



Regional Conference on Services Trade Liberalization and Labor Migration Policies in ASEAN: Towards the ASEAN Economic Community

Bangkok, Thailand (23-26 September 2008)

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Executive Summary

The services sector does not only play a critical role in ASEAN national economies contributing from 40 to 50% of the GDP, but it is also continuously growing and fostering set objectives for regional economic integration. The ASEAN Economic Community Blueprint adopted in 2007 emphasizes that “free flow of trade in services is one of the important elements in realizing ASEAN Economic Community, where there will be substantially no restriction to ASEAN service suppliers in providing services and in establishing companies across national borders within the region, subject to domestic regulations.”

However, the free flow of trade in services and provisions for the subsequent mobility of professionals in the region pose various labor migration management challenges. Regional mobility patterns are mainly composed of low-skilled workers and there remain numerous limitations to the movement of professionals engaged in the services sector in the region. The challenge remains to further explore and maximize the interconnection between the movement of people and services trade liberalization, and to adjust labor migration policies in view of facilitating ASEAN’s economic integration and free flow of trade in services.

The Asian Development Bank Institute (ADBI), the International Organization for Migration (IOM) and Chulalongkorn University sponsored the *Sub-regional Conference on Services Trade Liberalization and Labor Migration Policies: Towards ASEAN Economic Community* in Bangkok, Thailand, on 23-26 September 2008, with the aim to address such timely challenges.

Objective of the sub-regional conference

The main objective of the sub-regional conference was to provide participants with a platform for discussion on how to best consolidate and harmonize commitments to services trade liberalization and labor migration policies to meet ASEAN economic integration goals, such as the establishment of an ASEAN Economic Community by 2015. Experts and country presentations were designed to allow participants to share knowledge and exchange information on national and regional labor migration management issues and commitments to services trade liberalization with a focus on GATS Mode 4.

Sessions contents

In their opening remarks, Ms. Irena Vojáčková-Sollorano and Mr. Toru Tatara welcomed all participants to the conference highlighting challenges to the harmonization of services trade liberalization and labor migration policies. They stressed the need to strengthen regional cooperation in addressing liberalization and population movement issues.

Session 1, “Overview of Services Trade Liberalization and Labor Migration in ASEAN”, aimed to provide participants with an overview of the linkages between services trade liberalization and the movement of people within ASEAN with a focus on regional economic integration mechanisms and challenges, as well as subsequent labor migration issues.

Main highlights from experts’ presentations include:

1. Mr. Lance Bonneau focused on services trade liberalization and people mobility issues and discussed liberalization mechanisms and population mobility issues, including GATS Mode 4.
2. Mr. Graeme Hugo discussed cooperation mechanisms in labor migration management, as well as migration patterns and labor migration and development issues within ASEAN.

3. Mr. Lim Chze Cheen talked about ASEAN regional economic integration mechanisms and agreements. He focused on the ASEAN Economic Community (AEC) Blueprint and on issues related to the free flow of services and skilled labor.
4. Ms. Mia Mikic discussed needs and challenges in upscaling trade policy making within ASEAN, including transparency and data collection issues. She provided information on multilateral services trade liberalization mechanisms (GATS).
5. Mr. Patcharawalai Wongboonsin focused on mechanisms to build the AEC and on issues related to labor migration policies and the free flow of skilled labor.
6. Finally, Mr. Bruno Maltoni highlighted approaches to population movement in trade agreements, as well as labor migration challenges within AEC.

Discussions following expert presentations primarily focused on the linkages between economic development and the movement of people, brain drain and the management of migration outflows, and the significance of strengthening GATS Mode 4 provisions (e.g. through the development of a visa framework). Issues related to the harmonization of migration systems in the region were raised. Participants also discussed remittances issues and investment opportunities for returning migrants, and liberalization efforts in ASEAN Member Countries. They talked about differences in skills levels within ASEAN and the need to focus on professional skills development.

In Session 2, “Issues and Challenges in Services Trade Liberalization and Labor Migration in ASEAN”, specific issues related to services trade liberalization and labor migration, including remittances, health and recruitment processes, were presented.

Main highlights from experts’ presentations include:

1. Mr. Bruno Maltoni presented on labor migration management challenges in the context of services trade liberalization in origin and destination countries.
2. Mr. Jaime Calderon discussed health vulnerabilities among labor migrants throughout the migration cycle and highlighted health vulnerabilities among Asian women migrant workers in the Arab States.
3. Ms. Supang Chantavanich discussed the recruitment challenges of workers in the Greater Mekong Sub-region with a focus on recruitment processes and migrants protection.
4. Mr. Jerrold Hugué highlighted the limitations of GATS Mode 4 and discussed ways to strengthen trade and migration statistics.
5. Ms. Yongyuth Chalamwong presented on the main conditions for brain drain and brain gain within ASEAN and provided information on how to address the phenomenon through cooperation mechanisms.
6. Mr. Voravid Charoenlert talked about labor markets and recruitment processes of labor migrants.
7. Ms. Sununtar Setboonsarng provided information on how agricultural trade can address the root causes of migration and how organic agricultural farming has the potential to help reduce poverty in the Asia-Pacific region.
8. Finally, Ms. Yap Lai Peng focused on the ASEAN Framework Agreement on Services and discussed liberalization commitments in priority services sectors. She also highlighted commitments and restrictions in GATS Mode 4, including recruitment and qualification requirements issues.

Discussions focused on the role of Government and private agencies in recruitment processes, and health provisions and pre-departure training for migrant workers. Participants discussed the need to develop statistical systems on services trade liberalization and labor migration for informed decisions, the adjustment of labor migration policies to meet development goals, and disparities in

skills development within ASEAN. The role of organic farming in poverty reduction and the liberalization of GATS Mode 4 also gained attention.

Country presentations provided an overview of specific labor migration management issues and commitments to services trade liberalization. Recommendations emanating from the presentations stressed the significance of strengthening regional cooperation in labor migration management, especially in relation to undocumented and cross-border migration, and to the protection of migrant workers (documented and undocumented) abroad. Views, knowledge and information on services trade liberalization efforts and labor migration need to be further shared.

It was also highlighted that labor standards and recruitment processes in the context of services trade liberalization and economic integration should be better defined and harmonized. Finally, presenters emphasized the need to strengthen data collection mechanisms on labor and market trends.

In their closing remarks, Mr. Lance Bonneau and Mr. Toru Tatara thanked all participants for the dynamic discussions and stressed the fact that the sub-regional provided a good platform to raise and discuss critical issues related to services trade liberalization and labor migration policies, including unskilled and cross-border migration.

Outcomes of the conference

- More than 30 governmental officials from Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, and Viet Nam, ASEAN Secretariat Representatives, experts and academics participated in the conference and engaged in discussions on timely issues related to services trade liberalization, ASEAN economic integration goals, and labor migration management.
- Information, ideas and concrete policy recommendations were shared and discussed on how to harness the opportunities and address the challenges of services trade liberalization and related labor migration management issues through experts and country presentations.
- Awareness was raised among origin and destination countries on the significance of strengthening regional and international cooperation mechanisms on labor migration management in the context of services trade liberalization.

Overall, the sub-regional conference benefited greatly from open and dynamic discussions among participants. It strengthened regional networks of knowledge sharing, information exchange, and discussions on labor migration management issues within a broader context of ASEAN economic integration.

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Conference Proceedings

I. Opening Session

In his opening remarks, Mr. Toru Tatara welcomed all participants to the conference which was a follow-up to the *Regional Conference on Labour Migration Management in the Process of Regional Integration* organized in May 2008. Highlighting the significance of pursuing dialogue on Free Trade Agreements (FTAs) in ASEAN in order to consolidate the region's economic integration, Mr. Tatara encouraged participants to actively contribute to the discussions and to discuss ways to harmonize services trade liberalization and labor migration policies.

Following Mr. Tatara's remarks, Ms. Irena Vojáčková-Sollorano further highlighted the main questions and issues to be addressed during the sub-regional conference: How do FTAs relate to migration? How can ASEAN Member Countries benefit from labor movement accompanying the increased circulation of goods in the region, and how can they best address issues related to migration flows? Ms. Vojáčková-Sollorano explained that FTAs invariably create migration, but yet regional cooperation on addressing the linkages between liberalization and labor movement remains to be strengthened and migration policies adjusted accordingly.

II. Session Presentations

1.1 Services Trade Liberalization in the Context of the Temporary Movement of Natural Persons

Mr. Lance Bonneau, Senior Regional Programme Development Officer, IOM Regional Office for Southeast Asia, Thailand

Technological change, declining transport and communication costs as well as global trends towards economic liberalization have not only resulted in an increase in trade in services, but they have also been paralleled with intensified population mobility. In order to harness the potentials of economic liberalization, the interaction between services trade liberalization and labor mobility requires further attention.

The impact of labor migration on domestic labor force and wages in the context of services trade liberalization and increased labor migration patterns remain a significant issue. Discussions arise on how to harness the benefits of labor mobility in view of furthering economic liberalization goals and on workers' protection, security, return and social integration and the recognition of qualifications at the regional level.

Liberalization mechanisms – Population mobility and GATS Mode 4

There have been attempts to include provisions for the movement of people to facilitate the trade in services in WTO General Agreements on Trade in Services (GATS), especially in GATS Mode 4.

In GATS, 4 Modes of Supply define ways in which a service can be traded. Mode 4 deals with individuals traveling from their own country to supply services in another. Mode 4 covers natural persons providing services on a "temporary" or non-permanent basis.

Further clarifications on the terms "natural person", "temporary" and "service" are needed. Mode 4 includes service suppliers at all skill levels, but in practice WTO members have been more committed to highly skilled people. GATS Mode 4 provides limited provisions on temporary labor migration, migrants' social and economic rights and visa policy as it focuses primarily on trade aspects.

Progress on liberalizing Mode 4 for unskilled workers has met various challenges including concerns that Mode 4 will leave migrants out of domestic legislation covering wage levels and basic rights.

The movement of skilled labor from developing to developed countries still presents significant challenges. For instance, it reduces entrepreneurship and limits the absorption of new technologies in sending communities. However, remittances may play an important role in development objectives, and the flow of labor may encourage the circulation of ideas and technology, and investment in education in sending countries.

Way forward – Recommendations

Harnessing the potentials of services trade liberalization and labor migration requires more transparency and clarity, as well as the removal of major obstacles including the GATS Mode 4 Economic Needs Testing (ENT) for certain categories of workers, visas and work permits hurdles. In addition, it is important to reach the recognition of qualifications at the regional level through a multilateral framework.

Main discussion points:

- The interaction between growth and the movement of people needs to be carefully addressed within a labor, migration and development framework.
- The issue of brain drain, the loss of domestic labor force in countries such as the Philippines, and the management of migration outflows remain a significant issue.
- Canada provides a replenishment scheme where one employee is trained for another one hired.
- There is a need to develop a visa framework to complement Mode 4.
- Due to the absence of a solid labor migration management framework, labor migrants may stay longer in destination countries.

1.2 Labor Migration Management and its Global, National and Regional Impacts

Mr. Graeme Hugo, University Professorial Research Fellow, Professor of Geography, Director, National Centre for Social Applications of GIS, University of Adelaide, Australia

While the scale of international migration flows in the era of globalization has been unprecedented, migration barriers, especially for low-skilled labor, still remain. The increasing liberalization of the flow of capital and goods has been greater than that of the flow of labor.

In the years to come, international migration flows will intensify due in part to widening income differentials and development gaps, a labor force decline in high-income countries and a clear demographic divide between for instance Europe and the Asia-Pacific region. In Europe, it is projected that the population aged 14-25 will represent 10.42% of the total population in 2020 compared to 15.60% in the Asia-Pacific region the same year.

Labor migration patterns in ASEAN

Labor migration has become an intrinsic and structural part of ASEAN economies. Labor migration has shown complex extra and intra-regional patterns and the increasing involvement of women. Level of interests among governments in migration issues has never been higher. However, governments have responded differently to labor migration issues, such as undocumented migration, low and high-skill migration and temporary labor migration.

In general, the impact of migration has been mediated by several factors including the transaction cost of migration, negative attitudes towards migration, and poor data and governance structures.

Labor migration and development

Brain drain, which has most significantly impacted smaller countries, may have been underestimated and remains visible in the health sector. There is a need to bring back brain drain issues in migration and development debates, and to incorporate migration in regional development plans and policy.

Remittances are important factors in the development of origin countries for labor migration. They are reliable, have a multiplier effect, directly benefit families, and have a positive impact on regional development and poorest areas. However, remittances may create dependency, and may put off structural adjustments.

In circular migration, there remains the risk of migrant workers becoming locked into modes of dependency and exploitative forms of labor with their employers. In addition, most migrant workers in destination countries have restricted rights which lead to their social exclusion. Circular migration also has benefits. For instance, migrant workers return to their origin country and bring the skills, experience and money they acquired in their destination country.

While keeping a focus on temporary migration, net immigration economies (or economies receiving migrants) increasingly accept the idea of permanent resettlement but show tendencies to restrict migrant workers' rights. Net emigration economies (or economies sending migrants abroad) deal with temporary migration with regulatory and controlling approaches.

The role of policy

Governments are increasingly focusing on addressing labor migration issues. However, there is a noticeable lack of capacity in policy development, data collection mechanisms and operationalization of programs. Failure to recognize that migration is a long-term structure feature of national economies has led to unrealistic and restrictive policies and programs on labor migration.

Existing cooperation in labor migration mechanisms

Within ASEAN, migration issues have been addressed in various frameworks including the ASEAN Framework Agreement on Services (AFAS - 1995) and the Bali Concord II (2003) called for completion of MRAs in major professional services. The ASEAN Economic Community only includes free movement of skilled labour. The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007) represents a major step in the protection of migrant workers' rights.

Conclusion

Migration can be positive or negative depending on the context, type of migration, and management structures in place. Good governance and cooperation in labor migration management is crucial, but there is a noticeable lack of capacity and infrastructure to manage migration. There is a need to increase protection for migrant workers and to provide them with fairness in treatment and not equality (they are not full citizens).

Main discussion points:

- Changes in migration patterns from the Philippines have been recorded. It has been noticed that there has been a decrease in the deployment of Filipino women in

entertainment and domestic work in the Middle East.

- In relation to remittances, there is a need to provide returning migrants with investment opportunities in their origin community.

1.3 An Overview of the AEC Blueprint

Mr. Lim Chze Cheen, Assistant Director for ASEAN Economic Community and Priority Integration Sector Coordination, Bureau of Economic Integration, ASEAN Secretariat, Indonesia

Current regional economic integration within ASEAN has resulted from the development of various mechanisms and agreements. Economic cooperation in ASEAN started in 1977 with the introduction of ASEAN Preferential Trading Arrangement (PTA). PTA was later followed by the Framework Agreement on Enhancing ASEAN Economic Cooperation (1992), which provided the basis for the establishment of ASEAN Free Trade Area. In 1995, the Agenda for Greater Economic Integration was launched during the Bangkok Summit and the ASEAN Vision 2020 was introduced at Kuala Lumpur Summit in 1997. The Bali Concord was signed in 2003.

The ASEAN community is composed of three main components, including the security, economic and socio-cultural pillars, which work in concert. The increased integration of the ASEAN economic community is a natural progression towards the next level as ASEAN approaches 40 years. The ASEAN economic community aims to reach sustainable growth and to allow ASEAN to protect itself from the adverse impact of any internal and/or external shocks.

ASEAN Economic Community Blueprint

In 2006, ASEAN Economic Ministers (AEM) worked towards the development of “a single and coherent blueprint for advancing the AEC”. The same year in December, ASEAN Leaders agreed to accelerate the establishment of the ASEAN Community by 2015 at the 12th ASEAN Summit. During the 13th AEM Retreat (May 2007), it was generally agreed that the AEC Blueprint and its strategic schedule shall be a legally binding document through the issuance of a Declaration by the Leaders which was signed at the 13th ASEAN Summit in November 2007 in Singapore.

The main objective of the blueprint is to provide ASEAN Member Countries with a strategic plan for the short to medium-term towards realizing comprehensive and deeper regional economic integration in 2015 with key milestones.

The ASEAN Economic Community – Strategic Schedule

The strategic schedule evolves around 4 main pillars, namely, the single market and the production base, competitive economic region, equitable economic development, and integration into the global economy, and their sub-components.

Free flow of services and skilled labor

AEM have concluded and signed 6 packages of liberalisation commitments, and there are additional 3 packages of commitments in financial services and 3 packages in air transport. An inventory of services barriers has been compiled and will be updated regularly.

To facilitate trade in services, seven Mutual Recognition Agreements (MRAs) have been endorsed focusing on engineering services, nursing services, architectural services, quantity surveying, medical practitioners, dental practitioners and accountancy services. A Professional Exchange Programme that focuses primarily on business services has also been developed and recently endorsed. In

addition, the ASEAN Common Competency Standards for Tourism Professionals (ACCSTP) has been developed with a common curriculum for tourism.

Economic architecture of regional and trans-regional economic cooperation

Regional and trans-regional fora for economic cooperation are extensive, inter-related and dynamic mechanisms. ASEAN has external economic relations with Canada, the European Union, India, Japan, Pakistan, Republic of Korea, Russia and the United States.

Strategies for implementation

The AEC scorecard monitors and evaluates the implementation progress of agreed ASEAN economic initiatives with information on AEC measures, responsible body, and implementation mechanisms by country and end date.

Coordination with stakeholders is being strengthened through ASEAN Coordinating Conference on ASEAN Economic Community, ASEAN Talks Business Series and ASEAN Economic Community Council.

Way forward

One of the main objectives of the ASEAN economic community is to accelerate regional economic integration with effective implementation of economic initiatives and participation of all sectoral bodies and stakeholders to reach greater competitiveness.

Main discussion points:

- The scorecard is an instrument to monitor the progress of and identify key impediments to regional economic integration.
- ASEAN Member States are responsible for the monitoring and for reporting on liberalization efforts.
- There is a need of a greater institutionalization of the integration process.
- ASEAN Member States show disparities in skills levels which need to be better addressed.

1.4 Free Flow of Services and Skilled Labor in ASEAN

Ms. Mia Mikic, Economic Affairs Office, Trade Policy Section, Trade and Investment Division, UNESCAP, Thailand

Services trade liberalization has proved to be a long process within ASEAN. ASEAN is a net importer of services and some of its Members are now featured as leading importers and exporters. Singapore has been recognized as being among leading world exporters and importers in various services categories, such as construction, communication, transportation, insurance, computer and information, personal, recreational and cultural, and financial services. Malaysia is both an importer and exporter of services such as communication, construction, computer and information services.

Services have played a critical role in national economies, especially in Cambodia where services exports represent 406% of the national GDP and services imports 90% of the national GDP, and in Singapore with services exports accounting for 44% of national GDP and services imports 85%. ASEAN's services trade is growing, but not as fast as expected.

Informed trade policy making

In some ASEAN Member Countries, it remains difficult to improve decision making processes due to a lack of reliable data on trade. Informed trade policy making requires the development of statistical and other techniques to gather comprehensive data to be used in consultative processes between government and other stakeholders in trade policymaking. Evidence gathering, tracking, monitoring and evaluation of policy impacts may contribute to necessary adjustments. It is essential to democratize policy making in order to allow major stakeholders to participate and act in the area of services trade.

Multilateral services trade liberalization: GATS

The main objectives of GATS are to: Expand services trade through growing transparency and progressive liberalisation; promote all members' interests on a mutually advantageous basis; secure a balance of rights and obligations; and respect members' right to regulate the supply of services within their territories in order to meet national policy objectives

There are 12 sectors in GATS including business, communication, construction and related engineering, distribution services, educational, environmental, financial, health and social, tourism and travel, recreational, and cultural and sporting, and transport services. GATS Mode 4, as related to labor migration, is just a component of trade liberalization mechanisms.

GATS Commitment Indices for ASEAN Member Countries show disparities in meeting trade liberalization commitments. Cambodia has shown the highest commitment to liberalization and is followed by Vietnam and Malaysia. In relation to GATS commitment index for categories of services, ASEAN Member Countries score differently. For instance, on market access, Cambodia (43.68%) and Viet Nam (26.11%) have scored highest. On business services, Malaysia (34.63%) and Cambodia (31.58%) have been leading countries. In the transport sector, the Philippines (55.14%) and Thailand (25.92%) have ranked highest.

Services trade liberalization has led national reforms for the benefits of development and competitiveness. Comprehensive reforms include pro-competitive policies, effective regulations and measures to widen access to services.

In addition, Mutual Recognition Agreements (MRAs) have been signed in engineering services (2005), nursing services (2006), architectural services (2007), surveying qualifications (2007), accountancy services (2008), dental and medical practitioners (2008).

Recommendations

The mobility of highly skilled workers requires collective interventions to reduce the impact of externalities, including brain drain. The recognition of qualifications and the harmonization of educational systems need to be strengthened at the regional level.

In addition, the ASEAN Framework Agreement on Services (AFAS) needs to be further substantiated, as well as Priority Integration Sectors (PIS)¹ and mobility provisions on in GATS Mode 4, especially as they relate to skilled labor. For informed and effective decision making processes, there is a need to develop mechanisms to identify barriers and to measure restriction and progress in liberalization. Human resources development is important in reaching greater services trade liberalization and economic integration.

¹ The liberalization of Priority Integration Sectors (PIS) aims to reach the creation of the ASEAN Economic Community (AEC).

1.5 Services Trade and Labor Migration in ASEAN: What has been achieved?

Mr. Patcharawalai Wongboonsin, Director of Labor and Migration Research Program, College of Population Studies, Chulalongkorn University, Thailand

Services are an important part of ASEAN economies generating approximately 40-50% of the national GDP. In Singapore, it is approximately 70%. The free flow of services is a significant objective in building an ASEAN Economic Community (AEC), and has resulted in the introduction of various instruments and measures, including the ASEAN Framework Agreement on Services (AFAS) signed in 1995.

The Coordinating Committee on Services (CCS) established in 1996 has contributed to the integration in services through negotiations on liberalization processes. There are currently six sectoral working groups under CCS, including business services, construction, healthcare, maritime transport, telecommunication, and tourism. There are other committees, such as the Working Committee on ASEAN Financial Services Liberalization.

ASEAN Framework Agreement on Services (AFAS)

AFAS provides broad guidelines for greater access to markets and for equal national treatment for service suppliers which align with international trade in services provisions under GATS. AFAS promotes ASEAN Member Countries' greater integration in GATS. A total of six packages of commitments have been developed for ASEAN Members to reach liberalization of services trade. Additional packages in financial services (2) and air transport (2) have been signed.

In 2003, ASEAN Economic Ministers signed the Protocol to Amend the ASEAN Framework Agreement on Services to further promote services trade liberalization in the region with provisions under "ASEAN Minus X" for countries to pursue liberalization of a service sector if they are ready to do so and without extending concessions to non-participating countries.

In 2004, ASEAN Framework Agreement for the Integration of Priority Sectors and Roadmaps for the Integration of Priority Sectors were introduced. In 2006, ASEAN Framework (Amendment) Agreement for the Integration of Priority Sectors with a focus on Air Transport, Healthcare, e-ASEAN (telecommunications and IT services) and tourism was signed. More recently, ASEAN leaders introduced the ASEAN Economic Community Blueprint (2007) at the 13th ASEAN Summit in Singapore with provisions to reach services trade liberalization by 2015.

Challenges under AFAS include for instance unclear definition, scope of and timeframe for service liberalization and limited interactions among ASEAN Member Countries on economic or trade policies towards development.

Mutual Recognition Agreements (MRAs)

MRAs for each professional services were designed to help achieve the free flow of such services in the region. MRAs have been signed in the sectors of engineering services, architectural services, nursing services, medical practitioners and dental practitioners. They have also led to the introduction of the Framework Arrangement for the Mutual Recognition of Surveying Qualifications and the Framework on Accountancy Services.

Labor migration policies and the free flow of skilled labor

All ASEAN Member Countries present intensive and complex migration patterns. Issues related to the development of regulatory mechanisms in both origin and destination countries to manage labor migration are increasingly discussed. All ASEAN origin countries present policy provisions on the protection of migrant workers abroad, as well as strong marketing and overseas employment policies.

Within ASEAN, there is now a greater interest in harnessing the contribution of foreign workers in economic development goals while minimizing social costs. Immigration laws and regulations of ASEAN Member Countries treat Mode 4 service suppliers differently. Foreign workers are subject to skills assessment by relevant authorities and under GATS Mode 4 can only engage in services for the authorized sponsor or employer.

In recent years, civil society organizations have attracted greater attention on the rights of unskilled workers. In turn, this has resulted in greater visibility of restrictive measures and in the development of international rights protection for migrant workers, including the Convention on the Rights of Migrant Workers and Members of their Families (1990).

Recommendations

In relation to GATS Mode 4, regulatory regimes should facilitate the temporary recruitment of foreign natural persons. Provisions for intra-company transferees to provide certain professional and technical services could be used as a model.

A visa-free approach needs to be developed among eligible Mode 4 service suppliers under AFAS from all ASEAN Member Countries. It is necessary to include immigration authorities in the AFAS negotiating processes and operation.

Main discussion points:

- ASEAN visa exemption may be an option to facilitate the movement of providers of services.
- It is necessary for ASEAN Member Countries to focus on professional skills development.

1.6 Regional Arrangements for Managing Labor Migration and Improving Services Trade in ASEAN and Beyond

Mr. Bruno Maltoni, Project Coordinator for Labour Migration Programme, IOM Phnom Penh Office, Cambodia

Economic integration aims to facilitate international trade, the liberalization of markets, and political liberalism towards economic welfare, peace, democracy and human rights. Steps towards economic integration include the creation of a free trade area (e.g. NAFTA), customs union (e.g. Andean Pact), common market (e.g. European Union), and economic and political union.

The facilitation of entry for migrant workers has been the most common approach in efforts to liberalize the movement of people. Provisions on the movement of people are often missing in trade agreements and may be found in separate or adjoining agreements.

Characteristics of mobility under RTAs include for instance access to the labor market or certain sectors, recognition of qualifications, and access to social security benefits. GATS Mode 4 focuses on mobility.

Approaches to human mobility in trade agreements

As in the case of European Union and the NORDIC Common Labour Market, the right to mobility may be recognized allowing for the free movement of all nationals of States party to agreement and for their recruitment and self-employment. Within this approach, the right of residence is usually granted.

Based on the GATS Mode 4 Model, and best represented in MERCOSUR's provisions for mobility, another approach to human mobility focuses on the temporary movement for service suppliers with potential restrictions. In the case of NAFTA, highly skilled workers have access to market. Within CARICOM, there is market access for service providers at all skill levels, university graduates and professionals in selected occupations.

Another approach to human mobility grants no market access to migrants and provides limited provisions for temporary entry and stay for certain categories of professionals. Under this approach, SAARC presents a specific visa exemption scheme for 21 categories of persons and does not address rights of family members and residence rights.

Benefits and challenges of human mobility

The benefits of human mobility are numerous. Some of them include: Expansion of GDP in the short-run through increased aggregate demand; higher GDP per capita in the long-run through accelerated investment; accelerated technological change through greater investment and the technology transfer by professional immigrants; increased competitiveness; decreased expenditure on health and welfare per capita; and remittances as a form of development aid.

Human mobility also presents many challenges including for instance short-run inflationary pressures and deterioration of the trade balance, urban congestion and widening of the urban-rural gap, and brain drain

Economic differences among participating states make it difficult to harness the benefits of labor migration. In addition, there are concerns on the protection of the domestic work force and social security issues.

ASEAN Economic Community (AEC) and labor migration

In 2006, a blueprint to advance the establishment of an ASEAN Economic Community (AEC) has been developed with the aim to reach a single market within a highly competitive economic environment. The AEC comprises provisions on the free flow of skilled labor.

In order to facilitate the movement of natural persons engaged in trade in goods, services, and investments, ASEAN aims to facilitate and harmonize the issuance of visas and employment passes for ASEAN professionals and skilled workers engaged in cross-border trade and investment. Actions have been taken to further substantiate cooperation among ASEAN University Network (AUN) members to increase mobility for both students and staff within the region, to develop core competencies and qualifications required in priority services sectors (by 2009), and to strengthen the research capabilities of each ASEAN Member Country in relation to job placement and the creation labor market information networks among ASEAN Member Countries.

Within ASEAN, the focus of multi-lateral agreements is primarily on economic and trade integration. On the contrary, bilateral agreements have specific provisions for labor mobility including low skilled labor migration. In destination countries, bilateral agreements and MOUs aim to reach safe and documented migration and to address market labor needs. In origin countries, bilateral agreements and MOUs aim to ensure continued access to labor markets in destination countries, to address unemployment in the origin countries, to ensure migrant workers' rights and welfare, and earn foreign exchange through remittances.

A general reluctance within ASEAN to engage in labor agreements is mainly due to the fact that migration is considered a national matter, and there is an excess of supply of low skilled labour in destination countries

Recommendations

Good experiences and practices need to be shared through open dialogues, and a greater emphasis needs to be placed on balancing the benefits of mobility between origin and destination countries. In addition, labor mobility should be facilitated with a focus on different types of mobility and categories of professionals.

Main discussion points and highlights:

- Ministries experience difficulties to work together on labor migration issues.
- The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers can serve as a framework to address migration issues in the region.
- There is certain reluctance among destination countries to enter into bilateral agreements.
- The harmonization of migration systems remains a priority in the region.
- More research on the impact of migration in destination countries is needed.

Session 2: Issues and Challenges in Services Trade Liberalization and Labor Migration in ASEAN

2.1 Foreseeable Challenges on Labor Migration in the Context of Services Trade Liberalization

Mr. Bruno Maltoni, Project Coordinator for Labour Migration Programme, IOM
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Labor shortages at all skills levels, as well as significant demographic decline in industrialized countries, have resulted in intensified international migration flows. In origin countries, the combination of a large young population and high unemployment rates has encouraged people to migrate and to seek employment abroad. In destination countries, an ageing population and labor shortages have increased dependency on labor migration.

Various approaches have been used to look at migration, including the neo-classical (individuals make a rational choice to migrate from less to more endowed areas and migration is a strategy to maximize resources), dual labor market (migration is structural and responds to specific needs in the 3D sectors) and world systems (people migrate to find alternative employment as a result of the introduction of capitalism) perspective approaches.

The role of services trade liberalization

Liberalization in services trade as encouraged by AFAS and the ASEAN Economic Community Blueprint has the potential to further boost the temporary movement of people for work purposes. As GATS Mode 4 provides an additional legal labor migration channel for people to move, further coordination to develop adequate labor policies and regulations in the context of services trade liberalization and to address subsequent challenges is needed.

Labor migration in origin and destination countries

Origin countries have mainly focused on temporary migration with the development of policies, mechanisms and institutions to improve the recruitment, work/living conditions in destination countries, as well as the return and reintegration of migrant workers. There is generally a need to strengthen enforcement for the protection of migrant workers.

In migrant recruitment matters, the Philippines show examples of good initiatives with for instance the regulation of recruitment agencies and the introduction of a cap on placement fees. The Philippines has also developed protection mechanisms for its national working abroad, including the posting of labor and welfare officers abroad, and the establishment of resource centers, legal assistance services, skills training and repatriation funds. The Philippines, Sri Lanka and Indonesia have developed training, pre-departure orientation seminars and standard employment contract.

The objectives of labor migration management need to be more clearly defined in origin countries, as well as means to reach them while ensuring the protection of migration workers. There is a need to strengthen monitoring provisions for recruitment processes, to further mitigate the adverse impact of the emigration of skilled human resources, and to build institutional capacity and inter-ministerial coordination. It is also important to strengthen cooperation with destination countries.

In *destination countries*, there exist various approaches to look at labor migration, including the laissez-faire and market-driven approach, regulatory migration processes (typical approach in Asia), and the acceptance of highly skilled and professional migrants (e.g. Japan). Numerous challenges exist in labor migration management in destination countries, including regulation of working and living conditions, and support and assistance to migrant workers.

Recommendations

In labor market regulations, labor migrants should benefit from a certain degree of mobility to avoid exploitation. The recognition of skills at the regional level and the development of measures to eliminate discrimination, especially against women, are essential. Protection measures for migrant workers, as well as the social welfare of migrants and social security, need to be strengthened.

It is expected that in the years to come, labor migration flows with increase in all ASEAN Member Countries. In this connection, governance of labor migration needs to go beyond national concerns and to lead to bilateral, regional, international frameworks involving other major stakeholders, such as NGOs and migrants' associations. Migration experiences should lead to a win-win-win situation for origin and destination countries, and migrants and their families.

Main discussion points:

- At the national level, competition is observed between government and private recruitment agencies; private agencies often offer better services.
- There is a need to develop a legal framework to regulate the work of private recruitment agencies.

2.2 Health Vulnerabilities of Labor Migrants

Mr. Jaime Calderon, Senior Migration Health Advisor, IOM Jakarta, Indonesia

Migration is not a health vulnerability factor per se, but the conditions in which people migrate expose them to risky situations.

Risks and vulnerabilities of labor migration

Various factors affect the well-being of migrants during the migration process:

- In the *pre-departure phase*, migrants may experience traumas as in the case of war and forced migration. They carry with them epidemiological profiles to their destination country.
- *Travel* conditions and mode may expose them to risky and hazardous situations and traumatic events.
- In the *host community*, migrants may face discrimination, a lack of integration and a lack of linguistically and culturally appropriate services.
- Upon *return*, the challenge remains to have community health services for migrant workers, especially after crisis situations. When they return, migrant workers bring with them their behavioural and health profiles back to their home community.

Key health determinants influencing health risks among labour migrants

When people migrate they leave their social safety nets behind, including their family environment, and cultural and social norms, which in turn increases their vulnerability to risky health behaviours, such as unsafe commercial sex. Language barriers in the receiving community may hinder their ability to access health services and to express their needs and concerns.

Migrants are often stigmatised and marginalized which discourage them to seek health services. Substandard living conditions increase vulnerabilities when migrant workers are not provided with adequate, safe and sanitary living/resting space by their employers. Some migrant workers may save on living cost to send more money to their family back home.

Physical violence and abuse resulting from exploitative working conditions may also expose them to risky behaviours. Government policies, costly health checks and absence of laws protecting them, and immigration status increase vulnerabilities. Professionals and educated workers have better access to health services while less educated migrants tend to rely on traditional methods of treatment.

HIV Vulnerabilities of Asian Women Migrants in Arab States

A recent study on “HIV Vulnerabilities among Asian Women Migrants in the Arab States” by UNDP, Caritas, UNAIDS, IOM and CARAM Asia, highlights that domestic workers may be tested without consent and counselling. If they are found HIV positive, they face deportation. Because domestic workers are not recognized by the labor laws of their destination country, they are not protected by basic labor rights.

Abuse and absence of mechanisms to redress them increase their vulnerability to health risks, including HIV. Back in their host community, women have limited access to assistance services. Undocumented migration and limited education increase vulnerabilities to abuse and exploitation.

Recommendations

Individual health risks need to be reduced with cultural, health and language training, and access to voluntary counselling, care and treatment. Social factors that determine unsafe behaviours should be addressed with measures to empower migrants and to increase their access to health services. The promotion of safe mobility through the regularization of migration and the development of adequate policies and mechanisms on health assessment for overseas migrant workers are essential to address vulnerabilities. Their access to health services should not depend on their immigration status.

In pre-departure health assessments, it is important to respect the dignity of migrant workers, to foster non-discriminatory practices, and to respect confidentiality of medical information. Stigma and discrimination towards migrant workers remain a significant issue, for instance among health providers, and remain to be addressed. Participatory approaches involving migrants in planning, policy design and programme planning are necessary.

Migrant-friendly health services, the improvement of information and surveillance system on the health conditions of migrant workers between origin, transit and destination countries remain to be developed. The capacities of public health systems need to be developed to control communicable diseases.

Main discussion points:

- There is a need to follow-up on health procedures and services provided to migrant workers to ensure quality.
- Agreement on regional health screening processes should be reached in order to avoid duplication.

2.3 Management of the Formal Recruitment of Workers in the GMS

Ms. Supang Chantavanich, Asian Research Center for Migration, Chulalongkorn University, Thailand

While formal recruitment is defined as “services for job seeking and job placement provided by formal recruiters”, it fosters matching offers of employment with applications. A formal recruiter is a “natural or legal person or enterprise licensed by the State to provide one or more labor market services.” In Thailand, the formal recruitment process takes approximately 110 days and recruitment fees vary. The total cost of recruitment in Cambodia is 20,000 Baht including expenses for preparation of documentation, procedures in Thailand, and service charge. The cost of recruitment in Lao PDR is 5,974/8,974 Baht and in Thailand, 17,867 Baht.

Thailand has signed an MOU on Cooperation in the Employment of Workers with Lao PDR (2002), Cambodia (2003), and Myanmar (2003).

National legislations supporting labor worker management

- Thailand: Guideline for Migrant Worker Management; the Comprehensive Migrant Worker Management System; and the Implementation Plan of the MOU, Guideline of Procedures of Formal Recruitment 2007.
- Lao PDR: Prime Minister Decree 68/2002 Export of Lao Workers Abroad (2002)
- Guidelines No. 2417/MOLSW On Implementation of Decree on Export of Lao Workers Abroad (2002).
- Cambodia: Sub-Decree 57 on Sending Khmer Migrants to Work Abroad, Sub-Decree 70 on the Creation of the Manpower Training and Overseas Sending Board (MTOSB).

Protection of migrant workers

The ILO research shows that a total of 54.7% of formal migrants in Thailand had a contract with a Thai employer compared to 38.33% who had not. Among migrants interviewed, 46.67% (Cambodian and Lao migrants) reported that their employers kept their contract which is contradictory to Thai law and represents the highest figure in the percentage of people keeping the contract.

Only 2.50% of interviewed Cambodian and Lao migrants reported to have kept a copy of their contract. If migrant workers do not have their contract, they are more vulnerable to abuse. It has also been reported that 90.80% of services provided to migrants by formal or informal recruiter were in job placement compared to 48.47% in making of travel and/or ID documents, 52.76% in safe travel across border and to the destination country, and 9.82% in pre-departure orientation or training.

Data reveal that no orientation and training prior to departure occurred among 72.13% of Cambodian migrants compared to 38.98% of Lao migrants. Most Lao migrants receive a 1 to 4-hour training and Cambodian migrants receive a 1 day or 2-7 days training. Formal migrants receive more information on the nature of work, wage working hours, while informal migrants obtain limited information on the scope, nature and conditions of work. Informal migrants (migrants traveling without proper immigration documents) pay less recruitment fees than formal migrants. 95% of formal worker received minimum wage or higher.

Recommendations

The cost of recruitment needs to be lowered and pre-departure fees for migrant workers prohibited. A public fund should be created for migrants and government subsidized employment services for migrants developed. It is important to further develop mechanisms to regulate and monitor recruitment agencies' activities and accountability and the provision of pre-departure information.

Migrant workers need to be able to retain their identification documents, to receive minimum wage (for formal migrants), and to have access to dispute settlements services. It is also important to standardize recruitment procedures and to streamline the migration process.

Main discussion points:

- Penalties for illegal recruitment need to be further developed.
- There is a need for more research on informal brokers and on the relations between formal and informal brokers.
- Cooperation on medical checks between origin and destination countries should be strengthened.
- Pre-departure training for migrant workers should be systematic.

2.4 Issues Concerning Trade and Migration Statistics for GATS Mode 4

Mr. Jerrold Huguet, Consultant on Population and Development

GATS Mode 4 is defined as the supply of a service by "... a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member." A natural person is an individual, whereas a juridical person refers to a legal entity, such as a company. There are four types of foreign natural persons specifically covered under mode 4, including intra-corporate transferees, business visitors, employees of a foreign service provider, and independent service providers.

Limitations of Mode 4

Mode 4 does not refer to permanent migrants, to persons seeking access to the labor market of the host country, and to persons working in non-service sectors. It only deals with commercial services. There remains confusion on whether types of services that are provided by both government and the private sector, such as health and education, should be included in Mode 4.

Generally, countries that have made commitments under Mode 4 make provision only for highly-skilled migrants. Foreigners who are employed in a host country service company (locally owned), and employees in a service occupation of a host country company that does not provide services, are not explicitly included in Mode 4.

Trade and migration statistics for GATS Mode 4: Recommendations

In compiling statistics related to Mode 4, several dimensions should be considered, including:

- The distinction between the economic sector in which the trade in service takes place and the occupation of the natural person providing the service.
- The fact that the service provided by an intra-corporate transferee is included under Mode 3 (a service provided through a foreign affiliate), but the migration of that person is recorded as pertaining to Mode 4.

ASEAN and GATS Mode 4: Statistical limitations

Within ASEAN, migration under Mode 4 has been very limited and schedules of commitments have only referred to highly-skilled persons. Restrictions occur in the admission of foreign highly-skilled, including on the number of service providers, on the share of foreigners in sectors of the host country labor force, and on the mobility of foreigners under the terms of their work permit.

Current immigration statistics within ASEAN are often not adequate to measure the entry of natural persons under Mode 4. For instance, migration categories often do not distinguish between service and non-service activities and immigration statistics often refer to the number of visa issued rather than the number of actual entries.

Recommendations

In order to enhance statistical systems related to the movement of natural persons associated with Mode 4, it is necessary to improve the overall registration of foreign workers. In some countries, comprehensive statistics on the number of foreign workers are lacking or not disseminated. When issuing work permits, information should be provided if the work pertains to Mode 4, and if so, which category of professional is concerned. Data collection, tabulation and dissemination of statistics mechanisms on international migration should be further developed. Data on undocumented migration needs to be compiled as well.

Within ASEAN, a technical working group on migration should be established to develop common standards for international migration statistics, and to strengthen the capacity to compile and disseminate such statistics.

Main discussion points:

- Statistics on services trade liberalization and labor migration need to be made public

for informed decisions.

- There is a need to better know which categories of professionals work in respective countries in order to adjust labor migration policies and to maximize their contribution to development.

2.5 Brain Drain and Brain Gain in ASEAN

Mr. Yongyuth Chalamwong, Research Director for Labor, Thailand Development Research Institute, Thailand

Brain Drain and Brain Gain is defined as “The loss suffered by and the gain benefited from a country as a result of the emigration of highly-qualified personnel.” (ILO Thesaurus, 2005) As ASEAN+3 presents different states of economic and social-cultural development between industrialized (Japan, Singapore, South Korea) and less developed countries (Cambodia, Lao PDR, Myanmar and possibly Viet Nam), inequalities have become visible in the areas of population and workforce size, income, wage and technology.

Such inequalities, coupled with the modernization of communication and transportation and the acceleration of globalization, have shaped regional and international migration patterns of high-skilled workers to more developed economies (Singapore, Malaysia, Thailand), and have raised concerns on brain drain and brain gain. In addition, the movement of people has increased with intra-company transfers between countries, the tertiarisation of labor forces and the importance of services in world trade, especially in developing countries. Remittances are one of the most influential factors on the circumstance of Brain Drain, Brain Gain and Brain Exchange/Circulation.

The development of human resources policies to address brain drain-brain gain issues in ASEAN+3 will vary because origin and destination countries present different labor and market needs and challenges.

ASEAN Services Trade liberalization and labor migration

GATS Mode 4 has been introduced with the motivation to harness the potentials of the liberalized movement of service providers. Within ASEAN, Member Countries have responded differently to the liberalization of movement of service providers. Constraints remain in the liberalization of labor movement, such as language barriers in the processing of professional licenses in national languages.

Within ASEAN+3, foreign employment policies have shown various commitments and approaches to the movement of workers. For instance, Japan has promoted the acceptance of highly-skilled workers while restricting the acceptance of low-skilled foreign workers. In Thailand, some occupations are exclusively for Thai nationals and documented migrants are mostly skilled workers and professionals in higher positions. The New “Alien Employment Act, 2008” allows more flexibility in labor migration management.

Cooperation and policy integration for future development

ASEAN+3 Member Countries have cooperated on human resources development in various areas. In the promotion of cooperation on education, training and health care, Japan, the Republic of Korea, The People’s Republic of China and Singapore score highest. However, throughout the region, cooperation on admitting high, semi and low-skilled workers has been low. Cooperation on admitting migrants for education and training has also remained low.

Recommendations

ASEAN+3 should intensify cooperation on education and training, employment and migration. In education and training, upscaling universities and institutions, encouraging intra-regional exchange, and recognizing qualifications need to be fostered. Cooperation in employment should focus on creating regional job placement network to facilitate job search, facilitating the employment of recent graduates at the national level, and providing foreign workers with access to labor market and/or health insurance.

There is a need to harmonize immigration regulations for corporate transferees, to facilitate the movement of business people, and to create an international network to monitor migration trends and policies. The protection of migrant workers' rights, reaching transparency in recruitment processes, and harmonizing social security taxes and portability of social security benefits in countries of employment also need to be at the core of cooperation mechanisms.

Future Scenario for Brain Drain and Brain Gain in ASEAN

While labor migration in ASEAN is mostly comprised of low-skilled workers, there is also growing mobility of professionals, executives, technicians and other highly skilled personnel. This in turn may lead to a shortage of labor in less developed countries. As a direct consequence of income disparities, brain drain may occur when university-trained professionals move from less developed to highly developed countries.

It is expected that in the future greater job creation within ASEAN will be driven by economic growth and will limit the outflow of highly skilled nationals. Low-paid informal work and high-paid professional level jobs in newly emerging industries will possibly expand.

Main discussion points:

- Within ASEAN, the level of development may not absorb highly skilled workers, which in turn, may increase migration patterns.
- Mismatching in qualifications and disparities in skills development are prevalent within ASEAN.

2.6 Labor Market Impacts

Mr. Voravid Charoenlert, Chiang Mai University, Thailand

In Thailand, the past three decades have witnessed a high rate of economic growth of over 7.5% annually with a rapid accumulation of physical capital and a high rate of domestic savings (about 30%). There has also been a rapid sectoral diversification of the production system and rising exports at the global level. In addition, the size of the workforce and labor productivity have been on the rise.

Export-oriented countries, demographic transition and employment segmentation

In 2006, the workforce accounted for 36.6 million people out of which 55.2% were male and 44.8% female. 50% of the workforce was aged 20-40 years with a declining number of those aged 15-19 years from 6.4% in 1998 to 4.4% in 2006.

Globalization and labor market segmentation

Employment flexibility, the reduction of the number of permanent workers, and the increased recruitment of undocumented migrant workers have been visible in the era of globalization and labor market segmentation. There has also been a trend towards the recruitment of temporary workers through short-term contract.

Within the era of globalization, there have been a delocation of labor-intensive factories, decentralization of investment to provincial regions and investment in new emerging economies with low production costs. In this context, the bargaining power of organized workers has been weakened, as well as trade unions.

Main discussion points:

- Family planning has been the main cause of a decrease in population growth in Thailand.
- The relocation of enterprises bring workers' rights protection issues.
- There is a strong link between economic development and labor migration.

2.7 Addressing Root Cause of Labor Migration: Regional Cooperation in Agricultural Trade

Ms. Sununtar Setboonsarng, Senior Research Fellow, Asian Development Bank Institute, Japan

Regional cooperation in agricultural trade has the potential to address the root causes of migration. 75% of the world's poor are living in Asia-Pacific Region out of which 90% are subsistence farmers living on traditional crop, Non-Timber Forest Products (NTFP), and small-scale fisheries. As poverty in rural areas drives migration, such farmers become unskilled migrants abroad.

Globalization, market trends and implications for the poor

Food imports from developing countries have increased with movements of global integration. While food safety standards have been increasingly developed and required in agricultural trade and markets through food traceability systems, the poor have little expertise and capital investment capacities to ensure such standards. Consequently, they are left out of markets.

Contract farming: Benefits to farmers and the rise of organic agricultural production

Contract farming is a system in which agro-processing or trading units enter into a contract with farmers to produce a specified quantity and quality of agricultural commodity at pre-determined prices. The benefits of contract farming for the poor include for instance increased and stabilized income and provision of credit for production.

Contract farming of organic products has been the fastest growing agricultural trade with a growth by 130% since 2002 and demand is exceeding supply. Annual growth of trade in organic products has reached over USD11 billion. The growth in agricultural trade in organic products has brought new market economies.

The use of pesticides has had severe health implications among farmers and the general population. Annually, there are 3 million deaths from pesticide poisoning and within contract farming of seed in Thailand, 92% of farmers had symptoms of pesticide poisoning. Compared to farming with pesticides, organic farming reduces health risks and expenditures.

Organic agriculture for poverty reduction

Organic agriculture has the potential to produce safe food and make use of indigenous knowledge on agriculture. Organic farming requires minimum credit and allows higher profitability with lower production costs and is pro-small holders.

In addition, organic agriculture is an important tool to address the cause of food crisis with improved long-term food security, and helps to improve water source and sanitation and to increase biodiversity while contributing to reverse climate change. Organic contract farming has the potential to reduce poverty and inequality.

Organic farming: Addressing the root cause of migration through market-based mechanisms

Organic agricultural can provide employment opportunities in rural areas. While the private sector is currently engaging the poor in organic agriculture, the public sector needs to upscale strategies to harness the benefits of organic farming in poverty reduction.

There is currently the need to establish legal and regulatory framework, to lower certification costs and to develop organic markets. Rural infrastructure, including roads, should be improved to support the development of organic farming markets, and land tenure issues should be addressed to facilitate access to land by the poor and the development of organic farming.

Main discussion points:

- Agriculture will become an important sector in reaching development goals.
- Organic agriculture provides an opportunity to recruit poor farmers in rural areas and to help address food crisis.

2.8 Services Trade Liberalization and Labor Migration Management: Towards ASEAN Integration in Services

Ms. Yap Lai Peng, Trade Economist for Trade in Services, Bureau for Economic Integration and Finance, ASEAN Secretariat, Indonesia

The ASEAN Framework Agreement on Services (AFAS) has been signed in 1995 with the objective to “enhance cooperation in services among Member States to improve efficiencies and competitiveness, diversify production capacity, and supply and distribution of services of their service suppliers within and outside ASEAN.” The Agreement works towards the elimination of restrictions to and liberalization of services trade. In this connection the ASEAN Economic Community (AEC) Blueprint has been developed with clear targets and timelines to reach liberalization and strategic schedules with key milestones.

In relation to the free flow of services, it is expected that by 2010 all restrictions in 5 priority sectors, including air transport, e-ASEAN, healthcare, tourism, and logistics (2013) will be removed. Challenges to the free flow of services include the facts that targets are pre-determined, flexibility in liberalization processes is minimal, and the timeframe to reach the free flow of services is short.

An inventory has been completed in August 2008 with the identification of measures affecting services trade liberalization for further action.

Priority sectors

In *healthcare*, 10 ASEAN Member States’ (AMS) commitments in hospital services have met Priority Integration Sectors (PSI) targets of 49% foreign equity. 4 commitments have 100% equity. In relation to the *computer-related services*, 10 AMS have met equity thresholds of 49% for PIS in most sub-

sectors of computer-related services. 9 commitments have commitments up to 100% equity. Computer-related services have been the most liberal due to the growth of outsourcing. 7 AMS have met thresholds of 49%, of which three committed 100% in the telecommunications sector.

In *tourism*, 8 AMS met PIS equity thresholds, and in the logistics sector, 6 AMS met thresholds for maritime cargo handling. There have been constraints on coordinating logistics.

In the air transport sector, it is proposed that the ASEAN Multilateral Agreement on the Full Liberalization of Air Freight Services and the ASEAN Multilateral Agreement on Air Services will be signed at the 14th ATM Meeting in November 2008. The Roadmap for Integration of Air Travel Sector (RIATS) to implement the ASEAN open skies policy by 2015 as part of the ASEAN Single Aviation Market is expected to expand. In addition, there is the objective to liberalize the Air Transport Ancillary Services by 2010.

In relation to financial services, the fourth round of liberalization has been completed and there have been commitments for advisory, securities broking and underwriting and banking. Liberalization of financial services is subject to the maintenance of financial stability provisions. Finally, commitments have been made in accounting, auditing, architecture, engineering and legal services in connection to professional services. Commitments have also been made for delivery of services by natural persons, partnerships or multidisciplinary practices.

Mutual Recognition Agreements (MRAs)

In August 2008, a MRA Framework on Accountancy Services (with broad principles for negotiations at bilateral and multilateral levels), a MRA on Medical Practitioners, and a MRA on Dental Practitioners were signed. MRAs completed are in the areas of engineering, nursing, architecture and surveying. MRAs on engineering, architects, nurses have provisions for registration of ASEAN professionals in joint secretariats. Limited logistical capabilities in implementing MRAs remain a challenge.

GATS Mode 4: Commitments and restrictions

GATS Mode 4 concerns intra-corporate transferees for managers, executives and specialists, business visitors, and contractual service suppliers. Major restrictions to Mode 4 include the needs test, quantitative limitations to the recruitment of professionals, and national, residency and qualification requirements. There is a need to allow for temporary entry of more categories of professionals with a longer timeframe.

The main challenges to liberalization remain to enhance knowledge of sector-specific rules and regulations, to strengthen regulatory and institutional capacity, and to enhance awareness of business and consumers communities on the benefits of liberalization.

Main discussion points:

- There is a need to harmonize the schedule for the liberalization of services trade.
- No specific targets have been developed for the liberalization of GATS Mode 4.
- There is no direct financial assistance to countries to reach their commitments to services trade liberalization.

III. Country Presentations

1. Cambodia

Presenter: Mr. Khuon Saingpagnarith, Deputy Director of International Cooperation, Department of International Cooperation, Ministry of Labour and Vocational Training

In Cambodia, labor migration is a strategy to address poverty issues and to improve living standards and professional skills. In 2008, 24,637 Cambodian migrant workers were employed in Thailand, Malaysia and the Republic of Korea.

Cambodia has promoted labor migration with various legal instruments, including the Sub-decree No. 57 (1995) which regulates migration outflows with cooperation between the Ministry of Labor and Vocational Training, the Ministry of Interior and the Ministry of Foreign Affairs and International Cooperation, and the Sub-decree No. 70 on The Establishment of the Manpower Training and Oversea Sending Board (2006). Such legal instruments aim for the safe recruitment of Cambodian workers abroad and have been paralleled with employment and training policy and programs.

The Ministry of Women Affairs, as well as local and international non-governmental organizations and international organizations, are also involved in cooperation mechanisms on labor migration.

Ministry of Labor and Vocational Training: Strategic goals

The Ministry primarily aims to enhance the management of overseas labor migration. The development of overseas network services and pre-departure training programs, employment data mechanisms and information management systems has for objective to protect Cambodian migrant workers abroad.

Prakas No. 108 on Education of HIV/AIDS, Safe Migration, and Labor Right for Cambodian Workers Abroad (2006) and Prakas No. 021/18 on Registration of Enterprise/ Establishment and Employees in the National Social Security Fund have aimed to increase the protection of Cambodian migrant workers abroad.

Labor migration management challenges and solutions

Labor migration management challenges include for instance weak law enforcement of labor migration policies, weak data management system for internal and external labor migration, inadequate pre-departure training by licensed recruitment agencies, and a lack of bilateral agreement and enforcement between sending and receiving countries and at the regional level.

Pre-departure medical check-up and training need to be developed, and an Inter-ministerial Working Group should be established to look at undocumented Cambodian migrant workers in Thailand. The sharing of information on labor needs and undocumented migration is also important, as well as the development of mechanisms to address undocumented migration.

Services trade liberalization

When joining the World Trade Organization and the ASEAN community, the Cambodian Government has committed to liberalize its trade in services. Under the ASEAN Framework Agreement on Services (AFAS), Cambodia is participating in five of the six packages of regional services trade liberalization. Services, including air transport, telecommunications, tourism, health services and financial services account for approximately 36% (one third) of Cambodian economic activities.

ASEAN and negotiation on services trade liberalization: Cambodia's involvement and commitments

In order to maximize the economic benefits and minimize the costs of liberalization, Cambodia aims to improve access to the domestic market for foreign suppliers and to increase the competitiveness of its marketplace. Since its accession to the WTO in 2003, Cambodia has shown significant commitments to services trade liberalization and has also scheduled specific commitments under the General Agreement on Trade in Services (GATS) in more than half of the services sectors.

Recommendations

In relation to labor migration management, it is important for Cambodia to increase the protection and well-being of migrant workers abroad, to reduce recruitment fees and to systematically provide migrant workers with pre-departure orientation.

In services trade liberalization, the ASEAN Secretariat should provide technical assistance, and skilled labor should be further defined. It is important to reach services trade liberalization step-by-step.

Main discussion points:

- Both Governments and recruitment agencies are responsible for the protection of migrant workers; there exists sanction provisions for recruitment agencies in case they breach the laws and procedures to redress malpractices
- There is a need to strengthen cooperation at the regional level to ensure safe migration.

2. Indonesia

Presenter: Ms. Siti Rochimah, Head of Section of Migration Workers Protection, Directorate General of Manpower Placement Department, Ministry of Manpower and Transmigration

With unemployment affecting 9.8% of the population in 2008, labor migration in Indonesia has been perceived as an opportunity to find employment overseas. In 2007, 696,746 Indonesian worked abroad compared to 712,160 in 2006. The feminization of migration has been noted in Indonesia. In order to address unemployment, the Indonesian Government has introduced the Policy on Overseas Employment with provisions on placement and protection of migrant workers, skills upgrading, and management of remittances.

In an attempt to reach safe migration for its nationals, Indonesia has established services for Indonesian migrant workers abroad involving the cooperation of various Government Institutions, including the Ministry of Health, Ministry of Domestic Affairs, Ministry of Justice (Immigration), Ministry of Foreign Affairs, Police Department and also Ministry of Manpower and Transmigration. Indonesia has increased the number of labor attachés in destination countries.

Cooperation on labor migration management

Memoranda of Understanding (MOU) have been signed between Indonesia and receiving countries, including Malaysia, South Korea, Japan, Jordan, Kuwait, Emirates Arab and Qatar, with the intention to protect and promote the well-being of Indonesian migrant workers, and to reach mutual trust and confidence on labor migration matters.

An MOU has also been signed between the Indonesian Chamber of Commerce and the Taiwan Chamber of Commerce.

Recommendations

While the majority of Indonesian women migrant workers are employed in domestic work, many of them face abuse and violence. Both Indonesian domestic workers and their employers need to benefit from the employment experience. It is important to strengthen regional and multilateral cooperation in labor migration management, and thus, to share views, knowledge and information.

3. Lao PDR

Presenter: Mr. Thongdeng Singthilath, Deputy Director General, Department of Skills Development and Employment, Ministry of Labour and Social Welfare

Lao PDR is currently experiencing challenges in labor migration management including undocumented labor migration, unsafe migration, and weak legal and management framework and enforcement of existing laws, bilateral and multilateral agreements.

In order to address labor migration management challenges, it is important to address the root causes of migration, to reduce economic disparity and poverty, to increase education opportunities, to develop human resources, and to strengthen regional and international cooperation on undocumented migration and trafficking.

Lao PDR's commitments to services trade liberalization

National policies and strategies have been developed to prepare the integration of Lao PDR in regional and international economic cooperation mechanisms, such as AFTA and WTO. In view of achieving the goals of the ASEAN Economic Community Blueprint related to labor migration and services trade liberalization, Lao PDR has issued the Ministry of Labor and Social Welfare Instruction No. 5418 with provisions on labor migration to Lao PDR, and Decree No. 68 on the employment of Lao migrant workers abroad.

Challenges

Skilled workers, including manual workers, are less likely to be recognized in common labor standards, and disparity of income remains a root cause for undocumented migration. Limited data and information on labor and market trends are a major challenge, as well as human resources development in labor migration management.

Main discussion point:

- The Lao Government has developed interventions to protect migrant workers abroad.

4. Malaysia

Presenters: Mr. Ahmad Badri Bin Ismail, Principal Assistant Director of Labour, Labour Department, Ministry of Human Resources, and Mr. Roslan Bin Bahari, Senior Assistant Director, Labour Department, Ministry of Human Resources

With a foreign labor force participation rate reaching 61.20% in 2007, Malaysia has been a significant destination country for migrant workers, employed especially in lower and unskilled jobs. In 2007, 1,155,000 Indonesian migrant workers were employed in Malaysia representing the largest migrant population in the country with a total foreign labor force of 2,235,200. Undocumented migration remains an issue.

Documented migrant workers are employed under a valid temporary employment visit pass and are entitled to the protection and benefits of various labor laws and regulations. Undocumented migration remains an issue in Malaysia.

In relation to labor migration management, Malaysia experiences challenges including a rise in the number of application for foreign workers, the employment of a large number of unskilled workers which in turn affects the productivity of the local labor force and the quality of local products, and quota limits which are often not respected in the employment of foreign workers.

Malaysia's commitment to services trade liberalization and labor migration policies

Malaysia has shown commitment to gradual and progressive services trade liberalization, especially in the financial sector, and is currently pursuing reduction within the ASEAN, WTO and APEC frameworks. The country has engaged in Memoranda of Understanding with other ASEAN countries to facilitate documented migration and has fostered initiatives to legalize the entry and employment of undocumented workers without penalty.

Main discussion points:

- The Malaysian Government attempts not to discriminate between the local and foreign labor workforce.
- Services for the protection of migrant workers have been developed in Malaysia, such as the development of a brochure to provide migrants with information on where and how to make a complaint.
- Employers often confiscate migrant workers' passports.

5. Myanmar

Presenters: Ms. Daw San San, Director, Department of Labour, Ministry of Labour and Ms. Daw Shwe Yin Mar Saw, Assistant Director, Department of Labour, Ministry of Labour

The Law relating to Overseas Employment was promulgated in 1999 and aims to facilitate employment of Burmese nationals abroad and to protect their rights. In this connection, the Overseas Employment Supervisory Committee has been established for guidance on overseas employment.

Trans-border migration: Challenges and needs

Undocumented migration from Myanmar to neighboring countries, primarily Thailand, remains an issue. It has been estimated that approximately 500,000 undocumented migrants from Myanmar work in Thailand in the agricultural and industrial sectors, and in factories. There is a need to facilitate access to formal recruitment procedures in both origin and destination countries and to reduce recruitment costs.

Standard working hours need to be respected, and workers should receive their salary which should be no less than the minimum wage as mentioned in labor laws. Occupational health and safety are also important, as well as compensation for premature termination of employment.

Regularization of and health care for undocumented migrant workers and their families need to gain further attention, especially for those who have been resident in destination countries.

Policy development on labor migration: Challenges and ways forward

In 1947, the Union of Myanmar Immigration (Emergency Provisions) Act was enacted to deal with international migration. Illegal recruitment practices, high recruitment costs and job mismatching remain major challenges. There is a need to provide migrant workers with basic pre-departure skill training, awareness raising program focusing on education, health and social relation, and to ensure jobs matching between employees' skills and employment requirements.

Combating fraud and human trafficking and protecting migrant workers from malpractices remain a priority. Doing so, access to complaint mechanisms, as established under the Ministry of Labor, and the social protection of migrant workers is essential. Myanmar has engaged in collaboration with Training Providers in Malaysia, where a large number of Burmese workers migrate to in order to conduct an induction training course on work place communication skills, and essential aspects of Malaysian culture, law and regulations.

The ASEAN Economic Community and Services Trade Liberalization

In the 1990s, the Foreign Investment Law, the National Investment Law and trade liberalization have contributed to an increase in capital investment by foreign and national entrepreneurs in Myanmar. Economic sanctions from the late 1990s have had negative repercussions on domestic employment and development.

Recommendations

At the regional level, cooperation on labor migration management in the context of trade liberalization needs to be enhanced, as well as the sharing of information and experience among ASEAN Member Countries. Further efforts are necessary to promote migrant workers' rights (documented and undocumented).

At the national level, dissemination of information on trade liberalization and labor migration to the private sector should be strengthened, as well as human resources development to improve the productivity and competitiveness of the labor force and the recognition of skills within the ASEAN community. It is also important to adjust labor laws with current economic development needs.

6. Philippines

Presenters: Dr. Carmelita S. Dizon, Administrator, Overseas Workers Welfare Administration, and Mr. Alejandro A. Padaen, Director, Philippine Overseas Employment Administration

The Philippines is a major sending country of labor migrant workers with 3,400 Filipinos departing for work abroad every day. Overseas Filipino Workers (OFWs) are found in 197 countries and represent 23% of the labor force. Of the total 8.2 million Filipinos overseas, 46% are regular temporary workers, 10% are undocumented and 44% are permanent residents. There has been an increase in foreign remittances from USD12,761,308 in 2006 to USD13,052,952 in 2007.

Labor migration management challenges and responses

In the pre-employment phase, recruitment malpractices have been recorded with, for instance, the collection of excessive placement fees, illegal recruitment procedures and human trafficking. High cost of recruitment has also been an issue. During employment, there have been cases of contractual violations, maltreatment by employers and unauthorized deductions on workers' salaries. In post-employment, returning OFWs experience reintegration challenges.

Various policies have been developed to address malpractices, including the Household Service Worker's Policy Reform Package of 2007, and rules and regulations of the Philippine Overseas Employment Administration (POEA) to impose stricter sanctions on malevolent agencies and employers.

Shortage of skilled workers and marine officers, brain drain, undocumented migration, and workers' protection issues and reintegration remain major challenges. In order to address these challenges, the Philippines has developed various strategies including the pursuit of bilateral labor agreements on replenishment and training schemes, the promotion of vocational technical courses, measures to combat human trafficking and illegal recruitment, skills upgrading courses. Efforts have also been made to reduce the cost of recruitment with electronic registration, submission of contracts and verification of employers.

Comprehensive public information and education program (in addition to language and culture orientation courses for OFWs) has been developed, as well as employment standards, mandatory pre-departure orientation seminars, dispute settlement system, and on-site welfare assistance.

Policy reforms for the deployment of Household workers have been introduced to address violations experienced by Filipinos domestic workers abroad. In addition, the Philippines has engaged in human resources development provision in labor agreements with destination countries, such as British Columbia, Saskatchewan and Manitoba of Western Canada, the United Arab Emirates and Bahrain. The Philippines has also focused on providing OFWs with integration and reintegration Services in order to optimize the benefits of overseas employment.

ASEAN Economic Community Blueprint

The Philippines aims to play a leading role in promoting the development of mechanisms to implement the Cebu Declaration and to operationalize the structure and function of the Committee. It works towards the adoption of a standard employment contract for ASEAN migrant workers and for provisions on human resources development cooperation between labor receiving and sending countries within ASEAN. The Philippines will continue to support the Task Force on ASEAN Migrant Workers.

Main discussion points:

- The involvement of middle men in recruitment processes is prohibited in the Philippines and may result in sanctions.
- The political situation in the country influences the flow of remittances.
- Electronic services for contract submission and verification of employers have been developed to ease recruitment processes and to ensure migrant workers' protection.
- Prosecution provisions have been developed to sanction administratively erring employers and recruitment agencies.

7. Viet Nam

Presenter: Mr. Thanh Tung Nguyen, Officer, Department of Overseas Labour, Ministry of Labour, Invalids and Social Affairs

The labor dispatch program of Viet Nam has been articulated around two main periods:

- The 1980-1990 period during which Viet Nam entered in bilateral labor cooperation agreements with the Soviet Union, Czechoslovakia, Bulgaria and East Germany, and with some countries in Africa for the supply of Vietnamese agricultural and medical experts.

- The 1991 to the present period during which the dispatch program has been adjusted to market mechanisms. The Vietnamese Government developed policies for the dispatch program and managed labor-supply related activities carried out by those manpower supply agencies.

The dispatch program has primarily contributed to employment and income generation, poverty alleviation, life conditions improvement, and modernization and industrialization.

Labor force of Viet Nam and protection measures for Vietnamese workers abroad

In Viet Nam, the labor force accounts for 46 million people out of the 85 million total population. The Government aims to enhance the skills of the Vietnamese labor force and has introduced measures to protect Vietnamese workers abroad, such as Decree No. 152/1999/ND-CP (1999), Labor Code (promulgated in 1994, amended in 2002), and Decree No 81/2003/ND-CP (2003) with details on the implementation of the Labor Code on labor migration. In 2006, a law was passed on Vietnamese workers working abroad (Law No 72/2006/QH11).

Regulations have also been introduced for the protection of Vietnamese migrant workers abroad with provisions for recruitment agencies, state management agencies, and for consular protection for migrant workers in Malaysia, Taiwan, Japan, Korea, the Czech Republic and the United Arab Emirates. Viet Nam has signed agreements with the Republic of Korea, Malaysia, Laos PDR, Kingdom of Oman, the State of Qatar on the protection of its migrant workers and is currently negotiating MOUs with the United Arab Emirates, Kingdom of Bahrain, Libya and Russia.

Planned measures include enhancing mechanisms and policies in the implementation of the Law on Vietnamese workers working abroad and labor management systems, as well as migrant workers' qualifications and protection. Increased dissemination of information on labor migration issues and cooperation with international partners on labor migration management will also be a priority.

IV. Closing Session

In his closing remarks, Mr. Lance Bonneau thanked all participants for the dynamic discussions on ASEAN challenges and worthwhile goals on services trade liberalization and labor migration management. Mr. Bonneau also thanked ADBI, especially Mr. Toru Tatara, for his leadership in allowing the regional conference to come to life, as well as Chulalongkhorn University partners. He emphasized IOM's commitment to continue to support work on labor migration management issues.

Following Mr. Bonneau's closing remarks, Mr. Toru Tatara emphasized the fact that the regional conference has been a good learning experience and that discussions raised many critical challenges in labor migration management, including unskilled migration and cross-border migration. Mr. Tatara thanked all participants for their contribution.