

Decent  
Work



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# The ASEAN Forum on Migrant Labour (AFML)

Background information  
booklet

(3rd edition)

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Funded by



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## Acronyms

<b>ACC</b>	AFML Coordination Committee
<b>ACE</b>	ASEAN Confederation of Employers
<b>ACMW</b>	ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers
<b>AEC</b>	ASEAN Economic Community
<b>AFML</b>	ASEAN Forum on Migrant Labour
<b>AMS</b>	ASEAN Member State
<b>APSC</b>	ASEAN Political-Security Community
<b>ASCC</b>	ASEAN Social-Cultural Community
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>ATUC</b>	ASEAN Trade Union Congress
<b>CSOs</b>	civil society organizations
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>MRC</b>	Migrant Worker Resource Centres
<b>SLOM-WG</b>	Senior Labour Officials Working Group on Progressive Labour Practices to Enhance Competitiveness of ASEAN
<b>TFAMW</b>	Task Force for ASEAN Migrant Workers



# 1. What is the ASEAN Forum on Migrant Labour (AFML)?

The ASEAN Forum on Migrant Labour (AFML) is the only known migration forum in Asia that is carried out in a tripartite nature with additional involvement of civil society organizations (CSO). It brings together key stakeholders in labour migration in the Association of Southeast Asian Nations (ASEAN), including the International Labour Organization's (ILO) tripartite constituents – government, employers' and workers' organizations – as well as the ASEAN Secretariat, civil society and international organizations. It gathers annually to discuss, share experiences, build consensus on the protection of migrant workers issues committed under the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration, 2007 – see Appendix II), and concludes in the adoption of Recommendations that bring life to the provisions of the Cebu Declaration.

## 1.1 The creation of the AFML

The ASEAN community has recognized the importance of labour migration in the region and the need to protect and promote the rights of this vulnerable workforce. In January 2007, the Heads of States of the ASEAN Members States (AMS) adopted the Cebu Declaration. The adoption of the Declaration proceeded from the Vientiane Action Programme, which called for the "elaboration of an ASEAN Instrument for the protection and promotion of the rights of migrant workers". The Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), assisted by the ASEAN Socio-Cultural Community (ASCC) Department (ASEAN Secretariat), is responsible for the implementation of the Cebu Declaration and the drafting of an Instrument that will give effect to this Declaration.



At the first meeting of the ACMW in September 2008, the Committee adopted its terms of reference and work programme, identifying the following four areas of cooperation, also known as thrusts:

1. Step up protection and promotion of the rights of migrant workers against exploitation and mistreatment.
2. Strengthen protection and promotion of the rights of migrant workers by enhancing labour migration governance in ASEAN countries.
3. Regional cooperation to fight human trafficking in ASEAN.
4. Development of an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers.

The ACMW Work Plan prioritizes and groups the work of the Committee along the three themes of the Declaration, obligations of receiving States, obligations of sending States and Commitments by ASEAN, as well as an additional track dedicated to the development of the ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers. Thrust 2 recommended that the AFML be held annually, with the objective of advancing the principles contained in the Cebu Declaration.

## **1.2 Regional framework: Institutionalising the AFML**

Labour migration is included in all three ASEAN Blueprints, namely: The ASEAN Economic Community (AEC) Blueprint adopted in 2007, the ASEAN Political-Security Community (APSC) Blueprint and the ASEAN Social-Cultural Community (ASCC) Blueprint adopted in 2009. The blueprints serve as a guide to the establishment of the ASEAN Community 2015. The AEC Economic Blueprint calls for the free flow of skilled labour while the APSC calls for close cooperation of the sectoral bodies to develop the ASEAN Instrument to protect and promote the rights of migrant workers. The ASCC Blueprint provides for the protection and promotion of the rights of migrant workers as well as women, children, older persons and persons with disabilities. In this regard, the ASCC institutionalises the convening of the AFML on a regular basis as a platform for broad-based discussions on complex and regional labour migration issues under the auspices of the ACMW. Furthermore, at the 1st Meeting of Senior Labour Officials Working Group on Progressive Labour Practices to Enhance Competitiveness of ASEAN (SLOM-WG) also held in 2009, AMS agreed to institutionalise the AFML as a regular activity under the ACMW Work Plan.

### 1.3 Objectives of the AFML

The objectives of the AFML are threefold:

1. To share stakeholder experiences, challenges and good practices in the implementation of AFML Recommendations.
2. To examine in detail Articles of the Cebu Declaration that pertain to the obligations of both countries of origin and destination.
3. To draft and agree on new Recommendations arising from discussions of the thematic sessions.

### 1.4 Hosting of the AFML

The AFML is hosted each year by the ASEAN Member State that holds the Chair of the ASEAN and the ACMW that year. The Chair of the ASEAN rotates annually. The responsibilities of the Chair include: convening the meeting of the AFML Coordination Committee, coordinating overall preparations, issuing invitations, and organizing and hosting the AFML proper.

### 1.5 The AFML Coordination Committee

The AFML has an AFML Coordination Committee (ACC) consisting of the representative of the SLOM Chair, the ASEAN Secretariat, the ILO, International Organization for Migration (IOM), Task Force for ASEAN Migrant Workers (TFAMW), and UN Women. Every year, the ACC meets prior to the AFML to agree on the modalities of the meeting, including its theme, agenda, and objectives.

### 1.6 Participants to the AFML

Participants to each of the AFML meeting are key stakeholders from South-East Asia.

**Government:** Twenty government representatives: two officials from each AMS coming from ministries and agencies responsible for migrant labour, not lower than Director in rank. The AMS chairing the AFML may invite additional representatives.

**Employers:** Ten representatives from national employers' organizations (one from each AMS), and one regional organization of employers representatives (ACE) working on migrant labour in AMS, nominated by the ILO Bureau for Employers' Activities (ACT/EMP).

**Workers:** Ten representatives from national workers' organizations/trade unions (one from each AMS) and regional trade unions/organizations of workers representatives who are working on migrant labour in ASEAN, nominated by the ILO Bureau for Workers' Activities (ACTRAV).

**CSOs:** Ten representatives from national CSOs (one from each AMS), and up to three regional CSO representatives who are working on migrant labour issues or representative of migrant workers' groups based in ASEAN countries, nominated by the TFAMW.

**Others:** Additional representatives from the host state, as well as representatives from the ASEAN Secretariat, the ILO, IOM, UN Women and the TFAMW. Selected resource persons and experts also attend AFMLs, upon invitation.

**Observers:** Observers may be invited to the AFML, though their request for observer status is determined by consensus after consultation with ASEAN Member States.

## 1.7 Output and Recommendation for each AFML

At each AFML meeting, participants agree and adopt a set of conclusions and action points embodied in an outcome document called "Recommendations" to promote and protect the rights of migrant workers in AMS, and facilitate the formulation of evidence based migration policies. These conclusions and actions points are gender-sensitive and will be implemented in close cooperation among tripartite partners and CSOs, and applied to all migrant workers. The Recommendations are crafted by a drafting committee during the AFML meeting and is made up of representatives from government, workers' and employers' organizations, the ASEAN Secretariat, CSOs, ILO, IOM, TFAMW and UN Women. Recommendations are discussed, finalized and adopted in a plenary session with all stakeholders attending the AFML. Recommendations from the 3rd to the 10th AFML can be found in Section 7 of this booklet.<sup>1</sup>

The AFML's thematic discussions across its past ten meetings have provided comprehensive Recommendations for AMS and social partners in the areas of information services; return and reintegration; promoting a positive image of migrant workers; regulation of recruitment; labour migration data collection, analysis, and sharing; complaints mechanisms, protection during employment, and coordination amongst stakeholders; promotion of occupational safety and health and improving compliance, cooperation, and effective labour inspection; extending social protection, including the portability of social security of migrant workers; and strengthening standards and their implementation for the protection of domestic workers. The progress made against these Recommendations in each country is reported on at the following year's forum and is being tracked bi-annually by the ILO. For the summary of progress of implementation against the Recommendations from the 3rd to 8th AFMLs, see Appendix I.

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1 There were no Recommendations made at the 1st and 2nd AFML, as these meetings served to set up and institutionalize the forum.

In addition, post-AFML meetings are held by different stakeholders to agree upon activities to pursue to implement the Recommendations made at the AFML. These stakeholders also share their respective experiences and challenges of implementing Recommendations at the AFML at national preparatory meetings. Further information about the post-AFML meetings can be found in Section 5 and 6 of this booklet. The ILO monitors the progress and challenges of implementing the Recommendations faced by different stakeholders.

## 1.8 Funding of the AFML

The cost of convening the AFML (including costs for travel, accommodation and the conference venue) is shared between AMS, ILO, IOM, TFAMW, and UN Women.

The host government of the AFML generally assumes the costs of the conference venue, reception dinner and airport transfer. The host covers the accommodation for each Head of Delegation of the ten ASEAN Member States for the forum period. The participating countries will shoulder the airfare for their delegation.

The ILO covers the costs of nominated employers' and workers' organization representatives, and resource persons and also provides technical support in the form of inputs to the concept note and agenda of the AFML and in the convening of the ACC.

The cost of the participation of national and regional CSO organizations, including air travel and accommodation, is covered by the TFAMW, IOM and UN Women.





## 2. AFML themes

Each AFML carries a theme and sub-themes, selected from the obligations of sending and receiving AMS as outlined in the Cebu Declaration, or other topics of mutual interest

The themes from the past AFML were as follows:

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<b>1st AFML</b>	Institutionalization of the AFML
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<b>2nd AFML</b>	ASEAN Declaration on Migrant Workers: Achieving its Commitment
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<b>3rd AFML</b>	Enhancing Awareness and Information Services to Protect the Rights of Migrant Workers
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<b>4th AFML</b>	Development of a Public Campaign to Promote Understanding, Rights and Dignity of Migrant Workers in Countries of Destination; Return and Reintegration and Development of Sustainable Alternatives in Countries of Origin
	Subthemes:
	1) Promotion of positive image, rights and dignity of migrant workers.
	2) Promotion of strategies for effective return and reintegration, as well as sustainable alternatives for migrant workers.

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<b>5th AFML</b>	The Protection and Promotion of the Rights of Migrant Workers: Towards Effective Recruitment Practices and Regulations
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<b>6th AFML</b>	Enhancing Policy and Protection of Migrant Workers through Data Sharing, and Adequate Access to the Legal and Judicial System during employment, including Effective Complainants Mechanism
	Subthemes:
	1) Enhancing policy and protection of migrant workers through data collection and sharing.
	2) Enhancing policy and protection of migrant workers through adequate access to the legal and judicial system during employment, including effective complaints mechanisms.

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**7th AFML**

Enhancing Awareness and Information Services to Protect the Rights of Migrant Workers

Subthemes:

- 1) Promotion of fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers.
  - 2) Coordination and role of key stakeholders to set up and implement policies and procedures to facilitate aspects of migration of workers, including recruitment, preparation, protection abroad, and return and reintegration.
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**8th AFML**

Empowering the ASEAN Community through Protection and Promotion of the Rights of Migrant Workers

Subthemes:

- 1) Occupational Health and Safety
  - 2) Labour inspection
- 

**9th AFML**

Better Quality of Life for ASEAN Migrant Workers through Strengthened Social Protection

Subthemes:

- 1) Current situation of social protection of migrant workers in ASEAN.
  - 2) Working towards the portability of social security of migrant workers in ASEAN.
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**10th AFML**

Towards Achieving Decent Work for Domestic Workers in ASEAN

Subthemes:

- 1) International and national standards for the protection of migrant domestic workers.
  - 2) Implementation of policies and support services.
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### 3. AFML dates, venues and hosts

AFML	Dates	Venue	Hosted by
1st AFML	24–25 Apr. 2008	Manila, the Philippines	Department of Labor and Employment, the Philippines
2nd AFML	30–31 July 2009	Bangkok, Thailand	The Ministry of Labour, Thailand
3rd AFML	19–20 July 2010	Ha Noi, Viet Nam	The Ministry of Labour, Invalids and Social Affairs (MOLISA), International Cooperation Department, Viet Nam
4th AFML	24–25 Oct. 2011	Bali, Indonesia	The Ministry of Manpower and Transmigration, Indonesia
5th AFML	9–10 Oct. 2012	Siem Reap, Cambodia	The Ministry of Labour and Vocational Training, Cambodia
6th AFML	26–27 Nov. 2013	Bandar Seri Begawan, Brunei Darussalam	The Department of Labour, Ministry of Home Affairs, Brunei Darussalam
7th AFML	20–21 Nov. 2014	Nay Pyi Taw, Myanmar	The Ministry of Labour, Employment and Social Security, Myanmar
8th AFML	26–27 Oct. 2015	Kuala Lumpur, Malaysia	The Ministry of Human Resources, Malaysia
9th AFML	9–10 Nov. 2016	Vientiane, Lao People's Democratic Republic	The Ministry of Labour and Social Welfare, Lao People's Democratic Republic
10th AFML	25–26 Oct. 2017	Manila, the Philippines	Department of Labor and Employment and the Philippine Overseas Employment Administration, the Philippines

## 4. AFML government national tripartite preparatory meetings

Since 2012, and upon initiative of governments of AMS, National Tripartite Preparatory Meetings for the AFML were held. Participants to these meetings include Government Ministries responsible for governing labour migration and the protection of migrant workers, national employers' and workers' organizations, civil society representatives, including the TFAMW, international organizations, including the ILO, IOM, and UN Women, and other stakeholders.

The national preparatory meetings are organized with the objective to:

1. take stock and share information on the progress of implementing AFML Recommendations at the national level;
2. discuss the upcoming AFML's theme and subthemes; and
3. adopt policy positions and recommendations for the upcoming AFML meeting.

National tripartite preparatory meetings are supported and funded by the ILO as part of its desire to broaden the participation of stakeholders in the AFML process.

In 2012, four national preparatory meetings were held for the 5th AFML: Cambodia (20 September 2012), Indonesia (3 October 2012), Myanmar (18 - 19 September 2012), and Viet Nam (25 September 2012).

In 2013, seven AFML preparatory meetings were held for the 6th AFML: Cambodia (3 September 2013), Philippines (6 September 2013), Indonesia (22 October 2013), the Lao People's Democratic Republic (18 November 2013), Myanmar (17 October 2013), Thailand (25 October 2013), and Viet Nam (15 August 2013).

In 2014, seven AFML preparatory meetings were held for the 7th AFML: Philippines (16 September 2014), Viet Nam (23 September 2014 and 3 November 2014), Myanmar (1 October 2014), Cambodia (9 October 2014), Thailand (20 October 2014), Lao People's Democratic Republic (23 October 2014), and Indonesia (27 October 2014).

In 2015, seven AFML preparatory meetings were held for the 8th AFML: Myanmar (5 August 2015), Philippines (14 August 2015), Cambodia (20 August 2015), Viet Nam (28 August 2015), Thailand (14 September 2015), Indonesia (16 September 2015), and the Lao People's Democratic Republic (22 September 2015).

In 2016, seven AFML preparatory meetings were held for the 9th AFML: Philippines (2 September 2016), Cambodia (6 September 2016), Viet Nam (9 September 2016), Lao

People's Democratic Republic (14 September 2016), Thailand (21 September 2016), Indonesia (29 September 2016), and Myanmar (20 October 2016).

In 2017, eight AFML preparatory meetings were held for the 10th AFML: Cambodia (29 August 2017), Indonesia (4 September 2017), Lao People's Democratic Republic (20 September 2017), Myanmar (28 September 2017), Philippines (15 September 2017), Thailand (5 September 2017), Viet Nam (9 October 2017), and Malaysia (16 October 2017).



## 5. AFML workers' and employers' group preparatory and post-AFML meetings

Since 2013, employers' and workers' organizations in ASEAN separately organize their Regional AFML Preparatory Meetings to define their policy position on the themes of the upcoming AFML. The ASEAN Confederation of Employers (ACE) and the ASEAN Trade Union Council (ATUC), the regional organization of employers and workers in ASEAN, respectively, organize preparatory meetings in collaboration with the ILO.

### Post-AFML consultation meetings

Starting from the 5th AFML in Siem Reap, Cambodia in 2012, social partners held separate side meetings immediately following the conclusion of the AFML. With technical support from the ILO, both the ACE and ATUC discuss in said meetings how the forum's Recommendations may be implemented by their sector. These meetings allowed social partners to identify specific activities to prioritize and implement from the Recommendations adopted in the AFML.

## 6. Regional meetings of Civil Society Organizations (CSOs)

The TFAMW leads ASEAN CSO engagement with the AFML by consulting with its national partners in each AMS. In addition to the post-AFML meeting convened immediately after the day of the AFML, a subregional consultation workshop is usually organized by the CSOs during the first quarter of each year to further discuss and strategize the implementation of the AFML Recommendations. Preparatory meetings are usually held on the day before the AFML Meeting to draft a set of recommendations on that year's theme. In addition, CSOs also organize AFML preparatory meetings at national levels in selected countries.

## 7. Recommendations of the 3rd–10th AFMLs

### Recommendations of the 3rd ASEAN Forum on Migrant Labour<sup>2</sup>

#### Enhancing Awareness and Information Services to Protect the Rights of Migrant Workers



19–20 July 2010



Ha Noi, Viet Nam

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Further to the Joint Communiqué of the 21<sup>st</sup> ASEAN Labour Ministers' Meeting on 24 May 2010, the 3rd ASEAN Forum on Migrant Labour put forward the following Recommendations in support of the Implementation of the Declaration on the Protection and the Promotion of the Rights of Migrant Workers, and the ASEAN Labour Ministers' Work Programme (2010–2015):

#### Promotion and protection of the rights of migrant workers

1. Strengthen information and services to better protect women and men migrant workers and ensure decent and productive work in conditions of freedom, equity, security and human dignity. Provide opportunities for migrants to realize their labour rights in line with legislation of the ASEAN Member States, the ILO Fundamental Principles and Rights at Work, and their basic human rights protected by the UN and international Conventions, particularly CEDAW and CRC, and in the spirit of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.

#### Information and services

2. Ensure that information services are more accessible to women and men migrants and reflect their specific and diverse needs. Pursue the use of varied delivery channels for pre-employment, pre-departure and on-site information, including schools and training institutions, migrant community representatives, the media and public information campaigns. Continually assess the quality and reach of information services for migrant workers and the capacity of service providers to meet these needs.

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2 The following Recommendations have been extracted from their original source.

3. Provide accessible channels for women and men migrant workers to report and seek redress for violations of rights and terms and conditions of employment, and promote the implementation of the national legislation and international commitments.

#### **The role of sending country representatives in receiving countries**

4. Strengthen and raise the visibility of labour attachés and consular staff in collecting and providing information, and responding to rights violations against women and men migrant workers. This should be achieved through close engagement with the migrant community and employers, and in cooperation with authorities of the host countries.

#### **Broad stakeholder cooperation**

5. Actively engage and consult stakeholders from government, employers' and workers' organizations, and civil society organizations in developing and implementing information campaigns and services for women and men migrant workers at all stages of the migration cycle.

#### **Partnerships of ASEAN, stakeholders and international organizations**

6. The ASEAN Secretariat, national and regional stakeholders and international organizations should facilitate the sharing of good practices in the provision of information and services, promote the development and use of user-friendly information materials between and among ASEAN states and increase migrant workers' ease of access to and understanding of publicly available information on laws, guidelines and other information materials produced by governments of sending and receiving states. The ASEAN Member States, the ASEAN Secretariat, stakeholders, the UN and international organizations should continue to cooperate in providing opportunities for capacity building and confidence building of stakeholders at national and regional levels.

# Recommendations of the 4th ASEAN Forum on Migrant Labour

## Development of a Public Campaign to Promote Understanding, Rights and Dignity of Migrant Workers in Countries of Destination; Return and Reintegration and Development of Sustainable Alternatives in Countries of Origin



24–25 October 2011



Bali, Indonesia

The 4th ASEAN Forum on Migrant Labour was held from 24 to 25 October 2011 in Bali, Indonesia. Representatives of the governments, employers' and workers' organisations, and civil society organisations of ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), UN Women, and the Task Force on ASEAN Migrant Workers (TFAMW) participated in the Forum.

The Forum provided a platform for information sharing and exchange of views on two enduring challenges identified in the ASEAN Declaration of the Protection and Promotion of the Rights of Migrant Workers, i.e., promoting understanding, rights and dignity of migrant workers in the receiving countries, and increasing return and reintegration support, as well as development of sustainable alternatives for migrant workers in the sending countries. Towards this end, the Forum also reviewed the implementation of the Recommendations of the 3rd ASEAN Forum on Migrant Labour held on 19-20 July 2010 in Ha Noi, Viet Nam.

The 4th ASEAN Forum on Migrant Labour was convened as an implementation of the ASEAN Labour Ministers' Work Programme 2010--2015 and the ASEAN Socio-Cultural Community (ASCC) Blueprint (Action Line C.2.ii) which called for a regular ASEAN Forum on Migrant Labour as a platform for broad-based discussions on migrant labour issues under the auspices of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) which reports to the ASEAN Senior Labour Officials Meeting (SLOM).

The participants agreed to recommend concerted actions to promote and protect the rights of migrant workers in the sending, transit, and receiving countries, which shall be gender sensitive, implemented in close cooperation among tripartite partners and civil society organisations, and applied to all migrant workers, as follows:

### **(a) Promotion of positive image, rights and dignity of migrant workers**

1. Deliver comprehensive pre-departure education in sending countries, not only about culture and social norms, but also working and living conditions, reality of

migration including financial implication, laws and procedures, rights of migrant workers, among others;

2. Conduct post-arrival orientation programmes in receiving countries, performed by the government, employers, trade unions, civil society, that adopts a rights based approach in orientating both migrant workers, employers and government – to understand what their rights and responsibilities are;
3. Raise awareness and build capacity of public and private recruitment agencies, local authorities and all stakeholders in sending and receiving countries in the delivery and monitoring of recruitment and placement services, and different forms of direct hiring of migrant workers to ensure greater protection of migrant workers' rights;
4. Collect and disseminate factual information through the media and other channels on the contributions of migrant workers to the economy and society in host countries (e.g. individual stories, economic and employment data, statistics on social impact) with the long term objective of promoting a positive image of migrant workers;
5. Carry out joint efforts in ASEAN Member States to present a positive image of migrant workers with various stakeholders e.g. migrant workers and their associations, academia, youth and student groups, tripartite parties, by using various means such as TV, commercials, exhibitions, radio talk shows, cultural performances, and the commemoration of International Migrants Day;

**(b) Promotion of strategies for effective return and reintegration, as well as sustainable alternatives for migrant workers**

6. Undertake a regional study on the programmes of skills trainings, pre-departure and post-arrival orientations, and return and/or reintegration support offered by ASEAN Member States;
7. Improve the availability of employment services to the returned migrant workers, including voluntary psychosocial counselling (before and upon return), gender sensitive reintegration, access to resources, and legal aid. Such services should also include information, advice, training, loans, placement, health, and interpretation/translation service. These services should be made available/extended to the family members of migrant workers left behind;
8. Provide incentives to the returned migrant workers, e.g. the absence of penalty for the irregular migrants, tax exemption of import duties for tools and equipment to be used by migrant workers;

9. Ensure as much as possible that mass/group deportation will not take place;
10. In case of mass returns of migrant workers in emergencies, contingency plans should be prepared at company and embassy levels with the participation of migrant workers. For this purpose, assistance/contingency funds which cover repatriation costs need to be set up at national level. Formulation of national disaster preparedness plans shall be in consultation with and with the participation of migrant workers and migrant organisations;
11. Ensure that sustainable economic reintegration policies and strategies are evidence-based, market demand/need based and gender sensitive;
12. Ensure that return and repatriation programmes are effective, sustainable, and rights based, and with the involvement of tripartite partners and civil society organisations;
13. Encourage a speedy development of an ASEAN instrument on the protection and promotion of the rights of migrant workers that includes the family members of all migrant workers in its coverage. The instrument shall comply with the international human rights and labour standards and be legally binding;
14. Set up of ASEAN Guidelines on Effective Return and Reintegration;
15. Develop bilateral and multilateral agreements for portability of the social security benefits and better implementation of existing schemes;
16. Provide access to legal support and essential services, including consular services, for migrant workers and members of their families;
17. Recommend the following specific responsibilities and roles with respect to return and reintegration and sustainable alternatives for migrant workers:

(a) **Responsibilities of sending countries:**

- Policies and strategies should be established to look after the return of migrant workers, e.g. "State Policy on the Reintegration of Migrant Workers";
- Provide comprehensive training to migrant workers for preparation before return as a part of pre-departure orientation; and
- Follow up/monitoring system of the returnees, particularly on their livelihood and reintegration.

(b) Responsibilities of receiving countries:

- Prior to the return of migrant workers, receiving countries should have specific programmes for the returnee, e.g. training and introduction of entrepreneurship to migrant workers who are interested, counselling, among others;
- Provision of proof of employment by the employers; and
- Ensure that migrant workers receive decent wage and no unlawful wage deduction, decent and safe working condition and workplace environment, and compliance with international human rights and labour standards.

The participants agreed that the progress of implementation of these recommendations will be reported to the 5th ASEAN Forum on Migrant Labour in 2012. For this purpose, the tripartite partners and civil society organisations from each ASEAN Member State should make preparation for the reporting prior to the Forum.

The participants extended their appreciation to the Government of Indonesia for the excellent arrangements of the Forum and warm hospitality accorded to them.

The participants also congratulated the Government of Cambodia for its role as the incoming ASEAN Chair for 2012 and host of the 5th ASEAN Forum on Migrant Labour in 2012.



# Recommendations of the 5th ASEAN Forum on Migrant Labour

## The Protection and Promotion of the Rights of Migrant Workers: Towards Effective Recruitment Practices and Regulations



9–10 October 2012



Siem Reap, Cambodia

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

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

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

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

1. Adhere to the following principles in promoting and protecting the rights of migrant workers:
  - Universal human rights and fundamental principles and rights at work must continue to apply to migrant workers;

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

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

2. Develop transparent, standardized and simplified recruitment procedures and set ceiling costs, including those that should be covered by employers and job seekers, with regard to recruitment and emigration costs in ASEAN Member States that should be widely disseminated to the public, especially those in the rural areas, with the participation of recruitment agencies and other stakeholders, which would promote the use of regular channels by migrant workers;
3. Promote close coordination and dialogues of the Ministry of Labour/Manpower with other relevant line agencies towards coherent procedures, clearances and processes with the view to simplifying and streamlining these to reduce time and costs to migrant workers;
4. Regulation of recruitment procedures and costs and streamlining of emigration procedures should be considered as part of bilateral agreements between sending and receiving countries which should be publicized to and accessible by the public, recruitment agencies and other stakeholders;
5. Encourage the ratification of the ILO Private Employment Agencies Convention, 1997 (No.181) and ILO Domestic Work Convention, 2011 (No. 189) and alignment of national labour laws and legislations with international instruments by all ASEAN Member States;
6. Initiate a regional compendium of existing good practices of measures among ASEAN Member States to reduce recruitment costs and implement effective recruitment and emigration procedures and monitoring;

7. Sharing existing sex-disaggregated data and information on labour migration, job availabilities and employment conditions in accordance with the labour laws of ASEAN Member States that are useful to facilitate effective deployment of migrant workers;

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

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

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

13. Regulate recruitment agencies and practices by laws, regulations and policies that clearly define the migration cost structures in ASEAN Member States;
14. Effectively monitor recruitment agencies and practices in ASEAN Member States with clear mechanisms, heavy penalties for infringements and positive ratings for ethical recruitment agencies. In this regard, communities, tripartite partners, civil society and other stakeholders should be involved towards effective monitoring;
15. Develop and implement a licensing system of recruitment agencies and, where applicable, an accreditation system of foreign employers of direct recruitment agencies to effectively monitor their practices in ASEAN Member States;

16. Enhance the functions of labour attaches and consular officials in ASEAN Member States to verify information of job offers and employment contracts, as feasible, in receiving countries;
17. Establish effective complaint mechanisms in ASEAN Member States that should be widely disseminated to and accessible by migrant workers with legal aid and assistance;

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

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

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

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

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

# Recommendations of the 6th ASEAN Forum on Migrant Labour

## Enhancing Policy and Protection of Migrant Workers through Data Sharing, and Adequate Access to the Legal and Judicial System during employment, including Effective Complainants Mechanism



26–27 November 2013



Bandar Seri Begawan, Brunei Darussalam

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

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

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

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

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

respect for workers privacy.

1. Encourage development and strengthening of inter-agency collaboration efforts, including the designation of a lead agency, to collect, analyse, share and harmonise labour migration data at the national level;
2. A regional and updated database on labour migration is called for ASEAN Member States, social partners and CSOs recognise the importance of sharing labour migration data and support the development of a labour migration database to be piloted in ASEAN with the technical and financial assistance, including capacity building, of international and other organisations;
3. Consider developing an ASEAN Framework on Labour Migration Statistics with common definitions to ensure the comparability of data within ASEAN;
4. Promote regular exchange and updating of labour market information, analysis of trends and patterns;
5. With reference to the Technical Meeting on ASEAN International Labour Migration Statistics Database organised by the ILO on 4 November 2013 in Bangkok, Thailand, the Forum supports the initiative for setting up a Working Group on International Labour Migration Statistics, which should meet on a regular basis;
6. Endeavour to have a regular exchange of labour migration data between countries of destination and origin to ensure coherence of such data;
7. Consider the following data sets, among others, for the collection, analysis, and sharing to include:
  - Inflows, outflows and stocks of migrant workers, disaggregated, where possible, by sex, country of origin, age, level of qualification, industry, occupation
  - Data on remittances
  - Information on recruitment channels, licensed agencies, fees and costs
  - Labour market information, including available and in-demand jobs and skills
  - Data on occupational safety and health
  - Data on salaries and benefits of migrant workers
  - Data on returning migrants
  - Bilateral labour migration flows in ASEAN (to monitor implementation of AEC)
  - Data on the families of migrant workers in the countries of origin and destination
  - Nature and incidence of complaints filed
  - Data on irregular migrants and trafficking of persons, where possible;

8. Develop guidelines and a compendium of good practices on data collection, analysis and sharing (based on the experiences of ASEAN Member States, social partners, and CSOs).

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

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

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

9. Develop and strengthen the existing complaint mechanisms for migrant workers in ASEAN Member States that are transparent, accessible and simplified during recruitment, employment and in case of termination and deportation. In this regard, it is important to ensure that the integrity of complaints be carefully examined;
10. Ensure that complaint mechanisms are gender sensitive and responsive to the vulnerability of migrant workers;
11. Support the development of "one-stop" service centre for migrant workers that among others, facilitate access to complaint mechanisms and assistance, including interpretation and free legal counseling/referral, in collaboration with all stakeholders including migrant communities, workers' and employers' organisations, and CSOs to ensure that the service are accessible to migrant workers;
12. Ensure that information of the availability of such service centres and complaint mechanisms is disseminated to migrant workers and their families through appropriate communication channels, such as, electronic and print media, migrant worker resource centres, information outreach programmes, pre-departure trainings, pre-employment orientation seminar, and diplomatic missions;
13. Ensure and strengthen the roles of labour attaches, embassies, and consular officials to include support services on availing of complaint mechanisms for migrant workers;
14. Dispute resolutions, mediation, and other alternative dispute settlement mechanisms should be fully explored before administrative or judicial litigation processes;

15. Ensure timely notification and communication between the countries of destination and origin on judicial cases of migrant workers and extend cooperation to provide access to migrant workers to file cases for violation of rights in the country that the violation took place;
16. Promote inter-country trade unions collaboration to support migrant workers in case of complaints;
17. Ensure, where possible, the joint accountability of employers and recruitment agencies in case of migrant workers' complaints when the recruitment agencies are responsible for recruiting and placing workers abroad;
18. Ensure adequate arrangements in case of return and repatriation to be shouldered by the employers;
19. Promote sharing of experiences and information among ASEAN Member States in implementing their respective complaint mechanisms through stock taking of the processes in handling grievances of migrant workers;
20. Consider developing regional guidelines and tools on the establishment of key aspects and standards of complaint mechanisms for migrant workers.

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

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

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

# Recommendations of the 7th ASEAN Forum on Migrant Labour

Towards the ASEAN Community by 2015 with Enhanced Measures to Protect and Promote the Rights of Migrant Workers



20–21 November 2014



Nay Pyi Taw, Myanmar

The 7th ASEAN Forum on Migrant Labour which carried the theme “Towards the ASEAN Community by 2015 with enhanced measures to protect and promote the rights of migrant workers” was held from 20 to 21 November 2014 in Nay Pyi Taw, Myanmar. Representatives of the governments, employers’ organisations, workers’ organisations, and civil society organisations from ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), UN Women, ASEAN Confederation of Employers (ACE), ASEAN Trade Union Council (ATUC), ASEAN Services Employees Trade Union Council (ASETUC), and the Task Force for ASEAN Migrant Workers (TFAMW) participated in the Forum.

The 7th ASEAN Forum on Migrant Labour was convened as an implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Labour Ministers’ Work Programme 2010-2015, and ASEAN Socio-Cultural Community (ASCC) Blueprint (Action Line C.2.ii) which called for a regular ASEAN Forum on Migrant Labour as a platform for broad-based discussions on migrant labour issues under the auspices of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) which reports to the ASEAN Senior Labour Officials Meeting (SLOM). Guided by the relevant international labour standards, the participants agreed to recommend the following concrete measures to promote and protect the rights and address the specific vulnerabilities of men and women migrant workers in the region particularly in relation to fulfilment of the commitments of ASEAN Member States in Articles 8 and 13 of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers: Promotion of fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers:

1. Employment contracts should be standardized by the national labour laws, based on core labour standards and in line with Article 22 of the ILO’s Migration for Employment Recommendation (Revised), 1949 (No. 86).
2. Standard employment contracts should stipulate clear terms and conditions of

employment, rights and responsibilities of men and women workers and employers, including in vulnerable and hard-to-reach sectors such as fishing, domestic work and construction work, and grievance mechanisms including contact information and legal systems to file complaints. Employment contracts should be written in language understood by migrant workers, and signed by employers and workers prior to departure. Copies of employment contracts should be provided to migrant workers;

3. ASEAN guidelines/framework of standard employment contracts should be developed with inputs from the countries of origin and destination, social partners, CSOs and migrant workers associations and by taking into account the prevailing national labour laws of ASEAN Member States;
4. Substitution of employment contracts and issuance of sub-standard employment contracts should be eliminated. Non-compliance by employers should be duly penalized and recorded in the databases of ASEAN Member States in accordance with the national laws and regulations. Where employment contracts are issued by a third party, as permitted by laws, they should be closely monitored to ensure meeting the required standards;
5. Governments should take and enhance measures and allocate resources to protect and promote the rights of migrant workers including regularly conduct labour inspection, including in vulnerable and hard-to-reach sectors and workplaces (e.g., fishing, mining, forestry, agriculture, and domestic work), training for labour inspectors and set up multi-sectoral joint task forces for labour inspection. The ILO Convention No. 189 and its accompanying Recommendation No. 201 provide guidance on labour inspection for domestic workers;
6. Occupational safety and health (OSH) should be improved through OSH trainings and provision of personal protective equipment, where applicable, by employers at the worksite upon arrival of migrant workers and on a regular basis thereafter, as well as availability of disaggregated OSH data and analysis;
7. One-stop services and migrants resource centres should be set up in all ASEAN Member States and integrated at local, national and regional levels to ensure better protection mechanisms for men and women migrant workers. In this regard, hotline numbers should be attended 24 hours, available in languages understood by migrant workers, and should provide referral systems to other services required by migrant workers. Migrants resource centres operated by the governments, employers' organisations, workers' organisations and civil society organisations should provide support services and on-site protection for migrant workers and be well coordinated among all stakeholders;

8. Referral systems between countries of origin and destination should be set up and function well and assistance of the embassies should be provided to ensure compensations and benefits are duly paid to migrant workers in a timely manner, even after returning to their countries of origin, including health care and treatment for long-term effects of occupational injuries and diseases. A regional study be undertaken with all stakeholders to explore challenges and policy gaps of reintegrating migrant workers with disabilities upon their return to their countries of origin;
9. Labour attachés should be well trained and adequately supported to provide effective on-site protection. Gender balance amongst labour attachés should be by and large proportionate to the composition of male and female migrant workers.
10. Recruitment agencies should be capacitated, where relevant, in securing better package of remunerations and benefits of migrant workers including minimizing or eliminating fees to be charged to migrant workers;
11. Measures should be taken to facilitate access of men and women migrant workers into trade unions and associations, particularly those in sectors where workers are not organized.
12. Workers filing complaints should be given support to stay within the country of destination while complaints are being processed. In this regard, migrant workers and migrant workers' representatives should be provided with appropriate and timely assistance including protection from employers' reprisal while filing complaints.

Set up policies and procedures to facilitate aspects of migration of workers, including recruitment, preparation for deployment overseas, protection of the migrant workers when abroad, and repatriation and reintegration to the countries of origin:

13. Employers' and workers' organizations in close cooperation with civil society organizations should be engaged through institutionalized dialogues in the development, implementation, amendment, and/or monitoring of gender responsive labour migration policies and programmes in ASEAN Member States;
14. National legislations, policies, rules and regulations concerning employment and labour migration should be accessible and well informed to men and women migrant workers, workers' organizations, employers' organizations, and other stakeholders. In particular, immigration information and visa application procedure should be widely disseminated to migrant workers with the support of Labour Attachés and Embassies;
15. Recruitment policies and procedures should be streamlined and well informed to migrant workers and stakeholders, including through one-stop services and migrant

resource centres at national and local levels;

16. The pre-employment, pre-departure and post-arrival orientation programmes should be conducted, mandatory and free of charge for all men and women migrant workers, involve stakeholders, and the quality of curriculum should continuously be improved and include cultural orientation and rights and obligations of men and women migrant workers and employers;
17. Briefings for and assistance to the families of migrant workers should be provided to enable them in coping with the challenges of overseas employment;
18. Support programmes, including job counselling, market-oriented skills development and/or entrepreneurship training, should be provided for returning migrant workers, and documentation of acquired competencies and experiences provided by employers should be introduced where feasible to support better career opportunities of men and women migrant workers in their countries of origin;
19. Cooperation between the countries of origin and destination in providing assistance to migrant workers with health concerns should be strengthened in order to ensure access to treatment and relevant social welfare services;
20. Workers' organisations in ASEAN Member States should strengthen their cooperation for effective protection mechanisms for migrant workers;

The participants extended their appreciation to the Government of the Republic of the Union of Myanmar, particularly the Ministry of Labour, Employment and Social Security, for the excellent arrangements of the Forum and warm hospitality accorded to them. The participants also congratulated the Government of Malaysia for its role as the incoming ASEAN Chair in 2015 and expressed appreciation of its confirmation to host of the 8th ASEAN Forum on Migrant Labour next year.



# Recommendations of the 8th ASEAN Forum on Migrant Labour

## Empowering the ASEAN Community through Protection and Promotion of the Rights of Migrant Workers



26–27 October 2015



Kuala Lumpur, Malaysia

The 8th ASEAN Forum on Migrant Labour which carried the theme “Empowering the ASEAN Community through Protection and Promotion of the Rights of Migrant Workers” was held on 26-27 October 2015 in Kuala Lumpur, Malaysia. Representatives of the governments, employers’ organisations, workers’ organisations, and civil society organisations from ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), ASEAN Confederation of Employers (ACE), ASEAN Trade Union Council (ATUC), ASEAN Services Employees Trade Union Council (ASETUC), and the Task Force for ASEAN Migrant Workers (TFAMW) participated in the Forum. A representative of the Government of Canada was present as an observer.

The 8th ASEAN Forum on Migrant Labour was convened as part of the implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Labour Ministers’ Work Programme 2010-2015, and ASEAN Socio-Cultural Community (ASCC) Blueprint (Action Line C.2.ii) which called for a regular ASEAN Forum on Migrant Labour as a platform for broad-based discussions on migrant labour issues under the auspices of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) which reports to the ASEAN Senior Labour Officials Meeting (SLOM).

The participants shared information and exchanged views on issues concerning occupational safety and health of migrant workers in the workplace and labour inspection in ensuring labour law compliance especially in migrant-reliant, hazardous, and hard-to-reach sectors. The progress of implementation of the Recommendations of the previous ASEAN Forums on Migrant Labour was also shared.

The participants agreed to recommend the following actions to promote and protect the rights of migrant workers to occupational safety and health (OSH) particularly in relation to fulfillment of the commitments of ASEAN Member States in the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, and in line with standards and policy guidance, where relevant to ASEAN Member States, provided by the ILO Conventions No. 81 (labour inspection), 129 (labour inspection, agriculture), 155 (OSH), 187 (promotional

framework for OSH), 161 (occupational health services), 121 (employment injury benefits), 19 (equality of treatment, workplace accident compensation), and other OSH-related Conventions, as well as guided by the World Health Assembly Resolution on Workers' Health: Global Plan of Action (WHA 60.26, 2007), World Health Assembly Resolution on Health of Migrants (WHA 61.17, 2008), and all other relevant international codes/ norms:

Promotion of occupational safety and health awareness among employers and migrant workers in the Sending and Receiving States:

1. Integrate and/or strengthen OSH training and materials in pre-employment, pre-departure and post-arrival orientation programmes which should be contextual to occupational areas, compulsory, comprehensive, available in languages understandable to employers and migrant workers, free of charge for migrant workers as far as possible, and provided in a timely manner;
2. Develop OSH guidelines, including on access to employment injury benefits, which should be available in languages understandable to employers and migrant workers, and ensure implementation by employers;
3. Promote OSH prevention culture in the workplace through continuous improvement on OSH trainings and equipment, provision of OSH guidelines; information materials and instructions in languages understandable to employers and migrant workers; sensitivity to women workers' needs; positive encouragement through awards to employers with inclusive OSH programmes; awareness raising through conventional and social media and other means by civil society, trade unions, and employers' organisations; and promotion of hotline number to migrant workers;
4. Strengthen OSH policy implementation through awareness-raising on OSH among stakeholders, including governments, employers and workers, and clear actions taken for non-compliance by employers including on the provision of OSH training and measures to minimise OSH risks, statutory working hours, working environment and employment conditions and, where applicable, accommodation for migrant workers;

Role of stakeholders to improve compliance with OSH and employment conditions legislations and ensure effective labour inspection:

5. Encourage the formation of an OSH committee and/or management system at enterprise level with the involvement of migrant workers or trade union;
6. Strengthen OSH policy implementation by the labour department in coordination with other relevant government agencies (health and foreign affairs) and stakeholders (embassies/labour attaché, trade unions, employers' organisations, overseas placement agencies, civil society organisations) within and across ASEAN Member States;

7. Raise awareness of migrant workers on the role and purpose of labour inspection through information in languages understandable to migrant workers to ease their fear of reporting or making complaints, and provide contact information in relevant government departments and embassies;
8. Strengthen labour inspection for decent employment and working conditions and OSH through capacity building and enhanced number of labour inspectors including women labour inspectors, setting up gender responsive and multidisciplinary teams for labour inspection, adequate resources for periodic inspections to vulnerable and hard-to-reach sectors and workplaces (e.g. fishing, mining, forestry, agriculture, and domestic work); and cooperation with employers' organisations, trade unions, civil society organisations and other relevant entities in hard-to-reach sectors;
9. Strengthen the role of labour attaché by providing them with OSH trainings, and promoting their gender responsiveness, access to information, referral systems with the labour inspection and relevant authorities of the Receiving States, and regular dialogue platforms with migrant workers (face-to-face or online);

Cooperation between the Sending and Receiving States to improve compliance with OSH and employment conditions legislations and ensure effective labour inspection:



10. Strengthen complaint mechanisms on OSH and employment conditions violation to include improved accessibility of the mechanisms, speedy settlement process, confidentiality of the source of information, protection from employers' reprisal, support to stay and, where applicable, work in the Receiving States while complaints are being processed, and investigation without the presence of employers, in language understandable to migrant workers, and preferably by women labour inspectors in cases of women migrant workers;
11. Ensure the inclusion of OSH, employment conditions and, where possible, roles of labour inspection and labour attaché in bilateral and multilateral memorandum of understanding (MOU) concerning migrant workers to promote OSH preventive measures and to ensure legal protection of migrant workers in time of OSH and employment conditions violation;
12. Improve collection and sharing, where available, on disaggregated statistical data on OSH related injuries, diseases and casualties (e.g. occupational areas, types of injury, country of origin, age and gender), share best practices, and undertake research on causes of injuries and casualties for improved OSH policies, training, and enforcement;
13. Improve data collection on reported cases on non-compliance with employment standards such as contract substitution and non-payment of salaries. Efforts should be made for timely access to information on the progress of complaints filed;
14. Encourage non-discrimination on access to healthcare and provision of workers' compensation for occupational injuries, diseases, disabilities and casualties irrespective of occupational areas, nationality and status of migrant workers;
15. Improve mechanisms of claiming and payment of workers' compensation benefits in a timely manner, even after returning to their countries of origin, through effective procedure to verify the beneficiaries; assistance of embassies/ labour attaché, trade unions and civil society organisations; and provision of clear information on OSH protection, workers' compensation, and the beneficiaries, for example through an employment contract.

The participants extended their appreciation to the Government of the Malaysia, particularly the Ministry of Human Resources, for the excellent arrangements of the Forum and warm hospitality accorded to them, and the support of the ASEAN Secretariat, ILO, IOM, UN Women, and TFAMW;

The participants also congratulated the Government of Lao PDR for its role as the incoming ASEAN Chair in 2016 and expressed appreciation of its confirmation to host of the 9th ASEAN Forum on Migrant Labour next year.

# Recommendations of the 9th ASEAN Forum on Migrant Labour

## Better Quality of Life for ASEAN Migrant Workers through Strengthened Social Protection



9–10 November 2016



Vientiane, Lao People's Democratic Republic

The 9th ASEAN Forum on Migrant Labour on the theme “Better Quality of Life for ASEAN Migrant Workers through Strengthened Social Protection” was held on 9-10 November 2016 in Vientiane, Lao PDR. Representatives of the governments, employers’ organisations, workers’ organisations, and civil society organisations from ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), ASEAN Confederation of Employers (ACE), ASEAN Trade Union Council (ATUC), ASEAN Services Employees Trade Union Council (ASETUC), and the Task Force for ASEAN Migrant Workers (TFAMW) participated in the Forum. Representatives of the Government of Australia, the Government of Canada and the Government of Switzerland were present as observers.

The 9th ASEAN Forum on Migrant Labour was convened as part of the implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Labour Ministers Work Programme 2016-2020 and the Work Plan 2016-2020 of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). The annual ASEAN Forum on Migrant Labour is a platform for a broad-based discussion on migrant labour issues under the auspices of ACMW which reports to the ASEAN Senior Labour Officials Meeting (SLOM).

The participants shared information and exchanged views on issues concerning the current situation of social protection of migrant workers in ASEAN and portability of social security of migrant workers in ASEAN. The progress of implementation of Recommendations of the previous ASEAN Forum on Migrant Labour was also shared.

The participants acknowledged that everyone, including migrant workers are entitled to have equitable access to social protection that is a basic human right. The participants also acknowledged the joint commitments of ASEAN Member States to the ASEAN Human Rights Declaration, ASEAN Declaration on Strengthening Social Protection and its Regional Framework and Action Plan, and ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The participants also noted the commitments of individual

ASEAN Member States to the Universal Declaration of Human Rights; and other related and relevant international instruments including ILO

Social Security (Minimum Standards) Convention, 1952 (No. 102), ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), and ILO Social Protection Floors Recommendation, 2012 (No. 202) as applicable.

The participants recommended the following actions to promote and ensure social protection for migrant workers:

Extending social protection for migrant workers in ASEAN:

1. Promote equal treatment between nationals and non-nationals in accessing nationally defined social protection in ASEAN Member States.
2. Take measures as appropriate to adopt and implement in each ASEAN Member State a progressive plan, with a clear timeframe, towards ensuring equitable access to social protection for migrant workers keeping in mind the following priorities: working injury insurance, medical care, sickness and maternity benefits, old-age, invalidity and survivors' pensions and death benefits.
3. Take into account the need to provide social protection to migrant workers' families, including but not limited to migrant workers' children's access to education.
4. Provide all migrant workers and their family members access to emergency health care.
5. Review relevant national laws in view to extend access to social protection to migrant workers.
6. Remove discriminatory practices in labour and social protection laws, immigration policies, and administrative obstacles that prevent migrant workers' access to social protection benefits (e.g. with regard to domestic workers).
7. Strengthen national and regional database on social protection programmes, including data on migrant workers, disaggregated by gender and migration status as needed.
8. Include applicable and gender-responsive social protection provisions in written employment contracts or other appropriate written document in a language understandable to migrant workers.
9. Provide information on social protection including available schemes, rights and obligations, to migrant workers during pre-employment, pre-departure, post-arrival orientation seminars and during the employment, in a language understandable to migrant workers.

10. Strengthen capacity building, awareness and education programmes for policy makers and other stakeholders as well as sharing of knowledge and good practices among ASEAN Member States on social protection for migrant workers.

Working towards the portability of social security of migrant workers in ASEAN:

11. Identify knowledge gaps on portability of social protection for migrant workers from existing studies to be addressed in future studies. Ensure that findings and recommendations of the studies are widely disseminated to all relevant stakeholders and sectors.
12. Explore and assess the feasibility of developing bilateral or regional agreements or arrangements on portability of social protection for migrant workers between Sending States and Receiving States, either as a specific agreement and/or include in Memorandum of Understanding or Bilateral Labour Agreement.
13. Support implementation of ASEAN Declaration on Strengthening Social Protection and its Regional Framework and Action Plan particularly with reference to extending social protection coverage to all migrant workers through inter-sectoral cooperation of SLOM and Senior Officials Meeting on Social Welfare and Development (SOMSWD). Recommendations of the 9th AFML should be submitted by SLOM to SOMSWD as the focal point for inter-sectoral cooperation on social protection at ASEAN level.
14. Engage multi- and cross-sectoral stakeholders including governments, employers' organisations, workers' organisations, civil society organisations, private sectors and migrant communities in raising awareness and implementing social protection for migrant workers as relevant.
15. Ensure timely remittance of social protection contributions and benefits to migrant workers and their families that are due to them.
16. Promote and support exchange of information and good practices on social protection and portability of social security for migrant workers within ASEAN as well as other regions.

The participants extended their appreciation to the tripartite partners and to the Government of Lao PDR, particularly the Ministry of Labour and Social Welfare, for the excellent arrangements of the Forum and warm hospitality accorded to them.

The participants also congratulated the Government of the Philippines as incoming ASEAN Chair in 2017 and expressed appreciation of its confirmation to host the 10<sup>th</sup> ASEAN Forum on Migrant Labour next year. The participants supported the finalization of the ASEAN instrument on the protection and promotion of the rights of migrant workers by April 2017.

# Recommendations of the 10th ASEAN Forum on Migrant Labour

## Towards Achieving Decent Work for Domestic Workers in ASEAN



25–26 October 2017



Manila, the Philippines

The 10th ASEAN Forum on Migrant Labour which carried the theme “Towards Achieving Decent Work for Domestic Workers in ASEAN” was held on 25-26 October 2017 in Manila, the Philippines. Representatives of the governments, employers’ organisations, workers’ organisations, and civil society organisations from ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), UN Women, ASEAN Confederation of Employers (ACE), ASEAN Trade Union Council (ATUC), ASEAN Services Employees Trade Union Council (ASETUC), Task Force for ASEAN Migrant Workers (TFAMW), Mekong Migration Network, North South Initiative and Migrant Forum in Asia participated in the Forum. Representatives of DFAT-Australia and Global Affairs Canada participated as observers.

The 10th ASEAN Forum on Migrant Labour was convened as an implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Labour Ministers’ Work Programme 2016-2020, and ASEAN Socio-Cultural Community (ASCC) Blueprint 2025. The Forum is a platform for broad-based discussions on migrant labour issues under the auspices of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW).

The participants agreed to recommend the following concrete measures towards achieving decent work for domestic workers in ASEAN:

### **(a) Strengthening standards for the protection of migrant domestic workers in ASEAN**

1. Recognise domestic workers as workers and remove outdated terminologies that diminish the dignity of domestic workers. Towards this end, ASEAN Member States should progressively move towards inclusion of domestic workers in their labour and social legislations;
2. Adopt progressive national plans which include feasibility study and gap analysis to support the ratification process of the ILO Conventions No. 189 (domestic workers), 97 (migration for employment), 143 (migrant workers (supplementary provision)), 181 (private employment agencies), and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

Families, and subsequently ensure effective implementation and monitoring of the compliance of the ratified Conventions;

3. Align national laws and policies with international instruments related to labour migration and domestic work, taking into account different contexts of ASEAN Member States;
4. Promote the negotiation for bilateral memorandum of understanding and/or labour and social security agreements for migrant workers, including domestic workers, that are compatible with international labour standards in consultation with relevant stakeholders and social partners;
5. Promote the adoption of a standard national employment contract or proper documentation, with clear terms of employment for migrant domestic workers, consistent with international labour standards, that is recognized and enforceable in both the Sending and Receiving States, and made available in the language of the migrant domestic worker. The standard contract should clearly specify the rights and responsibilities of both migrant domestic workers and their employers, job description, and work conditions; and adopt non-discriminatory gender-sensitive language;
6. Strengthen labour inspection and other compliance mechanisms to progressively extend the coverage to include individual households of the employers of domestic workers. Likewise, migrant domestic workers' access to complaint mechanisms should be ensured;
7. National policies of the Receiving States concerning migrant domestic workers should allow for greater flexibility in changing employers;
8. In case of legal dispute, migrant domestic workers should have the right to stay and work in the Receiving States until the legal or labour cases are settled in accordance with national laws and regulations;
9. Strengthen social protection legislations to extend the coverage of social security and health insurance for domestic workers;

**(b) Improvement of the implementation of policies and support services for migrant domestic workers in ASEAN**

10. Provide standardized education and information on safe migration, including pre-employment, pre-departure, on-site and return orientation, at no cost to the migrant domestic workers and their families, including essential information on labour laws, social protection, and access to remedies regarding compensation for occupational injuries, death or exploitation;

11. The Receiving States to ensure pre-employment orientation to employers of migrant domestic workers, and promote good practices in the employment of domestic workers;
12. Promote fair recruitment practices and simplify the recruitment and placement processes through measures such as a standard recruitment agreement, reduction of recruitment fees, transparency and effective regulation of recruitment agencies. In this regard, private recruitment agencies should adhere to ethical codes of conduct;
13. Improve capacity and provide adequate human and financial resources for consular and labour services of embassies or foreign missions and migrant resource centres to support migrant domestic workers including access to complaint mechanism, justice and redress;
14. Promote the establishment of skills training programmes and certification systems to promote professionalisation and upward mobility of domestic workers. Likewise, competency standards should be developed for different domestic work roles, such as cook, cleaner, gardener, child and eldercare providers. In this regard, the ILO Regional Model Competency Standard for Domestic Workers could be promoted in the region;



15. Increase public awareness and strengthen commitment of relevant parties to protect the rights of migrant domestic workers and recognise their contributions;
16. Promote collection and sharing of standardised labour migration data disaggregated by sex and occupations including migrant domestic work;
17. Foster opportunities and an enabling environment for migrant domestic workers' voices to be heard through migrants' associations, workers' organisations, and civil society organisations in accordance with national laws and regulations;
18. Continue and strengthen the practices of tripartism and social dialogue at national level in formulation and review of laws and policies on protection of domestic workers;
19. Promote cooperation among governments, employers' organisations, workers' organisations, and civil society organisations at bilateral and regional levels towards achieving decent work for migrant domestic workers in ASEAN.

The participants congratulated the ACMW for completing the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, and welcomed the planned signing of it at the 31st ASEAN Summit in November 2017 in Manila, the Philippines.

The participants extended their appreciation to the Government of the Philippines, particularly the Department of Labor and Employment, for the excellent arrangements of the Forum and the warm hospitality accorded to them.

The participants also congratulated the Government of Singapore for its role as the incoming ASEAN Chair in 2018, and expressed appreciation of its confirmation to host the 11th ASEAN Forum on Migrant Labour next year.



# Appendix I. Summary of progress against Recommendations from the 3rd to 8th AFML

## Background paper to the 9th AFML (2017)

To serve as an input to the discussions at the 9th ASEAN Forum on Migrant Labour, the International Labour Organization (ILO) prepared the report *Progress of the implementation of Recommendations adopted at the 3rd–8th ASEAN Forums on Migrant Labour: Background paper to the 9th AFML*, which maps out the progress of ASEAN stakeholders in implementing the AFML Recommendations. This document is the third in a series of reviews conducted biannually by the ILO (the first in 2012 and the second in 2014), in coordination with the AFML Coordination Committee (ACC). It covers the 3rd to the 8th AFMLs, from which there are a total of 99 Recommendations. The scope of the report is limited to new initiatives that have been implemented from 2014 onward.

The Recommendations are grouped into eight clusters:

- a. information dissemination targeting migrant workers and employers on regulations and requirements, migration costs, rights and standards, working and living conditions, occupational safety and health, labour inspection, and migration realities;
- b. effectively regulating the recruitment of migrant workers;
- c. providing decent working conditions;
- d. facilitating access to legal and judicial systems, and redress mechanisms;
- e. effective return and reintegration strategies;
- f. public education campaigns to improve perceptions of migrant workers;
- g. collecting, sharing, and analysing labour migration data; and
- h. multilateral and multi-stakeholder cooperation, collaboration, information exchange: regional, subregional, and national cross-sectoral interventions.

The purpose of the report is to provide a snapshot of progress against AFML Recommendations since 2014. The report seeks to document the progress made in ASEAN Member States in implementing the AFML Recommendations, particularly in the period 2014–16. This is by no means an exhaustive description of all the initiatives that have been undertaken by ASEAN stakeholders, but rather reflects information collected by the authors as a result of a questionnaire survey, literature review, and national preparatory meetings for the 9th AFML.

Data for the report was gathered from:

- a. publications and internal reports provided by the South-East Asian offices of the ILO, the International Organization for Migration (IOM), and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women);
- b. outcome documents and presentations from labour migration-related events, particularly those from national AFML preparatory meetings and ASEAN conferences;
- c. official documents and news reports available online, as well as information taken from the websites of ASEAN stakeholders; and
- e. responses to a survey questionnaire distributed to all ASEAN Member States, the ASEAN Confederation of Employers (ACE), the ASEAN Trade Union Council (ATUC), the Task Force on ASEAN Migrant Workers (TFAMW), and the regional offices of the IOM and UN Women.

The preliminary observations and conclusions are:

## **In the area of information dissemination**

Most governments in countries of origin have a mechanism to provide pre-departure orientation. A good practice is to have a standard curriculum that is geared to specific occupations and destination countries. This is the practice in the Philippines, as well as Cambodia, the Lao People's Democratic Republic, and Viet Nam. The delivery of pre-departure orientation varies. The delivery is left to recruitment agencies in Cambodia, Indonesia (partly), and Viet Nam. This approach is problematic if quality control is not exercised. The Philippines has accredited civil society organizations, recruiter associations, and training institutions to deliver training. The cost of orientation and who pays is an important consideration. In the Philippines, apart from domestic workers, the costs of orientation are borne by the worker. In other countries that make orientation mandatory, the costs of orientation are generally borne by the worker. This adds to the migration cost.

Other critical forms of information dissemination involve generating awareness of the risks, benefits, and procedures for foreign employment so that jobseekers are well informed before deciding to migrate. In addition to campaigns, such information and advice can be built into the work of government employment services and centres run by civil society organizations and trade unions. The ILO assists trade unions, government job centres, and civil society organizations operate 27 Migrant Worker Resource Centres in the Greater Mekong Subregion and Malaysia. The IOM also assists government ministries and civil society organizations operate 22 Migrant Resource Centres in Cambodia, Indonesia, Myanmar, the Philippines, and Viet Nam.

Post-arrival orientation of workers by employers or the State is much less common, but is just as important as pre-departure orientation. The orientation of employers (on rights of

migrant workers) was undertaken by the Malaysian Employers Federation, but still needs more attention in the region. OSH-related awareness raising among employers and workers is being undertaken in Malaysia, Singapore, and Thailand.

## **In the area of recruitment**

Given that the supply of workers in low-wage countries far outstrips the demand in wealthier destination countries and that there are far more workers intending to work abroad than there are jobs, migrant workers are highly vulnerable to abuses during recruitment. High economic costs and fees during recruitment are common and are well documented.

In addition to better regulation and enforcement, employers and jobseekers can be provided with greater recruitment options that reduce the layers of intermediation, and potentially costs and time. In this regard screened, e-based job matching; use of public placement agencies; and direct recruitment by accredited employers are still limited in the region.

Regarding legislation, setting recruitment fees charged to workers at zero has been introduced for the first time in the region in law across all sectors in Thailand, which is notable progress.

Private recruitment agencies continue to play a primary role in matching jobseekers and employers. The Viet Nam Association of Manpower and Supply (VAMAS) continues to make progress on self-regulation. Recruitment agencies in Myanmar have developed a comprehensive code of conduct.

Concerning enforcement, the Philippines is the most active in filing recruitment violation cases (nearly 12,000 in 2010–14). This perhaps reflects better awareness and support services. Regulators in the Philippines cancelled as many as 96 recruitment agency licenses and suspended 52 others in 2014 (Baruah, 2016).

With the engagement of tripartite experts, the ILO has drafted global principles and guidelines on Fair Recruitment. The IOM is piloting an accreditation framework on fair recruitment (International Recruitment Integrity System) in the Philippines and other countries.

## **In the area of decent work**

During employment many migrants are concentrated in sectors with inadequate labour legislation and enforcement: female domestic workers in private households; male migrants working in the fishing industry; and men and women in agriculture and construction. These migrant workers – who are filling jobs that are often unattractive to nationals – are among the least protected and lowest paid. Stringent restrictions on job changes for admitted migrants result in an imbalanced employer–employee relationships.

At the same time improvements have taken place. Countries such as Thailand have strengthened their legal frameworks and/or enforcement mechanisms to protect migrant

workers. The Thai Government passed a revised Ministerial Regulation on Sea Fisheries Work, which came into effect in December 2014. Migrants have benefited from a regularization process and better support services. Malaysia and Singapore have revamped their OSH policies and initiated a number of programmes to educate employers and workers and instil an OSH culture. Minimum wage legislation in Thailand and Malaysia have benefited migrant workers. However domestic workers, who are mainly women, remain outside the scope of minimum wage law and are among the lowest paid.

Challenges remain with regard to labour inspection for hard-to-reach sectors. Improvements have taken place with regard to the fishing sector in Thailand.

The Malaysian Employers Federation has developed and disseminated a tool for its members, called Practical guidelines for employers, which draws together information on legislation, procedures, and best practices to enable employers to comply with national laws and regulations.

During the reporting period, a number of ASEAN Member States ratified the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and the ILO Maritime Labour Convention, 2006 (MLC, 2006). Convention No. 187 was ratified by Indonesia (2015), Thailand (2016), and Viet Nam (2014); while MLC, 2006, was ratified by Malaysia (2013), Myanmar (2016), Thailand (2016), and Viet Nam (2013). All ASEAN Member States have now ratified the ILO Worst Forms of Child Labour Convention, 1999 (No 182), after Myanmar ratified the Convention in 2013.

However, the Philippines is still the only country in ASEAN to have ratified the ILO Domestic Workers Convention, 2011 (No. 189); while Indonesia and the Philippines are the only ASEAN Member States to have ratified the UN Convention on the Rights of All Migrants and Members of Their Families, 1990.

The ASEAN regional instrument on the protection of migrant workers is expected to be concluded by April 2017 (ASEAN, 2016a).

## **In the area of access to legal and judicial systems, redress mechanisms, and complaints processes**

With ILO technical assistance, Cambodia introduced legislation and set up a complaint mechanism in 2013. Concurrently, Migrant Worker Resource Centres were opened. This was followed by a high uptake of the complaint mechanism by migrant workers.

Trade unions and CSOs have been providing assistance in this area to migrant workers in all ASEAN Member States. Bar Associations have also been active in some countries, in particular Malaysia, the Philippines, and Singapore.

## **In the area of return and reintegration**

This continues to be an area where most ASEAN Member States – apart from the Philippines – are not allocating resources. Many of the AFML Recommendations concerning return and reintegration remain to be addressed. The Viet Nam Government, with support from the IOM, has developed recommendations on how to enhance the return and reintegration of Vietnamese migrant workers. Some work on teaching financial literacy to migrant workers has been done in Malaysia, Singapore, and Thailand, through the work of CSOs and trade unions, with support from the ILO.

## **In the area of public education and promoting a positive image of migrant workers**

Although efforts to educate direct migration stakeholders have increased, much work remains when it comes to public education on the contribution of migrant workers. While innovative campaigns have been carried out in Malaysia and Thailand, with the support of the ILO and IOM, these can be further reinforced.

## **In the area of data collection and sharing**

While good progress has been made in establishing the International Labour Migration Statistics Database in ASEAN (ILMS), data gaps remain – particularly on return migration and disaggregating OSH (accidents, injuries, illnesses, and fatalities). There is also a need to further revise national data definitions to conform with international standards in order to ensure data comparability.

Monitoring of progress against Sustainable Development Goal targets and indicators will require break down by gender as well as migratory status.

## **In the area of multi-sectorial collaboration**

Important bilateral agreements and the development of national plans concerning labour migration in the region were undertaken in the period. A number of inter-sectorial meetings at the ASEAN level took place with the support of the ILO. There is still scope for more collaboration in this regard. Employers' organizations and workers' organizations (ACE and ATUC) continue to increase their capacity with regard to the protection of migrant workers. ASEAN Bar Associations have come together to form a coalition for improved legal aid and access to justice.

A full copy of the ILO background paper is available at: [www.ilo.org/afml](http://www.ilo.org/afml)

## Appendix II. ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

**WE**, the Heads of State/Government of the Member Countries of the Association of Southeast Asian Nations (hereinafter referred to as ASEAN), attending the 12th ASEAN Summit on 13 January 2007 in Cebu, Philippines;

**RECALLING** the Declaration of ASEAN Concord II adopted at the 9th ASEAN Summit in Bali, Indonesia, which stipulated the establishment of an ASEAN Community resting on three pillars: an ASEAN Security Community, an ASEAN Economic Community and an ASEAN Socio-Cultural Community;

**RECALLING** also the Universal Declaration on Human Rights adopted and proclaimed by General Assembly Resolution 217(A)(III) of 10 December 1948, as well as other appropriate international instruments which all the ASEAN Member Countries have acceded to, in order to safeguard the human rights and fundamental freedoms of individuals such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child;

**RECALLING** further the Vientiane Action Programme adopted at the 10th ASEAN Summit in Vientiane, Lao PDR, which provides for, inter alia, the promotion of human rights and obligations to realise an open, dynamic and resilient ASEAN Community;

**CONFIRMING** our shared responsibility to realise a common vision for a secure and prosperous ASEAN Community by improving the quality of life of its people and strengthening its cultural identity towards a people-centered ASEAN through, among others, measures on the protection and promotion of the rights of migrant workers;

**RECOGNISING** the contributions of migrant workers to the society and economy of both receiving states and sending states of ASEAN;

**RECOGNISING** further the sovereignty of states in determining their own migration policy relating to migrant workers, including determining entry into their territory and under which conditions migrant workers may remain;

**ACKNOWLEDGING** the legitimate concerns of the receiving and sending states over migrant workers, as well as the need to adopt appropriate and comprehensive migration policies on migrant workers;

**ACKNOWLEDGING** also the need to address cases of abuse and violence against migrant workers whenever such cases occur;

**REITERATING** that ASEAN should make further progress as a cohesive and caring society committed to enhancing the quality of life and wellbeing of its people, especially those in the vulnerable and disadvantaged sectors;

**HEREBY DECLARE AS FOLLOWS:**

**GENERAL PRINCIPLES**

1. Both the receiving states and sending states shall strengthen the political, economic and social pillars of the ASEAN Community by promoting the full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of respective ASEAN Member Countries;
2. The receiving states and the sending states shall, for humanitarian reasons, closely cooperate to resolve the cases of migrant workers who, through no fault of their own, have subsequently become undocumented;
3. The receiving states and the sending states shall take into account the fundamental rights and dignity of migrant workers and family members already residing with them without undermining the application by the receiving states of their laws, regulations and policies; and
4. Nothing in the present Declaration shall be interpreted as implying the regularisation of the situation of migrant workers who are undocumented.

**OBLIGATIONS OF RECEIVING STATES**

Pursuant to the prevailing laws, regulations and policies of the respective receiving states, the receiving states will:

5. Intensify efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers;
6. Work towards the achievement of harmony and tolerance between receiving states and migrant workers;
7. Facilitate access to resources and remedies through information, training and education, access to justice, and social welfare services as appropriate and in accordance with the legislation of the receiving state, provided that they fulfill the requirements under applicable laws, regulations and policies of the said state, bilateral agreements and multilateral treaties;

8. Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers;
9. Provide migrant workers, who may be victims of discrimination, abuse, exploitation, violence, with adequate access to the legal and judicial system of the receiving states; and
10. Facilitate the exercise of consular functions to consular or diplomatic authorities of states of origin when a migrant worker is arrested or committed to prison or custody or detained in any other manner, under the laws and regulations of the receiving state and in accordance with the Vienna Convention on Consular Relations.

### OBLIGATIONS OF SENDING STATES

Pursuant to the prevailing laws, regulations and policies of the respective sending states, the sending states will:

11. Enhance measures related to the promotion and protection of the rights of migrant workers;
12. Ensure access to employment and livelihood opportunities for their citizens as sustainable alternatives to migration of workers;
13. Set up policies and procedures to facilitate aspects of migration of workers, including recruitment, preparation for deployment overseas and protection of the migrant workers when abroad as well as repatriation and reintegration to the countries of origin; and
14. Establish and promote legal practices to regulate recruitment of migrant workers and adopt mechanisms to eliminate recruitment malpractices through legal and valid contracts, regulation and accreditation of recruitment agencies and employers, and blacklisting of negligent/unlawful agencies.

### COMMITMENTS BY ASEAN

For purposes of protecting and promoting the rights of migrant workers, ASEAN Member Countries in accordance with national laws, regulations and policies, will:

15. Promote decent, humane, productive, dignified and remunerative employment for migrant workers;
16. Establish and implement human resource development programmes and reintegration programmes for migrant workers in their countries of origin;
17. Take concrete measures to prevent or curb the smuggling and trafficking in persons by, among others, introducing stiffer penalties for those who are involved in these activities;

18. Facilitate data-sharing on matters related to migrant workers, for the purpose of enhancing policies and programmes concerning migrant workers in both sending and receiving states;
19. Promote capacity building by sharing of information, best practices as well as opportunities and challenges encountered by ASEAN Member Countries in relation to protection and promotion of migrant workers' rights and welfare;
20. Extend assistance to migrant workers of ASEAN Member Countries who are caught in conflict or crisis situations outside ASEAN in the event of need and based on the capacities and resources of the Embassies and Consular Offices of the relevant ASEAN Member Countries, based on bilateral consultations and arrangements;
21. Encourage international organisations, ASEAN dialogue partners and other countries to respect the principles and extend support and assistance to the implementation of the measures contained in this Declaration; and
22. Task the relevant ASEAN bodies to follow up on the Declaration and to develop an ASEAN instrument on the protection and promotion of the rights of migrant workers, consistent with ASEAN's vision of a caring and sharing Community, and direct the Secretary-General of ASEAN to submit annually a report on the progress of the implementation of the Declaration to the Summit through the ASEAN Ministerial Meeting.

**DONE** at Cebu, Philippines, this Thirteenth Day of January in the Year Two Thousand and Seven, in a single original copy in the English Language.



**For Brunei Darussalam:**

**HAJI HASSANAL BOLKIAH**

Sultan of Brunei Darussalam

**For the Kingdom of Cambodia:**

**SAMDECH HUN SEN**

Prime Minister

**For the Republic of Indonesia:**

**DR. SUSILO BAMBANG YUDHOYONO**

President

**For the Lao People's Democratic Republic:**

**BOUASONE BOUPHAVANH**

Prime Minister

**For Malaysia:**

**DATO' SERI ABDULLAH AHMAD BADAWI**

Prime Minister

**For the Union of Myanmar:**

**GENERAL SOE WIN**

Prime Minister

**For the Republic of the Philippines:**

**GLORIA MACAPAGAL-ARROYO**

President

**For the Republic of Singapore:**

**LEE HSIEN LOONG**

Prime Minister

**For the Kingdom of Thailand:**

**GENERAL SURAYUD CHULANONT (RET.)**

Prime Minister

**For the Socialist Republic of Viet Nam:**

**NGUYEN TAN DUNG**

Prime Minister





# The ASEAN Forum on Migrant Labour (AFML)

Background information booklet

(3rd edition)

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The ASEAN Forum on Migrant Labour (AFML) is a regional tripartite platform to discuss issues faced by women and men migrant workers from and within ASEAN.

The ASEAN Declaration on the Protection and Promotion of Migrant Workers (Cebu Declaration) was adopted by the ten ASEAN Member States (AMS) in 2007 in Cebu, the Philippines. The Cebu Declaration shows the AMS' commitment to protect and promote the rights of migrant workers in the region. In order to advance the principles of the Cebu Declaration, the AFML was established to provide an open platform for governments, employers, workers and civil society organizations to discuss complex and regional labour migration issues. Ten AFMLs have been held to date. This publication contains information on the establishment of the AFML, past themes, and the Recommendations adopted at the 3rd–10th AFMLs, showing progress being made toward the implementation of the Cebu Declaration.

## **TRIANGLE in ASEAN programme**

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