



Institute for
Human Rights and Business

Roundtable 2 Meeting Report



MIGRANT LABOUR IN THE APPAREL SECTOR IN MAURITIUS

Responsible Recruitment
Responsible Employment

Business and Migration
Roundtables for Collective Action

25TH JANUARY 2011

Business and Migration Roundtables for Collective Action:

Migrant Labour in the Apparel Sector in Mauritius: Responsible Recruitment, Responsible Employment

Mauritius, 25th January 2011

Roundtable 2 – Meeting Report

Background:

The Institute for Human Rights and Business (IHRB) is hosting a series of Business and Migration roundtables for Collective Action between 2010-12 for apparel companies, governments and civil society addressing issues of worker protection and human rights due diligence. The roundtables aim to:

- i. Raise the debate about the role of the private sector regarding responsible migrant worker recruitment and employment practices in key sending and receiving countries;
- ii. Promote Core Principles for Safe Migration and encourage collective action on specific challenges to the protection of migrants' rights which fall under a company's responsibility to respect human rights;
- iii. Identify entry points for dialogue between business and government on related policy matters.

Migrant workers represent a particularly vulnerable part of the workforce, and abuses occur throughout the labour supply chain. Recruitment of migrant workers by unregulated and frequently unscrupulous labour providers has given rise to much documented abuse of migrants, including as the deduction from wages of recruitment fees and pre-departure loans at extortionate rates of interest, leading to situations of debt bondage.

Employment practices by suppliers in some receiving countries may include the retention of migrants' travel documents, violating workers' freedom of movement, and rendering them bonded labour. No matter where in the supply chain, violations of workers' rights will always have significant reputational impacts on global high-street brands. Promoting ethical recruitment and employment of migrants is a human rights responsibility and a business-risk imperative.

No UN or other international body exists explicitly to oversee the welfare of migrant workers at a global level. Business has a clear role to play in influencing management of migration at a policy level with government as well as within its own supply chains. If key players with real leverage from different sectors can be brought together to address common concerns there is real potential to minimise the risk of abusive labour practices and increase the protection of migrant workers' rights.

The textile sector in Mauritius

The textile sector in Mauritius contributes 6.5 percent of GDP and provides 11 percent of jobs. The Mauritian economy is heavily dependent on migrant labour, particularly within the textile sector. Of the total 32,577 migrants on Mauritius (2010 Ministry of Labour figures), the breakdown is as follows: Indian 37%, Bangladesh 25%, Chinese 21%, Madagascar 7%, Sri Lankan 7%, Nepal 1%, France 1%, others 1%.

This second roundtable in the series, conducted under the Chatham House rule (no individual or company attribution), brought together a group of 35 representatives from high-street retailers, Mauritian textile suppliers, the Mauritian Employers Federation, Enterprise Mauritius and representatives from the Mauritian Ministry of Labour, Industrial Relations and Employment to discuss the risks associated with migrant labour in Mauritius and the responsibilities of companies to protect migrant workers' rights while managing their business risks.

Participants

Senior representatives from the following attended the roundtable:

- Brands: Arcadia Group, Next, Levi Strauss
- Suppliers: Aquarelle, CMT, Floreal Knitwear, Maydon Fashion Ltd, Palmar Ltd, RT Knits, Prosimex Ltd, Star Knitwear, Tex Services and Tropic Knits.
- Government and Business Associations: Mauritius Ministry of Labour, Industrial Relations and Employment (Special Migrant Unit), Mauritius Employers Federation, Enterprise Mauritius
- Civil society: Institute For Human Rights and Business (IHRB), Fair Labor Association (FLA), Ethical Trading Initiative (ETI)

Objectives of the roundtable

1. Raise awareness of risks associated with the use of migrant labour and the challenges of managing these risks
2. Gain a common understanding of where the greatest risks lie within migrant worker recruitment practices
3. Strengthen suppliers' knowledge of local employment law and good employment practices which include migrant workers
4. Explore a set of migrant worker guidelines, understand the purpose of a gap analysis against these guidelines, and the benefits of resolving the issues it highlights individually or collectively
5. Consider options for identifying and remedying weaknesses in the current recruitment and employment practices of migrant workers.
6. Agree collectively next steps to mitigate risks and strengthen migrant worker protection in factories in Mauritius and recruitment in sending countries.

Sessions

1. **Identifying the risks associated with the recruitment and employment of migrant labour and the challenges of managing these risks.**

An initial overview was provided of ETI's commitment to promoting ethical trade through a tri-partite membership of companies, NGOs and trade unions. ETI recognise that migrants are considered vulnerable workers and, as such, particular importance needs to be given to addressing responsible recruitment and employment practices.

The use of migrant workers offers many benefits to business but also presents a unique set of challenges. Due diligence and robust management systems are essential to maximise business efficiencies and ensure compliance with local labour law and international labour standards. Crucially, this due diligence should extend into the recruitment process where many migrants are most at risk of exploitation and abuse, such as excessive fees and pre-departure loans leading to conditions of bonded labour, however fair employment conditions in the receiving country might be. The recruitment of labour in sending countries can be very difficult for business to monitor and police effectively. Failure to work towards a safe and transparent process leaves suppliers and brands exposed to reputational damage and workers vulnerable to abuse.

Risks in the recruitment phase:

- Weak governance and corruption in many sending countries;
- Inadequate regulation of state and private labour brokers in many sending countries;
- Lack of transparency of the recruitment chain due to the widespread use of agents and sub agents right down to village level;
- Lack of accurate and trustworthy information in rural areas where recruitment is occurring contributes to vulnerability of workers;
- Excessive fees and rates of interest being charged by brokers rendering migrants bonded labour on arrival in the receiving country;
- Intimidatory techniques used by brokers towards migrant workers, e.g. in Bangladesh;
- Brokers' use of illegal holding centres to detain workers, sometimes for several months, before placement;
- Lack of pre-departure orientation;
- Lack of government-government dialogue regarding improved regulation of the recruitment process.

It was noted that workers from particular countries face different risks of exploitation and, therefore, companies need to tailor their due diligence accordingly, while maintaining universal human rights standards. One supplier shared experience of direct recruitment in India, use of an agent in Bangladesh, state-controlled labour suppliers in China, and Ministry of Expatriate Labour in Sri Lanka, all requiring different systems and procedures. This highlights the need for Mauritian employers to find a means of sharing information on their recruitment experiences in key sending countries.

The Ministry of Labour has raised the issue of bribery and corruption with the Indian and Bangladeshi High Commissions in Mauritius but the endemic nature of the problems in many sending countries impedes progress towards better regulation of the recruitment industry.

Risks in the employment phase:

In many countries, migrant workers face discrimination in employment pay and conditions. They often find themselves not working to the terms laid out in original contracts. They may be denied opportunities and benefits offered to local workers. Food and accommodation often fail to meet acceptable standards. They may be denied access to workplace representation and lack a workable and non-discriminatory grievance mechanism. Wages may be paid into a central broker's account allowing for hidden wage deductions. Under Mauritian labour law, migrants enjoy identical terms and conditions to local workers. Roundtable participants believe that this had been a great strength to Mauritius ensuring a reputation for integrity and reliability as a supplier base. The Mauritian Employers' Federation (MEF) provided a helpful overview of Mauritius' ratification of key ILO conventions. MEF vets contracts for employers, which covers over 50% of the labour force of Mauritius through its 1000 members. MEF also recommends that employees' handbooks are given to all workers with their contract.

Migrant workers are permitted to join trade unions. However, union representation is currently not strong amongst migrant textile workers on the island. The Ministry of Labour noted that the trade union perspective needs to be included within the debates surrounding migrant worker issues and rights on Mauritius.

It was noted that for employers there are additional costs to employing migrant workers in Mauritius such as airfares, recruitment fees and provision of good accommodation. One employer emphasized the importance of migrant workers understanding they have *quid pro quo* responsibilities and obligations to their employers which need to be fully communicated in employment contracts.

Conditions of employment as well as the standard of accommodation etc. offered to migrants are inspected by the Ministry of Labour, the only Ministry in all of Africa to have a Special Migrant Unit to help oversee and regulate those employing migrant workers, including vetting of contracts. The Ministry stressed the use of training as a tool to overcome problems such as cultural differences regarding accommodation and food. One employer explained the merits of their use of a post-orientation questionnaire to ensure the migrant has understood everything, supported by on-going training.

Participants agreed that the Ministry of Labour had constructive relationships with the employers on the island, the well-regulated system and enforcement regime providing a relatively level playing field for business. Employers would welcome more sharing of information by the Ministry with regard to government-to-government bilateral agreements regarding the use of migrant labour.

2. Verité – Fair Hiring

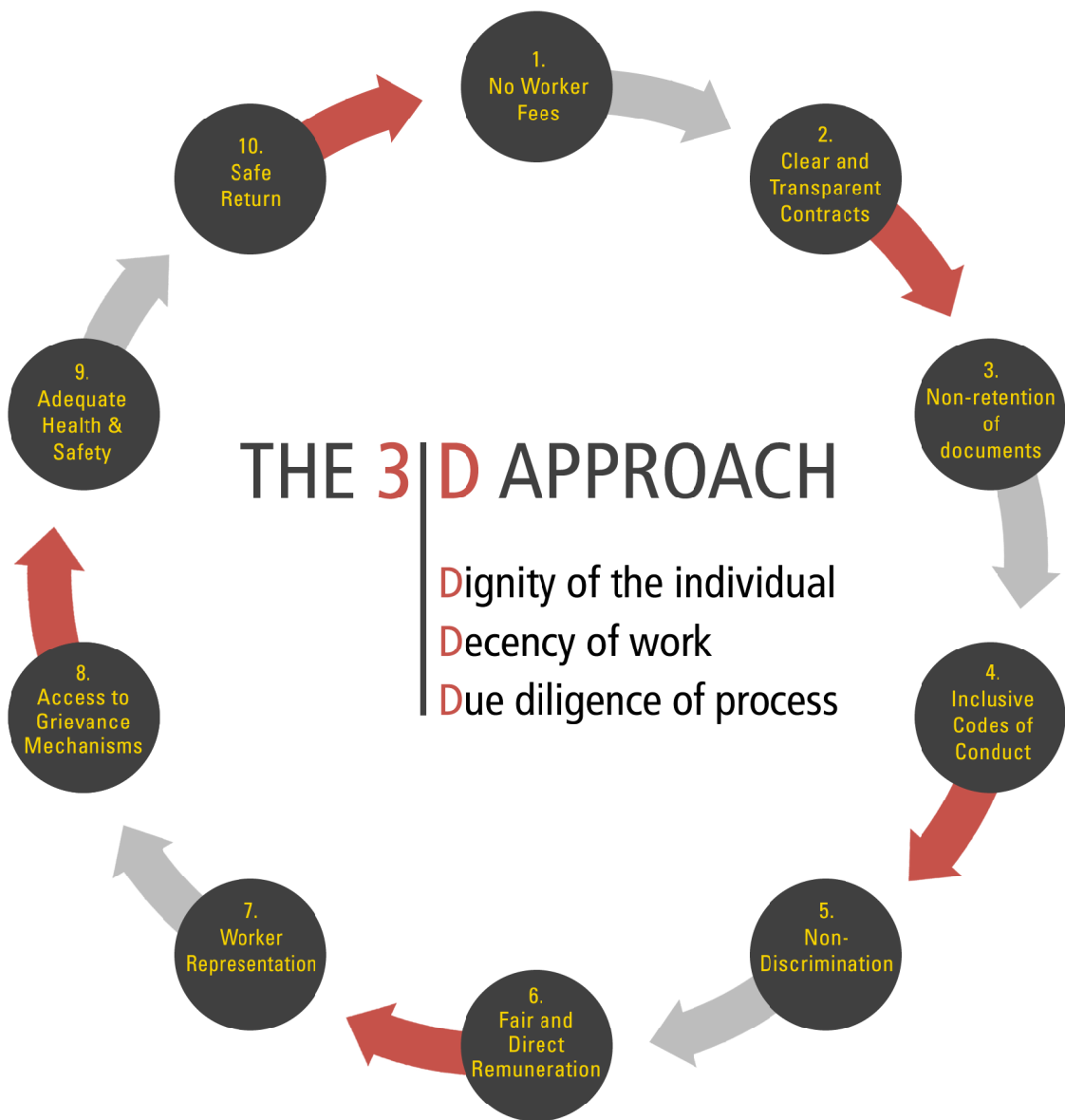
Verité, a US-based non-profit organisation promoting an end to exploitative labour practices worldwide, published their report, 'Help Wanted' in 2010, presenting their research into recruitment processes in sending countries and the associated risks of forced labour and human trafficking. The 'Help Wanted' programme (launched 2011) offers an important set of tools for business to understand and address key issues related to fair hiring of migrant labour. They are currently seeking companies willing to take part in pilot studies to use these tools within their own management systems. <http://www.verite.org/helpwanted/>

3. IHRB – Core Principles for Responsible Recruitment and Employment of migrant workers

Contrary to the 3Ds often associated with migrant labour employment – dangerous, dirty and demeaning - IHRB has developed the 3D Approach to Safe Migration:

Dignity of the Individual	Decency of Work	Due Diligence of Process
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These underpin the IHRB 10 Core Principles, based on international ILO and other human rights conventions, and informed by business experience. It is hoped that the principles will serve as a useful starting point, synthesising the myriad codes and guidelines being developed by business and other stakeholders. They emphasise the cyclical nature of migration and the need for engagement and due diligence at each stage: recruitment, employment and safe return. <http://www.institutehrb.org>



CORE PRINCIPLES FOR RESPONSIBLE RECRUITMENT AND EMPLOYMENT OF MIGRANT LABOUR:

1. The recruitment agent or employer does not charge the migrant worker any fee or deposit.
2. Migrant worker contracts are made available in the migrant worker's language, clearly explained and signed without coercion. There is no bonded or forced labour.
3. The recruitment agent, labour intermediary or employer does not retain migrant workers' passports or other identification/travel documents.
4. Migrant workers are included in all company codes and guidelines.
5. Recruitment agencies, intermediaries and employers do not discriminate against migrant workers on the basis of ethnic group, gender, religion, sexual orientation, disability, in accordance with local labour law and international labour standards.
6. Migrant workers are remunerated fairly and directly for their labour in line with locally recruited workers remuneration and benefits.
7. Migrant workers have access to workplace representation.
8. Migrant workers have access to confidential, safe grievance mechanisms without fear of reprimand.
9. Health and safety measures shall be made available/understood in the migrants' language.
10. Employers facilitate the safe return of the migrant worker at the end of contract, with all due wages and benefits paid in full.

4. Migrant Worker Guidelines

The Arcadia Group and Next have developed a clear set of migrant worker guidelines for their suppliers. These cover all aspects of migrant labour from recruitment in country of origin, employment through to contract completion and safe return. The company believes implementing these guidelines allows suppliers and factories to:

- a) identify and work with reputable agents
- b) recruit suitable workers and minimize training costs
- c) ensure workers accept employment terms before they arrive, encouraging them to complete their contracts
- d) adhere to retailers codes of conduct and national law
- e) mitigate reputational risk associated with labour standards exposes
- f) protect potentially vulnerable workers

The guidelines take each part of the process and identify the key stipulations within it as summarized below:

Recruitment Agency

- Agent will be sent the supplier code and ensure compliance
- Agent will provide full transparency of its recruitment supply chain
- Fees must not be charged directly or indirectly to workers
- Written contracts should be in place between the supplier / factory and agency
- Supplier should carry out annual audit of the agency against this code

Recruitment

- Migrant workers must be legally permitted to work in the country
- Suppliers must adhere to local law, law of sending country and ILO conventions
- Suppliers should pay all costs involved including recruitment and travel fees
- Supplier must not accept any reimbursements
- Supplier must not charge back or recover fees from migrant workers
- Information about health tests should only refer to applicants ability to undertake the job

Employment Contract

- Employee contact must be between employer and employee not with an agent
- Migrant workers should sign their contracts both in their home country and receiving country
- Conditions for migrant workers should be no less favourable than for local workers
- If a migrant worker is illiterate the terms of their employment must be explained to them
- Supplier must not add new terms and conditions once the contract is signed
- Supplier must give a migrant worker orientation

During Employment

- Migrant workers should receive an employee handbook
- Suppliers should train supervisors about migrant labour
- Supplier should allow the worker to retain all personal documents i.e. passport
- Migrant worker files should be kept on site and be freely accessible
- If migrant worker wishes to return home supplier should pay all travel costs unless migrant is in clear breach of contract
- Suppliers must have a policy on treatment of workers who are injured, become ill or pregnant

During Employment - Wages and Benefits

- Migrant workers must be given the same wage and benefits as local workers
- Migrant workers must be paid the national minimum wage
- Wages and benefits must be paid directly to migrant workers
- Suppliers must give migrant workers free access to their monies
- Clear pay slips must be issued
- Accommodation for migrant workers must be safe, decent and legal

During Employment – Dialogue with Migrant Workers

- Migrant workers should be aware of grievance processes
- Migrant workers are allowed to join a union of their choice
- There should be freely elected worker management committees for migrant worker issues
- Factories must have an on-site worker co-ordinator who can communicate in their language

On Contract Completion

- Workers must be paid any wages, benefits or any other amounts due before they return to their home country
- Suppliers must pay workers airfare home and other reasonable travel costs

The full guidelines are available at: <http://www.arcadiagroup.co.uk/responsibilities/guidebook.html>

The Ministry of Labour, Industrial Relations and Employment in Mauritius has set their own clear guidance and regulations for those employing migrant workers. However, issues do arise, for example around deportation of workers accused of gross misconduct, where insufficient time is allowed to follow due process as set out in the law. Brands need to stress to suppliers the importance of following due process under local labour law and in accordance with international human rights standards. Adherence to clear standards allows the country to offer *'the full package'* of quality, efficiency, price and ethical compliance.

5. The case of Bangladesh: the challenges and risks, the similarities and differences with other sending countries

Bangladesh is a key source of migrant labour around the world and Bangladeshi migrant workers are a ubiquitous feature of many companies' supply chains wherever they are sourcing. Currently an estimated 8 million Bangladeshis are working in over 50 different countries and the remittances they send home are the second largest revenue earner for the government. According to the Mauritian Ministry of Labour in 2010, 25% (over 8000 people) of migrants working in Mauritius come from Bangladesh.

Despite being heavily dependent on the remittances from migrant labour, Bangladesh has a poor reputation for the integrity and transparency of the recruitment process. Problems experienced directly or indirectly by suppliers at the meeting included:

- long chains of agents and sub-agents frequently make monitoring the supply chains of labour extremely difficult for brands and their suppliers;
- endemic corruption and a total lack of effective regulation of the activities of recruitment agents operating from the country.

Such is the scale of the problems, in recent years several countries, including Malaysia and S. Korea placed temporary bans on migrant workers from Bangladesh. This in turn has given rise to an increase in illegal migration practices and vulnerability to trafficking of individuals driven by poverty to seek work abroad.

Heavily reliant on remittance revenue, the Bangladeshi government has recently taken steps to repair the damage to its reputation abroad and seek to ensure better practice by Bangladeshi labour brokers. Two tools at its disposal are: (i) the Bureau of Manpower Employment and Training (BMET) which is responsible for recruitment and training in Bangladesh; (ii) Bangladesh Overseas Employment Services Ltd (BOESL) which is a government-backed recruitment agency designed to compete with the many private labour brokers operating in the country and promote best practice.

The Bangladeshi Ministry of Expatriate Welfare and Overseas Employment has also announced plans to open 10 more labour offices in important receiving countries, including Mauritius. Scepticism among brands and suppliers at the meeting remained high as to the competence and integrity of these various bodies to achieve the necessary progress, but they welcome these early steps in the right direction.

Problems associated with migrant worker recruitment abound but there is an opening for dialogue. Both Bangladesh and Sri Lanka have created single ministries with responsibility for overseas workers. These ministries have a potentially important role to play in the economic development of both countries. The Bangladeshi government is studying good practice from the Philippines and Sri Lanka. The latter has introduced clear systems whereby migrant workers sign contracts before leaving the country, for example.

In April 2011 Bangladesh plays host to the 4th consultation of the Colombo Process, a regional consultation process, which seeks, at governmental level, to address the challenges faced by labour-sending countries in Asia. The FLA has also begun capacity-building work in Bangladesh to promote and help ensure better recruitment practices.

Potentially brands and suppliers working together with their respective trade associations and the national governments of receiving countries could use their collective leverage to call for greater regulation of the recruitment industry, and to provide incentives for those agents seeking to ensure a fair, honest and transparent recruitment process.

Roundtable 3 – Dhaka, Bangladesh

IHRB will be holding the 3rd in this series of roundtables in Dhaka 28th – 29th June. The roundtable will bring together brands, suppliers from receiving countries, recruitment industry leaders, government and civil society representatives seeking to address some of the key challenges of sourcing labour from Bangladesh. Participants felt that it is important for sending governments to hear a strong message from brands, suppliers and receiving governments that recruitment of migrant workers must be better regulated, more transparent, and international standards adhered to. The issue of more effective regulation of the recruitment industry will be addressed at the roundtable by, amongst others, industry leader Manpower Inc. a company which has demonstrated considerable commitment to advancing this agenda globally through multi-stakeholder engagement.

For more details, please contact the IHRB Project Co-ordinator Neill Wilkins neill.wilkins@institutehrb.org

6. The Importance of an Effective Management System for Recruiting and Employing Migrant Workers

A number of brands are moving away from tick-box audits towards working with suppliers to develop enhanced management systems. These can enhance business efficiencies, manage risk, and strengthen worker protection.

They can ensure best practice with regard to:

- Communication
- Worker / management dialogue
- Grievance procedures
- Anti-discrimination policies

Operationally they help produce and support:

- Confident line managers and supervisors
- Workers who feel valued
- Less absenteeism and employee churn
- Issue solving by following procedures and policies

To be effective management systems need to be – *Communicated – Understood - Adhered to*.

Five Key blocks on which to build a workable management system:

- 1) **Policy / Procedures** – what do you want to happen?
- 2) **Roles / Responsibilities** – who will ensure policies are adhered to?
- 3) **Communications** - how will the 2 above be communicated?
- 4) **Training and Implementation** – how can training be used to explain and embed the policies
- 5) **Measurement** – how will you measure results and evaluate them?

7. Collective action – options for next steps?

The Mauritius roundtable proved effective in bringing together employers of migrant labour, government and other stakeholders for useful dialogue, to share good practice as well as discuss common risks. The meeting helped raise awareness of some of the key challenges facing employers and migrants themselves and the role of local Mauritian law and government ministries in those relations. It also highlighted the serious engagement with the issues and good practice demonstrated by many of those companies present. Options for follow-up:

- A Migrant Labour Working Group, to be convened by the Ministry of Labour, Industrial Relations and Employment, bringing together employers, Employers' Federation, MEXA and Enterprise Mauritius to meet on perhaps a quarterly basis to: (i) share good practice, (ii) report on progress, (iii) discuss options for collective approaches to due diligence and risk management in the recruitment process in particular, (iv) propose areas where the government could improve specific areas of labour law such as the payment of agency fees. This process should also ensure the voice of key trade unions is included.
- Several suppliers expressed an interest in attending IHRB's June 2011 Business and Migration roundtable in Dhaka as a useful opportunity for multi-stakeholder engagement in an important sending country.
- Each company to undertake to develop or strengthen its management systems to fully integrate the responsibility to respect migrant workers' rights into business processes and due diligence.

By working collectively with the Mauritian Ministry of Labour, MEF, MEXA and Enterprise Mauritius, companies on the island can share best practice, better input into government processes and use their combined leverage to apply pressure strategically where needed. The formation of a Mauritian-led initiative, forum or working group would be a constructive start to this important process.

Useful resources

Organisations:

Institute for Human Rights and Business	http://www.institutehrb.org
Ethical Trading Initiative	http://www.ethicaltrade.org
Fair Labor Association	http://www.fairlabor.org/
Verité	http://www.verite.org/helpwanted/
Mauritian Ministry of Labour, Industrial Relations and Employment	http://www.gov.mu/
Mauritian Employers Federation	http://www.mef-online.org/
Enterprise Mauritius	http://www.enterprisemauritius.biz/wm/
Mauritian Exporters' Association	http://www.mepza.org
Gangmasters' Licensing Authority (a useful model of licensing and inspecting labour providers in the UK)	http://www.gla.gov.uk

Useful Reading:

Business and Migration – Strengthening Migrant Worker Protection in Company Supply Chains. IHRB April 2010 (Report from Roundtable 1 – London)
<http://www.institutehrb.org/reports.html>

International Labour Migration; A Rights Based Approach - ILO - March 2010 -
http://www.ilo.org/global/What_we_do/Publications/ILOBookstore/Forthcomingpublications/lang--en/docName--WCMS_125361/index.htm

Guiding The Invisible Hand: Making Migration Intermediaries Work for Development - UN Development Programme - April 2009 http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_22.pdf

International Labor Migration; A Responsible Role for Business - BSR - Oct 2008
http://www.bsr.org/reports/BSR_LaborMigrationRoleforBusiness.pdf

Cover Image: Migrant garment workers - CMT Factory Mauritius

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