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# **Progress of the implementation of Recommendations adopted at the 3rd – 6th ASEAN Forum on Migrant Labour meetings:**

**Background paper to the 7th AFML**

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**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**





**Progress of the implementation of Recommendations  
adopted at the 3rd – 6th ASEAN Forum on  
Migrant Labour meetings**

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Background paper to the 7th AFML

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Ang, Alvin; Baruah, Nilim; Imson, Manuel; Lautenschlager, Heike

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- ASEAN Secretariat
- ASEAN Confederation of Employers
- ASEAN Trade Union Council
- Taskforce on ASEAN Migrant Workers
- IOM and UNWomen
- The participants of the national preparatory meetings for the 7th AFML in Cambodia, Indonesia, Lao People's Democratic Republic, Myanmar, the Philippines, Thailand and Viet Nam, from national government agencies, trade unions, employers organizations and civil society.

This report looks at the progress made in implementing the recommendations made in the past six AFML meetings and summarizes the activities, experiences, good practices and challenges key stakeholders have faced in implementing the recommendations. The authors hope it will be a valuable resource to all involved in the AFML process.



## Acronyms and abbreviations

|                     |   |
|---------------------|---|
| <b>ACE</b>          | ASEAN Confederation of Employers  |
| <b>ACMW</b>         | ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers |
| <b>ACRA</b>         | Association of Cambodian Recruitment Agencies   |
| <b>AFML</b>         | ASEAN Forum on Migrant Labour   |
| <b>AMS</b>          | ASEAN Member States   |
| <b>ASEAN</b>        | Association of Southeast Asian Nations  |
| <b>ATUC</b>         | ASEAN Trade Union Council   |
| <b>BNP2TKI</b>      | National Board for the Placement and Protection of Indonesian Overseas Workers  |
| <b>COC-VN</b>       | Code of Conduct for Vietnamese recruitment agencies   |
| <b>CSES</b>         | Cambodia Socio-Economic Survey  |
| <b>CSO</b>          | Civil Society Organization  |
| <b>DFA</b>          | Department of Foreign Affairs, Philippines  |
| <b>DOE</b>          | Department of Employment (Ministry of Labour, Thailand)   |
| <b>DOLAB</b>        | Department for Overseas Labour of Vietnam   |
| <b>DOLE</b>         | Department of Labor and Employment, Philippines   |
| <b>GMS TRIANGLE</b> | Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Sub-region from Labour Exploitation       |
| <b>HOME</b>         | Humanitarian Organization for Migration Economics   |
| <b>ILMS</b>         | International Labour Migration Statistics   |
| <b>ILO</b>          | International Labour Organization   |
| <b>IOM</b>          | International Organization for Migration  |
| <b>KSBSI</b>        | Indonesian Trade Union Confederation  |
| <b>KTKLN</b>        | Overseas Worker Card, Indonesia   |
| <b>LCC</b>          | Labour Coordinating Centre  |
| <b>LGU</b>          | Local Government Unit, Philippines  |
| <b>MOEAF</b>        | Myanmar Overseas Employment Agencies Federation   |
| <b>MoL</b>          | Ministry of Labour, Thailand  |
| <b>MOLESS</b>       | Ministry of Labour, Employment and Social Security, Myanmar   |



|                 |   |
|-----------------|---|
| <b>MoLISA</b>   | Ministry of Labour, Invalids and Social Affairs, Viet Nam               |
| <b>MoLSW</b>    | Ministry of Labour and Social Welfare, Lao People’s Democratic Republic |
| <b>MoLVT</b>    | Ministry of Labour and Vocational Training, Cambodia                    |
| <b>MoM</b>      | Ministry of Manpower, Singapore   |
| <b>MoM</b>      | Ministry of Manpower, Indonesia   |
| <b>MOU</b>      | Memorandum of Understanding   |
| <b>MRC</b>      | Migrant Workers’ Resource Centre  |
| <b>MTUC</b>     | Malaysian Trades Union Congress   |
| <b>MWC</b>      | Migrant Workers’ Centre, Singapore                                      |
| <b>NGO</b>      | Non-Government Organization   |
| <b>OFW</b>      | Overseas Filipino Workers   |
| <b>OSRC</b>     | One Stop Resource Centres   |
| <b>OSSC</b>     | One Stop Service Centres  |
| <b>OWWA</b>     | Overseas Workers Welfare Administration, Philippines                    |
| <b>PDOLVT</b>   | Provincial Departments of Labour and Vocational Training, Cambodia      |
| <b>PDO</b>      | Pre-Departure Orientation   |
| <b>PEOS</b>     | Pre-Employment Orientation Seminars, Philippines                        |
| <b>POEA</b>     | Philippine Overseas Employment Administration                           |
| <b>POLO</b>     | Philippine Overseas Labour Office                                       |
| <b>PSA</b>      | Philippine Statistical Authority  |
| <b>SLOM</b>     | Senior Labour Officials Meeting   |
| <b>SOP</b>      | Standard operating procedure  |
| <b>SUHAKAM</b>  | Human Rights Commission of Malaysia                                     |
| <b>TFAMW</b>    | Task Force for ASEAN Migrant Workers                                    |
| <b>UN</b>       | United Nations  |
| <b>UN Women</b> | United Nations Entity for Gender Equality and the Empowerment of Women  |
| <b>VAMAS</b>    | Viet Nam Association of Manpower Supply                                 |



# Introduction

## Intra-ASEAN labour mobility

1. International migration continues to increase as trade and technology has facilitated the flow of information on work opportunities in other countries and regions. In 2013, there were an estimated 232 million migrants according to the United Nations (UN), 71 million of whom reside in Asia (UNDESA, 2013). This number is expected to double by 2050. Notable information about these 232 million migrants includes the following: a) half are in the labour force of destination countries; b) about 48 percent are female; c) 15 percent are under 20 years old; d) unofficial irregular migrants are estimated to number about 20 million; and e) half of all migrants are concentrated in ten countries.
2. The rapid growth and development of the Association of Southeast Asian Nations (ASEAN) region in the last two decades – particularly Malaysia, Singapore, and Thailand – has increased cross-border labour mobility within the region. Manning and Bhatnagar (2003) observed that there are two patterns of cross-border movement within ASEAN. One is within the Greater Mekong subregion with Thailand serving as the destination country for workers from Cambodia, the Lao People's Democratic Republic, Myanmar, and Viet Nam. The other is movement of workers from Indonesia and the Philippines to Brunei Darussalam, Malaysia, and Singapore. Migration to Malaysia, Singapore, and Thailand accounts for 91 percent of intra-ASEAN labour migration (Orbeta and Gonzales, 2013).
3. It is observed that cross-border labour movements in the ASEAN region mostly involve low-skilled labour for construction, agriculture, fishing, manufacturing, and domestic and other service work. About 5.3 million people are on the move in ASEAN, representing 9 percent of global migration and approximately US\$40 billion in remittances in 2010 (Orbeta, 2012). Considering that most migrant workers are involved in low-skilled labour, many workers are vulnerable to labour exploitation.
4. With this background, there is a need for ASEAN Member States (AMS) to engage in cooperation on labour migration governance in the region. Furthermore, the advent of ASEAN integration in 2015 requires a regional policy framework that will facilitate the integration of the regional labour market while protecting migrant workers' rights. This has become imperative as Brunei Darussalam, Malaysia, Singapore, and Thailand will need steady access to a regional labour supply to sustain their competitiveness while at the same time responding to ease unemployment pressures in labour abundant AMS.

## The ASEAN Forum on Migrant Labour (AFML)

5. The ASEAN Forum on Migrant Labour (AFML) is a result of the January 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration). The Declaration will be accompanied by an ASEAN Instrument for the protection and promotion of the rights of migrant workers in response to the increasing importance of labour migration as an economic and social issue in ASEAN. The drafting of this Instrument is being led by the Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights

of Migrant Workers (ACMW).<sup>1</sup> During the ACMW meeting in September 2008, the Committee identified four areas of cooperation, also known as Thrusts. Thrust 2 focused on strengthening the protection and promotion of the rights of migrant workers by enhancing labour migration governance in ASEAN countries. The ACMW recommended that the AFML be held annually to advance the principles in the Cebu Declaration. During the 1st Meeting of Senior Labour Officials Working Group on Progressive Labour Practices to enhance Competitiveness of ASEAN in 2009, the AMS institutionalized the AFML as a regular activity under the ACMW Work Plan.

6. To date, there have been six AFML meetings with distinct themes as follows:
  - a. Institutionalization of the AFML (April 2008, Manila, Philippines);
  - b. ASEAN Declaration on Migrant Workers: Achieving its Commitment (July 2009, Bangkok, Thailand);
  - c. Enhancing Awareness and Information Services to Protect the Rights of Migrant Workers (July 2010, Hanoi, Viet Nam);
  - d. Development of a Public Campaign to Promote Understanding, Rights, and Dignity of Migrant Workers in Countries of Destination: Return and Reintegration and Development of Sustainable Alternatives in Countries of Origin (October 2011, Bali, Indonesia);
  - e. The Protection and Promotion of the Rights of Migrant Workers: Towards Effective Recruitment Practices and Regulations (October 2012, Siem Reap, Cambodia); and
  - f. Enhancing Policy and Protection of Migrant Workers through Data Sharing and Adequate Access to the Legal and Judicial System during Employment including Effective Complaint Mechanisms (November 2013, Bandar Seri Begawan, Brunei Darussalam).
7. The objectives of the AFML meetings are essentially to:
  - a. Share stakeholder experiences, challenges, and good practices in the implementation of recommendations from past AFML meetings;
  - b. Examine and discuss the articles of the Cebu Declaration through the thematic sessions of each AFML; and
  - c. Draft and agree on recommendations rising from discussions of thematic sessions.
8. The key stakeholders of labour migration in ASEAN are the participants in the AFMLs. The AFML is a tripartite forum, which makes it unique in ASEAN and even among other global labour migration dialogues. The AFML includes representatives of government, employers, workers, civil society organizations (CSOs) and international organizations, and international speakers. These participants provide significant inputs in AFML discussions, in reviewing the implementation of past recommendations, and in crafting future recommendations for each AFML meeting. There is growing interest from a wider range of stakeholders in the AFML process, including donor agencies, academia, and the international media.
9. Beginning in 2012, the AFML process leading to the AFML Annual Meeting has included the following meetings:

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1 The ACMW was established in July 2007 during the 40th ASEAN Ministerial Meeting. It was formally organized in September 2008 in Singapore.

- a. National tripartite preparatory meetings held in several AMS that include the wider participation of key national stakeholders. In 2014, Viet Nam held two national preparatory meetings to ensure participation of provincial level stakeholders.
  - b. Regional AFML preparatory meeting for employers led by the ASEAN Confederation of Employers (ACE) beginning in 2013. In 2014, the ASEAN Trade Union Council (ATUC) started holding its preparatory meetings.
  - c. Regional/subregional preparatory and post-AFML meetings of CSOs led by the Task Force on ASEAN Migrant Workers (TFAMW).
10. The AFML meetings are grounded in the Articles of the Cebu Declaration. Each forum has a central theme with two thematic sessions that examine in detail articles of the Cebu Declaration pertaining to the obligations of both sending and receiving countries. Each meeting has a review session that looks at how a particular AMS has contributed in realizing the recommendations of the past AFMLs. The meeting concludes with Recommendations that have come out from the discussions of the thematic sessions.

### **Objectives, approaches, and methodology of the background paper for the 7th AFML**

11. In preparation for the 7th AFML meeting scheduled from 20 to 21 November 2014 in Nay Pyi Taw, Myanmar, this report looks at the progress made in implementing the recommendations made in the past six AFML meetings. The International Labour Organization (ILO) tracks the progress of the recommendations on a biennial basis. This background paper was decided on by the AFML Coordinating Committee to serve as an input to the 7th AFML meeting and will also be presented at the 8th meeting of the ACMW as it prepares for its post-2015 workplan.
12. This is the second background paper prepared for the AFML. In 2012, the first background report (Larga, et al., 2013) was prepared by the ILO to track the progress made during the 3rd and 4th AFMLs in time for the 5th meeting held in Siem Reap, Cambodia. This current report takes into consideration the progress made on the recommendations made at the 5th and 6th meetings, as well as updating the implementation of recommendations made during the 3rd and 4th AFMLs.
13. The methods in preparing this report adhere closely to the process implemented in the preparation of the 2012 Background Paper for the 5th AFML. This will ensure that the two reports are consistent and complementary. These characteristics are essential in tracking the recommendations further into the future.
14. The extensive nature and various themes of the different AFMLs require that the recommendations be clustered for ease of tracking and monitoring. This is also to help ensure consistency and focus in the implementation. To date, there have been 64 recommendations made during the six AFMLs. The 64 recommendations made thus far are grouped into the following clusters:
  - A. Information sharing, dissemination, and public information campaigns regarding overseas work – including costs at all stages and working conditions information for sending countries – and creating a positive perception of migrant workers.
  - B. Collection, sharing, and analysis of data regarding migrant workers for both sending and receiving countries.
  - C. Effective return and reintegration strategies, including sustainable alternatives for migrant work.

- D. Facilitative access for complaints and grievance mechanisms for both sending and receiving countries.
  - E. Promotion of cooperation, partnerships, information exchanges, and meaningful involvement among all stakeholders in both sending and receiving countries.
  - F. Regulation of overseas recruitment.
15. Of the 64 recommendations, some were merged because they more or less convey the same intentions and actions required. It was also observed that some recommendations are regional in nature, and thus, a single country response is not possible. Some recommendations are relevant only to countries of origin, while others need to be implemented by countries of destination. To the extent possible, the report covered not only responses to and implementation of past recommendations but issues and challenges to implementation.
16. The methodology applied ensured that the original recommendations of the AFMLs were considered and their progress updated accordingly. To prepare this report, the following approaches were used:
- a. Document review and literature review – The author of this report looked at the following: Reports of the past AFMLs; country, policy, and administrative reports made by ASEAN Member States (AMS) in regard to international migration; reports on international migration by the ASEAN Secretariat, the ILO, the International Organization for Migration (IOM), UN Women, and other UN agencies; and reports on international migration made by other stakeholders in the ASEAN region, such as CSOs, workers’ organizations, and employers’ organizations.
  - b. Responses of AMS on the Expanded Template on Sharing Experiences – AMS were requested to provide responses on this template, a process similar to that which was implemented for the 2012 background paper. The template was expanded to include updates for the 3rd and 4th AFMLs. The template served as the main instrument for gathering data for this report. There were two templates – Group 1 for 3rd and 4th AFMLs updates and Group 2 for 5th and 6th AFMLs follow ups.<sup>2</sup> Cambodia, Indonesia, the Philippines, Thailand, and Viet Nam submitted completed templates. This is the reason why these countries have more inputs than other AMS. Nonetheless, to the extent possible, information on the responses of other countries was given careful consideration in the completion of the report.
  - c. Participation in the national preparatory meetings for the 7th AFML, including the conducting of validation interviews. In preparation for the 7th AFML, the following countries held national preparatory meetings: Philippines (16 September 2014), Viet Nam (23 September 2014 and 3 November 2014), Myanmar (1 October 2014), Cambodia (9 October 2014), Thailand (20 October 2014), Lao People’s Democratic Republic (23 October 2014), and Indonesia (27 October 2014). Part of the agenda of these preparatory meetings was to update the participants and stakeholders on the current state of implementation of the recommendations of past AFMLs, particularly those from the 5th and the 6th AFMLs. Sessions were also conducted by CSOs led by the TFAMW during these preparatory meetings.
  - d. In addition, inputs from CSOs and other partners were included either as part of the government submission or as reported to the National Preparatory Meetings. The TFAMW provided a comprehensive report for all countries.

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2 The ILO sent out the templates to each AMS and requested them to send back the responses. In countries having national preparatory meetings, there is a session where the filling up of the templates is discussed.

## Progress on the implementation of AFML recommendations based on the clustering of recommendations

17. The narrative of the report will first provide an explanation of the recommendations that fall within a particular cluster. It will be followed by an overview of the initiatives and outputs in relation to the clustered recommendations. To the extent possible, the recommendations from the 3rd and 4th AFMLs will be updated and new initiatives, legislation, and outputs highlighted. Finally, the 5th and 6th AFMLs' recommendations will be reported for each AMS (organized alphabetically), outlining specific implementations and responses.

### **A. Information sharing, dissemination, and public information campaigns regarding overseas work, including costs at all stages, working conditions information for sending countries, and creating a positive perception of migrant workers**

18. There are 11 recommendations from past AFMLs grouped into this cluster: three from the 3rd AFML, three from the 4th AFML, and five from the 5th AFML. The repeated inclusions of these AFML recommendations signifies the impetus being given by the AMS to ensuring that migrant workers are well-informed during the migration decision-making process.
19. As noted in the first background paper (Larga et al., 2013), ASEAN Member States have made substantial progress in relation to information sharing and dissemination. Of the three recommendations included from the 3rd AFML, the 2012 background paper showed that two had seen substantial progress and one had seen partial progress in its implementation. In relation to the 4th AFML recommendations, the 2012 paper showed there had been progress in delivery of pre-departure training, though greater scope for delivery of post-arrival orientation was still needed. With regard to campaigns to promote a positive image of migrant workers, it was noted in the 2012 paper that these campaigns had been led by CSOs, with greater scope still available for engagement by government.
20. The 5th AFML recommendations specified information dissemination on emigration procedures, recruitment costs, and publication of recruitment options. It was recommended that information be disseminated through online portals, through one-stop-service centres, and through the sharing of experiences by returning migrant workers.
21. Achievements of new outputs or initiatives will be reported in five thematic areas: Pre-departure training; post-arrival orientation; migrant worker resource centres; efforts to promote a positive image of migrant workers; and legislative and policy frameworks.

### **Pre-departure orientation**

22. Pre-departure orientation (PDO) is mandatory and being conducted in almost all countries of origin in ASEAN, though the quality of the curriculum, duration of training, teaching methodology, and implementing agencies vary. The quality of teaching and delivery of rights-based messaging may be compromised if accredited trainers are not adequately prepared to deliver training. Standard and country-specific pre-departure training materials are being completed in Cambodia, Indonesia, the Lao People's Democratic Republic, Myanmar, and Viet Nam with the government, CSOs, recruitment agencies, and international organizations cooperating in their drafting and implementation.



23. For most countries, recruitment agencies will be responsible for delivering the pre-departure training. The potential conflict of interest created using this modality to deliver pre-departure training was noted in several preparatory meetings. Governments will need to put in place mechanisms to monitor that the delivery of PDO is by accredited trainers and recruitment agencies only. In Indonesia, pre-departure briefings are implemented by the National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI) and implemented by recruitment agencies (Asis and Agunias, 2012). As the result of capacity assessment on the implementation of Pre Departure Orientation for Indonesian migrant workers, BNP2TKI – with support from IOM – have improved and updated the training materials for pre departure information and training programmes. In addition, the Government of Indonesia and IOM have produced IEC materials such as a Safe Migration Pocket Book, Safe Migration Comic Book, and Trafficking Comic Book in order to reduce the risk of trafficking in persons by raising awareness of safe migration practices. Country-specific guide books on ten popular destination countries for Indonesian migrant workers were also produced and will be distributed to each potential migrant attending a PDO run by BNP2TKI.
24. IOM has also produced 56,500 safe migration booklets, called “Your Second Passport”, in different local languages for mass distribution on the Myanmar-Thai border and in Thailand. These booklets were provided to all potential and returned migrants who participated in village-based safe migration trainings in target areas and villages in Cambodia, the Lao People’s Democratic Republic, and Viet Nam. Prior to the delivery of these trainings, several trainings of trainers were conducted across Cambodia, Viet Nam, the Lao People’s Democratic Republic, Myanmar, Thailand, and Viet Nam.
25. The curricula for these trainings include participatory learning approaches and meet several recommendations made in the AFMLs by providing information on: a) working and living conditions; b) laws and procedures in countries of origin; c) rights of migrant workers; d) challenges and benefits of male and female migrant workers; e) financial literacy; and f) providing information on options upon return.
26. In Indonesia, the information provided in pre-departure orientation also includes: recommended contents of labour contracts; laws and regulations of Indonesia and the destination country; work motivation; stress management; first aid and emergency measures; information about safety; information on general and reproductive health, including HIV/AIDS prevention; and raising migrant workers’ awareness of potential exploitation.
27. Some curricula, like the one for Vietnamese workers departing to Malaysia, provide information on emigration procedures and costs, including fees charged for visas, passports, work permits, and caps on salary deductions.
28. The Philippines’ Republic Act 8042 in 1995 mandated the Philippine Overseas Employment Administration (POEA) to deliver a Pre-employment Orientation Seminar (PEOS) to potential migrant workers in the Philippines. The PEOS is an information dissemination campaign conducted nationwide in collaboration with schools, local government units (LGUs), and accredited trainers aimed at preparing potential migrants for making an informed and intelligent decision on overseas employment. An online PEOS was launched in July 2014.



## Post-arrival orientation

29. Post-arrival orientations reinforce pre-departure orientation training; allow migrant workers to access country-specific information; and build relationships between workers and relevant government institutions, migrant associations, and CSOs in destination countries. Nevertheless, post-arrival orientation in destination countries is conducted only by a few origin and destination countries. Information on the coverage of these programmes needs to be collected.
30. Indonesia implements the Welcoming Programme for Indonesian migrant workers in its consulates in Hong Kong (China) and in Taiwan (China). Labour attachés in Singapore will begin providing financial literacy training using a curriculum developed by the ILO in collaboration with the Philippines-based CSO Atikha.
31. Malaysia implements an Induction Course for Foreign Workers in Malaysia through the Ministry of Human Resources' accredited training centres. The course curriculum includes workplace communication and proficiency, Malaysian culture and traditions, and Malaysian labour laws. Upon completion of the course, workers are given a certificate of eligibility. Attendance is mandatory to be granted a work visa and extension of a work permit (Government of Malaysia, 2004). According to the Malaysia Employer's Confederation, a February 2014 survey shows that orientation programmes are conducted for foreign workers and that there are units within the firms that take care of foreign workers. Also, about 23 percent of the orientations conducted are in the language of the foreign workers while another 33 percent are conducted in English.
32. Post-arrival orientation services are provided to newly-arrived Overseas Filipino Workers (OFWs) at many Philippines embassies in destination countries where there are high concentration of OFWs. The orientation, conducted by the Philippines Overseas Labour Office (POLO)/Overseas Workers Welfare Administration (OWWA), provides information on migrant worker rights, privileges, and responsibilities in the country of destination and information on the assistance that can be expected from the Philippine mission. These orientations are conducted in collaboration with migrant associations, church groups, and in some instances, with employers and the host government.
33. Singapore requires all first-time foreign domestic workers to attend a one-day Settling in Programme (SIP). Conducted in English or the foreign domestic workers' native languages, the SIP would cover the following five modules (i) introduction to Singapore; (ii) conditions of employment; (iii) safety at home; (iv) safety in other areas; and (v) relationship and stress management. Singapore has recognized that it is not only workers who require orientation, but employers are in need of information to understand their roles and responsibilities when hiring migrant workers. As such, Ministry of Manpower (MoM)-stipulated training centres conduct the Employers' Orientation Programme, which is a three-hour compulsory programme for employers of foreign domestic workers. Those required to attend include: first-time employers of foreign domestic workers; and any employer who has frequently changed foreign domestic workers in the past 12 months ("frequent change employers"). Frequent change employers refers to any employer who has changed four foreign domestic workers within a 12-month period; and/or any employer who has changed three foreign domestic workers each having been employed for less than three months (Government of Singapore, 2014).
34. The MoM has also published 'Your Guide to Employing a Foreign Domestic Worker for employers of foreign domestic workers that provides information on a) how to apply for a foreign domestic

workers; b) obligations of both foreign domestic workers and their employers; and c) tips on building a positive working relationship with the foreign domestic workers. In addition, Singapore has a policy of continuously educating and engaging foreign workers through roadshows, newsletters, recreation centres, and dormitory visits. Foreign workers are also informed of assistance channels and hotlines through the MoM and NGOs.

## **Migrant Worker Resource Centres**

35. In Cambodia, the Lao People's Democratic Republic, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam, Migrant Resource Centres (MRCs) have been established and are being run through cooperation with government, local government departments, trade unions, and civil society.<sup>3</sup>
36. In Indonesia, the IOM in conjunction with BNP2TKI conducted a feasibility study to examine the existing labour migration information and referral service structures in order to assess the viability of establishing an MRC in country. The study, completed in August 2014, suggested that the establishment of an MRC in Indonesia would enable better leverage of resources and better identification of opportunities to develop a more coordinated approach to information dissemination, training, new labour migrant initiatives, data collection, and service delivery.
37. In Myanmar, the Ministry of Labour, Employment and Social Security (MOLESS) will establish MRCs in Labour Exchange offices in Mandalay and Dawei, supported through the ILO. These offices will provide information and assistance to potential migrants and their families. In Kyaing Tung, Shan State, the Local Development Organization MawkKon, in cooperation with the Labour Exchange office, opened the first MRC in March 2014. The purpose of the MRCs is to provide information, counselling, and legal assistance to migrants, their families, and potential migrants at all stages of the migration experience. The MRCs also conduct outreach to schools, communities, and others institutions. Myanmar has also opened Migrant Reporting Counters at the departure and arrival lounges of the Yangon International Airport, requesting migrants to report at the counter in order to collect data on migrants leaving and returning.
38. The ILO ASEAN and GMS TRIANGLE projects have developed an MRC Operations Manual intended for any organization that delivers, or wants to deliver, services to migrant workers. The manual provides clear guidance on the establishment of a Migrant Worker Resource Centre and the services to be provided to potential and returned migrants, as well as members of their families. The manual includes practical tools and templates for everyday use when providing and tracking services. It also includes suggested answers to questions frequently asked by potential and returned migrants, members of their families, and service providers.
39. In Viet Nam, all MRCs are also linked with the local employment service centres to promote better integration of safe-migration counselling into employment services: some MRCs in Cambodia and Lao People's Democratic Republic are also linked with employment service providers.
40. In August 2014 the MRCs in Malaysia launched a Facebook page to provide information to migrant workers via social media channels (<https://www.facebook.com/MigrantResourceCentreMRC>)
41. MRCs are actively disseminating Travel Smart Work Smart booklets on workers' rights in Thailand. Pamphlets and other printed materials on labour migration have been produced and disseminated

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3 There are presently four MRCs in Cambodia, three in the Lao People's Democratic Republic, three in Malaysia, two in Myanmar, three in Singapore, five in Thailand, and five in Viet Nam.

to the public, including information printed in newspapers. Public service announcements have been aired on television and radio. Official hotlines have also been established to receive enquiries from migrants and their families.

42. In February 2014, Thailand established three One Stop Service Centres (OSSC), also referred to as “Checkpoints for Application and Work Permit Issuance for Myanmar Migrant Workers”. The OSSC facilitate two procedures: 1) for those workers who have been in Thailand for four years but still holding valid visa and work permit, the OSSC facilitates application for new visas and re-employment; 2) for Myanmar migrant workers who hold a temporary passport valid for less than two years, the OSSC can issue ordinary passports from the Myanmar authorities. The centres opened in Chiang Rai, Tak, and Ranong provinces. Through Communique No. 70/2557 issued May 2014, the Thai Government confirmed that OSSCs would be established in each province, and be tasked with keeping personal records, issuing identity cards, and carrying out health check-ups for migrant workers (Government of Thailand, 2014a). The first OSSC was opened in Samut Sakhon on 26 June 2014 (Government of Thailand, 2014b). Table 1 below shows the number of migrant workers registered by 29 November 2014 (IOM, 2014b).

**Table 1. Number of migrants registered at One Stop Service Centres during the period of 26 June – 31 October 2014 (updated on 29 November 2014)**

| Nationality     | Number of registrations |               |                  |
|-----------------|-------------------------|---------------|------------------|
|                 | Labourers               | Dependents    | Total            |
| <b>Cambodia</b> | 623 648                 | 40 801        | <b>664 449</b>   |
| <b>Lao PDR</b>  | 696 338                 | 42 609        | <b>738 947</b>   |
| <b>Myanmar</b>  | 213 689                 | 9 150         | <b>222 839</b>   |
| <b>Total</b>    | <b>1 533 675</b>        | <b>92 560</b> | <b>1 626 235</b> |

43. The Philippines established four One-Stop Resource Centres (OSRCs) in four provinces in 2010. The OSRCs were conceptualized through the Joint Programme for Youth, Employment, and Migration to augment the Department of Labor and Employment (DOLE) reintegration programme for migrants and the local employment matching conducted by the local governments through the Public Employment Service Office. The OSRCs also serve as a repository and an action centre for migrant families and the youth. The OSRC is also a venue for collaboration and cooperation among various stakeholders involved in youth, employment, and migration issues.
44. A new development in several ASEAN Member States is the opening of MRCs to specifically address the needs of seafarers and fishermen. The Philippines has established a One Stop Shop for Seafarers through the Maritime Industry Authority and is currently in the process of coming up with guidelines on implementing its rules and regulations. In Singapore, the National Trades Union Congress-run Migrant Workers’ Centre launched a Seafarers’ Welfare Centre, open for consultation every evening from 5 to 9 p.m. The Seafarers’ Welfare Centre is set up past the immigration point so that irregular fishers are able to access services. They are provided with food, water, a case worker to file complaints, and access to a mobile phone and internet to contact their families and friends.
45. In an effort to address the exploitation of workers in the Thai fishing sector, seven Labour Coordination Centres (LCCs), in Samut Sakhon, Rayong, Trat, Chumphon, Songkhla, Ranong, and

Satun provinces, were established by Cabinet Resolution in October 2012. The LCCs – which became operational a year later – are run under the supervision of the Department of Employment (DOE) and in coordination with the provincial fisheries associations of Thailand, which also provide operational support. Additional support is provided by designated relevant ministries. In the first three-month period of operation, a total of 6,864 workers across 22 coastal provinces received work permits. In the second three-month window for registration, from March to May 2014, 5,760 work permits were granted across the 22 coastal provinces. LCC objectives are:

- a. to serve as a one-stop shop to regularize migrant fishers, including by providing health checks, and to reduce the role of brokers;
- b. to register employers (vessel owners and captains) of migrant fishers;
- c. to collect data on incoming and outgoing fishing vessels;
- d. to conduct training for employers and migrant fishers on their labour rights and responsibilities;
- e. to provide referrals and/or assist workers in lodging complaints;
- f. to coordinate the inspection of fishing vessels; and
- g. to serve as a source of workers for employers facing shortages.

### **Promoting a positive image of migrant workers**

- 46. The first background paper (Larga et al, 2013) noted new initiatives to promote a positive image of migrant workers. Since 2012, the campaigns in Malaysia and Thailand have continued with broad stakeholder support. However, the original observation that greater engagement of social partners is required in order to increase the reach of these campaigns remains valid.
- 47. In Malaysia, the “Migration Works” campaign was launched on International Migrants Day in 2012 with the support of UN agencies, CSOs, SUHAKAM (the National Human Rights Commission), the Malaysian Bar Council, and the Malaysian Trades Union Congress (MTUC). The campaign celebrated International Migrants Day 2013 with a photo exhibition, mural painting, and a dramatic performance on “reflections of migrants’ reality in Malaysia”. In 2014 a Public Service Announcement was produced in collaboration with MTV EXIT. In 2014 the campaign collaborated with the Legal Aid Centre and the NGO Tenaganita to host workshops on the legal framework for migrant workers in Malaysia and to create awareness on migrants’ challenges in accessing complaints mechanisms and judicial systems. Law and university students participated in these workshops. A youth programme was organized with Taylor’s College to create awareness on the positive contributions of migrants. In 2014, in collaboration with the MTUC, the campaign held an interactive art exhibition with the theme “Journey of Hope” during Human Rights Week in December.
- 48. The *Saphan Siang* (Bridge of Voices) campaign promotes better understanding between Thais and migrant workers by increasing public awareness on the issues faced by migrant workers, the positive contribution of migrant workers to Thailand’s economy and society, and their right to equal protection under the law and practical access to support services. The campaign seeks to achieve this goal by creating opportunities for interaction between Thais and migrants. The campaign is supported by the ILO, IOM, the United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP), and World Vision International. In 2014, the Saphan Siang Youth Ambassadors Programme was launched and placed 12 Thai university students as volunteers with organizations working to assist migrants.

49. In Indonesia, under a joint cooperation called “SAFE” and as part of the efforts to increase prospective migrants’ and communities’ knowledge on safe migration, BNP2TKI and IOM conducted a series of safe migration campaigns in ten migrant source districts during October and November 2013. The activities included community discussions, public dialogues, and orientations for community leaders on safe migration, in order to increase community awareness on safe migration. The campaign also sought to acknowledge migrant workers as the one of the biggest contributors of foreign exchange in Indonesia.
50. In the Philippines, Executive Order No. 498 series of 1991, established the Presidential Awards for Filipino Individuals and Organizations Overseas (Commission on Filipinos Overseas, n.d.). This is a biennial awarding event that gives out four different awards. One of the awards, known as *Pamana ng Pilipino* (Filipino Heritage), is given to overseas Filipinos who showcase exemplary talent and industry, thereby giving recognition to the country’s overseas workforce. Another award recognizing overseas workers is the *Bagong Bayani* (New Heroes). It was originally given in 1983 and re-launched in 1989. This award is a public-private partnership presented in conjunction with the POEA and OWWA. As of 2011, a total of 1,256 awards have been given through the Bagong Bayani Foundation. Both of these award systems provide opportunities to promulgate a positive image of OFWs and are an avenue to recognize their efforts and sacrifices.

### Legislative and policy developments

51. The Cambodian government has issued eight new *prakas* (ministerial orders), announced in September 2013, to supplement Sub-Decree 190 on the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies. Issued in December 2013, *Prakas* 46/13 “Recruitment process and pre-departure orientation training” stipulates that “Private Recruitment Agency shall provide training on pre-departure orientation to workers in accordance with pre-departure orientation curriculum as determined by the Ministry of Labour and Vocational Training.” The same *prakas* requires a country-specific pre-departure orientation curriculum for migrant workers be developed. The module will include information on the various preparations needed before departure, from documents to cultural adaptation. The module also includes information on travel, working conditions, and the rights of the migrant workers. In addition, the module includes money management training, a special course on entrepreneurship, health conditions and HIV/AIDS, labour rights, and reintegration into the community.
52. In 2013, the Lao People’s Democratic Republic issued the Operations Manual on the Protection and the Management of Migrant Workers, which outlines the procedures for sending national workers abroad and for receiving foreign workers in the Lao People’s Democratic Republic. The Manual was jointly issued by the Ministry of Labour and Social Welfare, the Ministry of Public Security, and the Ministry of Foreign Affairs. This manual will increase the reliability and coherence of services provided and will streamline the procedures, leading to a greater use of legal migration channels. Training was delivered on the manual for three ministries at central and provincial levels. This training focused on migration processes and procedures to enhance knowledge of legal channels. Two refresher trainings were held in November 2014, one in Luang Prabang for participants from seven northern provinces and one in Khammouane for participants from eight southern provinces, to increase the coverage of the manual and to discuss ways to continue collaboration and knowledge-sharing between the three ministries.



## **B. Collection, sharing, and analysis of data regarding migrant workers for both sending and receiving countries**

53. At the regional level, the importance of improved data collection and sharing on international labour migration has been emphasized in regional and international recommendations or commitments under the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007); the ASEAN Socio-Cultural Community Blueprint (2009); the ASEAN Labour Ministers' Work Programme, 2010-2015; the ASEAN Forum on Migrant Labour (2013); the International Conference of Labour Statisticians (2013); and in the ILO's Report of the Director-General: Fair migration, setting an ILO agenda (2014).
54. Recommendations on data collection and sharing have appeared at the 5th AFML (one recommendation) and 6th AFML (five recommendations). While the 5th AFML recommendation focused on the sharing of information on job availability and employment conditions, the 6th AFML – where data collection, sharing, and analysis was a sub-theme – recommended sharing of data on inflows, outflows, and stocks of migrant workers; remittances; recruitment channels; licensed agencies and fees and costs; data on complaints; and data on irregular migrants and trafficking in persons. Finally, it recommended that a regional database on labour migration be piloted in ASEAN.
55. Achievements and outputs against this last recommendation will be reported under three thematic areas: International Labour Migration Statistics; Labour Market Information; and Regional Data and Information Sharing efforts. Following this, an alphabetic listing of ASEAN Member States will illustrate efforts to collect data at a national level.

### **International Labour Migration Statistics database for ASEAN**

56. In close coordination with the ASEAN Secretariat Statistics Division and Socio-cultural Community Division and the ASEAN Senior Labour Ministers Meeting (SLOM), ASEAN Member States (Ministries of Labour and National Statistics offices, or equivalent) have contributed to the launching of the International Labour Migration Statistics (ILMS) Database in ASEAN, technically and financially supported by the ILO and the Government of Canada. This initiative addresses recommendation No. 5 of the 6th AFML. The ILMS Database provides an openly-available, relevant, comprehensive, and tractable information source on international labour migration in ASEAN. Data is sex-disaggregated, where possible. Specifically, the ILMS maps the existing data sources from countries, their quality, scope, completeness, comparability, and possible weaknesses. It defines a set of relevant tables for international labour migration in the region as a standard reference point for future data collection and reporting in ASEAN.
57. AMS cooperated by reviewing the indicators; designing the ILMS questionnaire; participating in two regional technical meetings organized by the ILO to discuss the questionnaire and agree on the definitions used; and in the actual data collection – leading to the successful completion of Phase 1 and continuing on to Phase 2. The first round of data collection under the ILMS Database in ASEAN covered the 10 AMS and the period 2006 to 2012, corresponding to the ILO Asia Pacific Decent Work Decade 2006-2015. The second round of data collection ran from July to September 2014 and focused on collecting data for 2013 and addressing data gaps and capacity-building needs identified. The 17 tables collected under the ILMS Database in ASEAN are presented in Appendix III. In coordination with the International Labour Office in Geneva, the data has been

published on ILOSTATS (<http://www.ilo.org/ilostat/>) and the Asia Pacific Migration Community of Practice (<http://apmigration.ilo.org/>) for public use.

58. The ILO has developed a guide on the ILMS to ensure sustainability of future annual data collection efforts. The guide outlines the process, definitions, and sources used, and it provides some broad recommendations for future improvements to the existing sources and institutions in place. In 2015, a report 'International labour migration statistics in ASEAN: Improving data collection for evidence-based policy-making' will be launched to provide a broad analysis of existing labour migration trends within the region. Beyond analysing the existing trends, a Statistical Appendix contained in the report will also provide a single reference point for researchers interested in these data.

## **Labour market information**

59. Malaysia is currently developing a Labour Market Information Systems Dashboard. The dashboard provides an overview of the country's labour market situation, e.g., the average monthly salary or wage by occupation. It will be a useful reference point for policy planners, the private sector, academia, and research institutions to have better insights on the country's labour market ([www.ilmia.gov.my](http://www.ilmia.gov.my)).
60. In 2013, Indonesia conducted labour market research under the support of the European Union and the BNP2TKI in partnership with Ministry of Manpower and UN Women. The findings revealed that various efforts have been made by the Government of Indonesia to conduct labour market research and development, but there are levels of organization and human resource-related capacity areas that need further improvement.
61. IOM has conducted capacity building on labour market information for labour officials from AMS with the aim of developing a common understanding for senior labour officials to collect, manage, and share labour market information in ASEAN in a harmonized manner. IOM is conducting targeted research into labour market situations and labour migration policy and rights frameworks across ASEAN Member States. This research aims to assess how the increased mobility of skilled labour can be most effectively managed to facilitate effective matching of labour supply and demand, as well as to provide recommendations for the development of an ASEAN Labour Market Information System. Both of these initiatives aim to ensure increased availability and accessibility of labour market information to governments, employers and workers.

## **Regional data and information sharing efforts**

62. The ILO ASEAN TRIANGLE Project and GMS TRIANGLE Project organize a Subregional Advisory Committee meeting every 18 months for tripartite constituents to share information and experiences and provide guidance on labour migration management and anti-trafficking efforts. During the meeting in 2014, the government representatives agreed that their priorities for the upcoming 18 months were the preparation of Memorandums of Understanding (MOUs), labour market information and data collection, analysis, and sharing.
63. The ASEAN Trade Union Congress (ATUC) has developed the ATUC Information System of Migrant Workers, which is expected to launch in 2015.

## Data collection, analysis, and sharing at a national level

### Brunei Darussalam

64. Brunei Darussalam collects relevant information on its international migrant population through its decennial Population and Housing Censuses and the Labour Department's Annual Census of Employers/Employees. It publishes relevant administrative records on the international migrant labour force in its flagship *Brunei Darussalam Statistical Yearbook* and the accompanying *Brunei Darussalam Key Indicators*. While these publications provided detailed breakdowns of several of the key indicators of interest under the ILMS Database, it remains somewhat unclear what their full potential is in terms of the variables they contain.

### Cambodia

65. Relevant data on international migrants entering and residing in Cambodia and on Cambodian nationals living abroad were collected from five separate sources under the ILMS Database: a) the Cambodia Labour Force and Child Labour Survey 2011–12; b) the General Population Census 2008; c) the Cambodia Socio-Economic Survey (CSES) 2010 and 2011; d) the Economic Census 2011; and e) administrative records of the Department of Employment and Manpower, Ministry of Labour and Vocational Training (available from 1998). The data contained in the administrative records of the Department of Employment and Manpower, Ministry of Labour and Vocational Training and the CSES provided information on the number of nationals abroad and those abroad for employment.
66. To improve administrative data collection mechanisms, a new database was created by the Ministry of Labour and Vocational Training (MoLVT) with the technical support of Winrock International. The main focus of the database is to collect data on complaints filed by migrant workers or members of their families.

### Indonesia

67. Indonesia has two main sources of data to account for its migrant workers and for migrants within the country. These are: a) Primary Data: Population Census, Inter-census Population Survey, and the National Socio-economic Survey; and b) Secondary Data from Administrative Records: Ministry of Manpower, BNP2TKI, Ministry of Law and Human Rights: Directorate General of Immigration, Directorate of Transboundary.
68. The Ministry of Manpower, Labour Offices at the city and district levels, BNP2TKI, and the Ministry of Immigration are tasked with collecting data on migrant workers. As of 2013, the Ministry of Manpower is collaborating with the Ministry of Communication and Information to build an information and data system that will be integrated with current BNP2TKI efforts.
69. The Ministry of Manpower has now appointed an agency to be responsible for data collection and inter-agency coordination at the national level. Labour market data gathering is now in the hands of local governments. Data on returning migrants and complaints are available from the Government but there are currently no efforts to collect data on the families of migrant workers.
70. The data being collected regarding migrant workers<sup>4</sup> are as follows:

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4 Report of Indonesia during the 6th AFML



- a. Jobseeker Data in District/City Government Offices – Jobseekers who want to work abroad must be registered in district/city government institutions responsible for Manpower Affairs.
- b. Certificate of Competence Data – Prospective workers acquire working competence recognition after attending education and training held by education or training institutes accredited by relevant government institutions. A competence certificate is issued.
- c. Health Certificate Data – Every prospective migrant worker must undergo health and psychological examinations through institutions appointed by the Government.
- d. Overseas Worker Card (KTKLN) Data – The KTKLN is the identity card of an Indonesian migrant worker who met the requirements and procedures to work abroad. Every Indonesian migrant worker who works abroad must possess a KTKLN issued by the BNP2TKI.
- e. Data in the Embassies and Consulates – Every Indonesian migrant worker is required by law to notify and report their arrival, contact information, and repatriation details to the Indonesian Embassies and Consulates in the destination country.
- f. Data reported by Indonesian Recruitment Agencies – Indonesia Placement Agencies must report periodically the placement of migrant workers to the Ministry of Manpower.
- g. Immigration data – Embarkation and disembarkation data of migrant workers.
- h. Insurance data- Every Indonesian migrant worker must be insured before and during their placement period. Indonesian recruitment agencies have the obligation to enroll migrant workers in insurance programmes.

### **Lao People's Democratic Republic**

71. There is an existing coordination mechanism between the Ministry of Labour and Social Welfare, Ministry of Foreign Affairs, Ministry of Public Security, and other relevant sectors to collect information on labour market demands within and outside the country, and to provide information on names, contact information, and addresses of Lao workers and employers overseas in order to inform the Lao embassies in countries concerned. This is implemented through institutionalized quarterly meetings with concerned agencies; collection and sharing of data through their Employment Service Centres; labour migration workshops conducted twice a year with international organizations and stakeholders; establishment of a technical team for data collection; and a pilot project to collect data on returning migrant workers through nine receiving points on the border with Thailand. Following the mass exodus of Cambodian workers from Thailand in mid-2014, in July 2014 these centres reported having registered 7,636 returnees, of which 5,228 were females.
72. Relevant data on international migrants residing in the Lao People's Democratic Republic and on Lao nationals living abroad were collected from five separate sources under the ILMS Database:
  - a. Census of Population and Housing 2005;
  - b. Lao People's Democratic Republic Statistical Yearbook (various years);
  - c. Labour Force Survey 2010;
  - d. Administrative records of the Employment Service Database (for Vientiane capital only); and
  - e. Economic Census 2006.

While the Lao People's Democratic Republic is predominantly a labour-sending country, only the data contained in the Statistical Yearbook provided information on nationals living abroad – namely, as “Lao workers go for work in abroad” in 2007–08 and as the “Labour supply to work in abroad” in 2008–12. Beyond the Labour Force Survey 2010, the most recent Lao People's Democratic Republic Statistical Yearbook publishes a page on “labour and employment” each year, listing the following six indicators in the 2012 edition:

- a. Demand labour market: (i) Demand general (ii) Demand for work in abroad;
- b. Apply for job: (i) General applicants;
- c. Placement: (i) General applicants; (ii) Labour supply to work in abroad;
- d. Labour in industry and handicraft area;
- e. Foreign labour: (i) Chinese Labour; (ii) Vietnamese Labour; (iii) Thai Labour; (iv) Other Labour;
- f. Foreign labour by Sector: (i) Agriculture; (ii) Industries; (iii) Service.

## Malaysia

73. Malaysia has an existing Employment Information Act 1953 (Revised 1975) which facilitates collection of information regarding the terms of service and conditions of work of employed persons. Information collected is treated as confidential and restricted to official use only. In Malaysia, the main source of migration statistics is the annual Migration Survey, which is conducted to provide estimates of population movements and flow at the state level. The survey is conducted as a module under Malaysia's monthly labour force survey, and thus also obtains information on the socio-economic characteristics of migrant workers, including on their age, sex, status in employment, education, economic activity, occupation, employment-related income, and other variables. The annual Malaysia Migration Survey Report is made available on the website of the Department of Statistics, Malaysia, Official Portal (Department of Statistics Malaysia, 2014).
74. The Ministry of Human Resources is responsible for Labour Market Information and private microeconomic data. Labour Market Information is produced through labour force surveys, household income and expenditure surveys, salaries and wages surveys, informal sector surveys, and the population and housing census.

## Myanmar

75. Relevant data on the stock of international migrants residing in Myanmar and on nationals living abroad were collected from two separate sources under the ILMS Database:
  - a. the *Statistical Yearbook* (providing a time series of administrative records on the stock of “foreigners residing in the Union of Myanmar under the Foreigners' Registration Act” by sex and by country of origin as of 2001); and
  - b. Administrative records of the Ministry of Labour, Employment and Social Security (regarding “overseas employment”, with a complete time series of data collected from 2006).
76. MOLESS opened Migrant Reporting Counters at the departure and arrival lounges of the Yangon International Airport in order to collect data of migrants leaving and returning.

## Philippines

77. The Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act 8042), amended by RA 10022, has established an Inter-Agency Committee on the Shared Government Information System for Migration as co-chaired by the Department of Foreign Affairs and the Department of Labor and Employment.<sup>5</sup>
78. The national agency mainly assigned to collect data in the Philippines is the newly reorganized Philippines Statistical Authority (PSA). The PSA produces labour migration statistics through dedicated questions in the Population and Housing Census, the Survey on Overseas Filipinos, and the Labour Force Survey. The PSA also coordinates the Philippine Statistical System and collects flow statistics of Overseas Filipino Workers from the POEA and OWWA, stock statistics from the PSA and Commission of Filipinos Overseas, and remittance data from the Central Bank of the Philippines. Among the data the PSA collects and organizes are the following:
  - i. Flow statistics are gathered from: a) the daily departures of OFWs at all Ninoy Aquino International Airport terminals in Metro Manila and other international airports; and b) administrative records. Data are disaggregated by country of destination, sex, skill/occupation, and type of worker (land-based/sea-based and new hire/re-hire).
  - ii. Stock estimates are generated by the Commission on Filipinos Overseas and disaggregated by country of destination and migration status. For registered OFWs, data are disaggregated by country of destination, sex, age, educational attainment, civil status, and occupation before migration.
79. The PSA held a focal points meeting in July 2014 to coordinate labour migration data collection among relevant line ministries and departments collecting labour migration data. In addition, the PSA has also established the following coordination mechanisms for data that covers migrants:
  - a. The Committee on Population and Housing Statistics discusses statistical issues and concerns towards improvement in the generation, dissemination, and utilization of population and housing statistics in the country. The Committee has formed a Technical Working Group on Migration Statistics (Philippine Statistics Authority, 2012a).
  - b. Inter-agency Committee on Labor and Productivity Statistics discusses issues and concerns towards improvement in the generation, dissemination, and utilization of labour and employment statistics in the country. This Committee has formed a Technical Working Group on counting overseas Filipinos (Philippine Statistics Authority, 2012b).
80. In 2014, the POEA and the Bureau of Immigration began implementation of a system of shared government information by providing immigration officers with migrant workers' records and thereby allowing easier clearance of documented migrant workers and detection of undocumented

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5 SEC. 20: Establishment of a Shared Government Information System for Migration – An interagency committee composed of the Department of Foreign Affairs and its attached agency, the Commission on Filipinos Overseas, the Department of Labour and Employment and its attached concerned agencies, the Department of Tourism, the Department of Justice the Bureau of Immigration, the National Bureau of Investigation, the Department of the Interior and Local Government, the National Telecommunications Commission, the Commission on Information and Communications Technology, the National Computer Centre, the National Statistical and Coordination Board, the National Statistics Office and other government agencies concerned with overseas employment

migrant workers. Likewise, the initial phase of the Overseas Filipinos Information System<sup>6</sup> has been completed and the DOLE has completed the Human Resources for Health Information System.

81. In addition, the Philippine Government has included as a feature of its bilateral labour agreements the inclusion of the exchange of labour market information. Nonetheless, these labour agreements are mostly focused on recruitment procedures.

## Singapore

82. Singapore publishes migration-related data compiled from administrative records in the annual Labour Market Reports. *Yearbook of Statistics Singapore* and the *Singapore Yearbook of Manpower Statistics*. The published data provide no disaggregation on sex, age or country of origin.

## Thailand

83. The Office of Foreign Workers Administration, the Department of Employment, and the Ministry of Labour are responsible for labour immigration data; while the Office of Overseas Employment Administration, the Department of Employment, and the Ministry of Labour are responsible for administering data on the number of Thai nationals working overseas. Administrative records on the inflow of international migrants are disaggregated by sex, nationality, and occupation; while administrative records on the outflow of nationals for employment are disaggregated by sex, country of destination, occupation, and type of recruitment, among other variables.
84. Thailand, through the National Operation Centre on Prevention and Suppression of Human Trafficking, spearheaded an action plan to ensure the legality of migrants working on fishing vessels through the development of a system of registration for crews.

## Viet Nam

85. To date, Viet Nam's labour market information system has focused predominantly on internal – not international – migration. Viet Nam has three primary sources of labour migration data. First, labour force surveys measure internal migration flows within Viet Nam, though these surveys are not suited to measuring international migration. The data provided can, however, be used as a proxy for the international migrant stock, based on the persons who were residing abroad one year before the start of the reference period. Secondly, the population census contains one question regarding an individual's prior place of residence (five years ago), designed to calculate the five-year flow of internal migration. Measurements for international migration could be improved by including questions on citizenship, place of birth, or residence status. Administrative records of the Department of Overseas Labour include annual flow of nationals for employment abroad, disaggregated according to sex and country of destination. While many of these data have been collected as part of the work on the ILMS Database, some of the publications citing the data show marginally different figures for the same indicators. It is recommended that efforts towards harmonization of the data and the construction and publication of an official time-series (available since 1980 in this case) be made.

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6 The Overseas Filipinos Information System aims to “consolidate and reconcile the databases of the Department of Foreign Affairs (DFA), Bureau of Immigration (BI), Overseas Workers Welfare Administration (OWWA), and the Philippine Overseas Employment Administration (POEA). This facility will enable OFs to register, or they can be registered by their representative/relatives and have their location updated. The Philippine Embassies/Consulates can also update the location and contact information of OFs in their area of jurisdiction.” presentation of M. Asis at the Philippine Statistical Convention, October 2013.

86. At present, Viet Nam is identifying focal points in charge of collecting, analyzing, and processing synchronized data at the national level by establishing the national database on migration. This is currently being done through the establishment of a working group on the migrant labour database that meets periodically. Viet Nam has also actively participated in regional workshops on information collection to be able to implement data sharing soon.

### **C. Effective return and reintegration strategies, including sustainable alternatives for migrant work**

87. The majority of recommendations on return and reintegration emanated from the 4th AFML in Bali in 2011. The first background paper (Larga et al., 2013) noted that while there are initiatives on return and reintegration in most AMS, there appeared to be limited or partial progress towards implementation of these recommendations. At the time the first background paper was written, the authors determined that this limited progress was due to the recommendations being in existence for only one year. While this paper provides some updates and evidence of progress against implementation of these recommendations, AMS need to continue to make a concerted effort to put in place comprehensive, integrated, and well-defined national reintegration programmes and policies.
88. There are eight recommendations that pertain to return and reintegration. They were discussed primarily during the 4th AFML, which produced six recommendations. One additional recommendation was made at the 5th AFML and at the 6th AFML.
89. AMS have each developed different strategies to support the return and reintegration of migrant workers. In receiving countries such as Brunei Darussalam, Malaysia, Singapore, and Thailand, local laws have provisions that ensure workplace compensation for workers regardless of whether they are locals or foreign. For sending countries, on the other hand, the maturity of policies and programmes to support return and reintegration depend on the length of experience in managing the labour migration process. The Philippines, with a relatively mature labour migration governance system, has established, through legislation, a national return and reintegration programme for overseas Filipinos with a suitable structure for its implementation. Others such as Cambodia, Indonesia, and the Lao People's Democratic Republic have recognized the need to provide basic skills training to ensure better opportunities upon return. A recent addition in programmes targeting return and reintegration is the conduct of financial literacy trainings and the publication of handbooks to support migrant workers and their families.
90. The Malaysian Government implemented a regularization programme in 2013. Ops Bersepadu 6P programme, nicknamed "6P", includes measures for amnesty, registration, legalization, supervision, enforcement, and deportation of migrants. The registration for regular workers began on 13 July 2013, with the registration and amnesty programme for irregular workers commencing on 1 August 2013. By the closing date on 31 August 2013, a total of 2.3 million migrant workers had registered, including 1 million regular and 1.3 million irregular workers. Reports from CSOs in Malaysia and monitoring by the ILO, however, indicate detention of undocumented migrant workers, overcrowding in immigration detention centres, and a lack of thorough investigations into the reasons why a worker has become undocumented.
91. In June 2014, more than 200,000 Cambodian migrant workers returned from Thailand through the Poipet border crossing. According to the Cambodian National Employment Agency, based at the Poipet border for ten days, there were deportations on 8 to 10 June 2014, followed by

voluntary returns of both regular and irregular workers. Of 667 of returnees interviewed, 90 percent had never applied for a passport due to the high costs. Of the returnees surveyed, 21 percent did not receive their full wages before leaving Thailand (IOM, forthcoming).

92. Feasibility studies for the establishment of Migrant Welfare Funds, which among other functions support the return and repatriation of workers in case of crisis situations, are currently underway in Cambodia, the Lao People's Democratic Republic, and Myanmar with the support of the ILO. Meanwhile, Indonesia, the Philippines, Thailand, and Viet Nam each have a fund that serves as a source of monies during crisis situations to enable the repatriation of their workers.
93. As of yet, there is no progress in developing ASEAN guidelines on effective return and reintegration, and bilateral and multilateral agreements among ASEAN countries do not include agreements for portability of social security benefits. There continues to be a gap in conducting a regional and/or country study on return and reintegration of migrants to better understand the dynamics of return, their cases, and the needs of migrant workers upon return. Further efforts need to be made to ensure migrant workers' skills are certified and employment history certificates/ testimonials issued to workers prior to their return, to facilitate their access to employment in the country of origin.
94. Outputs against this recommendation will be reported under five thematic areas: Policy and legislative developments; regional information sharing; information dissemination on options upon return; migrant welfare funds; and financial literacy training.

## Policy and legislative developments

95. Through *Prakas* No. 252, signed September 2013, the Cambodian Government requires Private recruitment agencies to provide on-site services and organize the repatriation of workers. The *Prakas* stipulates the following:
  - a. Private recruitment agencies are required to appoint a Cambodian permanent representative in each receiving country, to be certified and accredited by the MoLVT.
  - b. On-site services should include: workplace inspection and orientation, assisting access to social security, opening bank accounts, monitoring workers' conditions, enabling communication with the workers' families, and dispute resolution.
  - c. Regarding return and reintegration, the *Prakas* stipulates (Article 9 and 10):
    - i. The private recruitment agency shall assist the worker in preparing all necessary arrangements (e.g., documents, final payments) one month prior to the worker's departure.
    - ii. Upon returning to Cambodia, the private recruitment agency must assist the worker to obtain a certificate for the recognition of their work abroad, issued by the MoLVT.
96. The Cambodia Labour Migration Policy for 2015–2020 acknowledges the importance of actions on return and reintegration by including the following measures:
  - a. Establishment of a skills recognition system to maximize the talents and skills acquired by returned migrant workers;
  - b. Strengthen employment services for returned migrant workers;
  - c. Support local investment programmes, small-business counselling, and set up financing facilities for returned migrant workers; and



- d. With recruitment agencies, monitor the employment status of their clients and establish and maintain a database of migrant workers from their departure to their return.

### **Regional information sharing**

97. A Regional Workshop on Effective Social and Economic Reintegration of Women Migrant Workers was held in Kathmandu, Nepal, in August 2014 with the aim to identify, document, and share good practices in the area of reintegration services and programmes for returning women migrant workers. The workshop, supported technically and financially by the ILO and UN Women, brought together AMS with counterparts from South Asia to document and share good practices in return and re-integration programmes; increase the knowledge base on return and reintegration by sharing data and research on the reintegration of migrants; and to arrive at recommendations for regional partnerships and bilateral cooperation between origin and destination countries to develop and improve return and reintegration programmes for women migrants (ILO and UN Women, 2014).

### **Migrant welfare funds and emergency repatriation**

98. Cambodia, the Lao People's Democratic Republic, and Myanmar are now undertaking a Migrant Welfare Fund Feasibility study, to recommend actions that must be taken and partnerships or coordination mechanisms that must be instituted by each government in order to develop such a fund. Migrant Welfare Funds exist to support migrants facing difficulties overseas and provide access to emergency assistance. In the Lao People's Democratic Republic, Article 136 of the Law on Labour (Amended), 2006, already allows for the collection of funds from workers and employers for the purposes of a Labour Fund, including to assist Lao migrant workers. However it is unclear if this money is already being spent on assisting repatriated or deported workers.
99. In July 2014, the Philippine Government introduced a new programme called Assist WELL in response to the need to reintegrate workers from crisis situations. Assist WELL addresses the welfare, employment, livelihood, and legal needs of repatriated migrant workers. The package of services offered includes airport assistance, temporary shelter, transport assistance, emergency medical assistance, stress debriefing, job placement/referral for local and overseas employment, competency assessment and certification, entrepreneurial development training, skills training, business mentoring, business loan assistance, legal advice, conciliation proceedings, assistance in preparing and filing complaints, and counselling during preliminary investigations and hearings. The programme secretariat is to be headed by the National Reintegration Center for OFWs with the support of other agencies in the Department of Labor. In emergency cases, the return and repatriation of a migrant worker is the primarily the responsibility of the recruitment agency, including the costs of air-tickets. OWWA and the Department of Foreign Affairs (DFA), however, arrange the repatriation should the agency default on its obligation. The DFA also assumes the cost for repatriation of undocumented workers.

### **Information dissemination on options upon return**

100. The Indonesian Government implements the "Exit Programme" in Hong Kong (China) and Taiwan (China) for returning workers. Under this programme, the workers are taught entrepreneurship skills prior to their return.
101. Pre-departure training curricula in Cambodia, the Lao People's Democratic Republic, Myanmar, and Viet Nam discusses the need for migrant workers to plan for their return and emphasizes the need for sound financial management of their earnings while abroad.

## Financial literacy training

102. Eight training modules and a Manual for Financial Education Course for Labour Attachés, ASEAN Migrant Associations, and CSOs have been developed by the ILO ASEAN TRIANGLE Project with the Philippines-based CSO Atikha. The modules include a Trainer's Guide, participant handbook, and presentation materials in three languages – English, Myanmar, and Bahasa. These tools were validated with government stakeholders and CSOs in Singapore, and training of trainers was organized. The materials will soon be printed in other languages in the region. The financial education course has been well received by the beneficiary institutions, which have integrated the course as part of their regular programmes for migrant workers in Singapore. Furthermore, the Indonesian Labour Attaché in Singapore has recommended the use of these financial education tools in their pre-departure training for migrant workers in Jakarta. The NGO FAST, which delivers mandatory post-arrival training to migrant domestic workers in Singapore, has integrated the course into their training programmes starting July 2014.
103. Financial literacy training is being conducted by one MRC in Prey Veng, Cambodia. This training is run by the Cambodian Labour Confederation and based on the ILO Manual *Budget Smart: Financial education for migrant workers and their families* (ILO, 2011).

## D. Facilitate access for complaints and grievance mechanisms for both sending and receiving countries

104. The establishment of effective complaint mechanisms for migrant workers has been formally recognized within the ASEAN region as key to the protection of migrant workers' rights. There are eight recommendations that fall within this cluster: two recommendations from the 3rd AFML, one from the 5th AFML, and five recommendations from the 6th AFML. Across ASEAN, Member States have implemented mechanisms to receive the complaints of migrant workers during employment and upon return. However, the degree to which complaints mechanisms are accessible, transparent, and functioning varies. Table 2 outlines reasons why migrant workers may choose not to lodge a complaint. Even where they have equal protection under the labour laws, aggrieved migrant workers are often reluctant to complain about their employers or do not know where to complain. Instead, migrants usually have to accept the conditions or "run away" and likely lose their documented status, which puts them in an even more vulnerable position.

**Table 2. Reasons why migrant workers do not lodge complaints (%)**

| Reasons for not filing complaints                  | Malaysia | Thailand |
|--|----------|----------|
| Have not encountered serious rights violation      | 40       | 47       |
| Don't want to cause trouble                        | 24       | 23       |
| Don't know who to complain to or where to complain | 19       | 11       |
| Don't believe complaining can change anything      | 12       | 6        |
| Don't know   | 6        | 13       |

Source: GMS TRIANGLE Baseline Surveys in Thailand and Malaysia (2010)



105. To further illustrate issues with the implementation of complaints mechanisms, a 2013 ILO survey in Thailand found a well-established process for handling of complaints of outbound Thai workers, though obstacles in enforcement and implementation exist. From 2006 to 2010, an average of 2,755 persons filed a complaint each year (under 2 percent of outbound migrant workers). The highest number of complaints are made in Bangkok. The average compensation received per person and the percentage received against the amount claimed has been declining (US\$492 and 26 percent respectively in 2010). With support services, complaints can be successful. Inbound workers rely on their embassies and the Thai placement agency for resolving their complaints.
106. For receiving countries like Brunei Darussalam, Malaysia, Singapore, and Thailand, existing labour laws incorporate complaints mechanisms that are not limited to local workers but extend to migrant workers as well. The use of hotlines in destination countries as a channel to receive complaints is common. MRCs serve as a place for migrant workers to lodge complaints. Sending countries have complaint mechanisms that are linked to regulations governing the recruitment process, as well as programmes run through their embassies or consulates in destination countries. The deployment of labour attachés, particularly to countries where there is a concentration of migrants, has become an imperative. The number of labour attachés per country is as follows: Indonesia, 11; Lao People's Democratic Republic, 1; Myanmar, 5; Philippines, 50; Thailand, 13; and Viet Nam, 9. MRCs have also served as complaint-receiving centres for returned migrants or for the families of migrants still abroad.
107. Regional initiatives on complaints include the development of standard complaints reporting, monitoring, and operating procedures, including referral mechanisms by the ATUC, interregional study visits to improve MRC services, training for labour attachés in destination countries and regionally, and online discussions through the platform provided by the AP Migration Network.
108. Across the region, complaints mechanisms may be strengthened by: provision of translation services through interpreters and forms in the migrant workers' language; development of standard operating procedures to guide provincial governments on the receipt or handling of complaints by migrant workers; a programme of capacity building and awareness raising among local government officials to ensure systematic application of complaints procedures. The ASEAN region is yet to develop regional guidelines and tools on the establishment of standards for complaints mechanisms, nor has there been sharing of experiences so far among AMS in implementing their respective complaints mechanisms.

### **Brunei Darussalam**

109. The Trade Dispute Act (No. 6 of 1961) (Cap. 129) regulates trade disputes and stipulates conditions for arbitrations and inquiries. According to law (Employment Order 2009), workers' complaints are to be submitted to the Enforcement Division of the Department of Labour. The Commissioner of Labour can decide on disputes between employees and employers, between employees and principals, and between subcontractors and contractors, including disputes involving documented foreign workers. Matters may be decided in court, with no court fees chargeable to the employee, and any fees charged to employer in case of conviction or judgment against the employer.
110. In 2013, Government mediation by the Labour Department was the most common means used to resolve labour disputes. The Government prosecuted employers who employed irregular migrants or did not process workers' documents, rendering these workers irregular. When grievances could not be resolved, regulations require employers to pay for the repatriation of the foreign workers and all outstanding wages.

## Cambodia

111. *Prakas* No. 249 broadly outlines the complaints process as well as the rights and responsibilities of the MoLVT and Provincial Departments of Labour and Vocational Training (PDOLVTs), the complainant and respondent, and private recruitment agencies. After the adoption of this *prakas*, MoLVT has conducted trainings on the complaints process with the Association of Cambodian Recruitment Agencies (ACRA), PDOLVTs from all 24 provinces, NGOs, and staff from ILO supported Migrant Worker Resource Centres. To operationalize this *prakas* the MoLVT requested ILO support to draft complaints forms to be used throughout the complaints process, and to provide input to the design of a complaints database. Currently, MoLVT and the PDOLVTs in the three target provinces – in collaboration with trade unions and civil society organizations – are collecting and responding to complaints against recruitment agencies. Due to *Prakas* No. 249, the requirements surrounding recruitment agency practice have become clearer and more enforceable, and the consultative process of developing the complaints mechanism has meant that the capacity of Government agencies and service providers has been built alongside the creation of these country-specific tools.
112. The MoLVT has set up an MRC in Phnom Penh to receive complaints of migrants and their families. There are existing hotlines to report abuses, accidents and cases of trafficking. There is also a mechanism in destination countries whereby the Cambodian Embassy may receive the complaints. Likewise, ACRA and other NGOs can receive complaints and provide assistance and legal aid.

## Indonesia

113. Presidential Instruction No. 6/2006 mandates protection services for Indonesian migrant workers. Ministerial Regulation No. 4/2008 of the Ministry of Foreign Affairs stipulates delivery of services to Indonesians abroad at Indonesian diplomatic missions. Services may include registration, protection, counselling, and temporary accommodation, among others (Larga et al, 2013).
114. Indonesia has Crisis Centres managed by BNP2TKI. Migrant workers and their family members can access this facility 24 hours a day/seven days a week and report any problems they face either in Indonesia or abroad, through this free number 08001000 +6221 29244800 or SMS 7266, or [halotki@bnp2tki.go.id](mailto:halotki@bnp2tki.go.id). All reports will be verified, and if it is valid, followed up by the Ministry of Manpower, the Police Department, and BNP2TKI.
115. As reported in the first background paper (Larga et al., 2013), Indonesia has deployed labour attachés in 11 countries of destination. Where no labour attachés are posted, complaints are handled by the consular officials of the Indonesian Embassy, through the Ministry of Foreign Affairs within the destination country. The Ministry of Manpower handles issues of insurance pay-outs and labour rights violations.
116. Indonesia Trade Union Prosperity (KSBSI) reported during the AFML preparatory meeting in October 2014 that, despite these facilities, there is a need to strengthen the complaint mechanism through the appointment of focal persons, to extend protection of migrant workers working in fishing vessels, and for better training of migrant domestic workers prior to their departure.
117. Standard Operating Procedures (SOPs) for complaint procedures were developed to strengthen the government capacity for monitoring of recruitment. The SOP was jointly developed by the Ministry of Manpower, BNP2TKI, BP3TKI, DISNAKER, and IOM. The SOPs are still pending to be adopted as a government regulation. The SOP covers alleged violations during any aspect of

recruitment for work abroad by recruitment agencies, including recruitment, travel, the period of work abroad, return, and reintegration. The SOPs were developed to focus on three short-term strategies: (i) strengthen the licensing process of the Head of Office of recruitment agencies; (ii) strengthen the inspection process at all levels; and (iii) improve and standardize the complaint procedure. The SOPs and tools developed are:

- a. Standard operating procedure for recruitment agency license renewal – The purpose of this SOP is to better integrate the experience of workers into the licensing process. The SOP is based on the existing laws and regulations, with additions including: complaint mechanisms, performance checks of branch offices, and clarification of the role of other stakeholders involved in the licensing process.
- b. Standard operating procedure for an official complaints system – This SOP on complaints maps a complete procedure for receiving, investigating, adjudicating, and reporting with regard to complaints against recruitment agencies and their associates.
- c. Complaint form – An integral part of the complaints process is the utilization of a standardized complaint form. The standard form is necessary for several reasons: (i) for complaints to be handled in a fair and proportional way; (ii) to provide information to the complainant, who may not sure how to classify and describe the complaint; and (iii) to provide the Ministry of Manpower with a baseline of standardized information to better understand the practices of recruitment agencies.
- d. Assessment tool for recruitment agency license renewal – This tool focused on administrative requirement to better integrate worker protection and empowerment. It also supports the complaint mechanisms and the performance checks of recruitment agency branch offices, and training centres.
- e. Assessment tool for holding centres and training centres – This tool is designed to support the license renewal process. It does so by setting standards for the assessment of training centres and holding centres.

### **Lao People's Democratic Republic**

118. Directive 2417 mandates the Ministry of Labour and Social Welfare (MoLSW) to coordinate and settle labour disputes. The Department of Labour Management and the Department of Skills Development and Employment are responsible for conciliation and resolution.
119. During the AFML Preparatory Meeting, the Lao Government reported its plans to adopt a “single window service” that will receive complaints from workers. It is also developing a Labour Management Manual on Complaints Mechanism covering the mechanisms for complaints, the sectors involved, and modalities on how to solve disputes. Likewise, it is currently strengthening its MRCs to assist in informing migrants of complaints mechanisms.
120. The Lao Government appointed a labour attaché to Thailand in 2013.
121. The Law on Lao Trade Unions (2007) identified the roles and responsibilities of the Lao Federation of Trade Unions to ensure that labour rights are respected and employees enjoy decent conditions of work, including skills development and the employment and promotion of labour. The Lao Federation of Trade Unions also reported that the establishment and use of hotlines is an important mechanism to receive worker complaints. Legal Assistance Offices in the provinces where inbound migrant workers are present will be established, with funding assistance from Germany.

## Malaysia

122. The Industrial Relations Act of 1967 provides parameters for regulating labour relations between employers and employees and their trade unions. Cases of wrongful dismissal can be reported to the Industrial Relations Department within 60 days of their occurrence. The government has established a 24-hour SMS helpline for labour disputes: (+60) 1 223 4357. The Employment Act of 1955 also provides authority for a foreign worker to file a complaint against discrimination through the Director-General of Labour.
123. The Malaysian Trade Union Congress (MTUC) and CSOs in Malaysia are providing legal assistance and counselling to migrant workers for cases of non-payment of wages, late or partial payment, and excessive working hours, among other complaints.
124. The Bar Council of Malaysia, with support of the ILO, is hosting a series of capacity-building dialogues with labour attachés and consular officials from several sending countries based in Malaysia. These meetings have led to greater cooperation among key stakeholders in Malaysia.

## Myanmar

125. Myanmar has appointed labour attachés in five countries. These are in the Republic of Korea, Kuwait, Malaysia, Singapore, and Thailand. MOLESS conducted a training on labour migration management and migrant workers protection for labour attachés, with the support of the IOM, in March 2014. Myanmar's labour attachés have cooperated with migrants' associations and CSOs in host countries in providing legal services to migrant workers and pursuing legal claims on their behalf.
126. MOLESS has a complaints mechanism hotline for migrant workers to make complaints. MOLESS also opened Migrant Reporting Desks in the departure and arrival halls of the international airports in July 2014.
127. The Myanmar Overseas Employment Agencies Federation (MOEAF) is preparing an MOU with employers in receiving countries to reduce the vulnerability of domestic workers to abuse and exploitation. The MOEAF has developed a Code of Conduct and will set up a Code of Conduct Compliance and Monitoring Committee that will also receive complaints and refer to the existing complaints mechanisms (labour complaints mechanism hotline, trafficking hotline, and ILO complaints mechanism hotline).
128. Myanmar has worked strongly against trafficking using information through the Strategic Information Response Network Human Trafficking Data Sheet and the 2005 Anti-trafficking in Persons Law. Myanmar has drawn on experience through the implementation of the MOU between Thailand and Myanmar on the Employment of Workers and the cooperation to Combat Trafficking in Persons, especially Women and Children. Myanmar has also instituted anti-trafficking hotlines through the Ministry of Home Affairs.

## Philippines

129. The Philippines, through the passage of Republic Act 8042 and its amendment Republic Act 10022, provides for a dispute settlement mechanism for disputes arising from illegal recruitment, contract violations, and other cases relating to overseas employment. The POEA, OWWA, Philippine Overseas Labor Office (POLO) and the National Labour Relations Commission have existing and in-place complaint mechanisms. At the jobsite, cases arising from contract violations are

settled through the grievance machinery of the employer and host government with conciliation services provided by the Philippines Government through the POLOs at Philippines embassies and consulates.

130. The Philippines utilizes a gender-sensitive policy in its migrant protection initiatives. With increasing numbers of women migrant workers heading overseas, the Philippines has deployed women labour attachés and welfare officers, social workers, medical personnel, and case officers, particularly in destination countries with high numbers of female migrant worker welfare cases. Human resource development centres are also set up in these countries for training women migrant workers. Likewise, at the national and provincial levels, the POEA have designated female conciliation and hearing officers to attend to complaints and cases filed by female complainants. The POEA also provides free legal advice and assistance to complainants in the filing of cases.
131. The Department of Labor and Employment also works with the POEA and the Interagency Council against Trafficking on anti-illegal recruitment and anti-trafficking efforts aimed at protecting migrant workers, including domestic workers.
132. Philippines embassies and consulates and the network of 34 POLOs abroad (composed of labour attachés, welfare officers, and social workers) respond to and monitor the problems and complaints of migrant workers. There is an Assistance to Nationals Desk in embassies and consulates. Labour attaches attend to labour and welfare cases lodged by the workers through the grievance mechanisms. They also monitor cases, undertake prison visits, make representations to authorities, facilitate repatriation, and coordinate with relatives. Conciliation services are also provided through the embassies and consulates.
133. The Philippines also has a Legal Assistance Fund managed by the DFA to be used exclusively for legal services for OFWs in distress. This Fund is used to pay for lawyers in destination countries, the filing of cases abroad, and bail bond payments.
134. The Campaign against Illegal Recruitment, Trafficking and Irregular Migration has also been launched by the POEA, with support from the IOM. This initiative is part of the MDG-F Joint Programme on Alternatives to Migration: Decent Jobs for the Youth, supported by the Government of Spain.

## Singapore

135. Singapore has established a set of complaint mechanisms that extend to employees covered by the relevant employment legislation. It consists of the following:
  - a. Under the Work Injury Compensation Act, injured employees and dependents of deceased employees can file a claim for work injury;
  - b. Under the Employment Act, employees who are covered by this Act can file claims against their employer for failure to pay salaries and other statutory payments such as overtime, public holiday and annual leave pay, employment disputes in contracts of service (e.g. protection against unfair dismissal). Such claims are referred to the Commissioner for Labour for inquiry and remedies;
  - c. An online service called the Employment Standards Online is a portal for organizations and the general public to communicate with the Labour Relations and Workplace Division of the Ministry of Manpower. The service also allows former employees covered by the Employment Act to make claims to recover salaries and payment from former employers.



136. Singapore also has made recent changes in its legislation and regulations as follows:
- a. imposition of 25 percent cap under the Employment Act for deductions from an employee's salaries for accommodation, amenities, and services (effective from April 2014);
  - b. penalties for non-payment of salary will be raised;
  - c. requirement that foreign workers seeking to work in Singapore on a Work Permit be sent the In-Principal Approval Letter before they come to Singapore;
  - d. in cases of termination and while a foreign worker is waiting for statutory claims, employers must remain responsible for their upkeep; and
  - e. from January 2013, foreign domestic workers have the right to a weekly day off.
137. The MWC provides legal assistance to migrant workers. NGOs have established a desk to receive and process complaints and provide shelter for those who require protection. Legal support to domestic workers is provided through the HOME Legal Help Desk.

## Thailand

138. While inbound migrant workers are covered under the Recruitment and Job Seekers Act (1968), access to complaint mechanisms remains limited as there are no provisions for complaint mechanisms contained within the Act. Migrant workers file complaints through diplomatic channels, private employment agencies, and local NGOs (ILO, 2013). Migrant Resource Centres also provide support through complaint desks, translators, processing of complaints, and the provision of lawyers to defend cases in the court. Thailand has existing hotlines to receive complaints of migrant workers, with services provided in English, Myanmar, and Khmer. There are also specific hotlines for social security and anti-trafficking in persons.
139. The Department of Employment, Department of Labour Protection and Welfare, and Social Security Department have been conducting pilot studies in seven provinces in Thailand to implement improvements to the existing complaints mechanisms for inbound migrant workers. Tripartite consultation meetings were organized in each province to review findings and recommendations. Recommendations considered for implementation include: improving translation services; consolidating hotlines into one single number; raising awareness on the existence of complaints mechanisms; establishing an integrated information sharing system to facilitate key agencies in investigating complaints and analyzing trends in complaints rendered; and establishing a clear and detailed procedure for migrant workers to change employers.
140. The Department of Labour Protection and Welfare and their network of labour inspectors at the provincial levels inspect workplaces for adherence to labour and occupational health and safety standards.
141. The Department of Employment, with support of the ILO, has begun a series of dialogues with labour attachés from three sending countries stationed in Thailand, namely Cambodia, the Lao People's Democratic Republic, and Myanmar. These meetings will discuss, among other issues, complaints mechanisms, capacity building of labour attachés, occupational health and safety, and measures to combat discrimination against migrant workers.

## Viet Nam

142. A Decree in 2007 operationalizes implementation of the Law on Vietnamese Guest Workers. This is supported by a Decree in 2008 providing for the recruitment and management of foreign workers in Viet Nam. The Law on the Contract-Based Overseas Workers recognizes the right of migrant workers to complain against those who send migrant workers abroad illegally. Disputes between workers and recruitment agencies are settled with reference to Vietnamese Laws, while those with foreign employers will be settled on the basis of the agreement signed between the employer and the laws of the receiving country. In July 2014 the Legal Department of the Ministry of Labour, Invalids, and Social Affairs (MoLISA) and the Viet Nam Association for Judicial Support for the Poor organized a validation workshop on the preliminary report on the current situation of complaint mechanisms. Based on the findings of the report, participants discussed the draft Prime Minister's decree on complaint mechanisms on labour issues, vocational training, and sending workers abroad.
143. The Viet Nam Manpower Association Supply (VAMAS) has implemented a Code of Conduct (COC-VN) that also addresses the role of recruitment agencies and employers in dispute handling mechanisms.
144. The Viet Nam General Confederation of Labour provides legal advice for employees through the legal consultancy offices of trade unions in the provinces and cities. They are supporting trade unions in providing a complaints desk for Vietnamese migrant workers and encouraging migrant workers to organize in groups, networks, or associations. It also conducts capacity building for trade union staff on migrant workers, and organizes workshops on national and international law and monitoring of recruitment of workers for trade union officials.
145. Presently, Viet Nam is developing decrees on complaints through the conduct of research and holding workshop on the status of resolving complaints of overseas workers and among enterprises sending workers. This is primarily being done through the MRC mechanism.

## Regional initiatives

146. A training programme for ASEAN labour attachés and consular officials was developed by the ILO ASEAN TRIANGLE Project and implemented in September 2014 in partnership with the Asian Institute of Management in the Philippines. The modules are focused on enhancing negotiations and conflict management skills, and ethical recruitment practices. It is envisioned that such regional training events can lead to the creation of a coherent network of ASEAN labour attachés.
147. To address the recommendation of improving inter-country trade union collaboration, the ATUC has developed standard operating procedures for receipt of workers' complaints. The SOPs include a flow and referral system, a standard complaint form, and a monitoring mechanism to ensure follow-up to complaints filed. All complaints will be recorded in the ATUC Information System on Migrant Workers.
148. The Asia Pacific Migration Network, AP-Migration, has hosted a regional discussion on complaints mechanisms. The aim of this online discussion was to cite good practices and review the challenges of implementing effective complaints mechanisms respond to recommendations made at the 6th AFML and to identify key inputs to the development of a Regional Guideline on complaints mechanisms for ASEAN.

## **E. Promotion of cooperation, partnership, information exchanges, and meaningful involvement among all stakeholders in both sending and receiving countries**

149. This group of recommendations has been summarized into four major recommendations made up of one recommendation each from the 3rd AFML and 4th AFML and two from the 5th AFML. This section will present discussion in four thematic areas: national cooperation mechanisms; bilateral cooperation efforts; regional cooperation efforts of government, trade unions, employers; and civil society; and regional dialogues.

### **National cooperation**

150. In Cambodia, the Labour Forum, composed of civil society and international organizations, provides a platform for the exchange of information and updates on labour migration and trafficking issues.
151. Indonesia has a decree creating the Coordinating Agency of Indonesian Migrant Workers Placement. This agency aims to improve the quality and security of Indonesian migrant worker placement in foreign countries in the frame of widening employment opportunities and worker welfare. This requires coordination among related offices through the setting up of Indonesian Migrant Worker Placement Coordinating Agencies.
152. The Presidential Regulation No. 81 of 2006 on National Agency on Indonesian Migrant Worker Placement and Protection Objective set up the BNP2TKI with a coordinated and integrated approach. The BNP2TKI's duty, among other things, is to perform placements based on written agreements between the Indonesian Government and the governments of destination countries for Indonesian migrant workers. BNP2TKI also provides services, coordination, and monitoring/supervision on documents; orientation activities for Indonesian migrant workers; problem solving; departure and return, information, among other things.
153. The Philippines created in 2014 an inter-agency subcommittee at the planning agency to coordinate and streamline integration of migration issues into the development plan. This subcommittee will now serve as the overall mechanism to coordinate the different stakeholders in the Philippine migration process from pre-employment to reintegration.

### **Bilateral cooperation**

154. ASEAN Member States have signed several MOUs with one another and with receiving countries in other regions. Cambodia has signed an MOU on the Field of Exchange of Manpower with Kuwait that aims to strengthen cooperation in the field of labour, employment, and manpower development; however, no workers have been deployed under this MOU to date. Several AMS have signed MOUs with the Republic of Korea concerning the sending of workers through the Korean Employment Permit System.
155. Indonesia has signed an MOU with the Philippines regarding cooperation in the promotion and protection of the welfare and rights of migrant workers. The MOU expounds on the fields and forms of cooperation, implementation, and settlement of disputes. It establishes a Steering and a Joint Working Committee. Furthermore, Indonesia has MOUs with Jordan, Kuwait, and the United Arab Emirates concerning the placement of Indonesian migrant workers. Indonesia also has signed an MOU with Taiwan (China) to strengthen cooperation in recruitment and placement



of workers, and to provide opportunities to further develop bilateral relations between the two. Indonesia has an MOU through the National Board with the Japan International Corporation of Welfare Services concerning the deployment and acceptance of Indonesian candidates in nursing and care-giving. The MOU with Malaysia covers the sending of Indonesian domestic workers abroad.

156. Malaysia has signed MOUs with Bangladesh, China, Indonesia, Pakistan, Sri Lanka, Thailand, and Viet Nam to regulate recruitment processes and procedures.
157. The Philippines has established mutual cooperation with labour-receiving countries through bilateral agreements on labour protection, including on contingency plans in times of crisis and emergencies. The Philippines has signed 43 bilateral labour agreements with 21 countries and territories. These agreements pertain to manpower and labour cooperation, human resource deployment and development, recruitment of workers, sending and receiving of workers, and specific guidelines on the hiring of workers. There are also specific agreements for seafarers, and in some cases, MOUs cover the inclusion of the portability of social insurance and benefits.
158. In April 2013, the Philippines Government hosted a study visit of the Myanmar Labour Minister and delegation, which enabled the Myanmar Labour Minister and his senior staff to study the migration programmes of the Philippines.
159. Thailand has signed MOUs on Cooperation in the Employment of Workers with Cambodia (2003), the Lao People's Democratic Republic (2002), and Myanmar (2003). Thailand and Myanmar have held national consultations and plan to hold bilateral meetings on the review in order to update the MOU.

### **Regional cooperation efforts of government, trade unions, employers, and civil society**

160. At the regional and global levels, ASEAN Member States have been involved in a number of cooperation efforts related to international migration, such as the ASEAN Forum on Migrant Labour (AFML), the Colombo Process, the Abu Dhabi Dialogue, the Global Forum on Migration and Development, the ILO Tripartite Technical Meeting in November 2013, and the High Level Dialogue on Migration in 2013.
161. Within the region, ASEAN coordinates with regional NGOs, employers and trade unions with regard to the recommendations of the AFMLs. A number of projects that aim to coordinate and improve cooperation on labour migration are currently being implemented, supported by international organizations. These include the ASEAN and GMS TRIANGLE projects, implemented by the ILO and supported respectively by the Governments of Canada and Australia. These projects aim to strengthen national and regional policies on recruitment and safer migration in the ASEAN region. There are likewise various regional initiatives by NGOs, employers, and trade unions, and they are discussed in the following paragraphs. Among countries, bilateral agreements are the most common cooperation mechanism for migration, and this is true for both sending and destination countries.
162. There is bilateral cooperation between the Cambodian Confederation of Trade Unions and the Thai Trade Union Congress to protect migrant workers. This agreement is through an MOU signed in November 2013 that contains 13 actions to address the protection of migrant workers. In May 2013, the Lao Federation of Trade Unions and three trade unions of Thailand organized a workshop to promote bilateral cooperation in protecting the rights of migrant workers.

163. The ASEAN Trade Union Council (ATUC) has proposed an inter-union cooperation agreement among ASEAN unions. The ATUC also promotes ratification of the Migration for Employment Convention (Revised), 1948 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), and the Convention for the Protection of the Rights of all Migrant workers and their Families (1990). Trade unions strengthened their cooperation in the region with regard to sharing of good practices by holding a subregional seminar, supported by the ILO ASEAN TRIANGLE Project. The seminar discussed strategies to improve Trade Union Cooperation between Labour Sending and Receiving countries in ASEAN. The ATUC has developed a three-year work programme with the ILO ASEAN TRIANGLE Project to strengthen regional cooperation among its affiliated national centres on labour migration.
164. In order to fully engage employers' organizations in the ASEAN labour migration processes, the ASEAN Confederation of Employers (ACE), with assistance of the ILO, has developed a two-year Action Plan (2014-2016) on labour migration and the protection of migrant workers, with a number of activities, including capacity building, to make the voice of employers stronger, more visible, and more relevant for a successful ASEAN integration. The Action Plan was drafted with the objectives of strengthening the capacity of ACE and its members to engage in effective policy dialogue based on sound empirical evidence to promote a sound governance framework for mobility and migration in the ASEAN region. This includes the creation of a consultative mechanism to be regularly done with employers' organizations, government, and workers' organizations.
165. The Action Plan also includes the strengthening of the capacity of ACE to convene members around labour migration-related issues in order to raise awareness and share good practices among them; and developing regional guidelines and other tools and products that can practically assist enterprises. ACE has studied how enterprises are conducting the recruitment of migrant workers and will publish a policy position on the ethical recruitment of migrant workers in ASEAN. Member employer organizations are also expected to develop booklets in the respective ASEAN countries to be used as guidelines for employers.
166. The Task Force on ASEAN Migrant Workers (TFAMW) and its associated national migrant workers' organizations cooperate with governments in providing information services for migrant workers. The TFAMW conducts national and regional workshops and updates among the different CSOs in the region.

## Regional dialogues

167. SLOM leaders recognized the value of the ILO-ITC-COMPAS (Oxford University) Course on Labour Migration held in 2013 with support of the ASEAN Secretariat. Member States supported the idea of a continuing executive programme through this collaboration. The Senior Executive Seminar was realized in July 2014. This course aimed to facilitate an understanding of the challenges and opportunities likely to be faced in regulating labour migration in the context of economic integration in ASEAN, drawing – where appropriate – on the experience of regional harmonization in the European Union. The second training course was participated in exclusively by senior level officials from the ten AMS, as well as regional representatives of employers, workers, and CSOs.
168. ASEAN Member States, through the Philippine Government and with the support of the ILO and the ASEAN Secretariat, organized the 4th ASEAN Labour Inspectors Conference in the Philippines

in July 2014. The Conference highlighted – within the context of the Ha Long Recommendations 2010, the Dong Nai Action Plan in 2012, and the Progress and Updates noted in Bali by AMS in 2013 – the presentations of the Philippines, Singapore, and Viet Nam on good practices on labour inspection (ASEAN Models on Inspection); the presentations of Cambodia, Indonesia, Malaysia, and Thailand on capacity building and training; and the presentations of Brunei Darussalam, the Lao People’s Democratic Republic, and Myanmar on challenges and solutions with regard to inspection and emerging issues, including actions to improve the occupational safety and health of migrant workers.

169. The Conference unanimously adopted the recommendation to support the development of guidelines for labour inspection in migrant-reliant sectors. Under this recommendation, labour inspections would be led by AMS in partnership with labour and employer organizations as well as international organizations such as the ILO and International Association of Labour Inspection, and inspections would adhere to the principles of the ASEAN Declaration on the Protection and Promotion of the rights of Migrants Workers.
170. IOM supported a Forum on Increased Mobility, which was held adjoining the 5th Meeting of the Task Force on ASEAN Qualifications Reference Framework. The Forum was successful in complementing the ongoing work of ASEAN Member States to develop and implement a common reference framework for qualifications, by providing a platform for a range of stakeholders, including employers’ and workers’ organizations, educational institutions, professional regulatory bodies, and international organizations, to provide their input on the ASEAN Qualifications Reference Framework. The Forum also broadened the discussions on referencing and recognition of qualifications to discuss how increased understanding of labour market conditions across ASEAN can help to inform education policies and efforts to reference qualifications at the regional level.
171. ASEAN Member States are working to implement Mutual Recognition Arrangements to facilitate the free movement of labour in 2015 in eight professions. As the ASEAN Economic Community currently does not address movements of technical workers, mutual recognition of skills will be necessary to accompany the Mutual Recognition Agreements. The ASEAN Secretariat, in collaboration with the ILO, has been assisting AMS to prioritize specific occupations for mutual recognition of skills through a series of regional tripartite consultation meetings and action planning workshops. In time, the mutual recognition of skills process will be expanded to a larger scale, should the qualification framework/system be strengthened at the national level in AMS. Some of the tools, such as Regional Model Competency Standards developed by the ILO, can also be used as a guide in other regions and countries that seek to develop their skills standards/competencies.
172. IOM is supporting the “Development of Cross National Guidelines for HR Qualification and Skills Recognition among ASEAN Economies” through the provision of financial and technical support for the work of the Ad Hoc Task Force. A two-day strategic meeting was held among AMS in November 2014, which developed the recommended outline and key contents of the guidelines, which are to be used as a tool by ASEAN Member States to facilitate the cross-border recognition of skills and competencies and to promote increased comparability of skills certification and recognition systems across ASEAN.

173. Regional tools to improve the regulation of labour migration are being drafted with support from the ILO, and validated with ASEAN Member States. Tools drafted include:
- i. Manual on Measuring Migration Policy Impacts in ASEAN, which outlines a set of indicators that can be used to assess the effectiveness of labour migration policies in four areas, including: responding to employer requests to hire foreign workers; regulating the recruitment of foreign workers; monitoring wages and working conditions of foreign workers; and evaluating the effects of foreign workers on broader economic and non-economic factors.
  - ii. Tool to Engender Labour Migration Policies – This guide and toolkit on gender equality in labour migration aims to ensure a gender and rights-based perspective in migration policies, laws, and management of both origin and destination countries in ASEAN

## **F. Regulation of overseas recruitment**

174. There are eight recommendations that fall within the cluster of regulating overseas recruitment. Six of the recommendations were made at the 5th AFML; one recommendation each was made at the 4th AFML and 6th AFML. Private recruitment agencies facilitate the majority of overseas employment from the ASEAN. While the 5th AFML highlighted the need to disseminate information on alternative recruitment options, such as direct hire or through public employment agencies, the recommendations focused on regulation, licensing, and monitoring of recruitment agencies.
175. Private recruitment agencies play a primary role in matching jobseekers and employers and are present in both sending and destination countries in ASEAN. Abuses during recruitment and employment are quite common and have been well documented to include: high recruitment fees and costs, misrepresentation, failure to meet placement obligations, and contract substitution. Reducing the costs of labour migration is one of the UN Secretary-General's Eight Point Agenda items on migration and development.
176. The Malaysian Employers Federation has developed in 2014 a set of practical guidelines for employers on the recruitment, placement, employment, and repatriation of foreign workers in Malaysia.
177. In sending countries like Cambodia, Indonesia, the Lao People's Democratic Republic, Myanmar, the Philippines, Thailand and Viet Nam there have been specific laws put in place that govern the recruitment process. Public employment agencies also exist in several AMS and provide access to overseas employment opportunities. Several AMS have regulated a cap on the fees being charged to migrant workers. Malaysia, the Philippines, and Singapore have regulated that fees charged to workers be capped at one month's salary. Singapore's Employment Agencies Act stipulates that Singapore employment agencies are allowed to collect no more than one month of the worker's salary for each year of service, capped at a total of two months' salary. The Philippines and Indonesia have set a minimum salary for their domestic workers. As domestic workers are mostly female and vulnerable to abuse, Cambodia and the Philippines have set 18 as the minimum age for overseas employment. The Philippines has adopted a "no fee" policy for domestic workers going overseas
178. As the regulation of recruitment was not covered in the first background paper (Larga et al., 2013), policies, initiatives, and outputs will be listed by country, alphabetically.

## Brunei Darussalam

179. The Employment Agency Unit, Labour Standards and Employment Agency Division of its Department of Labour has jurisdiction on issues related to recruitment agencies, including their illegal activities. The Employment Agencies Order (2004) was fully implemented on 1 January 2012. It covers the licensing requirements and liability of private recruitment agencies for offences under this order. It does not cover the operations of public (wholly-government owned) recruitment agencies (Article 4). Under this Order, all private recruitment agencies must be in possession of a license, and failure to comply leaves an agency liable to a maximum BND5,000 fine or imprisonment for a term not exceeding one year or both for the first offence (Article 6). Licensees must fulfill certain criteria in order to be granted a license (Article 10).

## Cambodia

180. Cambodia has issued *Prakas* No. 47/13 on Private Recruitment Agency stipulating that each private recruitment agency shall sign and implement an agreement with the MoLVT on duties and procedures for recruitment, pre-departure orientation training, and the sending and proper management of Cambodian migrant workers. The *Prakas* accompanies Sub-decree No. 190 on the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies and other relevant provisions. This sub-decree also requires the MoLVT to issue a record book to recruitment agencies that will contain all information and pertinent data of the workers deployed for overseas employment.
181. *Prakas* No. 250 on Inspection on Private Recruitment Agency mandates the MoLVT to conduct inspections on private recruitment agency training facilities. *Prakas* 251 on the Penalty and Reward to the Private Recruitment Agency in the Management of Sending Cambodian Workers to Work Abroad includes the appraisal and rating of each private recruitment agency based on their performance in the following areas: recruitment, pre-departure orientation, sending procedures, job placement, monitoring of employment terms and their adherence to the terms of the employment contract, problem solving, and repatriation of workers.
182. Inter-ministerial *Prakas* No. 2574 on Format and Procedure for Issuance of Normal Passport for Cambodian Workers to Work Legally Abroad stipulates that migrant workers themselves will get their passports at the Passport Department in the office of the Ministry of Interior in Phnom Penh or Ministry of Interior Provincial Passport Offices – as of July 2014 there was one provincial passport office in Battambang. Sub-decree No. 205 on Provision of Ordinary Passport to Cambodian Worker and Student stipulates that passports for migrant workers must be paid for by the Government, and migrant workers must only pay USD4 for the passport photo.

## Indonesia

183. In Indonesia the legal framework to regulate the recruitment of migrant workers includes Presidential Decree No. 46 and Law No. 39 of 2004 on Placement of Indonesian Migrant Worker in Foreign Country, which indicates placement procedures, including worker pre-placement, manpower supply permits, recruitment and selection, education and training, health and psychological examination, work agreements, placement period, post-placement, and financing. Advocacy Teams have been set up in order to ensure rights and legal protection for Indonesian migrant workers during the process of recruitment, during placement in a foreign country, and after returning to Indonesia



184. The Ministry of Manpower entered into an MOU with the Indonesian Police in the conduct of joint investigations on cases of illegal recruitment and other unlawful recruitment practices. To ensure compliance, the Government conducts regular briefing for private recruitment agencies to update them on labour migration regulations. Four sessions are conducted yearly.
185. Local governments were assisted in drafting and issuing local regulations on labour migration and the development of local action plans to strengthen local protection mechanisms through the registration and monitoring of recruitment agencies and the provision of assistance to workers.

### **Lao People's Democratic Republic**

186. The Decree 68/2002 on Export of Lao Workers Working Abroad defines the regulation for administration of recruitment and facilitates the services for sending Lao workers abroad. The Department of Skills Development and Employment, MoLSW is responsible for implementation of the Decree. The Decree orders measures to upgrade the work skills of Lao nationals, to maximize the opportunities to obtain and seek knowledge and capacity in technical professions, and to create favorable conditions for international cooperation in order to develop the skills of the Lao labour.
187. The Decree also indicates that the fees charged for overseas labour recruitment shall be in accordance with regulations and laws. The fee for the services of labour recruitment companies shall be collected under the administration of the MoLSW. Furthermore, the law also requires that the recruitment agencies organize pre-departure trainings.
188. The MoLSW is cooperating with the ILO and United Nations Action for Cooperation against Trafficking in Persons to conduct an analysis of recruitment practices in the Lao People's Democratic Republic. The study will involve interviewing returned workers who migrated to Thailand using the services of a registered recruitment agency, in order to establish quantitative information on the realities of migration from the Lao People's Democratic Republic through regular channels. The MoLSW is cooperating by facilitating access to data on returned migrant workers, and through input and involvement in research design and data collection. It is expected that the findings from the study could be used to shape recruitment policies and practices in response to the realities of regular migration, including around costs and safe migration.

### **Malaysia**

189. The Private Employment Agencies Act of 1981 regulates private employment agencies in Malaysia. Private employment agencies must have a valid license, and individuals employed by recruitment agencies must be Malaysian citizens. The Act stipulates license application, fees and conditions to apply, among other specifications. It also provides for the placement fee as being no more than 25 percent of the initial monthly pay of the migrant worker.
190. The Employment Information Act of 1955 facilitates the collection of information on the terms of service and conditions of work of employed persons. Authorized officers may require employers to provide written statements of certain information regarding wages and terms of employment and may enter premises to make enquires. Information collected should be treated as confidential and restricted to official use only. Employers who do not cooperate with authorizing officers or sign a falsified statement will be penalized with a monetary fine.
191. Based on a comprehensive survey of its member organizations, the Malaysian Employers Federation is drafting Guidelines on the Recruitment and Employment of Migrant Workers.

## Myanmar

192. MOLESS is mandated to manage migrant worker issues and regulate Myanmar's 175 licensed overseas employment agencies, 67 of which recruit workers for Thailand. MOLESS has held consultations with the ILO, IOM, and MOEAF to review the existing law relating to overseas employment issued in 1999.

## The Philippines

193. The Philippines has undertaken an aggressive campaign against illegal recruitment by providing an enhanced information dissemination system. Specifically, the POEA website provides information on job orders, the list of accredited and licensed recruitment agencies, advisories on destination countries, among other information.
194. The POEA has mechanisms for reporting and acting on complaints against recruiters. It has an office where cases against recruitment agencies may be filed for violations, including collection of excessive fees and other violations; cases can also be filed against foreign principals and employers, and against the workers. The hearing of cases may result in cancellation of the license to recruit. There is also a Presidential Task Force against Illegal Recruitment. The maximum placement fee for recruitment is equivalent to one month's salary of the job being offered. The fees should also be collected only after the applicant is selected and during the signing of the contract.
195. The POEA also has a programme called the Best Partner in Anti-illegal Recruitment Award, which recognizes the contribution of local government units (LGUs) in the campaign against illegal recruitment. The POEA regularly conducts training with LGUs to better their understanding of illegal recruitment. There is also an existing MOU between the DOLE, POEA, OWWA and the Commission on Filipinos Overseas on the convergence of anti-illegal recruitment campaigns.
196. The POEA also has a continuing agency education programme for recruitment agencies. This involves the conducting of seminars for the staff of licensed recruitment agencies to improve and increase their capacities to better manage their agencies and to secure deployed workers. Attendance at this programme is a requirement for renewal of an agency's license to recruit.
197. The Employers' Confederation of the Philippines has been conducting an annual advocacy to intensify its association's pursuit of ethical recruitment. From 2009 to the 2014, it has conducted massive information dissemination on the rights, responsibilities, and obligations of and protection for migrant workers. They are seeking to be part of the bilateral labour agreements being entered into by the Philippine Government.
198. The Philippines also has issued a number of regulations to ensure that recruitment will be fair. These are among the regulations in place related to recruitment:
  - o Memorandum Circular no. 14: Placement fee Ceiling for Land based Workers – This fee includes the documentation cost paid by the worker and processing cost paid by the employer
  - o Memorandum Circular no. 16: Placement Fee Policy for Land based Agencies – Land-based agencies are prohibited from changing and collecting placement fees from workers who are deployed in countries where employers defray the costs of placement and recruitment services
  - o Governing Board Resolution No. 4, Series of 2006 – 25 years old as the minimum age requirement for Filipino household workers going overseas



- o Governing Board Resolution No. 5, Series of 2006 – Resolution to set the minimum salary for overseas Filipino domestic workers
- o Governing Board Resolution No. 6, Series of 2006 – Resolution that prohibits the collection of placement fees from Filipino domestic workers
- o Governing Board Resolution No. 7, Series of 2006 – Resolution to require foreign placement agencies hiring household workers to be certified for pre-qualification at the Philippine Overseas Labour Office (POLO)
- o POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers (2003)
- o Memorandum Circular No. 3 – Compulsory Pre-Departure Orientation Seminar for all Filipino contract workers, including seamen for overseas employment
- o Memorandum Circular No. 12: Prequalification of Foreign Placement Agencies Hiring Filipino Household Service Workers.

## Singapore

199. As a receiving country, Singapore also has a number of recruitment regulations in place through the Employment Agencies Act. The State distributes information kits to employment agencies that recruit and place foreign domestic workers. Singapore has implemented strict requirements in relation to security bonds and work permits, and it also looks at the capacity of the proposed employer who will employ foreign workers.
200. Furthermore, the Employment Agencies Act stipulates that Singapore employment agencies are allowed to collect no more than one month of the worker's salary for each year of service, capped at a total of two months' salary. Employment agencies are also required to issue itemized receipts, stating the services rendered and amount collected. They must also refund at least half the agency fees collected from workers who are prematurely terminated within the first six months of employment. Additionally, it is an offence for any employer or worker to use the services of an unlicensed employment agency (Government of Singapore, 2013).

## Thailand

201. Inbound and outbound migrant workers from Thailand are equally protected under the Recruitment and Job-Seekers Protection Act (1985), complemented by relevant Ministerial Regulations drafted thereafter. Licensed recruitment agencies can provide employment services for Thai workers looking for jobs abroad. The Act was drafted with the intent of protecting outbound migrant workers and includes no provision for foreign jobseekers during recruitment (ILO, 2013). Recruitment to Thailand from Cambodia, Lao People's Democratic Republic, and Myanmar is regulated through bilateral MOUs signed between Thailand and these countries. These MOUs are discussed in Section D of this paper.
202. The Department of Employment (DOE) has trained private employment agencies on enhancing recruitment standards on overseas employment. This has led to the development of a Code of Conduct for labour recruitment agencies sending Thai workers abroad.
203. The DOE has created Multi-Disciplinary Teams that help in the provincial, district, and sub-district levels to disseminate information on labour migration, trafficking, and safe migration. The work of the Multi-Disciplinary Teams has helped in the prosecution of illegal recruitment and brokers in some provinces in Thailand.

## Viet Nam

204. Decree No. 144/ND-CP provides for administrative charges against service enterprises for recruitment malpractices or violation of their obligations under the law. Penalties include imposition of fines, prohibition to recruit and an order for compulsory repatriation of workers, or payment of compensation for victims.
205. Vietnamese recruitment agencies/service enterprises are mandated by law to organize pre-departure training for workers, specific for the destination country. The recruitment agencies may partner with a vocational training institute in teaching skills and foreign language courses.
206. The Vietnamese Government has also issued a number of regulations with regard to fees, certification, the obligations of the recruitment agencies and Vietnamese embassies in receiving countries, contracts, medical check-ups, penalties, and the use of the Overseas Employment Support Fund.
207. VAMAS adopted a Code of Conduct for Vietnamese recruitment agencies (COC-VN) in 2010. This Code is a voluntary self-regulation tool that aims to improve compliance with Vietnamese legislation and international standards, to promote better business management, and to protect migrant workers from exploitative situations. In 2011, a monitoring and evaluation mechanism was developed with the support of the ILO GMS TRIANGLE project to provide practical implementation of the COC-VN. The COC monitoring and evaluation mechanism has provided an annual ranking of compliance with the COC since 2012. Following the pilot testing period of 20 recruitment agencies in the first year (2012–13), the number of assessed agencies increased to 47 in 2013–14. This accounts for more than one fourth (27 percent) of all agencies that exist in the country and covering half of the total number of contract-based overseas workers. In 2014–15 it is hoped that evaluation will be extended to 70 recruitment agencies.
208. Information on migration, policies, regulations, and the names of licensed recruitment agencies are also available on the Ministry of Labour, Invalids and Social Affairs (MoLISA) website.

## Regional Initiatives

209. In ASEAN, Cambodia, Indonesia, and the Philippines have ratified all eight of the Fundamental International Labour Conventions. Destination countries in the region have not ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Other relevant instruments include the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention 1975 (No. 143), and the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990. Only the Philippines has ratified all eight fundamental ILO Conventions.
210. Recruitment agencies of sending and receiving countries have discussed the implementation of the Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers in a workshop supported by the ILO and UN Women. The conclusions at the workshops emphasized commitments to respect and observe the Code of Conduct and continue to strengthen dialogue and partnership among the members. The ILO and the IOM collaborated on a workshop to promote ethical recruitment.
211. The Philippines Government published a primer on ILO Convention No. 189 and Republic Act 10361 on the Domestic Workers Act. The Philippines also organized a CSO forum on Decent Work

for Domestic Workers in ASEAN, in order to support advocacy efforts towards the ratification of ILO Convention No. 189 among ASEAN Member States and to strengthen services provided to migrant domestic workers.

## **G. Summary and conclusions**

212. This report attempted to document the various inputs of different stakeholders of the AFML. To the extent possible, the report covered the implementation of the recommendations for the 2010, 2011, 2012, and 2013 AFMLs based on the completed templates, literature available, information provided by other stakeholders and attendance during the different AFML national preparatory meetings. Nonetheless, it is possible that there are a number of responses that were missed out due to the wide range of concerns that were to be covered. Likewise, the nature of the migration flows in some countries mean that some recommendations do not apply to them.
213. Of the six clusters covered by this report, the following are the key observations:
  - a. There is already a broader sense of information sharing, dissemination, and public information on migrant work in ASEAN in the form of pre-departure and post-departure seminars or orientation. The presence of Migrant Resource Centres (MRCs) in the majority of AMS also provides venues for information sharing. However, there still remain untapped possibilities that stakeholders can utilize to ensure broader and more sustainable information dissemination on migration. Firstly, the wide coverage and extent of social media has not been capitalized on by all AMS. For instance, the use of Facebook and Twitter as an avenue of interconnection can be tabled as a key agenda by all AMS. Second, the creation of MRCs is critical, but it is also expensive and difficult to expand. In most AMS, MRCs require sustained funding to enable them to gather more information and spread that information. Post-arrival orientation in destination countries is conducted only by a few origin and destination countries. Information on the coverage of these programmes needs to be collected.
  - b. The efforts on generating data on migration for ASEAN are already gaining traction. Individual countries have embarked on developing their databases, while others are already improving what they have. Despite these, ASEAN should come up with a standard set of data that will be collected on a regular basis and reported in future AFMLs. As capacities to collect and maintain data are improved, additional information should be gradually added into the database, thereby addressing all indicators recommended at the 6th AFML. Likewise, to ensure transparency of data generation, a website and regular publication of these should be implemented.
  - c. There is a need to further collaborate and find ways to come up with effective return and reintegration strategies. Even the Philippines, who has the longest migration experience among the AMS, has not had a sustained return and reintegration strategy. Along this line, AMS should come up with a minimum set of standard policies, guidelines, and strategies that can be common to all. These are highlighted in this report as covering welfare funds, emergency repatriation, and financial literacy training. These can also be integrated into any information campaigns prior to departure providing a “goal-based and time-bound” migration for work.
  - d. AMS and their CSO counterparts have worked on improving complaints mechanisms. This cluster of recommendations can be considered one of those that have seen much implementation over the last four years, though the effectiveness of complaint mechanisms needs to be assessed. What may be a final gap is the presence of a coordinated regional mechanism, beyond the labour attachés, that extends through trade unions, employers and CSOs.

- e. In terms of cooperation and information exchanges, a number of agreements have already been set in place. What may be lacking are sets of binding agreements on standards in terms of basic social protection and rights protection of workers. These too can be implemented by improving on current good practices such as regular dialogues among tripartite members and cross-training experiences, such as those being done by the Philippines to other AMS.
- f. Finally, with regard to regulation of overseas employment, AMS have already put in place a number of measures to ensure that migrant workers are protected from illegal activities, unfair contracts, over charging of fees, among others. Still there is a need for agreements on many ILO Conventions that govern overseas work. Nonetheless, employer groups and recruitment agencies from both receiving and sending countries have already started to work towards a covenant of ethical conduct. This should be fully supported by AMS and other stakeholders to ensure its immediate implementation.



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## **Appendix I. Recommendations from the 5th ASEAN Forum on Migrant Labour**

The 5th ASEAN Forum on Migrant Labour which carried the theme “Protection and Promotion of the Rights of Migrant Workers: Towards Effective Recruitment Practices and Regulations” was held on 9 to 10 October 2012 in Siem Reap, Cambodia. Representatives of the governments, employers’ organizations, workers’ organizations, and civil society organizations from ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), and the Task Force for ASEAN Migrant Workers (TFAMW) participated in the Forum.

The 5th ASEAN Forum on Migrant Labour was convened as an implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Labour Ministers’ Work Programme 2010-2015 and ASEAN Socio-Cultural Community (ASCC) Blueprint (Action Line C.2.ii) which called for a regular ASEAN Forum on Migrant Labour as a platform for broad-based discussions on migrant labour issues under the auspices of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) which reports to the ASEAN Senior Labour Officials Meeting (SLOM).

The participants agreed to recommend concrete actions to promote and protect the rights of migrant workers in ASEAN Member States towards effective recruitment practices and regulations, which shall be in line with international instruments that have been ratified by ASEAN Member States, rights based and gender responsive, implemented in close cooperation among tripartite partners and civil society organizations, and applied to all migrant workers, as follows:

### **(a) Promote universal human rights and fundamental principles and rights at work**

#### **1. Adhere to the following principles in promoting and protecting the rights of migrant workers:**

- Universal human rights and fundamental principles and rights at work must continue to apply to migrant workers;
- Transparency, accountability and affordability should be practiced throughout the entire cycle of migration process;
- Vulnerability issues of migrant workers in the entire cycle of migration process should be addressed comprehensively through wide coverage of labour and social laws in all types of employment including those in vulnerable sectors;
- Migration policies, strategies and practices should be made gender responsive and cater to the specific needs of female migrant workers especially in vulnerable sectors of labour;
- Mainstreaming of migration and migrant worker issues in community level activities, especially those in the rural areas, of poverty alleviation, women’s empowerment and development plans and programmes in ASEAN Member States;

### **(b) Promote transparency, accountability and affordability**

#### **2. Develop transparent, standardized and simplified recruitment procedures and set ceiling costs, including those that should be covered by employers and job seekers, with regard to**



recruitment and emigration costs in ASEAN Member States that should be widely disseminated to the public, especially those in the rural areas, with the participation of recruitment agencies and other stakeholders, which would promote the use of regular channels by migrant workers;

3. Promote close coordination and dialogues of the Ministry of Labour/Manpower with other relevant line agencies towards coherent procedures, clearances and processes with the view to simplifying and streamlining these to reduce time and costs to migrant workers;
4. Regulation of recruitment procedures and costs and streamlining of emigration procedures should be considered as part of bilateral agreements between sending and receiving countries which should be publicized to and accessible by the public, recruitment agencies and other stakeholders;
5. Encourage the ratification of the ILO Convention No. 181 on Private Employment Agencies and ILO Convention No. 189 - Domestic Work Convention and alignment of national labour laws and legislations with international instruments by all ASEAN Member States;
6. Initiate a regional compendium of existing good practices of measures among ASEAN Member States to reduce recruitment costs and implement effective recruitment and emigration procedures and monitoring;
7. Sharing existing sex-desegregated data and information on labour migration, job availabilities and employment conditions in accordance with the labour laws of ASEAN Member States that are useful to facilitate effective deployment of migrant workers;

**(c) Promote information sharing and awareness of the public**

8. Ensure availability of information to the public on recruitment and emigration procedures and costs (such as fees, visa, passport, work permit, health examination, and pre-departure and post-arrival trainings/orientation) as well as the costs that should be shouldered by migrant workers and recruitment agencies in order to raise the awareness of potential migrant workers and communities, especially those in the rural areas and among women;
9. Ensure that information of recruitment and emigration procedures and costs is regularly updated and widely disseminated to and accessible by the public through the appropriate media (such as TV, radio, newspapers, mobile phones, and internet) and with the involvement of returned migrant workers, tripartite partners and civil society;
10. Develop affordable “one-stop-centre” services, such as online portal, in sending countries that are widely informed to and accessible by migrant workers;
11. Abolish intermediaries in recruitment practices other than registered/licensed recruitment agencies in ASEAN Member States which would contribute to the affordability of recruitment costs and elimination of malpractices;
12. Disseminate information to the public on various recruitment options that are available in the country (such as private and public recruitment agencies, direct recruitment where applicable, and list of registered/ licensed recruitment agencies);

**(d) Promote effective monitoring and complaint mechanisms**

13. Regulate recruitment agencies and practices by laws, regulations and policies that clearly define the migration cost structures in ASEAN Member States;

14. Effectively monitor recruitment agencies and practices in ASEAN Member States with clear mechanisms, heavy penalties for infringements and positive ratings for ethical recruitment agencies. In this regard, communities, tripartite partners, civil society and other stakeholders should be involved towards effective monitoring;
15. Develop and implement a licensing system of recruitment agencies and, where applicable, an accreditation system of foreign employers of direct recruitment agencies to effectively monitor their practices in ASEAN Member States;
16. Enhance the functions of labour attachés and consular officials in ASEAN Member States to verify information of job offers and employment contracts, as feasible, in receiving countries;
17. Establish effective complaint mechanisms in ASEAN Member States that should be widely disseminated to and accessible by migrant workers with legal aid and assistance;

**(e) Promote meaningful involvement of multi-stakeholders**

18. Promote meaningful involvement of and partnerships with tripartite partners, the private sector (such as transport companies medical clinics, and commercial banks), civil society and communities at national and regional levels towards reducing recruitment costs and in monitoring recruitment agencies and practices;
19. Optimize the potential and role of returning migrant workers in information sharing with the communities on gender differential migration experiences, recruitment costs, agencies and practices, and emigration procedures;
20. Encourage the recognition of the skills of migrant workers through certification/testimonial of employment, including employment history, experiences, skills and language, by employers and other entities where applicable;
21. Encourage continuous discussions on specific issues of reducing recruitment costs and streamlining emigration procedures at all levels where possible with the involvement of governments, tripartite partners and civil society and with the ASEAN Inter-Parliamentary Assembly (AIPA).

The participants agreed that the progress and challenges of implementation of these and previous recommendations will be shared by ASEAN Member States at the 6th ASEAN Forum on Migrant Labour in 2013. For this purpose, each ASEAN Member State should make preparation with the involvement of tripartite partners and civil society for the information sharing prior to the Forum. The process and outcomes of the ASEAN Forum on Migrant Labour could be shared with other partners outside the region.

The participants extended their appreciation to the Government of Cambodia, particularly the Ministry of Labour and Vocational Training, for the excellent arrangements of the Forum and warm hospitality accorded to them.

The participants also congratulated the Government of Brunei Darussalam for its role as the incoming ASEAN Chair for 2013 and host of the 6th ASEAN Forum on Migrant Labour in 2013.



## Appendix II. Recommendations from the 6th ASEAN Forum on Migrant Labour

The 6th ASEAN Forum on Migrant Labour which carried the theme “Enhancing Policy and Protection of Migrant Workers through Data Sharing, and Adequate Access to the Legal and Judicial System during Employment, Including Effective Complaints Mechanisms” was held on 26 to 27 November 2013 in Bandar Seri Begawan, Brunei Darussalam. Representatives of the governments, employers’ organizations, workers’ organizations, and civil society organizations from ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), and the Task Force for ASEAN Migrant Workers (TFAMW) participated in the Forum.

The 6th ASEAN Forum on Migrant Labour was convened as an implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Labour Ministers’ Work Programme 2010-2015 and ASEAN Socio-Cultural Community (ASCC) Blueprint (Action Line C.2.ii) which called for a regular ASEAN Forum on Migrant Labour as a platform for broad-based discussions on migrant labour issues under the auspices of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) which reports to the ASEAN Senior Labour Officials Meeting (SLOM).

The participants recommended concrete actions to promote and protect the rights of migrant workers in ASEAN Member States, facilitate the formulation of evidence based migration policies through labour migration data sharing and adequate complaint mechanisms and grievance handling mechanisms, as follows:

### **(a) Facilitate data collection, analysis and sharing concerning migrant workers in both countries of origin and destination**

The Forum recognizes that knowledge and information are critical to formulate, implement and evaluate labour migration policy and practice, and therefore its collection and application should be given priority, with the objective to enhance the protection of migrant workers. The process of data sharing should be done within the context of national legislations and in a transparent manner that protects this data and ensures respect for workers privacy.

1. Encourage development and strengthening of inter-agency collaboration efforts, including the designation of a lead agency, to collect, analyse, share and harmonize labour migration data at the national level;
2. A regional and updated database on labour migration is called for ASEAN Member States, social partners and CSOs recognize the importance of sharing labour migration data and support the development of a labour migration database to be piloted in ASEAN with the technical and financial assistance, including capacity building, of international and other organizations;
3. Consider developing an ASEAN Framework on Labour Migration Statistics with common definitions to ensure the comparability of data within ASEAN;
4. Promote regular exchange and updating of labour market information, analysis of trends and patterns;

5. Enhance coordination and cooperation within labour market research directorates among governmental organizations and the private recruitment agencies/associations at national, provincial and district levels.
6. Establish clear and coherent SOP and mechanisms for labour market research; standardized methods for data collection, analysis and forecast.
7. Capacity building of government officials to upgrade their understanding and knowledge regarding the concepts, components, mechanisms and procedures for conducting labour market research and development.
8. With reference to the Technical Meeting on ASEAN International Labour Migration Statistics Database organized by the ILO on 4 November 2013 in Bangkok, Thailand, the Forum supports the initiative for setting up a Working Group on International Labour Migration Statistics, which should meet on a regular basis;
9. Endeavour to have a regular exchange of labour migration data between countries of destination and origin to ensure coherence of such data;
10. Consider the following data sets, among others, for the collection, analysis, and sharing to include:
  - Inflows, outflows and stocks of migrant workers, disaggregated, where possible, by sex, country of origin, age, level of qualification, industry, occupation
  - Data on remittances
  - Information on recruitment channels, licensed agencies, fees and costs
  - Labour market information, including available and in-demand jobs and skills
  - Data on occupational safety and health
  - Data on salaries and benefits of migrant workers
  - Data on returning migrants
  - Bilateral labour migration flows in ASEAN (to monitor implementation of AEC)
  - Data on the families of migrant workers in the countries of origin and destination
  - Nature and incidence of complaints filed
  - Data on irregular migrants and trafficking of persons, where possible;
11. Develop guidelines and a compendium of good practices on data collection, analysis and sharing (based on the experiences of ASEAN Member States, social partners, and CSOs).

**(b) Promote effective complaint mechanisms and grievance handling mechanisms**

The Forum recognized the importance of and access to effective complaint mechanisms by migrant workers in countries of origin and destination in order to promote and protect the rights of migrant workers in line with international human rights and labour standards.

For better access to complaint mechanisms, where appropriate, family members may file a report or complaint on behalf of migrant workers.

12. Develop and strengthen the existing complaint mechanisms for migrant workers in ASEAN Member States that are transparent, accessible and simplified during recruitment, employment and in case of termination and deportation. In this regard, it is important to ensure that the integrity of complaints be carefully examined;
13. Strengthen the capacity of the government to better monitor the migrant worker recruitment process, such as: (i) the licensing process of the private employment agencies (ii) strengthen the inspection process at all levels, (iii) improve and standardize complaint procedure, (iv) increase coordination between governmental institutions, (v) improve information sharing between government institutions, (vi) improved transparency of institutional operations, (vii) strengthen reporting requirements and (viii) introduce an auditing system of whole migration process.
14. Ensure that complaint mechanisms are gender sensitive and responsive to the vulnerability of migrant workers;
15. Support the development of “one-stop” service centre for migrant workers that among others, facilitate access to complaint mechanisms and assistance, including interpretation and free legal counseling/referral, in collaboration with all stakeholders including migrant communities, workers’ and employers’ organizations, and CSOs to ensure that the service are accessible to migrant workers;
16. Ensure that information of the availability of such service centres and complaint mechanisms is disseminated to migrant workers and their families through appropriate communication channels, such as, electronic and print media, migrant workers resource centres, information outreach programmes, pre-departure trainings, pre-employment orientation seminar, and diplomatic missions;
17. Ensure and strengthen the roles of labour attachés, embassies, and consular officials to include support services on availing of complaint mechanisms for migrant workers;
18. Dispute resolutions, mediation, and other alternative dispute settlement mechanisms should be fully explored before administrative or judicial litigation processes;
19. Ensure timely notification and communication between the countries of destination and origin on judicial cases of migrant workers and extend cooperation to provide access to migrant workers to file cases for violation of rights in the country that the violation took place;
20. Promote inter-country trade unions collaboration to support migrant workers in case of complaints;
21. Ensure, where possible, the joint accountability of employers and recruitment agencies in case of migrant workers’ complaints when the recruitment agencies are responsible for recruiting and placing workers abroad;
22. Ensure adequate arrangements in case of return and repatriation to be shouldered by the employers;
23. Promote sharing of experiences and information among ASEAN Member States in implementing their respective complaint mechanisms through stock taking of the processes in handling grievances of migrant workers;

24. Consider developing regional guidelines and tools on the establishment of key aspects and standards of complaint mechanisms for migrant workers.

The participants agreed that the progress and challenges of implementation of these and previous recommendations will be shared by ASEAN Member States at the 7th ASEAN Forum on Migrant Labour in 2014. For this purpose, each ASEAN Member State should make preparation with the involvement of tripartite partners and civil society for the information sharing prior to the Forum. The process and outcomes of the ASEAN Forum on Migrant Labour could be shared with other partners outside the region.

The participants extended their appreciation to the Government of Brunei Darussalam, particularly the Department of Labour, Ministry of Home Affairs for the excellent arrangements of the Forum and warm hospitality accorded to them.

The participants also congratulated the Government Myanmar for its role as the incoming ASEAN Chair for 2014 and host of the 7th ASEAN Forum on Migrant Labour in 2014.



## Appendix III. List of tables included in the ILMS Database in ASEAN

### MODULE A. International migrant stock

|                 |   |   |
|-----------------|---|---|
| <b>Table 1.</b> | Resident population   | by <u>sex</u> , <u>age</u> and <u>labour market status</u> , total and migrants |
| <b>Table 2.</b> | Working-age population  | by <u>sex</u> and <u>education</u> , total and migrants                         |
| <b>Table 3.</b> | Migrants  | by <u>country of origin</u>   |
| <b>Table 4.</b> | Employed migrants   | by <u>country of origin</u>   |
| <b>Table 5.</b> | Employed persons  | by <u>economic activity</u> , total and migrants                                |
| <b>Table 6.</b> | Employed persons  | by <u>occupation</u> , total and migrants                                       |
| <b>Table 7.</b> | Employed persons  | by <u>sex</u> and <u>status in employment</u> , total and migrants              |
| <b>Table 8.</b> | Mean and median monthly employment-related income of employed persons by sex, total and migrants. |   |

### MODULE B. International migrant flow

|                  |                                 |   |
|------------------|---------------------------------|---|
| <b>Table 9.</b>  | Inflows of working age migrants | by <u>sex</u> and by <u>country of origin</u> |
| <b>Table 10.</b> | Inflows of migrants             | by <u>sex</u> and <u>education</u>            |
| <b>Table 11.</b> | Inflows of employed migrants    | by <u>economic activity</u>                   |
| <b>Table 12.</b> | Inflows of employed migrants    | by <u>occupation</u>                          |

### MODULE C. Nationals abroad

|                  |                                      |   |
|------------------|--------------------------------------|---|
| <b>Table 13.</b> | Stock of nationals abroad            | by <u>sex</u> and <u>country of residence</u>   |
| <b>Table 14.</b> | Outflows of nationals                | by <u>sex</u> and <u>country of destination</u> |
| <b>Table 15.</b> | Outflows of nationals for employment | by <u>sex</u> and <u>country of destination</u> |
| <b>Table 16.</b> | Outflows of nationals for employment | by <u>economic activity</u>                     |
| <b>Table 17.</b> | Outflows of nationals for employment | by <u>occupation</u>                            |



## Appendix IV. Ratification of selected international instruments in the ASEAN region

|                  | Brunei   | Cambodia | Indonesia | Lao PDR  | Malaysia | Myanmar  | Philippines | Singapore | Thailand | Viet Nam |
|------------------|----------|----------|-----------|----------|----------|----------|-------------|-----------|----------|----------|
| <b>ILO C.19</b>  |          |          | 1950      |          | 1957     | 1927     | 1994        | 1965      | 1968     |          |
| <b>ILO C.29</b>  |          | 1969     | 1950      | 1964     | 1957     | 1955     | 2005        | 1965      | 1969     | 2007     |
| <b>ILO P0.29</b> |          |          |           |          |          |          |             |           |          |          |
| <b>ILO C.87</b>  |          | 1999     | 1998      |          |          | 1955     | 1953        |           |          |          |
| <b>ILO C.95</b>  |          |          |           |          |          |          | 1953        |           |          |          |
| <b>ILO C.97</b>  |          |          |           |          | 1964*    |          | 2009        |           |          |          |
| <b>ILO C.98</b>  |          | 1999     | 1957      |          | 1961     |          | 1953        | 1965      |          |          |
| <b>ILO C.100</b> |          | 1999     | 1958      | 2008     | 1997     |          | 1953        | 2002      | 1999     | 1997     |
| <b>ILO C.105</b> |          | 1999     | 1999      |          | 1958(d)  |          | 1960        | 1965(d)   | 1969     |          |
| <b>ILO C.111</b> |          | 1999     | 1999      | 2008     |          |          | 1960        |           |          | 1997     |
| <b>ILO C.118</b> |          |          |           |          |          |          | 1994        |           |          |          |
| <b>ILO C.138</b> | 2011     | 1999     | 1999      | 2005     | 1997     |          | 1998        | 2005      | 2004     | 2003     |
| <b>ILO C.143</b> |          |          |           |          |          |          | 2006        |           |          |          |
| <b>ILO C.181</b> |          |          |           |          |          |          |             |           |          |          |
| <b>ILO C.182</b> | 2008     | 2006     | 2000      | 2005     | 2000     |          | 2000        | 2001      | 2001     | 2000     |
| <b>ILO C.189</b> |          |          |           |          |          |          | 2012        |           |          |          |
| <b>Palermo</b>   |          | 2007     | 2009      | 2003 (a) | 2009(a)  | 2004(a)  | 2002        |           | 2001(s)  | 2012(a)  |
| <b>CEDAW</b>     | 2006 (a) | 1992 (a) | 1984      | 1981     | 1995 (a) | 1997 (a) | 1981        | 1995 (a)  | 1985 (a) | 1982     |
| <b>CRC</b>       | 1995 (a) | 1992 (a) | 1990      | 1991 (a) | 1995 (a) | 1991 (a) | 1990        | 1995 (a)  | 1992 (a) | 1990     |
| <b>UNMWC</b>     |          | 2004(s)  | 2012 (a)  |          |          |          | 1995        |           |          |          |

### Notes:

UN Convention on the Rights of All Migrants and Members of Their Families, 1990 / s=signed, a=ratified

ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)

ILO Forced Labour Convention, 1930 (No. 29)

P029 - Protocol of 2014 to the Forced Labour Convention, 1930

ILO Labour Inspection Convention, 1947 (No. 81)

ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

ILO Protection of Wages Convention, 1949 (No. 95)

ILO Migration for Employment Convention (Revised), 1949 (No. 97)

\* denotes ratification by Sabah

ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

ILO Equal Remuneration Convention, 1951 (No. 100)

ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

ILO Abolition of Forced Labour Convention, 1957 / d=denounced (No. 105)

ILO Equality of Treatment (Social Security) Convention, 1962 (No. 118)

ILO Minimum Age Convention, 1973 (No. 138)

ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

ILO Private Employment Agencies Convention, 1997 (No. 181)

ILO Worst Forms of Child Labour Convention, 1999 (No. 182)

ILO Domestic Workers Convention, 2011 (No. 189)

Palermo Protocol on Trafficking 2000 / s=signed, a=ratified

CEDAW: Convention on the Elimination of all forms of Discrimination against Women, 1979 / s= signed, a = ratified/accession

Convention on the Rights of the Child, 1989

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)

Source: [http://cedaw-seasia.org/by\\_region.html#bruneianchor](http://cedaw-seasia.org/by_region.html#bruneianchor) [accessed 31 May 2013].

[http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en) [accessed 31 May 2013].

CRC: Convention on the Rights of the Child / a = ratified/accession [accessed 31 May 2013].

Source: [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en) [accessed 31 May 2013].

## Appendix V. Summary of pre-departure orientation in countries of origin



| Country          | Conducted by   | Status   | Features   | Funding source                    |
|------------------|--|--|--|-----------------------------------|
| <b>Cambodia</b>  | Recruitment agencies are responsible for delivering the pre-departure orientation training   | Standardized curricula developed; training of trainers planned | <p>Length: 3 days</p> <p>Standard Curriculum covers:</p> <ul style="list-style-type: none"> <li>- Overview of labour migration;</li> <li>- Country profiles Thailand/ Malaysia, host country laws and culture, migrant worker rights and responsibilities;</li> <li>- Life Abroad – health, developing relationship with employers, employees, work contract, complaints mechanisms, occupation health and safety;</li> <li>- Managing earnings, saving, budgets, and how to remit money home;</li> <li>- Returning home; and</li> <li>- Review and testing (pre- and post-test).</li> </ul> | Part of recruitment agency fees   |
| <b>Indonesia</b> | <p>National Board on Placement and Protection of Indonesian Overseas Workers (BNP2KTI)</p> <p>Providers: BNP2TKI, BP3TKI (in 16 provinces)</p> <p>Trainers are usually government personnel or retirees.</p> | Launched in 2003   | <p>Length of Programme: 8 hours</p> <p>Attendance is mandatory</p> <p>Curriculum features:</p> <ul style="list-style-type: none"> <li>- Terms of deployment and work contracts;</li> <li>- Laws (including criminal laws), regulations, and customs of destination countries;</li> </ul>   | Free of charge to migrant workers |

| Country | Conducted by   | Status  | Features  | Funding source       |
|---------|--|---|---|----------------------|
| Lao PDR | Recruitment agencies (as per Decree No. 68 and Directive No. 2417) | Standardized curricula for Thailand developed; training of trainers planned | <ul style="list-style-type: none"> <li>- Arrival and departure procedures;</li> <li>- The role of Indonesian diplomatic missions vis-à-vis Indonesian labour migrants, and how to access assistance;</li> <li>- Insurance claims;</li> <li>- Safe banking and remittance channels;</li> <li>- Health tips;</li> <li>- Raising awareness of issues such as human and drug trafficking; and</li> <li>- Self-confidence coaching to deal with culture.</li> </ul>  | Recruitment agencies |
|         |  |   | <p>Length: 3 days</p> <p>Standard Curriculum covers:</p> <ul style="list-style-type: none"> <li>- Overview of labour migration;</li> <li>- Country profiles Thailand/ Malaysia, host country laws and culture, migrant worker rights and responsibilities;</li> <li>- Life Abroad – health, developing relationship with employers and employees, work contract, complaints mechanisms, occupation health and safety;</li> <li>- Managing earnings, saving, budgets, and how to remit money home;</li> <li>- Returning home; and</li> <li>- Review and testing (pre- and post-test).</li> </ul> |                      |

| Country     | Conducted by   | Status   | Features   | Funding source  |
|-------------|--|--|--|---|
| Myanmar     | Ministry of Labour Employment and Social Security  | Standardized curricula for Thailand and Malaysia are being drafted | <p>Proposed Standard Curriculum will cover:</p> <ul style="list-style-type: none"> <li>- Overview of labour migration;</li> <li>- Country profiles Thailand/ Malaysia, host country laws and culture, migrant worker rights and responsibilities;</li> <li>- Life Abroad – health, developing relationship with employers and employees, work contract, complaints mechanisms, occupation health and safety;</li> <li>- Managing earnings, saving, budgets, and how to remit money home;</li> <li>- Returning home; and</li> <li>- Review and testing (pre- and post-test).</li> </ul> |   |
| Philippines | <p>Implementing Agency: OWWA (since 2003; previously POEA)</p> <p>Providers: OWWA, POEA, NGOs (for vulnerable workers), recruitment agencies (58), industry associations</p> | Launched in 1983   | <p>Length of programme: 8 hours</p> <p>Curriculum covers:</p> <ul style="list-style-type: none"> <li>- Migration realities;</li> <li>- Country profile;</li> <li>- Employment contract – rights and responsibilities of OFWs per contract, what to do in case of contract violations;</li> <li>- Health and safety – HIV and AIDS education;</li> <li>- Financial literacy;</li> <li>- OWWA programmes and services and other government programmes, such as the Social Security System (SSS) and PhilHealth;</li> <li>- Travel procedures and tips</li> </ul>                         | <p>Workers Welfare Fund (OWWA);</p> <p>State funds (POEA);</p> <p>Accredited Pre-Departure Orientation Seminar Provider (minimal fee regulated by OWWA, PHP100)</p> |

| Country  | Conducted by  | Status   | Features   | Funding source                                       |
|----------|---|--|--|--|
| Thailand | Department of Employment  |  | Length of programme: 6 hours<br>Curriculum covers:<br>- Employment contracts; and<br>- Relevant rules and regulations, including the laws and customs of the country of employment.  | Attendance is free of charge and is required by law. |
| Viet Nam | Department of Labour; local Departments of Labour; Invalids and Social Affairs; Viet Nam Association of Manpower Supply (VAMAS), individual enterprises (recruitment agencies) and training centres | 3 out of 9 standardized modules for Malaysia and Thailand have been developed. | Current curriculum is 72-hour pre-departure orientation programme (58 hours for theory and 16 hours for practice).<br>Curriculum includes:<br>- Culture and traditions of Viet Nam and the receiving states;<br>- Labour, criminal, civil, and administrative laws of Viet Nam and host countries;<br>- Life skills in destination; and<br>- Problems to be avoided while living and working abroad. |  |

Source: Information on Cambodia, Lao People's Democratic Republic, Myanmar, Thailand, and Viet Nam was provided by the ILO; Information on Indonesia and the Philippines was drawn from IOM-MPI Issue in Brief No. 5 - *Strengthening Pre-Departure Orientation Programmes in Indonesia, Nepal and the Philippines*, Sept. 2012: [http://publications.iom.int/bookstore/index.php?main\\_page=product\\_info&cPath=49&products\\_id=840&zenid=0626a232b423efc8d82b17432de4b5fe](http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=49&products_id=840&zenid=0626a232b423efc8d82b17432de4b5fe) [accessed 14Nov 2014].





## **Progress of the implementation of Recommendations adopted at the 3rd – 6th ASEAN Forum on Migrant Labour meetings: Background paper to the 7th AFML**

The ASEAN Forum on Migrant Labour is an open platform for the review, discussion and exchange of best practices and ideas between governments, workers' and employers' organizations, and civil society stakeholders on key issues facing migrant workers in South-East Asia, and to develop recommendations to advance the implementation of the principles of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. This report was prepared for the 7th AFML meeting held from 20 to 21 November 2014 in Nay Pyi Taw, Myanmar. It looks at the progress made in implementing the recommendations made in the past six AFML meetings and summarizes the activities, experiences, good practices and challenges key stakeholders have faced in implementing the recommendations. The ILO tracks the progress of the recommendations on a biennial basis and this is the second in a series of background papers. The first was prepared ahead of the 5th AFML.

### **ILO Regional Office for Asia and the Pacific**

United Nations Building Rajadamnern Nok Avenue  
Bangkok 10200, Thailand

Tel.: +662 288 1234

Fax: +662 288 3062

Email: [BANGKOK@ilo.org](mailto:BANGKOK@ilo.org)

[www.ilo.org/asia](http://www.ilo.org/asia)

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