



## **ACTRAV/ITC-ILO Course (A155169)**

**Trade Union Actions for Achieving Decent Work for Migrants  
(Kisumu, Kenya, 21 – 25 May 2012)**

# **Governance of Labour Migration: Coordination among Institutions and Issues of Policy Coherence**

# Outline of the Presentation

- ✓ Introduction
- ✓ Concept and criteria for good labour migration governance
- ✓ Criteria of good migration governance
- ✓ Actors and elements of migration governance
- ✓ Migratory “life cycle” approach to governance
- ✓ International legal framework for the protection of migrant workers
- ✓ Policy responses to labour migration in countries of origin
- ✓ Policy responses in destination countries
- ✓ International cooperation
- ✓ ILO Multilateral Framework on Labour Migration
- ✓ ILO Plan of Action: other elements
- ✓ IOM’s approach to migration governance
- ✓ Programmatic approach
- ✓ IOM’s partnership approach
- ✓ Policy coherence

# Introduction

- ✓ International migration is a complex human endeavour, shaped by local and global socio-economic and political forces and factors
- ✓ There is no single, unified global regime to govern migration
- ✓ Migration governance is a multi-layered, multi-actor, and multi-dimensional phenomenon
- ✓ Governance of international migration is the sovereign right of States, but States are to govern migration in full respect of international law

# Introduction

- ✓ Increasingly, States are recognising the importance of inter-State cooperation in governing migration
- ✓ Over the past decades, various institutional structures, processes and modalities have evolved for advancing dialogue and cooperation to govern migration



# Concept of Migration Governance

## IOM's Working Definition of Governance of Migration:

- ✓ “System of institutions, legal frameworks, mechanisms, and practices aimed at regulating migration and protecting migrants. Used almost synonymously with the term ‘migration management’ ...”  
*(IOM Glossary of Migration, 2<sup>nd</sup> Edition, 2011)*

## Migration Management

- ✓ “Encompasses numerous government functions within a national system for the orderly and humane management of cross-border migration, particularly managing the entry and presence of foreigners within the borders of the State and the protection of refugees and others in need of protection. It also refers to a planned approach to the development of policy, legislative, and administrative responses to key migration issues.”

*(IOM Glossary of Migration, 2<sup>nd</sup> Edition, 2011)*

# Criteria of Good Labour Migration Governance

- ✓ Rule of law framework: Consistency with international standards
- ✓ Policy coherence
- ✓ Gender sensitivity
- ✓ Transparency and flexibility
- ✓ Social dialogue
- ✓ Evidence/ data-based policies



Source: ILO, *International labour migration: A rights-based approach*, Geneva, International Labour Office, 2010

# Actors and Elements of Migration Governance

**National policies  
& laws**

**Migrants, migrant networks,  
civil society**

**States**

**Bilateral  
cooperation**

**Private sector  
employer**

**Regional  
institutions,  
Integration  
processes**

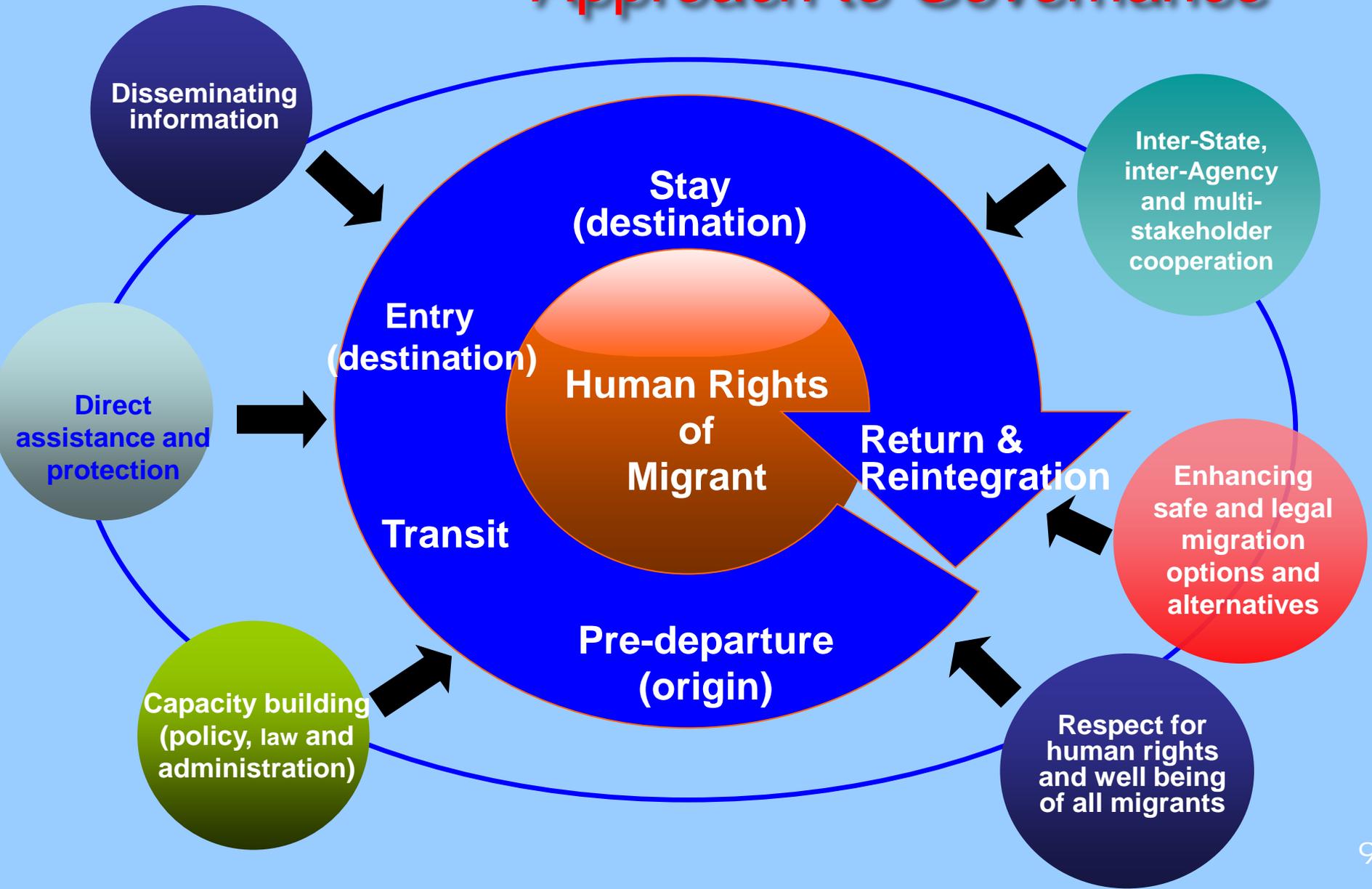
**international  
organisations**



**International  
Migration Law**

**International fora  
(GFMD, IDM)**

# Migratory “Life Cycle” Approach to Governance



# International legal framework for the protection of migrant workers

- ✓ ILO has constitutional mandate to protect migrant workers
- ✓ Pertinent International Labour Standards include
  - ✓ 8 fundamental ILO Conventions addressing abolition of forced labour, elimination of child labour, trade union rights, and non-discrimination in employment and occupation
  - ✓ Migration for Employment Convention (Revised), 1949 (No. 97) and Migrant Workers (Supplementary Provisions Convention, 1975 (No. 143)
  - ✓ Accompanying Recommendations Nos. 86 and 151
  - ✓ Standards with specific provisions (e.g. social security, Convention and Recommendation on decent work for domestic workers, 2011)
  - ✓ Standards of general application (e.g. labour inspection)
- ✓ ILO Multilateral Framework on Labour Migration (see below)

# International legal framework for the protection of migrant workers (2)

## ✓ Core international human rights instruments

- ✓ ICCPR (International Covenant on Civil and Political Rights)
- ✓ ICESCR (Int. Covenant on Economic, Social & Cultural Rights)
- ✓ ICERD (Int. Convention on the Elimination of All Forms of Racial Discrimination)
- ✓ CEDAW (Convention on the Elimination of Discrimination Against Women)
- ✓ ICRMW (International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families)
- ✓ CRC (Convention on the Rights of the Child)
- ✓ CRPD (Convention on the Rights of Persons with Disabilities)
- ✓ Include UN Migrant Workers Convention (ICRMW), 1990

## ✓ International criminal law

- ✓ Two Protocols on Smuggling of Migrants and Trafficking in Persons supplementing UN Convention against Transnational Organized Crime, 2000
  - ✓ Latter Protocol applicable also to trafficking for labour exploitation

## ✓ Regional legal frameworks

# Policy responses to labour migration in countries of origin

THREE underlying issues:

1. Policies to protect migrant workers
2. Policies to harness and maximize the benefits of organized labour migration (for development)
3. Administration of labour migration



# Policy responses to labour migration in countries of origin (2)

## 1. Policies to protect migrant workers

- ✓ Regulation of recruitment/ private employment agencies
- ✓ Pre-departure orientation and preparation
- ✓ Support services (e.g. labour attachés abroad, welfare funds)

## 2. Policies to harness and maximize the benefits of organised labour migration (for development)

- ✓ Investigating demand for foreign workers in destination labour markets
- ✓ Information dissemination
- ✓ Training and skills development
- ✓ Facilitating transfer of financial and social remittances
- ✓ Mitigating negative effects, e.g. “brain drain”, social costs
- ✓ Supporting bilateral and regional labour arrangements

# Policy responses to labour migration in countries of origin (3)

## 3. Administration of labour migration

- ✓ Data collection
  - ✓ Importance of good statistics for policy making
- ✓ Inter-ministerial coordination
  - ✓ Which ministry or government agency should be responsible for labour migration?
- ✓ Social dialogue
- ✓ Resource allocation
- ✓ Monitoring and evaluation



# Policy responses in destination countries

- ✓ Underlying issues:
  - ✓ Assessing current and predicting future labour shortages
  - ✓ Demographic factors
  - ✓ Protection of rights of migrant workers
  - ✓ Addressing irregular migration
  - ✓ Development-friendly policies?
  - ✓ Addressing attitudes in host population



# Policy responses in destination countries (2)

- ✓ Foreign labour admission policies:
  - ✓ Assessing the need for foreign labour
    - ✓ Migration only one of the responses to addressing labour shortages
  - ✓ Organising admission
    - ✓ Labour market tests, occupational shortage lists
    - ✓ Quotas and ceilings
  - ✓ Labour admission policies
    - ✓ Permanent employment-based immigration or temporary labour migration?
    - ✓ Circular migration?

# Policy responses in destination countries (3)

- ✓ Post-admission policies
  - ✓ Labour market access and mobility
  - ✓ Protection in employment context
    - ✓ For example, are all workers, such as domestic or agricultural workers, covered by national labour legislation?
    - ✓ Trade union rights
    - ✓ Effective labour inspection and enforcement
  - ✓ Facilitating social cohesion/ preventing marginalization
    - ✓ Addressing discrimination
    - ✓ Integration and family reunification
  - ✓ Enhancing social welfare
    - ✓ Health care, adequate housing, education
  - ✓ Social security – including portability of benefits
- ✓ Measures to address irregular labour migration

# International cooperation

- ✓ Principal means of international cooperation at bilateral, regional and global levels:
  1. Formal mechanisms
  2. Less formal and consultative mechanisms
  3. Cooperation involving social partners
- ✓ Given the transnational nature of labour migration, there are limits to what states can do alone

# International cooperation (2)

## 1. Formal mechanisms

- ✓ Bilateral labour agreements (e.g. Spain-Colombia)
- ✓ Regional integration (e.g. EU, ECOWAS, SADC, ASEAN)
- ✓ Multilateral level
  - ✓ ILO and UN Conventions on migrant workers (see above)
  - ✓ General Agreement on Trade in Services (GATS) Mode 4

## • 2. Less formal and consultative mechanisms

### ➤ Global initiatives

- ✓ Berne Initiative's International Agenda for Migration Management (2005)
- ✓ ILO Multilateral Framework on Labour Migration (2006)
- ✓ Global Forum on Migration and Development (2007-2011)
- ✓ Regional Consultative Processes (RCPs)
  - ✓ E.g. "Colombo Process"

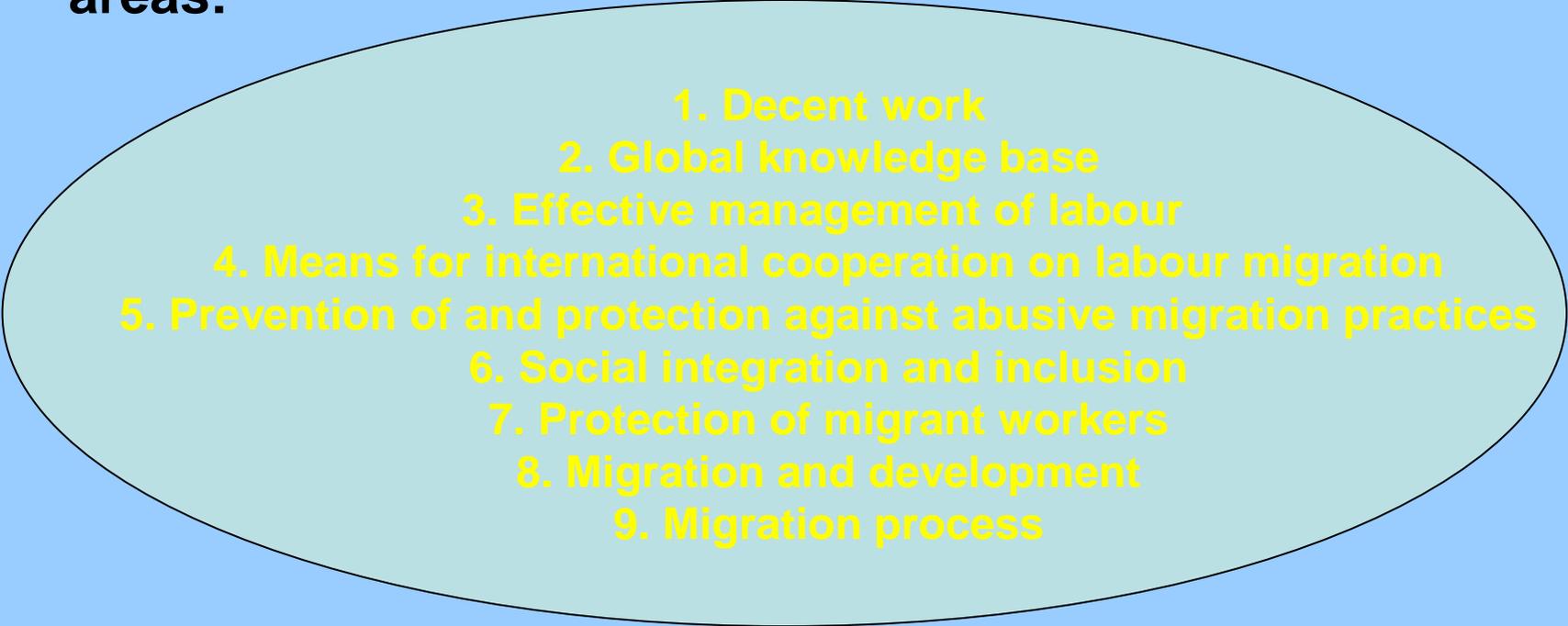
## 3. Cooperation involving social partners

# ILO Multilateral Framework on Labour Migration

- ✓ ILO plan of action for migrant workers adopted by International Labour Conference in June 2004
- ✓ Plan of action to be implemented by ILO and its tripartite constituents in partnership with other international governmental organizations
- ✓ Centrepiece: to develop “a non-binding multilateral framework for a rights-based approach to labour migration, which takes account of labour market needs”
- ✓ Multilateral Framework adopted by Tripartite Meeting of Experts in December 2005 and approved for publication and dissemination by ILO Governing Body in March 2006
  - ✓ Good example of tripartite international policy coordination on labour migration

# ILO Multilateral Framework on Labour Migration (2)

- ✓ **Comprises international principles and guidelines – supported by a compendium of “best practices” – in 9 areas:**

- 
- 1. Decent work**
  - 2. Global knowledge base**
  - 3. Effective management of labour**
  - 4. Means for international cooperation on labour migration**
  - 5. Prevention of and protection against abusive migration practices**
  - 6. Social integration and inclusion**
  - 7. Protection of migrant workers**
  - 8. Migration and development**
  - 9. Migration process**

- ✓ **Has inspired formulation / revision of national labour migration policies (e.g. Sri Lanka)**

# ILO Plan of action: Other elements

Plan of action to be carried out by ILO and its constituents in partnership with other international organizations

- ✓ Relevant action for wider application of international labour standards and other relevant instruments
- ✓ Support for implementation of ILO Global Employment Agenda at national level
- ✓ Capacity building, awareness raising and technical assistance
- ✓ Strengthening social dialogue
- ✓ Improving the information and knowledge base on global trends in labour migration, conditions of migrant workers, and effective measures to protect their rights
- ✓ Follow-up of plan of action and ILO participation in relevant international initiatives in international migration

# Programmatic Approach

Enhanced governance of migration through:

- ✓ Building “political will” at all levels
- ✓ Building mutual trust and collaboration
- ✓ Building capacity (knowledge, resources & cooperation)

# IOM's Partnership Approach

IOM pursues a collaborative approach to enhance governance of migration through supporting:

## ✓ Mechanisms at the international level

- UN system – UNGA (High-Level Dialogue 2006 and 2013)
- Global Forum on Migration Development (GFMD)
- Global Migration Group (GMG)

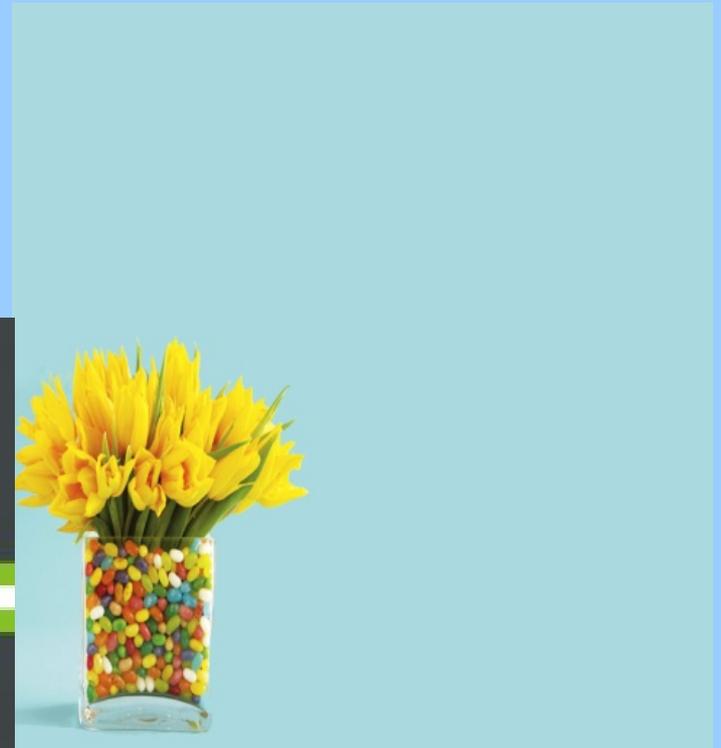
## ✓ Regional and national mechanisms

- Regional Consultative Processes on Migration (RCPs)
- Regional Organisations
- Support to national governments
- Engagement with non-governmental actors: NGOs, Private Sector, Research Institutions and Academia

# IOM's Partnership Approach

## International Dialogue on Migration (IDM):

- ✓ An annual forum to enhance understanding of international migration issues, to exchange views and to promote cooperation among States and other stakeholders
- ✓ Regional Consultative Processes
- ✓ International Migration Law



# Coordination among Institutions Policy and Issues of Coherence

What do mean by policy coherence?

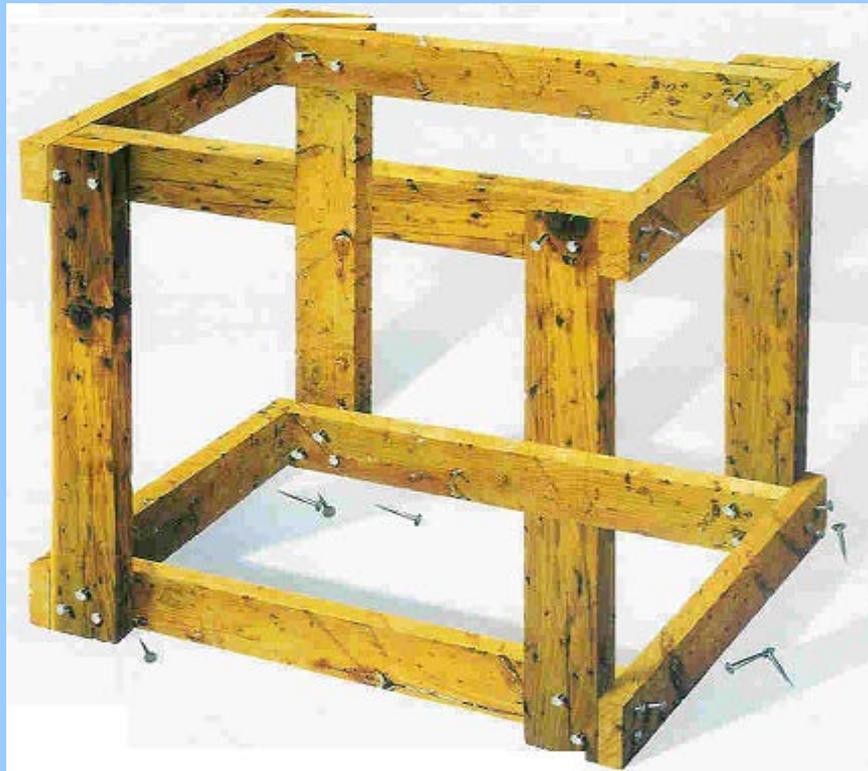
- ✓ Different policy fields working together in a mutually reinforcing way to achieve common overarching goals.
- ✓ Consistency, systematic support, synergy, long-term perspective.
- ✓ Coherent policy may be defined as a policy whose objectives, within a given policy framework, are internally consistent and attuned to objectives pursued within other policy frameworks of the system.

# Coordination among Institutions Policy and Issues of Coherence

Why is policy coherence so difficult to achieve?

- ✓ Multiple, often conflicting goals of policy
- ✓ Lack knowledge of policy effects/consequences
- ✓ Negative externalities
- ✓ Organisations guard turfs/protect their interests

# Why is policy coherence so difficult to achieve?



# Essential Elements of Policy Coherence

**Political  
commitment  
& Leadership**

**Strategic  
policy  
framework**

**Clear  
definition &  
good analysis  
of issues**

**Decision-  
making  
process to  
resolve  
priorities**

**Mechanisms  
to resolve  
policy  
conflicts**

**Capacity  
to ensure  
consistency**