



Ministry of Labour Invalids and Social Affairs of Viet Nam

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POLICIES ON COMPULSORY SI FOR THE EMPLOYEES WHO HOLD CITIZENSHIP OF FOREIGN COUNTRY AND WORK IN VIETNAM

Bangkok, July 2017

July 6, 2017

Agenda



- 1. WHY?**
- 2. Real situation of migrant workers in Viet Nam**
- 3. Proposed policies**
- 4. Difficulties and Challenges**

I. WHY?



- In the globalization, migrant workers are important parts in the economy. To protect the migrant workers, international community has developed the legal frameworks to protect the MW's rights through international conventions, treaties (multilateral and bilateral).

I. WHY?



International:

- The Universal *Declaration of Human Rights* (1948)
- The **International Convention** on the Protection of the Rights of All **Migrant Workers** and Members of Their Families (1990): The rights to Social security and stipulate that migrant workers should be treated equally as the national citizen.

I. WHY?



ILO framework on Social security

- **C19** concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents (1925)
- **C97**: Migration for Employment Convention No. 97 (1949): stipulates the principle of equal treatment of social security (Article 6).

I. WHY?



ILO framework on Social security

- **Convention No. 102 (1952)** on Social Security (Minimum Standards): sets minimum global standards for 9 schemes of social security. Section XII of Convention No. 102 (Article 68) focuses on **equal treatment of non-national residents**

I. WHY?



ILO framework on Social security

- **Convention No.118 (1962) on Equal Treatment of Social Security:** Setting Principles for Equal Treatment between national residents. and non-national residents and Their Families with the 9 Branches of the Convention No. 102.
- **C157 - Maintenance of Social Security Rights Convention, 1982** (1982) concerning the Maintenance of Rights in Social Security: calling for the reservation of entitlements by **aggregating periods** of insurance in different countries

I. WHY?



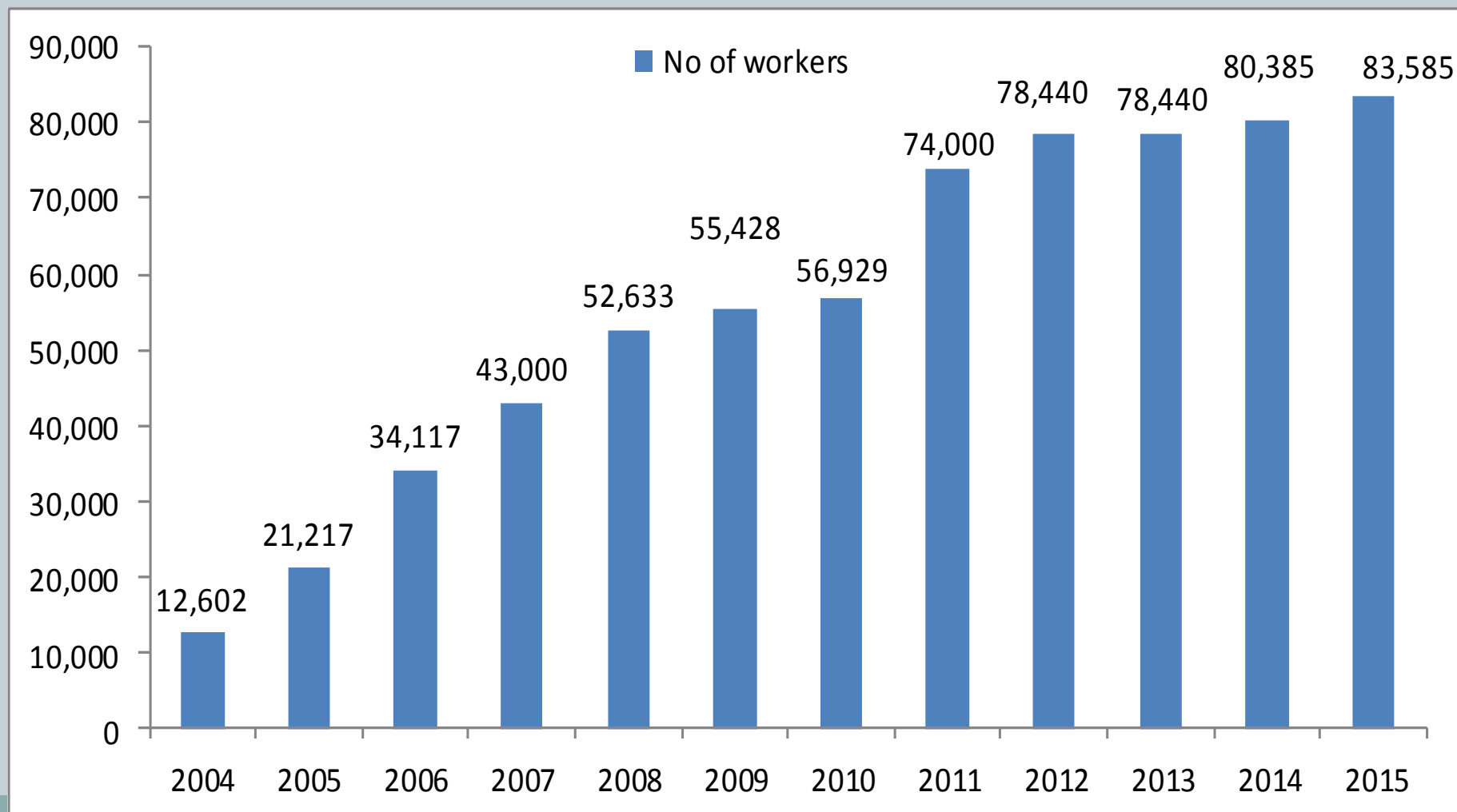
- In Viet Nam
 - The Government's affirmation to "*actively and positively integration*".
 - Constitution in 2013 and other legal documents: improving legal framework to facilitate and better protect the rights of foreign employees in Vietnam on the basis of complying with international legislation and convention

I. WHY?



- On 20/11/2014: National Assembly approved the Social Insurance Law (amended) (came into effects since 1/1/2016)
- Item 2 Article 2 in the Law on Social Insurance (2014) stipulates “*Employees who are foreign citizens working in Vietnam with work permits or practice certificates or practice licenses granted by Vietnamese authorities shall be covered by compulsory social insurance under the Government’s regulations.*”

II. Real situation of foreign workers in Viet Nam



II. Real situation of foreign workers in Viet Nam

Foreign workers according to legal status:

Foreign workers	No of workers	Proportion
- No working permit	5.676	6,8%
- With working permit	77.909	93,2%
In which:		
+ Already issued	73.534	84,4%
+ Waiting issuance	4.375	5,6%

II. Real situation of foreign workers in Viet Nam

Foreign workers in some cities and provinces

Provinces	Number (workers)	Proportion (%)
Ho Chi Minh city	20.343	24,3
Bình Dương	12.041	14,4
Hà Tĩnh	7.025	8,4
Ha Noi	6.386	7,6
Đồng Nai	6.205	7,4
Thanh Hóa	3.797	4,5
Bắc Ninh	3.222	3,9

II. Real situation of foreign workers in Viet Nam

Foregin workers from 110 countries.

Among those from Asia: China: 25,797 workers (30.9%); South Korea 15,334 (18.3%); Taiwan: 10,778 (12.9%); Japan: 7,927 (9.5%); and other: 23,749 (28.4%).

Countries of origin	No of workers	Ratio (%)
Asia	59,836	71.6
Europe	18,999	22.7
Others	4,750	5.7

II. Real situation of foreign workers in Viet Nam

Workers by gender and age

STT	Foreign workers	Number (workers)	Ratio (%)
	By gender		
1	Male	69,956	83.7
2	Female	13,629	16.3
	By age		
3	Below 30	11,701	14
4	30 and up	71,884	86

III. Proposed policies



3.1. Who regulated by the Law

- Employees:

Pursuant to the stipulation at item 2 Article 2 of the Law on Social Insurance, “*Employees who are foreign citizens working in Vietnam with work permits or practice certificates or practice licenses granted by Vietnamese authorities shall be covered by compulsory social insurance under the Government’s regulations*”. Therefore, the Law on Social Insurance regulates 3 groups of foreign employees working in Vietnam subjected to compulsory social insurance including (i) people with ***work permits***; (ii) people with ***practice certificates***; (iii) people with ***practice licenses granted by Vietnamese authorities***

III. Proposed policies



Decree No. 11/2016/ND-CP and Circular No. 40/2016/TT-BLDTBXH (stipulating in details the implementation of several articles in the Labor Code on foreign employees in Vietnam):

- Foreign employees, in order to be eligible to work in Vietnam, must be provided with work permit (the subjects include **manager, CEO, specialist or a technical worker**, the validity of a work permit is limited to a maximum of two years) or subjected to the case of work permit exemption (Department of Labor – Invalids, Social Affairs (DOLISA) at provincial level have authorities to rectify the status whereby the foreign employees shall not be granted with work permits, in the time period of maximum of two years)

III. Proposed policies



- Compulsory social insurance is the type of insurance *that is aimed at employees who have an employment relationship*, the object to be applied is foreign workers *having laboring relationship with employers by laboring contracts* (employers are firms, organizations and individual in Viet Nam).
- On the other hand, according to the provisions of the Law on Social Insurance 2014, from the 1 January 2018, Vietnamese employees working under labor contracts of one full month or over are subject to compulsory social insurance. In order to ensure the equality between Vietnamese employees and foreign employees, the subjects covered by this Decree are regulated to be foreign employees working in Vietnam under labor contracts of a full one month or over.

III. Proposed policies



- *Employers* :

- As regulated at the Item 2 Article 2 of the Decree No. 11/2016/ND-CP dated 03 February 2016 by the Government stipulating in details the implementation of several articles of the Labor Code on foreign employees working in Vietnam, the employers of foreign employees should include 12 categories
- However, in order to ensure uniformity and inclusion errors, the drafted version of this Decree stipulates that employers who participate in compulsory social insurance under this Decree are subject to regulations as regulated in Item 3, Article 2, of the Law on Social Insurance.

III. Proposed policies



3.2. SI benefits

- Law on Social Insurance: compulsory social insurance consists of five benefits, which are sickness benefits, maternity benefits, Employment Injury Insurance - occupational diseases allowances, pensions and survivor allowances.
- To ensure the interests of foreign employees while working in Vietnam and to ensure equality between Vietnamese and foreign employees, the MOLISA proposes the policy applied to foreigner employees working in Vietnam joining the compulsory social insurance schemes shall be entitled to all 5 sub-schemes, which are sickness benefit, maternity benefit, EII-occupational diseases allowance, pensions and survivor allowances.

III. Proposed policies



- Scenario 1: Effective from 01/01/2018
- Scenario 2:
 - Starting from 01/01/2018: application for 3 short-term benefits: sickness, maternity and EII and occupational diseases;
 - Starting from 01/01/2020: 2 other long-term benefits applied: pension and survivors.

III. Proposed policies



3.3. Accrual time of social insurance participation

- In accordance with the principles of international law, accrual of time spent on social insurance in both the receiving and the dispatching countries will create conditions for employees to qualify for time in order to qualify for long-term schemes. (Monthly pension).
- However, it's complicated to implement the principle in the context of labor mobility among countries as this involves various factors of infrastructure, calculations of equivalent contribution time, the mechanism of benefit payment or transfer of benefits abroad. Thus this should not be included in the draft decree. For this time, this principle will only apply to some countries in which Vietnam has bilateral agreements and in which there is a clause on the cumulative duration of social insurance participation.

III. Proposed policies



3.4. *Benefits, process and procedures*

- *Process and procedure of participation in and settlement of social insurance schemes for foreign employees shall be implemented as regulated by law and applied the similar provisions as those are applied to Vietnamese employees.*
- However, to create appropriate conditions and to facilitate foreign employees in the process of participation and enjoyment of social insurance schemes, it is defined in the drafted version of the Decree some simplified procedures to fit conditions and characters of foreign workers.

IV. Difficulties and challenges



- 1. About objects of the policies**
- 2. About compulsory schemes**
- 3. About policy implementation**

Thank you