

ILO Sub-regional Training Workshop on Labour Migration Policy and Management



International Labour Office



**Report on the
ILO Sub-regional Training Workshop on Labour
Migration Policy and Management**

**Ayutthaya, Thailand
2-6 August 2004**



Edited by Elizabeth Morris

**ILO/Korea Partnership Programme
“Enhancing national capacity on migration management in
Cambodia, Lao People’s Democratic Republic, Mongolia and Thailand”**

Copyright © International Labour Organization 2004
First published 2004

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the Publications Bureau (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered in the United Kingdom with the Copyright Licensing Agency, 90 Tottenham Court Road, London W1T 4LP [Fax: (+ 44) (0)20 7631 5500; Email: cla@cla.co.uk], in the United States with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923 [Fax: (+ 1) (978) 750 4470; Email: info@copyright.com] or in other countries with associated Reproduction Rights Organizations, may make photocopies in accordance with the licences issued to them for this purpose.

Elizabeth Morris, Editor

Report on the ILO Sub-regional Training Workshop on Labour Migration Policy and Management Ayutthaya, Thailand, 2-6 August 2004.

Bangkok, International Labour Office, 2004

ISBN 92-2-118587-7 & 978-92-2-118587-1 (print)

ISBN 92-2-118588-5 & 978-92-2-118588-8 (web pdf)

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by Email: pubvente@ilo.org

Visit our website: www.ilo.org/publns

Printed in Thailand

Preface

“Nearly all countries today are affected by international migration, either as origin, transit or destination countries – and in many cases all these capacities. The rising mobility of people in search of opportunities and decent work and human security has been commanding the attention of policy-makers and prompting dialogue for multi-lateral cooperation in practically every region of the world. The ILO’s mandate in the world of work as well as its competencies and unique tripartite structure entrust it with special responsibilities regarding migrant workers. Decent work is at the heart of this. The ILO can play a central role in promoting policies to maximize the benefits and minimize the risks of work-based migration and can work towards eliminating identifiable detriments of labour migration in collaboration with other international organizations”.

Conclusions on a fair deal for migrant workers in a global economy
International Labour Conference, 92nd Session, 2004

According to the Director-General of the International Labour Organization, “Migration is one of the most contentious issues facing the world today”. International labour migration represents an increasingly important challenge. Two major reports this year have emphasized the growing significance of migration for work in a global economy – the report of the World Commission on the Social Dimension of Globalization on *A fair globalization: Creating opportunities for all* and the preparatory report for the general discussion at the International Labour Conference entitled *Towards a fair deal for migrant workers in a global economy*.

Current migration patterns are closely linked with features of globalization including travel and communications that heighten awareness about differences in lifestyles among countries. Widening gaps between poor regions and wealthy countries of the world also spur people to seek economic opportunities elsewhere. Ageing populations in many developed countries mean that migration is likely to increase.

The ILO Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia held in Bangkok during 30 June – 2 July 2003 pointed to increasing mobility of workers across borders due to such factors as globalization, integration and conflict. The summary of conclusions for the meeting points out that in Asia the movement of labour is becoming an important feature and enduring phenomenon associated with growth and development, since it eases skill imbalances in labour markets and promotes cultural exchange and economic benefits for both sending and receiving countries. Migrant remittances, for example, are a valuable and stable source of foreign exchange earnings for many origin countries.

While market forces have driven labour migration, there are several signs of market failures. A number of risks associated with migration are racism, xenophobia and trafficking. There is evidence of recruitment malpractices, exorbitant fees, debt bondage and sexual harassment. In some cases migrant workers are placed in hazardous jobs. Other migrants have not been paid their wages. Women migrant workers face multiple forms of discrimination – as women, migrants and foreigners. The feminization of migration and emergence of trafficking have aggravated this situation.

Experience suggests that government intervention in both sending and receiving countries through transparent and appropriate regulatory institutions and measures are essential, if labour markets are to function in a way that is efficient and equitable. Cooperation among the social partners as well as with migrants themselves is especially important to the development and implementation of sound migration policies. Effective administration of labour migration requires structures and mechanisms together with competencies and capabilities in all relevant ministries. Social dialogue on migration policy is necessary for meaningful involvement of employers' organizations and workers' organizations. Mechanisms are necessary for consultations with civil society organizations and migrant workers themselves.

There is considerable concern within countries of the sub-region about the need to improve policies and management of migration for work. Memoranda of Understanding (MOUs) for employment and trafficking have been signed by Thailand and neighbouring countries of Cambodia, Lao People's Democratic Republic and Myanmar. Mongolia has taken steps to introduce legislation to improve its administration of migration policies and protection of workers abroad and foreign workers.

In order to support requests from constituents, a project under the ILO/Korea Partnership Programme for "Enhancing national capacity on migration management in Cambodia, Lao People's Democratic Republic, Mongolia and Thailand" is being implemented by the Sub-regional Office for East Asia. The ILO Sub-regional Training Workshop on Labour Migration Policy and Management held in Ayutthaya, Thailand during 2-6 August 2004 is part of this endeavour to strengthen the capacity of governments, employers and workers in formulating policies and managing programmes for labour migration in order to maximize the potential benefits while protecting migrant workers.

Despite the complexity and sensitivity of issues discussed at the International Labour Conference this year, the representatives of governments, workers and employers reached a consensus on a plan of action. It

calls for a rights-based approach that acknowledges the sovereignty of all States to develop their own policies for labour and migration. It establishes a framework for discussing migration issues and identifying good practices. We believe that the participants at the sub-regional training workshop have benefited from learning about international experience regarding international migration through presentations and discussions. It is our hope that this report of the meeting will contribute to improving information and knowledge on labour migration, migrant workers and effective measures to promote their interests and protect their rights.

Christine Evans-Klock
Director
ILO Sub-regional Office for East Asia
Bangkok
November 2004

Acknowledgements

The project on “Enhancing national capacity on migration management in Cambodia, Lao People’s Democratic Republic, Mongolia and Thailand” funded by the ILO/Korea Partnership Programme is a collaborative effort within the ILO involving cooperation and contributions by the Sub-regional Office for East Asia in Bangkok, the International Migration Programme in Geneva and the International Programme on the Elimination of Child Labour (IPEC) Sub-regional Project to Combat Trafficking in Children and Women. The project proposal was prepared by Piyasiri Wickramasekara, Parissara Liewkeat and Sanchir Tugschimeg under the management of Pongsri Phantumvanit. Elizabeth Morris assumed leadership the project and workshop in July, when several colleagues left the sub-regional office. Piyasiri Wickramasekara continued to provide technical backstopping from the International Migration Programme in Geneva. Thetis Mangahas and the ILO Sub-regional Project to Combat Trafficking in Children and Women offered both technical inputs and financial support.

A number of ILO officials made direct contributions to the training materials and workshop presentations including Manolo Abella, Anne Knowles, Tim De Meyer, Nelien Haspels, Thetis Mangahas, Aya Matsuura, Elizabeth Morris, Raghwan, and Piyasiri Wickramasekara. Jong-Kil Park served as liaison for the ILO/Korea Partnership Programme and Do-Yong Lee represented the Ministry of Labour in the Republic of Korea. The ILO was honoured to have the participation of Kil-Sang Yoo from the Korea Labour Institute. Other distinguished resource persons at the workshop in Ayutthaya were Philip Martin, Supang Chantavanich and Nguyen Ngoc Quynh. Three ILO consultants from the Philippines helped with drafting the training modules and facilitating the workshop sessions – Teresa Soriano, Ricardo Casco and Ahmma Charisma Lobrin. National project managers for the Mekong Sub-regional Project to Combat Trafficking in Children and Women also served as resource persons and workshop facilitators – Taneeya Runcharoen, Ouk Sisovann and Inthasone Phetsiriseng. Programme support for the workshop arrangements was provided by Chomesri Vichitlekakarn and Sutida Srinopnikom. Programme officers attending the Ayutthaya workshop were Sutida Srinopnikom and Jittima Srisuknam. Nitchakarn Ratanawijarn and Teerasak Sirirattanothai served as support staff. Logistical assistance was also provided by Prayoonsri Likhitdechakakdi and Isra Suriphan from the meeting unit of the Regional Office for Asia and the Pacific in Bangkok.

All of this was accomplished with support and encouragement of the Director of the Sub-regional Office for East Asia Christine Evans-Klock. Finally, the ILO would like to thank the Government of the Republic of Korea for funding that has made the migration project and training workshop possible.

Contents

	<i>Page</i>
1 Introduction	1
2 Opening session.	7
3 Defreeze and icebreaker	8
4 Background and current issues and responses in global and regional migration.....	8
5 International Labour Conference 2004: General discussion on migrant workers	10
6 Development of national labour migration policies and structures	12
7 Review of the first day	16
8 Models for managing migration	16
9 Sending workers abroad: The Vietnamese experience	21
10 Employing foreign workers	24
11 Review of the second day	34
12 International labour standards for migrant workers.....	35
13 The roles of employers' organizations and workers' organizations in labour migration policy and management.....	42
14 Review of the third day	50
15 Irregular migration and migration management	50
16 Migration and GEMS: Gender equality promotion through gender mainstreaming strategies	55
17 Thailand's experience and migration management	59
18 Trafficking in children and women	63
19 Review of the fourth day	68
20 Migration information and statistics	68

Contents *(Continued)*

	<i>Page</i>
21 Follow-up plans or “re-entry strategies”	76
22 Closing ceremony	78
22.1 Closing remarks from the ILO	80
22.2 Closing remarks by representatives of governments, employers and workers	84
22.3 Presentation of certificates	88
 Annexes	
Annex I: Programme	89
Annex II: List of participants	93
Annex III: Evaluation	104
Annex IV: Memoranda of Understanding	106

1 Introduction

“A fair deal for all migrant workers requires a rights-based approach in accordance with existing international labour standards and ILO principles, which recognizes labour market needs and the sovereign right of all nations to determine their own migration policies, including determining entry into their territory and under which conditions migrants may remain. As part of a broader commitment to promoting decent work, the ILO and its constituents agree on the desirability of maximizing the benefits to all that can flow from: (i) promoting policies that give priority to economic growth and employment; and (ii) encouraging regular labour migration. It is recognized that this goal requires a commitment to adopt national policies aimed at equal treatment of migrant workers with nationals in respect of national labour laws and access to applicable social protection, combating the exploitation often associated with migrants in irregular status, and the promotion of basic human rights for all migrants. It is clear that closer cooperation among sovereign States and tripartite constituents can contribute towards more effective labour migration processes and protection systems”.

Conclusions on a fair deal for migrant workers in a global economy
International Labour Conference, 92nd Session, 2004

The ILO Sub-regional Training Workshop on Labour Migration Policy and Management held in Ayutthaya, Thailand during 2-6 August 2004 grows out of requests from countries in the region for technical assistance to improve laws and legislation and strengthen awareness and capacity for meeting the challenges of migration for work.

The training workshop is part a project funded by the ILO/Korea Partnership Programme on “Enhancing national capacity for migration management in Cambodia, Lao People’s Democratic Republic, Mongolia and Thailand”. The project follows up on technical assistance jointly sponsored by the Ministry of Labour and Social Welfare, the International Labour Office and the International Organization for Migration on “Thailand: Improving migration policy management with special focus on irregular migration” with a National Tripartite Seminar on Future of Migration Policy Management in Thailand organization in May 2002 and an ILO National Tripartite Training Workshop on Overseas Employment held in Ulaanbaatar, Mongolia during November 2002.

The earlier project in Thailand was a collaborative exercise involving international researchers, Thai institutions and tripartite consultations. Professor Philip Martin of the University of California-Davis drew on detailed case studies prepared by the Asian Research Centre for Migration at Chulalongkorn University, the Institute of Population and Social Research at Mahidol University and the Thailand Development Research Institute to

produce a summary report. The research looked at three aspects of migration in Thailand – a review of the demand for migrants and alternatives to migrants in the context of the Thai labour force and labour market trends; an analysis of efforts to regularize the status of unauthorized migrants; and suggestions for linking migration management policies with other economic, labour and education policies based on case studies from other countries.

This research pointed to three major findings: (i) The Thai employers, industries and areas most dependent on migrants have employed workers from outside the locality for at least ten years. During the 1990s these out-of-area workers changed, with internal migrants from north-eastern Thailand replaced by foreign migrants. Many employers are located along the Myanmar border; (ii) Registration of migrant workers during the 1990s showed more foreign workers in traditional sectors but also an increased number of migrant workers in new sectors such as construction in Bangkok. Many migrants and most employers reported that they were pleased with the registration process, as it provided temporary legal status; (iii) The studies suggest that the dependence of employers on migrants is likely to persist for some time to come. Migrant families with children born in Thailand are employed year-round in fish processing, livestock production and construction jobs.¹

Based on the findings of the research, the study produced three recommendations for policies: (i) Acknowledge that the Thai economy is dependent on migrant workers in the medium term and explain the economic benefits to Thai society including employers, workers and migrants. Introduce policies that are clear and transparent providing equal treatment to Thai workers and migrant workers under the labour law; (ii) Make certain that the social partners work with the Thai government to justify migrant workers and to improve migration management; (iii) Develop cooperation with countries of origin in order to deal with such problems as smuggling and trafficking as well as to address concerns about remittances and health care together with issues affecting families and children.

Three suggestions were aimed at improving the operation of registration policy related to the duration and cost of permits; responsibilities and rights of government, employers and migrants; and methods to encourage migrant return through incentive systems and cooperative programmes between Thailand and countries of origin. The study in Thailand concluded with two caveats on the Thai situation quoted in Box 1.

¹ Philip Martin et al., *Thailand: Improving the management of foreign workers*, Bangkok, International Labour Office and International Organization for Migration, 2003.

Box 1: Two cautions about Thai migration

Firstly, no migrant worker policy can be operated successfully if there is widespread irregular migration and employment, because of insufficient enforcement or corruption – employers and migrants must understand the difference between being registered and unregistered and prefer to be registered.

Secondly, there is widespread confusion about Thailand's migrant worker policy among employers, Thai workers and migrants. Clear statements, in many languages, explaining the role of migrants in the Thai economy and the rights and responsibilities of employers and migrants, would help to reduce "blame-the-migrant" and other syndromes including the notion that Thailand can rid itself of migrants, which can make migration management difficult.

Source: Philip Martin et al., *Thailand: Improving the management of foreign workers*, Bangkok, International Labour Office and International Organization for Migration, 2003, p. 4.

After research and consultations, Thailand has now signed Memoranda of Understanding with Cambodia, Lao People's Democratic Republic and Myanmar for migration regarding employment and trafficking.² Three dealt with cooperation on employment of workers and one with eliminating trafficking in children and women and assisting victims of trafficking. These MOUs signed during 2002 and 2003 are listed in Box 2.

Box 2: Memoranda of Understanding in the Mekong Sub-region

- Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Kingdom of Cambodia on Cooperation in the Employment of Workers signed by the Minister of Labour in Thailand and the Minister of Social Affairs, Labour, Vocational Training and Youth Rehabilitation in Cambodia on 31 May 2003
- Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Kingdom of Cambodia on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking signed by the Minister of Social Development and Human Security in Thailand and the Minister of Social Affairs, Labour, Vocational Training and Youth Rehabilitation in Cambodia on 31 May 2003

² The full texts are presented in Annex IV.

- Memorandum of Understanding between the Royal Thai Government and the Government of Lao People's Democratic Republic on Employment Cooperation signed by the Minister of Labour in Thailand and the Minister of Labour and Social Welfare in Lao People's Democratic Republic on 18 October 2002
- Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers signed by the Minister of Foreign Affairs in Thailand and the Minister of Foreign Affairs in Myanmar on 21 June 2003

These agreements refer to the Bangkok Declaration on Irregular Migration deliberated at the International Symposium on Migration "Towards Regional Cooperation on Irregular/Undocumented Migration" held in Bangkok during 21-23 April 1999 and "The Bali Conference on the People Smuggling and Trafficking in Persons" held in Bali during 26-28 February 2002. The MOUs on employment entitle migrant workers to enjoy protection in accordance with the provisions of domestic laws in the host country and to receive wages and benefits at the same rate as nationals based on principles of non-discrimination and equality of sex, race and religion. Among other provisions are the objectives and scope. These cover procedures for employment, repatriation and protection together with prevention, intervention and enforcement against illegal entry, trafficking and employment. Areas for cooperation are visas, work permits, health insurance or health services, contributions into savings funds, taxes and employment contracts.

The agreements resulted in additional requests for technical assistance from Thailand and its neighbours for support in putting these MOUs into practice. A new registration of migrant workers was conducted in Thailand during July 2004. This has been accompanied by mechanisms for sharing information between sending countries and Thai authorities.

One of the components of the project on migration under the ILO/Korea Partnership Programme is the Sub-regional Training Workshop on Labour Migration Policy and Management. The objectives of the workshop were to improve knowledge and appreciation of migration-related issues including international labour standards and overseas migration management. The aim was to strengthen the capacity of labour administrations, social partners and human rights institutions to formulate and implement sound

migration policies suited to national conditions and providing protection to women and men migrant workers.

The goals of the project and workshop are in line with two recent reports released by the International Labour Office. The first is the report of the World Commission on the Social Dimension of Globalization on *A fair globalization: Creating opportunities for all*. This report points to the need for a multilateral framework to govern cross-border movement of people. Such a framework should be placed firmly on the international agenda. The objectives are explained in the Box 3.

**Box 3: The need for a multilateral framework
for cross-border movement of people
as part of a fair globalization**

The objectives of such a framework should be: to facilitate mutually beneficial ways of increasing migration opportunities, with due regard to States' legitimate interests to ensure that the process is fair to both sending and receiving countries; to make the process orderly, predictable and legal; to eliminate trafficking and other current abuses where women are especially vulnerable; to ensure full protection for the rights of migrant workers and facilitate their local integration; and to maximize the developmental benefits of international migration.

Source: World Commission on the Social Dimension of Globalization, *A fair globalization: Creating opportunities for all*, Geneva, International Labour Office, 2004, p. 97.

The second is the preparatory report for the general discussion on migrant workers at the International Labour Conference in June 2004 based on an integrated approach entitled *Towards a fair deal for migrant workers in a global economy*. This report notes causes of concern about the way in which migration is unfolding. There is an increase in irregular migration including trafficking that threatens human rights and creates new challenges for national governments and the international community. Growing numbers of migrant workers are in vulnerable situations, mainly due to their irregular status and the kind of work they do. Many migrants face discrimination. Migration may also contribute to social upheavals that can be destabilizing. In some cases difficulties surrounding the integration of people from different backgrounds, cultures, and races have given rise to extremist movements espousing racism and xenophobia. Systems for managing migration are often inadequate to meet the challenge. For this reason, it is necessary to build support for national policies and international cooperation.

The conclusions of the discussion on *A fair deal for migrant workers in a global economy* call for comprehensive, consistent and transparent policies to manage migration. National policies and their administration must be viable, adaptable, dynamic and flexible. Effective administration requires structures and mechanisms with competencies and capacities to address the challenges of migration for work. To be effective, credible and enforceable national policies must have a strong legal foundation based on international labour standards. Comprehensive national approaches should promote the Global Employment Agenda and enlist the participation and support of employers' organizations and workers' organizations. Measures should be strengthened to combat trafficking in persons. Policies should maximize the contribution of migration to development. A fair deal for migrant workers requires a rights-based approach that takes into account labour market needs. A non-binding multilateral framework will propose guidelines and principles based on best practices and international standards.

The ILO Sub-regional Training Workshop on Labour Migration Policy and Management provided a opportunity to present best practices and international standards to constituents from Cambodia, Lao People's Democratic Republic, Mongolia and Thailand through a series of sessions covering issues and responses, development of national labour migration policies and structures, promoting and facilitating employment of workers abroad, employing foreign workers, international labour standards for migrant workers, roles of employer's organizations and workers' organizations in labour migration policy and management, irregular migration and migration management, migration and gender equality through gender mainstreaming strategies, Thailand's experience with migration management, trafficking in children and women, and migration information and statistics.

The presentations of resource persons and responses of workshop participants are outlined in this report. The hope is that this exchange of practices and experience will contribute to "improving the information and knowledge base on global trends in labour migration, conditions of migrant workers, and effective measures to protect their rights" called for in the conclusions of the Committee on Migrant Workers outlined in the Resolution concerning a fair deal for migrant workers in a global economy of the International Labour Conference in June 2004.

2 Opening session

Ms Elizabeth Morris opened the training workshop on behalf of the Director of the Sub-regional Office for East Asia, Ms Christine Evans-Klock. She pointed to the fact that all countries in the sub-region are affected by international migration – as origin, transit or destination countries – and in many cases in all these capacities. Migration is a sensitive issue since it deals with sovereignty. Migration policy defines who belongs to a society, for how long and on what terms. The ILO's mandate in the world of work and its tripartite structure entrust it with special responsibilities to maximize the benefits and minimize the risks in migration for work. Ms Morris pointed to the importance of supporting growth and employment outlined in the Global Employment Agenda as part of the Decent Work Agenda. Despite the positive experience of many migrant workers, she said, a significant number face hardships and abuse in the form of low wages, poor working conditions, recruitment fraud, lack of social protection, denial of human rights, discrimination and xenophobia, social exclusion, irregular migration, forced labour and trafficking in women and children. These developments underline the need for more effective migration management to reduce the vulnerabilities of migrant workers and safeguard the rights of national workers.

Ms Morris pointed to a number of positive developments in the region including the steps taken by Thailand to provide regular admission of unskilled workers; the Memoranda of Understanding (MOUs) that have been signed by Thailand and Cambodia, Lao People's Democratic Republic and Myanmar covering employment and trafficking; the new law for guest workers in the Republic of Korea; the ILO Asia-Pacific Regional Symposium for Trade Union Organizations on Migrant Workers held during 6-8 December 1999 that produced recommendations for trade union actions; a Regional Consultation of the International Confederation of Free Trade Unions-Asia and Pacific Regional Organization (ICFTU-APRO) held during 2003 that identified specific measures for trade union centres to protect the rights of migrant workers; the Thirteenth Asian Regional Meeting of the ILO held in August 2001 which called upon the Office to take a lead in developing and facilitating appropriate policy measures for migrant workers as part of decent work; and the ILO Regional Tripartite Meeting on Challenges to Migration Policy and Management held during 30 June – 2 July 2003 that outlined a number of steps to be taken by countries in the region to maximize the benefits of migration – bilateral and multilateral cooperation and promotion of international labour standards as well as involvement of the social partners and migrant workers in the formulation of migration policies.

The International Labour Conference this year adopted a plan of action designed to ensure that migrant workers are covered by the provisions of international labour standards. Ms Morris said the framework will comprise international guidelines on various approaches such as encouraging agreements between sending countries and receiving countries that address different aspects of migration; promoting decent work for migrant workers; licensing and supervising agencies for migrant workers; preventing abusive practices, migrant smuggling and trafficking in persons; protecting their human rights; and preventing and combating irregular labour migration. Ms Morris pointed out that the plan also covers specific risks for all migrant workers – women and men – in certain occupations and sectors with particular emphasis on dirty, demeaning and dangerous jobs and on women in domestic service and the informal economy. It also seeks to improve labour inspection, create channels for migrant workers to lodge complaints and deals with policies to encourage return migration, re-integration into the country of origin and transfer of capital and technology by migrants.

Ms Morris went on to outline the objectives of the workshop to raise awareness and strengthen capacity for improving policy and management for labour migration and protecting migrant workers. She said that she hoped that in pursuing these objectives the discussion would be lively and informal.

3 Defreeze and icebreaker

The opening was followed by an icebreaker organized by ILO consultants from the Philippines, Mr Ricardo Casco and Ms Teresa Soriano. Workshop participants and resource persons were assigned partners who were then called upon to introduce each other.

4 Background and current issues and responses in global and regional migration

Mr Philip Martin from the Department of Agricultural and Resource Economics at the University of California-Davis made a presentation on “Enhancing national capacity for migration management”. He began with definitions of migrants as persons who are outside their country of birth or citizenship for at least twelve months. According to this definition, United Nations statistics show that there were 175 million migrants in 2000. The United States has about one in five of the world’s migrants. In some cases, people move over borders to become migrants, and in others, borders move over people such as in the former Soviet Union. He explained that migrants include refugees, journalists, diplomats, spouses and children. About half

or 86 million are workers. Mr Martin then introduced some cautions about migrants quoting Adam Smith that “men and women are the most difficult luggage to move across borders”. He said that the aim is to improve the management of migration by making the situation “better” rather than “perfect”.

Mr Martin presented some data for East Asia and Southeast Asia, noting that we must check information in international databases against national statistics. He said most migrants move in search of higher wages. There is no agreement about how many migrants are “too many” or “not enough”. One can ask the question, “Why so little migration?” The answers are *inertia* – most people do not want to move away from family and friends; *regulation* – governments regulate migration with passports, visas and controls at the borders and in the interior; and *development and convergence* – reducing differentials and thus reducing migration. Asked another way, “Why so much migration?” Mr Martin pointed to demographic, economic and other differences between countries of origin and countries of destination. A key factor is earnings differentials. In developing countries workers earn less in agricultural jobs than in non-agricultural employment and vice versa in developed countries. This has prompted both internal mobility and international migration – movement off the land in developing countries to fill “3-D jobs” – dirty, demeaning and dangerous – at home and abroad. In the People’s Republic of China workers move from the interior provinces to coastal areas such as Fujian Province and then abroad. This migration is affected by “network effects”, where workers who already have a job act as “anchors” that attract friends and relatives. Thus, “migration can beget more migration”.

The presentation then turned to migration and development. Mr Martin explained that according to economic theory, trade is a substitute for migration. Trade and migration can also be seen as complements. Foreign direct investment (FDI), trade and migration increase together. An example is Japanese car manufacturing in the United States where FDI brings with it managers from Japan. Economic integration and free trade can lead initially to increased migration, as workers take advantage of jobs and wages that are available abroad. However, with development the number of migrants may go down again creating a “migration hump”. An example is IT workers who left India for jobs in the United States. Now the “virtuous circle” is complete with jobs outsourced by Citibank from New York to Bangalore. Of course, there are “vicious circles” as well. An example is African health workers – nurses and doctors – moving to Europe in search of higher income jobs.

Box 4: “3-Rs” of migration

- Recruitment – who goes, the unemployed or the employed? How do they go abroad, under bilateral agreements, MOUs, or informally?
- Remittances – how much and how used?
- Returns – who returns and what do they do?

Source: Philip Martin, “Enhancing national capacity for migration management”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Mr Martin then turned to “3-Rs” of migration – recruitment, remittances and returns. Beginning with recruitment, he said the questions are who goes abroad looking for work – the employed or the unemployed? If youth are migrants, why are they not looking for work at home? How do they go abroad – under bilateral agreements or MOUs or informally? How much comes back as remittances? Some statistics for total amounts and percentage increases are available on the University of California-Davis database at <http://migration.edu.davis>. Data from the International Monetary Fund *Balance of Payments Statistics Yearbook* indicate that remittances to Mongolia increased from 6 million in 1998 to 56 million in 2002. In terms of policy, it would be useful to know how to maximize the amounts sent back as well as how to maximize the impact of remittance? A rule of thumb is that one dollar sent home creates two dollars of income through a multiplier effect. How do we encourage migrants to invest? Mr Martin argued that not just special migrant schemes but also sound economic policies are necessary. The third “R” is “returns”. Who returns and what do they do? There are two extremes – one is to return and rest or retire. The other is to start a business. Unfortunately, Mr Martin pointed out, many migrants retire when they return. Networks or “diasporas” provide a new push to international migration. China refers to its nationals working overseas as “stored brainpower abroad”.

5 International Labour Conference 2004: General discussion on migrant workers

The next presentation by Mr Piyasiri Wickramasekara, Senior Migration Specialist in the ILO International Migration Programme, focussed on the general discussion on migrant workers based on an integrated approach at the International Labour Conference held during June 2004 in Geneva. Mr Wickramasekara noted the background of the discussion which

built on previous work such as the Tripartite Meeting of Experts on Future Activities of the ILO in the Field of Migration held during 21-25 April 1997 and the General Survey on Migrant Worker Instruments presented to the International Labour Conference in 1999. During the 283rd Session of the Governing Body in March 2002, a decision was taken to place migrant workers on the agenda of the 92nd Session of the International Labour Conference. The recent report of the World Commission on the Social Dimension of Globalization also influenced the discussion.

Preparations for this agenda item on migrant workers involved the field offices of the ILO in all regions. This included the Regional Tripartite Meeting on Challenges to Migration Policy and Management held during 30 June – 2 July 2003 in Bangkok, several sub-regional meetings in Africa and the Tripartite Consultative Meeting on Migrant Workers for the Americas held in Geneva during 11-13 June 2003. Consultations have also been held with employers' organizations and trade unions. The ILO administered a questionnaire to obtain additional information on migration law and practice in member States to which there were 96 responses. The Office prepared a comprehensive technical report entitled *Towards a fair deal for migrant workers in a global economy* to serve as a background to the general discussion. The chapter plan of the report is given in the Box 5.

Box 5: Towards a fair deal for migrant workers

Chapter 1: Labour migration in a globalizing world

Chapter 2: Migration and its consequences

Chapter 3: Conditions of work and treatment of migrant workers

Chapter 4: International regulation of migrant workers and migration

Chapter 5: ILO activities with governments and social partners

Chapter 6: Managing migration

Chapter 7: The way forward

Source: International Labour Office, *Towards a fair deal for migrant workers in the global economy*, International Labour Conference, 92nd Session 2004, Report VI, Geneva, International Labour Office 2004.

In describing the process of deliberations, Mr Wickramasekara noted that while there was a high degree of consensus between the social partners, there was a clear division between the views of governments from deve-

loped countries and developing countries. He pointed to several areas of convergence: the importance of involving social partners and other stakeholders in migration policy; the need for technical assistance and capacity building; social integration of migrant workers in regular status; national sovereignty on migration policies and the right to entry; and the linkages between migration and development.

Mr Wickramasekara then highlighted issues of contention and debate. These included the treatment of migrant workers in irregular status, the scope and definition of a rights-based approach, the need for a multilateral framework on migration issues and the role of the ILO in such a framework. Nevertheless, the Committee on Migrant Workers was able to reach a consensus and adopted the Resolution concerning a fair deal for migrant workers at the International Labour Conference. The Resolution examined issues and challenges, outlined policy approaches and proposed a plan of action for the constituents. This plan consists of several components: a non-binding multilateral framework of principles and good practices based on a rights-based approach; wider application of international standards and other relevant instruments; support for implementation of the Global Employment Agenda at the national level; capacity building and technical assistance; the development of a global knowledge base; strengthening social dialogue; and follow-up action.

Reviewing the achievements of the International Labour Conference, Mr Wickramasekara pointed to a clear mandate for the ILO in the area of labour migration and support for a rights-based approach. The discussions reaffirmed the importance of decent work in a global economy; set out an explicit agenda for member States and social partners; and mandated a clear, detailed and comprehensive programme of action for the ILO to regulate and administer labour migration. Follow-up action is to include wide dissemination of the conclusions on a fair deal for migrant workers, development of a draft multilateral framework of best practices to be presented to the Governing Body in November 2005, efforts to promote ratification of international labour standards, development of a knowledge base and promotion of dialogue and cooperation with other concerned international agencies.

6 Development of national labour migration policies and structures

The session on policies and structures at the national level began with a presentation by Mr Ricardo Casco, Director of the Employment and Welfare Department of the Philippines Overseas Employment Administra-

tion. He stated that the role of government is to reflect the voice of its constituency. He then outlined the importance of setting policy objectives, identifying economic needs, ensuring transparent policies and mainstreaming migration governance. He pointed to specific responsibilities of governments and stakeholders for migration management. His presentation stressed policy coherence and social dialogue. In describing responsive structures for labour migration, Mr Casco presented the Philippine model. He then pointed to the need for structural coordination and stakeholder mobilization.

Mr Casco explained the Philippines uses a tripartite plus system with participation by migrant workers. Non-traditional employers are included in a Philippine sub-committee on labour migration. In looking at the economic needs of receiving countries, he pointed to temporary demand, strategic industries, foreign subsidiaries and inflation control. He noted that many of the Philippine nationals working in Europe have jobs as domestic workers and care givers. There is a tendency for political, cultural and security concerns to inhibit transparency. Mr Casco identified several areas of government responsibility including “labour diplomacy”. Protecting nationals abroad is one of the three pillars of the foreign service in the Philippines together with political security and economic diplomacy. This involves formulating contingency plans and media management for such threats as terrorism and SARS.³ Several areas of government responsibility presented by Mr Casco are outlined in Box 6.

Box 6: Government responsibility for labour migration

- Labour diplomacy included in the overall framework of foreign policy;
- Integrated programme for labour administration;
- Integrated development plan;
- Migration issues given a high priority by national human rights body;
- Legislative agenda for migration concerns;
- Coordinated framework of crisis response for migrant workers;
- Negotiation of agreements for fair trade and employment generation;
- Services for migrants and their families;
- Justice system receptive to migration issues;

³ Severe Acute Respiratory Syndrome.

- Human resources development for education and training responsive to global competition; and
- Programmes for nation building designed to involve migrant workers in skills development, technology transfer, trade and investment, small enterprise development, tourism and culture.

Source: Ricardo Casco, “Development of national migration policies and structures”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

In order to solicit feedback and promote discussion about the situation in participating countries, Mr Casco organized an exercise on government responsibilities for labour migration. The objective was for participants from each country to work together in order to identify which government agency takes the lead or provides support in delivering services for migration and migrants. The list of agencies includes those dealing with labour, police, health, insurance, justice, immigration, foreign affairs, social welfare, economic planning, national security, human rights and women’s issues. The list of services for migration relates to issuing passports; authenticating school documents; disseminating information about job vacancies; taking responsibility for worker visitation in detention centres; organizing pre-departure orientation; providing conciliation and mediation for complaints about contracts of migrant workers; supporting inspection and recruitment; undertaking labour market research; conducting language training and skills development; providing legal assistance in foreign courts; giving temporary shelter for “runaway” workers; developing standard employment contracts; supervising labour attachés; implementing minimum wage policies for migrant workers; issuing war risk insurance; offering marriage counselling services; providing foreign exchange and remittance services; and running empowerment programmes for women migrants.

The country groups discussed, “Who is in charge?” Is there an overlap in function? *Thailand* reported that services for migrant workers inside the country are organized by the Ministry of Labour, while the Ministry of Foreign Affairs takes responsibility for workers abroad. *Lao PDR* pointed out that without labour attachés to work with migrant workers, they must rely on the Ministry of Foreign Affairs to provide services abroad. The group argued that the host country should supply information about employment of migrants. Pre-departure programmes and detention centres are covered by labour and justice, while trafficking comes under the authority of the police and immigration. Lao participants thought that the labour ministry and foreign affairs should work together to look into the situation

of labour markets in destination countries. Skills development comes under the Ministry of Education and Human Resources Development. Remittances are handled by the central bank. The participants from *Mongolia* explained that embassies and consulates watch over Mongolians working abroad such as those in the Republic of Korea. There are no labour attachés. Mongolian participants had different opinions about foreign exchange. Some pointed to the central bank, while others thought the lead role was played by private companies and informal channels. *Cambodia* noted that labour migration is a new phenomenon that had developed over the past ten years. An Inter-Ministerial Steering Committee has been formed to work in Thailand on the Memorandum of Understanding on employment of workers.

Mr Martin then stepped in to talk more about structures for managing migration. He said that in receiving countries most workers are not migrants – migrant workers represent a small part of the labour force. Moreover, migrants are not evenly distributed within countries and across states and provinces. The main “ports of entry” are construction, agriculture, domestic helpers, small and medium enterprises and services such as restaurants. Because of the “network effect” migrants tend to leave from certain areas. Most people do not have passports. Since consular officers take money for issuing passports and visas, there is a fair amount of scepticism about the services provided by governments to migrants. Many people who leave their countries are in irregular status without a legal passport. It is therefore helpful to provide migrants with some kind of photo identification that allows them to open a bank account and send money home. It might be useful, Mr Martin argued, to think about encouraging the assistance of non-governmental organizations, church groups and trade unions.

Mr Martin stressed that migration is not a problem to be solved but something to be managed. He showed photos from a visit to the Philippine Overseas Employment Agency (POEA) explaining that some 2,500 migrants leave the country each day. In the Philippine case, the recruiter is jointly liable with the employer for the conditions of the contract such as the amount of payment. During pre-departure orientations workers are informed about their rights and told what to expect. Visa cards allow them to transfer money through the banking system. Basically, the POEA offers “one-stop” services needed by workers going abroad. There is a list of approved recruiters. Mr Martin showed a photo of the stage in the POEA where bands are certified as entertainers.

Mr Martin argued that it is difficult to design policies for short-term migration as opposed to an indefinite period. A receiving country must consider the “2-Ds” – distortion and dependence. This is the case for fish-

ing in Thailand, where an investor takes out a loan on a boat assuming that there will be migrant workers available to go out to sea for three to nine months at a time. Thai workers do not generally want these jobs. So how can countries introduce policies to reduce the “2-Ds”? According to Mr Martin, the way to do so is to “get the economics right”. For that reason, he personally favours the participation of migrants in social security systems of receiving countries, as long as they are repaid when they go back to their country of origin. This means that migrants are “not automatically twenty per cent cheaper than nationals”. Mr Martin said he thinks incentives are more effective than rules. In order to deal with the “3-Rs” for sending countries and the “2-Ds” for receiving countries, there is a need to think creatively about the incentives.

7 Review of the first day

At the beginning of the second day Ms Amartugs Tsenddavaa from the Ministry of Social Welfare and Labour in Mongolia provided an overview of the previous day. She reviewed the trends and causes of migration, the outcomes of the International Labour Conference and the development of policies and structures.

8 Models for managing migration

On the second day of the training workshop Mr Martin discussed models for managing migration. He began by talking about immigration in the “big four” countries of settlement – United States, Canada, Australia and New Zealand. He explained that in the United States there are four doors to “get in” – family reunification, job offer, refugee status and the lottery. For the other three countries, applicants must pass a “points test” based on such factors as education, language and experience. Mr Martin said that immigration is the easiest way of managing migration. About half of the immigrants into the United States are in the labour force. About 20 per cent later leave. In addition to the big four, there are special immigration programmes such as those in Israel for Jews and in Germany for Germans. The second model is Europe where “reluctant countries” invite guest workers followed by family reunification. “We asked for workers and we got people”. These were really “probationary” immigrants who came for one year with a renewal of permits. After five years migrants can bring their families. The third model is adding guest workers to the labour force as an alternative to immigration and settlement. “All guest worker programmes fail”, said Mr Martin, the question is by how much they fail.

The discussion then turned to mobility regimes – freedom of movement, regional trade agreements and the General Agreement on Trade in Services (GATS). Freedom of movement exists in Europe. Workers are allowed to seek employment in Europe, although the freedom is not perfect. Public sector employment is reserved for nationals. Generally, people do not move unless earnings differentials exceed 3 or 4 to 1. Since earnings in the European Union are now about twelve times higher than in Turkey, there is some concern about what will happen if Turkey becomes a member. Under regional trade agreements, there is freedom for some workers to move. This is the case for business in the Asia-Pacific Cooperation (APEC) countries and professionals within the ASEAN Free Trade Area (AFTA). Under the GATS there are four modes to trade in services listed in Box 7.

Box 7: General Agreement on Trade in Services

- Mode 1 Cross-border supply:** services provided from the territory of one country to another such as outsourcing IT from the United States to India.
- Mode 2 Consumption abroad:** services provided within a country to consumers from other countries such as a patient who travels and receives medical care abroad.
- Mode 3 Commercial presence:** services provided via a subsidiary abroad such as the case when a bank sets up a branch in another country.
- Mode 4 Temporary movement of natural persons:** people cross national borders to provide services such as when a doctor changes countries to provide medical care.

Source: Philip Martin, “Enhancing national capacity for migration management”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

In terms of managing guest workers, the goal is to add workers temporarily rather than settlers permanently. The outcome, warned Mr Martin, is that “there is nothing more permanent than temporary workers”. He went on to repeat two cautions of the “2-Ds”: distortions and dependence. If employers prefer migrants and make investments assuming that they will continue to be available, the result is distortions that lead to dependence. Migrant workers come to depend on the jobs and wages in other countries.

Mr Martin then talked about the ideals of setting up programmes for guest workers with economic incentives versus the reality that many migrants are in irregular status. Governments react to this reality, he said, by introducing measures to control the presence of migrants through identification and enforcement. An example is Thailand that has introduced a registration programme. Under the current registration workers are given one year to find a job and, if successful, can obtain work permits for one to two years. However, no registration is ever complete. Policies use a combination of “the carrot and the stick”.

In moving from irregular to regular migration, the United States and Europe have set up systems to register migrants with proof of employment. Official fees are minimal – usually equal to one week’s wages. What kind of fees do you set? Mr Martin explained that the aim is to encourage workers to come forward. Yet low wage workers cannot afford to pay much of a fee. In Thailand the cost to an employer registering a migrant is equal to about one to two month’s wages.

How do you keep temporary workers temporary? Mr Martin referred to the Memorandum of Understanding between Germany and Poland in which Polish workers can work for a maximum of 89 days with the option of leaving and returning legally two to three times a year. This obviously requires workers to go back and forth. Another way to keep workers temporary is to make the agreement time bound and tied to the project duration. For example, migrants can work with the company on a construction project that lasts two years. During this period the migrants remain employees of the company.

A third method is to introduce an economic incentive to return home such as withholding earnings. This is being used by the United States and Thailand – withhold 15 per cent of wages to be refunded together with social security credits when the worker returns home. Of course, it is necessary to make certain that the system works and the money is refunded. Mr Martin then went on to discuss alternatives to guest worker rotation. One is to allow probationary immigrants such as foreign students and professional workers. Another is to “earn” legalization such as in southern Europe and the United States.

With regard to managing the sending of workers abroad, he said a question is whether to allow all or some workers to leave the country. Another issue is the role of private recruiters versus public agencies in promoting the employment of workers abroad. The options are a public monopoly, a private monopoly or a combination of public and private. Mr Martin then went on to talk about setting and enforcing standards. One question about

standards is whose standards? Are these set by sending countries or receiving countries or both? Should these be formalized through bilateral agreements, MOUs or unilateral arrangements? He said that sending countries have most control over enforcing standards inside national boundaries. This means setting up pre-departure programmes and monitoring private recruiters. One way is to use “decoy” migrants to test the recruitment system. Another is to follow up on complaints from the migrants themselves. A question is who pays for enforcement – governments, recruiters or migrants? Mr Martin then asked how migrants view their government – friend or foe? He answered that migrants often think of their government as a foe. This raises questions about the roles of labour attachés and foreign consulates. How can they better protect migrant workers? Increased remittances have made this a higher priority. Another question is the role of private agencies and government authorities in return migration.

Where are we with regard to management of migration? Mr Martin cautioned that we must be careful not to do more harm than good. Intervention by governments in migration may actually make matters worse. There was a question from Cambodia about freedom of movement. Mr Martin pointed out that this kind of mobility usually involves a period of waiting for about five to ten years. Italians waited ten years to work in Germany. Greeks, Portuguese and Spanish waited seven years. Mr Wickramasekara asked for a clarification about the North American Free Trade Agreement (NAFTA). There is now freedom of movement for migrants with university degrees. Most of this movement is into the United States.

Mr Casco explained that the Philippines first introduced labour attachés in the late 1970s as a result of public pressure at home, despite some reluctance in host countries. Although the placement of labour attachés and welfare officers is expensive to maintain, the Philippines has tried to expand this service to nationals working overseas. In response to a question about ensuring that workers return, Mr Casco pointed out that the Philippines extends a “red carpet” at Christmas time. Mr Martin stressed the need for economic incentives. An example is allowing returnees to bring in tax-free goods.

A participant from Mongolia asked about how bilateral agreements fit into the multilateral framework that was discussed at the International Labour Conference. Mr Casco responded that bilateral agreements can be useful steps toward sub-regional discussions such as those for the ASEAN sub-regional growth areas. He said that the Philippines has negotiated a high-level agreement with Japan that has not yet been signed.

Mr Martin added that many ILO Conventions have not yet been ratified by receiving countries. Mr Wickramasekara explained that the International Labour Conference 2004 adopted a Resolution on a fair deal for migrant workers which included a non-binding multilateral framework on migration. During the 1950s and 1960s bilateral labour agreements were popular for transferring labour for post-war reconstruction. Since the 1970s few countries have signed bilateral labour agreements, although there have been social security agreements. While the Migration for Employment Recommendation (Revised), 1949 (No. 97) accompanying Convention No. 97 contains a Model Agreement on Temporary and Permanent Migration for Employment, it has not been widely adopted. Mr Wickramasekara added that now it is more common to have Memoranda of Understanding. However, there is some concern at present about the content of recent MOUs in Asia which impinge on worker rights and seem to be imposed on source countries by the receiving countries. He added that there was a major OECD conference on bilateral labour agreements in 2003.

While there are rules that govern the transfer of trade and technology across borders, no framework currently covers labour movements. The International Labour Conference 2004 proposed non-binding guidelines for a multilateral framework rather than a more concrete international regime, given the opposition of many governments to such a proposal. Mr Wickramasekara explained that the idea was to set up best practice guidelines for protection of migrant workers, improving migration policies and migration-development linkages that draw on international instruments and experience.

Mr Martin added that under the General Agreement on Trade in Services, developed countries would like to place banking services and insurance companies in developing countries. They have an advantage in terms of economies of scale. The developing countries, on the other hand, want to move people across borders. One way to do this would be to set up a company and then open a subsidiary abroad – in other words, copy the pattern of developed countries. The idea that developing countries could turn the GATS Mode 4 into a system for international migration should be considered with caution. Mr Wickramasekara said that the GATS Mode 4 – movement of natural persons – has up to now promoted temporary movement of skilled workers only to a limited extent.

Mr Casco explained that the Philippines has 44 bilateral agreements and more are in the pipeline. Some were signed long ago. One problem is that the receiving countries worry other countries will request similar agreements.

9 Sending workers abroad: The Vietnamese experience

The next presentation was by Mr Nguyen Ngoc Quynh from the Department of Overseas Labour of the Ministry of Labour, Invalids and Social Affairs (MOLISA) in Viet Nam. His remarks were divided into two parts. The first was an overview of the policies for sending workers abroad. The second covered measures taken to promote overseas employment including mechanisms, recruitment, training and protection. Between 1980 and 1990 it was government authorities that organized sending workers overseas. After that time, companies made arrangements for placing workers in jobs abroad.

Mr Quynh pointed out that Viet Nam has paid close attention to working conditions, legal rights and recruitment procedures for migrant workers. During the first phase from 1980 to 1990 a total of 295,000 workers were sent to Eastern Europe (268,000), Iraq (20,000) and Africa (7,200). The mechanism was through government agencies – recruitment by the Vietnamese government and placement by host governments. Toward the end of this period Viet Nam began shifting from central planning to market mechanisms by setting up “economic organizations” for overseas employment services.

After 1990 a number of different decrees were issued to govern the process of sending workers abroad. The first was Government Decree No. 370 in 1991 stating that all Vietnamese seeking jobs overseas must be licensed by state-owned economic organizations. The government formulated and monitored policies. This measure was revised with Government Decree No. 7 in 1995 that simplified administrative procedures and stipulated the rights and responsibilities of economic organizations and migrant workers. A second revision in Government Decree No. 152 in 1999 allowed for political, social and mass organizations as well as state-owned economic organizations to be considered for licenses. Workers could register direct contracts with foreign employers and provincial authorities, replacing a system that required prior approval. A third revision in Government Decree No. 81 in 2003 provided an opportunity for all types of companies to be considered for licenses to send workers abroad.

**Table 1: Number of workers sent abroad
from Viet Nam, 1991-2004**

1991	1,022	1998	12,240
1992	810	1999	21,810
1993	3,960	2000	31,500
1994	9,230	2001	36,168
1995	10,050	2002	46,122
1996	12,660	2003	75,000
1997	18,470	First half of 2004	30,000+

Source: Nguyen Ngoc Quynh, “Viet Nam’s experience in sending workers abroad”, Presentation at the ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, 2-6 August 2004.

After 1991 the main destinations for Vietnamese migrants were Taiwan (China), Republic of Korea, Malaysia, Japan, Lao PDR and the Middle East. Workers sent to the Republic of Korea and Japan were included in trainee programmes. Those working in Lao PDR were employed by Vietnamese enterprises. The number of workers sent by companies from 1991-2003 was 309,042. The total stock of workers abroad in 2003 was estimated to be 350,000.

Mr Quynh explained that Viet Nam was sending workers abroad due to its large and growing labour force. Unemployment in urban areas is 5.9 per cent and the “time-use rate” in rural areas is 77.9 per cent. He said Viet Nam’s labour force is well educated and highly valued. Some shortcomings are lack of vocational skills and foreign languages. In addition, sending workers overseas is not a common practice.

Both sending companies and government agencies have responsibilities for placing workers in jobs abroad. In describing measures to promote overseas employment in Viet Nam, Mr Quynh talked about formulating policy, recruiting workers, training recruits, protecting migrants and preventing malpractices. The Ministry of Labour, Invalids and Social Affairs formulates policy, issues licenses and monitors activities of sending companies in administering overseas employment. The Ministry of Foreign Affairs conducts diplomacy for migration. Viet Nam does not have a welfare institution, but there is an Overseas Employment Support Fund financed by the government budget rather than workers’ contributions. Mr Quynh said there are 145 licensed sending companies of which 5 are private enterprises. These companies must have a minimum of VND 5 million in registered capital. Companies have their own training facilities. Staff are generally well educated with at least a university degree in a related field

such as economics, law and languages. Many are companies with investments or contracts abroad. Priority in recruiting Vietnamese workers for overseas jobs is given to poor workers in difficult circumstances and from remote areas. Workers should be qualified, he said. Steps are taken to avoid illegal practices and to protect workers from being cheated.

Training is conducted by sending companies and government agencies. The training curriculum is stipulated by MOLISA. Courses include the language of the receiving country, laws of both Viet Nam and the receiving country, recommended behaviour in the receiving country, provisions of labour contracts and upgrading of skills, if needed.

Measures to protect workers abroad include consultations and agreements with foreign countries such as Lao PDR and Russia and MOUs with Malaysia and the Republic of Korea; labour attachés provide services in the Czech Republic, Germany, Japan, Malaysia, Republic of Korea, Russia and Taiwan (China). Sending companies in receiving countries also offer migrant services. Mr Quynh stressed that Viet Nam is combating malpractice. Cheating is considered a crime. Sending companies are regularly inspected by MOLISA. Mr Quynh concluded by saying that while no policy is perfect, Viet Nam is doing its best to design measures to meet the challenges of sending workers abroad.

Mr Jong-Kil Park, Expert on Vocational Training and Coordinator of the ILO/Korea Partnership Programme in the ILO Sub-regional Office for East Asia, asked a question about training. Mr Quynh answered that pre-departure training is usually for one to three months. Migrants pay a fee. However, since the sending companies should all have training facilities, the fees are generally low. In this sense, the cost is borne by both the workers and the companies.

Mr Zalmaa Sukhbaatar asked about recruitment companies. Are these only engaged in recruitment or are they producing goods and services at home or abroad? Mr Quynh explained that the companies must meet certain criteria to receive a license such as employing at least 200 workers and having training facilities. Mr Wickramasekara noted the preference given to poor workers. He pointed out that links between migration policies and pro-poor development are of interest to donors. He asked about remittances. Mr Quynh explained that up until this point there has been no regular system for transfer of worker remittances back to Viet Nam.

A question was raised about working conditions. Mr Quynh explained that labour attachés oversee the conditions in some countries. However, Viet Nam does not provide this service in all countries.

Elsewhere, someone in the embassy is assigned the responsibility for migrant workers. Mr Casco pointed out that with large amounts of foreign direct investment (FDI) in Viet Nam, jobs could be created inside the country.

10 Employing foreign workers

Mr Wimol Prum, Deputy Director of the Department of Foreigners in the Ministry of Interior, made a brief presentation on the experience of Cambodia in employing foreign workers. Mr Wimol pointed out that migration management of foreign workers involves foreign policy as well as policies for investment and migration. The foreign policy of Cambodia, he explained, is driven by principles of neutrality and non-alliance. Investment policies are aimed at encouraging internal investment and strengthening international cooperation. Cambodia uses incentives to attract investment from abroad. Labour migration policies include monitoring the conditions of foreign employees, reporting on foreign workers and overseeing employee contracts and workers' benefits. There are also policies for trade unions and workplace safety. Much of this information is submitted to the labour ministry. Cambodian law covering employment contracts sets conditions for termination of employment by either party. Workers in Cambodia have the right to form associations and to strike. Mr Wimol explained that it is forbidden to discriminate in labour and employment. Benefits to workers include maternity benefits, paid holidays and medical care. Regulations for workplace safety aim to ensure an environment that is clean and safe. Cambodia grants permission to foreign nationals for management personnel, technical staff and skilled workers as well as spouses and dependents.

Mr Wimol presented statistics showing a total of 2,493 nationals from 31 countries registered as working in Cambodia. Of these 2,085 are from China, 214 from Thailand and 73 from the Philippines. The Australian government is providing support for enhanced migration management in Cambodia. This cooperation involves several components related to administrative structures, training courses, induction programmes, migration legislation, a manual control system at two international airports in Phnom Penh and Siem Reap with an immigration handbook, a computerized border control system and a wrap-up conference on migration management.

Mr Wickramasekara enquired about the main problems of migration management faced by the country as well as the scope and time frame for the Australian project. Mr Wimol responded that one of the problems is dealing with two ministries. The labour ministry is involved in managing Lao workers. It is working with the ILO on this. There is a plan to place labour attachés in countries of the sub-region to deal with issues that arise outside

of Cambodia. Under the Australian project the International Organization for Migration (IOM) will organize a wrap-up conference that will include all major stakeholders. Ms Sutida Srinopnikom asked a question about the induction programme. Mr Wimol explained that training is provided on international law, migration law, passport issues and practical measures. Cambodia also has national checkpoints throughout the country to deal with terrorism. Mr Zalmaa Sukbaatar wanted to know where foreign workers are employed in Cambodia. Mr Wimol responded that many foreign nationals are technical experts and skilled workers in the garment industry.

There followed a discussion about the Memorandum of Understanding between Cambodia and Thailand. The ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women (TICW) has supported the Department of Employment and Manpower in developing the MOUs on employment and trafficking. A national workshop was organized to look at management strategies, an action framework and a joint proposal. An Interim Steering Committee is comprised of the Council of Ministers, labour ministry, interior ministry and foreign affairs. The Department of Employment and Manpower within the labour ministry is taking a lead on registration and procedures to regularize and legalize foreign workers in Thailand.

Mr Martin added that in many countries the only place to register is in the capital city. What about the provinces in Cambodia? Mr Wimol replied that although there are offices at the provincial level, his understanding is that workers must register at the central office in Phnom Penh. Mr Martin noted that in Maldives it is cheaper to go across the border than to travel to the capital city. Mr Wimol explained that migration management is new in Cambodia. Virtually all of Cambodian workers abroad are in irregular status. The main receiving countries are the Republic of Korea, Malaysia and Thailand.

The next speaker was Mr Yoo Kil-Sang of the Korea Labour Institute who talked about the labour market for migrant workers in the Republic of Korea. He began with an overview that examined the situation in which economic development was accompanied by a shift from sending workers abroad to employing foreign workers beginning in the late 1980s. By December 2003 migrant workers comprised 2.7 per cent of the wage workers or 1.8 per cent of the total workforce in Korea. Mr Yoo acknowledged that policy failures resulted in a high proportion of undocumented workers. His presentation reviewed some of the trials and errors in bringing low-skilled migrant workers to the Korean labour market.

An Industrial Skill Trainee Programme for Overseas-Invested Firms was introduced in 1991 to deal with a shortage in low-skilled labour. Before that time only foreigners who were professional workers or highly skilled received permission work in Korea. Under this new programme overseas-invested enterprises could employ migrant workers as trainees for a period of up to twelve months. In 1993 an Industrial Trainee Programme was introduced to help small businesses deal with labour shortages. This programme allowed small and medium manufacturing firms with fewer than 300 employees to employ foreigners as trainees for two years. Since then the quotas have been increased and the coverage was extended to the coastal fishery industry in 1996 and the construction industry in 1997.

Table 2: Quotas for trainees, 1993-2002

1993	1994	1995	1996	1997	2000	2002
20,000	30,000	50,000	80,000	82,800	84,500	145,500

Source: Korea Labour Institute, A Survey of the Employment Situation of Migrant Workers, 2003, cited in Yoo Kil-Sang, "Migrant Workers' Labour Market in Korea", presented at the ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Mr Yoo pointed out that the trainee programme has been criticized as a "disguised" programme, since there is no off-the-job training. Migrants have not been protected under labour laws, since they are considered to be trainees rather than workers. A Post-Training Employment Programme was introduced in 2000 to address some of the issues raised by offering industrial trainees who had worked legally for two years an opportunity to continue for another year as a worker rather than trainee. In 2002 the training period was reduced from two to one year, while the post-training employment was extended from one to two years. An Employment Management Programme was introduced that year, allowing migrant workers who are ethnic Koreans to work in service jobs, if they have a close relative in Korea. This opened up employment for three years in business support services, social welfare services, restaurants, cleaning, nursing and housekeeping.

Korea has now introduced a Guest Worker Programme. Mr Yoo explained that this programme was designed to address the large proportion of undocumented migrants that had reached 80 per cent in 2002. At the same time, Korea faced a labour shortage. Earlier attempts to transform the industrial trainee programme into a guest worker programme had met

political opposition. An Act on the Employment Permit for Migrant Workers passed in 2003 allowed the Guest Worker Programme to come into effect on 17 August 2004. The Industrial Trainee Programme remains in effect. Under the new law employers can hire foreigners as workers. Migrant workers are covered by the same labour laws as Korean workers. Employment contracts for one year can be extended to a maximum of three years. The idea is that the trainee programme will then be limited to skills training.

The number of irregular migrants in Korea has dropped since October 2003 with the legalization of migrant workers in irregular status and efforts to prevent irregular employment of foreign workers. Mr Yoo presented data and analysis from “A Survey of the Employment Situation of Migrant Workers” conducted by the Korea Labour Institute during July-October 2003. Of the 846 firms included in the survey, 600 were employing foreign workers legally. When asked about the reasons for using migrant workers, 85.9 per cent replied that it is hard to find domestic workers. Two-thirds (65.1 per cent) responded “because the wages of migrant workers are lower than domestic workers”. Most migrant workers are recruited through private employment agencies (63.8 per cent). Just 22.6 per cent are recruited by fellow migrants. The remaining 14.8 per cent were hired after direct visits of the workers to the firm.

According to the survey, the most important factors considered in hiring foreigners are country of origin, personality and skills. Six out of ten firms responded that the number of migrants should be kept at the same level, while three in ten thought that there should be an increase. Only one in ten replied that the number of migrants should be reduced. In the construction industry 55 per cent of the firms responded that more foreign workers should be employed.

On average migrant workers earn 76.7 per cent the amount of Korean workers or 1,011,700 *won* per month but migrants work longer hours – 261 hours per month or 107 per cent of the hours of domestic workers. This means that measured in terms of hourly wages, migrant workers make 71.4 per cent of the hourly rate of domestic workers. The study goes on to estimate labour costs of migrants versus nationals. Since most employers pay lodging expenses of migrant workers, labour costs of migrants are estimated to be 86.1 per cent that of Koreans.⁴ However, labour productivity of migrant workers is calculated at 87.4 per cent of domestic workers.

⁴ The survey found that the average monthly lodging expenses of migrant workers was 214,000 *won*.

Mr Yoo explained that this implies that there is no “low wage incentive to employ migrant workers. The wage level of migrant workers is close to that of labour cost when labour productivity is reflected.

Table 3: Comparison between migrant workers and domestic workers doing the same jobs in respect of labour costs and labour productivity

Hourly wage of Korean workers in <i>won</i>	Hourly wage of migrant workers in <i>won</i>	Migrant wage as a percentage of Korean wage	Hourly labour cost of migrant workers including lodging expenses in <i>won</i>	Labour cost of migrant workers as a percentage of hourly wage of Korean workers	Labour costs of migrant workers in relation to domestic workers
(1)	(2)	(3) = (2)/(1)*100	(4)	(5) = (4)/(1)*100	(6)
5,600	4,000	71.4	4,820	86.1	87.4

Source: Korea Labour Institute, A Survey of the Employment Situation of Migrant Workers, 2003, cited in Yoo Kil-Sang, “Migrant Workers’ Labour Market in Korea”, presented at the ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

The survey looked at the complexity of jobs performed by migrant workers and concluded that these do not require high skills – the smaller the business, the less complex are the jobs. It takes an average of 3.6 months for workers to learn the skills they need to perform their jobs. Just under half of Korean firms provide job training to migrant workers. The method most widely used is in-house collective training (77.2 per cent) rather than on-the-job training (20.8 per cent). The most serious obstacle encountered by migrant workers is the language barrier (66.1 per cent) followed by cultural differences (24.0 per cent). Low skills were not considered to be a major obstacle to the performance of duties (9.4 per cent). The minimum wage was found to be the most important factor in wage determination. Overall, the study indicates that the government should develop regular channels for labour migration to meet the demand for foreign workers. Policy recommendations are summarized in Box 8.

Box 8: Policy recommendations for labour migration in the Republic of Korea

- The Korean experience on labour migration suggests that the government should develop a legal supply system for migrant workers, if there is a demand for foreign workers.
- Considering the total labour costs and labour productivity of migrant workers, the wage level of migrant workers is close to the market wage. This implies that the Guest Worker Programme may not increase the wage level of migrant workers in Korea.
- The survey shows that language difficulties and cultural differences are major obstacles to the labour productivity of migrant workers. This implies that migrant training on the language and culture of the host country is important. At the same time, Korean employers and workers would benefit from training about the culture of sending countries.
- The human capital variables such as education and experience have a positive and significant effect on the wage level of domestic employees. However, regression analysis shows that these variables do not have a significant impact on wage levels of migrant workers. Employing migrant workers with low skill levels may result in higher social costs. In order to reduce the social costs, Korea should develop a well-defined recruitment system for migrant workers.

Source: Yoo Kil Sang, “Migrant workers’ labour market in Korea”, Presentation at the ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Mr Martin asked about the MOUs that the Republic of Korea has signed with six countries. Are there provisions for sending back irregular workers to countries of origin? Mr Do-Young Lee, Deputy Director of the Division of Migration Work in the Ministry of Labour, replied that the quota for each sending country is about 6,000. The exact figure takes into consideration the number of irregular workers currently in Korea and other factors that are being discussed with sending countries. Next year an estimate will be made for the number of foreign workers in irregular status. Mr Jong-Kil Park then asked how many workers in irregular status are from Thailand? What is the priority of employers? What is the process by which migrant workers will be sent home? What percentage of migrant workers from each country are in irregular status? Mr Yoo replied that the Korea Labour Institute has been trying to estimate the demand from employers. Each year the performance of workers and the demand by employers will be evaluated for each sending country. There have been heated discussions in Korea about what is the “true demand” for migrant workers.

Ms Thetis Mangahas, Chief Technical Advisor of the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women, asked which six countries have signed MOUs with the Republic of Korea. What will be the position of workers in terms of provisions of labour contracts and access to labour courts? The answer was that the countries are Indonesia, Malaysia, Mongolia, Philippines, Thailand and Viet Nam. Guest workers can stay for up to three years and then re-enter under a different status. Migrant workers cannot change employers by themselves. However, if the company for which they work shuts down, does not pay salaries or breaks the law, the public employment services can find a new employer for the migrant workers. In terms of labour protection, foreign workers will be treated the same as Korean workers under the labour law.

Mr Park asked a question about wages. There is an incentive for migrant workers to look for employment in Korea, since the wages are 7-14 times what they are in sending countries. Korean workers are not filling the jobs, despite the fact that when lodging costs and labour productivity are included in the calculations, foreign workers are not really "cheaper". Mr Martin pointed out that if an industry employs a workforce that is 60 per cent migrant workers, this implies that employers would need to pay more to attract Korean workers. Mr Yoo pointed out that young people do not want to work in some of the jobs filled by foreigners. Many high school and college graduates are not attracted to jobs in manufacturing and construction.

Mr Zalmaa Sukhbaatar from the Confederation of Mongolian Trade Unions pointed out that during the Asian economic crisis small firms in Korea did not pay wages to migrant workers from Mongolia. As a result trainees looked for work elsewhere. According to the Ministry of Foreign Affairs, there are about 15,000 Mongolians in irregular status. He asked if there are provisions in the new law for social insurance and occupational safety and health? Mongolia has included these in its National Plan of Action for Decent Work. Mr Yoo responded that as industrial trainees, migrant workers were not covered, but as guest workers they are entitled to the same protection as Korean workers. Ms Mangahas pointed to the experience of the Philippines in setting up a one-stop-shop for services in sending workers abroad that includes recruitment, training and remittances. Mr Ricardo Casco noted that Philippine workers who leave trainee status to look for irregular jobs often became indebted to Korean brokers or Philippine recruiters.

Mr Nara Rattananut, Chief of the Irregular Workers Control, then reported on the situation of Thailand. For many years, he said, Thailand sent

workers abroad. Allegations of cheating workers led to a 1985 law to protect workers from fraud and exploitation. In 1989 there were problems in Saudi Arabia. After 1992 more Thai workers found employment in Taiwan (China) and Israel. Since 1992 increasing numbers of foreign workers have been looking for work in Thailand. Most come from Cambodia, Lao PDR and Myanmar. Only 700 were registered in 1992.

According to Mr Nara, there were 2,224,142 foreign workers in Thailand. Among the 1,280,000 who registered during July 2004, 71.4 per cent were from Myanmar, 14.3 per cent from Cambodia and 14.3 per cent from Lao PDR.⁵ Six directives were announced by the Prime Minister on 21 July 2004 concerning issues related to – the use of workers in some sectors of the economy; identification cards; employment of foreign workers; procedures for regularizing status; job creation; and the border economy. Preliminary figures showed that 216,977 registered employers reported that they needed 1,392,707 migrant workers. The breakdown was 70.4 per cent from Myanmar, 15.9 per cent from Cambodia and 13.7 per cent from Lao PDR. In terms of the requirements requested by employers during the registration, Mr Nara reported that there is a demand for migrant workers in the following areas: agriculture (27.0 per cent), construction (16.5 per cent), domestic services (12.4 per cent), fishing (9.2 per cent) and other (34.9 per cent).⁶

A question was asked about how many Cambodians are in each province of Thailand. Mr Nara replied that there were new numbers for current workers in irregular status that will later be included in the official statistics. A participant from Lao PDR asked about how the problem of overstay is solved. The response was that the number is determined by looking at the records of visas issued when entering the country. Mr Martin asked if it is possible for a migrant without an employer to register. The answer was yes. Migrants will have one year to find a job. Ms Sutida Srinopnikom, ILO Programme Officer, asked if the numbers represent just workers or whether they include the families of migrants. The answer was that the numbers include members of families. The idea is that the families would be sent back to the country of origin. However, Mr Nara admitted that it might be difficult in practice to force families to return. Unregistered workers must leave Thailand and come back with legal documents. However, there is a demand by employers who are paying

⁵ These percentages are based on preliminary figures showing a total of 1,269,074 registered migrants.

⁶ Preliminary data from the Centre for Migrant Worker Management, Department of Employment, Ministry of Labour.

recruiters 4,000-5,000 *baht* to bring in workers. What about seasonal workers? These are not counted in the current registration. The government will give the CEOs in each province the authority to arrange for seasonal workers and daily commuters in the next phase.

A question was asked about how much workers are charged for registration. The reply was that there is no fee. Rather, there are charges for health insurance (1,300 *baht*) and a medical check-up (600 *baht*). What about those who cannot pay? “No pay, no work”. Employers pay for work permits and these charges are generally passed on to employees through deductions in wages – application fee for work permit (100 *baht*) and fee for 3 months (450 *baht*), 6 months (900 *baht*) and one year (1,800 *baht*). Thus, the total cost for one year is 3,700 *baht*.

Mr Wickramasekara noted the parallels between Korea and Thailand, where both will have Memoranda of Understanding with sending countries. He asked about how the quotas are set. Mr Nara answered that the Prime Minister of Myanmar will come to Thailand to discuss the MOU in the same way that Cambodia and Lao PDR have already done. What about an inspection system to check on minimum wages? Is there a mechanism for complaints? Mr Yoo responded that in Korea there is a difference between law and practice. A mechanism will be set up with an increased number of labour inspectors in local offices. In Korea a role will be assigned to NGOs. Active participation will also be encouraged by the migrants themselves.

A number of changes have been made in the recent registration in Thailand. The approach is now by geographical area. Registration will involve not just foreign workers, but will also include information about employers and lodging. Before opening jobs up to migrants, there will be an attempt to see if unemployed Thais can fill the job vacancies. Using estimates from the Thailand Development Research Institute, the governors will set quotas for Bangkok and the provinces. The *tambon* will be the unit of administration. Employment service centres will be set up in target areas. The system is thus to be decentralized. The Deputy Prime Minister will visit nearby provinces to make certain that all foreign workers are registered. Then quotas will be estimated for Chiang Mai and elsewhere.

A participant from Cambodia asked if migrant workers in irregular status can form trade unions. Mr Nara said he had not considered the matter. He mentioned the issue of language. Mr Wickramasekara added that the question about whether migrant workers can form unions was an important one. Freedom of association is a fundamental right and is part of

the Fundamental Principles and Rights at Work and Its Follow Up enshrined in the ILO Declaration and endorsed by all member States of the ILO. He asked how employers, workers and civil society were involved in decisions about migrant workers and in formulation of migration policies. Ms Siriwan Romchatthong explained that in Thailand all companies with more than 50 workers must have a worker committee that is used as a channel to discuss issues with employers. In order to provide equal opportunity and equal treatment, migrant workers can belong to this committee as long as they are employed in the company.

There was a question from Lao PDR about how many workers are sent abroad from Thailand. Is there a mechanism to find out about the labour market for foreign workers in other countries? The response was that every year Thailand sends about 120,000 workers to jobs overseas.

Ms Teresa Soriano, Executive Director of the Institute for Labour Studies in the Department of Labour and Employment in the Philippines, then made a presentation on “Employing foreign workers”. She said that the objectives were to provide a general understanding of different models used to employ foreign workers; to identify the factors affecting host country policy for foreign workers; and to enhance skills in preparing for negotiations as either a sending country or a receiving country.

She explained that migration policies are shaped by different and conflicting interests and objectives. Admission of highly skilled foreign workers may be necessary for a country to maintain competitiveness and stimulate growth. Temporary foreign worker programmes are established to meet cyclical labour shortages. Ms Soriano said labour shortages may be “absolute” or “relative”. Absolute shortages result when countries simply do not have the workers and skills that are needed for a given technology in order to produce planned output. Relative shortages occur when there are insufficient numbers of domestic workers who are willing to fill certain vacancies. Unfilled jobs are often low-wage employment and unpopular occupations as well as employment opportunities in remote regions or in small industries on the margins of profitability with poor working conditions. Whether there is an absolute shortage or a relative shortage, receiving countries will need to formulate policies. Some considerations are listed in Box 9.

Box 9: Some considerations for formulating policies for foreign workers

- What mechanisms are in place to promote principles, ensure coordination and facilitate implementation?
- What are the roles of public employment services or special immigration services?
- What role should the private sector play?
- How can employers establish links to a labour supply abroad?

Source: Teresa Soriano, “Employing foreign workers”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

After formulating a migration policy and identifying a coordinating mechanism, it is necessary, she said, to find suitable agencies for specific tasks. In this case, social dialogue is useful to link government agencies and social partners. Employers’ organizations should be involved in the process of establishing links with the labour supply in foreign countries. The arrangements for recruiting foreign workers can be made through a framework agreement, bilateral agreement or Memorandum of Understanding. To make the scheme operational, there needs to be a system in place to determine market needs and seasonal demand. A mechanism should be worked out to authorize permits and visas. It may be necessary, explained Ms Soriano, to establish quotas and fines. Monitoring requires information including statistics.

11 Review of the second day

Mr Thongdaeng Singthirat, Deputy Director-General of the Department of Labour in the Lao People’s Democratic Republic, summarized the work of the second day by dividing it into theory and practice. He said that the theoretical issues for managing migration were provided by Mr Philip Martin and Mr Ricardo Casco. Ms Teresa Soriano introduced some flow charts to provide an overview. The practice of migration management was highlighted by the experience of Viet Nam, Cambodia, Republic of Korea and Thailand.

12 International labour standards for migrant workers

Mr Tim De Meyer, Senior Specialist in Labour Standards of the ILO Sub-regional Office for East Asia, spoke about protecting the human rights of men and women migrant workers and promoting their equal treatment and opportunity. He said that the need to protect migrant workers had been explicitly reiterated at each of the “three defining moments” of the ILO – the ILO Constitution (1919), the Declaration of Philadelphia (1944) and the Declaration of Fundamental Principles and Rights at Work (1998).

Workers migrate, he said, because they are looking for opportunities. This involves issues of national sovereignty and cultural identity, which member States may legitimately protect. Mr De Meyer explained that unless otherwise specified in the instruments concerned, all of the ILO’s 185 Conventions and 195 Recommendations adopted to date cover nationals and non-nationals alike, but do not impinge on the sovereign right of States to regulate access to the territory or to the national labour market. For example, once a person gets to work in a country that has ratified minimum wage-fixing standards, he or she is entitled to the same minimum wage as national workers. And in a country that has ratified the Maternity Protection Convention, 2000 (No. 183), that same protection should be applied to migrant workers. If a country has ratified the Protection of Wages Convention, 1949 (No. 95), migrant workers in that country should not be paid entirely in kind nor should their wages be subject to unlawful deductions, irrespective of whether nationals are treated equally.

Mr De Meyer explained that international labour standards do not compromise the right of sovereign States to admit or refuse non-citizen entry into the territory or to issue and renew residence or work permits. However, there are recommendations such as those regarding the free choice of employment, application for citizenship and reunification of families so as not to prolong unnecessarily the vulnerability that restrictions create. There are also recommendations about conditions for termination of employment and appeal against orders for expulsion.

It is important to note that ILO’s Fundamental Principles and Rights at Work apply to both nationals and migrants including those in a regular status and irregular status. Among these are the freedom collectively to defend and further work-related interests such as the right to organize, bargain collectively and strike; freedom from coercion at work and the right to be protected against forced labour; freedom from child labour; and freedom from discrimination on the basis of race, colour, sex, religion, social origin, national extraction and political opinion.

Mr De Meyer then presented the numbers of Asian and Pacific countries that have ratified fundamental ILO Conventions as of 20 July 2004: Forced Labour Convention, 1930 (No. 29), *73 per cent*; Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), *50 per cent*; Right to Organize and Collective Bargaining Convention, 1949 (No. 98), *60 per cent*; Equal Remuneration Convention, 1951 (No. 100), *77 per cent*; Abolition of Forced Labour Convention, 1957 (No. 105) *57 per cent*; Discrimination (Employment and Occupation) Convention, 1958 (No. 111), *60 per cent*; Minimum Age Convention, 1973 (No. 138), *50 per cent*; and Worst Forms of Child Labour Convention, 1999 (No. 182), *67 per cent*.

Freedom of association. Migrants in both irregular and regular status should be given the right to join organizations of their own choosing, seek assistance from existing organizations, establish organizations of their own choosing, become office bearers (although a minimum period of lawful residency may be required), elect representatives, be consulted by the management, use machinery for arbitration and conciliation in the settlement of disputes, bargain collectively and strike to defend and further their interests.

Forced labour. Forced labour includes any work that is based on coercion by another person instead of free choice by the worker. It is a recognized endpoint of the trafficking process, so that countries which effectively combat forced labour are less attractive as a trafficking destination. Forced labour includes any service under degrading and inhumane conditions to which typically domestic workers and workers in irregular status are more vulnerable.

Child labour. The ILO child labour Conventions are ratified by a rapidly growing number of countries including those in the Asia-Pacific region. Children of migrants in both regular and irregular status are more vulnerable to child labour but should equally benefit from protective legislation. It is critical to provide registration and certification at birth in order to enforce minimum age legislation. This is also important for data collection used to determine priorities for action on child labour.

Discrimination. Although Convention No. 111 permits different treatment between citizens and migrants at work on the basis of citizenship, it does not allow discrimination among different nationalities of migrant workers on the basis of religion, sex, race, colour and so forth. It does not allow different treatment of citizens on the basis of national ancestry versus foreign ancestry. Nor does the Convention allow that in a ratifying State migrant workers are denied equal treatment or opportunities for reasons of race or colour.

In addition to the core Conventions, Mr De Meyer outlined protection under the Private Employment Agencies Convention, 1997 (No. 181), the UN Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Optional Protocol to the Convention on the Rights of the Child; the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The ILO Private Employment Agencies Convention, 1997 (No. 181) recognizes that private employment agencies can help the functioning of labour markets. Article 7 states that private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers, but exceptions for certain categories of workers are possible, if organizations of employers and workers are consulted beforehand. It calls for the protection of migrant workers and the prevention of recruitment abuses and fraudulent practices. Bilateral agreements should be considered to prevent abuse and fraud. Measures should also be taken to prevent private employment agencies from supplying child labour. Mr Ricardo Casco mentioned that in the Philippines a sub-committee on labour migration has been formed to consider the ratification of Convention No. 181. This will include a tripartite discussion. The sub-committee will consider whether private employment agencies can be allowed to collect up to one month's salary. The Secretary of Labour has written to ILO Director-General Juan Somavia to ascertain whether this is an acceptable extension of Convention No. 181.

Mr De Meyer explained that the UN Convention Against Transnational Organized Crime and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children provides an authoritative definition of trafficking and contains provisions on protection and assistance to trafficking victims. The Optional Protocol to the Convention on the Rights of the Child defines sale of children, child prostitution and child pornography. It provides for appropriate measures to protect the rights and interests of children, focusing primarily on criminal justice. The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has many provisions similar to those of ILO Conventions Nos. 97 and 143. The main differences are that the UN Convention has a wider definition of family, includes a broader scope of protection including frontier workers, self-employed workers and seafarers, contains a "watered down" version of free choice in employment, and recognizes the possibility of individual complaints.

Migration policies, said Mr De Meyer, are employment policies. Any policy that affects the opportunities of people to emigrate or immigrate

must be subject to the overarching objective to promote full, productive and freely chosen employment with a view to raising standards of living for all. This brings up issues of coordination, consultation and enforcement, meaning that countries of emigration should focus more on the creation of employment opportunities and better working conditions to reduce the need to migrate in search of work.

An approach to migrant workers is to conclude bilateral and multi-lateral agreements covering issues such as the right of entry and stay, the protection of rights resulting from employment, the promotion of education and training opportunities for migrant workers, the provision of social security, and assistance to workers and members of their families who wish to return to their countries of origin.

What is an international labour standards approach to migrant workers? Mr De Meyer explained that the objective is to regulate the conditions in which the migration process takes place and to provide specific protection for a very vulnerable category of workers. To achieve this, he said, the standard-setting activities of the ILO have been concentrated in two main directions: (i) to establish the right to equality of treatment between nationals and non-nationals in the field of social security and at the same time to institute an international system for the maintenance of acquired rights, and rights in the course of acquisition, for workers who transfer their residence from one country to another; and (ii) to find comprehensive solutions to the problems facing migrant workers and adopting a number of instruments to this end.

Mr De Meyer then turned to an explanation of Conventions Nos. 97 and 143. The historical context of the Migration for Employment Convention (Revised), 1949 (No. 97) was a concern to facilitate the movement of surplus labour. The aim was the protection of workers from discrimination while employed in countries other than their own. It deals with migrants in regular status. Convention No. 97 covers migrants who are regularly admitted for paid employment and does not include own-account workers, frontier workers, self-employed persons, short-term entry of professionals and artistes, and seafarers. All migrant workers are treated alike with no distinction between spontaneous versus organized or skilled and unskilled. Convention No. 97 regulates the conditions in which migration for employment must occur and includes general provisions for protecting migrant workers related to information, incapacity, remittances and medical services. It states that migrants and nationals should receive equality of treatment with regard to laws and administrative practices relating to living conditions, working conditions, social security, employment taxes, legal

proceedings and so forth. These issues are now being considered by the ILO Committee of Experts following up on a representation brought by a Philippine trade union on behalf of foreign domestic workers in the Hong Kong Special Administrative Region. Mr Ricardo Casco pointed out that the situation brought to light the fact that the Philippines had not ratified the very Conventions they hoped would protect their workers in Hong Kong SAR. This prompted informal discussions among various groups that identified areas of convergence and divergence. The result is that documents calling for the ratification of both Conventions Nos. 97 and 143 are now with foreign affairs in the Philippines.

Box 10: Key ILO instruments on migrant workers

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

Migration for Employment Recommendation (Revised), 1949 (No. 86)

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

Migrant Workers Recommendation, 1975 (No. 151)

Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100)

The aim of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), explained Mr De Meyer, is not facilitating the movement of surplus labour. Rather, the objective is to bring migration flows under control and hence to eliminate “illegal migration” and suppress the activities of those who seek to organize “clandestine movements” of migrant workers. There are two main parts to this Convention. The first part (Articles 1-9) deals with problems arising out of clandestine migration and illegal employment of migrants and the second part (Articles 10-14) substantially widens the scope of equality between migrant workers in a regular status by extending it to equality of opportunity. In ratifying this Convention, countries may pick and chose to include part one, part two or both parts. Mr Ricardo Casco said that a concern of the Philippines is that current arrangements are already above the minimum requirements set forth in the Conventions; there is a risk that ratification might lower the standards to the “minimum” required under the Conventions. Discussions about social security pointed to contingencies recognized by the ILO. Among these, pension rights are a difficult problem. How are the contributions to be arranged in order to provide compatibility or portability? The solutions are complex.

Mr De Meyer noted that ILO Conventions Nos. 97 and 143 have been poorly ratified and the UN Convention has not done much better. Within the Asia-Pacific region, Convention No. 97 has been ratified by only New Zealand, Hong Kong SAR and Sabah in Malaysia. No country in Asia and the Pacific has ratified Convention No. 143. At the time of the Ayutthaya workshop the UN Convention had been ratified by just the Philippines, Sri Lanka and Timor Leste. Moreover, even where the Conventions are ratified, there are problems of compliance. Violations of the human rights of migrant workers continue to occur. Their need for protection remains acute. In receiving countries, labour legislation affords little protection. Labour sending countries are moving from regulated migration flows towards integrated migration management. The precariousness of job security and residency status often leads to exploitation. The fact that the right of migrant workers to organize is not recognized or protected makes matters worse. Children of migrant workers are vulnerable to the worst forms of child labour.

The General Discussion on an Integrated Approach at the International Labour Conference pointed to using the Declaration on Fundamental Principles and Rights at Work as a platform to address issues relating to migrant workers. There are questions about whether Conventions Nos. 97 and 143 should be revised – partially or completely. On the basis of such revision, a report could be prepared to give a global picture on migrant workers that would also lend more visibility to all that the organization does. At the time of the workshop these Conventions were considered up to date and can be ratified by countries with tripartite participation. They will not be revised without more information on obstacles to ratification from governments, employers' organizations and trade unions.

There was a question from Lao PDR about what are the advantages to a country that ratifies the Conventions? What are the conditions and obligations? Why do countries hesitate to ratify? Mr De Meyer replied that the primary reason for ratifying the Conventions is to contribute to social justice and long-term stability of society. Ratification is also the most direct response of an ILO member State to a call for accountability and transparency from the international community. For labour sending countries, it is easier to negotiate with receiving countries, when they themselves have ratified the Convention. In some cases, ratification may make it easier to receive funding for technical cooperation from donor countries. The disadvantages include the work involved in gathering information, organizing consultations and writing reports. Many governments in the Asia-Pacific region have obvious difficulty with ILO standards on freedom of association. For some governments, it may be a matter of reluctance to

share power with groups outside their direct control. The legislation in some countries is a colonial legacy. In some cases, governments are reluctant to give public servants the right to organize. Forced labour is another issue. There are countries that still use conscripts, prisoners and students to do some kinds of work for private interests. In other cases, States continue to believe that multi-ethnic societies are better served by tight control and compartmentalization than by promoting equal opportunities and tapping the creative power of diversity.

A participant from Cambodia asked about what the ILO does to support member States during and after ratification of a Convention. Drawing on the Philippine experience, Mr Ricardo Casco explained that ratification of Conventions provides an opportunity to influence and advocate for a cause. It allows partners to voice concerns. The process makes governments sensitive to the issues of social partners, civil society and migrant workers. For this reason the Philippines is in the process of ratifying Conventions Nos. 97 and 143 even though the UN Convention has already been ratified. This will mean making policy and legislation compatible with the Conventions. One issue has been fees charged in the process of recruitment. Payments help to cover the costs of processing papers and so forth. In ratifying Conventions Nos. 97 and 143, the government will have a benchmark for moving forward. There has been some concern about excluded groups – frontier workers, seafarers and artistes. Women’s groups have pointed out that entertainers must be protected. This has led to discussions about “artistes” excluded from the Convention due to independent work outside of an employer-employee relationship. Mr De Meyer noted that entertainers are covered by the UN Convention. In response to the question about how the ILO will help countries going through the process of ratification of ILO Conventions related to migrant workers, Mr Wickramasekara referred to the Resolution on a fair deal for migrant workers in a global economy adopted by the International Labour Conference in June 2004. The Resolution contains a number of provisions to support a wider application of international labour standards and other relevant instruments.

There was a question about protection for the families of migrant workers including those in irregular status. What provisions are there for family reunification? Mr Yoo explained that in the Republic of Korea steps must be taken to provide for children, when families are allowed to join the workers. Mr De Meyer said that there are rights for families already living in another country, especially for children. These include issuing birth certificates. The right to education is included in the UN Convention on the Rights of the Child. ILO Minimum Age Convention, 1973 (No. 138) sets a minimum age for hazardous work.

A participant from Lao PDR said his country is considering ratification of Conventions Nos. 97 and 143 together with the UN Convention. What resources can be made available? Mr De Meyer explained that since it is not a funding agency, the ILO cannot automatically allocate technical assistance resources for ratification of Conventions. The ILO can offer seed money to assist a member State in attracting donor funding for a programme it has helped to develop with technical advisory services. How do the international labour Recommendations fit in? Mr De Meyer explained that the ILO does not register acceptance of international labour Recommendations. The standards are there as good practices even without ratification. Recommendations generally provide more detail and, in some cases, present a higher standard.

Mr Wickramasekara wanted a clarification on the expansion of the principle of equality of treatment to include equality of opportunity as provided for in ILO Convention No. 143. Mr De Meyer pointed to issues of equality of treatment in the region. He explained that the first relates to the preferential treatment provided by Japan to migrant workers of Japanese ancestry many of whom are from Latin America. The second is the preference of Taiwan (China) for workers from Southeast Asia rather than South Asia. Mr De Meyer explained that “equality of treatment” refers to the comparative claims a migrant worker can stake in a given situation such as conditions of work in a specific job regarding recruitment, promotion, transfer and dismissal as well as social security and other benefits. Equality of opportunity refers to the scope of options for changing a given situation such as moving from one job to another – occupational changes and geographical mobility. What are the means of redress? Mr De Meyer pointed to labour inspection services and human rights institutions such as equal opportunity commissions that can point out individual complaints as well as consistent patterns of abuse.

13 The roles of employers’ organizations and workers’ organizations in labour migration policy and management

Ms Anne Knowles, Senior Specialist in Employers’ Activities of the ILO Sub-regional Office for East Asia, began the session with a presentation on the role of employers’ organizations in labour migration policy and management. She divided the topic into two parts – the macro level dealing with policy setting and the enterprise level providing assistance and training to employers. It is important, she said, to consider the macro environment that creates the reasons for migrating in the first place – no jobs

and no skills or qualifications; better opportunities and higher earnings elsewhere; and the demand for migrants from other countries.

Ms Knowles explained that a lack of jobs results from the business environment that affects both foreign and domestic employers. In this regard, employers' organizations have a key role in policy setting. Compliance costs, bureaucracy, infrastructure and governance all affect the climate for business. Another issue is the mismatch between skills and qualifications available and those needed in the labour market. Who is responsible, for example, when graduates of universities cannot find jobs? Employers? Universities? Students? Employers are in a position to provide information about needs and therefore must be involved. Another reason for migration is better opportunities abroad. In this case, employers can play a role in identifying measures to improve the situation at home including the taxation system and wage-fixing mechanisms. Other countries are demanding foreign workers because their nationals do not want to accept some jobs or due to demographic changes including an ageing population. In all these areas employers are at the front line and can play a leading role.

What can employers' organizations do? Ms Knowles gave some specific examples. They can survey member companies in order to learn more about gaps and requirements such as those related to skills. Employers' organizations can hold meetings with members to ascertain the issues involved. They can also participate in bipartite consultations to identify practical issues. Finally, they can take advantage of existing channels to provide inputs into government policies.

Box 11: What can employers' organizations do?

At national level

- Survey member companies to obtain information such as skill requirements
- Hold meetings of members to ascertain key migration issues
- Participate in bipartite consultations on migration policies
- Use all existing mechanisms to provide inputs into government policy

At enterprise level

- Support non-discrimination laws
- Train and educate employer members in relevant laws
- Encourage opportunities for integration of migrant workers

Source: Anne Knowles, "The role of employers' organizations in labour migration policy and management", ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

At the enterprise level, a number of roles exist for employers. First, they can support non-discrimination rules. Most employers do not deliberately break the law; any breaches tend to occur due to a lack of knowledge and understanding of the law. Thus, it is useful to provide training and education, so that employers understand the relevant laws. Employers can also encourage the integration of migrant workers into society and the workforce by offering opportunities for them to attend lessons for language and culture and by ensuring that information about safety and health is available in the languages used by migrants.

Employers can also be involved in the process of recruitment by providing inputs into labour market tests, identifying demand for seasonal migrant workers and understanding what is involved in obtaining visas and permits. Who can get a visa and a permit? What are the procedures? The same is true for quotas. Employers need to understand and be involved in setting quotas – who, why and how. They should be producers and users of statistics and know about any rules or regulations including sanctions that affect their employment of migrant workers. Finally, Ms Knowles said that there are some responsibilities for migrant workers that belong to the State rather than the employers. These include health care, pensions, housing, education, policing and inspection.

Mr Raghwan, Senior Specialist in Workers' Activities of the ILO Sub-regional Office for East Asia, then spoke about migration issues and trade union concerns. He began by outlining some of the dimensions of labour migration. He said there are currently 86 million migrant workers of whom half are women. Remittances are around USD 90 billion annually or equal to more than the amount of aid received by developing countries by developed countries. Migrant workers are vulnerable to exploitation, discrimination and low pay. However, if migration is well managed there are benefits to both sending countries and receiving countries. Benefits to sending countries include skills and remittances. For receiving countries the advantages are contributions to economic output and new skills, ideas, outlook and technology. Migrant workers take up jobs that go unfilled by domestic workers. There are also some negative aspects of labour migration. These include exploitation and abuse, trafficking and smuggling, unemployment and poverty. Some countries are also experiencing "brain drain".

Box 12: Trade union involvement

- What role can trade unions play in both sending and receiving countries?
- At the national level how can trade unions participate in policy development?
- How can they assist migrant workers at points of departure and entry?
- How can trade unions provide protection to migrant workers in receiving countries?
- Have the trade unions been involved in the development and implementation of MOUs between Thailand and Cambodia, Lao PDR and Myanmar?
- What benefits can there be for migrant workers when trade unions in sending countries and receiving countries work together such as the case of the Confederation of Mongolian Trade Unions and the Korean Confederation of Trade Unions?

Source: Raghwan, "Migration issues – Trade union concerns", ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Mr Raghwan pointed out that all countries participating in the workshop – Cambodia, Lao PDR, Mongolia and Thailand – are sending workers abroad. However, Thailand is mainly a receiving country. Memoranda of Understanding (MOUs) have been signed between Thailand and Cambodia, Lao PDR and Myanmar. These are primarily a method of managing the process of migration rather than protecting the rights of migrants. Against this background, Mr Raghwan outlined issues of trade union involvement. These involve roles in both sending and receiving countries, participation in policy development, protection during departure and upon entry, involvement in MOUs and cooperation between trade unions in both sending countries and receiving countries.

Mr Raghwan highlighted portions of the Resolution adopted by the International Labour Conference 2004 on migration. It called for the development of a non-binding multilateral framework for a rights-based approach and a plan to implement the application of relevant ILO Conventions and other UN standards and instruments. Capacity building, awareness raising and technical assistance for strengthening social dialogue and social partners should play a key role in determining policies. In order to develop appropriate policies, it will be necessary to improve the knowledge base for migration issues.

The World Commission on the Social Dimension of Globalization, Mr Raghwan explained, identified the main objectives of migration management: to facilitate mutually beneficial ways of increasing migration opportunities, with due regard to the legitimate interests of each State, to ensure that the process is fair to both sending and receiving countries; to make the process orderly, predictable, and legal; to eliminate trafficking and other current abuses where women are especially vulnerable; to ensure full protection for the rights of migrant workers and facilitate their local integration; and to maximize the development benefits of international migration.⁷

Mr Raghwan reminded participants that the International Labour Conference called for the development of a non-binding multilateral framework for labour migration under which the management and administration of migration is based on protecting the rights of migrant workers in accordance with relevant ILO Conventions Nos. 97 and 143, the ILO Declaration on Fundamental Principles and Rights at Work and other UN instruments. The objective is to propose guidelines and principles for policies based on best practices and international standards.

Mr Raghwan pointed to the situation in the four countries attending the workshop. None has ratified Conventions Nos. 97 and 143. Only Cambodia and Mongolia have ratified Conventions Nos. 87 and 98. There have been problems in implementing these Conventions in Cambodia. Elsewhere, the right of migrant workers to join unions is either denied by law or through practice. Migration is seen as a “security issue” in the sub-region and therefore is more about control than protection. Mr Raghwan asked, “Are the MOUs based on the rights of migrants?”

In order to put forward the concerns of trade unions, Mr Raghwan quoted from an ILO report: “A significant number of migrants face undue hardships and abuse in the form of low wages, poor working conditions, virtual absence of social protection, denial of freedom of association and workers’ rights, discrimination and xenophobia, as well as social exclusion. The absence of formal management for migration and national policies in some countries contributes to the increasing number of irregular migrants”.

Mr Raghwan then talked about disparities between migrant workers and domestic workers. In many cases, these include differences in wages, access to and coverage by social security, freedom of association and health and safety with many migrants in “3-D” jobs that are dirty, demeaning and dangerous. Migrants often face discrimination.

⁷ International Labour Office, *A fair globalization: Creating opportunities for all*, Report of the World Commission on the Social Dimension of Globalization, Paragraph 435, Geneva, International Labour Office, 2004.

How can trade unions overcome these differences in treatment? Mr Raghwan suggested that they can participate in the development of MOUs, tripartite committees on migrant issues and campaigns for ratification of Conventions. In sending countries trade unions can provide education and information useful to migrant workers such as transfer of funds and resolution of disputes. Trade unions in receiving countries can organize migrants, provide education and raise awareness. They can disseminate information about labour rights and participate in dispute resolution.

Cooperation between trade unions in sending countries and receiving countries is helpful to provide information and support through the process of departure, arrival and return. Data collection and information sharing can help reduce the stigma sometimes attached to migrants. Unions can work together on dispute settlement and migrant protection. Joint meetings can also be organized such as those between the Korean Confederation of Trade Unions and the Confederation of Mongolian Trade Unions.

Mr Raghwan ended his presentation with a list of issues for consideration: How can trade unions work to establish and promote tripartite discussions on migrant issues at the national level such as for policies and MOUs? In what ways can trade unions provide protection to migrant workers such as through access to union membership, labour laws, dispute settlement, minimum wages, social security and occupational safety and health? How can trade unions promote the Conventions?

A participant from Cambodia noted that trade unions have not been involved in the MOUs. Should migrant workers, he asked, maintain ties to trade unions in sending countries or join trade unions in receiving countries? Mr Raghwan responded that the MOU is an example of where trade unions can be involved in migration issues. Cambodian workers going to Malaysia should be part of the Malaysian Trade Unions Congress (MTUC). In practical terms, most countries such as Cambodia and Thailand have laws that influence local unions.

Mr Wickramasekara brought up the common problems caused by recruitment agencies in many Asian countries including recruitment fraud, false information and excessive fees. He wondered whether the employers' organizations could have an influence on the functioning of these agencies. He also suggested that trade unions could play a major role in monitoring recruitment agencies. He cited the Republic of Korea as a good practice example of keen trade union involvement in migration issues. In cases where labour inspection is not able to monitor migrant workers, non-governmental organizations can participate. Trade unions should also be involved. Ms Knowles replied that when recruitment agencies are

members, employers' organizations can have some influence on their practices. However, the monitoring and enforcement of Conventions and laws is the responsibility of governments. There must be clear rights and responsibilities. Mr Raghwan called attention to the ILO research indicating that involvement of government officials can be part of the problem of abuse. In some cases, people high up in the military and police were suspected of being involved in abuse and exploitation of migrants.

Participants were then divided into four groups – governments, employers, workers and human rights commissions in order to consider: how governments can work with employers and workers to strengthen labour migration policy and management; issues and challenges facing employers and workers and how each group can contribute to migration policy and management; and the role of human rights commissions in strengthening international labour migration policies and promoting migrant workers' rights. The country groups then came together for tripartite discussions to consider practical solutions to issues and challenges of international migration. This was followed by reports from groups.

Reports from tripartite groups to consider practical solutions to issues and challenges of international labour migration

Box 13: Cambodia – Issues and challenges

Cambodian participants agreed to organize a tripartite workshop with the following objectives: share information and knowledge about the current status of labour migration in order to identify strengths and weaknesses; advocate and increase awareness in order to raise resources; and develop an action plan to improve the national strategy for labour migration. The strategy will outline the separate roles of government, employers and workers. The venue of the workshop will be arranged by employers' organizations and resources will be provided by the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women. The workshop will be a starting point to share information and knowledge with relevant stakeholders. The government will take the lead in preparing papers and proposals to obtain funding from the ILO. Discussions will include setting up a mechanism for tripartite partners to work together on an ongoing basis. Employers' organizations will discuss Conventions Nos. 97 and 143. Cambodia would like to take a lead among the Association of Southeast Asian Nations (ASEAN) in protecting workers sent abroad for employment. The workshop will include representatives of bankers and airlines. Currently, most migrant workers from Cambodia are in Malaysia. Thus, Malaysian banks will be invited to attend the workshop. A system for sending remittances will be piloted.

Box 14: Lao People's Democratic Republic – Issues and challenges

In Lao PDR there is already a framework and an organization for coordinating migration policy. Thus, the proposal is to strengthen the existing mechanisms. Lao participants discussed the roles and responsibilities for each of the partners. Employers' organizations and trade unions will provide inputs into government laws and policies. The group agreed to meet and plan the next steps in Lao PDR.

Box 15: Mongolia – Issues and challenges

Participants from Mongolia began by pointing out that a new law on sending workers abroad and receiving foreign workers was introduced in 2001 and a National Tripartite Training Workshop on Overseas Employment was held in Ulaanbaatar during 12-14 November 2002. The tripartite group agreed to the following points:

- Upgrade and enhance the legal framework
- Raise public awareness about migration issues through information dissemination
- Include migration in the National Plan of Action for Decent Work
- Build capacity with technical assistance from the ILO

Box 16: Thailand – Issues and challenges

Tripartite discussions for Thailand pointed to agreement among the parties except on the definition of a migrant worker. A government representative explained that a migrant worker must be in another country for more than one year. Issues and challenges facing Thailand are socio-economic development, political stability, national security, international relations, trafficking and HIV/AIDS. There is a demand for migrants to work in “3-D” jobs in Thailand. At present Thailand does not have a tripartite mechanism to inform the process of registration that has recently taken place. There is a need to enhance capacity and raise awareness of employers' organizations and workers' organizations for social dialogue on migration issues as part of decent work. Thus, the recommendations of the group are for awareness and advocacy, representation and voice, dissemination of information,

monitoring and evaluation. Employers' organizations will encourage members to follow the laws with regard to equal opportunities, occupational safety and health and other issues through the "ABC approach" – aware, believe and commit. The group proposed research and a handbook. Research will examine the supply and demand for migrant workers in Thailand and include a survey of education and skills, issues and problems, gains and losses. The handbook on managing migrant workers will include information about international labour standards, cultural issues, access to justice and other topics.

14 Review of the third day

Ms Siriwan Romchatthon, Executive Director of the Employers' Confederation of Thailand, reviewed the activities of the third day. Her presentation included photos of resource persons as well as an outline of the key points.

15 Irregular migration and migration management

Mr Piyasiri Wickramasekara made a presentation on "Irregular migration in Asia: Issues and policies". He highlighted some key messages at the outset. Irregular migration and regular migration are closely inter-related. Irregular migration should be treated as part of a broader labour market issue and not just a legal issue and security matter. All migrant workers – both in regular and irregular status – contribute to host economies. However, irregular migration is undesirable and should be minimized. All workers including those in irregular status should enjoy basic human rights. All stakeholders – governments, social partners, civil society and migrants themselves – in both sending and receiving countries need to cooperate in reducing irregular migration.

Mr Wickramasekara first dealt with definitional issues. Several terms are being used to refer to the phenomenon of irregular migration. Migration is sometimes called clandestine, illegal, unauthorized, undocumented and irregular. Mr Wickramasekara explained that the term, "irregular migration" is more accepted, since it does not criminalize migrants. Irregularities in migration can occur at every stage of the process – pre-departure, transit, destination and return. Irregular migration can range from simple unauthorized border crossings for work to forced labour through trafficking and smuggling of human beings.

Box 16 provides a comprehensive definition of migrant workers in both regular and irregular status. Although ILO Convention No. 143 refers to “legal” and “illegal” status of migrants, the ILO now prefers to use the term “migrant workers in irregular status”.

Box 17: Migrant workers in regular and irregular status

Migrant worker in regular status

A migrant worker in regular or lawful status is a person who: (a) has been granted the requisite authorizations in respect of departure from his or her State of nationality or habitual residence and in respect of employment in another State where such authorizations are required, and (b) who complies with the procedural and substantive conditions to which his or her departure and employment in another State are subject.

Migrant worker in irregular status

A migrant worker in irregular status is a person who: (a) has not been granted an authorization of the State on whose territory he or she is present that is required by law in respect of entry, stay or employment, or (b) who has failed to comply with the conditions to which his or her entry, stay or employment is subject.

Source: ILO Resource Paper Prepared for the International Symposium on Undocumented/Irregular Migration convened by the Royal Government of Thailand, Bangkok, 1999.

Mr Wickramasekara then gave some examples of migrant workers in irregular status: persons who have overstayed their employment visas but continue working in host countries; tourists who work without authorization; trainees who leave their assigned enterprises and work elsewhere; students working without authorization; persons entering legally for employment and violate the terms of their contract; regularly admitted workers who have lost their employment during the contract period; and victims of trafficking and smuggling.

Due to the nature of irregular migration, there are no accurate measures. What we have are estimates or “guesstimates”, said Mr Wickramasekara. These are based on information about apprehensions, overstaying, deportations, registration during amnesties and regularization exercises together with special surveys and population censuses. Estimates of irregular migration

are often inflated by policy makers, media sources and security agencies. According to the International Labour Conference report on a fair deal for migrant workers, global estimates place 10-15 per cent of total migrant workers in irregular status. Statistics for the European Union show between 3 million and 3.5 million migrant workers in irregular status with annual inflows of about 500,000. Estimates for the United States are 7-8 million. However, the largest numbers are in Asia and Africa, where there is a great deal of cross-border migration.

What are the causes of irregular migration? Mr Wickramasekara pointed out that a key factor is the immigration policies of major receiving countries in the region. Although these countries experience severe shortages of labour, especially for low skilled workers, their immigration policies do not provide for the admission of migrant workers. The Asian Regional Meeting held in Bangkok during August 2001 also concluded that irregular migration results from a divergence between labour market needs and immigration policies in receiving countries. Another explanation is a growth of informal employment and undeclared work. In some cases cumbersome official procedures and high levies on employers for using foreign labour in receiving countries encourage a resort to irregular channels. Other causes are strict labour laws in receiving countries that link employment with residence status and limited mobility. Political factors such as armed conflicts and repression of minorities also play a role as shown by the example of policies in Myanmar that push large populations into neighbouring Thailand. In sending countries, migration pressures resulting from high levels of poverty and unemployment act as push factors. There are also governance issues linked to lack of transparency in government administration and malpractices of recruitment agencies. Inadequate information about legal channels for labour migration is another contributing factor. Activities of criminal groups in trafficking and smuggling also contribute in a large way to irregular migration.

Mr Wickramasekara then talked about “Why is irregular migration a problem?” The Bangkok Declaration recognized that, “international migration, particularly irregular migration, has increasingly become a major economic, social, humanitarian, political and security concern for a number of countries in the Asia-Pacific region”. First, it is a *protection problem*. Migrant workers in irregular status are especially vulnerable to violation of human rights, especially women workers. There is evidence of extensive exploitation in receiving countries with little or no social protection. Second, it is a *management problem* and a *security issue* in receiving countries. Irregular migration involves *unfair competition* with advantages going to enterprises using workers at lower costs in irregular status. Finally,

it is a *political problem* that creates tension between source countries and host countries.

What are the policy options to deal with irregular migration? At what level should irregular migration be addressed – national, bilateral, regional or international? International experience highlights several categories of responses: controlling inflows or preventative action; curbing irregular employment through returns, readmission, sanctions and penalties; regularization and amnesties; and bilateral and regional cooperation. Mr Wickramasekara elaborated on each of these responses.

Preventive action includes incentives to hire legal workers – tax concessions and subsidies to employers. Australia, Europe and Japan use information campaigns aimed at convincing employers to avoid reliance on workers in irregular status. Source countries can reduce migration pressures by addressing some of the root causes of unemployment and poverty through local development efforts. ILO Convention No. 143 mentions regularization as one option open to countries. The United States and Thailand have taken some steps to promote regular migration. However, there is strong resistance among receiving countries to this approach, if it is believed that regularization will encourage more irregular migration. Amnesties have been used widely in Italy, Republic of Korea, Malaysia, Spain and in the Gulf States.

Mr Wickramasekara pointed out the limited effectiveness of efforts to regulate irregular migration internationally. This is partly due to the ad hoc nature of some measures, which fail to address root causes of irregular migration. Some country policies are not consistent with international norms, since mass detentions and deportations result in violations of basic human rights. Other policies are plagued by poor governance. There is sometimes collusion between employers and administration at the expense of workers. A common problem is a “punishing the victim” syndrome that criminalizes victims of irregular migration. A recent study by Battistella and Asis on unauthorized migration in Asia concludes that, “experience shows that this approach [keeping our border tightly guarded] has not succeeded in keeping all unwanted persons out. It does succeed in rendering many unauthorized persons – who form the backbone in some sectors – without protection from insecurity and abuse”.⁸

⁸ Graziano Battistella and Maruja M.B. Asis, Eds., *Unauthorized migration in Southeast Asia*, Quezon City, Scalabrini Centre, 2003.

Mr Wickramasekara stressed that “workers in irregular status also have rights”. The basic human rights of migrant workers are well recognized in both ILO Conventions and the UN Convention. The ultimate objective of these instruments is to minimize irregular migration through a number of measures including international and bilateral cooperation. The General Discussion on Migrant Workers at the 92nd Session of the International Labour Conference in June 2004 indicated deep concern for migrant workers in irregular status. The Resolution concerning a fair deal for migrant workers in a global economy adopted by Conference calls for due consideration to the particular problems faced by migrant workers in irregular status and the vulnerability of such workers to abuse. It recommended that steps should be taken to ensure that their human rights and fundamental labour rights are effectively protected, and that they are not exploited or treated arbitrarily. Mr Wickramasekara went on to highlight a number of good practices based on international experience and relevant instruments that are outlined in Box 18.

**Box 18: Elements of good practice
to deal with irregular migration**

- Promote migration management that respects the rights of workers.
- Treat irregular migration as a labour market issue and not as a legal issue or security matter.
- Address the root causes of poverty and unemployment in sending countries.
- Take measures to deal with illegal employment and undeclared work in receiving countries.
- Use a tripartite framework to address migration issues including cooperation between government and industries and involvement by trade unions and civil society.
- Provide for mechanisms to earn regular status based on clear and transparent criteria – long stay, contribution to economy and society, good behaviour and others.
- Provide information and raise awareness of all stakeholders about benefits of regular migration and risks of irregular migration.
- Promote bilateral and regional cooperation.

Source: Piyasiri Wickramasekara, “Irregular migration in Asia: Issues and policies”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Mr Wickramasekara ended with some questions for discussion. What is the extent of the problem of irregular migration in the sub-region? What approaches and measures are now being used and how far are they consistent with international norms? What is the role of the present initiatives including regularization and MOUs?

A participant from Lao PDR asked what the International Labour Organization and the International Organization for Migration can do to help turn irregular migration to regular channels. How do we stop trafficking in children and women and protect the human rights of migrant workers? Mr Wickramasekara responded that the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women is working to create safe opportunities for income and employment both inside and outside of Lao PDR. Ms Thetis Mangahas explained that the project aims to open regular migration channels and provide opportunities for decent work in countries of origin. Mr Ricardo Casco said that one cause of irregular migration is “unrealistic laws and regulations” which are difficult to enforce. Recruiters cheat the government, he explained. Employment contracts are issued with approved wages, but employers then change the wages and conditions. Workers sometimes run away from assigned employers. He argued that contracts must be enforceable. The National Project Coordinator for the ILO trafficking project in Lao PDR said that trafficking occurs mostly with jobs in the informal economy and among domestic workers. In Thailand many jobs, he said, are being outsourced to home-based work.

16 Migration and GEMS: Gender equality promotion through gender mainstreaming strategies

Ms Aya Matsuura, Technical Officer on Gender Equality Promotion in the ILO Regional Office for Asia and the Pacific, began the session on gender issues in migration with an IOM video on “The power to choose” showing issues faced by women who migrate for work including the case of a domestic worker from the Philippines.⁹ The video is used in pre-departure orientations to alert migrants to potential abuse by employers of housemaids working abroad. It touches on issues such as accusations of stealing, lack of freedom, problems of isolation, sexual harassment and inadequate provision of food during the fasting month of Ramadan.

⁹ International Organization for Migration, “The Power to Choose: Guide for Women Migrant Workers”, International Organization for Migration, 2003.

Ms Matsuura asked for reactions from the participants about the video. Many thought that the video is a good tool to raise awareness about potential dangers facing migrant women. A participant from Lao PDR said that the message is to “be aware and be safe just in case”. However, he thought that information should be balanced to avoid creating a negative stereotype of employers. It was agreed that the women migrants need to be equipped before they leave. Ms Matsuura said that half of migrants are women and many are vulnerable to abuse.

She then asked, “Why pay attention to gender?” Her presentation pointed out that increasing numbers of women migrate for work – 68 per cent of 2.5 million Indonesian migrants and 75 per cent of 1.2 million migrants from Sri Lanka are women. Women who migrate for work are often in occupations associated with traditional gender roles – in domestic work, the entertainment industry, nursing and teaching. The “care economy” in many countries has a low status and is highly vulnerable to abuse and exploitation. Some women migrant workers end up in forced labour and slavery.

Ms Matsuura then explained some of the reasons that migrant workers are exposed to abuse and exploitation. Most policies for emigration and immigration are gender blind. Bilateral agreements are generally for sectors in which male migrants predominate such as in construction and agriculture. Thus, there is little or no protection for women employed as domestic workers in the informal economy. Men are often the majority of officials in organizations that deal with migrant workers; most lack knowledge about gender issues, resulting in treatment for women migrants that is unequal or inappropriate. In addition, there is no automatic solidarity between women working as employers and employees. Ms Matsuura asked what factors contribute to vulnerability. These relate to status as women, foreigners and migrants.

Risks related to the recruitment of migrants were introduced. These include illegal recruitment and trafficking, lack of information about the terms and conditions of employment, over-charging fees, hazardous travel, debt bondage, falsification of documents, deception, exploitation and abuse while waiting for the job, lack of pre-departure preparation and training, and forced or coerced recruitment including kidnapping and sale to illegal recruiters and traffickers.

A number of problems facing women migrants at work were discussed. Some are associated with absence or violation of an employment contract. Poor working and living conditions including unequal pay for work of equal value, withholding of wages, long hours and work overload up to

18 hours per day in the case of domestic workers, employment in more than one job, no rest on holidays, inadequate food, substandard accommodation, violation of rights to privacy and forbidden to practice their religion. Women migrant workers are sometimes tested for contagious diseases without being informed and subsequently dismissed. Other problems include limits to freedom, harassment and violence, risks to health and safety, lack of social protection, forced labour and debt bondage.

Ms Matsuura then introduced ILO responses and policy recommendations. The ILO Declaration of Fundamental Principles and Rights at Work applies to women as well as to men. Women who migrate for work should enjoy human rights as human beings and not primarily as migrant workers. Ms Matsuura pointed out that there is a specific reference to migrant workers in the preamble to the Declaration that states, “the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation”.

Ms Matsuura moved on to specific measures that address gender issues in migration. These are mainstreaming gender in all policies, programmes and projects – at every stage of the programming cycle – as well as addressing gender inequalities in all research. She also called for raising awareness among potential women migrant workers about their legal rights. Authorities and employers dealing with migration issues and migrant workers should receive basic gender training.

Box 19: Policy recommendations for gender equality

Mainstreaming gender

Take the needs and perspectives of men and women into account in all development action – policies, programmes and projects – and at all stages of the programming cycle – design, planning, implementation, monitoring and evaluation.

Addressing inequalities

Extend protection to all occupations and sectors providing equal opportunities to men and women and abolish measures that restrict entry of migrant women into work that is productive and safe.

Raising awareness

Provide legal literacy, gender awareness and equal treatment for women migrant workers. Avoid victimization and criminalization of migrants who end up in illegal situations. Set up a special “Desk for Women and Children Migrants and Trafficked Victims” in offices of police and immigration at borders.

Source: Aya Matsuura, “Gender issues in migration”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

After the presentation Ms Matsuura called upon participants to come up with a strategy to address gender issues for migration in their country. These are presented in Box 20.

Box 20: Preventing exploitation of women migrants

Cambodia

It is a good idea to show a video that gives a balanced picture of the positive and negative aspects of employment abroad. Migrants should be informed about the ILO Fundamental Principles and Rights at Work.

Lao People’s Democratic Republic

It is important to show how women are exposed to risk. Steps should be taken to make certain that women do not become victims and are made aware of their rights. International organizations such as the ILO should join together with governments to show how we can arrange to raise awareness about the issues. How do we coordinate with receiving countries? Are there offices to register complaints? Are employers in receiving countries supervised by authorities? We need to learn more.

Mongolia

The government should take the initiative regarding the protection of women and men migrants. National policies and a regulatory framework should be coordinated for migration policies and laws relating to migration. Pre-orientation training should be developed. Sending countries need to know more about the situation in receiving countries.

Thailand

Participants from Thailand said that it is important to have channels of communication in case migrants are placed in danger. Workers going abroad should be aware of what can happen. Migrants should be able to make their own choices. There should be mechanisms to monitor the situation of women and men in jobs – different opportunities and different problems.

17 Thailand's experience and migration management

Ms Supang Chantavanich of the Asian Research Centre of the Institute of Asian Studies at Chulalongkorn University made a presentation on "Immigration management in Thailand". She explained that Thailand is both a sending and receiving country. However, her presentation would focus on foreigners working in Thailand. She said that the current migrants are not the first wave to arrive in Thailand. During the eighteenth and nineteenth centuries millions of overseas Chinese came from southern China. Ms Supang explained that there are many classifications of "aliens" in Thailand including hill tribe people who have moved back and forth across borders. Thai speaking people who have lived in Cambodia arrive in Thailand without papers. Others come from Myanmar and Yunnan Province of China. Several generations of asylum seekers have come from Viet Nam. Altogether, there are 19 colours of ID cards given to foreigners who are permitted to work in Thailand. Some types and estimated numbers of migrants are presented in Table 4.

Table 4: Types and estimated numbers of immigrants, Thailand

Type	Number	%
Registered professional migrants	81,195	3.7
Foreigners permitted by the Ministry of Interior to work in Thailand	514,424	23.3
Asylum seekers	111,139	5.0
Visa overstayers	409,258	18.6
Registered unskilled workers from Cambodia, Lao PDR and Myanmar	288,780	13.1
Unregistered and undocumented migrants	800,000	36.3
Total	2,204,796	100.0

Source: Thailand, Ministry of Labour, 2004, cited in Supang Chantavanich, "Immigration management in Thailand", ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Ms Supang asked about the situation in Mongolia. The response was that while many workers seek employment overseas, there are also foreigners with jobs in Mongolia including both skilled labour and professional workers. For example, Chinese construction companies are using Chinese workers. The reason is that Mongolia does not have workers who are

trained for work in construction. Due to closure of training institutions during the economic transition to a market economy, there are not enough skilled workers in some sectors. Many young people prefer to obtain a university education and are not interested in unskilled work. Ms Supang said that this is similar to what happened in Thailand during the early 1990s. Thai youth would like to go to high school and then obtain vocational training or a university degree rather than to accept the hard work and low pay of unskilled workers. Thus, she said, we need foreign workers. This was the case in Japan and the Republic of Korea during the 1980s and in Europe after the second world war, when labour was brought in from Algeria and Morocco to France, from Turkey to Germany and from India to Britain. During the 1990s the Middle East looked for migrant labour to work in construction and as drivers.

Ms Supang outlined the process of immigration in Thailand after entry – report of residence, record of aliens staying over 90 days, visa extension, request for residence, overstay, arrest, deportation, departure and blacklist or re-entry permit. A number of agencies in Thailand oversee this process including the National Security Council under the Prime Minister responsible for policy, the National Police Office and Immigration Office in charge of operations, the Department of Employment of the Ministry of Labour for policy and administration, the Department of Administration in the Ministry of Interior in charge of foreigners, the Office of Health Promotion in the Ministry of Health, the Department of Social Development and Welfare in the Ministry of Social Development and Human Security covering women and children, the Office of the Permanent Secretary of the Ministry of Education (Special Programme Division) and the Consulate Division of the Ministry of Foreign Affairs. In addition, there are non-governmental organizations working on migration issues including the Foundation for Women, the Centre for the Protection of Child Rights, the Foundation for the Promotion of Children, Daughters' Education Programmes and others. She traced Thai Cabinet decisions relating to migration over the period from 1992-2004. These are presented in Table 5.

Table 5: Thai Cabinet Decisions, 1992-2004

Date	Where	Fees	Notes
17 March 1992	10 border provinces	5,000 baht bond; 1,000 baht fee	Burmese only; 706 migrants registered, but 101,845 purple cards issued
22 June 1993	22 coastal provinces; fisheries		Not implemented in fisheries until 1939 law amended
25 June 1996	30 (later 43) provinces; 7 (later 11) industries	1,000 baht bond; 1,000 baht fee 500 baht health fee	Two-year permits for those who registered between 1 September – 29 November 1996; 34 types of jobs open to migrants; 372,000 registered; and 303,988 permits granted
29 July 1997 19 January 1998	Step up border and interior enforcement. Remove 300,000 migrants in 1997 and another 300,000 in 1998		Provincial committees to deal with migrants; encourage factories in Thai border areas
28 April 1998 8 May 1998	Maximum 158,000 but 90,911 migrants registered; permit border commuters	1,000 baht bond; 700 baht medical exam fee; 500-1,200 baht provincial health fee	54 provinces; 47 types of jobs; extend permits expiring in August 1998 to August 1999
3 August 1999 2 November 1999	37 provinces; 18 sectors in 5 industries	1,000 baht bond; 700 baht medical exam fee; 1,000 baht health card	Maximum 106,000 permits good for one year to expire 31 August 2000; 99,974 migrants registered
29 August 2000	37 provinces; 18 sectors		Allowed 106,684 migrants in 18 sectors and 37 provinces to work until 31 August 2001
29 August 2001	All industries and all jobsal	3,250 baht 1,200 baht for six-month renew	Six-month permits renewable for another six months until September-October 2002
24 September – 25 October 2001	All employers, provinces and jobs		568,000 migrants registered for six months; 350,000 re-registered for another six months in February-March 2002
1-31 July 2004		1,300 baht health insurance 600 baht medical check-up 100 baht application fee for work permit 1,800 baht annual fee for work permit	1,280,000 registered

Source: Sakdina Sontisakyothin, *Major Factors Affecting Policy Changes on Illegal Migrant Workers in Thailand*, PhD thesis, National Institute of Development Administration, 2000, Therese Aouette, Kritaya Archavanitkul and Hnin Hnin Pyne, *Sexuality, Reproductive Health and Violence: Experiences of Migrants from Burma in Thailand*, Institute for Population and Social Research, Mahidol University, 2000, and Philip Martin et al., *Thailand: Improving the Management of Foreign Workers*, Bangkok, International Labour Office and the International Organization of Migration, 2003.

Ms Supang presented the policy debate in Thailand as one between national security, on the one hand, and human rights, on the other. The former focuses on state and sovereignty, while the latter on people and interdependence. The former calls for strict control over border areas and political refugees, while the latter focuses on trans-border cooperation and economic migrants. She went on to talk about the principal challenges of trans-border cooperation: (i) policy dialogue and participation, (ii) irregular migration including human smuggling and human trafficking, (iii) employment regulation and border control, (iv) voluntary or forced migration, (v) wage and labour protection, (vi) return flows, and (vii) a committee to oversee migrant workers. The key priorities for migration management are protection of workers against exploitation and trafficking, support services including health, education and housing, and post-amnesty employment policy. Other questions, she said, are: What will happen to the 1,280,000 migrants who have registered? How many will be employed? How many must go back to Cambodia, Lao PDR and Myanmar?

Mr Wickramasekara stated that he understood that following the earlier work of Mr Philip Martin and others, the Population Research Centre of Mahidol University, Asian Research Centre on Migration of Chulalongkorn University and the Thailand Development Research Institute were assessing the needs for migrant workers for the Thai government. Ms Supang confirmed that the Thai research team would recommend a total of 500,000 migrants be allowed to work in Thailand given current unemployment of Thai nationals. She added that this number will be further decreased together with a recommendation that the manufacturing sector be reserved for Thai nationals with appropriate wages.

Mr Wickramasekara also raised a question about the MOUs Thailand had signed with neighbouring countries. Are the MOUs to be a vehicle only for repatriating workers in irregular status? Or are they also to serve as a means for orderly employment of foreign workers in Thailand? A participant noted that while Cambodia and Lao PDR are willing to accept returning workers, the situation in Myanmar is different. The government is reluctant to take the migrants back. Many are minorities and most do not have ID cards. Even those who do have IDs sometimes leave them behind for fear that they will be confiscated in Thailand. Will a small number be sent back each month? A participant from Lao PDR expressed a hope that migrants be allowed keep their jobs in Thailand.

18 Trafficking in children and women

Ms Thetis Mangahas, Chief Technical Adviser of the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women, spoke on trafficking in persons and children in the larger context of rapid economic and social changes in Asia that have resulted in an increased pace of migration movements. Where movement is made in freedom, migration can result in clear benefits for the migrants, their families and their countries. On the other hand, trafficking manifests the worst abuses of migration – the entrapment, the deceptive recruitment and the buying and selling of humans into captivity. Increasingly, trafficking affects children and young women. It is seen as a crime, defying international law and basic human rights.

Ms Mangahas stressed that there was now for the first time an authoritative definition of “trafficking in persons” in international law. Article 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing The United Nations Convention Against Transnational Organized Crime used three components: *action* involving the recruitment, transportation, transfer, harbouring or receipt of persons; *means* consisting of threat or use of force and other forms of coercion such as abduction, fraud, deception and abuse of power in positions of vulnerability; and *purpose* including exploitation and prostitution or other forms of sexual exploitation; forced labour and slavery or practices similar to slavery. She distinguished child trafficking, stating that in the case of a person below 18 years of age the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation should be sufficient to establish “trafficking”, and bring into play the gamut of *inter alia* protective provisions of the Protocol. The specific means, particularly the child’s consent, should be an irrelevant means and the child’s consent are irrelevant conditions.

Trafficking can occur within a country as well as across borders. Often trafficking is perceived in relation to sexual exploitation. Less attention is given to the movement of young people into other forms of work that may result in forced labour in several sectors – domestic service, plantation work, construction sites and small informal production workshops. Some end up begging and soliciting.

Not all exploitative conditions constitute forced labour. Ms Mangahas explained that forced labour means coerced to work under severe physical or psychological pressure. It would involve threats of violence or reprisal. Workers have no power to negotiate working conditions and lack control over personal documents and individual movement. The situation may

involve debt bondage. In some instances, forced labour entails kidnapping and abduction. More often, however, it is accomplished through deception, fraud, the use of gifts and other means to obtain control. Ms Mangahas pointed out that trafficking can occur in circumstances where movement appears to be legal.

Box 21: Trafficking in persons

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing The United Nations Convention Against Transnational Organized Crime.*

“Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident. *Protocol Against the Smuggling of Migrants by Land, Sea and Air.*

There are two separate international protocols to cover migrant smuggling and human trafficking. Smuggling of migrants is facilitating the illegal entry into a country where the person is not a national or a permanent resident. Human trafficking is moving a person for the purpose of exploitation, defined at the minimum as sexual exploitation, forced labour and slave-like conditions. What begins as smuggling, explained Ms Mangahas, can easily turn into trafficking that is distinguished by coercion, control and exploitation. However, coercion may not be evident at the beginning of the trafficking process. A person may enter into an agreement with a recruiting agent on a seemingly voluntary basis. But the coercion can surface much later in the process, often only at the destination point.

In looking at the root causes of trafficking, Ms Mangahas spoke about vulnerabilities at the source, in transit and at the destination. Causes on the supply side include poverty and income disparities, low levels of education and awareness, discrimination, domestic violence, armed conflict and consumerism. Intermediaries, consisting of profit-taking and criminal interests, can prey on the desperate and illiterate. On the demand side, employers want workers who are cheap and obedient. There are sexual

preferences for children and young women. Weak law enforcement, lack of mechanisms for redress and restrictive migration policies all add to the problem.

Box 22: Prevention of trafficking

At source

- Mapping areas of greatest risk
- Mobilizing communities in order to give attention to those most at risk
- Seeking alternatives for employment and livelihoods

At destination

- Identifying areas of demand – sectors and workplaces
- Mobilizing communities to give attention to the needs of migrant children and youth
- Monitoring and seeking outreach and representation

Source: Thetis Mangahas, “Trafficking in children and women”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

The hidden and invisible nature of trafficking makes it extremely difficult to arrive at precise estimates for the numbers of persons involved. ILO assessments point to emerging patterns and trends. Trafficking occurs most often from poorer countries and frequently from the most deprived rural areas within those countries. The destinations are the urban centres and border towns of richer nations but also include the capital cities of developing countries and transition economies. Trafficking is carried out largely through complex networks and organized channels. Many reports suggest an increase in organized trafficking networks.

Ms Mangahas explained that the ILO has taken a strong human rights approach against trafficking in human beings, especially children and young women. This approach draws attention to the obligation of the State to take action in countries of origin, destination and transit. The ILO focuses on the role of labour market institutions. By advising governments on migration policy and administration, involving social partners in protecting the basic rights of all workers and supporting improvements in inspection and monitoring of working conditions in sectors prone to irregular employment, the ILO plays a key role in preventing and reducing trafficking. Its efforts to

combat human trafficking are based on a comprehensive strategy that addresses the trafficking cycle as a whole. In countries of origin, the ILO aims to reduce the vulnerability of both potential and actual victims by boosting employment and improving access to vocational training schemes and labour market information. The promotion of safe channels for labour migration and the supervision of labour standards in countries of destination form the core of its programme to promote good governance for international migration while protecting the rights of migrant workers.

Restrictive migration policies add fuel to markets for smuggling and trafficking of migrant workers. The thrust of policy is therefore towards adapting migration policy to labour market pressures resulting from globalization. ILO seeks to involve its social partners in building social consensus around some of the difficult issues linked to trafficking. The ILO's International Programme for the Elimination of Child Labour (IPEC) has called specific attention to trafficking of children as part of its campaigns against the worst forms of child labour.

Box 23: Counter-Trafficking Measures

Policy: Action to provide legal frameworks, structures and processes including ratification of international labour standards and formulation of national action plans. Mechanisms may reach from the national level to local communities.

Prevention: Measures to raise awareness and promote livelihoods and empowerment of vulnerable communities together with actions in destination areas to improve management and monitoring such as “workplace watch”.

Protection: Action to ensure the rights of children and young women who are recovered from trafficking to be placed in a safe environment and provided access to education, health care, voluntary repatriation and other alternatives.

Prosecution of perpetrators: Measures involving investigation, surveillance and arrest of traffickers to target the perpetrators and not the victims.

Participation and partnerships: Steps taken to make certain that the voices of those most affected by trafficking are heard in the process of formulating and implementing anti-trafficking measures. A broad range of key stakeholders should also be involved – government agencies, social partners, professional associations, international organizations and others.

Source: Thetis Mangahas, “Trafficking in children and women”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Ms Mangahas provided an overview of counter-trafficking measures in the five areas of policy, prevention, protection, prosecution, and participation. These are summarized in Box 23. *Policy* interventions consist of action to provide a legal framework, structure and process, including the ratification of international standards, the formulation of national plans of action, the creation of institutional mechanisms and the promotion of bilateral and regional cooperation. Ms Mangahas outlined a holistic and integrated approach on *prevention* that includes mobilization and empowerment, gender equality promotion, education and training, sustainable livelihoods, employment services and workplace monitoring. More effective responses integrate awareness raising with income generating schemes, improved access to education and credit and other alternatives. Another important counter-trafficking measure is opening regular migration channels. This means examining the influence of policies for migration and development, disseminating information about migration alternatives for informed choices and promoting responsible recruitment. Ms Mangahas reiterated the rights of children and young women to *protection* in a safe environment that offers access to their rights to education, health care and freedom from abuse. *Prosecution* should target the perpetrators and not the victims. This involves investigation, surveillance and arrests of the traffickers and assistance for the victims. It is important to ensure that trafficked children are not treated as criminals and placed in detention centres or immediately deported and abandoned on borders where they are again easy targets for other traffickers or additional abuse. Ms Mangahas argued that *participation and partnerships* should involve those most affected by trafficking – children and youth, families and communities as well as the key stakeholders of governments, employers and workers, the United Nations, non-governmental organizations and the media. The ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women also supports building ownership at all levels – national, provincial, district and village – in order to define a common agenda, share information and assess impact.

After presenting the overall strategies of the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women, Ms Mangahas asked the national managers of projects in Cambodia, Lao PDR and Thailand to talk about their activities. Mr Ouk Sisovann reviewed the good practices and lessons learned in Cambodia during the first phase of the project, especially the community prevention strategies of awareness raising and direct assistance in rural skills training, credit schemes, animal husbandry and vegetable production. He then spoke of the new directions in the second phase, emphasizing the demand side and action in the receiving areas. He also stressed the importance of strengthening ILO's work to support the Memoranda of Understanding on employment and trafficking.

Ms Taneeya Runcharoen spoke about how the project in Thailand is working closely with stakeholders to identify sectors in which children and women are at greatest risk of being trafficked. The first phase included integrated approaches to improving livelihood opportunities in local communities together with advocacy measures. The project has supported action research, academic studies and improved statistics on trafficked victims and migrant workers. The trafficking project is also working to obtain a better understanding about the links between migration and trafficking, especially in the sectors of fisheries, agriculture, manufacturing and domestic service.

Mr Inthasone Phetsiriseng who works in Lao PDR explained that the project involves awareness raising, capacity building and direct assistance. Awareness raising has been conducted through a number of channels including television and radio, traditional theatre and youth volunteers. Capacity building has introduced vocational training and rural skills for agricultural production – mushrooms, watermelons, rice and livestock – as well as brick making and pottery production. The project has used an ILO Women’s Entrepreneurship and Gender Equality (WEDGE) approach for supporting women entrepreneurs. In moving to the second phase, the project is focusing on a framework for labour migration developed through MOU between Thailand and Lao PDR for employment. This includes building an information database on Lao workers in Thailand and developing profiles on their personal situation, labour, health and immigration status. The project is working to compare the databases in Thailand and Lao PDR, identifying those who may be found in one but not the other. The number of missing persons for whom no information is available provides an indication about the extent of human trafficking from Lao PDR into Thailand.

19 Review of the fourth day

The National Project Manager for the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women, Mr Ouk Sisovann, provided a very comprehensive review of the key points raised during the second day during sessions on irregular migration, gender concerns and human trafficking as well as the presentation by Ms Supang Chantavanich on immigration policy in Thailand.

20 Migration information and statistics

Ms Elizabeth Morris, Senior Labour Market and Human Resources Policies Specialist in the ILO Sub-regional Office for East Asia, made a presentation on information and statistics covering the questions about the

why, what, where and how of measuring migration for work. Among the reasons to compile information about migration is contributing to informed debates on policies for immigration and emigration – national, regional and international – and to the mutual benefits that may result; promoting protection of migrant workers and ensuring compliance with international standards; supporting better migration management and administration; assisting migrants themselves; fighting racism, xenophobia and stereotyping of migrant workers; promoting the integration of migration issues into national development planning and poverty reduction strategies; targeting policies that relate to aid, trade and development in order to reduce migration pressures; and identifying the victims of trafficking.

What statistics are collected generally take the form of stocks and flows. *Stocks* refer to the number of persons counted as residing in a country at a particular point in time. *Flows* refer to the number of persons counted as moving or being authorized to move to or from a country to access employment during a period of time such as between 1 January and 31 December. Ms Morris explained that the stock of foreign workers in a country can be defined as those foreign citizens who at a particular date or during a specific reference period would be counted as being economically active in a particular country, as employed or unemployed, according to ILO guidelines for the measurement of the economically active population. The inflow of foreign workers to a country is defined as those foreign citizens who during a particular reference period arrived in the country with the objective to take employment there. The outflow of migrant workers from a country measures those citizens who, during a particular reference period, left the country with the objective to take employment in another country.

Among the information needs of sending countries are overseas markets and demand for workers by sector and skills; numbers and profiles of workers leaving the country; channels of recruitment and profiles of recruitment agencies; conditions of work by nationals abroad; stock of national migrant workers abroad and their profiles; remittances from workers abroad; impact of emigration on the local labour market and human resources; and return migration and circulation.

The information needs of receiving countries include labour market demand for foreign workers by sector and skills; numbers and profiles of foreign workers admitted under different programmes; sectoral and occupational distributions of foreign workers; impact of migrant workers on the local labour market including employment, wages and working conditions; numbers of foreign workers in irregular status including trafficked persons and their characteristics; target groups for social protection; and integration policies and programmes.

Employers' organizations need migration information in lobbying for supply of foreign workers and specific skills, production planning, mobilizing remittances for enterprise development and harnessing the skills of returning workers. Workers' organizations can use information for analyzing the employment impact of migrant workers on jobs for local workers, protecting migrant workers and extending coverage of union membership.

Ms Morris pointed out some of the information needs of migrant workers both before and after accepting an offer. These are outlined in Box 24.

Box 24: Information needs of migrant workers

Before accepting an offer

- Names and addresses of state employment services and licensed agencies
- Names of blacklisted foreign employers and their agents and recruiters
- Wage standards in destination countries
- Health examination services and fees
- Clear guidelines on procedures for obtaining emigration clearances
- Description of prohibited recruitment practices
- List of recommended countries of destination
- List of countries where overseas work is discouraged or banned
- Average cost of transport to various destination countries
- Recruitment fees normally charged by agents

After accepting an offer

- Names and addresses of national administrative bodies that oversee conditions of migrant workers in countries of employment
- Procedures and facilities for sending remittances and earnings
- Services for migrants and their families in countries of employment including schooling and medical care
- Addresses of diplomatic missions and labour attachés that can provide assistance to migrant workers

Source: From Manolo Abella, *Sending workers abroad*, Geneva, ILO, 1997 and Roger Böhning, *Employing foreign workers*, Geneva, ILO, 1996, in Elizabeth Morris, "Migration Information and Statistics", ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

In answering where migration information can be found, Ms Morris distinguished between qualitative information and quantitative information. Sources of qualitative information are laws and regulations, diplomatic missions and labour attachés, government reports, academic studies, international labour standards, documents and reports of international organizations, newspaper articles and interviews. We can obtain new qualitative information, she said, from key informants, case studies and participatory methods including focus groups. Quantitative information or migration statistics come from censuses and surveys, reports and records. Censuses and surveys are generally household based or enterprise based.

Ms Morris gave some examples of household-based censuses and surveys: migration surveys, population censuses, labour force surveys, household income and expenditure surveys, living standards measurement surveys, socioeconomic surveys and multipurpose surveys. Among the types of information collected are migrant status, demographic data, employment, unemployment, underemployment, hours, earnings and inactivity. The advantages of household-based censuses and surveys can be wide coverage of the population, good measurement of concepts and focused analysis through detailed tables, cross tabulations and statistical procedures. Some of the disadvantages are that they may be expensive and the number of observations may limit detail and precision of the statistics.

Examples of establishment-based surveys, said Ms Morris, are industrial censuses, establishment-based employment surveys, industrial production surveys and establishment surveys for special purposes such as migration issues. The types of data may include migrant labour, paid employment, wages, vacancies and labour turnover. The advantage is that they are often the best source of data on wages and labour turnover. Disadvantages are that they may cover only the formal sector and large businesses, usually exclude certain sectors such as agriculture and services and may or may not include casual employment and temporary workers. In addition, enterprises may not report accurately for a number of reasons including taxes. Finally, there are difficulties in maintaining and updating business registers which might introduce bias if new firms are different from old firms.

Administrative records are another source of migration information. Examples are exit permits, work permits, population registers, border registrations, tax records and insurance records. They include reports from recruitment agencies, records about apprehension of migrant workers in irregular status and applications for asylum. This information is acquired in the process of an agency, business or organization conducting routine tasks

associated with the job or enterprise. Thus, the type of information produced depends on the administrative functions that the office performs. In government offices, this often follows laws and decrees. Advantages are that the information is already collected and may therefore be inexpensive. Disadvantages are that coverage is restricted to the objectives and uses of the administrative system and statistics may be of lower quality than those collected for a specific purpose. Authorities and ministries that record migration information include planning, labour and employment, interior, immigration, defence and security, justice and foreign affairs.

Box 25: Tables in the ILO International Labour Migration Database

Table 1	Resident population by sex and citizenship
Table 2	Employed persons by sex and citizenship
Table 3	Employed persons by economic sector
Table 4	Employed persons by occupation
Table 5	Employed persons by employment status
Table 6	Inflows of [im]migrants by sex and citizenship
Table 7	Inflows of employed [im]migrants by sex and citizenship
Table 8	Inflows of employed [im]migrants by economic sector
Table 9	Inflows of employed [im]migrants by occupation
Table 10	Inflows of employed [im]migrants by employment status
Table 11	Nationals abroad by sex and host country
Table 12	Outflows of nationals by sex and destination
Table 13	Outflows of employed nationals by sex and destination

Source: <http://www.ilo.org/public/english/protection/migrant/ilmdb/index.htm>

Ms Morris touched briefly on international databases, mentioning specifically the ILO International Labour Migration Database that can be accessed at <http://www.ilo.org/public/english/protection/migrant/ilmdb/index.htm>. As an example of the kinds of data that may be collected for stocks and flows, she listed the thirteen tables for which data are collected. Ms Morris then went on to mention that it is useful to use standard classifications in order to be able to compare statistics across countries and over time. In particular, she mentioned the International Standard Classification of Occupations (ISCO – 1968 and 1988), the International Standard Industrial Classification (ISIC – Revision 2, 1968 and Revision 3, 1990), International Classification of Status in Employment (ICSE – 1958 and 1993) as well as the Resolution concerning statistics on the economically active population, employment, unemployment and underemployment.

In thinking about the “How?” to go about collecting migration information and statistics, Ms Morris cautioned that information systems require substantial resources to establish and maintain. Therefore, it is necessary to identify the key priorities for data collection. She then gave some examples of questions that should be addressed in this process.

Box 26: Questions for setting priorities and establishing a system of information for migration

- Is there a mechanism to coordinate the users and producers of migration information? Establish a focal point for data collection.
- Are employers’ organizations and workers’ organizations involved? Make certain that the social partners participate as users and producers of migration information and statistics.
- What are the priorities? Promote consultations between users and producers of migration information to determine key priorities.
- What information already exists? Examine ways of making better use of the information that is already collected.
- How do users obtain information about migration? Take steps to improve the transparency and dissemination of information about migration.
- Who analyses information about sending workers abroad and employing foreign workers? Include a plan for analysing migration information.
- How is this analysis used by policy makers? Introduce a plan to disseminate the statistics and “market” the information.
- What are the capacity constraints? Develop a plan to build capacity for the compilation, analysis and dissemination of information about labour migration.

Source: Elizabeth Morris, “Migration information and statistics”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

The participants were then asked to work in country groups to produce a plan for compiling information and statistics on migration by identifying three priorities and then listing existing information, current sources, information gaps and proposed sources.

Box 27: Cambodia: Priorities for information on migration

Cambodia listed priorities for government, employers and workers. *Government* priorities for information are the numbers of migrant workers seeking employment abroad and the labour market needs in receiving countries. At the moment there is no information available except from the Republic of Korea. The proposed sources are employers, embassies and agencies abroad.

Employers wanted to know who are the recruitment agencies? How many agencies are there? How many migrant workers are being sent abroad? At the moment this information is not available. The proposed sources of information are the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation,¹⁰ Ministry of Interior, Ministry of Foreign Affairs and sending agencies.

The *workers* reported that they would like to know more about receiving countries. What are the sectors that have employment opportunities for migrant workers? There is currently some information for the Republic of Korea, Malaysia and Thailand. This information is only available for a limited number of sectors including fishing, construction and selected services.

Box 28: Lao People's Democratic Republic: Priorities for information on migration

Priority 1: The first priority for migration information is how many Lao citizens are seeking jobs abroad, especially in Thailand. There are now data available for provinces under the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women. Another source of information is the Ministry of Labour in Thailand. Among the gaps in information is incomplete geographical coverage. Proposed sources are the Ministry of Public Security and the Ministry of Labour and Social Welfare in Lao PDR. Lao participants would also like to conduct a survey on migrant workers.

Priority 2: The second priority is labour market demand in host countries of the region. This information is currently not available in Lao PDR. However, participants hope to obtain information from host country governments through the Ministry of Foreign Affairs and labour ministries in receiving countries.

Priority 3: The third priority for Lao PDR is improved information about human trafficking. How many victims are there? Some information has been collected in three provinces under the IPEC trafficking project. The current source is the labour ministry. It is hoped that additional information can be obtained through cooperation with host countries.

¹⁰ The name and structure of the ministry has been subsequently changed.

Box 29: Mongolia: Priorities for information on migration

The *first priority* for Mongolia is information about overseas labour markets and the demand for workers by sector and skills. Some existing information can be obtained from recruitment agencies. The tripartite group proposed to strengthen the capacity of management in the Ministry of Social Welfare and Labour and its agencies to collect these statistics for overseas demand. It will be necessary, the participants reported, to promote close cooperation with receiving countries including the exchange of information from surveys and reports. The labour ministry and foreign service of Mongolia will need to cooperate with countries of destination. In addition, employers' organizations and trade unions can work with counterparts in host countries to exchange information.

The *second priority* for migration information is conditions of work for nationals employed abroad. This should include data for salaries and remuneration. Recruitment agencies now provide some information. The proposal is to set up a migration information database in the labour ministry.

The *third priority* is information about channels for recruitment and profiles of recruitment agencies. There is currently some information available in the Ministry of Social Welfare and Labour and the Central Employment Office. The source is information compiled from records of recruitment agencies seeking a license from the labour ministry. There have been allegations of abuse in the past whereby workers are not placed in jobs abroad after paying recruitment fees. This situation requires improved information for inspecting and monitoring the recruitment agencies.

Box 30: Thailand: Priorities for information on migration

Thailand identified information priorities for government, employers and workers. The priority for the *government* is to follow up on the July registration with a census of migrants and employers that registered in order to look at labour supply and labour demand. The purpose is to identify which sectors require more workers and which do not. The information will include demographic data and social statistics in order to look at the situation of children, health and education. The proposal calls for analysis of information about migrant workers and their families.

The priority for *employers* is a broad-based skills requirement survey. This will depend on technical and financial support from the Department of Skill Development in the Ministry of Labour. Information will include data from surveys carried out by universities for a number of sectors and will look at matching supply and demand in both the private sector and public sector.

The information priority identified for *workers* is employment in manufacturing. There is now some information from the Department of Employment in the Ministry of Labour, the Ministry of Industry, academic institutions and business associations. The purpose is to see what kinds of jobs should be reserved for Thai workers.

21 Follow-up plans or “re-entry strategies”

Mr Ricardo Casco and Ms Teresa Soriano organized an exercise for each country to prepare an action plan for migration policy and management. These are presented in Boxes 31-34 below.

Box 31: Action plan for Cambodia

Cambodia came up with a strategy for joint action and individual plans for government, employers and workers. The tripartite activity is a one-day seminar to exchange information about migration policy and management. This is tentatively scheduled for October 2004.

The government plans a number of activities: (i) The representative from the Ministry of Interior will inform his superior about the training workshop. The expected output is approval for improved coordination mechanisms; (ii) The Ministry of Labour is preparing a one day workshop in collaboration with the Ministry of Interior and the human rights commission; (iii) The ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women will provide technical and financial support for a tripartite plus workshop to be held before the end of the year.

Employers plan to brief members of the Cambodian Federation of Employers and Business Associations (CAMFEBA) about their duties and responsibilities in order to ensure that members are well informed about migration issues.

Workers will organize a workshop in August 2004 to raise awareness about issues. The expected output is well-informed trade unions.

Box 32: Action plan for Lao PDR

The participants of the workshop will propose an eight-point plan to the government:

- (1) Consider ratification of Conventions Nos. 138, 182, 97, 143 and 181 and accelerate of the process for ratification of UN Conventions. The Ministry of Labour and Social Welfare and the Ministry of Foreign Affairs will work together with social partners to ratify all of these Conventions by the end of 2005.
- (2) Propose that the government revise the existing labour law to update relevant provisions for the labour market. This will be arranged with the Ministry of Justice, the Ministry of Labour and Social Welfare and the National Assembly. The time frame is by the end of 2006.
- (3) Strengthen the existing coordination mechanism for labour migration management in accordance with ILO standards. This will be undertaken by the Ministry of Foreign Affairs and the Ministry of Public Security together with the social partners and others by the end of 2004.
- (4) Implement the ILO/IOM project on capacity building for migration management.
- (5) Continue the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women in phase two that links the supply side and demand side. This will be carried out by the Ministry of Labour and Social Welfare, the ILO and the National Steering Committee on Eliminating Child Labour that includes the Ministry of Foreign Affairs, the Ministry of Justice and others. The time frame is by the end for 2008.
- (6) Continue bilateral negotiations with the Thai government within the framework of the MOU as part of the regularization of migrant workers in Thailand. It will be coordinated by the ILO working with the Ministry of Labour and Social Welfare and the Ad Hoc Committee on the MOU with Thailand. This will continue until July 2005.
- (7) Employers' organizations will collect information and statistics on business enterprises and develop a database on labour markets. This will be organized by the Lao National Chamber and Commerce and Industry over the next two years.
- (8) Workers' organizations will collaborate with Thai trade unions and government to protect Lao workers in Thailand. This will be implemented by the Lao Federation of Trade Unions over the next two years.

Box 33: Action plan for Mongolia

The action plan for Mongolia has three main areas – legislative framework, social dialogue and information system.

- (1) *Legislative framework.* Under this component there will be a review of the legislation with special attention paid to human rights and gender issues. The output will be an improved system for migration policy and management. This will be carried out by the Ministry of Social Welfare and Labour. The timeframe is one year and will be completed in 2005.
- (2) *Social dialogue.* There will be capacity building and awareness raising about migration matters. A workshop will consider such issues as social protection and the recruitment system. This will include training for government officials, social partners and the human rights commission. The timeframe for this is the last quarter of 2004.
- (3) *Information system.* This component will establish a system and database for migration information and statistics. It will introduce international instruments and a reporting system. Included will be services for migrants. The timeframe for this component is one year to be completed in 2005.

Box 34: Action plan for Thailand

Thailand understood the “re-entry plan” to focus on migrant workers returning from abroad. In this regard the plan calls for research and communication. The research is on the experience of returning migrant workers that will be shared in training centres for workers who are planning to go overseas for employment. Activities are to be organized by the Ministry of Labour and the Labour Congress of Thailand. The timeframe is one year. According to the plan, there will be a campaign to encourage returnees to do business on their own. The hope is that they will establish businesses, hire workers and create jobs in Thailand. This project will also be supported by the Ministry of Commerce. The communication component is to improve information available to migrants going abroad as well as those returning to Thailand.

22 Closing ceremony

The closing ceremony began with a video produced by the Federation of Trade Unions Burma (FTUB) with support from the ILO Bureau for Workers Activities (ACTRAV) entitled “Leave Home to Survive”. This

gave another perspective from the third country to sign a Memorandum of Understanding with Thailand. The video pointed out that roughly three-fourths of the migrant workers in Thailand are from Myanmar. They are classified by the Ministry of Labour as “unskilled general labourers”. Many cross over the 1,200 kilometre border in order to leave economic difficulties, forced labour and burned villages. During their journey they are apt to encounter extortion from police, soldiers and officials along the border. Most workers entering illegally into Thailand find employment in fishing, farming, construction, restaurants, domestic service, garment factories and menial jobs. A Burmese woman working in a textile factory said during an interview that migrant workers are paid 60 *baht* per day compared to 135 *baht* for Thai workers. Overtime rates are also lower – 8 *baht* per hour for migrants compared with 25 *baht* for nationals. The families of migrants also look for a way to make a living. Children are available for work at any rate of pay and often find jobs as shop attendants, garbage collectors and gas station attendants. The video showed children employed in a toy factory for 50 *baht* per day in poor working conditions. A Thai employer explained that he had registered Burmese workers and had not experienced any major problems. However, there are sometimes difficulties when the workers do not speak Thai.

The video pointed out that the Thai government has a problem, when migrants are pushed into commercial sex work and drug peddling or become involved in robberies or murders. From the viewpoint of migrants, there is sometimes physical abuse, non-payment of wages and reluctance on the part of employers to allow the Burmese to register with authorities. However, one migrant worker said, “we regard them as benefactors”.

According to the Labour Coordinating Centre of Thailand the Burmese migrants do not pose a threat to Thai workers, since they generally hold jobs that would otherwise go unfilled. However, migrants should be provided at least minimum wages, other benefits and social security. On average, they are now paid 60 per cent of the Thai minimum wage. This makes it more difficult for Thai workers to negotiate higher wages.

The Federation of Trade Unions Burma (FTUB) noted that migration is a concern to governments around the world. Unfortunately, said the spokesperson, the current regime in Myanmar refuses to acknowledge the problem and to accept returnees. For this reason, the FTUB is working with the trade union community in Thailand. The video concluded that almost all migrants would like to go back home and live peacefully in Myanmar.

22.1 Closing remarks from the ILO

Sub-regional Office for East Asia

The video was followed by the closing remarks of the ILO presented by Ms Christine Evans-Klock, Director of the ILO Sub-regional Office for East Asia. Ms Evans-Klock began with *a fair deal for migrant workers*. As representatives of governments, employers, workers and human rights institutions, she said, you have been discussing the complex phenomenon of international migration. I suppose that issues on migrant labour are different across Thailand, Lao People's Democratic Republic, Mongolia and Cambodia, but I hope that you have also discovered some concerns that you have in common, and that you have found that the work of the ILO is relevant to the policy questions that each of you face.

The head of the ILO, Director-General Juan Somavia, once said that "Migration is one of the most contentious issues facing the world today." And not only is migration a difficult issue with many facets and points of view, but also an issue of *increasing importance*. Two major reports this year emphasized that this growing importance is due to the increasingly global economy. This was the conclusion of the report prepared for the general discussion at the International Labour Conference this year, with a good title: *Towards a fair deal for migrant workers in the global economy*, and was also the conclusion of the report of the World Commission on the Social Dimension of Globalization.

Despite the complexity and sensitivity of the issues involved, the representatives of governments, workers and employers at the International Labour Conference did reach a consensus on a plan of action. It calls for a rights-based approach to labour migration. It recommends an ILO dialogue on migration with other international organizations. And it establishes a framework – agreed by governments, employers and workers from 175 countries – for taking up many issues, from how to manage recruitment, admissions, employment, treatment, and integration of migrant workers to fair policies for their return to their home countries. I think you have learned about good practices and shared information about many of these measures this week, such as:

- Better management of migration for employment purposes, including through agreements between host countries and countries of origin on social security entitlements, investments from remittances and integration and social inclusion;

- Promoting decent working conditions, representation, and coverage of relevant international labour standards for migrant workers;
- Encouraging the licensing and supervision of recruitment and contracting agencies for migrant workers in accordance with ILO Conventions and Recommendations;
- Preventing abusive practices, migrant smuggling and trafficking in persons, protecting their human rights;
- Addressing the specific risks that all migrant workers face – men and women – in demeaning and dangerous jobs and in informal types of employment, and, in particular addressing risks that women face in domestic service;
- Implementing policies to encourage return migration, reintegration into home communities, and transfer of capital and technology by migrants.

All of these issues are receiving increasing attention from governments in the region. For example, just this morning, Prime Minister Thaksin Shinawatra of Thailand led a National Conference on Human Trafficking. He addressed the criminal aspects of this issue – calling for greater effort by law enforcement agencies. He also acknowledged that until we better understand the economic aspects of migration and trafficking, we will not be able to deal effectively with the exploitative aspects of cross-border labour movements.

Ms Evans-Klock then went on to talk about the *training workshop on migration management*. I am glad, she said, that so many of the issues and challenges raised at the International Labour Conference have been discussed at this workshop on labour migration policy and management. And I am grateful for the support of the Government of the Republic of Korea which made this workshop possible. We will report and include your ideas and suggestions in the future work of the ILO.

I look forward to receiving a report of the meeting. On the basis of discussions here in Ayutthaya, we will work with the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women to revise the training materials and organize national training. As part of the project on “Enhancing national capacity on migration management in Cambodia, Lao People’s Democratic Republic, Mongolia and Thailand” under the ILO/Korea Partnership Programme, we will organize a high-level planning meeting at the end of the year to outline the steps forward.

This meeting would not have been possible without commitment in Cambodia, Lao People's Democratic Republic, Mongolia and Thailand to identify policies and implement measures that promote a rights-based approach to international migration that contributes to economic development, decent work and protection of migrant workers.

We would like to thank the facilitators from the Philippines for the energy and enthusiasm with which they prepared the materials and organized the sessions.

On behalf of the Sub-regional Office for East Asia, I would like to express our thanks to colleagues in Geneva in the International Migration Programme, especially Mr Piyasiri Wickramasekara, and to the staff of the Mekong Sub-regional Project to Combat Trafficking in Children and Women for their collaboration and cooperation.

We also want to acknowledge support from the meetings unit – Khun Prayoonsri and Khun Isra – of the Regional Office for Asia and the Pacific who handled the invitations, travel and payments.

I think you have met several specialists from the sub-regional office this week, and I hope you will join me in thanking them for their presentations on international labour standards, social partners, gender issues and migration statistics.

We would like to acknowledge the hard work of our programme officers – Khun Sutida and Khun Jittima – and our support staff – Khun Nitchakarn and Khun Teerasak – in supporting this workshop. I hope you have also enjoyed the service from the staff of the Krungsri River Hotel.

Finally, I would like to thank Ms Elizabeth Morris, our Senior Labour Market and Human Resources Policies Specialist, for her vision in planning this workshop and for working very hard over many months to match financial resources, technical expertise, and your interests and needs to make it possible.

I hope you have enjoyed gathering in this beautiful and historical setting and I trust that you will find many opportunities in the months and years ahead to put to good use the information, experience, and good practices that you have learned and that you have taught others this week. Thank you.

The speech by Ms Evans-Klock was followed by a statement by Mr Piyasiri Wickramasekara, Senior Migration Specialist of the International Migration Programme in Geneva and Ms Thetis Mangahas, Chief

Technical Advisor of the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women.

International Migration Programme

Mr Wickramasekara first reviewed the achievements of the workshop. He congratulated the participants for diligently following a comprehensive and concentrated presentation of migration issues and policies over five days. Starting with global trends and perspectives, the discussion covered administration of overseas employment programmes, gender issues, instruments for protection of migrant workers, the roles of social partners, country-specific policies, irregular migration and policy responses and measurement of migration. A great deal was presented and discussed in a short space of time. The success is also due to the contributions of the participants. Mr Wickramasekara mentioned that he personally found the programme educational and stimulating.

Mr Wickramasekara next highlighted a few important messages which needed repletion. First, good policy requires good data, and countries should try to improve migration information. Second, inter-country cooperation is important in migration management. Third, the protection of migrant workers – both national workers overseas and foreign workers inside the country – should continue to receive priority. It is, therefore, important to seek to ratify or draw upon international instruments in national legislation, and enforce them. At the same time, migrants should have access to redress mechanisms such as national human rights commissions. He also stressed that resorting to migrant workers in irregular status – the current practice in some Asian countries – was not a sustainable option to meet genuine labour market needs. Therefore, it is important to introduce regular admission policies that reflect labour market needs.

Finally, Mr Wickramasekara stressed the need for effective follow up. He recalled the experience of some previous ILO activities in the region where participants had not shared or followed up on the information and knowledge gained on return to their home countries. It is, therefore, important for participants share what they have learned after returning and try to promote debate and influence policies on migration issues in their own countries. The ILO – the Bangkok Sub-regional Office for East Asia, the IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women and the International Migration Programme – will be ready to help them in these tasks.

Mekong Sub-Regional Project to Combat Trafficking in Children and Women

Ms Mangahas provided short summary remarks reiterating the necessity of seeing trafficking within the broader labour migration framework. She outlined the areas for collaboration that the IPEC Mekong Project intended to pursue with government agencies and tripartite partners. She said a high priority will be given to strengthening national capacities to develop and implement the existing Memoranda of Understanding on employment and trafficking. She urged workshop participants to work closely with the national teams of the IPEC projects to develop proposals, design strategies and ensure that collaboration continues beyond the Ayutthaya workshop.

22.2 Closing remarks by representatives of governments, employers and workers

Statements from the ILO were followed by remarks by ILO constituents. The representative of governments was Mr Nara Rattanakul, Chief of Irregular Workers Controls of the Department of Employment in the Ministry of Labour of Thailand. The employers also selected a representative from Thailand – Ms Siriwan Romchatong, Executive Director of the Employers’ Confederation of Thailand (ECOT). Finally, the workers’ representative was Mr Zalmaa Sukhbaatar, Director for International Relations and Legal Advisor of the Confederation of Mongolian Trade Unions (CMTU).

Closing remarks by representative of governments

Mr Nara Rattanakul began by saying that migration is one aspect of economic development that can have both positive and negative consequences for sending and receiving countries. A review of the evidence indicates that the impact depends on how successfully countries are able to devise adjustment policies to make migration more of a “win-win” proposition.

The links between labour migration and international trade, export growth, economic growth rate and per capita income are part of the complex process of globalization. There is a clear consensus that international migration is an increasingly important part of the global economy. All countries today are affected by migration as origin, transit or destination countries. Mr Nara pointed out that increasing mobility of people in search of better opportunities, decent work and human security has commanded the attention of policy makers and prompted dialogue for multinational cooperation in practically every region of the world. The number of migrant workers in irregular status is rising, fuelled by the growth of informal

employment, shortages of labour in “3-D” jobs and inadequate channels for regular migration. The absence of formal national policies for migration management contributes to the increasing numbers of migrant workers in irregular status. The increase of trafficking in women and children poses a particular threat to protection of human rights and creates a new challenge for national governments and the international community.

Every government is required to have effective management of labour migration. National policies and administration must be adaptable, dynamic and flexible. Administration of labour migration requires structures and mechanisms, competence and capacity within the ministries concerned. While governments have their own migration policies, there is a need for international cooperation on migration issues, especially labour migration. This has taken the form of inter-governmental dialogue on migration policies between sending countries and receiving countries. This cooperation should follow the guidelines in Box 35:

**Box 35: Intergovernmental cooperation
on migration policy**

- Safeguard basic human rights of all migrant workers covered by human rights instruments and the ILO core Conventions;
- Promote cooperation between countries of origin and host countries in curbing irregular migration;
- Identify the root causes of irregular migration flows;
- Ensure the safe return of irregular migrants in conditions of dignity;
- Encourage countries of origin to reduce emigration pressure through strategies for local development.

Source: Nara Rattananut, “Closing remarks of the representative of governments”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Closing remarks by representative of employers

Ms Siriwan Romchattong began by saying that she was honoured to deliver the closing remarks on behalf of the four representatives of employers’ organizations attending the workshop from Cambodia, Lao People’s Democratic Republic, Mongolia and Thailand. She said that globalization makes our world smaller and borderless – leading to interdependency among

global communities and the flow of capital, information, technology and labour. On the dark side, she said, globalization simultaneously intensifies the magnitude and spread of drugs, crime, terrorism, disease, unfair labour practices and uncontrolled migration. Both push and pull factors result in flows of workers migrating to foreign workplaces. The pull factor draws migrant workers for a variety of purposes – among them are low wages and unpaid earnings in situations where it is hard to attract domestic labour in jobs referred to as the “3-Ds”. At the same time, there is a rising number of free trade agreements that require international labour standards and lead to the growing importance of labour migration.

This workshop follows the Conclusions on a fair deal for migrant workers in a global economy of the ILO International Labour Conference 2004 that called for a rights-based approach to labour migration. Much of our discussion in the past week has touched on ILO core Conventions together with Conventions Nos. 97 and 143. We the members of a tripartite constituency have had a constructive learning experience, sharing and exchanging information on how to bring about equal and fair management of migrant workers with gender equality as well as preventing abusive practices such as smuggling and trafficking of migrants. We are also called upon to establish a surveillance system in the business stream to enforce labour standards at all levels by providing equal treatment with regard to wages, social security, occupational safety and health and good working conditions regardless of national origin of the workforce.

Representatives of the four employers’ organizations attending this workshop are from different countries but have found some common ideas about what needs to be done. These are outlined in Box 36.

Box 36: What can be done by employers’ organizations?

- Set up tripartite mechanisms for the formulation and supervision of migration policy;
- Request ILO support for strengthening capacity of employers’ organizations so that we can play an effective role in promoting international migration policies, plans and supervision.

Source: Siriwan Romchatong, “Closing remarks by representative of employers”, ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

The five day Sub-regional Training Workshop on Labour Migration Policy and Management has been filled with fruitful discussions. What lies ahead is the implementation in which all of us must take an active part.

In conclusion, Ms Romchattong stressed that in addition to increasing productivity and raising profitability, employers are helping to create decent work and build human capital. Sub-regional employers always join hands with social partners and the ILO to ensure and enrich equal employment and labour standards in each national context.

We sincerely thank the ILO directors, specialists, and staff together with the Government of the Republic of Korea for this good training workshop and we are looking forward to continuing collaboration in promoting decent work for migrant workers that will benefit each and all of us. Thank you very much.

Closing remarks by representative of workers

Speaking on behalf of the workers' group representing trade unions from Cambodia, Lao People's Democratic Republic, Mongolia and Thailand, Mr Zalmaa Sukhbaatar said he would like to thank the Director of the ILO Sub-regional Office for East Asia, Ms Christine Evans-Klock, for her support to the Sub-regional Training Workshop on Labour Migration Policy and Management. This workshop comes just after intensive discussion at the International Labour Conference resulted in the adoption of a plan of action for migrant workers. Mr Sukhbaatar called for coherent, transparent and comprehensive national policies that will encourage greater cooperation between sending countries and receiving countries highlighted in Box 37.

Box 37: Greater cooperation on national policies

Labour migration is a key issue in the global economy. The ILO has made a timely response to emerging issues which require efforts for international cooperation and consultation with social partners. We consider that the success of the workshop will assist tripartite constituents to work with other stakeholders to develop coherent, transparent and comprehensive national policies that will encourage greater cooperation between origin countries and host States and among constituents within these countries.

Source: Zalmaa Sukhbaatar, "Closing remarks by representative of workers", ILO Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, Thailand, 2-6 August 2004.

Mr Sukhbaatar said that he would like to thank the facilitators of the workshop. He together with Mr Chuon Mom Thol, President of the Cambodian Union Federation (CUF), Mr Thongchanh Phonekhamma of the Lao Federation of Trade Unions (LFTU) and Mr Pratheung Soengsant, President of the Labour Congress of Thailand, would like to thank Ms Elizabeth Morris and Mr Piyasiri Wickramasekara together with all the other resource persons who have shared their views and experience including specialists from the Sub-regional Office for East Asia and the IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women. Finally, Mr Sukbaatar thanked the Government of the Republic of Korea for the support given to the workshop and for the introduction of policies that are leading to a fair deal for migrant workers.

22.3 Presentation of certificates

After the closing statements of ILO constituents, Mr Jong-Kil Park, Coordinator of the ILO/Korea Partnership Programme of the ILO Sub-regional Office for East Asia presented photos and certificates to workshop participants and resource persons. Before handing out the certificates, he made some brief remarks to explain the activities of the ILO/Korea Partnership Programme in the Sub-regional Office for East Asia in Bangkok that made the workshop possible.

Mr Park explained that the ILO/Korea Partnership Programme was initiated in 2003 with financial support from the Ministry of Labour in the Republic of Korea. Technical assistance comes mainly from the ILO Sub-regional Office for East Asia. Three projects were carried out in 2003 with USD 160,000 and six projects are underway in 2004 with USD 600,000. Among these are enhancing national migration management in Cambodia, Lao PDR, Mongolia and Thailand; capacity building for occupational safety and health in hazardous occupations in Cambodia, Lao PDR, Mongolia, Thailand and Viet Nam; core work skills and basic vocational competencies for the working poor; and technical assistance on social security in Cambodia. This workshop is one of the first activities under the project for migration management. The purpose of the ILO/Republic of Korea Partnership Programme is to help neighbouring countries reduce poverty and build decent work. Although the funds are still modest, the amounts will be increased given the interest and concern of the Government of the Republic of Korea.

Mr Park said he hoped all of the participants would apply the knowledge and experience from the workshop to do more for migrant workers in their own countries. Finally, he thanked those present for their active participation. He gave a special thanks to Ms Elizabeth Morris who served as focal point for the migration project.

Annex I

Sub-regional Training Workshop on Labour Migration Policy and Management Ayutthaya, Thailand, 2-6 August 2004

Programme

Monday 2 August 2004

0800-0830	Registration
0830-0845	Welcome – Elizabeth Morris, ILO Senior Labour Market and Human Resources Policies Specialist, Bangkok
0845-0900	Introduction to the course – Ricardo Casco, Director for Programme Development, and Teresa Soriano, Executive Director of the Institute for Labour Studies, Department of Labour and Employment, Philippines, ILO Consultants
0900-0930	Defreeze and icebreaker – Ricardo Casco and Teresa Soriano
0930-0945	Group photo
0945-1015	Coffee break
1000-1200	Background and current issues and responses in global and regional migration – Philip Martin, Department of Agricultural and Resource Economics, University of California-Davis, and Piyasiri Wickramasekara, ILO Senior Migration Specialist, International Migration Programme, Geneva
1200-1300	Lunch break
1300-1515	Development of national labour migration policies and structures – Philip Martin, Ricardo Casco and Teresa Soriano
1515-1530	Coffee break
1530-1700	Development of national labour migration policies and structures – Philip Martin, Ricardo Casco and Teresa Soriano
1800-1900	Reception

Tuesday 3 August 2004

- 0830-1015 Promoting and facilitating the employment of nationals abroad – Ricardo Casco, Teresa Soriano and Philip Martin
- 1015-1030 Coffee break
- 1030-1200 Viet Nam's experience in sending workers abroad – Nguyen Ngoc Quynh, Department of Overseas Labour, Ministry of Labour, Invalids and Social Affairs
- 1200-1300 Lunch break
- 1300-1515 Employing foreign workers – Teresa Soriano, Ricardo Casco and Philip Martin
- 1515-1530 Coffee break
- 1530-1700 Migrant workers labour market in Korea – Yoo Kil-Sang, Vice President, Korea Labour Institute

Wednesday 4 August 2004

- 0830-1015 Protection of migrant workers – Tim De Meyer, ILO Senior Specialist in Labour Standards, Bangkok
- 1015-1030 Coffee break
- 1030-1200 Protection of migrant workers (continued) – Tim De Meyer, ILO Senior Specialist in Labour Standards, Bangkok
- 1200-1300 Lunch break
- 1300-1345 The roles of employers' organizations and workers' organizations in labour migration policy and management – Anne Knowles, ILO Senior Specialist in Employer' Activities and Raghwan, ILO Senior Specialist in Workers' Activities, Bangkok
- 1345-1430 Issues and challenges facing employers and workers and how each group can contribute to migration policy and management – separate group discussions of employers with Anne Knowles and workers with Raghwan

How governments can work with employers and workers to strengthen labour migration policy and management – separate discussion of government participants facilitated by Piyasiri Wickramasekara and Elizabeth Morris

The role of human rights commissions in strengthening international labour migration policies and the promotion of migrant workers' rights – separate discussion of human rights commission facilitated by Tim De Meyer

1430-1515 Tripartite discussions to consider practical solutions to issues and challenges of international labour migration – facilitated by Anne Knowles and Raghwan

1515-1530 Coffee break

1530-1600 Reports from groups

Thursday 5 August 2004

0830-1015 Irregular migration and migration management – Piyasiri Wickramasekara

1015-1030 Coffee break

1030-1200 Migration and GEMS: Gender equality promotion through gender mainstreaming strategies – Aya Matsuura, ILO Technical Officer in Gender, Bangkok

1200-1300 Lunch break

1300-1515 Thailand's experience with migration management – Supang Chantawanich, Director of the Institute of Asian Studies, Chulalongkorn University, Bangkok

1515-1530 Coffee break

1530-1700 Trafficking of women and children – Thetis Mangahas, Chief Technical Advisor, IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women, Bangkok

Friday 6 August 2004

- 0830-1015 Migration information and statistics – Elizabeth Morris
- 1015-1030 Coffee break
- 1030-1200 Re-entry plan and inventory of learning – Teresa Soriano and Ricardo Casco
- 1200-1300 Lunch break
- 1300-1430 Closing ceremony

Remarks by ILO:

Christine Evans-Klock, Director, ILO Sub-regional Office for East Asia, Bangkok

Piyasiri Wickramasekara, Senior Migration Specialist, ILO International Migration Programme, Geneva

Thetis Mangahas, Chief Technical Advisor, IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women, Bangkok

Remarks by ILO constituents:

Representative of governments – Mr Nara Rattanakul, Chief of Irregular Workers Controls, Department of Employment, Ministry of Labour, Thailand

Representative of employers – Ms Siriwan Romchattong, Executive Director, Employers' Confederation of Thailand

Representative of workers – Mr Zalmaa Sukhbaatar, Director, International Relations and Legal Advisor, Confederation of Mongolian Trade Unions

Presentation of certificates:

Jong-Kil Park, Coordinator of ILO/Korea Partnership Programme, Sub-regional Office for East Asia

- 1800 Dinner cruise

Annex II

List of participants

Cambodia

Government

Mr Ouk Ravuth
Chief of Cambodian Workers Control Office
Ministry of Social Affairs, Labour, Vocational
Training and Youth Rehabilitation
Phnom Penh
Cambodia
Tel: (855 11) 940 747, Fax: (855 23) 221 605

Mr Prum Wimol
Deputy Director
Department for Foreigners
Ministry of Interior
275, Opposite Phnom Penh International Airport
Along Russian Boulevard
Phnom Penh
Cambodia
Tel: (855 12) 934 533, Fax: (855 23) 890 306
Email: 012934633@mobitel.com.kh or wimolprum@yahoo.com

Human Rights Commission

Mr Orn Katta
Deputy Director-General of 1st Sub-Committee
Cambodian Human Rights Committee
274, Monivong Boulevard
Phnom Penh
Cambodia
Tel: (855 12) 877 699, Fax: (855 23) 211 162
Email: Katta1975@yahoo.com

Employer

Mr Teh Sing
Vice President
Cambodian Federation of Employers and
Business Associations (CAMFEBA)
90, Preah Sihanouk Blvd
Sangkat Boeng Keng Kang I
Khan Chamkar Morn
Phnom Penh
Cambodia
Tel: (855 16) 888 028, Fax: (855 23) 360 668
Email: tehsing@online.com.kh

Worker

Mr Chuon Mom Thol
The President
Cambodian Union Federation (CUF)
18, Street 112, Sangkat Phsar Depo III
Khan Tuolkok
Phnom Penh
Cambodia
Tel: (855 12) 837 789, Fax: (855 23) 883 153
Email: cuf@online.com.kh

Lao People's Democratic Republic

Government

Mr Thongdaeng Singthirat
Deputy Director-General
Department of Labour
Ministry of Labour and Social Welfare
Pang Kham Road
Vientiane
Lao PDR
Tel: (856 21) 213 011, Fax: (856 21) 213 287
Email: cloffice@laotel.com

Mr Khamhung Sengsouriya
Director of General Chief of Staff
In Charge of People Smuggling and Trafficking
Related to Transnational Crime
Department of Immigration
Ministry of Public Security
Vientiane
Lao PDR
Tel: (856 20) 568 7529, Fax: (856 21) 262 396
Email: khamhung@hotmail.com

Human Rights Commission

Mr Phoukhong Sisoulath
Deputy Director
Division of Legal Affairs
Department of Treaties and Law
Ministry of Foreign Affairs
That Luang Road
Vientiane
Lao PDR
Tel: (856 21) 452 326, Fax: (856 21) 452 439
Email: khong64willows@hotmail.com

Employer

Ms Sengdavone Bangonesengdet
Chief of the Employer Activity Bureau
The Employer Activity Bureau
Lao National Chamber of Commerce and Industry
Shihom Road, P.O. Box 4596
Vientiane
Lao PDR
Tel: (856 21) 219 224, Fax: (856 21) 219 223
Email: laocci@laotel.com or Sengdaourvone@hotmail.com

Worker

Mr Thongchanh Phonekhamma
Lao Federation of Trade Unions (LFTU)
87 Lane Xang Avenue
P.O. Box 780
Vientiane
Lao PDR
Tel: (856 21) 212 754, Fax: (865 21) 212 750

Mongolia

Government

Ms Amartugs Tsenddavaa
Officer-in-Charge
Labour Migration/Overseas Employment Policy Elaboration and Regulation
Ministry of Social Welfare and Labour
United Nations Street 5
Ulaanbaatar 210646
Mongolia
Tel: (976 11) 312 686, Fax: (976 11) 328 634
Email: Amaraa_Ts@yahoo.com

Ms Munkhtsetseg Lodoi
Senior Officer
Legal Policy Department
Ministry of Justice and Home Affairs
Government Building V, Trade Street VI-1
Chingeltei District
Ulaanbaatar 210646
Mongolia
Fax: (976 11) 325 225
Email: munkhoo@yahoo.com

Human Rights Commission

Mr Dashdorj Natsag
Senior Complaints Officer
National Human Rights Commission of Mongolia
5th Floor, Government Building Liberty Square
Ulaanbataar 38
Mongolia
Tel: (976-11) 262 2579, Fax: (976 11) 327 136
Email: n.dashdorj@nhrc-mn.org

Employer

Ms Oyundari Gurragchaa
Chief
Membership Division
Mongolian Employers' Federation (MONEF)
Baga Toiruu 44A
Ulaanbaatar 48
Mongolia
Tel: (976 11) 326 445, Fax: (976 11) 325 635
Email: monef@magicnet.mn

Worker

Mr Zalmaa Sukhbaatar
Director
International Relations and Legal Adviser
Confederation of Mongolian Trade Unions (CMTU)
Sukhbaatar Square 3
Ulaanbaatar 11
Mongolia
Tel: (976 11) 321 987 Ext. 307, Fax: (976 11) 322 128
Email: cmtu@mongol.net

Thailand

Government

Mr Nara Rattanakul
Chief of Irregular Worker Control
Department of Employment
Ministry of Labour
Mitmaitree Road, Dindang
Bangkok 10400
Thailand
Tel: (662) 345 1574 or (662) 345 1771
Mobile: (661) 844 3030

Ms Tarika Wongsinsirikul
Foreign Relations Officer
Ministry of Interior
Thanon Atsadang
Bangkok 10200
Thailand
Tel: (662) 243 0595, Fax: (662) 243 0592

Human Rights Commission

Professor Saneh Chamarik
Chairperson
Office of the National Human Rights Commission of Thailand
422 Phya Thai Road, Pathumwan
Bangkok 10330
Thailand
Fax: (02) 219 2940

Employer

Ms Siriwan Romchatthong
Executive Director
Employers' Confederation of Thailand (ECOT)
4A, 4th Floor, Premier Place Building
38 Moo 6, Srinakarin Road
Nongbon, Prawet
Bangkok 10260
Thailand
Tel: (662) 399 1044-9, Fax: (622) 399 1043
Email: siriwan@ecot.or.th

Worker

Mr Nikom Tengyai
Advisor to Labour Congress of Thailand (LCT)
2249 Kurusaphalatprao Press
Latprao Road, Wang Thonglang
Bangkok 10310
Thailand
Tel: (662) 412 6712 (home)
Mobile: (665) 098 6642

Resource persons

Dr Kil-Sang Yoo
Vice President
Korea Labour Institute
9F, 16-2 Yeoido-Dong, Yeongdungpo-Gu
Seoul 150-010
Republic of Korea
Tel: (82 2) 782 0882, Fax: (82 2) 786 3814
Email: ksyu@kli.re.kr

Mr Do-Young Lee
Deputy Director
Division of Migration Work
Ministry of Labour
Jung Ang Dong 1, Kwa Chun City
Kyunggi Do 427-718
Republic of Korea
Tel: (82 2) 502 9457, Fax: (82 2) 502 6855
Email: sangyob20@naver.com

Dr Philip Martin
University of California-Davis
Department of Agricultural and Resource Economics
1 Shields Avenue
Davis, California 95616
USA
Tel: (530) 752 1530, Fax: (530) 752 5614
Email: martin@primal.ucdavis.edu

Dr Supang Chantavanich
7th Floor, Prajadhipok-Rambhai Barni Building
Chulalongkorn University
Phyathai Road
Bangkok 10330
Thailand
Tel: (662) 218 7460-8, Fax: (662) 255 1124

Mr Nguyen Ngoc Quynh
Deputy Director General
Department for Administration of Foreign Employed Labour Force
Ministry of Labour, Invalids and Social Affairs of Vietnam (MOLISA)
41B Ly Thai To Street, Hanoi
Viet Nam
Tel: (844) 824 9515, Fax: (844) 824 0122
Email: nnquynh@hn.vnn.vn

Ms Teresa M. Soriano
Executive Director of the Institute for Labour Studies
Department of Labour and Employment
5th Floor, DOLE Building, Intramuros
Manila, Philippines
Fax: (632) 533 3068
E-mail: teteysoriano@yahoo.com

Mr Ricardo Casco
Director, Employment and Welfare Department
Philippines Overseas Employment Administration
Manila, Philippines

Ms Ahmma Charisma G. Lobrin
Workers Welfare Research Division
Institute for Labour Studies
Department of Labour and Employment
5th Floor, DOLE Building, Intramuros
Manila Philippines
Tel: (632) 5273452, Fax: (632) 5273491
Email: chalobrin@yahoo.com

ILO participation

Ms Christine Evans-Klock
Director
Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 2219, 288 2220, Fax: (662) 288 3056, 288 3062
Email: evans-klock@ilo.org.

Mr Piyasiri Wickramasekara
Senior Migration Specialist
International Migration Programme
International Labour Office
4, route des Morillons
CH-1211 Geneva 22
Switzerland
Tel: (41 22) 799 6497, Fax: (41 22) 799 8836
Email: wickramasekara@ilo.org

Ms Elizabeth Morris
Senior Labour Market and Human Resources Policies Specialist
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 1793, Fax: (662) 288 3062
Email: morrise@ilo.org

Mr Jong-Kil Park
Expert on Vocational Training
Coordinator of ILO/Korea Partnership Programme
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 1715, Fax: (662) 288 3062
Email: park@ilo.org

Ms Anne Knowles
Senior Specialist in Employers' Activities
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 2201, Fax: (662) 288 3043
Email: knowles@ilo.org

Mr Raghwan
Senior Specialist in Workers' Activities
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 2247, Fax: (662) 288 3043
Email: raghwan@ilo.org

Mr Tim De Meyer
Senior Specialist in Labour Standards
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 2209, Fax: (662) 288 3043
Email: demeyer@ilo.org

Ms Aya Matsuura
Technical Officer
ILO Regional Office for Asia and the Pacific
United Nations Building, 11th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 2485, Fax: (662) 288 1086
Email: matsuura@ilo.org

Ms Thetis Mangahas
Chief Technical Adviser
ILO/IPEC Mekong Sub-regional Project to Combat
Trafficking in Children and Women
Service Building, 2nd Floor
United Nations Building
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 1722, Fax: (662) 288 2019
Email: mangahas@ilo.org

Ms Taneeya Runcharoen
National Project Manager
ILO/IPEC Mekong Sub-regional Project to Combat
Trafficking in Children and Women
Service Building, 2nd Floor
United Nations Building
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 2242, Fax: (662) 288 2019
Email: taneeya@ilo.org

Mr Ouk Sisovann
National Project Manager
ILO/IPEC Mekong Sub-regional Project to Combat
Trafficking in Children and Women
266 Street 63 Sangkat Tonle Bassac
Khan Chamcar Mon, Phnom Penh
Cambodia
Tel: (855 23) 215 495, Fax: (855 23) 993 193
Email: oukiloipeccam@online.com.kh

Mr Inthasone Phetsiriseng
National Project Coordinator
ILO/IPEC Mekong Sub-regional Project to Combat
Trafficking in Children and Women
015 Phonxay Village Unit 1
Phonkheng Road, Xaysetha District
Vientiane Municipality
Vientiane, Lao PDR
Tel: (856 21) 412 335 Ext.104, Fax: (856 21) 412 335 Ext 105
Email: silopec@laotel.com

Ms Jittima Srisuknam
Programme Officer
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 1739, Fax: (662) 288 3043
Email: jittima@ilo.org

Ms Sutida Srinopnikom
Programme Assistant
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 2294, Fax: (662) 288 3043
Email: sutida@ilo.org

Ms Nitchakarn Ratanawijarn
Senior Secretary
ILO Sub-regional Office for East Asia
United Nations Building, 10th Floor
Rajdamnern Nok Avenue
P.O. Box 2-349
Bangkok 10200, Thailand
Tel: (662) 288 1789, Fax: (662) 288 3043

Annex III

Evaluation forms

The participants were given an evaluation form that stated the objective of the workshop: “To improve the knowledge and appreciation of migration-related issues, namely international labour standards, and management of overseas migration, and build the capacity of national labour administrators, social partners and human rights institutions, in formulating and implementing sound labour migration policies suited to national conditions, and protection of women and men migrant workers”. The responses to question were as follows:

1. Did the workshop achieve these objectives?
Achieved very well (50 per cent)
Achieved well (50 per cent)
Achieved but not well (none)
Not achieved (none)
2. Was the content of the workshop appropriate for these objectives?
Very appropriate (65 per cent)
Appropriate (35 per cent)
Not appropriate (none)
3. Was the course content presented clearly and easily understood?
Very clearly presented (50 per cent)
Clearly presented (50 per cent)
Not clearly presented (none)
4. Was the workshop too long or too short?
Too long (10 per cent)
Just right (90 per cent)
Too short (none)
5. Did the workshop improve your knowledge and understanding?
Yes very much (95 per cent)
Yes a little (5 per cent)
No (none)
6. Will the workshop and copies of presentations and modules be useful to you in your work?
Yes very useful (70 per cent)
Yes useful (30 per cent)
No not useful (none)

7. Do you have any suggestions for improving the workshop – content, structure or methods?

Among the comments were: It might be better if participants have more time to talk and exchange their experiences informally. Different structures and methods might have been tried. It would have been useful to explain in more detail the ILO plan of action for a fair deal for migrant workers. The speakers should adhere to the timetable on the agenda. An overall summary would be useful. I would do it the same way. More group discussions would add value to the training. Just do it as it is now. It would be useful to have electronic files for the workshop handouts. More examples of good practices and success stories for migration policy and management would be a good idea. I highly appreciate the methods but the content should be a bit shorter and the notes more readable. There should be more space for the next workshop. The course should include sight-seeing. Excellent.

8. Do you have suggestions for follow up?

We would like to receive updates. It would be good for the ILO to include the same participants in follow-up activities. The ILO should also visit the participating countries to see what can be done to improve the impact. We should have another workshop six months from now to monitor what has been done in each country. Follow-up should include national workshops based on the “re-entry plans”. Follow-up courses would be useful. A meeting should be held to see what progress has been made in implementing the ideas and knowledge gained in the training. The ILO sub-regional office should organize follow-up workshops with the same participants. The ILO should focus on mechanisms to promote the rights of migrant workers. The same participants should be invited to attend follow-up activities. There should be a mechanism for the ILO to cooperate with participants in following up on the workshop as part of the ILO plan of action against trafficking in children and women. Governments in participating countries should come up with a plan of action for migration management. There should be national workshops in the four countries. We would like to be kept up to date on the global situation of migrant workers including developments, promotion and management of migrant workers.

Annex IV

Memoranda of Understanding

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE KINGDOM OF CAMBODIA ON COOPERATION IN THE EMPLOYMENT OF WORKERS

THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE KINGDOM OF CAMBODIA hereinafter referred to as “the Parties”;

RECOGNISING the principles enshrined in “The Bangkok Declaration on Irregular Migration of 1999”;

BEING CONCERNED about the negative social and economic impacts caused by illegal employment;

DESIROUS of enhancing mutually beneficial cooperation between the two countries;

HAVE AGREED AS FOLLOWS:

OBJECTIVE AND SCOPE

ARTICLE I

The Parties shall apply all necessary measures to ensure the following:

- 1) Proper procedures for employment of workers;
- 2) Effective repatriation of workers, who have completed terms and conditions of employment or are deported by relevant authorities of the other Party, before completion of terms and conditions of employment to their permanent addresses;
- 3) Due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights they are entitled to;
- 4) Prevention of, and effective action against, illegal border crossings, trafficking of illegal workers and illegal employment of workers.

This Memorandum of Understanding is not applicable to other existing processes of employment that are already in compliance with the laws of the Parties.

AUTHORISED AGENCIES

ARTICLE II

For the purpose of this Memorandum of Understanding, the Ministry of Labour of the Kingdom of Thailand and the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation of the Kingdom of Cambodia shall be the authorised agencies for the Government of the Kingdom of Thailand and for the Government of the Kingdom of Cambodia respectively.

ARTICLE III

The Parties, represented by the authorised agencies, shall hold regular consultations, at senior official and/or ministerial levels, at least once a year on an alternate basis, on matters related to the implementation of this Memorandum of Understanding.

The authorised agencies of both Parties shall work together for the establishment of procedures to integrate illegal workers, who are in the country of the other Party prior to the entry into force of this Memorandum of Understanding, into the scope of this Memorandum of Understanding.

AUTHORITY AND PROCEDURE

ARTICLE IV

The Parties shall take all necessary measures to ensure proper procedures for employment of workers.

Employment of workers requires prior permission of the authorised agencies in the respective countries. Permission may be granted upon completion of procedures required by laws and regulations in the respective countries.

The authorised agencies may revoke or nullify their own permission at any time in accordance with the relevant laws and regulations.

The revocation or nullification shall not affect any deed already completed prior to the revocation or nullification.

ARTICLE V

The authorised agencies may through a job offer inform their counterparts of job opportunities, number, period, qualifications required, conditions of employment, and remuneration offered by employers.

ARTICLE VI

The authorised agencies shall provide their counterparts with lists of selected applicants for the jobs with information on their ages, permanent addresses, reference persons, education, experiences and other information deemed necessary for consideration by the prospective employers.

ARTICLE VII

The authorised agencies shall coordinate with the immigration and other authorities concerned to ensure that applicants, who have been selected by employers and duly permitted in accordance with Article IV, have fulfilled, inter alia, the following requirements:

- 1) Visas or other forms of entry permission;
- 2) Work permits;
- 3) Health insurances or health services;
- 4) Contribution into savings fund as may be required by the authorised agencies of the respective Parties;
- 5) Taxes or others as required by the Parties;
- 6) Employment contracts of employers and workers.

Contract of the terms and conditions of employment shall be signed between the Employer and Worker and a copy each of the contract submitted to the authorised agencies.

ARTICLE VIII

The authorised agencies shall be responsible for the administration of the list of workers permitted to work under this Memorandum of Understanding. They shall keep, for the purpose of reference and review, the lists of workers who report themselves or have their documents certified to the effect that they have returned to their permanent addresses after the end of the employment terms and conditions, for at least four years from the date of report or certification.

RETURN AND REPATRIATION

ARTICLE IX

Unless stated otherwise, the terms and conditions of employment of workers shall not exceed two years. If necessary, it may be extended for another term of two years. In any case, the terms and conditions of employment shall not exceed four years. Afterwards, it shall be deemed the termination of employment.

A three-year break is required for a worker who has already completed the terms and conditions of employment to re-apply for employment.

ARTICLE X

The Parties shall extend their fullest cooperation to ensure the return of bona fide workers, who have completed their employment terms and conditions, to their permanent addresses.

ARTICLE XI

The authorised agencies of the employing country shall set up and administer a savings fund. Workers are required to make monthly contribution to the fund in the amount equivalent to 15 per cent of their monthly salary.

ARTICLE XII

Workers who have completed their terms and conditions of employment and returned to their permanent addresses shall be entitled to full refund of their accumulated contribution to the savings fund and the interest by submitting the application to the authorised agencies three months prior to their scheduled date of departure after completion of employment. The disbursement shall be made to workers within 45 days after the completion of employment.

In the case of workers whose services are terminated prior to completion of employment and have to return to their permanent addresses, the refund of their accumulated contribution and the interest shall also be made within 45 days after termination of employment.

ARTICLE XIII

Temporary return to country of origin by workers whose terms and conditions of employment are still valid and in compliance with the authorised-agencies' regulations shall not cause termination of the employment permission as stated in Article IV.

ARTICLE XIV

Procedures and documents required in the application for refund as stated in Article XII shall be set forth by the authorised agencies.

ARTICLE XV

The right to refund of their contribution to the savings fund is revoked for workers who do not return to their permanent addresses upon the completion of their employment terms and conditions.

ARTICLE XVI

The authorised agencies of the employing country may draw from the savings fund to cover the administrative expenses incurred by the bank and the deportation of workers to their country of origin.

PROTECTION

ARTICLE XVII

The Parties in the employing country shall ensure that the workers enjoy protection in accordance with the provisions of the domestic laws in their respective country.

ARTICLE XVIII

Workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.

ARTICLE XIX

Any dispute between workers and employers relating to employment shall be settled by the authorised agencies according to the laws and regulations in the employing country.

MEASURES AGAINST ILLEGAL EMPLOYMENT

ARTICLE XX

The Parties shall take all necessary measures, in their respective territory, to prevent and suppress illegal border crossings, trafficking of illegal workers and illegal employment of workers.

ARTICLE XXI

The Parties shall exchange information on matters relating to human trafficking, illegal immigration, trafficking of illegal workers and illegal employment.

AMENDMENTS

ARTICLE XXII

Any amendment to this Memorandum of Understanding may be made as agreed upon by the Parties through diplomatic channels.

SETTLEMENT OF DISPUTES

ARTICLE XXIII

Any difference or dispute arising out of this Memorandum of Understanding shall be settled amicably through consultations between the Parties.

ENFORCEMENT AND TERMINATION

ARTICLE XXIV

This Memorandum of Understanding shall enter into force after the date of signature and may be terminated by either Party in written notice. Termination shall take effect 90 (ninety) days following the date of notification. In case of termination of this Memorandum of Understanding by either Party, for the benefit of the workers, the Parties shall hold consultation on how to deal with employment contracts that are still valid.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Understanding.

DONE at Ubon Ratchatani on the Thirty First Day in the Month of May of Two Thousand and Three of the Christian Era in English language, in two original copies all of which are equally authentic.

FOR THE GOVERNMENT OF
THE KINGDOM OF THAILAND

FOR THE GOVERNMENT OF
THE KINGDOM OF CAMBODIA

(Suwat Liptapanlop)
Minister of Labour

(Ith Samheng)
Minister of Social Affairs,
Labour, Vocational Training and
Youth Rehabilitation

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF THAILAND
AND THE GOVERNMENT OF THE KINGDOM OF
CAMBODIA ON BILATERAL COOPERATION FOR
ELIMINATING TRAFFICKING IN CHILDREN
AND WOMEN AND ASSISTING VICTIMS
OF TRAFFICKING**

THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE KINGDOM OF CAMBODIA (hereinafter referred to as the “Parties”),

HAVING SOUGHT to strengthen the bonds of friendship between the two countries and to increase the bilateral cooperation on the suppression of trafficking in children and women,

RECOGNISING that trafficking in children and women is a gross infringement of human rights and grievous trampling on the dignity of human beings,

GRAVELY CONCERNED that trafficking in children and women has negative impact on individual physical, mental, emotional, moral development and is detrimental to the social fabric and values of the society,

TAKING INTO ACCOUNT that transnational criminal groups and organisations are actively involved in trafficking in children and women and that such transnational organised crimes have affected not only Cambodia and Thailand but also the region and the global community at large,

CONFIRMING that the Parties share the common concern against transnational human trafficking as addressed in the Bangkok Declaration on Irregular Migration deliberated in the International Symposium on Migration “Towards Regional Cooperation on Irregular/Undocumented Migration” held in Bangkok during 21-23 April 1999, and “The Bali Conference on the People Smuggling and Trafficking in Person” held in Bali during 26-28 February 2002,

RECALLING the Agreed Minutes of the Third Meeting of the Joint Commission for the Bilateral Cooperation between the Kingdom of Cambodia and the Kingdom of Thailand, in Siem Reap Province of the Kingdom of Cambodia, during 31 January – 1 February 2000 with regards to the intensification of cooperation in suppressing cross border trafficking in human beings, especially in women and children,

REFERRING to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime,

CONVINCED that suppressing the crime of trafficking in children and women through mutual cooperation in law enforcement and criminal procedures is an effective measure to ensure justice against human trafficking,

PLEDGING that the Parties shall faithfully cooperate to eliminate trafficking in children and women, and to protect and assist them,

HAVE AGREED AS FOLLOWS:

I. Scope of This Memorandum of Understanding

Article 1

This Memorandum of Understanding shall apply to trafficking in children and women as defined in Article 2 of this Memorandum.

II. Definition

Article 2

For the operational purpose of this memorandum,

- (a) “Trafficking in Children and Women” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include the exploitation of others through prostitution or other forms of sexual exploitation, forced labour or service, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in children and women to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) A child who has been recruited, transported, transferred or harboured for the purpose of exploitation shall be considered “as a

victim of trafficking” even if this does not involve any of the means set forth in subparagraph (a) of this article; and

- (d) “Child” shall mean any person under eighteen years of age.

Article 3

The Parties recognise that examples of the purposes of trafficking in children and women include, but are not limited to, the following:

- (a) Prostitution;
- (b) Forced or exploitative domestic labour;
- (c) Bonded labour and other forms of hazardous, dangerous and exploitative labour;
- (d) Servile marriage;
- (e) False adoption;
- (f) Sex tourism and entertainment;
- (g) Pornography;
- (h) Begging; and
- (i) Slavery by the use of drugs on children and women.

III. Preventive Measures

Article 4

The Parties shall undertake necessary legal reform and other appropriate measures to ensure that the legal frameworks in their respective jurisdictions conform with the Universal Declaration of Human Rights, the Convention on the Rights to the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and other international human rights instruments which both Parties have ratified or acceded to and are effective in eliminating trafficking in children and women and in protecting all rights of children and women who fall victims to trafficking.

Article 5

The Parties shall undertake educational and vocational training programmes, in particular for children and women, to increase the opportunity for employment and hence reduce vulnerability to trafficking.

Article 6

The Parties shall make best effort to prevent trafficking in children and women through the following preventive measures:

- (a) Increase of social services such as assistance in job searching and income generating and provision of medical care to children and women vulnerable to trafficking,
- (b) Reform of educational and vocational training programmes to improve their linkage with job opportunities;
- (c) Enhancement of public awareness and understanding on the issue of trafficking in children and women; and
- (d) Dissemination of information to the public on the risk factors involved in trafficking of children and women and on the businesses that are exploitative to children and women.

IV. Protection of Trafficked Children and Women

Article 7

Trafficked children and women shall be considered victims, not violators or offenders of the immigration law. Therefore,

- (a) Trafficked children and women shall not be prosecuted for illegal entry to the country;
- (b) Trafficked children and women shall not be detained in an immigration detention centre during the times awaiting the official repatriation process, but shall be put under the care of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (Cambodia) or the Department of Social Development and Welfare (Thailand), and shelter and protection shall be provided to the victims according to the policy of each state;
- (c) The relevant authorities shall ensure the security of trafficked children and women, and
- (d) Victims shall be treated humanely throughout the process of protection and repatriation, and the judicial proceedings.

Article 8

The Parties shall undertake appropriate measures, which may include legal reform and legal aid, to ensure the effective legal remedies to victims of trafficking as follows:

- (a) Victims may claim restitution of any undisputed personal properties and belongings that have been confiscated or obtained by authorities in the process of detention or any other criminal procedure;
- (b) Proceeds of crime of trafficking shall be liable for confiscation and managed according to the laws of relevant country;
- (c) Victims may claim compensation from the offender of any damages caused by trafficking in children and women;
- (d) Victims may claim payment for unpaid services from the offender; and
- (e) Victims shall have access to the due process of law to claim for criminal justice, recovery of damages, and any other judicial remedies.

Article 9

The relevant governmental agencies where appropriate, in cooperation with non-government organisations, shall provide trafficked children, women, and their immediate family, if any, with safe shelter, health care, access to legal assistance, and other imperative for their protection.

V. Cooperation in Suppression of Trafficking in Children and Women

Article 10

The law enforcement agencies in both countries, especially at the border shall work in close cooperation to uncover domestic and cross border trafficking of children and women.

Article 11

- (a) The law enforcement process shall be streamlined so as to combat crimes of trafficking in children and women effectively;
- (b) The investigation and the prosecution of offenders and criminal syndicates in trafficking cases shall be intensified; and
- (c) The Parties shall undertake training programmes unilaterally and bilaterally concerning the applicable legal rules and skill of investigation and protection in trafficking cases for law enforcement personnel, with emphasis on the rights of children and women, with reference to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, other international human rights standards and the relevant domestic laws.

Article 12

- (a) The Parties shall promote bilateral cooperation in the judicial procedure against trafficking, e.g., prosecution of transnational traffickers, extradition arrangement, mutual judicial assistance in the criminal procedures; and
- (b) The Parties shall afford one another the widest measure of mutual legal assistance in investigation, prosecution and judicial proceeding in relation to trafficking in children and women including existing arrangement on extradition.

Article 13

The police and other relevant authorities in both countries shall cooperate in exchange of information concerning trafficking cases, e.g., trafficking routes, places of trafficking, identifications of traffickers, network of trafficking, methodologies of trafficking and data on trafficking.

Article 14

- (a) The Ministry of Foreign Affairs and International Cooperation, the Ministry of Interior, the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, the Ministry of Women's and Veterans' Affairs, the Ministry of Justice, and the Ministry of Tourism, (Cambodia) and the Royal Thai Police, the Ministry of Foreign Affairs, the Ministry of Labour, the Ministry of Social Development and Human Security, the Ministry of Public Health and the Department of Social Development and Welfare, the local police, or immigration border control checkpoints (Thailand), along with other relevant non-governmental organizations, shall cooperate in collecting information and evidence relating to human trafficking cases.
- (b) The information and evidence obtained in accordance with the above paragraph shall duly be delivered to the competent police office, immigration office, prosecutor's office or other relevant parties who take legal action in trafficking cases of children and women, e.g., searching for offenders, investigating in cases, prosecuting offenders, and proceeding with any other judicial procedures.

Article 15

The Police and other appropriate authorities of the relevant state shall undertake the protection programme to secure the safety of victims and

eyewitnesses from retaliation or menace during and after the judicial proceedings as deemed necessary.

VI. Repatriation

Article 16

- (a) The authorities in charge of repatriation shall use the diplomatic channel of communication to inform the other Party of repatriation arrangements of trafficked children and women in advance;
- (b) Repatriation of trafficked children and women shall be arranged and conducted in their best interest; and
- (c) Children and women who have been identified as victims of trafficking shall not be deported. Repatriation of children and women victims will be undertaken in accordance with the above.

Article 17

- (a) The Parties shall establish the Focal Point to implement the repatriation process of trafficked children and women;
- (b) The Focal Point shall be composed of the competent authorities of both Parties;
- (c) The Focal Point shall undertake the following duties:
 - (i) To arrange repatriation of trafficked children and women;
 - (ii) To implement the arranged repatriation of trafficked children and women;
 - (iii) To provide security for trafficked children and women in the repatriation process;
 - (iv) To endeavour to monitor trafficking in children and women; and
 - (v) To establish informational networks concerning the practice of trafficking in children and women among the national and international law enforcement authorities and relevant civil society organisations.

VII. Reintegration

Article 18

- (a) The Parties shall make all possible efforts towards the safe and effective reintegration of victims of trafficking into their families and communities in order to restore their dignity, freedom, and self-esteem.
- (b) For this purpose, the Parties shall take appropriate measures to attain the following objectives:
 - (i) Victims of trafficking shall not suffer any further victimisation, stigmatisation or traumatisation in the judicial procedure;
 - (ii) Continuous social, medical, psychological and other necessary support shall be provided to children and women who are victims of trafficking and their families particularly to those who are infected with sexually transmitted disease including HIV/AIDS;
 - (iii) Children and women who are victims of trafficking, shall not be discriminated or stigmatised socially; and
 - (iv) Child victims of school age shall be ensured appropriate educational opportunities.

Article 19

The Parties shall provide the following training programmes for the purpose of effective reintegration:

- (a) The vocational training programme for victims of trafficking to enhance opportunity of alternative means of their livelihood; and
- (b) Training programmes to sensitise those working for victims of trafficking in regard to child development, child rights and child/gender issues with reference to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and other relevant human rights instruments to which both Parties are parties.

VIII. Joint Task Force

Article 20

- (a) The Parties shall establish the Joint Task Force.
- (b) The Joint Task Force shall be comprised of competent representatives from both Parties;
- (c) The Joint Task Force shall be called for to meet as the need arises. The date and venue of the meeting of the Joint Task Force shall be agreed by both Parties.
- (d) The Joint Task Force shall assume the following responsibilities:
 - (i) To monitor and assess the implementation of this Memorandum and report to the Joint Commission for Bilateral Cooperation between Thailand and Cambodia at its annual meeting;
 - (ii) To initiate establishment of strategies, implementing guidelines and other necessary framework to implement this Memorandum;
 - (iii) To make recommendations towards further development of the mutual cooperation against trafficking in children and women; and
 - (iv) To review the implementation of this Memorandum of Understanding every 5 years.

IX. Final Provisions

Article 21

The Parties shall endeavour to settle disputes concerning the interpretation or application of this Memorandum through negotiation.

This Memorandum of Understanding shall take effect on the date of signature by both Parties.

Article 22

Either Party may terminate this Memorandum of Understanding at any time by giving written notice to the other Party through diplomatic channels, and the termination shall be effective six months after the date of receipt of such notice.

Article 23

This Memorandum of Understanding may be amended upon the agreement of the Government of the Kingdom of Thailand and the Government of the Kingdom of Cambodia.

This Memorandum of Understanding shall be written in duplicate in English.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Understanding.

DONE at Siem Reap on this 31st day of May 2003.

FOR THE GOVERNMENT OF
THE KINGDOM OF THAILAND

FOR THE GOVERNMENT OF
THE KINGDOM OF CAMBODIA

(Anurak Chureemas)
Minister of Social Development
and Human Security

(Ith Samheng)
Minister of Social Affairs, Labour,
Vocational Training and Youth
Rehabilitation

Unofficial Translation

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ROYAL THAI GOVERNMENT AND THE GOVERN-
MENT OF LAO PEOPLE'S DEMOCRATIC REPUBLIC
ON EMPLOYMENT COOPERATION**

Both Governments, hereinafter called “the parties” are concerned with the widespread trafficking in human due to common illegal unemployment, and accept the principles in the Bangkok Declaration on illegal migration 1999, agree to:

Objectives and Scope:

Article 1

The Parties will take action to realize:

- 1.1) Appropriate procedure in employment
- 1.2) Effective deportation and return of migrant workers who have completed the duration of their work permit
- 1.3) Appropriate labour protection
- 1.4) Prevention and intervention in illegal border crossing, illegal employment services and illegal employment of migrant workers

The MOU does not include other measures currently in force in national legal frameworks.

Authorized Agency

Article 2

MOL of Thailand and MOL of Lao PDR are authorized to carry out this MOU.

Article 3

The parties can organize regular high-level meetings at least once a year to discuss matters related to this MOU.

Authority and Procedures

Article 4

Employment of workers must be authorized by competent authorities.

The competent authorities may cancel work permits issued to individual workers as per the agreement above whenever appropriate within the purview of the parties' respective national laws.

The cancellation will not affect any action already completed prior to the announced date of cancellation.

Article 5

The competent authority of each party can inform its counterpart of labour needs, number of desired workers, duration, qualifications, employment conditions and wages as proposed by concerned employers.

Article 6

The counterpart competent authority will respond by sending a list of potential workers (name, hometown, reference, education, and other experiences).

Article 7

The competent authorities will work with national immigration services to process:

- 7.1) Visa/other travel document/arrangement;
- 7.2) Work permit issuance;
- 7.3) Insurance or health insurance;
- 7.4) Contribution to the deportation fund;
- 7.5) Other taxes as per national regulations.

Article 8

Both parties will maintain a list of workers benefited from this MOU. The list will be kept and record the return of the workers until 4 years after the recorded date of return.

Return and Reportation

Article 9

Unless otherwise specified, each worker will receive a two-year work permit. If renewal is necessary, for whatever reasons, the total term of permit shall not exceed 4 years. Thereafter, the person shall be ineligible for work permit. Also, the work permit will expire when the employment of the worker concerned is terminated.

Workers who have completed the terms of their work permit can re-apply for work again after three years have passed between the date of the expiration of the first term and the date of the re-application. Exception shall be made when the worker concern had his or her employment terminated under the conditions not of their faults.

Article 10

The parties will collaborate in sending workers home.

Article 11

Workers will contribute 15 per cent of their salary to deportation fund set up by the host country.

Article 12

Workers who wish to return home can claim their contribution to the fund in full amount with interest. The request must file 3 month before the return date and the money will be paid to the workers within 45 days after the date their employment ends.

Article 13

Home visit during the period of work permit does not end the employment.

Article 14

The host country will determine the procedure and required document as per the steps/application mentioned in Article 12.

Article 15

A worker will forfeit his or her right to receive his or her contribution to the deportation fund unless s/he reports him/herself to the designated authority in his/her home country upon his/her return.

Article 16

The competent authority of the host country can use the deportation fund to cover the cost of deportation of workers.

Protection

Article 17

The parties will apply national laws to protect the rights of workers [to whom this MOU applies].

Article 18

Workers will receive wage and benefits at the same rate applied to national workers based on the principles of non-discrimination and equality on the basis of gender, ethnic identity, and religious identity.

Article 19

Labour disputes will be governed by the host country's national laws and by its relevant authorities.

Measures on Illegal Employment

Article 20

The parties will take necessary measures to prevent and intervene in illegal cross-border labour practices and employment.

Article 21

The parties will share information with regards to human trafficking, undocumented entry, unlawful employment, and unlawful labour practices.

Amendment on the MOU

Article 22

Amendment of this MOU requires consultation through diplomatic channels.

Dispute Intervention

Article 23

Any conflict arising from this MOU shall be settled through consultation between the parties.

Enforcement and Cancellation

Article 24

The agreements in this MOU are in force upon the date of signing by the representatives of the parties. Cancellation requires written notification and will be in effect 3 months after the date of notification.

This MOU is signed at Vientiane, Lao PDR, on 18 October 2002, in the Lao and Thai version. Both versions have similar values.

For the Government of Thailand

For the Government of Lao
People's Democratic Republic

Original signed

Original signed

Suwat Liptapanlop
Minister of Labour

Sompan Pangkamme
Minister of Labour and Social
Welfare

Royal Government of Thailand

Lao PDR

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF THAILAND
AND THE GOVERNMENT OF THE UNION OF MYANMAR
ON COOPERATION IN THE EMPLOYMENT
OF WORKERS**

THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE UNION OF MYANMAR, hereinafter referred to as “the Parties”;

BEING CONCERNED about the negative social and economic impacts caused by illegal employment;

DESIROUS of enhancing mutually beneficial cooperation between the two countries;

HAVE AGREED AS FOLLOWS:

OBJECTIVE AND SCOPE

ARTICLE I

The Parties shall apply all necessary measures to ensure the following:

- 1) Proper procedures for employment of workers;
- 2) Effective repatriation of workers, who have completed terms and conditions of employment or are deported by relevant authorities of the other Party, before completion of terms and conditions of employment to their permanent addresses;
- 3) Due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights they are entitled to;
- 4) Prevention of, and effective action against, illegal border crossings, trafficking of illegal workers and illegal employment of workers.

This Memorandum of Understanding is not applicable to other existing processes of employment that are already in compliance with the laws of the Parties.

AUTHORISED AGENCIES

ARTICLE II

For the purpose of this Memorandum of Understanding, the Ministry of Labour of the Kingdom of Thailand and the Ministry of Labour of the Union of Myanmar shall be the authorised agencies for the Government of the Kingdom of Thailand and for the Government of the Union of Myanmar respectively.

ARTICLE III

The Parties, represented by the authorised agencies, shall hold regular consultations, at senior official and/or ministerial levels, at least once a year on an alternate basis, on matters related to the implementation of this Memorandum of Understanding.

The authorised agencies of both Parties shall work together for the establishment of procedures to integrate illegal workers, who are in the country of the other Party prior to the entry into force of this Memorandum of Understanding, into the scope of this Memorandum of Understanding.

AUTHORITY AND PROCEDURE

ARTICLE IV

The Parties shall take all necessary measures to ensure proper procedures for employment of workers.

Employment of workers requires prior permission of the authorised agencies in the respective countries. Permission may be granted upon completion of procedures required by laws and regulations in the respective countries.

The authorised agencies may revoke or nullify their own permission at any time in accordance with the relevant laws and regulations.

The revocation or nullification shall not affect any deed already completed prior to the revocation or nullification.

ARTICLE V

The authorised agencies may through a job offer inform their counterparts of job opportunities, number, period, qualifications required, conditions of employment, and remuneration offered by employers.

ARTICLE VI

The authorised agencies shall provide their counterparts with lists of selected applicants for the jobs with information on their ages, permanent addresses, reference persons, education, experiences and other information deemed necessary for consideration by the prospective employers.

ARTICLE VII

The authorised agencies shall coordinate with the immigration and other authorities concerned to ensure that applicants, who have been selected by employers and duly permitted in accordance with Article IV, have fulfilled, inter alia, the following requirements:

- 1) Visas or other forms of entry permission;
- 2) Work permits;
- 3) Health insurances or health services;
- 4) Contribution into savings fund as may be required by the authorised agencies of the respective Parties;
- 5) Taxes or others as required by the Parties;
- 6) Employment contracts of employers and workers.

Contract of the terms and conditions of employment shall be signed between the Employer and Worker and a copy each of the contract submitted to the authorised agencies.

ARTICLE VIII

The authorised agencies shall be responsible for the administration of the list of workers permitted to work under this Memorandum of Understanding. They shall keep, for the purpose of reference and review, the lists of workers who report themselves or have their documents certified to the effect that they have returned to their permanent addresses after the end of the employment terms and conditions, for at least four years from the date of report or certification.

RETURN AND REPATRIATION

ARTICLE IX

Unless stated otherwise, the term and conditions of employment of workers shall not exceed two years. If necessary, it may be extended for another term of two years. In any case, the terms and conditions of

employment shall not exceed four years. Afterwards, it shall be deemed the termination of employment.

A three-year break is required for a worker who has already completed the terms and conditions of employment to re-apply for employment.

ARTICLE X

The Parties shall extend their fullest cooperation to ensure the return of bona fide workers, who have completed their employment terms and conditions, to their permanent addresses.

ARTICLE XI

The authorised agencies of the employing country shall set up and administer a savings fund. Workers are required to make monthly contribution to the fund in the amount equivalent to 15 per cent of their monthly salary.

ARTICLE XII

Workers who have completed their terms and conditions of employment and returned to their permanent addresses shall be entitled to full refund of their accumulated contribution to the savings fund and the interest by submitting the application to the authorised agencies three months prior to their scheduled date of departure after completion of employment. The disbursement shall be made to workers within 7 days after the completion of employment.

In the case of workers whose services are terminated prior to completion of employment and have to return to their permanent addresses, the refund of their accumulated contribution and the interest shall also be made within 7 days after termination of employment.

ARTICLE XIII

Temporary return to country of origin by workers whose terms and conditions of employment are still valid and in compliance with the authorised agencies' regulations shall not cause termination of the employment permission as stated in Article IV.

ARTICLE XIV

Procedures and documents required in the application for refund as stated in Article XII shall be set forth by the authorised agencies.

ARTICLE XV

The right to refund of their contribution to the savings fund is revoked for workers who do not return to their permanent addresses upon the completion of their employment terms and conditions.

ARTICLE XVI

The authorised agencies of the employing country may draw from the savings fund to cover the administrative expenses incurred by the bank and the deportation of workers to their country of origin.

PROTECTION

ARTICLE XVII

The Parties in the employing country shall ensure that the workers enjoy protection in accordance with the provisions of the domestic laws in their respective country.

ARTICLE XVIII

Workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.

ARTICLE XIX

Any dispute between workers and employers relating to employment shall be settled by the authorised agencies according to the laws and regulations in the employing country.

MEASURES AGAINST ILLEGAL EMPLOYMENT

ARTICLE XX

The Parties shall take all necessary measures, in their respective territory, to prevent and suppress illegal border crossings, trafficking of illegal workers and illegal employment of workers.

ARTICLE XXI

The Parties shall exchange information on matters relating to human trafficking, illegal immigration, trafficking of illegal workers and illegal employment.

AMENDMENTS

ARTICLE XXII

Any amendment to this Memorandum of Understanding may be made as agreed upon by the Parties through diplomatic channels.

SETTLEMENT OF DISPUTES

ARTICLE XXIII

Any difference or dispute arising out of this Memorandum of Understanding shall be settled amicably through consultations between the Parties.

ENFORCEMENT AND TERMINATION

ARTICLE XXIV

This Memorandum of Understanding shall enter into force after the date of signature and may be terminated by either Party in written notice. Termination shall take effect 90 (ninety) days following the date of notification. In case of termination of this Memorandum of Understanding by either Party, for the benefit of the workers, the Parties shall hold consultation on how to deal with employment contracts that are still valid.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Understanding.

DONE at Chiang Mai on the Twenty First Day in the Month of June of Two Thousand and Three of the Christian Era, in the Thai, Myanmar, and English languages, in two original copies all of which are equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
THE KINGDOM OF THAILAND

FOR THE GOVERNMENT OF
THE UNION OF MYANMAR

(Surakiart Sathirathai)
Minister of Foreign Affairs

(Win Aung)
Minister of Foreign Affairs