



BORDER MANAGEMENT

Building upon the New York Declaration for Refugees and Migrants adopted on 19 September 2016, the Global Compact for Safe, Orderly and Regular Migration (GCM) will set out a range of principles, commitments and understandings among Member States regarding international migration in all its dimensions. The GCM should make an important contribution to global governance and enhance coordination on international migration. For the consideration of Member States, the “Thematic Papers” developed by IOM, outline core topics and suggestions to inform actors involved in the 2017 consultation process that will lead to the inter-governmental negotiations and final adoption of the GCM.

INTRODUCTION

One of the most difficult challenges governments face in the area of migration policy is to find a balance between competing and seemingly conflicting priorities. This is especially true when mobility and security interests intersect. On the one hand, migration offers great potential to promote economic growth and social development through the skills, dynamism and innovation that migrants bring. On the other hand, States also have a legitimate interest in safeguarding national security and combatting transnational crimes such as trafficking, smuggling and terrorism. Governments thus see themselves confronted by policy choices that, on the surface, might appear to be in conflict with one another: how best to facilitate the legitimate movement of people and goods while also maintaining secure borders. These should, however, be seen as mutually reinforcing rather than competing priorities.

However, effective border management can help States and regional groupings achieve a more balanced approach that enhances their own national security, in compliance with international law, while also protecting the rights and reducing potential vulnerabilities of those crossing borders. Good border management therefore serves a dual purpose, helping to balance States’ interests in both facilitating cross-border movements and maintaining security. Achieving this balance depends upon border management policies and interventions focused on four areas of work: 1) identity management, 2) Border Management Information Systems (BMIS), 3) Integrated Border Management (IBM)¹ and 4) Humanitarian Border Management (HBM).

Conscious of the implications of ineffective and inefficient border management structures, governments should continue to invest in border management reform, and in enhancing capacity in terms of border and migration management structures and procedures. This could be a key achievement of the Global Compact for Safe, Orderly and Regular Migration, which would serve governments well by outlining specific and tangible measures, such as those outlined below, to facilitate cross-border movement while also maintaining national security.



EXISTING PRINCIPLES

Governments have committed to a range of legal and operational norms that relate to border management issues. In many cases, these existing principles and commitments also reflect the duality of interventions in this area. For example, the core body of international human rights law to which governments have committed themselves are critical to promoting more dignified, orderly and safe movement across borders. This is especially important to protect the human rights of migrant populations during crisis situations. At the same time, various other norms and standards call for government action to disrupt the trafficking of human beings, smuggling of migrants and to prevent the movement of terrorists.

Normative Framework

Although States are entitled to exercise sovereign jurisdiction at their international borders, all border management interventions must be carried out in accordance with States' obligations under international law. In particular, governments must ensure that the human rights of all persons at international borders are fully respected, protected and fulfilled. These rights and obligations are set out in the core international human rights instruments, including the Universal Declaration of Human Rights,² the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights,³ the Convention relating to the Status of Refugees⁴ and the Protocols thereto, the Convention on the Elimination of All Forms of Racial Discrimination,⁵ the Convention on the Elimination of All Forms of Discrimination against Women,⁶ the Convention against Torture⁷ and the Convention on the Rights of the Child.⁸

For Humanitarian Border Management (HBM), the four Geneva Conventions adopted in 1949 and the 1977 Protocols⁹ as well as The Hague Conventions 1899 and 1907¹⁰ apply. Of the Geneva Conventions, it is especially the Fourth Geneva Convention protecting civilians in international conflict¹¹ and Common Article 3¹² that are of relevance.

Commitments on border management and security

The World Trade Organization's (WTO) Doha Development Agenda, adopted during the Hong Kong Ministerial Conference, commits its members to taking "additional measures to provide effective market access, both at the border and otherwise".¹³ The Addis Ababa Action Agenda further states that the "improvement of trade- and transit-related logistics" to facilitate transport and trade, especially for landlocked developing countries is needed.¹⁴

In the context of enhancing border management to combat transnational organized crime and terrorism, the United Nations (UN) have passed several resolutions, conventions and protocols that provide the international legal basis for robust Identity Management, enhanced Integrated Border Management and the use of Border Management Information Systems (BMIS).

For the purposes of combating transnational organized crime, the UN Convention against Transnational Organized Crime and the Protocols thereto¹⁵ provide the starting point. The Convention sets out the obligations of ratifying States domestically and encourages international cooperation to disrupt the trafficking of human beings, smuggling of migrants and the illicit production and trafficking of firearms. It includes provisions on document security and controls¹⁶ as well as on the collection, analysis and exchange of information at borders.¹⁷



For the purposes of countering terrorism, the UN Global Counter-Terrorism Strategy¹⁸ and Security Council resolutions 1373 (2001),¹⁹ 1566 (2004),²⁰ 1624 (2005)²¹ and 2178 (2014)²² are relevant. These charge States with the establishment of “effective border controls and controls on issuance of identity papers and travel documents”,²³ the improvement of data collection²⁴ and the timely exchange of accurate operational information²⁵ to prevent terrorists from crossing international borders.

The Sustainable Development Goals

Border management interventions can contribute to meeting several targets under the Sustainable Development Goals (SDGs). Prime among these is goal 10, target 10.7: “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.²⁶ In addition, several targets in goals 9, 16 and 17 also touch upon effective border management. In respective order, these aim to “build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation”, “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” and “strengthen the means of implementation and revitalize the global partnership for sustainable development”.²⁷

Briefly, better border management contributes to these targets in the following ways: First, by building governments’ capacities to implement well-managed migration policies for better border management, migration is made more orderly, safe, regular and responsible (Target 10.7).²⁸

Second, by supporting concrete green measures related to border infrastructure, for instance including renewable power sources (solar panels) in the construction and refurbishment of remote border posts, States, with the international community’s assistance, are able to make a contribution to the retrospective upgrade of sustainable trans-border infrastructure (Targets 9.1, 9.4 and 9.a).

Third, moving towards greater intra-service, inter-service, bilateral, regional and international cooperation in border management will help combat transnational organized crime and terrorism (Targets 16.4 and 16.a) and reduce the incidence of corruption and bribery (Target 16.5).

Fourth, building States’ capacity to implement robust Identity Management frameworks empowers people including migrants, supports the reduction of illicit cross-border movements of both people and goods (Target 16.4, 16.a) and helps identify and protect vulnerable migrants and refugees, enabling border agencies to refer those in need of protection or assistance to the appropriate bodies. This includes the provision of reliable and secure legal identity for all (Target 16.9),²⁹ instituting measures to ensure travel and identity document security, and building border officials’ capacity to detect false, forged or stolen travel documents.

Fifth, implementing Border Management Information Systems (BMIS) can contribute to the collection of reliable data disaggregated by gender, age, migratory status and geographic location (Targets 17.18 and 17.19) at the border and will greatly enhance States’ capacity to develop evidence-based migration policies.³⁰



The Migration Governance Framework

The International Organization for Migration's (IOM) Migration Governance Framework (MiGOF) summarizes the essential elements for well-managed migration.³¹ The Framework articulates a set of three principles and objectives that are of relevance to different aspects of border management. Principles 1, 2 and 3 as well as Objectives 2 and 3 apply here. These are as follows:

Principle 1: Good migration governance would require adherence to international standards and the fulfilment of migrants' rights [...]

Principle 2: Migration and related policies are best formulated using evidence and whole-of-government approaches [...]

Principle 3: Good migration governance relies on strong partnerships [...]

Objective 2: Good migration governance is based on effective responses to the mobility dimensions of crises [...]

Objective 3: Migration should take place in a safe, orderly and dignified manner [...]³²

Of these Principles and Objectives, the following are relevant to border management: first, all suggested actions must be implemented in compliance with international standards giving full respect to migrants' rights (Principle 1). Second, providing governments with BMIS builds their capacity to establish and draw on a sound evidence base for the development of migration policy (Principle 2). Third, enhancing cooperation at all levels by instituting Integrated Border Management agreements bilaterally as well as regionally fosters closer and more effective partnerships within and among governments (Principle 3). Fourth, ensuring transit and destination countries are equipped to address large influxes of crisis-affected migrants and provide them with the care and protection required by means of HBM programming makes effective responses to the mobility dimension of crises possible (Objective 2). And fifth, addressing the risks associated with migration improves safety and security for all (Objective 3).

ISSUES

States have a strong interest in facilitating legitimate forms of migration. It contributes in many ways to their social and economic development owing to the diverse contributions of migrants. Indeed, as the Sutherland Report points out, "[w]ithout migration, our societies would never have achieved their current level of development".³³ However, States also have an interest, and indeed, a responsibility, to protect their citizens and national interests, subject to applicable international law. This is especially critical in light of the challenges presented by the unregulated movement of large numbers of people, as well as the potential risks of human smuggling or trafficking. With terrorist activity on the rise since the late 1990s,³⁴ States have also been under growing pressure to detect possible terrorists and prevent them from crossing international borders. Forced and irregular migration similarly create significant risks for migrants as well as their countries and communities of origin, transit and destination, which frequently do not possess the capacities or resources to adequately identify and refer those entering their territory irregularly.

The potential tension between these dual objectives means that there is a constant need to harmonize and streamline migration policies and processes, in particular at the border. The outcome of the Berne Initiative – the International Agenda for Migration Management (IAMM) – similarly highlights that a comprehensive national migration policy would consider the various interrelationships between different



policy domains, for example in the economic, social, cultural and security domains. It further notes that “effective national migration policy needs to find and maintain a balance among measures addressing various migration-related issues”.³⁵ Comprehensive and well-functioning border management structures can help achieve that balance, encompassing both security and facilitation of legitimate cross-border flows of people and goods.

Interventions in different areas of border management respond to this need in different ways. To help States strengthen their capacities to identify, screen and properly treat and refer those crossing their borders, the Global Compact might outline practical means for governments to improve existing Identity Management frameworks. It may further help governments collect reliable and accurate information at borders by introducing software-based solutions such as BMIS. Encouraging information sharing through greater domestic, bilateral and international collaboration – Integrated Border Management – further improves the levels of security that States are able to afford their own residents as well as migrants. In the event of large-scale movements, government capacity to intervene before, during and after crises must be improved for the protection of migrants’ rights.

SUGGESTED ACTIONS

The actions suggested here are designed to promote the balance between facilitation of cross-border movement and the need to uphold national security. Supporting States’ efforts to establish or enhance Identity Management processes and frameworks facilitates migrants’ mobility as well as improving accurate identification, and with that control, at borders. Using a Border Management Information System to process those crossing borders provides a standardized means to collect data, cutting down processing times and error rates associated with paper-based systems. At the same time, it affords governments the possibility of improving both border and national security by verifying certain features of document security and checking travellers against both national and INTERPOL alert lists. Integrated Border Management ensures customs and immigration processes are streamlined as much as possible and improves information sharing at several levels, providing actionable information in a timely manner. Humanitarian Border Management aims to ensure migrants in emergency situations are able to cross borders when they need to, while maintaining necessary levels of control. Greater detail on each of these areas of intervention is provided below.

1) Identity Management

To bolster governments’ Identity Management capabilities, the Global Compact may help registering all citizens at birth, consulting on document security, reviewing travel document issuance processes and facilitating the issuance of reliable identity documents. To ensure that false or fraudulent travel documents are flagged at the point of entry, States may also wish to avail themselves of international organizations’ expertise on travel document inspection. This includes training frontline border officials on how to recognize imposters, signs of tampering and false travel documents, ensuring secondary inspection laboratories are adequately staffed and equipped and may also extend to setting up regional document examination centres for the referral, verification and storage of suspect documents.



2) Border Management Information Systems

The use of a Border Management Information System (BMIS) allows governments to collect, process, store and analyze information on migrants' and refugees' arrival and departure. It ideally does so in real time, allowing border officials to form an accurate picture of cross-border movements and affording them the ability to create evidence-based traveler risk profiles. Over the long term, data collected by a BMIS can be used to inform sound migration management policy, improving government capacities to plan and prepare. A BMIS may also be used to improve border security – by providing connectivity with INTERPOL's alert lists, it becomes possible to identify both suspect persons and documents at the point of entry. Where such a computerized system is in place, security can further be enhanced by establishing Advance Passenger Information (API) notifications at international airports. BMIS may also help harmonize procedures by serving as a uniform mechanism for processing.

3) Integrated Border Management

Governments may wish to encourage closer cooperation between their own customs and immigration services and those of other countries. The European Commission has developed the concept of Integrated Border Management (IBM) (also referred to as Coordinated Border Management by the World Customs Organization) to describe this approach. By establishing close cooperation at the inter-service, inter-agency and international levels, IBM seeks to minimize duplication and maximize efficient and effective use of resources at border posts. A model that has been enjoying much success in the sub-Saharan African context is that of One-Stop Border Posts (OSBPs). Specifically designed to optimize processing times at border crossing points along major trade routes, OSBPs house border services of neighbouring countries in the same structure, significantly improving cooperation, effectiveness and waiting times.

4) Humanitarian Border Management

Humanitarian Border Management (HBM) is a key sector in IOM's Migration Crisis Operational Framework (MCOF)³⁶ and describes the border operations before, during and after humanitarian crises, involving large-scale cross-border movements. Applied correctly, HBM interventions protect crisis-affected individuals, including their right to *non-refoulement*, while respecting national sovereignty and security. Assistance to governments on building their HBM capacity involves, inter alia, putting in place that there are standard operating procedures (SOPs) to address sudden changes in the number of cross-border movements, developing and implementing emergency preparedness and contingency plans, establishing referral systems to ensure vulnerable migrants are assisted in the fastest way possible, and creating inter-agency cooperation mechanisms for a coherent response in the event of a crisis.

Beyond these measures, better border management is assured by identifying gaps by means of comprehensive border and migration management assessments, targeted and tailored provision of specialist training to border services' staff, the development and implementation of SOPs and by constructing the necessary facilities as well as equipping them with the relevant tools.



- ¹ Also known as Coordinated Border Management (CBM), cf. World Customs Organization (WCO), (2009) Coordinated Border Management – A Concept Paper, WCO Research Series.
- ² Though this is non-binding. General Assembly resolution, The Universal Declaration of Human Rights, A/RES/3/217 A, 10 December 1948.
- ³ General Assembly resolution, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights, A/RES/21/2200, 16 December 1966.
- ⁴ General Assembly resolution, Convention relating to the Status of Refugees, A/RES/429, 14 December 1950.
- ⁵ General Assembly resolution, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195.
- ⁶ General Assembly resolution, Convention on the Elimination of All Forms of Discrimination against Women, A/RES/34/180, 7 November 1967.
- ⁷ General Assembly resolution, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/39/46, 10 December 1984.
- ⁸ See <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>
- ⁹ See <https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>
- ¹⁰ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva, 12 August 1949; Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949; Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, available from: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByDate.xsp>
- ¹¹ Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, available from: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByDate.xsp>
- ¹² Cf. Article 3, Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949, available from: See <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/WebART/365-570006?OpenDocument>
- ¹³ WTO, DOHA WORK PROGRAMME – Ministerial Declaration, WT/MIN(05)/DEC, 22 December 2005, p. 9.
- ¹⁴ General Assembly resolution, Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda), A/RES/69/313, 17 August 2015, p. 42.
- ¹⁵ General Assembly resolution, United Nations Convention against Transnational Organized Crime, A/RES/55/25, 8 January 2001.
- ¹⁶ *Ibid.*, p.48
- ¹⁷ *Ibid.*, p. 30
- ¹⁸ General Assembly resolution, The United Nations Global Counter-Terrorism Strategy, A/RES/60/288, 8 September 2006.
- ¹⁹ Security Council resolution, S/RES/1373 (2001), 28 September 2001.
- ²⁰ Security Council resolution, S/RES/1566 (2004), 8 October 2004.
- ²¹ Security Council resolution, S/RES/1624 (2005), 14 September 2005.
- ²² Security Council resolution, S/RES/2178 (2014), 24 September 2014.
- ²³ Security Council resolution, S/RES/1373 (2001) p. 2, Security Council resolution, S/RES/1624 (2005) p. 3 and Security Council resolution, S/RES/2178 (2014) p. 4.
- ²⁴ Security Council resolution, S/RES/2178 (2014) p. 4.
- ²⁵ Cf. General Assembly resolution, A/RES/60/288 Pillar III, Security Council resolution, S/RES/1373 (2001) p.2, S/RES/1624 (2005) p. 3 and Security Council resolution, S/RES/2178 (2014) p. 4.
- ²⁶ *Ibid.*, p. 21.
- ²⁷ *Ibid.*, pp. 20, 25, 26
- ²⁸ Improving States' capacities for better migration governance is also highlighted as a recommendation in the Secretary-General's Special Representative for Migration's Report to the General Assembly; recommendation 11 "Invest in State capacities to manage migration" calls for the creation of a financial facility to this end, cf. General



Assembly, Integrated and coordinated implementation of and follow-up to outcomes of the major United Nations conferences and summits in the economic, social and related fields, A/71/728, 3 February 2017, p. 24.

²⁹ Providing legal identity for all also features in the Special Representative's report as recommendation 10 "Foster inclusion by equipping migrants with a proof of legal identity", *ibid.*, p. 23.

³⁰ Recommendation 12 of the Special Representative's report stresses the need to "Improve data for fact-based migration policies and accountability", *ibid.*, p. 25.

³¹ IOM Council, MIGRATION GOVERNANCE FRAMEWORK: The essential elements for facilitating orderly, safe, regular and responsible migration and mobility of people through planned and well-managed migration policies, C/106/40, 4 November 2015.

³² *Ibid.*, pp. 2-6.

³³ United Nations General Assembly, *Report of the Special Representative of the Secretary-General on Migration*, A/71/728, (New York, 2017).

³⁴ University of Maryland, Global Terrorism Database, available from:

https://www.start.umd.edu/gtd/search/Results.aspx?start_yearonly=&end_yearonly=&start_year=1970&start_month=1&start_day=1&end_year=2015&end_month=12&end_day=31&asmSelect0=&asmSelect1=&dtp2=all&success=yes&casualties_type=b&casualties_max=

³⁵ The Berne Initiative, *International Agenda for Migration Management*, (Berne, 2005).

³⁶ IOM Council, IOM Migration Crisis Operational Framework, MC/2355, 15 November 2012.