifications. This may also comprise examinations for language proficiency, particularly in the context of cross-border recruitment. Moreover, these costs include the expenses incurred when employers and their representatives require additional training courses/measures to upgrade workers' skills as a condition of their recruitment.
- (iii) **Costs for internal travel:** these refer to expenses incurred for travel within national borders in a specific recruitment process. These costs can also include the relocation of workers, when required for a specific recruitment situation, from the place of usual residence to the new residence and place of work and back to the place of usual residence upon termination of contract.
- (iv) **Costs for introduction and orientation programmes:** these include expenses for the basic preliminary installation and orientation of newly recruited workers, including on-site job orientation and training, for example on occupational safety and health. There may also be further obligatory medical screening and tests.
- (v) **Other administrative costs:** these include fees for notary and other legal, language, drafting and translation services aimed at preparing, obtaining or legalizing workers' identity documents, education and training credentials and employment contracts; and the cost of obtaining government clearances, including obligatory police and security clearances.

In addition to the costs listed under points (i) to (v), the following specific costs are attributed to international recruitment.

- (vi) **Costs for international travel and transportation and accommodation:** these refer to expenses incurred for international travel in a specific cross-border recruitment process. These may include expenses for:
 - (a) the relocation of workers from the place of usual residence to the new residence and place of work;
 - (b) health and accident insurance costs covering the transportation period;
 - (c) lodging and subsistence during transit;
 - (d) workers' requirements to obtain a passport or visa and costs for other clearance documents specifically required for international travel.
- (vii) **Costs attributed to return:** these include transportation, lodging, health care and subsistence to ensure the foreign workers' return home upon contract completion or in certain situations requiring an early end to the employment contract for various reasons.
- (viii) **Costs for clearances and permits payable in the country of origin, transit and destination:** these refer specifically to the expenses incurred to meet the requirements imposed by the:
 - (a) country of origin for verification and vetting of employment contracts and enrolment into migrant welfare funds; and
 - (b) prospective employer or country of destination for entry and residence approvals, the cost of the visa, its application and grant, work and residence permits (including renewals).

This may also include costs for the authentication of documents to ensure compliance with requirements of the country of origin, transit and/or destination.

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- (ix) **Costs for pre-departure orientation:** these refer to payments for migrant workers' attendance in seminars prior to foreign employment, organized to better prepare selected workers for the living and working conditions at destination.
 - (x) **Costs for post-arrival information and orientation:** these include expenses incurred for programmes designed for newly recruited foreign workers on arrival in a destination country, for example obligatory post-arrival information and orientation programmes.
9. In no case should the distinctions made under section II be interpreted to undermine the principle of equality of treatment for both national and migrant workers.