

# ASSESSMENT OF THE ZERO DRAFT OF THE GLOBAL COMPACT FOR SAFE, ORDERLY AND REGULAR MIGRATION

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On February 5th, the co-facilitators of the Global Compact for Safe, Orderly and Regular Migration (GCM) released the “zero draft” with 22 core commitments. The GCM, to be adopted in 2018, presents a crucial step towards an improved framework for global migration governance and ensuring that migrants, whether seeking a better life or escaping violence and poverty, can do so in a safe, predictable, and orderly manner. The Mixed Migration Centre (MMC) welcomes the commitment by the international community to, through adoption of the GCM and implementation of the commitments, contribute to enhanced cooperation on international migration in all its dimensions.

This brief provides an assessment of the Zero Draft of the GCM while as agreed also referring to elements of the report of the UN Secretary-General (*‘Making migration work for all’*). Below are the key points, while the remainder of the document includes a more detailed assessment:

## KEY-POINTS

- Notwithstanding the concerns expressed below the MMC fully supports the objectives and actions as outlined in the zero draft of the GCM. The GCM has the potential to realise a significant improvement in global migration governance.
- The MMC supports the notion that the GCM places individuals at its core and welcomes the explicit reference to migration as a source of prosperity, innovation and sustainable development.
- The GCM should use this opportunity to commit to or call for improved ratification of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.
- MMC welcome the strong focus on sustainable development and linkages with the 2030 Agenda for Sustainable Development (SDGs) throughout the GCM. However, international development is good in its own right and we should be careful that ‘curtailing’ migration is not increasingly used to justify international development. Moreover, due to the strong focus on (economic) root causes of migration, the GCM does not

<sup>1</sup> This document has been prepared by the Mixed Migration Centre (MMC, established in February 2018; formerly known as GMMS at central level and its regional hubs RMMS East Africa, RMMS West Africa, MMP and 4Mi). While the MMC is part of the Danish Refugee Council (DRC), it operates independently and MMC positions do not necessarily reflect the position of the DRC.

sufficiently recognize that convincing evidence has shown that economic development will lead to more migration.

- Since ‘traditional’ data sources do not sufficiently capture including irregular migration, the GCM should include a stronger commitment to further invest in innovative data collection mechanisms that are able to capture the full phenomenon of mixed migration.
- The MMC welcomes the commitment to promote the operationalisation of the MICIC guidelines, but strongly encourages to also take these in consideration with regard to (refraining from) returning migrants to countries in crisis.
- The GCM should include more explanation on the purpose of early warning systems and safeguards on how to ensure this information is not used to prevent people from moving.
- The GCM does not include sufficient reference to safeguards against abuse of equipping all migrants with proof of legal identity.
- The MMC fully supports and welcomes the various proposals for actions to enhance availability and flexibility of pathways for regular migration. However, expanding regular pathways should not be presented as a panacea for reducing irregular migration, but as an objective that is worth striving for in its own right.
- MMC welcomes the inclusion of the concept of ‘firewalls’ various objectives and strongly encourages to keep this concept in the adopted version of the GCM.
- MMC strongly suggests to explicitly include and highlight the principle of non-refoulement of migrants in the GCM, since this concept applies to all migrants regardless of status.
- MMC welcomes the commitment to end the impunity of smuggling networks. However, the GCM fails to recognize and address the fact that smuggling (and trafficking) networks are not able to operate without involvement of state officials and to address related issues of corruption and collusion.
- The GCM should more explicitly refer to the reality of mixed flows on the ground, where regardless of status, people in mixed migration flows have very similar needs and vulnerabilities. MMC would welcome a stronger call for complementarity between the GCM and the Global Compact on Refugees (GCR).
- MMC fully welcomes the commitment to end the practice of child detention in the context of international migration and suggests to include a concrete timeline for the realisation of this objective.
- The GCM could include a stronger call to politicians, opinion makers and journalists to stick to the facts and refrain from dehumanizing language. MMC also argues for the inclusion of more concrete actions that could help to move the migration debate from emotionality to rationality and create a more positive public discourse on migration.
- The actual follow-up and implementation of all the commitments – as well as monitoring of the implementation – will be crucial. MMC would welcome a stronger reference to how progress will be monitored and recommends to explore the possibility to set up a more comprehensive monitoring framework with clearly defined benchmark indicators for each of the objectives.
- MMC suggests to include a more explicit role for various non-state, non-UN stakeholders in the follow-up and monitoring of the implementation of the GCM.

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## OVERALL ASSESSMENT

Overall, the co-facilitators of Mexico and Switzerland can be congratulated for drafting an excellent zero draft of the GCM. The document includes 22 important objectives, covers many crucial topics, provides a balanced picture of migration and offers many concrete ideas and suggestions. Notwithstanding some concerns expressed, **the MMC fully supports the objectives and actions as outlined in the zero draft of the GCM.**

We truly hope the delegations in New York will be committed to uphold this zero draft as much as possible during the negotiations. Subsequently, **the actual follow-up and implementation of all these commitments – as well as monitoring of the implementation – will be crucial.** If many of the commitments outlined in the GCM will become implemented, this will be a massive step forward in global migration governance.

This assessment continues by highlighting particular aspects of the zero draft, as well as expressing some concerns.

## PREAMBLE, SECTION 1

The preamble lists various conventions and treaties. However, throughout the document no reference is made to the most comprehensive international treaty in the field of migration and human rights - *The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* – even though various elements (e.g. on family reunification and rights regardless of status) are included in the GCM. **We believe the GCM process provides an opportunity to commit to or call for improved ratification of the ‘Migrants Workers’ convention**, which so far has been poorly ratified and only by countries that could be broadly characterised as countries of origin.

## VISION AND GUIDING PRINCIPLES, SECTIONS 6 AND 13

The vision and guiding principles are balanced and we particularly welcome the following two statements: *“Migration has been part of the human experience throughout history, and we recognize that it can be a source of prosperity, innovation and sustainable development in our globalized world”* and *“We ensure effective respect, protection and fulfilment of the human rights of all migrants, regardless of their status”*.

The strong focus on sustainable development and linkages with the 2030 Agenda for Sustainable Development (SGDs) throughout the GCM are welcomed. However, three points of concern should be raised here.

First, while not explicitly stated, the focus on development throughout the GCM tends to be linked to the ‘root causes’ approach to migration, in the sense that investing in (economic) development will reduce the pressure to migrate. However, convincing evidence has shown that economic development (until countries reach upper middle income status) will actually lead to more migration. As such, migration could also be seen as the (positive) outcome of increased development, not only as the result of poor or under-development. Moreover, decisions to migrate are shaped by many other factors and aspirations than economic considerations alone.

Second, the strong focus on development in the GCM carries the risk that priorities in international development will increasingly be defined by whether or not a country is of relevance from a migration perspective (e.g. a sending or transit country for a considerable number of migrants). Since countries lowest on the Human Development Index generally also have relatively lower numbers of international migrants leaving, this means international development aid may become increasingly diverted from where it is most needed. As stated in the UNSG report (point 31), **international development is good in its own right. We should be careful that ‘curtailing’ migration is not increasingly used to justify international development.**

Finally, while the GCM includes explicit reference to the 2030 Agenda for Sustainable Development (SGDs), it lacks a reference to the 2035 Agenda for Facilitating Human Mobility, proposed by the Special Rapporteur on the human rights of migrants, which proposed eight human mobility goals based on targets 10.7 and 8.8 of the SDGs.

## OBJECTIVE 1

The objective to build upon better data as a basis for evidence-based policies is very necessary and welcome. However, as also noted in the introduction of the UNSG report, data on migration is incomplete. Databases on international migration (like UNDESA and the World Bank) mainly include regular migration, and therefore do not fully capture mixed migration, including irregular migration. Although ‘leveraging new data sources’ is mentioned as one of the actions, **a stronger commitment to further invest in innovative data collection mechanisms that are able to capture the full phenomenon of mixed migration** and provide reliable data on the vulnerabilities of migrants in mixed migration flows could be pursued.

## OBJECTIVE 2

We welcome the commitment to promote the operationalisation of the MICIC guidelines. **We strongly encourage to also take the MICIC guidelines in consideration with regard to (refraining from) returning migrants to countries in**

**crisis**, such as is currently happening with interceptions in the Mediterranean and returns to Libya, which, depending on the specific situation could also amount to violations of the principle of *non-refoulement*.

Action d) puts too much emphasis on drivers of displacement / forced migration, instead of taking into account the wide variety of driving forces that make people decide to migrate and act upon this decision as active agents of their own decisions. It is crucial though that reference has been made to the importance of societies with effective, incorrupt and accountable institutions that provide access to justice and human rights protection for all, as it the absence of these that makes many young people to lose hope in their own countries and decide to migrate.

The proposal (under Action e)) to strengthen crisis centres to monitor and anticipate cross-border movement and to strengthen early warning systems raises some questions. Is this meant to predict refugee movements to prepare an emergency response, or is it meant to predict longer distance international migration movements. If the latter, **what would be the purpose of early warning systems and how to ensure this information is not used to prevent people from moving. If this action is included in the GCM, we would encourage the inclusion of some safeguards.**

In Action i) *“Strengthen collaboration between humanitarian and development actors, including by promoting joint analysis, multi-donor approaches and multi-year funding cycles, in order to develop long-term responses that increase protection, resilience and coping capacities of populations, as well as economic and social self-reliance, and by ensuring these efforts include migration considerations”* it is unclear what is meant with ‘migration considerations’, although it may be read as ‘efforts to reduce migration’. As stated in the response to the vision and guiding principles above, **we urge to be careful not to use ‘migration considerations’ to justify activities in other policy domains, in particular in international development.**

### OBJECTIVE 3

In Action f, *“Promote multi-lingual information campaigns and organize awareness-raising events and pre-departure orientation trainings in countries of origin, in cooperation with local authorities, consular representations, the private sector, academia, migrant and diaspora organizations and civil society, to inform potential migrants about the challenges and opportunities of migration, including on the risks and dangers involved in irregular migration carried out through traffickers and smugglers”*, we question whether informing about the opportunities will be truly part of the campaigns, or whether it will be overshadowed by information about challenges and risk awareness campaigns. **With regard to risk awareness campaigns, we question the impact and purpose.** Research, including research by RMMS in the Horn of Africa, has repeatedly shown that migrants are very well aware of the risks of migration. Moreover, information coming from (or funded by) an untrusted and unknown source (e.g. the government of destination country), most likely with the purpose of discouraging migration, is easily disregarded by potential migrants.

### OBJECTIVE 4

We welcome the objective to equip all migrants with proof of legal identity, especially to avoid situations of statelessness. However, **the GCM does not include sufficient reference to safeguards against abuse of equipping all migrants with proof of legal identity**, such as discriminatory policing, profiling and loss of liberty. Moreover, while objective 4 includes a number of actions, it does not sufficiently recognize the enormous challenge of providing all migrants with identity documents and neither provides convincing and concrete suggestions how to address these challenges.

### OBJECTIVE 5 AND 6

We fully support and welcome the various proposals for actions to enhance availability and flexibility of pathways for regular migration and look forward to concrete follow-up towards implementations of these actions. We particularly welcome the fact that the GCM does not explicitly connect these actions to the objective to reduce irregular migration. In the UNSG report (paragraph 37), the case for “boosting regular migration” is made by linking it with “fewer irregular border crossings” and [...] “fewer abuses of irregular migrants”. However, expanding pathways for regular migration is good in its own right and if well managed will benefit migrants, origin countries and destination countries. While

obviously an expansion of regular pathways will to some extent reduce irregular migration, it is unlikely the availability of regular pathways – both regional and cross-regional - will be able to match the ‘demand for migration’, meaning migrants will continue to migrate irregularly. **Expanding regular pathways should therefore not be presented as a panacea for reducing irregular migration, but as an objective that is worth striving for in its own right.**

We particularly also welcome Action h) and i) (*“End the practice of tying work visas to a single employer or sponsor in order to prevent violations of human rights and promote greater opportunities for decent work”* and *“Prohibit, through national legislation, non-State entities from confiscating or retaining travel or identity documents, as well as work contracts from a migrant in order to prevent abuse and exploitation, and allow migrants to fully exercise their human rights”*) and **strongly encourage the delegations to ensure these statements remain in the final draft of the GCM**, as the practices these statement refer to cause severe abuse and protection issues for migrant workers.

Finally, we welcome the inclusion of the concept of ‘firewalls’ in objective 6 and various other objectives and again strongly encourage to keep this concept in the adopted version of the GCM.

## OBJECTIVE 7 AND 8

While the UNSG report only stated the Global Migration Group (GMG) has “done valuable work”, we appreciate the GCM zero draft goes one step further in committing to promoting the operationalisation of the GMG *‘Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations’*.

The following two committed actions under objectives 7 (h) and 8 (a) are of the utmost importance for the protection of vulnerable migrants.

*“Involve local authorities and stakeholders in the identification, referral and assistance of migrants in a situation of vulnerability, including through agreements with national protection bodies, legal aid and service providers, as well as the engagement of mobile response teams”* and; *“Develop procedures and agreements on search and rescue with the primary objective to protect migrants’ right to life that refrain from pushbacks at land and sea borders and enhance reception and assistance capacities, while ensuring that the provision of humanitarian assistance for migrants is never criminalized”*.

Yet, it will be crucial to see a swift follow-up and concrete commitment to these actions, especially since we are increasingly seeing examples of push-backs at sea and land borders. In this regard, **we would strongly argue to explicitly include and highlight the principle of non-refoulement of migrants in the GCM**. The principle of non-refoulement applies to all migrants regardless of status and – particularly in the current context – is thus worth re-stating in the GCM.

Furthermore, **the nature of the proposed mobile response teams requires clarification**. Mobile teams can provide critical assistance to migrants, especially along migration routes passing through remote and harsh terrain. It is unclear, however, from the statement whether these teams will have a humanitarian/protection focus, or could also be employed to intercept migrants and coerce them into returns.

## OBJECTIVE 9

Objective 9 is balanced and includes – and should keep - the important notions around ‘non-criminalisation’ of smuggled migrants and the concept of ‘smuggling under aggravated circumstances’. The latter points to the increasingly thin line between smuggling of migrants and human trafficking, even though the GCM rightly points out it is important to distinguish between the two and use correct definitions and distinct policies. We welcome the commitment to end the impunity of smuggling networks. However, **the GCM fails to recognize and address the fact that smuggling (and trafficking) networks are not able to operate without involvement of state officials**, or at least with state officials turning a blind eye. Data collected by the MMC through its 4Mi initiative<sup>2</sup> consistently points to the

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<sup>2</sup> Mixed Migration Monitoring Mechanism Initiative

involvement of certain state officials, who are colluding with smugglers and traffickers, taking bribes and, even worse, are among the most common perpetrators of abuses committed towards migrants on the move.

## OBJECTIVE 12

Objective 12 includes the notion to clearly distinguish between refugees and migrants. While legally speaking this distinction should be made, it is important to highlight that to a large extent the New York summit and resulting process towards the two Compacts, are the result of large mixed movements of refugees and migrants. The GCM zero draft insufficiently refers to the issue of mixed migration (referred to only 4 times throughout the document). There are many contexts worldwide (e.g. migrants in Libya or Yemen) where, while of course there is the legal distinction, migrants and refugees face exactly the same risks and abuses and are just as vulnerable. Stressing the distinction between refugees and migrants may have the adverse effect of a decreasing protection space for migrants.

While the GCM zero draft includes many actions and commitments that address this, **the GCM should more explicitly refer to the reality of mixed flows on the ground**, where regardless of status, people in mixed migration flows have very similar needs and vulnerabilities. Furthermore, and related, **we would welcome a stronger call for complementarity between the GCM and the Global Compact on Refugees (GCR)**. The international community committed to developing the two compacts to address the challenge of mixed movements, and as such it is crucial to make the strongest possible reference to mixed migration and unequivocally stress the need for two compacts that do not only co-exist, but actually strengthen each other.

## OBJECTIVE 13

In Action g) - *“Uphold the protection and respect for the rights and best interests of the child at all times, regardless of their migration status, by ending the practice of child detention in the context of international migration, and providing alternatives to detention that include access to education, healthcare and allow children to remain with their family members or guardians in non-custodial contexts, including community-based arrangements”* – we fully welcome the first part, to end the practice of child detention in the context of international migration. While we understand that child detention cannot be ended overnight, **we suggest to include a concrete timeline by which child detention in the context of international migration should be ended.**

## OBJECTIVE 17

We welcome the commitment to *“promote an open and fact-based public discourse on migration in partnership with all parts of society, that generates a more realistic and constructive perception of migration.”* Most actions under objective 17 are, however, targeted against discrimination and negative perceptions. **We argue for the inclusion of more concrete actions that could help to move the migration debate from emotionality to rationality and create a more positive public discourse on migration.** This links to paragraph 13 of the UNSG report, stating that it is “essential to address the underlying vulnerabilities and fears of all citizens so that we can make migration work for all”. In this regard, **the GCM could also include a stronger call to politicians, opinion makers and journalists to stick to the facts and refrain from dehumanizing language.** While in line with the UNSG report, the fears of all citizens – including those of host countries – should be taken seriously, the use of dehumanizing language and especially water metaphors (such as floods, streams, flows and waves) convey a notion of danger and an uncontrollable situation to the wider public, thereby doing possibly as much harm to the overall migration debate as outright hate speech.

## IMPLEMENTATION, FOLLOW-UP AND REVIEW

We welcome the concrete suggestion to repurpose the High-level Dialogue on International Migration and Development and rename it the International Migration Review Forum and make the Forum the primary global platform for Member States to discuss and share progress on the implementation of the GCM. Moreover, we fully agree with the notion that most migration takes place within regions and therefore welcome the suggestion to convene a Regional Migration Review Forum, to share progress on the implementation at regional level.



However, we suggest a more concrete and explicit clarification of the governance structure, especially on the roles of IOM, the GFMD and the GMG. Given the strong and commendable focus on regular labour migration, fair recruitment and decent work conditions, **we strongly suggest to include a more explicit reference to the role of the ILO in the implementation, follow and review of the GCM.** Moreover, in line with the guiding principle of a *whole-of-society* approach, **we suggest the GCM includes a more explicit role for various non-state, non-UN stakeholders in the follow-up and monitoring of the implementation of the GCM,** whether through the GFMD or directly through the involvement of civil society in the International and Regional Migration Review Fora. While fully acknowledging the non-legally binding nature of the GCM, “discussing and sharing progress” as well as the call for “regular voluntary reports” in Paragraph 83 of the UNSG report, entail a very light form of monitoring. **We would welcome a stronger reference to how progress will be monitored, who will assess progress and possible follow-up when implementation of commitments lacks behind.** In that regard, even though the implementation will take time, to have the first Forum in 2022, almost 4 years after adoption of the GCM runs the risk of losing the momentum, especially with limited concrete mechanisms for monitoring implementation in period in between. To increase the accountability for the various commitments in the GCM, **we recommend to explore the possibility to set up a more comprehensive monitoring framework with clearly defined benchmark indicators for each of the objectives.**



The **Mixed Migration Centre** has been established in **February 2018**. It brings together various already existing initiatives working on data collection, research, analysis and policy development on mixed migration that the Danish Refugee Council (DRC), together with partners, has been hosting or leading in

different regions. This includes the [Regional Mixed Migration Secretariat](#) (RMMS) for East Africa & Yemen, the [RMMS West Africa](#), the [Mixed Migration Platform](#) (MMP) in the Middle East, the Global Mixed Migration Secretariat (GMMS) in Geneva and different programmes of the [Mixed Migration Monitoring Mechanism Initiative \(4Mi\)](#), which has monitors collecting data on mixed migration in over 20 countries across different migration routes globally, conducting over 10,000 in-depth interviews with migrants and refugees on the move annually. The MMC is led from Geneva, but maintains its strong regional presence in its hubs Nairobi, Dakar, Tunis, Kabul, Geneva and Copenhagen in close cooperation with regional partners, stakeholders and donors.

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