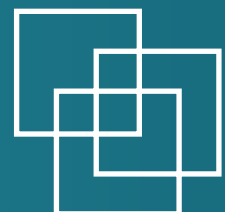


# **Coordination and role of key stakeholders in setting up and implementing policies and procedures to facilitate recruitment, preparation, protection abroad, and return and reintegration:**

## **Background paper to the 7th AFML**





**Coordination and role of key stakeholders  
in setting up and implementing policies  
and procedures to facilitate recruitment,  
preparation, protection abroad, and return  
and reintegration:**

**Background paper to the 7th AFML**

Tripartite Action for the Protection and Promotion of the Rights  
of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE Project)

Regional Office for Asia and the Pacific

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## Preface

This background paper was prepared for Session 3 of the 7th ASEAN Forum on Migrant Labour, held 20 – 21 November 2015 in Nai Pyi Taw, Myanmar. The ASEAN Forum on Migrant Labour (AFML) is a unique event among ASEAN activities as it brings together key stakeholders in labour migration in the ASEAN, including the International Labour Organisation's (ILO) tripartite constituents – government, employers' and workers' organisations – as well as the ASEAN Secretariat, civil society and international organizations. It gathers annually to discuss, share experiences, and build consensus on the protection issues committed to under the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration). It results in the adoption of Recommendations that bring life to the provisions of this Declaration.

The overarching theme of the 7th AFML was "Towards the ASEAN Community by 2015 with enhanced measures to protect and promote the rights of migrant workers". Sub-themes were decided as:

1. Promotion of fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers; and
2. Coordination and role of key stakeholders to set up and implement policies and procedures to facilitate aspects of migration of workers, including recruitment, preparation, protection abroad, and return and reintegration.

Managing migration successfully requires close cooperation and coordination of various Government Ministries and key stakeholders. The continued and active participation of all major stakeholders of the migration programme is critical for ensuring the successful implementation of an overseas employment programme (OSCE, 2005). Governments must give due priority to labour migration in terms of overall development, foreign policy and adequate resource allocation. This paper provides examples of cooperation under these guidelines and conveys an understanding of the 'state of the art' in policies and programmes initiated with the cooperation of various actors in the ASEAN region, including governments at both national and local levels, civil society, the private sector, international organizations and multilateral and regional institutions. More specifically, it aims to explore how links amongst various government agencies, tripartite constituents, and civil society are created, strengthened and maintained; the administrative structures in place to support cooperative mechanisms; and the coordination amongst ministries for relevant data collection, sharing and analysis to inform labour migration policy formulation.



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## Executive summary

There is a convergence of interests now among policy-makers within the Association of Southeast Asian Nations (ASEAN) towards strengthening labour migration regimes by developing various institutional structures, processes and modalities of cooperation. The ILO Multilateral Framework on Labour Migration has identified a number of guidelines on how best to promote international cooperation on labour migration. This Paper will provide examples of cooperation under these guidelines and convey an understanding of the 'state of the art' in policies and programmes initiated with the cooperation of various actors in the ASEAN region, including governments at both national and local levels, civil society, the private sector, international organizations and multilateral and regional institutions. More specifically, it aims to explore how links amongst these various actors are created, strengthened and maintained, including the administrative structures placed to support these cooperative mechanisms.

Classifying cooperation in the region depends on a variety of dimensions, such as the purpose of the cooperation, the level of coordination and institutionalization required, and the responsibilities and accountability of the partners involved. That said, the nature and extent of cooperation in the region can be roughly divided into three types: discussion, consultation and collaboration.

### Discussion

The most basic type of cooperation arrangement takes place in the form of discussions among various actors. Discussions, which may be held at the national, regional and international level, usually take the form of time-limited and ad hoc meetings, roundtables and conferences requiring generally low-level coordination. Some of the most robust discussions at the national and regional level are spearheaded by businesses, NGOs as well as trade unions, funded and/or supported by international organizations and multilateral lending institutions. The primary goal of these regional meetings is to gauge interest among potential partners and possibly set the stage for more advance types of cooperation.

The annual ASEAN Forum on Migrant Labour (AFML), for example, is an open platform for review, discussion and exchange of good practices and ideas between governments, workers' and employers' organizations, and civil society stakeholders. Some regional meetings are dedicated to more specific topics or held between two regions, such as Asia-Europe Meeting (ASEM). At the international level, ASEAN Member States have also been active participants and leaders in the Global Forum on Migration and Development (GFMD), a government-led annual meeting addressing the challenges and opportunities in the area of migration and development. The informal and non-binding orientation of the GFMD has allowed governments to engage in frank discussions on controversial issues, including the protection of migrant's rights. Its success can be credited to the creation of country focal points, a "troika" of current, past and future hosts of the GFMD and a steering group, which maximized and allowed for more cooperation among participant states.

### Consultations

Compared to discussions, a consultation is a much more structured process of dialogue typically requiring more resources and always leading to a decision. Governments in the region have conducted national consultations with stakeholders to refine programmes and initiatives related to labour migration. Most national consultations, however, occur when governments are formulating their labour migration policies such as the routes Cambodia, Myanmar, Thailand,

and Viet Nam have recently taken. Governments have formalized these consultations in various ways. One promising approach is the creation of a tripartite Technical Working Group to review and draft regulations. By encouraging tripartite discussion, legislative measures reflect the needs and interests of workers and employers.

## Collaboration

Moving beyond consultation, collaboration involves a process of actively working together and requires a sustained effort towards common goals and outcomes at a systemic and practice level. Collaboration represents a higher level of cooperation among partners that goes beyond agreeing on a decision.

ASEAN Member States have collaborated at the national level in three ways:

- (1) by utilizing existing structures within the government through decentralization of activities, such as linking with local employment services and consulates;
- (2) by creating new government bodies or entities designed to centralize operations such as special working groups, committees and one-stop shops; and
- (3) by forging public-private initiatives involving governments, civil society groups and the private sector.

Governments in the region have also vigorously pursued bilateral agreements (BAs) and Memorandums of Understanding (MOUs) with key destination countries. Most collaborations at the regional level emanate from ASEAN while some of the most active collaborations are public-private collaborations focused on creating guidelines and standards among employers and their supply chains, promoting-self-regulation among recruitment agencies, and forging complaint mechanism. At both national and regional levels, successful collaborations are formally established through written agreements, contracts, MOUs and other formal activities. Collaboration is maintained through regular meetings and demonstration of outcomes.

In thinking about creating, strengthening and maintaining these various types of collaboration, governments of origin and destination countries are better off if guided by modesty, pragmatism, international standards and good practice. Governments alone cannot drive cooperation, which is, by definition, a partnership between or among various actors in countries of origin or destination. In weighing their options, governments would do well if partnerships are based on complementarity of skills, capacities and intentions; a solid understanding of respective responsibilities; agreed upon indicators of success; and transparency. Effective cooperation also requires a concerted effort toward capacity building; a renewed focus on the process; social dialogue; and a strong emphasis on monitoring, evaluation and frequent adjustments.

## Abbreviations and acronyms

ADD	Abu Dhabi Dialogue
AEC	ASEAN Economic Community
AFML	ASEAN Forum on Migrant Labour
AQRF	ASEAN Qualifications Reference Framework
ASEAN	Association of Southeast Asian Nations
ASPRO	Association for Professionalism in Overseas Employment
ATUC	ASEAN Trade Union Council
BA	Bilateral agreement
CFO	Commission of Filipinos Overseas
CIETT	Confederation of Private Employment Agencies
COC-VN	Code of Conduct [Viet Nam Association of Manpower Supply]
CSO	Civil society organization
DOE	Department of Employment [Thailand]
DOLAB	Department of Overseas Labour [Viet Nam]
DOLE	Department of Labor and Employment [the Philippines]
DOLISA	Department of Labour, Invalids, and Social Affairs [Viet Nam]
ERIA	Economic Research Institute for ASEAN and East Asia
HDPR	Human Development and Poverty Reduction Cabinet Cluster [the Philippines]
ILO	International Labour Organization
IOM	International Organization for Migration
MDT	Multi-disciplinary teams
MEF	Malaysian Employers Federation
MOL	Ministry of Labour [Thailand]
MoLISA	Ministry of Labour, Invalids, and Social Affairs [Viet Nam]
MoLVT	Ministry of Labour and Vocational Training [Cambodia]
MOMT	Ministry of Manpower and Transmigration [Indonesia]
MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
MRC	Migrant Worker Resource Centre
MTUC	Malaysian Trade Union Congress
MYR	Malaysian ringgit [currency]
NEDA	National Economic Development Authority [the Philippines]
NGO	Non-governmental organization
NRCO	National Reintegration Centre for Overseas Filipino Workers [the Philippines]
OFW	Overseas Filipino Worker
OLA	Office of Labour Affairs [Thailand]
OWWA	Overseas Workers Welfare Administration [the Philippines]
PDOLVT	Provincial Department of Labour and Vocational Training [Cambodia]
PHP	Philippine peso [currency]
POEA	Philippine Overseas Employment Administration
PSA	Public Service Announcement
RCP	Regional Consultative Process
SCMID	Sub-Committee on International Migration and Development [the Philippines]
SDC-TB	Social Development Committee Technical Board [the Philippines]
SUHAKAM	Suruhanjaya Hak Asasi Manusia [Human Rights Commission of Malaysia]
TWG	Technical Working Group
UN	United Nations
UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
UN-HLD	UN General Assembly High-Level Dialogue
USCIB	United States Council for International Business
VAMAS	Viet Nam Association of Manpower Supply



# 1. Introduction

International labour migration by its very nature is a transnational and complex phenomenon. Effectively managing its complexities requires cooperation among disparate actors within and across borders. As the ILO Multilateral Framework on Labour Migration emphasizes, “issues related to the movement of workers across national borders cannot be effectively addressed when countries act in isolation; hence, international cooperation in managing labour migration can be valuable in addressing national interests (ILO, 2005).” Indeed, not surprisingly, a variety of institutional structures, processes, and modalities of cooperation have evolved within the ASEAN region. There is now a convergence of interests among policy-makers and other key stakeholders towards strengthening labour migration regimes - creating, in effect, a perfect storm of opportunity for more cooperation.

The ILO Multilateral Framework on Labour Migration identifies a number of guidelines on how best to promote international cooperation on labour migration. These include:

- 1 developing the exchange of information between and among governments on labour migration issues;
- 2 developing intergovernmental dialogue and cooperation on labour migration policy, in consultation with the social partners and civil society and migrant worker organizations;
- 3 promoting, where appropriate, bilateral and multilateral agreements between destination and origin countries addressing different aspects of labour migration, such as admission procedures, flows, family reunification possibilities, integration policy and return, including in particular gender-specific trends;
- 4 promoting development assistance to projects and programmes generating or increasing opportunities for decent work for women and men in developing countries;
- 5 establishing mechanisms for tripartite consultations at regional, international and multilateral levels; and
- 6 promoting bilateral and multilateral agreements between workers’ organizations in origin and destination countries providing for the exchange of information and transfer of membership.

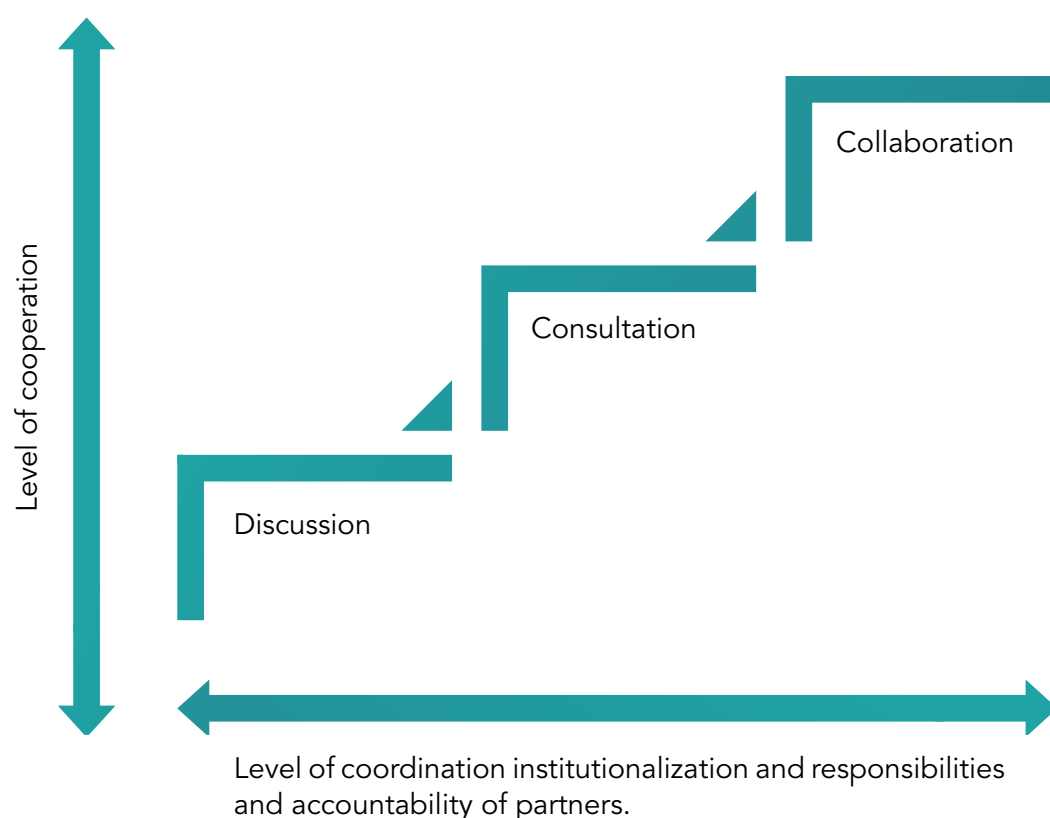
This Paper will provide examples on cooperation under each of these guidelines. Building upon the discussion in previous AFMLs, it will also cover four general themes: the development of labour migration policy; the recruitment, documentation and preparation of workers; the protection of workers abroad; and return and reintegration issues.

Divided in five sections, the first section introduces a three-part typology that categorizes three different levels of cooperation: discussion, consultation and collaboration. Parts two to four highlight various examples under these three categories; while part five concludes with some recommendations for future actions.

## 2. Cooperation in the ASEAN region: A typology

Cooperation is a complex process and comes in many different shapes and sizes depending on various dimensions, such as the cooperation's purpose, the level of coordination and institutionalization it requires, and the responsibilities and accountability of the partners involved. Based on a review of current partnership initiatives in South-East Asia conducted to inform this Paper, partnerships in the region can be roughly divided into three types: discussion, consultation and collaboration.

Figure 1: Three types of cooperation



Source: Author

- **Discussion**, the most basic type of cooperation, is a process undertaken by individuals or organizations for the purposes of information-sharing or as short-term or episodic joint activities that are more or less informally coordinated. It typically takes place via time-limited ad hoc meetings and generally requires low-level coordination among individuals within organizations. Discussions also tend to aim towards frank exchange of views on sometimes contentious issues without any pressure to agree or to arrive at a formal conclusion.
- **Consultation**, on the other hand, is a much more structured process of dialogue leading to a decision. It goes beyond information-sharing and involves the seeking of opinion before decisions are reached especially from stakeholders who would be impacted most by the decision. The decisions a consultation generates could be informal or formal, such as in the final text of a law (formal), or a joint statement agreeing on set principles or future actions (informal). A consultation usually takes place on a repeated basis and purposively builds on previous decisions.

- **Collaboration** goes a step beyond reaching a decision and refers to a process of actively working together with partners. It requires a sustained effort of work towards common goals and outcomes at a systemic and/or at practice level. In short, collaboration entails concrete action. Successful collaborations are formally established through written agreements—contracts, MOUs and other formal instruments. More mature collaborations also integrate outcome measurement and the blending or braiding of funding through financial agreements. Interagency management teams, oversight groups or steering committees typically oversee these collaborative efforts at a systemic level. More mature collaborations have methods of accountability measuring each partner's role.

### Some caveats

In thinking about these types of cooperation, two points need to be clarified. First, as in most typologies, these categories are not mutually exclusive. Some forms of cooperation will probably not fit neatly into one category as real world partnerships may involve elements from multiple categories.

Second and more importantly, no level of cooperation is superior to another. Different levels of cooperation may be appropriate for different situations and purposes. For instance, those who do not have much at stake may be happy to be informed or consulted, but others will want to be involved in decisions and possibly the actions needed to carry out those decisions. As David Wilcox (1994) noted in his *Guide to Effective Participation*, cooperation is most successful when stakeholders are satisfied with the level of participation at which they are involved. The level of trust among partners or the amount of accountability partners are willing to assume have an impact on what type of cooperation is appropriate. Indeed, a difficult task for policy-makers in the region who are interested in fostering cooperation is to identify these various interests and capacities among many actors and initiate a process of cooperation accordingly (Wilcox, 1994).

The following three sections provide concrete examples of different levels of cooperation and the mechanisms various actors have taken to initiate and sustain them.



## 3. Discussion

The most basic type of cooperation arrangement takes place in the form of discussions among various actors. Discussions allow for information-sharing and networking. Ideally, they also provide an opportunity for a frank exchange of views on contentious issues without any pressure to agree or to arrive at a formal conclusion. If successful, discussions could also later lead to more substantial form of cooperation, such as consultation and collaboration.

There have been an increasing number of discussions held at the national, regional, and international level. They usually take the form of time-limited and ad hoc meetings, roundtables, and conferences requiring generally low-level coordination.

### 3.1 National-level discussions

Some of the most robust discussions at the national level are spearheaded by the private sector and civil society groups, motivated by their desire to collect information on how business can ensure their supply chains are free from forced labour and serious rights violations. For instance, businesses – operating on their own or through representative business or employers’ organizations or other initiatives – have been increasingly engaging governments in discussions in both sending and receiving countries where they do business. Frequently these conversations are held in partnership with international organizations like the United Nations e.g. International Labour Organization (ILO), UN Women, and related agencies such as the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT), and the International Organization for Migration (IOM). When a specific industry becomes implicated or linked to rights violations, such as buyers of Thai seafood products or electronics in Malaysia, they may be pushed to escalate their extent of cooperation from ‘discussion’ to ‘consultation’ and even ‘collaboration’.

For instance, Microsoft has worked closely at the international level with UN.GIFT. Together they have developed an e-learning platform through which businesses can raise their awareness about human trafficking and the risks it can pose to brands and international supply chains (Verite, 2011a).

In response to claims of child and forced labour in the Thai fishing industry, the international brands importing shrimp and seafood products from Thailand as well as their suppliers, trade unions and local and international NGOs, and local industry members joined the “Multi-stakeholder Forum on Labour Conditions in the Fisheries Sector in Thailand” organised on 23 May 2014, in Bangkok.<sup>1</sup>

Hewlett-Packard has also taken a leading role in public forums advocating for business engagement against trafficking. The company has raised awareness of human and labour rights risks within the electronics industry labour by showcasing practices such as, “deception in recruitment, excessive recruitment fees, document retention and related limitations on freedom of movement” (Verite, 2011a).

By sponsoring and supporting these national discussions, businesses share their perspectives on the policy and regulatory challenges they face with regard to human rights, labour and migration, thereby working to tackle concrete issues through policy dialogue and advocacy.

<sup>1</sup> Further information on this meeting can be found here: [http://www.ilo.org/asia/info/public/newsitems/WCMS\\_245506/lang--en/index.htm](http://www.ilo.org/asia/info/public/newsitems/WCMS_245506/lang--en/index.htm)

### 3.2 Regional-level discussions

There has also been an increase in the number of regional-level discussions many of which are funded and/or spearheaded by international organizations and multilateral lending institutions. The primary goal of these regional meetings is to gauge interest among potential partners and possibly set the stage for more advanced types of cooperation.

The annual ASEAN Forum on Migrant Labour (AFML), for example, is an open platform for review, discussion and exchange of good practices and ideas between governments, workers' and employers' organizations, and civil society stakeholders. Recommendations are adopted and their implementation is reported against at the following years' AFML meeting. The AFML discusses a wide range of issues facing migrant workers in the ASEAN region and is hosted by the current chair of ASEAN with secretariat support from the ASEAN Secretariat, and inputs from ILO, IOM, UN Women and the Taskforce for ASEAN Migrant Workers. 7 countries also choose to hold national preparatory meetings with tripartite partners and civil society in 2012 - 2014. Employers' and workers organizations' have organized sectoral preparatory meetings ahead of the 6th and 7th AFML. AFML themes are derived from the ASEAN Declaration, and have included: information dissemination, including awareness and information services; the development of a public campaign to promote understanding, rights and dignity of migrant workers; return and reintegration; and regulation of recruitment; labour migration data collection, analysis and sharing; complaint mechanisms. The 7th AFML focused on protection during employment and coordination amongst stakeholders (ILO, 2014).

Some regional meetings are dedicated to more specific topics. For example, the ILO, IOM and the European Union (EU) convened the 2nd Regional Conference of the Alliance of Asian Associations of Overseas Employment Service Providers (AAA-OESP) in April 2014 "to discuss ways to improve migration governance systems, ethical recruitment and the professionalization of the recruitment industry" (ILO, 2014). The ILO and IOM brought together government and private recruitment industry representatives from Colombo Process Member States—Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, and Viet Nam to discuss "issues, practices and challenges on ethical recruitment, including steps to strengthen national industry associations". The meeting built on the first such regional meeting organized by the IOM, seven years earlier (ILO, 2014).

Migration is also increasingly a topic of conversation at the inter-regional level. The Asia-Europe Meeting, an informal dialogue process between European Union Member States, the European Commission and several Asian countries, has recognized the contribution of legal migration in enhancing development, and generally has covered a number of labour migration issues. In 2006, the Chairman's Conclusions of the first ASEM Labour and Employment Ministers Conference "underlined the importance of developing coordinated efforts towards effective management of migration processes as well as further investing in human capital in view of increasing labour mobility and integration of migrants, and called for enhanced regional cooperation on issues relating to labour migration, such as exchange of experiences, policy concepts and best practices (which it was recognized could offer a good basis for interregional dialogue)" (GFMD, 2008).

### 3.3 International-level discussions

Governments in the ASEAN region have also been involved in international discussions on labour migration issues. The first crucial attempt to gather governments to discuss issues of migration at the international level could be traced as far back as 1994 during the International Conference on Population and Development held in Cairo, which discussed issues of human rights, human trafficking, and irregular migration.



Other foundational meetings related to labour migration and its outcomes are the 1995 World Summit for Social Development, the UN Millennium Declaration in 2000, the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the 2005 World Summit Outcome Makibayashi (2014). These meetings led to the initiation of the UN General Assembly High-Level Dialogue (UN-HLD) on International Migration and Development in 2006, the first dialogue at the United Nations on the issue of migration. The topic continues to be prominent, as United Nations Secretary-General Ban Ki-moon's eight-point priority agenda for the Forum suggests. The agenda, delivered to the General Assembly at the second High-Level Dialogue on Migration and Development in New York in 2013, prioritized the protection of migrants' human rights.

The first UN-HLD then led to the creation of the Global Forum on Migration and Development (GFMD), an informal, non-binding, voluntary and government-led forum to address challenges and opportunities in the area of migration and development. The informal and non-binding orientation of the GFMD has allowed governments to engage in frank discussions on controversial issues, including the protection of migrant's rights. Its success can be credited to the creation of country focal points; a "troika" of current, past, and future hosts of the GFMD; and a steering group, which allowed for more cooperation among participating States. The GFMD has also asked governments to chair or co-chair the roundtables in each GFMD and to take part in an assessment team to review the GFMD's relevance and outcomes.<sup>2</sup> As Box 1 below shows, ASEAN Member States have been actively engaged as participants in the GFMD process and as leaders driving its direction and continuity.

Social dialogue is essential for developing sound migration policies, as well as being an obligation arising from various ILO Conventions. In this spirit, the ILO organized a Tripartite Technical Meeting on Labour Migration, held in Geneva from 4 to 8 November 2013. The purpose of this meeting was to review the outcomes of the High-level dialogue and formulate recommendations for possible ILO follow-up.

#### Box 1

#### Changing the discourse and beyond: ASEAN Member States participation at the Global Forum on Migration and Development

ASEAN Member States have been actively engaged as participants in the Global Forum on Migration and Development (GFMD) and as leaders driving its direction and continuity. As mentioned above, its success can be credited to the creation of country focal points, a "troika" of current, past and future hosts of the GFMD, a steering group and the Friends of the Forum, which maximized and allowed for more cooperation among participant states. The GFMD has also asked governments to chair or co-chair the roundtables in each GFMD and some to take part in an assessment team to review GFMD's relevance and outcomes.

- **Country focal points.** The focal points directly liaise with the host government and the GFMD Support Unit and coordinate GFMD-related preparations at the national level.
- **Troika.** The current, previous, and future hosts of the meeting—known as the Troika—govern the Forum. The Philippines, as the host of the second GFMD, and the first developing country and only country from Asia to host, was part of the Troika in the critical first three years of the Forum. The Troika has been responsible for the preparation and actual implementation of the event.

<sup>2</sup> For more information please see <http://www.gfmd.org/process/background>.

### Box 1 Cont.

- **Steering group.** Three countries from the region—Indonesia, Philippines, and Thailand—have been part of the GFMD Steering Group since its inception in 2007. Starting with only about 20 governments, the Steering Group included 37 governments by 2013, each lending strategic and political support to the host government.
- **Friends of the Forum (FOF).** Open to all GFMD participant states and observers, the FOF acts as a “sounding board” for Forum-related developments as well as advises on the agenda, structure and format of each Forum meeting.
- **Roundtable preparation.** Governments in the ASEAN region have also contributed to the roundtable and thematic meetings either as co-chairs or as team members in charge of preparing roundtable background papers, and identifying and inviting speakers. Indonesia, the Philippines, and Thailand each co-chaired two roundtables over the last seven years.
- **Assessment Team.** The Philippines was also part of a 14-member Assessment Team that Switzerland chaired in 2011 to examine the GFMD process. The review looked at GFMD structures as well as the impact and relevance of its outcomes in substantive policy discussion, lessons learned, and policy changes. The findings of the assessment proved critical in outlining the future of the Forum.

South-East Asia’s active engagement in the Forum has shaped its themes and topics over the last seven years. As Nicolas and Agunias (2014) noted, given the prevalence of temporary labour migration within and from the Asia-Pacific region, it is not surprising that labour migration and the rights of migrants were two prominent themes discussed in the Forum, with eight and six dedicated roundtables on each topic respectively. When the Philippines hosted the Forum in 2008 with the theme—“Protecting and Empowering Migrants for Development”—the issue of migrants’ rights and protection came to the forefront of GFMD debate. The topic continues to be prominent, as UN Secretary-General Ban Ki-Moon’s eight-point priority agenda for the Forum suggests. The agenda, delivered to the General Assembly at the second High-Level Dialogue on Migration and Development in New York in 2013, prioritized the protection of migrants’ human rights.

However, during this time, the challenges facing migrants and their families have not abated. For Nicolas and Agunias (2014), to remain relevant, the GFMD must become as instrumental in shaping the reality on the ground as it has been in shaping the global discourse on migration and development. The informal and non-binding orientation of GFMD has allowed governments to engage in frank discussions on controversial issues. While it is important to keep the same level of informality in future Forum meetings, Nicolas and Agunias (2014) contend that there is also scope to provide more opportunities for governments who are interested in more active collaboration.

Indeed, although the GFMD was primarily designed as a venue for changing the discourse on migration, the success of its efforts to date and the pressing need for progress on the ground both indicate that it is time to assess how the The Forum could, for instance, provide or support a more dynamic platform where governments can find partners, pilot projects, test ideas, and develop and utilize various policy and programmatic tools. This would require further strengthening the Platform for Partnerships, a program under the GFMD, launched in 2010 precisely to generate more concrete and policy relevant outcomes.

Source: Imelda Nicolas and Dovelyn Rannveig Agunias, *The Global Forum on Migration and Development: Perspectives from Asia and the Pacific, Issue in Brief, Issue No. 9/ May 2014*



## 4. Consultation

There has been an increasing pressure to go beyond discussion and toward engaging in consultations with potential partners and constituents. Unlike discussions, a consultation is a much more structured process of dialogue typically requiring more resources and always leading to a decision. The decision could be informal or formal, such as in the final text of a law, or a joint statement agreeing on set principles (informal). Consultations usually take place on a repeated basis and purposively build on previous decisions.

### 4.1 National consultations

Governments in the region have conducted national consultations with stakeholders in refining programmes and initiatives related to labour migration. For instance, with ILO assistance, Cambodia, the Lao People's Democratic Republic and Viet Nam developed standardized pre-departure training materials by seeking inputs from the governments and employers of the main countries of destination, to ensure the accuracy and relevance of the training materials. Viet Nam has also asked UN Women for inputs in developing a gender-responsive pre-departure orientation curriculum (Larga, et al., 2012).

In Cambodia, broad stakeholder consultations are becoming more common, including in the areas of "information dissemination and providing support services to migrants" (Larga, et al., 2012). Materials for information dissemination related to migration are created in consultation with the Cambodian Government, employers' groups, trade unions and civil society organizations. The Forum to Address Exploitative Labour Recruitment and Trafficking is chaired on a rotating basis among members. Representatives from civil society partners and international organizations also attend the Forum (Larga, et al., 2012).

Most national consultations, however, occur when governments are formulating their labour migration policies. A number of ASEAN Member States are passing information and receiving comments from various stakeholders before decisions on the final text are reached. Many of these consultations were supported by international organizations particularly the ILO and IOM. In the development of the new Myanmar Labour Migration Policy and Action Plan for 2015-18, three broad stakeholder consultations have been held, with support from the ILO. For example, the Government of Myanmar in drafting the National Action Plan (NAP) on the Management of International Labour Migration for 2013-2017 held a consultation meeting in September 2012 with the help of IOM, though the NAP is not yet formally adopted (Larga, et al., 2012).

Similarly, Thailand's Ministry of Labour (MOL) conducted consultations in drafting ministerial regulations to extend additional protection to workers engaged in domestic work and work in fishing, two sectors that employ a significant number of women and men migrants but are not covered under Thailand's Labour Protection Act. In drafting the regulations, the MOL has consulted with key stakeholders and requested technical comments from the ILO. The comments by the ILO drew on the principles of Work in Fishing Convention, 2007 (No. 188), the accompanying Recommendation, 2007 (No.199), the Domestic Workers Convention, 2011 (No.189) and the accompanying Recommendation No. 201 (Larga, et al., 2012). The Thai Ministry of Labour, social partners and CSOs have, with ILO assistance, also held a series of consultations at provincial and national level in 2014 to enhance migrants' access to complaint mechanisms.

Viet Nam's Ministry of Labour, Invalids and Social Affairs (MoLISA) took similar routes during its review of its migration policies, specifically with regard to strengthening protection of and services to Vietnamese migrant workers. MoLISA consulted social partners and other migration

stakeholders, and, like Thailand's MOL, also requested technical comments from the ILO on aspects concerning "standard labour supply and guest worker contracts, ceiling for the deposit fund of recruitment agencies, and utilization of the overseas employment fund" (Larga, et al., 2012). MoLISA's Department of Overseas Labour (DOLAB) also commissioned a review of government policy on labour migration and gender through UN Women (Larga, et al., 2012).

Governments have formalized these consultations in various ways. The route Cambodia took in drafting the prakas (ministerial orders) to supplement the Sub Decree 190 is of particular interest. As Box 2 highlights, the Cambodian Ministry of Labour and Vocational Training (MOLVT), with assistance from the ILO, created a tripartite Technical Working Group to review and draft the prakas. The TWG is the first tripartite group brought together to assist in actually drafting legal instruments within the MOLVT, demonstrating an innovative approach to creating a legal framework. By encouraging tripartite discussion during the formulation of the prakas, the MOLVT ensured that the legislative measures reflect the needs and interests of workers and employers.

## 4.2 Regional consultations

A number of regional consultations in Asia take the form Regional Consultative Processes (RCP), such as the Colombo Process which brings together four ASEAN Member States (Indonesia, the Philippines, Thailand, and Viet Nam) along with China and six South Asian countries (Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka) (Nicolas and Agunias, 2014).

In 2007, the United Arab Emirates hosted the Abu Dhabi Dialogue (ADD), a ministerial consultation between the Colombo Process countries and nine destination countries in the Middle East and South-East Asia: Bahrain, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia, Singapore, United Arab Emirates, and Yemen (Nicolas and Agunias, 2014).

Likewise in 2002, Indonesia established another active forum involving ASEAN Member States called the Bali Process, which address practical issues pertaining to smuggling, trafficking, and related transnational crime. The Bali Process has 44 members from the Asia-Pacific and other regions and is currently co-chaired by Indonesia and Australia (Nicolas and Agunias, 2014).<sup>3</sup>

<sup>3</sup> Bali Process members include: Afghanistan, Australia, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Democratic People's Republic of Korea, Fiji, France (New Caledonia), Hong Kong (China), India, Indonesia, Iran, Iraq, Japan, Jordan, Kiribati, Lao People's Democratic Republic, Macau (China), Malaysia, Mongolia, Myanmar, Maldives, Nauru, Nepal, New Zealand, Pakistan, Palau, Papua New Guinea, Philippines, Republic of Korea, Samoa, Singapore, Solomon Islands, Sri Lanka, Syria, Thailand, Timor Leste, Tonga, Turkey, Vanuatu, Viet Nam, United States of America, and United Arab Emirates.

## Box 2

### Promise of tripartite stakeholder consultations: Insights from Cambodia

In August 2011, the Royal Government of Cambodia issued Sub Decree 190 to better govern labour migration management and protect migrant workers. While this Sub Decree was generally considered to be an improvement on the previous Sub Decree 57, the MOLVT indicated a number of areas in which additional information would be provided in the form of ministerial regulations. There was a lack of sufficient clarity or practical guidance on the implementation of legislation leading to an inadequate legal framework for the protection of migrant workers and the regulation of the recruitment agency industry.

The ILO offered assistance to the MOLVT and received an official request for technical assistance in the drafting of the prakas to supplement the Sub Decree.

The MOLVT took a number of key steps that led to a successful tripartite stakeholder consultation involving a number of partners, including trade unions, ministries, recruitment agencies and civil society organizations, including UN agencies.

- **Step 1: Creation of a roadmap:** The need to strengthen the legal framework around sending workers abroad was identified by the MOLVT in their policy on labour migration for Cambodia, adopted in June 2010. This policy and action plan was drafted with the support of the ILO and in consultation with several government ministries and social partners. It set out a roadmap to address three main policy challenges in the governance of labour migration; the protection and empowerment of migrant workers; and harnessing migration for development.
- **Step 2: Negotiation on the scope of work:** MOLTV then negotiated the nature of the assistance required to develop the prakas. ILO held several meetings with the MOLVT to determine how the process could proceed.
- **Step 3: Creation of a Tripartite Working Group (TWG):** The tripartite composition of the TWG was agreed in the drafting of a Terms of Reference for the group, and participants were invited to be a part of the process. The number and subject matter of the prakas were agreed upon at the outset and then plans for TWG meetings and consultations were developed. It was agreed that the prakas would be drafted and adopted in two rounds. The first three prakas were called "Definition of key words used in Sub-Decree 190"; "Private recruitment agency licensing and recruitment processes" and; "Pre-departure orientation". The second set of prakas cover the "Use of the standard service contract"; "On-site services and repatriation"; "Inspection of private recruitment agencies"; "Complaints mechanisms"; and "Commendation and punishment".
- **Step 4: Drafting and vetting of various iterations of the prakas by the TWG:** A national expert with experience in drafting legislation was recruited to prepare the initial drafts of the prakas. Several meetings were then convened to seek inputs to the first three prakas. Civil society organization (CSOs) inputs to the TWG were coordinated through a prior consultation that fed into the submissions at the official TWG meeting. The draft was modified and another TWG held to discuss the next draft.
- **Step 5: Presentation of the revised draft beyond the TWG:** The MOLVT then presented a revised draft at a broader consultation that brought together a larger group of government and non-government partners.

**Box 2 Cont.**

- Step 6: Request for technical comments from various ILO offices: ILO specialists and project staff in Geneva and Bangkok also provided technical comments to the draft that were grounded in ILO Convention standards and good practices from around the region.
- Step 7: Final drafting of the prakas by the MOLVT: Taking into account the comments gathered during the consultation, the MOLVT made final changes to the draft prakas and submitted it to the Minister. The first three prakas were signed in February 2013 while the final series of eight prakas entered into force seven months later in September 2013.

Interestingly, the tripartite consultation had the unintended, but positive impact of normalizing discussions around issues that went above and beyond the formulation of the prakas. The inception and formation of the TWG actually eased discussions among the tripartite constituents and allowed them to build trust among each other and to, eventually, work together on other areas such as in the development of a complaint mechanism, the pre-departure training curriculum and other MOLVT initiatives.

Source: International Labour Organization



## 5. Collaboration

Beyond consultation, collaboration represents a higher level of cooperation among partners that goes beyond agreeing on a decision. As defined by the Positioning Public Child Welfare Guidance (PPCWG, n.d.), collaboration “requires a process of actively working together, requiring a sustained effort of work towards common goals and outcomes at a systemic and practice level. Successful collaborations are formally established through written agreements, contracts, memorandums of understanding and other formal activities, and integrate outcome measurement” (PPCWG, n.d.).

Collaborations occur at the national, bilateral and regional levels engaging a wide range of both state and non-state actors.

### 5.1 National collaboration

At the national level, governments in South-East Asia have instituted collaborations by taking three distinct routes:

- (1) utilizing existing structures within the government through decentralization of activities;
- (2) creating new government bodies or entities designed to centralize operations; and
- (3) forging public-private initiatives.

#### 5.1.1 Utilizing existing structures within government

In order to avoid duplication of efforts and resources and to make it easier to provide migrants with services and coherent information, most governments in the region have chosen to utilize existing structures at various levels of government (Agunias, et al., 2011). In doing so, governments augment their capacity by capitalizing on the already existing resources within its realm. Indeed, labour migration covers many traditional areas, from finance and labour to education and training. Some form of governmental capacity already exists in these areas but are scattered across various government agencies and offices. Instead of creating new institutions, a number of governments have chosen to adopt a more decentralized approach such as linking with local employment services and consulates.

#### Linking with local employment services

Indonesia’s Ministry of Manpower and Transmigration (MoMT) collaborates closely with local employment offices in conducting seminars and community meetings and in the dissemination of information materials to prepare migrant workers for labour migration. The MoMT tap local employment service officers to share information on available employment opportunities and assist in the meeting between the jobseekers and the prospective employers. As there are a limited number of employment service officers, the MoMT also designate volunteer liaison officers. These volunteers usually have college degrees and perform work with a minimal allowance. As many migrant-sending communities in Indonesia have limited access to new technologies, the district or city employment officers and liaison officers are also trained to provide information on labour migration. Community education sessions are also conducted in communities, in coordination with the local school authorities (Larga, et al., 2012).

Other examples in the region include Viet Nam which has integrated domestic and international labour market information services under Employment Service Centres – in five provinces, these services have been enhanced with the support of the ILO, in Migrant Worker Resource

Centres (MRCs). The Philippines conducts its pre-employment orientation seminars (PEOS) in partnership with Public Employment Services Office of provinces, cities and municipalities. The PEOS specifically tackles labour migration issues and provides information on preparing for overseas employment (Larga, et al., 2012).

### Linking with consulates

Governments in the region have also chosen to capitalize on existing consular networks by instructing consulates to interact with labour migrants more systematically, provide help in destination countries, and ensure that migrants maintain their links to the homeland.

Indeed, many governments in the region have expanded their diplomatic presence to places with large migrant populations. Among migrant origin countries in South-East Asia, the Philippines has the largest diplomatic footprint. For instance, the Philippines has the largest diplomatic footprint, maintaining 88 offices in 65 countries (Republic of the Philippines, 2014).

The composition of diplomatic staff has also evolved to accommodate migrants' needs and interests. As Table 1 below shows, Indonesia, Myanmar, the Philippines, Thailand and Viet Nam have posted labour attachés to specifically attend to distressed and abused workers in key destination countries.

Table 1: ASEAN Member States with labour attachés appointed to diplomatic missions

Country	Number of labour attachés	Countries/territories of assignment
Indonesia	11	Japan, Jordan, Kuwait, Malaysia, Qatar, Republic of Korea, Saudi Arabia, Syrian Arab Republic, Taiwan (China) and the United Arab Emirates
Lao PDR	1	Thailand
Myanmar	5	Kuwait, Malaysia, the Republic of Korea, Singapore, and Thailand
Philippines	37	Asia (13): Australia; Brunei Darussalam; China (2): Hong Kong, Macau (2); Japan; ; Republic of Korea, Malaysia (2); Singapore (2); Taiwan (China) (3): Taipei; Kaohsiung; Taichung; Europe, Americas & Trust Territories (10): Canada (2; Toronto, Vancouver); Greece; Italy (2; Rome; Milan); Switzerland; Spain; Cyprus; United Kingdom and United States; Middle East and Africa (27): Bahrain; Israel; Jordan(2) Kuwait (3); Lebanon (2); Libya; Oman; Qatar (2); UAE (4; Abu Dhabi; Dubai); Saudi Arabia (8; Alkhobar, Jeddah, Riyadh, Unaizah); The Syrian Arab Republic.
Thailand	13	Brunei Darussalam; Germany; Hong Kong (China); Israel; Japan; Malaysia; Republic of Korea; Saudi Arabia (2 offices); Singapore; Switzerland; Taiwan (China) (2 offices);
Viet Nam	9	Czech Republic, Japan, Libya, Malaysia, Republic of Korea, Qatar, Saudi Arabia, Taiwan (China), United Arab Emirates,

Source: International Labour Organization (2012), Updated



The services provided at consulates have also adapted to better respond to the needs of migrant workers, as Box 3 highlights below. Services at the embassies are provided through consular officials, who attend to consular issues such as police cases and resolution of a workers' irregular status; and labour attaches, who address contract and employment-related matters. Consular officials and labour attaches have been the key interlocutors in assisting distressed migrants and protecting their rights in receiving states. Consulates take various roles such as providing legal recourse, counselling and grievance redressal, monitoring the migrant's workplace and even running shelters within embassy grounds for migrants in distress.

### Box 3 Roles of labour attachés in the protection of migrant workers

The 1964 Vienna Convention on Consular Affairs outlines the specific functions of consulates, foremost of which is to protect the interest of the State and its nationals abroad. Many consulates assist migrants in difficult situations, even providing help in migrant disputes, including domestic ones. Consulates take on a wide range of roles including the following:

- Providing legal recourse, counselling and grievance redressal. Thailand's Office of Labour Affairs (OLA) has 13 offices in 11 different countries. OLA provides support services through its labour attachés, who aim to provide advice, counselling and assistance.
- Furthermore, OLA provides some access to legal recourse for Thai migrants faced with such problems while working overseas. For example, OLA will negotiate directly with litigants, and should negotiations fail, OLA will enlist the assistance of lawyers and/or government agencies in the host country. Like Thailand, diplomatic posts in Indonesia and the Philippines also accept migrant complaints against employers and recruiters, make referrals to relevant local authorities and preside over conciliation proceedings if parties request their involvement. The Philippines' consulate in Seoul mediates personal disputes between Filipinos, and assists the resolution of marital problems of, for example, Filipino female spouses and their Korean husbands.
- Monitoring the migrant's workplace. Philippine labour attachés in the United Arab Emirates and Jordan routinely conduct inspections to determine if the accommodations and working conditions are in line with contracts. The labour attachés interview employers and workers alike to ascertain discrepancies in salary and job responsibilities. Aside from visiting workplaces and accommodations, labour attachés also visit Filipino workers in gaols and hospitals.
- Running shelters within embassy grounds for migrants in distress. Providing such shelters is an important service since embassy or consulate grounds are not under the jurisdiction of the destination country, making them a safe haven for distressed migrants with few options. Generally, migrants seek refuge not only for cases involving physical and sexual abuse but also problems related to delayed or reduced wages that may be further exacerbated by extremely long working hours, lack of food and verbal abuse. Some origin governments in South-East Asia run shelters for migrants who have escaped abusive employers and have no place to stay. In the United Arab Emirates, for example, the Philippines' consulate assists migrants who escape abusive employers. In some cases, the Philippines' consulate provides accommodation for battered wives and assists them in returning to the Philippines if they wish to do so. Many consulates also maintain emergency hotlines that can be accessed 24 hours a day.

Source: Agunias and Aghazarm, 2011; Agunias and Newland, 2012

Since 2012, ILO has strengthened linkages among labour attachés in the ASEAN region through regional consultation and capacity building workshops with labour attachés from various sending countries in Malaysia and Thailand. In collaboration with the Asian Institute of Management, the ILO organised a capacity building workshop for labour attachés from and posted within ASEAN Member States. While ILO's primary goal was to increase participants' capacity on labour migration issues and negotiation skills, a secondary goal was to create a network of support amongst active labour attachés in the ASEAN region.

Recently, consulates have been providing services to migrants that may not have been contemplated in the drafting of the 1964 Vienna Convention. These new and expanded consular services and programmes include those that help migrants better integrate or live in destination countries, be it through education and skills training, health assistance, the provision of ID cards, or hosting community-building events (Agunias and Newland, 2012). For instance, the Indonesian Consulate General in Hong Kong (China), and the Indonesian Chamber of Commerce in Taiwan (China) implement a 'Welcoming Programme' in these two destinations for Indonesian migrants. Newly arrived migrants are provided with information on Hong Kong (China) and Taiwan (China) during a one-day interactive session. The Viet Nam Labour Management Section in Malaysia organizes special events for migrant workers during national holidays.

### 5.1.2 Centralizing operations within government

Along with decentralization measures, some governments in the region have also resorted to creating new government bodies or entities to centralize operations and ensure the utmost coordination among disparate actors in the public sphere. A number of governments have resorted to creating special working groups, committees and one-stop shops and typically cements these ties by signing intra-governmental MOUs to create synergy among different parts of the government.

#### Creating special working groups and committees

With the assistance of an ILO-EU project, Thailand's Department of Employment (DOE) has created multi-disciplinary teams (MDTs) at the provincial, district and sub-district levels in Petchabun province composed of police officers, social workers, and labour officers, among others. To improve team members' understanding of labour migration, trafficking, and safe migration, the Provincial Social Development and Human Security provided an orientation for the MDTs. According to Larga et al, MDTs have spurred criminal and civil prosecution of recruitment agencies and brokers for deceiving and defrauding several migrant workers, the first in the province of Petchabun (Larga et al., 2012).

Similarly, the Philippines has recently created an unprecedented inter-agency subcommittee dedicated solely to more effectively streamline integration of migration issues into the development plan. Ministries in charge of the migration portfolio, such as Foreign Affairs and Labour lead most committees on migration and development across the world. The Philippines Sub-Committee on International Migration and Development (SCIMD), however, breaks new ground and is the first of its kind in the region, because it is led by the National Economic Development Authority (NEDA), the Philippines' key development planning agency. As Box 4 highlights, the SCIMD's creation happened after years of discussions mostly held in meetings and conferences and followed by more formal consultations involving interested agencies.

#### Box 4

### The Philippines Sub-Committee on International Migration and Development (SCIMD): An idea whose time has come

The idea that gave birth to the establishment of a singular coordinating body on migration and development began to take shape when the Commission on Filipinos Overseas (CFO), a policy-planning agency under the Office of the President, convened the Vision 2020 conference “Responding to the Challenges of Migration and Development” in December 2010. One of the identified “visions” in this groundbreaking conference was to have “unity between government entities, multi-stakeholder NGOs, and private sector on migration and development issues” (CFO, 2010).

Over the next three years, several high-level official meetings among various government agencies were convened. One such meeting is the High-level Roundtable Discussion on Migration Policies the IOM convened in February 2013. Given the Philippines perceived leadership in migration management, government agencies discussed what has gone right (or gone wrong) and possible ways to move forward. One of the conclusions of that meeting was that there was a lack of policy and institutional cohesion and coherence in the governance of migration.

The concrete suggestion to create a subcommittee on migration and development under the NEDA, came about six months later during the kick-off meeting of an OECD project, “Interrelations between public policies, migration and development in the Philippines”, where the CFO serves as the focal point for the project’s implementation in the Philippines. Taking off from this suggestion, the CFO presented a proposal to create a Sub-Committee on Migration and Development to the NEDA Social Development Committee Technical Board (SDC-TB) in August 2013. Over the next five months, two key departments heavily involved in migration issues—the Department of Labor and Employment (DOLE) and the Department of Foreign Affairs (DFA)—formally communicated to NEDA their concurrence and support for the creation of the proposed subcommittee.

Negotiations then began on the structure of the subcommittee. To facilitate the ensuing discussions between the agencies, the CFO asked the Migration Policy Institute, a Washington, DC based think-tank specializing on migration policy and research, to write a concept paper that would lay out the basis, rationale and possible structures of the subcommittee.

NEDA then convened a meeting with CFO, DOLE and DFA to discuss the concept paper prepared by the Migration Policy Institute, including a possible terms of reference. A number of subsequent meetings followed to further refine the concept note and finalize the terms of reference. On February 28, 2014, or six months after the first inter-agency meeting, the NEDA SDC-TB endorsed the creation of the Sub-Committee on International Migration and Development.

Four months later, in June, NEDA presented the NEDA Social Development Committee resolution creating the SCIMD to the Human Development and Poverty Reduction Cabinet Cluster (HDPR), a ministerial-level group with an interest in development issues. Further inputs were gathered from HDPR member agencies.

As of 10 October, 2014, the final resolution on the creation of the SCIMD has been signed by the principals of the following agencies: CFO, DOLE, the Department of Social Welfare and Development, the Department of Agriculture, the Department of Education, the Technical Education and Skills Development Authority, and the Commission on Higher Education.

**Box 4 Cont.**

NEDA is currently working to secure the signed resolutions from the following agencies: Housing and Urban Development Coordinating Council, the Department of Interior and Local Government, the Department of Health, the National Anti-Poverty Commission, and Office of the President-Office of the Executive Secretary.

Source: Author interview with Andrea Anolin, Commission on Filipinos Overseas and Emmanuel Esguerra, National Economic Development Authority, October 2014

**Creating one-stop shops**

A similar approach is the creation of one-stop shops to centralize operations. For instance, Thailand's DOE has established Overseas Job Seekers Registration Centres located at provincial employment offices and administered by a special working group chaired by provincial vice-governors and composed of relevant government agencies. The centres work to protect Thai migrant workers, curb illegal recruitment activities, disseminate information on overseas work, and receive complaints from job seekers (Larga, et al., 2012).

Similarly, the Philippines created the National Reintegration Centre for Overseas Filipino Workers (NRCO) a one-stop centre for all reintegration services for Overseas Filipino Workers (OFWs) and their families. The NRCO was also intended as a "service networking hub", a coordinating body that would link OFWs and their families with all of the stakeholders and service providers that can cater to their needs. The NRCO also manages and implements the 2 Billion Pesos OFW Reintegration Program, a special loan program fund for OFWs that is a joint venture of DOLE, the Overseas Workers Welfare Administration (OWWA), the Land Bank of the Philippines, and the Development Bank of the Philippines. OWWA contributed 1 billion Philippine pesos (PHP) to the program, while the two banks gave PHP500 million each. The fund is intended to support enterprise development among OFWs and their families (Larga, et al., 2012).

**Cementing ties via MOUs**

In both centralized and decentralized approaches, governments in the region have formalized their collaborations by forging MOUs with partner government agencies.

For instance, in Indonesia, the MoMT entered into an MOU with the Indonesian police on the conducting of joint investigations by police and labour inspectors in illegal recruitment cases. Task forces composed of representatives from the relevant local government offices (Social Affairs, Manpower, etc.), were also created in 14 embarkation areas for migrants by issuing a local government decree (Larga, et al., 2012).

Similarly, an MOU on the Convergence of Anti-Illegal Recruitment Campaign Programme was forged by the Philippines DOLE, OWWA, CFO, and the Philippine Overseas Employment Administration (POEA), along with some local government units. According to Larga, et al, parties to the MOU agreed to "jointly facilitate services to protect migrant workers, such as providing information, capacity building for local authorities and communities on migration issues, and setting-up local mechanisms against illegal recruitment, among others" (Larga, et al., 2012).

The POEA has also signed an agreement with the Bureau of Broadcast Services to air a POEA programme in order to make information more accessible to the general public. Airing since 2010, the programme has been promoting the Government's anti-illegal recruitment campaign, tackling various issues affecting the OFWs worldwide and more (Larga, et al, 2012).

### 5.1.3 Forging public-private initiatives

The most common type of collaboration at the national level is public-private initiatives involving governments, civil society groups and the private sector. As Agunias and Newland note, these initiatives augment government capacity by leveraging community contacts and resources and typically involve the creation of community focal points and even the outright outsourcing of the delivery of critical services to NGOs, trade unions and employers (Agunias and Newland, 2012).

#### Creating community focal points

CSOs in Cambodia, for instance, have engaged with local governments at the commune level to push for safe migration being incorporated into the Commune Investment Plan. A Safe Commune Policy has been adopted to reduce crime and exploitation, and key community members with links to the migration process have been trained to better provide information and assistance to migrants. Many of these initiatives are undertaken by non-governmental organizations (NGOs) and CSOs. The MoLVT and civil society partners have also been conducting awareness campaigns on safe migration that target wide swathes of Cambodian society, including migrants (both prospective and returning), their families, and other stakeholders in the migration process (Larga, et al., 2012).

Similarly, Thailand's MOL launched its Labour Volunteer Project and the "Door-Knock Project", aiming to raise awareness and provide information on trafficking and illegal recruitment. Local-level leaders are also instructed on legal migration channels in an effort to facilitate the dissemination of information and migration advice at the community level. According to Larga, et al, these efforts also help enlist local leaders in monitoring recruitment activities in their communities (Larga, et al., 2012).

#### Delegating programmes and initiatives in part or in whole

A number of governments in the region have also adopted innovative mechanisms that essentially outsource the delivery of critical services to non-state actors. Civil society organizations, trade unions and employers have been collaborating with governments in the region in providing financial literacy training, as well as running migrant resource centres, receiving complaints, and public information campaigns at the destination country to improve the local population's perception of migrants.

#### Providing financial literacy and entrepreneurship training

A number of CSOs are collaborating with governments to provide financial literacy training for migrants before they depart, while they are abroad, and upon their return. These highly specialized trainings provide modules on various topics including savings, investments, and entrepreneurialism. For instance, Atikha, a Philippine-based non-governmental organization, conducts a two-day financial literacy seminar in the Philippines and at destination countries in the Middle East and in Singapore. The curriculum for migrants from ASEAN employed in Singapore was developed with support of the ILO in 2014. The seminar covers a wide range of topics including budgeting, migration goal setting, financial planning, investment and retirement, entrepreneurship and borrowing.

Some organizations have taken a step further by partnering with a wide range of actors, including reputable higher education institutions, in providing longer trainings of up to six months. Box 5 below describes efforts by the WIMLER Foundation, a non-profit organization based in Hong Kong (China) founded by a Filipino expatriate from the Netherlands. The WIMLER Foundation

conducts the Leadership and Social Entrepreneurship (LSE) Training targeted at domestic workers in Hong Kong (China). LSE covers three modules in 13 sessions over a six-month period: financial literacy, leadership and social entrepreneurship. To deliver the training, WIMLER has partnered with the Ateneo de Manila University School of Government, one of the leading higher education institutions in the Philippines, and a range of NGOs and Philippine government offices based in Hong Kong (China) and in Manila. Since the training fees are heavily subsidized, especially for domestic workers, the WIMLER Foundation also works closely with businesses interested in providing donation through their Corporate Social Responsibility initiatives. Graduates of the LSE program receives a certificate from the University and develop a business plan that can be implemented upon the migrant's return.

### Box 5

#### Preparing for the eventual return: Insights from WIMLER Foundation's Leadership and Social Entrepreneurship (LSE) Training Program

WIMLER Foundation, a non-profit organization in Hong Kong (China), founded by Leila Rispens-Noel, a Filipino expatriate from the Netherlands, conducts the bi-annual Leadership and Social Entrepreneurship (LSE) Training programme. Beyond providing knowledge and skills on budgeting, savings and investments, LSE is an intensive six-month course delivered through 13 sessions aimed at developing the leadership and entrepreneurial skills of Filipino migrant workers and their families.

A key requirement of the course is to submit social entrepreneurship business plans, which course participants have to submit and defend in front of a board of panelists to gather feedback. The business plans are aimed at enhancing the participants' skills and know-how in starting a business that could help prepare them for their eventual return and reintegration in the Philippines. The program expects that participants to implement the business plans developed through the course upon return. Plans developed so far have included: establishing an affordable boarding house spa and beauty salon; a bakery; a resort; and marketing of handmade handicrafts. Participants who completed the course, receive a certificate from Ateneo de Manila University School of Government, one of the leading higher education institutions in the Philippines.

To deliver the training programme, the WIMLER Foundation also works with a wide range of actors based both in Hong Kong (China) and in Manila including Project Be, the Overseas Filipinos Society for the Promotion of Economic Security (OFSPES), Ugat Foundation, City University of Hong Kong, the Social Enterprises Development Partnerships Inc. the Philippine Consulate General Hong Kong (China), the Philippine Overseas Labor Office (POLO), and the Overseas Workers Welfare Administration (OWWA).

To ensure the programme's financial sustainability, participants pay a subsidized fee, the amount of which is adjusted according to their occupation. Domestic workers pay 780 Hong Kong dollars (HKD) (US\$100) while non-domestic workers pay double that. To cover the full cost of delivering the training, WIMLER Foundation works with businesses in Hong Kong (China), which donate to the project under their Corporate Social Responsibility arm.

In 2013, 77 participants graduated from the course, of which 71 were domestic workers. The graduation ceremony was held at the City University of Hong Kong. Currently, there are plans to offer LSE in other destination countries, including Singapore. LSE was first conducted in Rome, Italy in 2008 and has since spread to other Italian cities including, Naples, Milan, Florence, Turin as well as Dubai.

Source: Interview by Author, Leila Rispens Noel, Founder, WIMLER Foundation, 4. Nov. 2014.

## Running information centres

In many ASEAN Member States, the running of information centers is a service provided by trade unions and CSOs. Some governments also run these centres, though often supplementary services are required because of a gap in service provided by the government. For instance, the Singapore National Employers Federation (SNEP) and the National Trades Union Congress (NTUC) jointly run the Migrant Workers' Centre in Singapore while trade unions and CSOs manage the Migrant Worker Resource Centres (MRCs) in Malaysia and Thailand, with start-up funding provided by the Ministry of Manpower (Larga et al., 2012). MRCs are managed with the cooperation of labour offices at the local government level, trade unions and civil society in order to distribute accurate information to potential migrants in countries of origin on safe migration and rights at work and to provide legal assistance in countries of destination.

As Box 6 below shows, however, making these MRCs work is not easy. The ILO's experience in developing MRCs in the region suggests the importance of instituting a clear process of identifying partners and monitoring requirements at the outset, connecting with existing structures such as job centres, working closely with NGOs in delivering some services and having a detailed operations manual and operations plan to guide the actions of the various partners on the ground. It is also important to conduct a baseline survey to provide evidence of positive impacts and strategic guidance to redesign the programme, if needed. The independent mid-term evaluation of the GMS TRIANGLE Project scrutinized the MRCs design and implementation to ensure transparency and accountability in 2013. Likewise, sustainability must be an integral goal. This can be achieved by on-going training of government staff running MRCs when these are situated within government institutions, such as employment centres. Training should focus on service deliver and monitoring and evaluation of results alongside other actions (ILO, 2013a).

### Box 6

#### Making Migrant Workers Resource Centres (MRCs) work: Seven key elements

The ILO is supporting 21 MRCs and drop-in centres in six countries in the Greater Mekong Sub-region and Malaysia, to provide various support services to male and female potential migrants, migrant workers and members of their families. Government, trade unions and civil society partners are running centres that provide information, counselling and legal assistance to visitors. Additionally, they are conducting outreach, disseminating information, training and organizing activities.

Making MRCs function effectively requires attention to the following seven key elements:

**A clear process of identifying partners and monitoring requirements:** To identify project-implementing partners, ILO staff consulted with a broad range of stakeholders in each of the countries. Meetings were held with provincial labour departments, trade unions and NGOs in order to select service providers that would be the most suitable for the assignment. The criteria for selecting implementing partners included presence in project target areas, links to the community, credibility and proven track records, etc. Year-long agreements were drafted in consultation with the ILO, to ensure a consistency in the type of services provided and that reporting requirements are being fulfilled. In addition to reviewing reports twice a year, ILO staff conduct monitoring visits to observe activities, track progress and coach MRC staff.

**Box 6 Cont.**

**Connecting with existing structures such as job centers:** In the sending countries, one of the models has been to establish MRCs in government job centers. These job centers are relatively new in the GMS region, but in some cases attract large numbers of jobseekers, many of whom may be considering working abroad. For example, the employment service centers in Viet Nam estimated that 20 per cent of jobseekers are interested in working outside of the country. In addition to the typical drop-in and outreach service, this model also allows for potential migrants to be reached through job fairs. This model of an integrated service offers ample opportunity for scale and sustainability.

**Working with NGOs:** In destination countries, the MRCs serve as an accessible bridge to the authorities. If the MRC cannot resolve the case by themselves, the project has agreements with legal NGOs to provide additional assistance.

**Creating a detailed operations manual and communication plan:** Since the first year of operation, the ILO has evolved the operations of the MRC model by developing an Operations Manual for MRC staff and a Communications Plan to guide the development of information, education and communication materials. The Manual includes a Frequently Asked Questions section to ensure MRC staff is providing accurate information. Through partnerships and networking with local authorities, trade unions and CSOs, the MRCs are becoming better connected to their communities as well as to the national level mechanisms designed to assist migrant workers. Lessons learned are documented and shared within the country and between countries.

**Ensuring transparency and accountability:** Both the ILO and an independent mid-term evaluation have scrutinized the MRCs design and implementation. Regular reports from implementing partners are transparent about challenges in the implementation of MRC services. The nature of the agreements means there is an annual assessment of performance, and each new agreement must be justified.

**Working towards sustainability:** The MRCs are currently run with the support from the Australian Government, but it is hoped that the institutionalization of quality service provision at the local levels will create a sustainable model for MRC services. Where government institutions run MRCs, they are dependent on governments continuing to budget for MRC services within Employment Service Centres or similar. Sustainability is encouraged through the ongoing training of government staff running MRCs within government institutions; their knowledge of migration risks and counseling techniques will likely remain in the institutions, regardless of a dedicated MRC program continuation.

Source: International Labour Organization, Migrant Workers Resource Centres (MRCs), Good Practice Last Update, 31 Oct. 2013



## Running complaint mechanisms

The pervasive lack of understanding and/or access to national justice systems prevents migrants from challenging abusive actions by employers and submitting complaints. It is critical to create a migrant-friendly complaint mechanisms that allow migrants to file complaints more easily. Box 7 below describes the steps Cambodia took to develop a complaint mechanism in partnership with the ILO. This experience in Cambodia is a perfect example of a type of cooperation that has moved from consultation to collaboration. The creation of the complaint mechanism started with a tripartite stakeholder consultation led by the Ministry of Labour and Vocational Training (MOLVT) and was followed up by training of essential personnel and the actual establishment and testing of the complaint system.

The ILO is currently collecting information on how the complaint mechanism is working in practice, by gathering data on the complaints received, the kinds of grievances, the outcomes and the challenges faced in lodging and resolving the complaints. The MOLVT will undertake an analysis of this data and identify how the procedures could be improved.

### Box 7 Moving from consultation to collaboration: Development of a complaint mechanism in Cambodia

Amidst reports of abuses Cambodians face when they migrate to work abroad, the Ministry of Labour and Vocational Training (MOLVT), in collaboration with the ILO, worked towards creating a more responsive complaint mechanism primarily in three stages:

**1. Tripartite stakeholder consultation:** In 2012, the MOLVT requested technical assistance from the ILO to draft prakas (ministerial orders) to assist with the operationalization and implementation of Sub Decree No 190 on The Management of Sending of Cambodian Workers Abroad through Private Recruitment Agencies. The ILO proposed the formation of a consultation group with tripartite and civil society representation, and suggested the content for eight prakas. One of the key goals of the support to the prakas drafting process was to create a new mechanism for the MOLVT to receive complaints from migrant workers and link the complaints process to the regulation of recruitment practices.

*Prakas* No 249 broadly outlines the complaints process and the rights and responsibilities of the MOLVT and Provincial Departments of Labour and Vocational Training (PDOLVT), the complainant and the respondent. To operationalize this prakas the MOLVT requested ILO support to draft complaint forms to be used throughout the complaint mechanism, as well as input for the design of a complaints database. After a series of consultations with a technical working group made up of trade union representatives, NGOs representatives, the MOLVT and ILO, the complaint forms were finalized in June 2014.

**2. Training:** After the adoption of prakas No 249, the ILO supported MOLVT to conduct trainings on the complaint process with the Association of Cambodian Recruitment Agencies, PDOLVTs from all 24 provinces, NGOs and staff from Migrant Worker Resource Centres (MRCs).

**3. Establishment and testing of the complaint system:** The MOLVT-run MRC in Phnom Penh was opened in January 2014. Its primary function is complaint resolution in line with prakas No 249. Currently, MOLVT and the PDOLVTs in the three target provinces, in collaboration with trade unions and civil society organisations, are collecting and responding to complaints against recruitment agencies.

**Box 7 Cont.**

From October 2013 to September 2014 the PDOLVT in the Prey Veng province received complaints from 234 people; the PDOLVT in Kampong Cham received complaints from 114 people; and the MRC run by Phnom Srey Organisation for Development in Kampong Cham received complaints from 187 people between December 2012 and March 2014. These complaints enable the MOLVT to take action against recruitment agencies that violate Sub Decree 190, Prakas No 249 and criminal laws. Due to Prakas No 249, the requirements surrounding recruitment agency practice have become clearer and more enforceable, and the consultative process of developing the complaint mechanism has meant that the capacity of government agencies and service providers has been augmented alongside the creation of these country-specific tools.

Source: International Labour Organization

**Running public information campaigns at the destination**

Tremendous initiatives are in place to educate migrant workers about the terms and conditions of their work and other basic information about the culture and norms at their countries of destination. But the flow of information concerning migration should go both ways. As a joint ILO and Asia Development Bank (ADB) report (2014) notes “differences in language, culture, and social acceptance can create practical barriers to labour mobility beyond any provisions that may be set down in law.” The general public should be informed about migrant workers’ rights and obligations, culture and norms and the benefits enjoyed by the destination country when hiring migrant labour.

Box 8 shows that employers in the destination country can play an important role in promoting a positive image of migrant workers among the host population.

**Box 8****Changing the public perception of migrants:  
Saphan Siang and Migration Works Campaign in Thailand and Malaysia**

In 2010, the ILO conducted a study in four destination countries in Asia—Malaysia, the Republic of Korea, Singapore, and Thailand—gauging public knowledge and attitudes towards migrant workers. The findings in Thailand and Malaysia show that the public has a limited understanding of the economy’s need for migrants in certain sectors, the positive contribution that migrant workers make to the economy, and migrant’s right to equal treatment.

In 2011, the research findings were discussed in an online forum hosted by the AP-Migration Community of Practice, an ILO-sponsored online community of experts and practitioners working on migration and human trafficking issues in the region. Most of the contributors to the forum were senior representatives from NGOs and recognized migration experts, who offered perspectives from Bangladesh, Hong Kong (China), Malaysia, the Republic of Korea, the Philippines, Singapore, Taiwan (China) and Thailand. The findings of the research and the discussion forum were also presented at several meetings with partners in Thailand and Malaysia, and at the 4th ASEAN Forum on Migrant Labour (AFML) held in Bali in October 2011.

### Box 8 Cont.

In line with the findings of the research, discussions had in the online forum, and the recommendations from the AFML, the ILO, along with UN and civil society partners launched two campaigns to promote a positive image of migrant workers: Saphan Siang (Bridge of Voices) in Thailand; and Migration Works in Malaysia.

The campaigns aim to promote better understanding between destination country nationals and migrant workers by increasing public awareness of the issues faced by migrant workers, their positive contribution to the economy and society, and their right to equal protection under the law and in practical access to support services.

- **Saphan Siang (Bridge of Voices):** The idea for the Saphan Siang campaign was first initiated through the desire to develop a Public Service Announcement (PSA) in 2011. The PSA was developed in consultation with IOM, World Vision and the UN Regional Thematic Working Group on Migration. To grow the concept into a more developed campaign, meetings with the UN Regional Thematic Working Group on Migration were held during which the overarching and annual goals of the campaign were established. Support for the campaign has since extended to include UNESCAP and UN-ACT. In 2014, World Vision became a key partner, providing financial and in-kind support for the Saphan Siang Youth Ambassador Programme, promotional materials, and International Migrants Day celebrations.
- **Migration Works:** The Migration Works campaign was launched on International Migrants Day in 2012 with the support of UN agencies, civil society organizations, SUHAKAM (the Human Rights Commission of Malaysia), the Malaysian Bar Council and the Malaysian Trades Union Congress (MTUC). To ensure the participation of partners and to develop a stronger “brand” identity for the campaign, in September 2013, a workshop was held to identify the key messages of the Migration Works campaign. The workshop was attended by over 40 participants including youth groups, civil society organizations, SUHAKAM, the Malaysian Employers Federation (MEF), the MTUC, Migrant Community, IOM, and the Ministry of Human Resources.

Saphan Siang and Migration Works conducted various activities in coordination with a wide range of partners. Campaign coordinators manage the campaigns by proposing activities and developing and sharing TORs with key stakeholders to identify potential partnerships and funding opportunities. Some of the activities include:

- **Photo competition and exhibition:** In 2012, Saphan Siang hosted a photo competition and exhibition entitled ‘A Positive Image’. The competition received over 200 entries from migrant workers, Thai university students, NGO workers and volunteers in Thailand. The event was launched by the Ministry of Labour in cooperation with the ILO, UNESCAP, IOM and World Vision.
- **Use of Facebook:** The campaign also has a strong online component. The Saphan Siang Facebook page and website are online spaces for the public to learn more about the campaign’s activities and to receive up-to-date information about migrant worker issues in the region. The number of page “likes” has reached more than 4,500 (as of October 2014). The Facebook page and website also host a ‘Question and Answer’ series, in which Facebook friends are invited to engage in the complex questions around migration, and share their views on the topic.

- **Working with celebrities:** In 2014, with support from UN-ACT, a Saphan Siang special video starring a Thai TV star was produced. This video highlighted the contribution that migrant workers make to Thailand, and worked to dispel some important myths in the process.
- **Cultural and artistic events:** The Malaysia Works campaign celebrated International Migrants Day 2013 with a photo exhibition, mural painting, and a dramatic performance on “reflections of migrants’ reality in Malaysia.” The event was attended by several parliamentarians, the UN Resident Coordinator, SUHAKAM, and the Malaysian Bar Council’s Sub Committee on Migrants, NGOs, the MTUC, the MEF, recruitment agencies, and youths. It provided an important public forum for the SUHAKAM representative to openly campaign for the creation (or legalization) of a body in charge of protecting migrant workers, either through a union or an association. In 2014, in collaboration with the MTUC, the campaign will hold an interactive art exhibition with the theme “Journey of Hope” during the Human Rights Week in December.
- **Public Service Announcements:** In 2014 a PSA was produced in collaboration with MTV EXIT. The PSA profiles a domestic worker, a security guard, and a waiter, and it challenges the audience to think beyond the job titles of migrants, and to recognize the significant contributions that migrants make to Malaysia’s economy and society. The PSA was promoted at civil society consultations, labour attaché consultations, at MTUC and MEF meetings, and at the UN Day celebration, ‘A Shared Future: A Choice for Multilateralism.’

Sources: Author interview with World Vision; International Labour Organization

## 5.2 Bilateral collaboration

Governments in the region have also vigorously pursued bilateral agreements (BAs) and MOUs with key destination countries. For example, based on data compiled by IOM missions in 2010, four countries in the region – Indonesia, the Philippines, Thailand and Viet Nam – together have signed 82 MOUs and BAs with destination countries, of which the majority were signed just between 2005 and 2010 (see Table 2 below).

This encouraging trend signals increased cooperation among origin and destination countries. Previously, countries of destination were reluctant to enter into such agreements, which implied additional obligations and partners. The shift indicates that countries of origin and destination are beginning to recognise that effective migration management requires cooperation (Agunias, et al., 2011).

Table 2: Bilateral agreements and MOUs in South-East Asia; Selected countries, up to 2010

Country	Bilateral agreements	Memoranda of understanding	In process
Indonesia	n.a.	Kuwait (1996, renewed 2001, discussions in process for another renewal); Jordan (2001, renewed 2009); Japan (2004 and 2008); Republic of Korea (2004 and 2010); UAE (2007, renewed 2010); Malaysia (2004 (formal sector workers), 2006 (domestic workers), 2010 (private sector); Australia (2005); Qatar (2008, renewed 2011 for the formal sector, 2010 for the health sector); and between the Indonesia Economic and Trade Office in Taipei, (Taiwan, China) and the Taipei Economic and Trade Office in Jakarta (2004, renewed 2011)	Syria, Lebanon, Libya, Brunei Darussalam (draft submitted to the Government of Brunei Darussalam), Australia and Japan
Philippines	United States (1968); Iraq (1982); Jordan (1988); Qatar (1997); Norway (2001); Switzerland (2002)	Papua New Guinea (1979); Libya (1979, 2006); Jordan (1981, 2010); Commonwealth of Northern Mariana Islands (1994, 2000); Kuwait (1997); Taiwan (China) (1999, 2001, 2003); United Kingdom (2002, 2003); Indonesia (2003); Rep of Korea (2004, 2005, 2006, 2009); Lao DPR (2005); Spain (2006); Saskatchewan province, Canada (2006); Bahrain (2007); UAE (2007); Alberta, British Columbia, Manitoba provinces, Canada (2008); New Zealand (2008); and Japan (2009)	n.a.
Thailand	n.a.	Cambodia (2002); Japan (IMM 2010); Japan (JITCO - Record of discussion 1994, updated 2010); Lao PDR (2002); Myanmar (2003); Republic of Korea (2009); Taiwan (Province of China) (2002); UAE (2007)	n.a.
Viet Nam	Russia (1992 BA updated in 2008); Lao PDR (1994 BA last updated in 2009); Czech Republic (1994); Taiwan Province of (China) (1999); Qatar (2008); Kazakhstan (2009)	Malaysia (2004); Republic of Korea (2004, MoU updated in 2008); Oman (2007); Bulgaria (2008); Slovakia (2008); UAE (2009); and Saskatchewan (2006)	Japan (1992 updated in 2010) and Saudi Arabia (2006)

Source: Agunias, et al., 20

Among destination countries, those in the Gulf States have been most active in signing agreements. Qatar has BAs and MOUs with Indonesia and Viet Nam; the United Arab Emirates with Indonesia, Viet Nam and the Philippines and Kuwait with Indonesia and the Philippines (Agunias et al., 2011). As a key destination country in the ASEAN region, Malaysia has entered into agreements with Bangladesh, China, India, Indonesia, Pakistan and Viet Nam, and is forging one with Nepal.

The MOUs the Philippines signed with Indonesia and the Lao People's Democratic Republic enhance the protection of migrants and promote collaboration on labour and employment, respectively. These MOUs therefore indicate that cooperation – not just competition – is possible among countries of origin. The MOU with Indonesia, for example, outlines forms of cooperation, such as the development of joint efforts to protect migrant workers and to provide legal aid. With the Lao People's Democratic Republic, efforts include technical support in implementing projects such as labour administration and employment promotion (Agunias, 2011).

Agunias' (2011) preliminary review of publicly available agreements involving ASEAN member countries clearly suggests that BAs and MOUs can be effective tools to jointly minimize migration costs. As Box 9 below highlights, the provisions in some of the new agreements are far from generalities and rather are quite specific. If properly implemented, these MOUs could potentially have a tremendous impact on migrants' welfare. Indeed, the Philippines, which has negotiated the most labour migration BAs and MOUs in the ASEAN region has veered away from the formulation of general agreements and worked towards the adoption of more focused or specific agreements, which are easier to negotiate and make operational with host countries.

A number of ASEAN Member States have worked toward reviewing and renewing MOUs they have signed to make sure that the agreed upon provisions remain relevant. Indonesia and Malaysia, for instance, have intensively negotiated to renew the MOU they signed in 2006 concerning the recruitment and placement of Indonesian domestic workers in Malaysia. As Box 10 describes, in 2009, the Indonesian Government imposed a ban on the placement of domestic workers in Malaysia following an increasing number of abuse cases and violations. The ban was lifted in May 2011 after the two countries signed a temporary agreement in the form of a "letter of intent" pending the adoption of the amendment to the 2006 MOU. The temporary agreement secures migrant workers' rights to have one day off a week and to retain their passports, although the agreement does not cover minimum wage issues (Agunias, et al., 2011).

### Box 9

#### Moving away from generalities: Insights from MOUs involving ASEAN Member States

Agunias (2011)' preliminary review of publicly available MOUs recently signed by ASEAN Member States clearly suggests that BAs and MOUs can be an effective tool to jointly minimize migration costs. The provisions in more recent MOUs are specific enough, making them easier to negotiate and make operational with host countries.

As mentioned above, many MOUs involving ASEAN Member States are moving away from being generalized agreements, with states in the region preferring to negotiate more specific agreements. Below are some examples.

First, some agreements have clearly set out parameters on who should pay when recruiting migrant workers. For instance, a 2008 MOU between the Philippine Government and three Canadian provinces bans charging placement fees to migrants. The language of the MOU in this regard is very clear: employers and agencies "must not request, charge or receive, directly or indirectly, any payment from a person seeking employment..."

The Philippines' MOU with Japan lists the actual recruitment fees employers must pay: US\$425 as a processing fee, inclusive of contract guarantee, and an additional US\$25 contribution to the Workers' Welfare Fund. The MOU also explicitly states, "Such payment shall not, in any way, be levied on the selected Filipino candidates..."

Jordan's MOU with Indonesia concerning domestic workers is noteworthy since it covers not only the costs migrants incur at the pre-departure stage, but while at the destination and even upon return. The MOU states explicitly that the employer is responsible for paying the following:

- **Work and residency permits.** If the employer fails to avail of the permits, he or she will pay a fine to the relevant Jordanian authority.\*
- **Life insurance policy.** The policy shall be valid for two years, issued at an accredited and registered insurance company.\*\*
- **Return ticket.** If the domestic worker changes sponsors, the new employer should pay for the return ticket. \*\*\*
- **Bank account.** The employer shall open a bank account in the name of the domestic worker, where the salary would be deposited within seven days of the pay date. \*\*\*\*
- **Accommodation, meals, medical care and clothing.** \*\*\*\*\*

The MOU also has provisions that require the Indonesian agent to pay for the deployment cost if the domestic worker is not qualified and/or refuses to work without reason. \*\*\*\*\*

The MOU between the Republic of Korea and the Philippines outlines the types of fees that can be legitimately charged from employers and workers alike, both before departure and when the migrant reaches the Republic of Korea. The two countries also agreed to consult with each other in case changes in fees "are inevitable due to inflation or other reasons". \*\*\*\*\*

Second, some of the agreements require the use of just one contract at both sending and receiving ends. The MOUs the Philippines signed with the Republic of Korea and Japan have provisions that require the employers to get authentication from Philippine Government authorities. The Philippine Government would "review the terms and conditions, and if the same are compliant with the minimum standards, explain to the jobseekers so that he/she can fully understand it and decide whether or not to accept the offer based on his/her own free will". \*\*\*\*\* Likewise, Jordan's MOU with the Philippines and Indonesia requires that contracts are approved and stamped by the Philippine and Indonesian embassies in Amman.

Source: Agunias, 2011

Notes: \* See Memorandum of Understanding between Government of the Hashemite Kingdom of Jordan Represented by the Ministry of Labour and Government of the Republic of Indonesia Represented by Ministry of Manpower and Transmigration on the Placement and Protection of Indonesian Domestic Workers (2009), Article 4.

\*\* Ibid., Article 8. \*\*\* Ibid., Article 12. \*\*\*\* Ibid., Article 13. \*\*\*\*\* Ibid., Article 13. \*\*\*\*\* Ibid., Article 19.

\*\*\*\*\* Memorandum of Understanding between the Department of Labor and Employment, Republic of the Philippines and the Ministry of Labour, Republic of Korea on the Sending and Receiving of Workers under the Employment Permit System of Korea (2009), Paragraph 4, Sending and On-site Fees.

\*\*\*\*\* Ibid., Paragraph 8, Labour Contract.

**Box 10****Protecting domestic workers through MOUs: The Malaysia-Indonesia experience**

The Government of Indonesia and the Government of Malaysia signed the MOU on the Recruitment and Placement of Indonesian Domestic Workers on 15 May 2006 and a Protocol amending the MOU on 30 May 2011.

The revised agreement was made after a two-year moratorium on the recruitment of Indonesian domestic workers in response to the large number of cases of abuse in Malaysia, including complaints over long working hours, unpaid wages, confiscation of passports, confinement in the workplace, physical and sexual violence, and forced labour. The Office of the United Nations High Commissioner for Human Rights (OHCHR) criticized the Government of Indonesia for its lack of consultation with civil society during the drafting of the 2006 MOU. The 2011 Protocol addressed some of the concerns from the previous MOU. The Protocol included provisions for the right of domestic workers to hold their passports, communicate with family, payment of monthly wages into a bank account, and one rest day per week (with the option to compensate with overtime payment). Recruitment fees, to be paid upfront by the employer, are capped at US\$1,500 (4,511 Malaysian ringgit [MYR]). Since the signing of the MOU, the Malaysian Employers Federation and the Association of Foreign Maid Agencies have proposed the fee be increased to MYR5,995 and RMYR8,500 respectively. Under the MOU, the employer can deduct a maximum of US\$600 (MYR1,800) for these fees from the workers' salary, although salary deductions may not exceed 50 per cent of the worker's monthly salary.

The MOU also includes a standard employment contract (to be endorsed by the respective diplomatic missions); stipulates the costs to be borne by the employer and by the worker; and outlines the responsibilities of the employer, worker and recruitment agencies in Indonesia and Malaysia.

Implementation of the MOU is overseen by the Joint Working Group, which meets on an annual basis. In addition, the 2011 Protocol established two Joint Task Forces based in Jakarta and Kuala Lumpur, which are made up of technical officers from relevant ministries in each country, as well as the labour attaché appointed to Indonesia/Malaysia. The Joint Task Force reports regularly to the Joint Working Group.

Despite the additional protections provided by the MOU, reports of the exploitation of domestic workers in Malaysia, underpayment of wages, and disregard for agreed recruitment fees continue to surface on a regular basis (Pasandaran, 2013; HRW, 2011). In addition, many in the civil society have criticized the revised MOU for failing to set a minimum wage.

Sources: Office of the High Commissioner for Human Rights, 2006; United Nations Human Rights Council, 2007; Human Rights Watch, 2011; ILO, 2013a; Pasandaran, 2013; Sittamparam and Muin, 2013



### 5.3 Regional collaboration

Most collaborations at the regional level emanate from ASEAN as well the public-private initiatives, the most innovative of the latter being driven by employers, trade unions and recruitment agencies.

#### Formal inter-state collaboration at the ASEAN

In 2007, ASEAN agreed on an ambitious goal to fast-track the creation of the ASEAN Economic Community (AEC) by 2015 which essentially will transform the ASEAN region into a “single market and production base” characterized by, among other things, a “free flow of skilled labour” (Sugiyarto and Agunias, 2015).

Rather than aiming for an unrestricted or “free flow” of skilled labour, such as what is in practice in other similar regional groupings like the Caribbean Community, the AEC is working towards a “freer flow” of skilled labour. Indeed, much of the initiatives over the last decade have focused on making it easier for specific groups of individuals to move within the region either directly (by facilitating issuance of temporary visas) or indirectly (by recognizing migrants’ qualifications and skills through the signing of Mutual Recognition Agreements (MRAs) and the creation of an ASEAN Qualifications Reference Framework (AQRf)) (Sugiyarto and Agunias, 2015). Additionally, in the area of mutual recognition of skills, the ILO has been providing technical assistance and advisory services in various forms, including the development of Regional Model Competency Standards that have been utilized as benchmarks for national skills standards development in the region (continually supported by the ILO/Korea Partnership Programme). In addition, the ILO has supported regional tripartite consultation meetings and capacity building activities conducted to push forward the mutual recognition mechanisms on skills in ASEAN.

As Box 11 below highlights, between 2005 and 2012, ASEAN member governments signed MRAs in six key occupations (engineering, nursing, architecture, medicine, dentistry, and tourism) and signed Framework Agreements on MRAs in surveying and accountancy. ASEAN Member States have also taken concrete steps to create the aforementioned AQRf. Similar to the European Qualifications Framework established in 2008, the AQRf will be a common regional reference point and a translation grid that will make it easier to understand, compare, and recognize qualifications across different countries and systems within ASEAN, Australia and New Zealand (Sugiyarto and Agunias, 2015).

Many have observed that adapting domestic policies and regulations to meet the provisions of the MRAs has been difficult, especially in the medical profession. Indeed as Sugiyarto and Agunias’ (2015) contend in their review of the development and implementation of the MRAs and the AQRf, the technical hurdles are significant. Simply signing an agreement between governments is not enough, as concrete measures may require detailed occupation-by-occupation analysis and negotiation of a highly technical nature that necessitate considerable persistence and political will. Governments seeking to simplify and reduce barriers to professional practice also face a highly complex system with a wide range of stakeholders responsible for different aspects of the recognition process especially where occupational regulation is delegated to subnational actors (and even at the national level, several government departments may have a stake in negotiations, including those responsible for education, employment, trade, and international relations). This multiplies the number of entities that have a role in intergovernmental MRA negotiations and creates complex divisions of labour among them (Sugiyarto and Agunias, 2015). Differences in language, culture, and social acceptance create practical barriers to labour mobility. A recent joint ILO–ADB study found that the occupations currently covered by MRAs account for only 0.3–1.4 per cent of total employment in ASEAN Member States (ILO, ADB, 2014).

### Box 11

#### The devil is in the details: Challenges in implementing Mutual Recognition Arrangements (MRAs) in the ASEAN region

There is mounting evidence that current migrants in the region are often unable to put their skills to productive use because their qualifications, experience, and knowledge are not readily recognized in the destination country's labour market. This results in a loss of human capital, loss of income earning potential, and points to a need for more effective job matching procedures.

ASEAN Member States have also taken various approaches to better recognize qualifications and skills within the region:

- Signing of Mutual Recognition Arrangements (MRAs):** Between 2005 and 2012, ASEAN member governments signed MRAs in six key occupations (engineering, nursing, architecture, medicine, dentistry, and tourism) and signed two Framework Agreements on MRAs in surveying and accountancy. Each MRA aims to facilitate mobility within ASEAN; exchange information and enhance cooperation in respect of mutual recognition; promote adoption of best practices on standards and qualifications; and provide opportunities for capacity building and training of practitioners. The MRAs have also created ASEAN-wide joint coordinating committees to facilitate and institutionalize implementation. For instance, the ASEAN Joint Coordinating Committee on Dental Practitioners is comprised of not more than two appointed representatives from the Professional Dental Regulatory Authority of each country. Unlike the four other MRAs, the engineering and architecture MRAs also took a step further by creating ASEAN-wide registries called the ASEAN Chartered Professional Engineers Register and the ASEAN Architect Council to streamline and centralize the recognition and certification process.
- Creating the ASEAN Qualification Reference Framework (AQRF):** ASEAN Member States have also taken concrete steps to create the ASEAN Qualification Reference Framework (AQRF) to measure "levels" of educational or training achievement and to create more transparent "career ladders" between qualifications. The AQRF, which is being developed under the ASEAN-Australia-New Zealand Free Trade Area Economic Cooperation Work Programme, aims to harmonize regulatory arrangements between participating countries by developing mutually comparable national qualifications frameworks based on a common reference framework. Similar to the European Qualifications Framework (EQF) established in 2008, the AQRF will be a common regional reference point and a translation grid that will make it easier to understand, compare and recognize qualifications across different countries and systems within ASEAN, Australia and New Zealand. If properly and widely utilized, it could promote workers' and learners' mobility within ASEAN.
- Technical hurdles in implementation:** Many have observed that adapting domestic policies and regulations to meet the provisions of the MRAs has been difficult, especially in the medical profession. In a 2012 official review of the achievement of the AEC, the Economic Research Institute for ASEAN and East Asia (ERIA) noted "substantial progress especially in architecture services and engineering services" although the performance still "varies tremendously" among various ASEAN Member States (ERIA, 2012). The greatest progress has been made in the establishment of implementation mechanisms and processes at the regional and national levels (ERIA, 2012).

**Box 11 Cont.**

“Where the implementation bogs down,” according to ERIA (2012), and “where much remains to be done is the revision of domestic policies and regulations to be consistent with the provisions of the MRAs”. They highlight, for instance, the situation in health related services, like medical and dental professionals, where ASEAN Member States have generally maintained their national authority in deciding who can practice in their countries (ERIA, 2012).

Indeed, the technical hurdles are significant. Simply signing an agreement between governments is not enough, since concrete measures may require detailed occupation-by-occupation analysis and negotiation of a highly technical nature that requires considerable persistence and political will.

Particular problems can also arise where the level of regulation varies among countries. Indeed barriers to transferring skills and experience between countries are especially problematic in regulated occupations where applying for the right to practice can be an extremely time-consuming and difficult process for foreign nationals, or, in worst cases, not even offered as an option. Some countries, like the Philippines, have constitutional provisions barring migrant workers from receiving a license in some occupations.

Source: Sugiyarto & Agunias (2015)

### 5.3.2 Regional civil society collaborations

Civil society organizations in the ASEAN and Asia region have formed networks to provide coherent and informed inputs to regional policy level discussions. Groups include networks such as the Taskforce on ASEAN Migrant Workers, Migrant Forum Asia and the Mekong Migration Network. Civil society organizations, national and regional are invited to participate at the AFML each year. The Task Force for ASEAN Migrant Workers (TFAMW), with support of the ILO, leads the Civil Society Organizations’ engagement with the AFML, consulting with its national partners. Civil Society Organizations meet each year in May to develop civil society-led activities to implement the Recommendations of previous AFML meetings and improve their engagement with governments and social partners. The ASEAN Civil Society Conference, run alongside the annual ASEAN Leaders’ Meeting, is a forum for Southeast Asian civil society organisations to present their ideas, network, collaborate on common areas and attempt to engage ASEAN officials on issues of concern.

### 5.3.3 Regional collaborations of social partners

#### Forging complaints mechanism at the regional level through trade unions

Trade unions, in cooperation with others in the civil society and relevant government offices, could also play a key role in creating region-wide complaints mechanisms. Box 14 below highlights a new system the ASEAN Trade Union Council (ATUC), an umbrella organization involving 18 national federations and confederations in nine ASEAN countries, and the ILO are developing. Central to the system is the identification of focal persons and creation of migrant workers desks within ATUC National Trade Union Centres. The National Centres will receive complaints from the workers or their representatives, record them using standard intake forms and depending on the complaint, will then forward each case to relevant government agencies, partner CSOs or to other ATUC National Centres.

## Enhancing the voice of employers in labour migration policy discussions

The ASEAN Confederation of Employers (ACE) have developed a 3-year action plan to assist ASEAN employers to influence labour mobility reform at the regional level and to ensure that such efforts are reflective of the regional business community's interest.

The ACE Action Plan, developed with support of the ILO aims to:

- Strengthen the capacity of ACE and its members to engage in effective policy dialogue based on empirical evidence to promote a sound governance framework for labour mobility in the ASEAN region.
- Strengthen the capacity of ACE to convene members around labour mobility related issues in order to raise awareness and share good practices.
- Develop regional guidelines and other tools and products that can be customized at the national level by EOs into demand-driven products that can practically assist enterprises.

ACE has agreed on an Employers' Policy Framework for Sustainable Labour Migration in the ASEAN Region and is pursuing technical work in 5 areas identified by ACE as essential to enhanced labour mobility in 2015 and beyond: Skills matching and labour mobility; increasing productivity through enhancing the safety and health of migrant workers; Hiring migrant workers – The regulatory environment; Enhancing workplace competitiveness through embracing diversity; Combatting forced labour and human trafficking in ASEAN.

### Box 12

#### Creating regional complaint mechanisms: An initiative from the ASEAN Trade Union Council (ATUC)

As noted above, the ATUC and the ILO are working towards creating and testing a regional complaints mechanism for migrant workers from ASEAN countries. The figure below details the process by which complaints would flow through the mechanism and the actions that would be taken to resolve these complaints.

Parallel to developing the complaint mechanism, the ATUC is also working in two critical areas:

**Capacity building:** The ATUC, in collaboration with the ILO, will undertake capacity building programmes for the focal points, initially in at least two (non-ATUC) destination countries, such as Hong Kong (China) and countries in the Middle East.

**Formalizing agreements:** The ATUC is also urging its affiliates to enter into bilateral or multilateral agreements with unions or labour centers in destination countries (e.g., Hong Kong (China), Japan, and the Republic of Korea) to assist workers in distress or to take migrant workers into their protection.

Source: Author interview with Cedric Bagtas, ATUC Deputy General Secretary, October 9, 2014

### 5.3.4 Public-Private collaborations

Regional collaborations are not just limited to government, civil society groups and international and donor organizations. Indeed, some of the most active collaboration at the regional level is public-private partnerships involving governments, employers, recruitment agencies and trade unions. Recent collaborations have focused on three areas:

- (1) creating guidelines and standards among employers and their supply chain;
- (2) promoting-self-regulation among recruitment agencies; and
- (3) forging complaints mechanisms at the regional level through trade unions.

#### Creating guidelines and standards among employers and their supply chain

Alongside governments, employers have to assume a more active role in managing the labour migration process. As Agunias notes, “businesses can be a crucial partner in influencing recruitment practices” (Agunias, 2011). An Australian television channel, for instance, exposed in 2008 the poor working and recruitment conditions of migrant workers in a Malaysian factory producing Nike products. As a result, Nike promised that its factory would pay any and all fees associated with employment and has reimbursed all employment-related fees, including recruiting and worker permit fees, to the migrants (BSR, 2008).

Aside from Nike, other large multinational companies have instituted initiatives to better protect migrant workers including:

- Gap, the clothing retailer, is cited as influencing recruitment practices. The company developed a code of conduct for its contractors and recruiters. As Agunias notes, if companies hiring migrant workers routinely cover the costs of recruitment, it would reduce, possibly eliminate, the costs migrants incur (Agunias, 2011).
- Next has pioneered supply chain collaboration to promote the responsible recruitment of workers, including migrant workers. The company has worked in recent years with other brands, retailers, CSOs, and international organizations. Together with Arcadia Group, Next developed migrant worker guidelines for their suppliers that cover all aspects of the migration process, from recruitment to employment to safe return. Furthermore, Next works with suppliers to “help them identify reputable recruitment agencies, conduct due diligence to ensure that workers were treated fairly, and implement annual assessments of agencies against the Next code of conduct” (Verité, n.d.). Next also leads annual training on ILO labour standards and regularly participates in expert consultations on the relationship between business and human rights (Verité, n.d.).
- Walmart has partnered with Verité and the Manpower Group to pilot the Ethical Framework for International Labour Recruitment. Key Walmart suppliers in the US are working with Verité to implement operational standards of responsible international labour recruitment. Walmart has also created education and training programmes to enable agricultural suppliers to meet ethical sourcing expectations. The programme includes training in anti-trafficking measures and migrant protection (Verité, n.d.).
- The Coca-Cola Company claim to routinely make use of independent third-parties to assess and interview its suppliers to make sure they are in compliance with Coca-Cola’s Supplier Guiding Principles. If a supplier fails to meet any of the Supplier Guiding Principle requirements, that supplier is “expected to implement corrective actions” or risk having their agreement with Coca-Cola terminated (Coca-Cola Company, 2013).

- Apple claims to audit deep into the company's supply chain and "hold suppliers accountable to some of the industry's strictest standards" (Apple, Inc., 2014). In 2013, Apple has required suppliers to reimburse migrant workers US\$3.9 million in excessive fees paid to labour brokers. Since 2008, Apple's suppliers have reimbursed a total of US\$16.9 million to contract workers. Apple determines which factories in certain countries are more likely to employ migrant workers and targets those factories for bonded labour audits, while also helping these factories "modify their management systems and practices to comply with standards" (Apple, Inc., 2014). Apple "rarely find[s] recurrences of bonded labour" (Apple, Inc., 2014) in follow-up audits suggesting that the combination of strong policies and rigorous checks could deter recruitment violations and abuse.

Indeed, Agunias (2009), citing a 2008 report from Business for Social Responsibility, highlighted the following areas where "companies can actively contribute to lowering the cost of migration to migrants":

- adjust companies' codes of conduct to include specific protection for migrant workers;
- train suppliers on management issues related to migrant workers and support their efforts to ensure fair treatment;
- include migrant worker issues in auditing activities; and
- tie purchasing decisions to ethical treatment of migrant workers (Agunias, 2009).

Innovative practices, however, are not just limited to large multinationals. As Box 13 below shows, companies even on their own could make a difference by adopting ethical recruitment practices.

### Box 13

#### A more responsible role for employers: Insights from the recruitment practices of a semi-conductor company in Malaysia

In 2014, the ILO commissioned ten enterprise-level case studies to highlight practical examples of companies in ASEAN that are employing best practice approaches to recruiting and/or placing and protecting migrant workers, and to identify where such practices have application for the broader policy settings of the AEC 2015.

The following are best practices identified in a Malaysian semi-conductor company hiring migrants of all skill levels mostly from the Indonesia, Myanmar, and the Philippines.

- **Skills matching:** All candidates went through tests and interviews. In Indonesia, campus recruitment in technical and vocational schools in cities such as Medan and Lombok, which the company started a few years earlier, has proved to be particularly useful as it brings the company directly to the candidates trained for the sector.
- **Addressing rights violations:** The company acknowledges that it is impossible for it to do a perfect job in managing the process entirely. The company tries to reduce malpractices by recruiting from countries where the governments regulate and license the local recruitment agencies and by only using accredited agencies.
- **Meeting agreed employment contract terms:** Giving applicants a detailed presentation even before the interviews, the company ensures that workers eventually taking up employment in the company have the correct expectations. As such, there have not been any cases where foreign workers arrive in Malaysia refusing the job with the company. The company visits the villages to get to know the communities before it starts its interviews. This way bonds are formed with the communities from which the workers come. This community involvement creates an additional layer to encourage workers to be serious about their employment with the company once they have accepted it.

### Box 13 Cont.

- **Commitment to foreign employees:** Promotions from manufacturing assistants to supervisory roles such as line coordinators and process coordinators are possible. Moreover, salary increments or bonuses encourage foreign workers to stay on. For example, after serving two years with the company, for every subsequent year the foreign worker stays with the company, they get MYR500 each year as a bonus. This rate is regularly reviewed to match market rates.
- **Development and well-being of foreign employees:** In terms of skills development, all workers, local or foreign, receive training ranging from classroom-based technical skills trainings to on-the-job trainings. Certificates are given to all successful participants. An outsource office that is made up of staff of different nationalities addresses workers' concerns. Social activities are organized and include a sports carnival where workers represent their workplace departments to compete at an annual dinner at the end of the year where workers perform and showcase their talents. Other activities include an annual family day; and activities outside the company.

Sources: Lee, forthcoming-#1; Lee, forthcoming-#2

### Promoting self-regulation among recruitment agencies

Like employers, recruitment agencies could also take a larger role in ensuring the protection of migrants from abuse and exploitations. Indeed, in North America and Europe, recruitment agencies have organized themselves into national industry associations employing industry codes of practice as a condition for membership. One of the most recognized industry associations is the Belgium-based Confederation of Private Employment Agencies (CIETT), an international organization composed of representatives of national industry organizations, as well as large multinational enterprises, which has developed its own Code of Practice. Currently, CIETT is home to 40 national federations of private employment agencies and six of the largest staffing companies worldwide, including Manpower and Adecco. The ILO recognized CIETT as the leader in establishing worldwide standards for its agency members in the recruitment industry (Agunias, 2009). CIETT's code prohibits members from charging, directly or indirectly, any fees or costs to workers for job-finding services (CIETT, 2006).

Beyond enforcing a code, agency associations also raise standards in the industry by collecting information about disreputable agencies via regular screenings of their members and new membership applications, as well as by organizing training seminars. Since recruitment is not a certified profession, business associations also play an important role in disseminating know-how and good business practice (ILO, 2007).

In 1997, a meeting of international experts organized by the ILO produced recommendations to encourage self-regulation of recruitment agencies. The ILO Governing Body later adopted the following recommendations:

- minimum standards for the professionalization of the services of private agencies, including specifications regarding minimum qualifications of their personnel and managers;
- the full and unambiguous disclosure of all charges and terms of business to clients;
- the principle that private agents must obtain all information pertaining to the job in as much detail as possible, including specific functions and responsibilities, wages, salaries, and other benefits, working conditions, travel and accommodation arrangements from the employer before advertising the position;

- the principle that private agents should not knowingly recruit workers for jobs involving undue hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind;
- the principle that migrant workers are informed, as far as possible, in their mother tongue or in a language with which they are familiar, of the terms and conditions of employment;
- refraining from bidding down wages of migrant workers; and
- maintaining a register of all migrants recruited or placed through them, to be available for inspection by the competent authority, provided that information so obtained is limited to matters directly concerned with recruitment and that in all instances the privacy of workers and their families is respected (ILO, 2007).

Some observers are highly skeptical about the impact of self-regulation, with one industry analyst noting that it “did not prevent abuses that damage the entire sector” (Demaret, 2006). Others see codes of conduct as limited instruments due to their voluntary nature, while some see problems arising from the recruitment sector’s instability.

As Agunias (2009) notes, “the experience of the Philippine-based Association for Professionalism in Overseas Employment (ASPROE) points to the difficulties of self-regulation.” With only eight members out of the nearly 1,500 licensed agencies in the Philippines, ASPROE is a small organization and only one of its kind that bans members from charging placement and other fees to workers. As its founder and chairperson Rene Cristobal bluntly put it in a 2008 interview with Agunias: “There are a million reasons why I can count our members using fingers of my two hands, and they will not paint a pretty picture of the Philippine recruiting industry” (Agunias, 2009).

Today, Viet Nam exhibits one of the more successful attempts to encourage self-regulation among a wide number of agencies. Box 14 below details how the Vietnam Association of Manpower Supply (VAMAS) created and, even more importantly, enforced its code of conduct on 50 of its members.

#### Box 14

##### Enforcing self-regulation among recruitment agents: Experiences from Vietnam

In 2010, the Vietnam Association of Manpower Supply (VAMAS) created a Code of Conduct (COC-VN), and over 100 recruitment agencies have signed up to commit to the code’s principles and guidelines. The monitoring and evaluation mechanism was developed in 2011, and the decision was made to implement this mechanism in stages. In Phase I (2012-2013), 20 recruitment agencies were assessed and ranked according to their application of the COC-VN. The number of agencies being assessed increased to 50 in Phase II (2013-2014). In Phase III, all recruitment agencies will be assessed.

An evaluation of Phase I highlighted the importance of ensuring the participation and cooperation of VAMAS members, government authorities, labour inspection agencies at the central and local levels, the Labour Management Sections in receiving countries, and other relevant social organizations.

VAMAS sought to strengthen cooperation with relevant bodies in a number ways, including by:

**Seeking support of the Vice-Minister of MOLISA:** VAMAS proposed to the Vice Minister of the MOLISA that he signs a letter requesting the leaders of the provincial and municipal departments of Labour, Invalids and Social Affairs (DOLISAs) to participate in the monitoring and evaluation of COC-VN implementation.



**Box 14 Cont.**

**Concluding cooperation agreements with** various offices, including the:

- Department of Overseas Labour (DOLAB) on the monitoring and evaluation on COC-VN implementation. DOLAB assigned a Deputy Director General to be a member of the Panel for Monitoring and Evaluating COC-VN Implementation and instructed its Inspection Division to provide information to the Panel. DOLAB also issued a document requesting all licensed recruitment enterprises to implement COC-VN. However, VAMAS still goes by the principle of voluntary application of the COC-VN.
- MOLISA's Inspection Bureau on providing information and data for evaluating the implementation of COC-VN.
- The Labour Management Section in Malaysia (MOLISA officials that serve as labour attachés) to provide information on the recruitment enterprises dispatching workers for employment in Malaysia.
- DOLISAs of Vinh Phuc, Phu Tho, Bac Ninh, Ha Tinh, Nghe An, Thanh Hoa, Quang Ngai and Hanoi, the provinces and cities in which the Phase I recruitment agencies were located. VAMAS held sessions with DOLISAs to introduce the COC-VN and the monitoring mechanism.

Indeed, the evaluation concluded that it is necessary to work in advance with key staff of the local labour authorities to secure the active participation of those authorities. It is also critical for all stakeholders to recognize the importance of participating in the COC-VN evaluation. Focusing on training. VAMAS organized a training in September 2012 in Hanoi for leaders and officers in charge of the 20 recruitment enterprises of Phase I. These leaders and officers were then charged with organizing training for the remaining staff in their recruitment agencies.

The training revealed a big change in the awareness and understanding among staff of the enterprises as well as an actual improvement in the operation of the enterprises. It is important to note that this training was not in the project plan and was, hence, not covered by the project budget. VAMAS actively carried out the consultation with the enterprises. Moreover, the recruitment enterprises realized that implementing the COC-VN would prove very beneficial to them, and they therefore used their own budget to train their staff and considered the training to be a prerequisite to start their COC-VN implementation. This is very significant when considering the sustainability of the project.

Generating feedback from local actors. One of the important channels for evaluating recruitment activity was the aforementioned DOLISAs at the provincial and municipal level. The Panel for Monitoring and Evaluating COC-VN Implementation received comments from the DOLISAs of Quang Ngai, Ha Tinh, Nghe An, Thanh Hoa, Bac Ninh and Phu Tho. The comments focused on issues related to recruitment; communication with local authorities in protecting the legal rights and interests of overseas Vietnamese workers; and violations that need to be addressed.

Source: ILO, 2013c



## 6. Conclusion

Given the transnational nature of labour migration, cooperation among governments and various actors is key to more effective policy-making and programme implementation. As this paper shows, cooperation can be achieved in various ways depending on the purpose of the cooperation, the level of coordination and institutionalization required, as well as the responsibilities and accountability of the partners involved.

Actors in South-East Asia may start by initiating discussions at national, regional and international levels to determine interest among potential partners and possibly set the stage for more advanced types of cooperation. A step further is to engage in consultation, which is a more structured process of dialogue typically requiring more resources and always leading to a decision. One promising approach, as highlighted in the paper, is the creation of a tripartite Technical Working Group to review and draft regulations that reflect the needs and interests of workers and employers. Actors in the region could also choose to move beyond consultation and engage in collaboration, which represents a higher level of cooperation among partners. Collaboration can take place in many ways such as by utilizing existing structures or creating new government bodies, pursuing BAs and MOUs, creating guidelines and standards among employers and their supply chain, promoting self-regulation among recruitment agencies, and by forging complaints mechanisms at regional level through trade unions.

However, adopting a cooperative framework also entails risks. This paper spotlights examples of initiatives that have worked and achieved their stated goals. Yet, not all attempts at cooperation have succeeded. A key next step for actors in the region is a stronger emphasis on monitoring and evaluation of current and future attempts at cooperation in order to better understand and identify the factors that lead to both success and failure. The examples used in this paper also stress the need to invest in the capacity of the actors themselves. The success of any cooperative efforts depends largely on the capacity of each partner to meet obligations and expectations.

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## **Coordination and role of key stakeholders in setting up and implementing policies and procedures to facilitate recruitment, preparation, protection abroad, and return and reintegration**

There is a convergence of interests now among policy-makers within the Association of Southeast Asian Nations (ASEAN) towards strengthening labour migration regimes by developing various institutional structures, processes and modalities of cooperation. The ILO Multilateral Framework on Labour Migration has identified a number of guidelines on how best to promote international cooperation on labour migration. This paper will provide examples of cooperation under these guidelines and convey an understanding of the 'state of the art' in policies and programmes initiated with the cooperation of various actors in the ASEAN region, including governments at both national and local levels, civil society, the private sector, international organizations and multilateral and regional institutions. More specifically, it aims to explore how links amongst these various actors are created, strengthened and maintained, including the administrative structures put in place to support these cooperative mechanisms.

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