

GUIDELINES ON REFUGEES AND FORCIBLY DISPLACED PERSONS ACCESS TO THE LABOUR MARKET

The Governing Body of the International Organization, meeting at its 328th Session (Geneva, 26 October - 9 November 2016) authorized the Director-General to publish and disseminate the Guiding principles on the access of refugees and other forcibly displaced persons to the labour market adopted by the tripartite Technical Meeting on the Access of Refugees and other Forcibly Displaced Persons to the Labour Market (Geneva, 3-7 July 2016).



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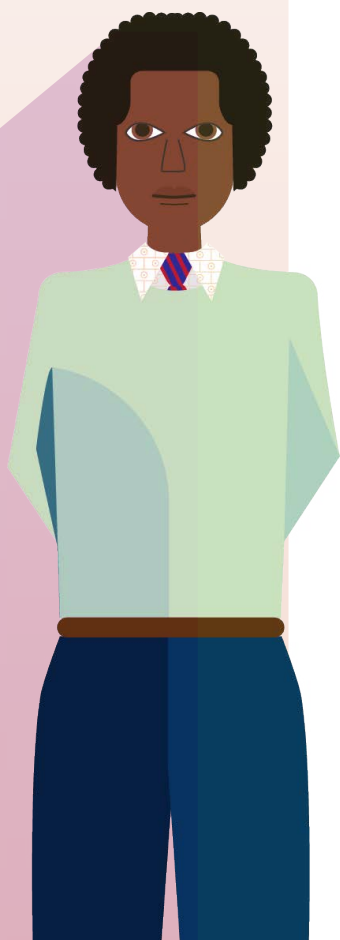
The Tripartite Technical Meeting on the Access of Refugees and other Forcibly Displaced Persons to the Labour Market,

Having met in Geneva from 5 to 7 July 2016,

Responding to the decision taken by the Governing Body at its 326th Session (March 2016) to hold a tripartite technical meeting to “prepare guiding principles for policy measures concerning the access of refugees and other forcibly displaced persons to the labour market”.²

Adopts this seventh day of July 2016, the following guiding principles:

- 1 These guiding principles are addressed to all member States of the International Labour Organization (ILO) and employers’ and workers’ organizations as a basis for the formulation of policy responses and national tripartite dialogue on the access of refugees and other forcibly displaced persons³ to the labour market.
- 2 The principles are voluntary and non-binding, flexible in nature and not intended to generate additional obligations for member States.
- 3 They set out principles to support Members on the access of refugees and other forcibly displaced persons to the labour market and to assist those Members impacted by these situations, in providing responses that meet the needs and expectations of host communities, refugees and other forcibly displaced persons.
- 4 The ILO can significantly add value to international responses through its mandate to promote social justice and the Decent Work Agenda, its international labour standards, its labour market expertise and unique tripartite nature.
- 5 5. Increased cooperation between the United Nations High Commissioner for Refugees (UNHCR) and the ILO, marked by the Memorandum of Understanding signed between the two agencies in July 2016, is welcomed and further cooperation with other relevant organizations is encouraged.
- 6 The important contributions made by countries that host the vast majority of refugees and other forcibly displaced persons are recognized, as are the contributions these groups can make.
- 7 The provision of decent work opportunities for all, including nationals, refugees and other forcibly displaced persons, in countries of origin, host and third countries is important.
- 8 It is acknowledged that it is vitally important for member States to share more equitably the responsibility with countries hosting large numbers of refugees and to assist countries with their support to other forcibly displaced persons.
- 9 Account should be taken of the differing national and regional circumstances, with due regard to applicable international law and national legislation, and the challenges, capacities and burden on resources constraining States to effectively respond.



- 10 Further commitment is needed, where possible and appropriate, to develop or strengthen labour market institutions and programmes that support local integration, resettlement, voluntary repatriation and reintegration, and pathways for labour mobility while respecting the principle of non-refoulement.
- 11 Adequate, sustainable and predictable support from the international community should be provided, where appropriate, for the effective implementation of these principles.

A. Governance frameworks on access to labour markets

- 12 Members should formulate national policies, and national action plans as appropriate, to ensure the protection of refugees and other forcibly displaced persons in the labour market, including in respect of access to decent work and livelihood.
- 13 National policies and action plans should be formulated in conformity with international labour standards, decent work principles, humanitarian principles, obligations under international law, including human rights law and refugee law, as applicable and in consultation with labour ministries as well as representative employers' and workers' organizations.
- 14 National policies and action plans to foster opportunities for formal and decent work that support self-reliance for refugees and other forcibly displaced persons should at a minimum include measures to:
 - a. guide employers' and workers' organizations and other stakeholders, including employment agencies, on the access of refugees and other forcibly displaced persons to labour markets;
 - b. examine work opportunities available for refugees and other forcibly displaced persons, based on reliable information concerning the impact of refugees and other forcibly displaced persons on labour markets, and the needs of the existing labour force and employers;
 - c. consider removing or relaxing refugee encampment policies and other restrictions that may hinder access to decent work opportunities, lead to acts of employment-related discrimination or lead to irregular employment;
 - d. ensure, where access to work is subject to specific legal criteria or requirements, such as work permits, employment authorization for employers or quotas, that these conditions are in accordance with fundamental principles and rights at work and with applicable international labour standards, humanitarian principles and obligations under international law, including human rights law and refugee law, as applicable, including the principle of equality of opportunity and treatment in the labour market; and
 - e. identify and eliminate, where applicable, inconsistencies in legal, policy and administrative practice related to implementation of applicable international labour standards and human rights norms.

2 GB.326/INS/14Add.(Rev.), para. 7: "This guidance would be based on an analysis by the Office of related principles contained in international labour standards and universal human rights instruments, as well as good practices implemented in the field." GB.326/PV, para. 240.

3 There is no internationally agreed definition of "other forcibly displaced persons". For the purpose of these guiding principles, the term "other forcibly displaced persons" does not include internally displaced persons.

- 15 Members should make easily available information regarding laws and regulations applicable to entrepreneurship, such as procedures for registering a business, relevant labour and employment laws and regulations and tax requirements.

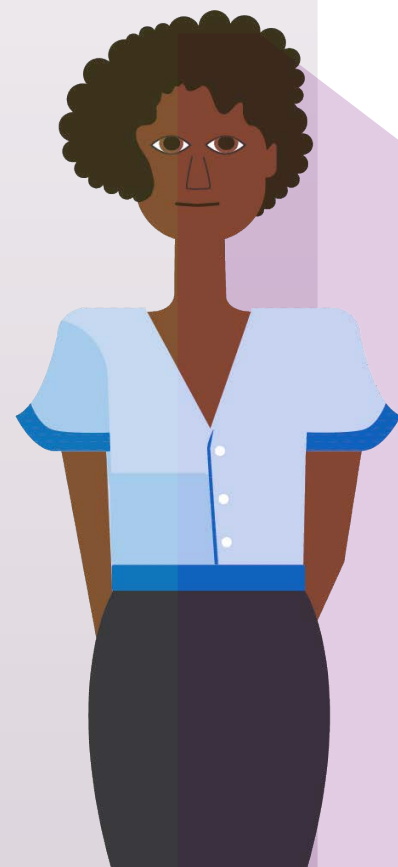
B. Economic and employment policies for inclusive labour markets

- 16 Members should formulate coherent macroeconomic growth strategies, including active labour market policies that support investment in decent job creation that benefit all workers, including men and women refugees and other forcibly displaced persons, and enterprises.
- 17 Members should develop and implement, where possible, together with representative employers' and workers' organizations, national employment policies that include refugees and other forcibly displaced persons.
- 18 Employment strategies should include measures to:
 - a. enhance the capacity of public employment services and improve cooperation with other providers of services, including private employment agencies, to support the access of refugees and other forcibly displaced persons to the labour market, particularly as regards job placements and career counselling;
 - b. strengthen specific efforts to support the inclusion in labour markets of youth and women from refugee and other forcibly displaced populations, including through access to education, life-long learning, childcare and after-school programmes;
 - c. support recognition and accreditation of acquired skills and competencies by refugees and other forcibly displaced persons through appropriate skills determination tests, if required;
 - d. facilitate tailored vocational training, including occupational safety and health training, with a strong on-the-job component (for example, apprenticeships), and intensive language teaching;
 - e. strengthen access to skills development and upgrading opportunities, and entrepreneurship and business start-up training for refugees and other forcibly displaced persons; and
 - f. facilitate increased access to decent work opportunities for refugees and other forcibly displaced persons and host communities, including by fostering transitions of employment from the informal to formal economy.
- 19 Members should take steps to facilitate the portability of work-related entitlements (such as social security benefits, including pensions), skills accreditation and skills recognition of refugees and other forcibly displaced persons between countries of origin, transit and destination.

- 20 Members are encouraged to undertake a national impact assessment on access to the labour market for refugees on their economies with the involvement of employers' and workers' organizations.
- 21 Members should strengthen the capacity of national labour market governance systems, including in respect of information and data collection concerning the impact of refugees and other forcibly displaced persons on host communities, labour markets and economies more generally.

C. Labour rights and equality of opportunity and treatment

- 22 Members should adopt or reinforce national policies to promote equality of opportunity and treatment for all, in particular gender equality, recognizing the specific needs of women, youth and persons with disabilities, with regard to fundamental principles and rights at work, working conditions, access to quality public services, wages and the right to social security benefits for refugees and other forcibly displaced persons, and to educate refugees and other forcibly displaced persons about their labour rights and protections.
- 23 National policies should at a minimum include measures to:
- a. combat and prevent all forms of discrimination in law and in practice, forced labour and child labour, as they affect men, women and children refugees and other forcibly displaced persons;
 - b. facilitate the participation of all workers, including refugees and other forcibly displaced persons, in representative organizations, including in relation to their right to form and join trade unions, participate in collective bargaining mechanisms and to access justice and judicial remedies against abusive working conditions;
 - c. adopt legislative measures and facilitate information, advocacy and awareness campaigns that combat xenophobic behaviour in the workplace and highlight the positive contributions of refugees and other forcibly displaced persons, with meaningful engagement of employers' and workers' organizations, civil society and other relevant stakeholders;
 - d. ensure that refugees and other forcibly displaced persons in the workplace are covered under relevant labour laws and regulations, including on minimum wages, maternity protection, working time, occupational safety and health, and provide information on the rights and obligations of workers, and the means of redress for violations, in a language they understand; and
 - e. provide necessary education and training for labour inspectorates, public servants and judicial bodies on refugee law and labour rights, and ensure that information and training for workers is provided in a language that workers understand.



- 24 The principle of non-discrimination and equality should apply for all. Access to specific occupations can be restricted as prescribed by national laws, in accordance with relevant international labour standards and other international law.

D. Partnership, coordination and coherence

- 25 Members should promote national, bilateral, regional and global dialogue on the labour market implications of large influxes of refugees and other forcibly displaced persons, and the importance of access to livelihoods and decent work.

- 26 Cooperation among member States should include measures to:

- a. strengthen the role of local government, regional bodies, and particularly regional economic commissions and regional initiatives to foster consistent regional responses, including with the support of the ILO and other international agencies, notably the UNHCR;
- b. encourage development assistance and private sector investment for the creation of decent and productive jobs, business development and self-employment to benefit all workers, including refugees and other forcibly displaced persons;
- c. enhance the roles and capacities of employers' and workers' organizations and civil society to promote and protect the fundamental principles and rights at work of refugees and other forcibly displaced persons; and
- d. promote, where possible, the inclusion of refugees and other forcibly displaced persons in national development planning processes, including through UN Development Assistance Framework (UNDAF) mechanisms.⁴

- 27 Members should provide predictable, sustainable and adequate development assistance to support least developed and developing countries that continue to host a large number of refugees and other forcibly displaced persons and ensure the continuation of the development of these countries.

- 28 Employers' and workers' organizations in the public and private sectors have an important role to play and should commit to promote and support the inclusion of refugees and other forcibly displaced persons into work and society. The employers' and workers' organizations should support, at national and local levels, measures taken by member States in accordance with these guiding principles and should commit to work with governments and other stakeholders to design and develop policies to support inclusion. They should play a key role in the assessment, testing and screening of skills and competences to help validation of skills and skills matching with a view to guaranteeing equality of opportunity and treatment of workers, taking into account the objective situation of refugees and active labour market measures available to jobseekers.



E. Voluntary repatriation and reintegration of returnees

- 29 Countries of origin should reintegrate refugee returnees in their labour market. The ILO and its Members in a position to do so should provide assistance to countries of origin in areas of refugee returnees in creating employment and decent work for all, as well as livelihoods and self-reliance.
- 30 Members should develop appropriate protection frameworks, in consultation with countries of origin, to support refugees and other forcibly displaced persons upon their voluntary return to and reintegration in their home countries, in accordance with obligations under international law, including refugee law and human rights law as applicable.

F. Additional pathways for labour mobility

- 31 Members should promote labour mobility as one of the pathways for admission and for responsibility-sharing with countries hosting large numbers of refugees and other forcibly displaced persons and include such pathways for admission in their national policies.
- 32 Members should integrate international labour standards, the Decent Work Agenda and the Multilateral Framework on Labour Migration, where possible, into national policies and regional and bilateral agreements governing the development and expansion of labour mobility pathways for refugees by granting labour market access. Such policies and agreements should involve consultations with employers' and workers' organizations.
- 33 National, and where appropriate regional, policies should include measures to:
- a. respect, where it applies in accordance with international and regional law, the principle of non-refoulement for refugees and other forcibly displaced persons, including those participating in labour mobility schemes;
 - b. foster inclusion and integration in host societies by providing skills development opportunities to support refugees and other forcibly displaced persons that would also help them bring new skills to their home countries, should they decide to return; and
 - c. ensure equality of treatment in wages and working conditions, with particular attention to workers in low-skilled and low-wage work for which refugees and other forcibly displaced persons may be recruited, in accordance with international labour standards.
- 34 Members should facilitate the engagement of diaspora communities in developing national policy and regional and bilateral agreements to help refugees and other forcibly displaced persons to better contribute to the economic and social development of their countries of origin.

4 This activity would be aligned with the development of guidance by the Global Migration Group (GMG) to integrate migration and displacement into development planning.



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