

THE LABOUR DISPATCH PROGRAM IN VIETNAM
AND THE PROTECTION OF VIETNAMESE WORKERS ABROAD *

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I. OVERVIEW OF THE LABOUR DISPATCH PROGRAM IN VIETNAM

1. Development of labor dispatch program in Vietnam

The overall labor dispatch program in Vietnam could be divided to two main periods as follows:

a. In the 1980 – 1990 period

In this period, the labor dispatch program was centrally managed. The Government of Vietnam signed bilateral labor cooperation agreements to supply workers for four countries in the Eastern Europe namely Soviet Union, Czechoslovakia, Bulgaria and East Germany, and supply agricultural and medical experts for some countries in Africa. The target of the program in this period was to (i) dispatch the workers to work and to be trained in those countries of destination, in preparation for the country development when they come back to Vietnam and to (ii) dispatch our agricultural and medical experts to assist countries in Africa and in the Middle East. The Ministry of Labor, Invalids and Social Affairs was designated as the focal point for the implementation of this program.

The year 1989 marked the highest number (167,503 persons) of Vietnamese workers sent to eastern Europe countries. Over the period 1981 to 1990, official report indicated that a total of 217,183 Vietnamese were employed as contractual workers in the countries of the former socialist bloc in eastern Europe and what is particularly noteworthy is that almost half (42%) or 92,000 were female (MOLISA, 1995). But social and political changes in the Eastern bloc resulted in amendments to bilateral agreements and a sudden halt to the admittance of guest workers. Extensive unemployment, negative attitudes to and repatriation of Vietnamese contract workers took place and, by the end of 1991, a large majority (approximately 80%) of workers had gone home before their labour contract ended. Thus, by the early 1990s, labour agreement between Vietnam and former Eastern Bloc countries were no longer viable.

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But according to the reliable sources, many workers who returned to Vietnam soon tried to come back, particularly to Germany where attractive income and immigration opportunities existed.

In this period, the term “labor cooperation” and “cooperation in sending and receiving experts” were commonly known for the program and hence the economic element of the program has not been much focused. Almost 300,000 workers and experts were dispatched during this period.

b. In the 1991 – to date period

In this period, the labor dispatch program followed the market mechanism with a clear cut between the State administration and the business activities of the so-called manpower supply agencies (MSA). The Government stipulated policies for the program and managed labor-supply related activities carried out by those manpower supply agencies. The MSA directly signed contract with their partners in the receiving countries, recruit, train, dispatch and manage the workers during their employment abroad. From 1991 to 1999, license to dispatch workers for overseas employment was given to state owned agencies. From 2000 to date, license to operate in this area was issued to agencies of other economic sectors. Currently, there are almost 150 licensed manpower supply agencies in Vietnam.

In particular, the program during this period could be briefly described as followed:

In an effort to find other markets to continue the labour export policy, the Vietnamese Government signed agreements in 1994 when labour migrants from Vietnam were sent to Kuwait, Lebanon, Saudi Arabia, Libya, Japan and South Korea. Migrant to other Asia Pacific economies began. Since then, East Asia has become one of the major destinations for Vietnamese contract workers.

In the 1991 – 2000 period, the Vietnamese Government's target destinations for labour migrants have become Japan and South Korea. These two labour importers bring in unskilled workers under their trainee program. By the end of 1994, there were 382 Vietnamese workers going to Japan and most of them were classed as "trainee", that is, they received on - the - job training, in theory. Almost of them were male. In East Asia, most Vietnamese workers were employed in labour-intensive small and medium industries (e.g. manufacturing, fishery).

In 2001, Vietnam deployed workers mostly to Taiwan, South Korea and Japan. In the following year, Malaysia became the most significant destination, followed by Taiwan and Laos PDR.

To date, Vietnam has dispatched workers to 46 countries and territories including the Republic of Korea, Japan, Taiwan, Malaysia, the Czech Republic, Australia and other countries in the Middle East. Vietnamese workers are working in 30 different types of occupations in the areas of industrial construction and civil construction, heavy industry, light industry, services, sea freighting and fishing, processing of sea products, experts in health-care, education, agriculture sectors, domestic helpers with the increasing number annually. In 1992, only 810 workers were dispatched. However, by the end of 2000, there were 31,500 workers dispatched for overseas

employment and by the end of 2007, 85,020 workers were dispatched abroad. The employment portion brought over by the overseas employment program has increased annually, compared to domestic employment general, from 2.8% in 2001 to 4.78% in 2006.

**The quantity of Vietnamese workers working abroad in main countries
(from 1995 to 2007)**

(Unit: persons)

No	Year	Total	Countries of Destination				
			Taiwan	Japan	South Korea	Malaysia	Other countries
1.	1995	7,187	0	286	5,270	0	1,631
2.	1996	12,950	0	1,046	7,826	0	4,087
3.	1997	18,470	191	2,227	4,880	0	11,172
4.	1998	12,240	1,697	1,896	1,500	7	7,140
5.	1999	21,810	558	1,856	4,518	1	14,877
6.	2000	31,500	8,099	1,497	7,316	239	14,349
7.	2001	36,168	7,782	3,249	3,910	23	21,204
8.	2002	46,122	13,191	2,202	1,190	19,965	9,574
9.	2003	75,000	29,069	2,256	4,336	38,227	1,112
10.	2004	67,447	37,144	2,752	4,779	14,567	8,205
11.	2005	70,594	22,784	2,955	12,102	24,605	8,148
12.	2006	78,855	14,127	5,360	10,577	37,941	10,850
13.	2007	85,020	23,640	5,517	12,187	26,704	16,972
	Total	563,363	158,282	33,099	80,391	162,279	129,321

[source: DOLAB]

2. Income of overseas workers and income in foreign currency of the Government of Vietnam

On average, the income of overseas workers is US 400 per month. After deducting the pre-departure expenses and the expenses during their time working abroad, by the end of their 2 year contract, depend on each destination country, the workers can save from US 5,000 to US 10,000.

**Remittance by overseas workers compared to the annual export turnover
(2000 – 2006)**

Year	Total		Export turnover		Remittances	
	Amount (billion USD)	Rate (%)	Amount (billion USD)	Rate (%)	Amount (billion USD)	Rate (%)
2000	15,733	100	14,483	92,05	1,25	7,95
2001	16,429	100	15,029	91,48	1,4	8,52
2002	18,156	100	16,706	92,01	1,45	7,99
2003	21,649	100	20,149	93,07	1,5	6,93
2004	28,053	100	26,503	94,47	1,55	5,53
2005	33,873	100	32,223	95,13	1,65	4,87

2006	41,305	100	39,605	95,88	1,7	4,12
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[source: DOLAB]

Currently, with a total of 480,000 workers working abroad, annual remittance is almost 1.7 billion.

In recent years, the dispatch program has developed remarkably, contributed significantly in socio-economic aspect, to employment generation program, poverty alleviation, improving the life of the people, increase the income for the country, promote the shifting of the economic structure and the labor structure to the modernization and industrialization. Many workers, after completing their contractual period overseas, with the saved money, they have invested into their own business and self employment activities which attract many local workers.

II. BRIEF ON THE LABOR FORCE OF VIETNAM

The current population of Vietnam is almost 85 million people. Among this population, the workforce is of 46 million in which, the number of workers under the age of 35 is 22 million.

In the work-force in Vietnam, 33% has gone through general education training and 22% have been provided vocational training.

Generally speaking, the Vietnamese workers working abroad are appreciated by their employers in the receiving countries for being diligent and hard-working.

It is the Government's strategy to enhance the quality of the workforce, increase the ratio of trained workers, not only for the domestic markets but also for the overseas employment destinations.

III. MEASURES IN PROTECTING VIETNAMESE WORKERS ABROAD

1. State agencies, organizations with relation to dispatching workers abroad

- The Government of the Social Republic of Vietnam
- The Ministry of Labour, Invalids and Social Affairs (represented by the Department for Overseas Labour)
- The Ministry of Foreign Affairs
- The Ministry of Public Security
- The Ministry of Finance
- The Ministry of Health
- The State Bank of Vietnam
- The Provincial People's Committees
- Manpower supply agencies

2. Development in legal frame-work in protecting overseas workers

a. Overview of the legal frame-work of Vietnam in protecting workers during their overseas employment

- Decree No 370/HDBT dated 20th September 1991 of the Ministries' Council;
- Decree No 07/CP dated 20th January, 1995 of the Government;
- Decree No 152/1999/ND-CP dated 20 September 1999 of the Government;
- Labour code promulgated in 1994, amended in 2002;
- Government Decree No 81/2003/ND-CP of July 17, 2003 on detail stipulation and guidance for the implementation of the Labour Code of Vietnamese labour to work oversea.
- Law on Vietnamese labors working overseas under contract (Law No 72/2006/QH11) was passed by Legislature XI of the National Assembly of the Socialist of Vietnam as its 10th Session on 29 December 2006. The Law came into effect as of 1st July 2007.

This Law is the top legal framework during the past 20 years since the labor dispatch program is considered as a policy for generating employment, training of the workforce for the cause of industrialization and modernization of the country. The program is currently one of the socio-economic activities which has a significant contribution to the country economy.

b. Current regulations of Vietnam in protecting workers during their overseas employment

- For Recruitment agencies

Recruitment agencies must have a deposit as security at the bank for settling risks incurred in the labor dispatch activities.

Recruitment agencies have following obligations:

- To register labor supplying contracts to the Department for Overseas Labour of Ministry of Labour-Invalids and Social Affairs.
- To publicize criteria and conditions for recruitment of worker, their rights and obligations.
- To organize orientation training and education for worker before they go to work overseas
- To sign contracts with workers for working overseas; organize the dispatching of laborers overseas and their return home; to liquidate the signed contracts according to law provisions.
- To have responsibility to monitor, manage and protect the legitimate interests of workers during the time they work overseas under contracts. Depending on each destination country, the recruitment agencies must have representative to manage laborers. In cases where workers get accidents, occupational diseases or dead, the recruitment agencies shall have to coordinate with the concerned parties to determine in time the causes thereof and settle the regime for the laborers.

- To pay compensations or request foreign partners to pay compensations for damage caused to laborers by the recruitment agencies or foreign partners according to the laws of Vietnam and the host countries.

- Agencies, organizations and/or individuals that have violation actions, depending on the nature and seriousness of their violations, be subject to the punishment according to the provisions of Vietnamese law.

- Obligations of State management agencies:

- To coordinate in settling issues arising in the management of Vietnamese workers working overseas;

- The Ministry of Labour-Invalids and Social Affairs coordinate with the Foreign Ministry and the Ministry of Home Affairs in organizing the Laborers Management Section under the Vietnamese representation offices in the countries and areas where large numbers of Vietnamese workers working

- The consular protection for overseas workers

Currently, the Labor Management Section is available in Malaysia, Taiwan, Japan, Korea, the Czech Republic, the United Arab Emirates. In addition, the labour supply companies also assign their representatives abroad to assist and support the dispatched workers.

The protection on workers include:

- Facilitate the workers in implementing their legitimate rights and responsibilities.
- Work with related authorities in the receiving countries whenever the legitimate rights and responsibilities of the workers is abused.
- Assist workers in case of being captured, seized, imprisoned or jailed.
- Represent the workers toward the authorities.
- Protect the rights of the workers in cases of inherit, sponsorship or in cases of illness, accident or death.
- Protect the workers, Vietnamese citizens who are victims of human trafficking, call for those workers who are working illegally to register and legalize their status of staying.
- To protect the workers in the emergency such as natural calamities, war in the countries of destination.

- Expansion of international cooperation to enhance the protection of Vietnamese workers abroad

To negotiate with receiving countries to sign agreements and to cooperate in the field of receiving Vietnamese workers. To date, Vietnam has signed agreements with the Republic of Korea, Malaysia, Laos PDR, Kingdom of Oman, the State of Qatar; is negotiating for the signing of MoU with the United Arab Emirates, Kingdom of Bahrain, Libya, Russia. As for the receiving countries which Vietnam do not have agreements with, Vietnam has set up an official relations with those countries in order to coordinate in managing, assisting the workers during their overseas employment. In addition, Vietnam highly value the study for participating into international treaties

relating to protecting the legitimate rights of the workers, expanding the international experience and exchange of necessary experience of other countries in the world and in the region in protecting overseas workers.

IV. PLANNED MEASURES IN PROMOTING THE PROTECTION OF VIETNAMESE WORKERS ABROAD

For labour market development, in the coming years, Vietnam continues measures to stabilize and expand the market share in the important foreign employment markets such as the Republic of Korea, Japan, Malaysia, Laos PDR, Taiwan, the Middle East, and develop the new markets such as Northern Americas, Europe...

For this strategy, Vietnam shall focus to following activities:

- For Vietnamese stakeholders

- To continue perfecting the mechanism, policies, documents in guiding the implementation of the Law on Vietnamese workers working abroad on contract, in a synchronized way with strong mechanism to deal with organizations, individuals who violate in this program... To study for the promulgation of the policy to assist in forming strong recruitment agencies which can compete well in the labor market; To come up with policies in assisting ethnic workers, workers in far and difficult to access areas to go for overseas employment.
- To enhance the responsibilities of the Ministries, branches and localities in developing the labor market and the management. To reorganize the current number of labour supply recruitment agencies; invest in forming strong labour supply companies; to instruct, supervise and inspect the activities of their affiliated recruitment agencies and pay attention to dealing with arising problems; The local authorities and the banks maintain the policies in assisting workers and targeted groups in the expenses on training, learning necessary knowledge and lending for their overseas employment; To improve the procedures, facilitate the recruitment agencies in their operation in the provinces.
- To provide instruction to the local authorities and other functional bodies to enhance the dissemination of information, call for people to abide by the regulations of the Government on labor dispatch...; to assist the MSA in the recruitment of qualified workers; enhance the management on the dispatch activities in the localities; minimize the negative activities which affect the rights of the workers, of the labour supply companies in this field.
- To enhance the inspection activities and dealing with violation; to propose the law enforcement bodies with the local authorities to enhance the monitor, supervision and timely find out and seriously destroy the illegal network of sending workers abroad, deal with violation of organization, individuals; enhance the monitoring and supervising activities to timely find out and prevent the illegal dispatch of workers abroad.
- To enhance the quality of the workers; to continue speeding the coordination model between manpower supply companies and local authorities to recruit qualified worker who could meet the requirement of the labor market. To carry out the training of the human resources as instructed by the Government; the labour recruitment agencies should improve the quality of the training and providing necessary knowledge for the workers prior to their dispatch abroad to

ensure the qualified workers who could meet the requirement of the employers. The Government to invest funds from the national program for employment and other programs, projects to expand the scale and enhance the quality of the training.

- To enhance the management and protection of the workers during their working abroad. To implement the signed agreements on labor cooperation to protect the rights of the workers; to promote the negotiation and signing of agreements with other countries; to supervise the operation of labour supply enterprise in signing contracts with their foreign partners in receiving workers from Vietnam which could ensure the legitimate right of the workers. To enhance the close coordination of related bodies in and out of the country, between the diplomatic mission and the labour supply enterprise in managing and assisting the workers.
- To promote the roles of the union organizations in the formulation of policies, recruitment, training of workers. To study for the establishment of the union organization in the areas where there are significant number of workers. As for any country of destination where there are fewer Vietnamese workers, they could join the union with the local workers.
- To enhance the dissemination of necessary information to related stakeholders and the workers on this program.
- To improve the provision of information on labor dispatch program to all people with appropriate method.
- To enhance the cooperation with mass media agencies to provide timely information on:
 - Policies, guidance of the State and the Government, the legal regulation on labor dispatch to facilitate the proper understanding of the people in this program.
 - Demand, market conditions and labor standards for the workers' necessary preparation and decision on their overseas employment.
 - With relation to labor dispatch which could facilitate the stabilization and development of the labor markets, create the competition ability of the manpower supply companies and the workers in the international labor market. To sum up and disseminate good practices in the labor dispatch programs and at the same time, to severely deal with bad practices, violation in this program as well as maintain the international cooperation with the countries of destination and international organizations.

- For cooperation with international partners and other partnering countries

- To enhance the cooperation with international organizations to share the experiences, especially the good practices in the labor dispatch program.
- To discuss and negotiate for the possible signing of labor cooperation agreements with countries of destinations, a foundation for smooth and effective implementation of the dispatch program as well as for protecting legitimate rights of the workers during their employment period abroad.
- To cooperate with sending organizations, especially those countries in the region with similar situation and conditions, to share experiences and good practices in the program.

