

PACIFIC CODE OF PRACTICE FOR RECRUITMENT OF HEALTH WORKERS

and

COMPENDIUM





IMPORTANT NOTE

The Pacific Code of Practice and its Compendium was endorsed at the Seventh Meeting of Ministers of Health for Pacific Island Countries in Port Vila, Vanuatu, 12 to 15 March 2007.

This document is not yet a formal publication of the World Health Organization. It is being distributed as reference material for technical meetings wherein the Pacific Code of Practice and its Compendium are included in the agenda for discussion.



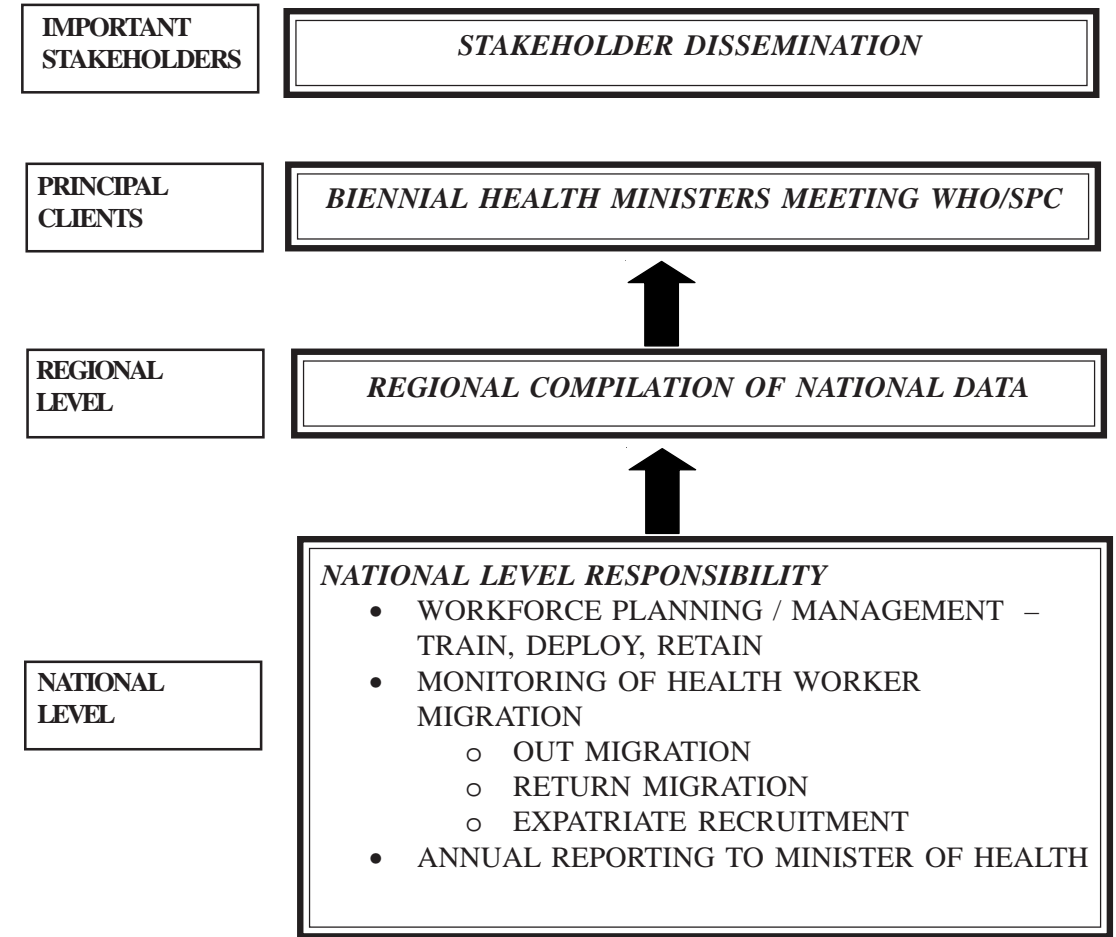
PACIFIC CODE OF PRACTICE FOR RECRUITMENT OF HEALTH WORKERS



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Pacific Code for Recruitment of Health Workers - Flow Chart



APPLICATION/IMPLEMENTATION

- 42) Governments need to ensure that they and other institutions and organizations concerned take all necessary steps to familiarize themselves and their agents with all the information required to evaluate the specific circumstances of countries in which they intend to recruit, and the possible impacts of recruitment on the capacity of the countries concerned to fulfil their obligations to their citizens to provide adequate health care services.

MONITORING AND EVALUATION

- 43) The monitoring and evaluation framework for the Pacific Code of Practice will involve all key players in health worker migration and recruitment in the Pacific region and should include collection of information on out migration to monitor International recruitment trends including countries targeted and agencies used.
- 44) Benefits of a monitoring and evaluation framework – influencing policy is best done through evidence-based decisions. Addressing health workforce mobility in the Pacific region to ensure a win-win outcome for all parties concerned needs to be based on the best possible evidence. A monitoring and evaluation framework would provide much of the information needed to enhance decision-making at the policy level by Pacific leaders and other decision-makers who deal with the health workforce. This will not only assist recruiting countries and institutions, but will also help safeguard the national health systems of source countries and provide benefits for recruits. Annex 1 outlines how data collected through a monitoring and evaluation framework might be disseminated to all key stakeholders.

Part I INTRODUCTION

1. Health workforce shortages are experienced inequitably within the Pacific Island countries and territories. Systematic recruitment of health workers by recruiting countries (from within and outside the Pacific region) to address their workforce problems has impacted negatively the health systems and health service provision of source countries.
2. The WHO migration study¹ identified that between 5% and 15% of doctors and nurses in most Pacific Island countries had migrated between 2000 and 2004 (the period of the study) with indications that the trend was increasing and likely to continue. The Pacific meeting on migration of health personnel coordinated by WHO in June 2003 echoed concerns about this trend. Other studies including one specifically focusing on doctors graduating from the Fiji School of Medicine 'Postgraduate training programme' since its launch in 1998² registered similar findings.
3. Concerned about the negative impact on the health systems of developing countries with the increasing emigration of their health workforce, the 57th World Health Assembly adopted the Resolution (Resolution WHA 57.19)³ on International Migration of Health Personnel with the request to develop a code of practice for the international recruitment of health personnel.
4. Independent of the World Health Assembly Resolution WHA 57.19, Commonwealth Health Ministers at the Pre-WHA Meeting in May 2003 adopted the 'Commonwealth Code of Practice for the International Recruitment of Health Workers'⁴ as a consensus approach to dealing with the problem of international recruitment of health workers based on Commonwealth values of cooperation, sharing and providing support to each other.

¹WHO (2004). The migration of skilled health personnel in the Pacific Region - A summary report. WHO Regional Office for the Western Pacific, 2004.

²K. Oman et al. 'Donor countries may unintentionally become major beneficiaries of their own aid: the case of postgraduate specialist training at the Fiji School of Medicine' - PhD Thesis (unpublished).

³World Health Assembly (WHA) resolution 57.19 adopted in 2003.

⁴Adopted on 18 May 2003 at Pre-WHA Meeting of Commonwealth Health Ministers - Geneva.

5. In March 2005, Ministers of Health from Pacific Island countries agreed to develop a Pacific Code of Practice for the recruitment of health personnel from the Pacific region. The 'Pacific Code of practice for recruitment of health workers', herein thereafter referred to as the "Code", aims to provide a mechanism that could facilitate recruitment of health workers between and from Pacific island countries within a framework that is based on 'mutuality of benefits' for all parties involved.
6. The decision by Pacific Health Ministers to develop the 'Pacific Code of Practice' signified:
 - increasing concern about the continual loss of skilled health workers and a need to ensure where possible recruitment is ethical and managed;
 - agreement to promote and ensure transparency, fairness and mutuality of benefits between all parties concerned;
 - acknowledgement of the need to achieve an amicable balance between the right of recruiting countries to recruit against the right of source countries to be acknowledged/compensated for huge investments they had spent in training their health workers; and,
 - their collective agreement to implement the WHA Resolution 57.19.
7. The call by Pacific Health Ministers to develop the Code is in line with the Vision of Pacific Leaders embodied in the Pacific Plan for Strengthening Regional Cooperation and Integration⁵ and the specific reference to the 'pooling of resources and aligning of policies' to strengthen regional cooperation and collaboration between countries in the region.
8. The Code draws from a number of references including the 'Commonwealth Code of Practice for the International Recruitment of Health Workers'; the WHO Regional Strategy on Human Resources for Health 2006 - 2015⁶; the Commonwealth Teacher Recruitment Protocol⁷; the draft Pacific Protocol for Teacher Recruitment Forum Island Countries⁸; the England Department of Health 'Code of Practice for the International recruitment of Healthcare Professionals and human resource experts and stake holders'.
9. A compendium document, which should be read in conjunction with the Code, provides more detailed guidance and resource information.

⁵Pacific Plan for Strengthening Regional Cooperation and Integration - approved by FORUM Leaders, October 2005.

⁶WHO (2007) Regional Strategy on Human Resources for Health 2006-2015; Western Pacific Region, Manila.

⁷Commonwealth Teacher Recruitment Protocol - September 2004.

⁸PIC draft 'Pacific Protocol for Teacher Recruitment' - PIFS 2006.

As a practical example, the core components of a retention strategy in South Africa are summarized below¹:

South Africa - Strategies for retention

- (1) Provision of an enabling environment
 - A management system accommodating diversity
 - Meaningful employee involvement in decision making
 - Teamwork, including good management – personnel collaboration
 - Open channels of communication both vertical and horizontal , including social dialogue
 - Clear job descriptions and expected outcomes
 - Consultation and guidance of personnel for personal and professional development to realise their potential, knowledge, skills and professional values
 - Workplace Skills Plan, based on the Skills Development Act and the National Skills Development Strategy, for accelerating organization's development and investment in people
- (2) Monetary incentives
 - Performance linked incentives, based on objective criteria and transparent assessment procedures
 - Financial support for individual development, e.g. study aid
 - Study leave available to all personnel
 - Merit awards for outstanding performance
 - Subsidised accommodation
 - Rural allowance for retention
- (3) Non-monetary incentives
 - Recognition of good practice
 - Commending personnel for outstanding performance
 - Personal development linked to accountability
 - Career pathing to maximise potential
 - Delegation of powers linked to higher ranks for personal development
 - Respect and consideration of the worth of every officer
- (4) Capacity Building
 - Regular budget for capacity building
 - Support for capacity building including time off and financial assistance
 - Programmes should be made available to personnel at all levels
 - Keeping records of capacity building in all units and departments

Source: South African Department of Health (2001) (obtained from draft WHO Code of Practice – Option 1)

¹Draft WHO Code of Practice for International Recruitment of Health Workers and companion document - Option 1.

- 39) Governments are encouraged to examine a variety of measures to retain health workers in the health sector.
- 40) Governments are encouraged to devise methods to collect and analyze data on national health workers' movements within and outside their borders, on a regular basis, in order to inform policy decisions and planning as well as to monitor the implementation of the code of practice for recruitment of health workers in the Pacific region.

RETENTION STRATEGIES TO STEM THE FLOW OF THE INTERNATIONAL RECRUITMENT OF HEALTH WORKERS

- 41) Retention strategies should be based on a sound analysis of the situation, including the expectations and capacities of the social partners. They aim to meet a balance between individual expectations and organisational needs and may include:
- delaying departure through compulsory service during bonding period;
 - increasing salaries in the public health sector;
 - permitting health professionals in the public sector to practice privately;
 - providing incentives such as education benefits for children, housing, transportation, and day care facilities;
 - multi-skilling and training new cadres of workers.

Part II ***SPECIFICS OF THE CODE OF PRACTICE***

PURPOSE

10. The Code provides guidelines for an ethical approach to the international recruitment of health workers in a manner that takes into account the potential impact of such recruitment on health services in the source country and it seeks to safeguard the rights of recruits, and the conditions relating to their profession in the recruiting countries.

STATUS

11. The Code is NOT a legally binding document and cannot replace national legislations and regulations. However, within the framework of cooperation articulated in the Pacific Plan for Strengthening Regional Cooperation and Integration; Resolution 57.19 of the World Health Assembly and the Pacific Ministers of Health agreement on the need for the Code; it is hoped that governments will subscribe to its application and use in the Pacific region.

SCOPE

12. The Code applies to international recruitment and employment of health workers across all health worker disciplines. It is applicable to recruitment activities in the public and private health services sectors and includes permanent, locum and temporary employment.

GUIDING PRINCIPLES

13. The Code has two main guiding principles:
- A. Achieving the correct balance between the rights, obligations and expectations of source countries, recruiting countries/institutions, recruits and recruiting agencies (where involved).
- B. Respecting the principles of transparency, fairness and mutuality of benefits

Transparency

- Transparency should characterize any activities to recruit health care workers from one country to another. This would normally involve an agreement between recruiting countries and the source countries.
- Intergovernmental agreements offer benefits to all participating countries and support ethical standards in the recruitment of international healthcare professionals. These agreements also support the professional development of all healthcare professionals through the exchange of knowledge and skills.
- The Code requires recruiters to be transparent about the type of skills, expertise, the number of recruits, and grades being sought.

Fairness

- Recruiters should not seek to recruit health care workers who have an outstanding obligation to their own country, for example, contract of service agreed to as a condition of training. However, it is the responsibility of recruits to disclose such information, right from the outset of indicating their interest in working outside their country of origin.
- Fairness requires that recruiters provide full and accurate information to potential recruits on:
 - ♣ the nature and requirements of the job that recruits are expected to perform;
 - ♣ countries to which they are being recruited;
 - ♣ administrative and contractual requirements; and
 - ♣ their rights.
- Fairness also requires that recruiters provide recruits with accurate information about selection procedures.
- Recruiters should also ensure that, while working abroad, the recruits will be protected by the same employment regulations and have the same rights as equivalent grades of staff in the receiving country, for example rates of pay, professional development and continuing education, and, where possible, access to training.
- The Code does not wish to undermine the right of health workers to migrate to countries that wish to admit and employ them. The Code seeks to encourage the establishment of a framework of responsibilities between governments – and the agencies accountable to them – and the recruits. This framework would balance the responsibilities of health workers to their home countries which have supported their training (either through government or donor scholarships) – whether of a legal kind, such as fulfilling contractual obligations, or of

- pre-registration work be specified at recruitment. Pre-registration practice must be supervised: the recruit must not be given full responsibility for the management of patients or wards or clinics prior to registration. The work to be carried out after a recruit's arrival in the new job, but before registration, must be within the specified terms of the job concerned. Arrangements for pre-registration supervision should be clearly stated at the time of recruitment and adhered to thereafter;
- since the effects of indemnity and legal protection for health professionals have a high impact for health workers with respect to their ability to practice and meet claims, the likely costs of indemnity protection and the medico-legal environment of the recruiting country be made clear to the recruit during recruitment;
- medical ethics be adhered to in whichever country a medical practitioner seeks to practice, and similarly for other disciplines, professional ethics should be adhered to. Some countries - especially those federated states with multiple jurisdictions which each have responsibilities for health services and health human resources - may face particular challenges.

WORKFORCE PLANNING

- 36) Where governments have expended resources to train or support training either through government or donor scholarships, they may wish to consider strategies for ensuring that health professionals serve compulsorily for a specified period.
- 37) All countries should undertake measures to retain skilled health workers. They are also encouraged to put workforce planning high on the agenda, considering issues such as:
 - terms and conditions of service;
 - monitoring and evaluation of human resource strategies and activities;
 - supply of graduates;
 - recruitment and retention of staff;
 - on-going training and maintenance of professional skills;
 - work environment, with particular attention given to the resourcing and provision of health care at the community level and in rural areas and outer islands;
 - occupational health and safety.
- 38) Other issues surrounding the retention of health workers need to be examined and discussed, such as non-monetary compensation, improved infrastructure, appropriate facilities for childcare, transportation, housing, and continuing education.

- 31) Responsibility for such obligations lies with the source country and the health worker. Recruiting countries would do well to be aware of, and therefore respect, these obligations.
- 32) The hierarchy of rights – balancing the rights of source countries, of individual health workers and of recruiters – is important. *The Pacific Code proposes that during the health worker's period of 'bonding' the rights of the source country and the obligation of the health worker are paramount.* All health workers whose training has been funded through government supported schemes must therefore return part of their government's investment with a period of 'bonding' before they can make themselves available for employment outside their home countries.
- 33) *Determining the period of 'bonding'* – the Code recognizes this could be complex and suggests the application of a simple arrangement already used by some countries in the region (in their bonding arrangements) of **'one year of service for each year spent in government supported training'** to determine the length of the period of 'bonding'. Health workers who completely fund their own training and professional development would be exempt from this requirement.
- 34) For the majority of health workers, this would constitute one period of 'bond' immediately after graduation with an undergraduate diploma or degree. *For some categories of health workers, such as doctors, dentists and nurses, who may be sent overseas by their countries to gain further specialist qualifications, the total period of bonding' that would have to be served would comprise the total of the two (or more) training periods.*

SELECTION PROCEDURES/REGISTRATION

- 35) Recruits are often required to meet registration and licensure requirements in the recruiting country before they are allowed to practice. It is therefore recommended that:
- the recruiter ensure that the recruit is registered in his or her own country, and confirm qualification;
 - recruited health workers be not exempt from the regulatory requirements which apply to all workers in the recipient country;
 - potential recruits be fully and accurately informed of requirements and procedures for registration;

a moral kind, such as fulfilling a 'Bond' to the Government by providing service to the country which had provided their training opportunities – and the right of health professionals to seek employment in other countries.

Mutuality of benefits

- The capacities of countries that need to recruit staff and those which lose their skilled personnel vary significantly. Recruiters may be in a position to consider ways in which they could provide assistance to source countries.
- The expression of the principle of mutuality of benefits should/could take the form of technical assistance from recruiting countries to those from which countries are recruiting ('source' countries).
- Achieving a 'win-win' outcome for all parties (the source countries, recruiting countries/institutions and individual recruit) is the overarching goal of the Code.

RIGHTS AND RESPONSIBILITIES

- 14) The Code identifies rights and responsibilities as they apply to all Pacific Island countries and territories; recruiting and source countries/institutions; and, individuals recruited.

Health workforce policies - Pacific Island countries need to ensure they have in place health work force policies to facilitate recruitment, management and retention.

Clearance of health workers - Each recruit or the recruiting country needs to ensure clearance from the source countries is obtained prior to departure to recruiting country.

Ethical international recruitment of health workers - Each recruiting country/institution needs to identify the quantity and quality of the health workforce it requires to deliver needed services, and should undertake to manage international recruitment of health workers. This could be done through mechanisms such as government to government agreements to ensure its service requirements to its population is adequately met.

Recruitment agencies - Recruiting countries and healthcare organizations, using the services of agencies for international recruitment, are recommended to use only those agencies whose business is carried out in accordance with this Code of Practice.

Compensation/reparation/restitution - Governments recruiting from other Pacific Island countries should consider how to reciprocate through the use of government to government agreements for the advantages gained by doing so. This could include:

- ♣ programmes to reciprocate for the recruitment of a country's health workers through the transfer of technology, skills and technical and financial assistance to the country concerned;
- ♣ training programmes to enable those who return to do so with enriched value;
- ♣ arrangements to facilitate the return of recruits (subject to application of the non-discrimination principle and to the rights of the workers concerned in accordance with immigration and other laws); and
- ♣ acknowledgement/recognition by governments of return recruits of the experiences/courses received.

Each individual recruit needs to - (i) be assured of his/her freedom of movement; (ii) respect of obligations in source country, such as bond obligations; (iii) respect obligations in recruiting countries; and, (iv) be assured of their migrant workers rights. The recruit, prior to signing a contract, should ensure he/she fully understands details therein and is prepared to commit him/herself to honour the contract.

REGISTRATION

- 15) Registration/licensure to practise is the responsibility of the relevant regulatory body in each country and the specific requirements should be made known to recruits. It is the responsibility of the recruit to understand and comply with the jurisdictional requirements around registration/licensing and education

COMPENSATION

- 26) The capacities of countries to recruit staff vary significantly. Many developing countries have expressed the view that recruiting developed countries should in some way compensate source countries for the loss of personnel they have trained at great expense. Compensation may be in a variety of ways, such as building capacity in training institutions and re-insertion training.
- 27) Compensation could also take the form of arrangements which would include the provision of training programmes. Such training should be relevant to the context of the source country so that difficulties and frustrations experienced by returning recruits are minimized. There could be more general programmes to reciprocate for the recruitment of a country's health workers through the transfer of technology, skills and financial assistance to the country concerned.

STRATEGIES FOR ADDRESSING THE EFFECTS OF INTERNATIONAL RECRUITMENT

- 28) Governments could also consider bilateral agreements to regulate the recruiting process, with the aim to *minimize the adverse effects on the health care of the exporting countries*.
- 29) Arrangements for recruitment between member governments could be conducted on the basis of these bilateral agreements in which both countries would have responsibility for ensuring compliance with the Code and meeting its obligations. Systematic recruitment could then take place between these two countries under the agreed conditions.

MECHANISMS THAT BALANCE THE RIGHT OF HEALTH WORKERS TO SEEK EMPLOYMENT IN OTHER COUNTRIES AND THEIR RESPONSIBILITIES TO THE COUNTRIES IN WHICH THEY WERE TRAINED

- 30) Many countries require health professionals, trained at their government's expense, to serve in their own country for a set period after graduation. Such bonds should be both fair and reasonable.



- 20) Health workers recruited from other countries should enjoy the same rights and responsibilities as those of the indigenous workforce, in line with ILO conventions.
- 21) Candidates for recruitment should be supplied with a range of information on the specific position, covering job description, a named institution at which they will work and terms and conditions. They should also receive information about their local community, including access to public services, established social networks, available cultural support and local places of worship.

Mutuality of benefits

- 22) Mutuality of benefits recommends that both source and recipient countries should experience the benefits of international recruitment. It is an expression of reciprocity.
- 23) Recruiters may be in a position to consider ways in which they could assist source countries. Some strategies, which recruiters may wish to consider, can be through technical and financial assistance, access to specialist training and repatriation of skilled health workers.
- 24) It is expected that source countries would benefit from the enhanced skills and experiences of health professionals when they return. Measures should be taken to enable recruits to develop their qualifications, training, education and expertise so that, when returning home, they could add value to the health care systems in the source country.
- 25) Health professionals could be positively encouraged to return to their country of origin at the end of the contract period by the provision of air tickets and other incentives. These could form part of the recruitment package.

Mutuality of Benefits

Bilateral agreement is being negotiated between Fiji and Nauru in which Fiji may provide health workers for Nauru to assist in an immediate shortage situation and Nauru may provide course funds to Fiji to produce new health workers to replace those who left under this bi-lateral arrangement.

Informal locum arrangement between Solomon Islands and Papua New Guinea for anaesthetist from Port Moresby General Hospital to obtain training at the National Referral Hospital in Solomon Islands for a 6 week rotation. This meets the needs of the Solomon Islands for anaesthetic services and the individuals from Papua New Guinea receive payment.

MONITORING AND EVALUATION

- 16) The monitoring and evaluation framework for the Pacific Code of Practice will involve all key players in health worker migration and recruitment in the Pacific region and should include collection of information on out-migration / international recruitment trends including agencies used and countries targeted.



Country conditions

- 13) Advertisements by recruiting agencies have been known to capitalize on the recruiting country's positive geographic features and favourable economic conditions, with promises of attractive annual earnings. Often the earnings do not equate with the true cost of living in the recruiting country.
- 14) Potential recruits must therefore be given information, which includes details of relocating and living costs, so that they can make a careful assessment of whether the proposed move is of benefit.
- 15) They should also be given a fair assessment of:
 - the quality of life and cost of living issues including physical security afforded by their future working and living environments;
 - access to education and health care for themselves and their dependents.

Contractual requirements

- 16) There must be no discrimination to recruits in terms of pay and other employment conditions; access to training, education and other career development opportunities and resources; the right to join and have access to unions and other professional, vocational and representative organizations; and supervision and disciplinary arrangements.
- 17) The taxation regulations of the recruiting country need to be clearly spelled out, and the proportion of the recruit's salary that he/she is allowed to send to his or her own country for purposes of investment indicated.

Recruits' rights

- 18) Recruiting countries need to protect the rights of the recruits: the experience of exploitation of nurses who are recruited as part of systematic recruitment campaigns by private agencies shows the need for much greater transparency and clarity about the terms of employment.
- 19) Recruits may experience other difficulties such as cultural adjustments, which can cause ethical problems, and may need counseling about the new culture. Advice on labour and licensing laws in the host country must be provided.

- ***Nature and requirements of job***

- Registration requirements;
- Ethics pertaining to the profession;
- Indemnity protection;
- The medico-legal environment.

- ***Country conditions***

- The general condition of the country;
- Cost of living in the country;
- Housing and transportation arrangements;
- Taxation arrangements;
- Family rights, e.g. health, education.

- ***Contractual requirements***

- Hours and duties of work;
- General location of work;
- Terms and conditions of employment, (e.g. salary, leave entitlement, training);
- Length of contract;
- Renewal and opt-out clause.

- ***Recruits' rights***

- The right to representation by labour unions;
- The right to representation by professional associations;
- Health and safety rights;
- The right to leave, injury or sickness pay and unemployment insurance.

COMPENDIUM TO THE PACIFIC CODE OF PRACTICE FOR RECRUITMENT OF HEALTH WORKERS

Nature and requirements of job

- 11) Differences in recruitment, registration and pre-registration arrangements, and arrangements for testing language proficiency, should be clearly justified and stated. This should include full and accurate information about work permit status, and the rights and obligations arising from that status.
- 12) The nature and pre-requisites for the job as well as the work obligations and responsibilities of recruits must be clearly explained by recruiters, whether private or government, before the contract is signed.

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- d. the *rights of source countries*, who have invested substantial resources (either through direct government or development partner scholarship funding support) in training their health workers, need to be balanced with the *individual rights of health workers* to apply for and accept employment abroad if/when they *have fulfilled their obligations* to the country.
- e. the right of countries to expect their health workers to reciprocate the benefits they have received as a result of the investment in their training by serving the people of their country.
- f. the *rights of source countries* to require compensation/reparation/restitution or reciprocal benefits from recruiting countries/agencies or recruits need to be balanced with the *obligations of the recruit* and the *right of recruiting countries/institutions* to recruit.

B. Respecting the principles of transparency, fairness and mutuality of benefits

Transparency

- 8) In the context of the Code, transparency is the clear articulation of the intentions, plans and activities of all stakeholders to achieve a certain goal. Transparency for instance requires:
 - √ recruiters to be transparent about the type of health workers, level and mix of skills and expertise, number of recruits and duration of employment for the recruits being sought;
 - √ recruits to be transparent about their intention to seek employment outside their home country (whether on their own initiative or through an active recruitment drive from other countries); and
 - √ source countries to be transparent in notifying potential recruiting countries/institutions of conditions that need to be observed by recruiters and recruits.

Fairness

- 9) Fairness, in the context of the Code, means freedom from discrimination and dishonest recruitment practices. It demands that recruitment take place in conformity with agreed rules or standards.
- 10) Recruiters must provide information on the types of skills, experience, and numbers of recruits being sought. Details of the information that recruits should receive from recruiters should include the following:

Convention (Revised 1949); (ii) Convention 143 – Migrant Workers (Supplementary Provisions) Convention, 1975 and (iii) Convention 181 – Private Employment Agencies Convention, 1997. ILO Conventions, recommendations and reports are available online at www.ilo.org

SCOPE

- 6) The Pacific Code applies to international recruitment and employment of health workers across all health worker disciplines. It is applicable to recruitment activities in the public and private health services sectors and includes permanent, locum and temporary employment.

GUIDING PRINCIPLES

A. Achieving a balance between the rights, obligations and expectations of source countries, recruiting countries/institutions and recruits

- 7) It is extremely important to appreciate the complexity of the ‘pull and push factors’ involved in the mobility of health workers regionally and globally. These factors which include the rights, obligations and expectations may at times be in conflict with each other and may require careful attention to reach equitable outcomes for all parties, especially in areas such as:
 - a. the *rights of individual health workers* to apply for and accept employment abroad need to be balanced with *their obligations (and duty of care) to their country’s national health services*.
 - b. the *rights of recruiting countries* to provide high quality health services to their people through recruitment of health workers from other countries need to be balanced with *their obligation* (responsibility incumbent upon them) not to target recruitment of specific health personnel who are essential to the effective functioning of health services in the source country. This obligation must also be balanced with the *rights of individual health workers* to migrate.
 - c. the *rights of recruiting institutions* (which may be independent of individual countries, e.g. regional organisations or universities) to recruit need to be balanced with their *obligations* not to weaken the national health services of source countries. They may, for example, need to agree on a reciprocal mechanism that will strengthen national health services.

PURPOSE

- 1) The Pacific Code of Practice for the recruitment of health workers in the Pacific region has been developed to provide guidelines for an ethical approach to the international recruitment of health workers in a manner that takes into account the potential impact of such recruitment on health services in the source country.
- 2) The Pacific Code of Practice has been deliberately kept brief to facilitate easy interpretation and implementation. It is supported by this ‘*Compendium Document*’, which provides information on definition of terms used in the Code, which may have different interpretations, and more detailed explanations of concepts.
- 3) The compendium document is set out along the lines of the code to facilitate the linking of information. Some of the code is repeated in the compendium for ease of cross-referencing.

DEFINITION OF TERMS

Duty of care

Obligation (moral, legal or otherwise) incumbent upon a person (in this case a health worker whose training and professional development has been funded directly by government or through government arranged scholarships) to return a service or reciprocate a benefit (in this case to the source country and its people) in recognition of the investment that has been made in the health worker and that has made the health worker what he/she is.

Health worker:

A person skilled for working in the health services or related settings of the health sector; for the purposes of the Code the health workers are considered professionals, technicians and associate professionals. The professional groups include, but are not restricted to, the disciplines of physicians, nurses, midwife, dentists, pharmacists and psychologists; nursing and midwifery associate professionals; medical, dental and pharmaceutical assistants, opticians, physiotherapists; sanitarians; nutritionists and other allied health personnel.

Ethical international recruitment:

International recruitment that is conducted in line with policies/guidelines that consider the impact of international recruitment on source countries and aims to prevent adverse effects

on the health systems of source countries. This approach also seeks to safeguard the rights of individual recruits and promote fair labour practices in general.

International recruitment:

Recruitment of health workers from other countries (source countries) to work in the recruiting country. In the context of the Pacific Code, it refers to active recruitment in other countries.

Period of bond

Period of time for which a health worker, whose training and professional development have been funded by the government of the home (source) country, must work for that government. In some Pacific Island countries, this period is based on an agreement (such as a scholarship bonding agreement) to support the training of a health worker; in return, the health worker must work for the government for a specified number of years. While there is currently no regional standard for bonding, the Code proposes that the recruiting country/agency seek a certificate of clearance from the source country in case of active recruitment. This requirement does not apply to health workers who wholly finance their own training and professional development.

Pull factors

Positive factors that attract health workers to migrate to and work in another country. They may include improved conditions of service, more opportunities for training and career development, better opportunities for children's education, and greater opportunities for employment of spouses.

Push factors

Negative factors in source countries that (push or) contribute to health workers leaving the national health service for the private sector in the same country or migrating to another country to live and work. They include the absence of a career path or opportunities, lack of further (postgraduate) training opportunities, poor conditions of service compared to other countries, frustration with the public service system, high cost of living, lack of job security, high rates of crime, lack of education opportunities for children, and lack of employment opportunities for spouses.

Recruit:

A health worker who is in the process of an international recruitment procedure or who has already been recruited and employed in the health service of a country (recruiting country) other than the source country.

Recruiting country:

Country that is looking for, or succeeds in recruiting health workers from other countries, including the respective authorities and agencies acting on behalf of the recruiting country and its health services.

Recruiting institution

Institution that is looking for, or succeeds in recruiting health workers from countries in the region and elsewhere – such as regional and international organisations.

Source country:

Country from which a health worker is recruited. It may be the recruit's country of origin and/or the country of residence that has invested in and provided the recruit with education and professional development and qualification as a health worker

STATUS

- 4) The Pacific Code of Practice is NOT a legally binding document and cannot replace national legislations and regulations. It does not seek to challenge the rights of health workers to migrate in pursuit of employment or other reasons, but to safeguard both the health worker and the potential benefits migration can generate. Within the framework of cooperation articulated in Resolution 57.19 of the World Health Assembly; the Pacific Plan for Strengthening Regional Cooperation and Integration; and the Pacific Ministers of Health agreement on the need for such a Code; it is hoped that governments will subscribe to its application and use in the Pacific region.
- 5) There are existing international guidelines, agreements, conventions and treaties relating to the movement of persons across borders including:
 - The World Trade Organization (WTO) General Agreement on Trade in Services (GATS) which covers in the international movement of service providers as well as other aspects of international trade in services. Under its terms, countries can choose whether or not to 'commit' health as one of the services covered by the agreement, and define many of the terms and conditions upon which they do so. Labour standards are however completely absent from all WTO agreements currently thus the role of International Labour Organization (ILO) conventions is very significant.
 - In addition to a range of ILO conventions covering such issues as freedom of association and other rights and obligations of employers, employees and governments, three conventions are of particular relevance; (i) Convention 97 – Migration for Employment