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Philippine Institute for Development Studies
Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas

Enhancing Labor Mobility in ASEAN: Focus on Lower-skilled Workers

Aniceto C. Orbeta, Jr.

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Enhancing Labor Mobility in ASEAN: Focus on Lower Skilled Workers^{*}

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June 2012

Abstract

It is clear from data that worker movements in the Association of Southeast Asian Nations (ASEAN), like elsewhere, are dominated by unskilled and semi-skilled workers. It is also well-known that movements of these types of workers are dominated by irregular migration mainly because of lack of avenues for legal migration for them (Abella, 2006). Yet discussions either globally (within and outside GATS) and regionally such as under AFAS/AEC are all focused on professionals and highly skilled workers. This attitude continues even if both back-of-the-envelope and systematic calculations using general equilibrium models show that movements of workers, in general, and lower skilled workers, in particular, are beneficial not only for sending but for host country citizens as well (Walmsley, Winters and Ahmed, 2007).

The paper provides recommendations based on known initiatives / measures to facilitate freer labor movements in ASEAN. The focus is lower skilled workers because existing discussion such as the ASEAN Economic Community (AEC) Blueprint does not yet cover them. To achieve this, the paper provides a description of (a) the policy and institutional arrangements, both at the national and regional level, that currently govern the cross-country labor movement within ASEAN for both skilled and unskilled workers; and (b) the analytical framework that support the discussions in deriving the recommendations. The paper also pointed out that not only can existing arrangements be extended to cover lower skill workers but also that there are already experiences on these types of worker movements.

Keyword: labor migration, unskilled workers, ASEAN

JEL: F22, J61

^{*} This is a background paper to the Economic Research Institute for ASEAN and East Asia's (ERIA) ASEAN Economic Community Blueprint Mid-Term Review.

Enhancing Labor Mobility in ASEAN: Focus on Lower Skilled Workers¹

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June 2012

1. Introduction

The prevailing estimates both from back-of-the-envelope as well as systematic calculations of the impact of liberalizing labor mobility have been shown to be clearly positive globally. What is even more telling is that systematic analyses have shown that the benefits from liberalizing the flow of unskilled is much bigger than the liberalizing the flow of skilled workers. It is thus unfortunate that the current favourite in both global and well as ASEAN discussions is limited to liberalizing the flow of skilled workers. Back-of-the-envelope calculations done in Winters (2001) showed that a 5% increase in the number of workers in industrialized countries would yield a global welfare gain of approximately US\$300 billion annually. Another such back-of-the-envelope calculation done by Rodrik (2004) revealed that a 3% increase in the labor force of rich countries supplied by poor countries on a temporary rolling basis with each individual staying between 3 to 5 years would increase the welfare of developing countries by US\$200 billion. Systematic analyses using computable general equilibrium models corroborate and enriched these results. Wamsley and Winters (2005), without the benefit of bilateral migration data, estimated that a 3% increase in the labor force of developed nations would yield a global welfare gain of US\$150 billion at 1997 prices. Using a model with bilateral migration data increased the impact even further (Walmsley, Winters and Ahmed, 2007). The more telling result is that the impact from liberalizing unskilled workers is much bigger than liberalizing the skilled workers. For instance, developed countries increasing their skilled and unskilled labor force by 3% would raise their residents

¹ This is a background paper to the Economic Research Institute for ASEAN and East Asia's (ERIA) ASEAN Economic Community Blueprint Mid-Term Review.

² Senior Research Fellow, Philippine Institute for Development Studies (PIDS). Opinions expressed here are solely of the author and not of the Institute. The able research assistance by Michael Abrigo and Katrina Gonzales are gratefully acknowledged. The encouraging visionary views of Ponciano Intal and Dionisius Narjoko of ERIA was instrumental in having this paper written. This has benefited from discussions with Erlinda Medalla and Rafaelita Aldaba of PIDS and Fernando Adaba of the Ateneo de Manila University. The paper has also benefited from the comments of participants, in particular Chris Manning, at the 3rd Technical Meeting ASEAN Economic Community Blueprint Mid Term Review (MTR) Project, 30 May – 1 June 2012, ERIA, Jakarta, Indonesia. All remaining errors are solely the responsibility of the author.

average welfare by US\$382 per person most of which (US\$227 or 59%) would come from liberalizing movement of unskilled labor.

It is also clear from data, particularly if one includes irregular migration, that worker movements in ASEAN is dominated by unskilled and semi-skilled workers. In addition, the movement of unskilled and semi-skilled workers is dominated by irregular migration. Many consider this to be the result of the lack of avenues for legal migration of these types of workers (e.g. Abella, 2006). This implies that if better ways for legal migration can be provided, irregular migration is expected to decline and this can be expected to improve migration outcomes for the lower skilled workers.

Yet the discussions either globally (within and outside GATS) and regionally such as under AFAS/AEC are all focused on skilled workers. This is perhaps reflective of the well known expressed position of receiving countries to prefer immigration of highly skilled workers. It is clear that even if the beneficial results from liberalizing movements of lower skilled workers have been known for some time now, this virtually goes unheeded.

The objective of the paper is to provide a set of recommendations for improving the ASEAN's initiatives/measures to further facilitate a freer labor movement across ASEAN Member States. The recommendation focus on the unskilled workers since the AEC Blueprint has not yet covered unskilled workers' mobility. To achieve this objective, the paper will provide a description of (a) the policy and institutional arrangements, both at the national and regional level, that currently govern the cross-country labor movement within ASEAN for both skilled and unskilled workers; and (b) the analytical framework that support the discussions in deriving the recommendations.

The paper is organized as follows. The description of the patterns of cross-country labor movements in ASEAN is provided in Section 2. This is followed by the policy and institutional arrangements governing labor movements in seven of the ten ASEAN member countries where data was readily available. The final section describes the existing and proposed sketch of a framework for liberalizing movements of unskilled and semi-skilled workers in ASEAN.

2. Patterns in Labor Mobility in ASEAN

It is well known that it is difficult to generate a consistent data on cross-border labor movements. Fortunately, bilateral stock data based on latest available censuses are already available since Parson et

al. (2005) produced the first comprehensive estimates for 226 countries. Since this is based on censuses, it is expected to underestimate the flows because it would likely cover mostly permanent migrants and not likely to cover irregular migrants which are known to dominate movements particularly of lower skilled migrants. Subsequent revisions of the data now include disaggregation by type of skill based on education attainment (Walmsley, Ahmed and Parsons, 2007). This data set, called GMig2 database, underlie simulation analyses looking at the impact of liberalizing migrant workers. For sure there are other estimates but we used this data set to describe the migration movements in ASEAN mainly because it is expected to provide consistent estimates across countries.

The bilateral stock estimates show significant proportion (30%) of movements within the ASEAN region (Table 1)³. Except for the Philippines, all other ASEAN countries have double digit proportion of their migrants going to other ASEAN countries. It is shown that 75% of Malaysian migrants go to ASEAN countries, mostly Singapore (68%), and 54% of Indonesian migrants goes to other ASEAN countries, mostly Malaysia (48%). In addition, it is also noteworthy that there are significant movements across countries that share borders which can be expected to be of the high-frequency short-term type. For instance, 28% of Singaporean, 9% Thai and 6% of Filipino migrants are in Malaysia. The table also shows that 12% of Laotians, 9% of Cambodian, 41% of other ASEAN (mostly from Myanmar) migrants are in Thailand. Furthermore, it also shows that 18% of Thai and 7% of Vietnamese migrants are in Cambodia. Walmsley and Ahmed (2008) also noted the intersecting migration relations in ASEAN. For instance, Malaysia is the primary destination for Indonesians and Singaporeans at the same time Malaysian migrants are also found in Singapore.

Table 1. Proportion by source of bilateral ASEAN migration flows, 2007

Source/Destination	Cambodia	Indonesia	Lao PDR	Malaysia	Philippines	Singapore	Thailand	Viet Nam	SE Asia, Others	SE Asia, Total	Rest of World	Total (000)
Cambodia	0.0	0.3	0.4	0.1	0.5	0.1	9.0	0.1	0.1	10.6	89.4	179.29
Indonesia	0.0	0.0	0.0	47.8	1.0	4.0	0.0	0.6	1.0	54.3	45.7	1,044.80
Lao PDR	0.3	0.4	0.0	0.0	0.5	0.0	12.2	0.1	0.2	13.7	86.3	190.86
Malaysia	0.1	0.3	0.0	0.0	0.4	67.9	0.2	0.4	5.5	74.7	25.3	540.49
Philippines	0.0	0.2	0.0	5.8	0.0	0.6	0.1	0.1	0.4	7.2	92.8	1,375.08
Singapore	0.2	0.2	0.0	28.8	0.4	0.0	0.5	0.3	1.1	31.6	68.4	136.07
Thailand	18.0	0.2	0.4	8.8	0.3	1.7	0.0	0.3	1.8	31.5	68.5	371.49
Viet Nam	7.2	0.3	0.8	0.8	0.5	0.3	0.7	0.0	0.1	10.8	89.2	916.26
SE Asia, Others	0.1	0.9	0.1	3.7	1.8	0.2	40.8	0.5	0.0	48.1	51.9	246.71
SE Asia, Total	2.7	0.2	0.2	13.3	0.5	8.5	3.0	0.2	1.1	29.8	70.2	5,001.04
Rest of World	0.0	0.1	0.0	0.2	0.2	0.4	0.3	0.0	0.1	1.4	98.6	78,477.45
Total	0.3	0.1	0.0	1.7	0.3	1.3	0.6	0.0	0.2	4.7	95.3	88,479.53

Source: Source of basic data: GTAP8 GMig2 database (2012)

³ Levels of bilateral migration flows based on the 2007 version of GMig2 database are provided in the appendix. Note that the total migration rate of 88 million here is smaller than the estimate in the World Bank Data 2010 update of 190.6 million because this only includes those in the working ages.

As noted earlier, disaggregation of migration bilateral flows by type of skill based on educational attainment is already available. This disaggregation demonstrates to us that the important fact that migrants are dominated by unskilled workers - 87% for ASEAN and 73% globally (Table 2). It is also noteworthy that the proportion of unskilled migrants is higher particularly from countries with lower per capita income. Walmsley and Ahmed (2008) also noted that Asian countries send more skilled migrants to OECD countries and less skilled migrants to other Asian countries which they noted to be perhaps a response to the nature of demand. Furthermore, they noted that migrations within Asia are expected to be more temporary in nature than migration than migration elsewhere.

Table 2. Proportion of unskilled bilateral ASEAN migration flows, 2007

Source/Destination	Cambodia	Indonesia	Lao PDR	Malaysia	Philippines	Singapore	Thailand	Viet Nam	SE Asia, Others	SE Asia, Total	Rest of World	Total
Cambodia	-	100.0	100.0	84.7	81.8	50.8	89.5	100.0	86.8	89.5	69.4	71.5
Indonesia	81.8	-	51.1	98.7	78.3	73.9	64.5	75.6	95.6	96.2	69.4	83.9
Lao PDR	100.0	100.0	-	84.6	84.4	51.0	91.3	100.0	90.3	91.4	71.6	74.3
Malaysia	18.8	72.9	30.7	-	53.0	76.8	48.0	57.8	82.1	76.8	46.3	69.1
Philippines	100.0	64.7	34.1	96.0	-	51.0	41.4	54.5	83.1	89.5	44.6	47.8
Singapore	55.5	61.6	33.3	79.6	49.4	-	73.5	59.1	97.2	79.2	48.0	57.9
Thailand	85.9	62.2	74.1	96.1	49.7	51.1	-	75.5	87.4	86.3	57.2	66.4
Viet Nam	86.3	77.1	81.0	83.5	69.8	50.9	68.0	-	97.9	82.6	59.7	62.2
SE Asia, Others	56.5	98.7	88.3	90.3	77.9	47.4	81.4	97.4	-	82.3	64.3	73.0
SE Asia, Total	85.9	79.6	80.9	96.9	72.9	75.4	82.7	73.2	86.1	87.1	55.7	65.0
Rest of World	52.0	75.1	52.0	83.3	68.6	68.7	66.8	57.8	79.1	71.1	73.8	73.7
Total	84.2	76.1	70.3	95.4	69.6	73.5	75.6	66.7	83.0	82.7	72.3	72.8

Source: Source of basic data: GTAP8 GMig2 database (2012)

3. National Policy and Institutional Arrangements

ASEAN is composed of countries that sends and receives migrant workers. The presentation in this section is grouped into those two types of countries. This is to highlight the distinct issues faced by sending and receiving countries. Even though Malaysia and Thailand are both sending and receiving countries, the presentation in this section groups these countries as receiving since their primary migration issues are that of receiving countries. There is no such controversy of Singapore as a receiving country. The rest of the ASEAN countries are considered sending although what are covered here are countries with readily available information.⁴

⁴ These grouping of countries is used in the IDRC-funded project implemented by the Philippine Institute for Development Studies called "Different Streams, Different Needs and Impact: Managing International Labor Migration in ASEAN," with six cooperating countries namely Cambodia, Indonesia, Malaysia, Philippines, Singapore and Thailand. This section draws heavily from the reports of the project.

3.1 Receiving Countries

Singapore

Singapore is known to have the highest dependence on foreign workers in ASEAN comprising 34.7% of its labor force in 2010. It has a dual track policy on foreign labor with unrestricted inflow for the highly skilled and a managed inflow for the lower skilled workers (Chia, 2011). It is one country in ASEAN where migration policy is closely integrated with its national development strategy (Kaur, 2007). It is worth noting that its declared intention for the future is to limit Singapore's dependence on foreign labor due to its constraints on physical space and concerns for the crowding out not only of jobs but also public and recreational spaces as well as services (Chia, 2011).

On the one hand, foreign talents are being recruited with liberalized immigration policies consisting of eased requirements for permanent residency and citizenship, offer of scholarships and research fellowships at tertiary institutions and improved living and cultural attractions and tax regimes. It is recognized that the country needs to compete with many other countries for desired foreign talents as their economy restructures and globalizes. Recruitment missions are sent to the main learning centers of the world by government agencies. For the low-skilled, on the other hand, their numbers are controlled through work permit levies, dependency ceilings and qualifications criteria. Levies rise with proportion of foreign workers and these levies are also higher for lower skilled workers compared to higher skilled workers. Besides shorter term duration of permits for semi-skilled/unskilled workers, a security bond is also required to guarantee repatriation upon expiry of the work permit (Chia, 2011; Kaur, 2007).

The Ministry of Manpower (MOM) is the overall coordinator that oversees the planning, management and development of Singapore manpower resources. Regulation and supervision of foreign labor are done in three divisions of the MOM. The Work Pass Division administers employment and worker permits. The well-being of foreign nationals working in Singapore is the responsibility of the Foreign Manpower Management Division. The International Manpower Division is in charge of search for talent from global community (Yu and Wu, 2007).

In terms of emigration, Singapore encourages overseas employment with a non-interventionist policy. There is no legal barrier to prevent Singaporeans from emigrating except the compulsory military service for its male citizens. The expectation is that the migrants will use their experience to contribute to the economy upon returning to their homeland.

Thailand

Thailand is both a sending and a receiving country. It is becoming, however, more and more a net receiving country, particularly, if one counts the irregular immigrants from Cambodia, Lao PDR and Myanmar (CLM) countries.

With shortages in the professionals and technicians in the 1970s, Thailand provided incentives to encourage foreign investors to bring in professionals. Thus, legal immigrants have been mostly skilled workers and works in higher positions. But the immigrant flow soon became dominated by irregular migrant workers. Analysts note that the inflows of undocumented migrations started to rise with the influx of refugees from conflicts in neighboring countries and Thailand responded around 1988 with the policy of “turning battle fields to market places” (Srawooth, 2011; Ajis et al, 2010). This was exacerbated by the absence of specified ways of migrating legally particularly for unskilled and semi-skilled worker. Although refugees are no longer the major cause of immigration into Thailand, the number of undocumented migrants continued to increase through the years because of different reasons. The good economic performance in the late 1980s and early 1990s and the successful high educational policy made local workers become uninterested in lowly paid jobs. This encouraged Thai businessmen to hire irregular migrants from neighboring CLM countries (Chalamwong, 1998 & 2004).

The Alien Employment Act B.E. 2551 (2008) replacing the earlier 1978 law is the current governing act on foreign employment. The salient features of the law include (a) define the categories of immigrants eligible for engaging in temporary employment, (b) a list of occupations which are allowed for migrant workers, (c) set up a deportation fund, (d) collect levy from employers, (e) allow migrants to change employers and workplace, and (f) provides for the involvement of trade unions and employers in the Committees to review and appeal of employment of migrant workers (Srawooth, 2011). The law formally regulates the hiring of low-skilled and semi skilled migrant workers from CLM countries. It also allows authorities to enter and search workplace for irregular migrant workers without a court order.

For the low-skilled and semi-skilled migrant workers from CML countries Thailand uses the Singapore-like instruments of dependency ceiling, sector specific restrictions, and levies (Chalamwong, 2008). The Alien Employment Act B.E. 2551 (2008) formally regulates the hiring of low-skilled and semi-skilled migrant workers from CML countries.

Several rounds of registration of irregular migrants have been conducted to try to solve the problem. Apparently these programs have not completely solved it because the registration program continues

until today with the last one ordered in 26 April 2011 for those who missed the preceding registration deadline in February 2010 (Srawooth, 2011).

It is interesting to note that instruments have been developed to handle the high frequency movements of migrant workers across the border. For instance, Thailand uses border and temporary passes for regular commuters from Cambodia and Lao PDR which are payable per crossing or less frequently like per week (Srawooth, 2011). There are even have temporary passes for cart pushers and traders allowing them to cross the border several times in a day. This is expected to be less costly and more attuned to the needs of the cross-border migrant workers than the usual visa/work permit system that are designed for the longer-term migrant workers.

As noted earlier, Thailand sends migrant workers abroad too. The numbers are declining, as expected. However, remittances continues to be an important source of resources for the low income people (Chalomwong, 2011). The flows are dominated by skilled workers and lower income households.

Even if it is not a high priority, deploying Thai workers overseas have some support. In fact, it is one of the 10 groups targeted for further development in the master plan of the Ministry of Labor for 2007-2010. There is also several ways of legally deploying migrant workers consisting of (a) private recruitment agencies, (b) the Department of Employment, (c) via individual arrangements. Thailand has also signed MOU with select countries such as Israel, Japan, South Korea, Malaysia, UAE, and Taiwan.

Malaysia

Malaysia is also both a sending and receiving country. Recently, it is generally considered more and more a receiving country as its dependence on contract migrant workers is one of the highest in ASEAN next only to Singapore. One estimate says 22 percent of the Malaysian labor force consists of migrant workers. This is dominated by unskilled and low skilled workers comprising as much as 98% of the flow. In addition, close to half of this are irregular migrants (Kanapathy, 2007).

Malaysia's immigration policy and labor recruitment strategies are shaped by bilateral agreements with sending countries, domestic politics and lobby power of employers, and cultural context of migrants (Kaur, 2007). But unlike Singapore, its international labor migration policy is not as closely related to its national development strategy (Bhatnagar and Manning, 2005). It employs work permit and levy to control immigration. It also enters into bilateral agreements with sending countries. The immigration of highly skilled workers related to FDI are liberal although not as open for other sectors of the economy. More recently only large FDI firms are allowed to fill a number of key post permanently by foreigners

(Bhatnagar and Manning, 2005; Kanapathy, 2007). But perhaps the banner story of Malaysian immigration is its running battle with irregular migrants. The rise of irregular migrants can be traced to the fact that in the 1970s Malaysia had no mechanism for legally recruiting and employing low-skilled workers. It was only in 1992 when it encouraged legal recruitment of foreign workers. So back then migrants arrive without proper documentation. Majority of the migrants come from neighboring countries of Indonesia, Philippines and Thailand (Kassim and Zin, 2011). Realizing the futility of a unilateral approach in curbing irregular migration, Malaysia has shifted toward bilateral approach (Kassim and Zin, 2001; Kanapathy, 2007).

Malaysia has a laissez faire approach with respect to outmigration. While earlier migrants before early 1990s were both for work and long-term settlement, the recent emigrants are temporary and circular migrants in search of better opportunities in a globalized labor market for highly-skilled workers (Kanapathy, 2007). The common destination are the US, UK, Australia, Canada, New Zeland and Singapore. The volume has been declining with better economic performance at home and more restrictions in host countries. The outflow of emigrant workers is dominated by skilled worker as unskilled and semi-skilled migrants were insignificant.

3.2 Sending Countries

Cambodia

Cambodia is a migrant-sending country. Unfortunately, it is confronted with the unique problem of having majority of its migrants being irregular. This is seen as the result of a confluence of events in its history and the level of development, particularly administrative capacity, of the country. In particular, the rise of irregular migration is the result of the following: (a) facilitation of pioneers who are irregular migrants themselves, (b) existence of brokers whose business are encouraged by the large irregular migration, and (c) a legal recruitment system which are many times more expensive and informal methods (Vuta, Lun, and Phann, 2011).

The earlier migrants in 1980s and 1990s are mostly refugees staying temporarily in Thailand displaced by civil war and political instability. There were also opportunities for cross-border movements for seasonal agricultural work. The subsequent flows were legally sent to more varied destinations but still mostly to Malaysia and Thailand as domestic and factory workers driven by the policy of promoting labor exports.

An assessment of its migration policy and institutional environment highlights considerable problems (Vuta, Lun, and Phann, 2011). Being a latecomer in migration management, its regulatory and institutional frameworks are considered weak and ineffective. Regulation is considered sporadic and limited in coverage. Accompanying this are public institutions which don't have clear responsibilities and short of financial and human resources. On top of all of these is the fact that irregular migration is rarely covered in national and international policy frameworks.

Labor migration is governed by a mix of national regulation, bilateral agreements and international conventions. The primary national regulation is Sub-decree 57 issued in 1995 that gives the Ministry of Labor and Vocational Training (MLVT) the authority to regulate companies sending workers abroad. It is deemed to be outdated, lacking in coverage and also vague (Vuta, Lun and Phann, 2011). Amendments to the law are being proposed. Bilateral MOUs are the other significant instruments governing labor migration. The country has signed MOUs with four destination countries including Malaysia, Thailand, Korea and Kuwait. Cambodia is also a signatory to many international agreements impinging on international migration. This includes the eight core ILO conventions, the UN Convention on the Program of all Migrant Workers and Members of their Families, the ASEAN Declaration on Protection and Promotion of the Rights of Migrant Workers.

Indonesia

Indonesia is one of the nine major global worker-sending countries in Asia. In fact it has a deployment and remittance receipt targets. For instance, in 2009 the deployment target is 1 million and about 10 billion US\$ for remittances (Bachtiar, 2011).

The flow is dominated by the unskilled and semi-skilled workers. In addition, a substantial proportion of the migrant workers are irregular making official estimates grossly understated. For instance, the number of legal migrants in 1997 was around 300,000 but the number of irregular migrants to Malaysia alone is already 1 million (Ajis et al, 2010; Carunia, 2007). The destination countries dominated by Middle East (particularly Saudi Arabia) and Asia (particularly Malaysia, Singapore, Hongkong, Philippines, Taiwan and Republic of Korea.) (Bachtiar, 2011; Carunia, 2007).

At the center of the migration management system is the private recruitment agency according to the primary migration law (Law 39/2004). The primary criticism to the law, particularly from workers' unions and NGOs, is that the law emphasizes deployment rather than worker protection. Nonetheless, there are those arguing that worker's protection is adequate using the following instruments: (a) training and

competency test, (b) pre-departure briefing, (c) signing of placement contract, (d) provision of protection insurance, (e) overseas employment identity card, (f) services at the departure and arrival terminals, and (g) protection institutions at the destination countries (Hidayat, 2008 as cited in Bachtiar, 2011).

Recently, the role of local government units (LGUs) in managing international migration became an interesting issue. This is because the decentralization process is advancing and it is argued that 80 percent of the migration problems happen in local communities. In addition, the role of the village sponsor in the migration process is highlighted. They not only provide referral information but also financial assistance if needed by prospective migrants (Carunia, 2007). An assessment of these issues showed that it increased coordination problems because roles are not clearly delineated and local regulations are mostly about revenue generation rather than for worker protection (Bachtiar, 2011).

Philippines

Philippines has been continuously sending migrant workers abroad for 40 years now. Since 2005 the country has been deploying more than 1 million migrant workers and is receiving substantial remittances amounting to more than 10% of GDP. This long experience of deploying large number of workers has earned accolade for the country as a global model for managing deployment of workers. Yet there are still indicative cracks but this place to discuss that. Those interested is referred to Orbeta and Abrigo (2011). What will be described is the management infrastructure that the country built from this long experience on deployment migrant workers.

There are three elements in the deployment management system, namely, (i) limiting entry, (2) fees and employment standards, and (3) monitoring and redress. Entry is regulated by specifying standards for each actor in the system. At the center of the deployment system is the private deployment agency which handles the biggest proportion of workers. Deployment can only be done through these agencies except for government-to-government arrangements and a few name-hires. Direct hiring is not allowed. Standards are set for recruitment and manning agencies consisting of financial capability and ownership standards. Foreign principals are validated by Philippine embassies abroad to ensure conformity to the minimum standards. An important feature of the deployment contract is the joint solidary responsibility by both the Philippine recruitment agency and her foreign principals. This is instituted so that when there will be problems on the employment contract, an agency in the Philippines which are under the jurisdiction of Philippine law can be made responsible. Workers are screened by the Philippine Overseas Employment Agency (POEA) for appropriate qualifications for the jobs sought. The POEA coordinates all

these deployment efforts. To avoid exploitation, rules on fees and standard contracts which specify minimum employment standards are drawn particularly for the lower-skilled workers. POEA ensures that an employment contract has been written and seen by the prospective migrant. Finally, monitoring is done both in the Philippines and on-site by the Philippine embassies abroad. Redress mechanisms are also specified in case there are problems in the employment. An important feature of the employment contract is the joint and solidary

Besides the POEA, the other institutions involved in migration are the Overseas Workers' Welfare Administration (OWWA) for looking after workers and their families' welfare, the Commission on Filipino Overseas (CFO) which handles permanent migrants, the National Reintegration Center for Overseas Filipino Workers (NRCO) who coordinates reintegration efforts, the Department of Foreign Affairs which handled visa issuance. For details on the roles of each of these institutions please see Orbeta, Abrigo and Cabalfin (2009). There is an institution covering every aspect of migration from pre-deployment, deployment, on-site support services and eventual return.

Perhaps because the volume of immigrants into the country is not as many, the system is not as elaborate. This system is composed of the Department of Labor who issues work permits; the Department of Foreign Affairs who issues visas; and the Bureau of Immigration of the Department of Justice who enforces immigration laws. The control mechanisms are in the issuance of visas and work permits. The constitution specifies that the exercise of the professions is reserved for Filipinos. However, almost all of the laws governing professional associations have reciprocity conditions which can be used as an avenue for allowing inflow of foreign professionals.

Vietnam

The deployment of the overseas workers can be grouped in two phases coinciding with the restructuring of the economy from a centrally planned to a state-regulated market economy around 1990. But even before the restructuring of the Vietnamese economy, overseas employment is viewed as an opportunity for job creation (Huy, 2007).

In the early 1980s temporary employment were under special arrangements between host-country governments mainly the former Soviet Union and East European countries and the Vietnamese government. The flow from 1980 to 1990 reached a total of as much as 300,000 and generating as much 10% of export income at that time. But since 1990 with the collapse of the former Soviet Union and as the Vietnamese economy gradually shifted from central planning toward a state-regulated market

economy, the deployments initially dwindled but started to gradually increase and soon become more widespread to about 40 countries with a big concentration in Asia particularly, Japan, Korea, Taiwan, Malaysia and Laos. During this period recruitment is undertaken by 152 organizations most of which are state-owned and very few private companies. The Department of Administration of Foreign Employment and Labor (DAFEL) under MOLISA administers the movements of migrant workers at the national level and a unit of the Provincial People Committees does the same at the local level. From early 1990s to early 2000s, the total flow of migrant workers and remittances had reached about 350,000 and remittances to about 10% of export revenues. Majority of the migrant workers are unskilled or semi-skilled and a small proportion professional and technical workers. Deployments to Japan and Korea were mostly sent as “trainees” and receiving “trainee allowance” which is often only around one-third of the salary of the similar native worker. This has often resulted in workers “running away” from their employers and becoming irregular workers seeking better payment. Deployments to Taiwan were mostly domestic and household workers while for Malaysia were mostly unskilled workers. Of special note is the deployment for Lao PDR. These were done through official supply contracts to Vietnamese companies (mostly in the construction area) or through joint-ventures and other service contracts between Vietnamese and Laotians governments or companies.

4. Multilateral Frameworks for Movement of Workers

There are existing frameworks that govern cross-border movements of workers. At the global level there is the General Agreement on Trade in Services (GATS). There is also the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. There is also the ILO Migration for Employment Convention (C97), the Migrant Workers (Supplementary Provisions) Convention (C143). At the regional level, there is the ASEAN Framework Agreement in Services (AFAS) together with the ASEAN Economic Community (AEC) which accelerated the schedule of liberalization of skilled workers. Of course, there is also the more recently adopted ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.

Since the conventions and the declarations are more of defining migrant rights rather than enhancing labor mobility, we will confine our discussion on the GATS, particularly, Mode 4 and AFAS/AEC which provide a venue for countries to negotiate to improve labor mobility.

4.1 Global Framework: GATS Mode 4

GATS entered into force in 1995. It defines four modes through which services can be traded. GATS Mode 4 covers the temporary movement of 'natural persons' (MNP) or the international migration of temporary contract workers⁵. But most interpretation of GATS Mode 4 is that it is an extension of Mode 3 (commercial presence) rather than providing for an independent movement of persons. It is seen primarily as facilitating "exploratory business visits and movement of high-level personnel within multinational corporations" (Chudhuri, Matoo and Self, 2004). As such, it is not attractive for developing countries.

There are several proposals for liberalizing Mode 4. Winters et al (2003) proposes that the most beneficial liberalization of Mode 4 would be through Temporary Movement of Natural Persons (TMNP) extended to medium and less skilled workers, who are relatively abundant in developing countries, allowing them to move and provide services in developed countries where they are relatively scarce. He argues that temporary mobility will be preferable to permanent migration from the perspective of both sending and receiving countries. This is because it has none of the long-run residence, the cultural, social or political implications associated with international migration. Winters (2005) noted that this idea, however, has been criticized on the very ground that is considered as its strength - that guest workers schemes prevents the integration of migrants into the local society.

There was also a proposal to have a special GATS visa (Chanda, 1999, 2001). It argues that separating temporary service providers from permanent migrants would free them from coverage of migration-related laws and labor market regulations. This separation is expected to redound to more liberal conditions for entry and stay. This is also expected to reduce administrative burden, delays and cost in entering a foreign market. This proposal, however, has been criticized as unnecessarily drawing a multilateral agency (WTO) into an area that is not its main focus (Ng and Whalley, 2008). They argued that perhaps it would be more productive that another global body handle the many administrative issues surrounding the issuance of visas/work permits.

In addition, it has been pointed out that multilateral agency and institutions such as the WTO/GATS may not be the appropriate venue for discussing liberalizing movement of workers and that bilateral

⁵ Mode 1 refers to cross-border supply, Mode 2 to consumption abroad, and Mode 3 to commercial presence.

negotiations may be more appropriate. Hatton (2007) has pointed out that it lacks one of the three⁶ basic ingredients that drives multilateral negotiations – reciprocity. He indicated that regional negotiations may be more appropriate for liberalizing movement of workers.

Another dimension that has limited the interest on GATS Mode 4 is the limitation it has on its coverage. It does not cover work outside services such as mining, manufacturing and agriculture where opportunities for temporary labor movements abound (Bhatnagar and Manning, 2004).

4.2 Regional Frameworks: ASEAN Framework Agreement in Services (AFAS) and ASEAN Economic Community (AEC)

The ASEAN Framework Agreement in Services (AFAS) was signed in 1995. Mutual recognition of education and experience is one of the articles of AFAS. It also calls for regulatory convergence and regulatory harmonization besides the MRAs. In 2003 in the Bali, Indonesia the ASEAN envisioned to established by 2020 the ASEAN Economic Community (AEC). The establishment was accelerated to 2015 in the 12th ASEAN Summit in Cebu, Philippines. The declaration on the AEC blueprint was signed in the 13th Summit in Singapore in 2007.

According to the AEC Blueprint, there are four key characteristics of the AEC, namely, (a) single market and production base, (b) a highly competitive economic region, (c) a region of equitable economic development, and (d) a region fully integrated into the global economy.

One of the five core elements⁷ of the single market and production base characteristic of the AEC is the free flow of skilled labor. To achieve this, ASEAN allows a managed mobility and facilitated entry for natural persons engaged in trade in good, services, and investments. To achieve this, a key action is to facilitate issuance of visas and employment passes for ASEAN professionals and skilled labor who are engaged in cross-border trade and investment related activities. Another key action is working towards harmonization and standardisation. Three actions were identified to promote this including (a) enhanced cooperation among the ASEAN University Network⁸ to increase mobility of both students and staff within the region; (b) develop core competencies and qualifications for job/occupational and

⁶ The other two are non-discrimination and national treatment

⁷ The other four core elements are (a) free flow of goods; (ii) free flow of services; (iii) free flow of investment; (iv) freer flow of capital.

⁸ The AUN consists of Universiti Brunei Darussalam; Gadjah Mada; Universiti Sains Malaysia and Universiti Malaya; University of the Philippines; National University of Singapore and Nanyang Technological University; Burapha University of Thailand.

trainer skills required in the priority services sectors (by 2009) and other sectors (from 2010-15); (c) strengthen the research capability of ASEAN member countries in terms of promoting skills, job placement, and developing labor market information networks among ASEAN member countries.

Assessment of the progress showed the progress has been slow (Chia, 2011). Article V of AFAS recognizes the need for mutual recognition of “education and experiences obtained, requirements met, or licenses or certification granted.” Today seven MRAs have been signed, namely

Agreement	Date Signed
MRA on Engineering Services	9 Dec 2005
MRA on Nursing Services	8 Dec 2006
MRA on Architectural Services	19 Nov 2007
MRA on Surveying Qualifications	19 Nov 2007
MRA on Medical Practitioners	26 Feb 2009
MRA on Dental Practitioners	26 Feb 2009
MRA on Accountancy Services	26 Feb 2009

It is important to note that signing MRAs does not automatically ensure market access.

It should be noted that the AEC covers only the flow of professionals and skilled manpower and does not cover the much larger flow of unskilled and semi-skill workers. Chia (2011) argues that “it would be hard to envision a single market and production base without the free flow of skilled labor to deliver on services and FDI liberalization.” Again one notices here the focus on skilled labor.

4.3 Towards a framework for liberalizing movements of unskilled and semi-skilled workers

Given that the existing frameworks for movement of workers covers only professional skilled workers, what will be proposed in this section pertains to liberalizing movements for unskilled workers. This is based on prevailing discussions in the literature on liberalization of movement of workers and identifies those that have greater chances of being adopted. Walmsley et al (2003) argues that it is futile to propose radical steps that will clearly not be considered.

Features. Two important features of an orderly readily acceptable movement of workers across national boundaries, particularly, unskilled and semi-skilled workers, are: (a) the movements that are temporary;

(b) movements that are part of a crew rather than individual engagements. Subsequent paragraphs explain why these two features are important.

That the movements be temporary cannot be overemphasized. The most common objections to immigration are (a) competition with host workers; and (b) crowding out effect on basic services. These arguments presuppose permanent immigration. It can be argued that competition with host workers is unfounded in the case of lower skilled workers because migrants tend take on jobs that local workers no longer prefer to do. Fears of crowding out locals on basic services in the short-term will be allayed if provisions can be included in the deployment package that enables migrant workers to pay for whatever public services they are expected to use. The assurance that they will not be staying for good also allays fears that they will compete for services over the long term.

Winters et al (2003) argues that the inclusion of the temporary worker schemes to benefit unskilled and semi-skilled workers under GATS mode 4 is feasible. Specifically, they have argued for two modes, (a) employment of non-nationals by domestic firms to supply services domestically, and (b) sub-contracted labor managed by host country managers. Furthermore, they have argued that sub-contracting have better potential than the employment-based service provision in the short-run. This is because, from their perspective, sub-contracting is clearly covered in GATS mode 4 while it is not very clear that employment-based service provision is covered. They have argued that confirmation by countries that this is indeed covered may be necessary.

There are existing precursors to this mode of moving workers - the guest worker programs - that have been implemented in many parts of the world and even in ASEAN. Abella (2006) provides examples of these types of programs. A prominent example of this type of movement is guest worker programs of bringing in workers from Mexico and the Caribbean to jobs in Canadian farms and within eight months back to their countries of origin (Hennebry and Preibisch, 2010). This program has been going on for more than four decades already and is considered one of the most successful programs. There is also important precursors in ASEAN noted in Huy (2007). It was mentioned there that Vietnamese workers were brought into Lao PDR as part of supply contracts (mostly in the construction area) or through joint-ventures and other service contracts between Vietnamese and Laotians governments or companies. Winters (2005) noted that while temporary labor movements existed, he argued that these are not done multilaterally such as via GATS. Putting these under GATS or in regional agreements makes these movements multilateral or at least regional which will have greater benefits as argued earlier.

Winter (2005) warned that guest worker programs has been criticised by rights advocates in terms of preventing the guest workers from being assimilated in the host economy. In addition, it was pointed out that because of this lack of assimilation they will be more visible and could invite frictions such as being targeted for discrimination. This may not be a big problem in the case of temporary guest workers because in contrast to immigrants who are there to stay in host countries, temporary workers by nature have shorter stint of stay in host countries.

There are several advantages of being part of a service crew over individual engagement for lower skilled workers. Besides economies of scale, being part of a service crew can allay fears that the workers will be exploited because negotiations on the terms of employment need not be done individually. Consistent with this mode of engagement, are a couple of ways that can ensure that workers' rights are protected apart from government-to-government agreements. One way is for workers' associations to act as aggregators. For instance, workers' unions can act aggregators in behalf of the workers. This can revitalize the perceived waning popularity of the trade union movement. Similarly workers' cooperatives can perform the aggregation function. Abella (2006) has mention examples of host country unions beginning to be interested on the protection of international migrant workers. This can then be of interest to regional network of trade unions such as the ASEAN Trade Union Council. There are also association of contractors that can likewise act as aggregators of individual service providers such as Philippine Association of Local Service Contractors (PALSCON). Finally, farmers' associations such as the ASEAN Farmers Association can also act as aggregators of farm workers. Of course, competition among aggregators of service providers, which can include private recruitment agencies, can also provide discipline that will prevent exploitation.

Modes of procurement consistent with these movements are (a) government-to-government agreement to supply services; and (b) international bidding for the supply of services.

Bidders can organize their own crew of unskilled and semi-skilled workers bring them into the procuring country, provide the service and return to their home countries after the contract of services has been fulfilled. An important implication of this mode of procurement is that rather than expecting foreign workers to merely take up "residual demand," as emphasized in Abella (2006) citing Ruhs (2005), foreign workers compete with locals through international bidding like equals. This also means two-way movement of unskilled / semi-skilled workers need not be like the current uni-directional flow from lower income countries to higher income countries. The only reason and a good one at that, that there

will be likely more movements of lower skilled workers from lower income countries to higher income countries is that it is expected that there is a relative abundance of lower skilled workers in the former.

Adjustments required. There are clearly identifiable adjustments required that can make the proposal happen in a more orderly way. First, host countries need to clearly identify which skills their workers no longer prefer to supply. This delineation will make whatever adjustments needed more real rather than imagined. Second, ensure that deployment packages include payments for services (e.g. housing, health care, etc.) needed by temporary workers. These can be bought in host countries if services are available or brought with the crew if not. Third, wage can be negotiated in consideration of the reservation wage of host country workers and not just the reservation wage of sending country workers. Better still is to let host country workers compete for these jobs just like they compete for professional workers from sending countries.

Final Comments. Liberalizing this mode of moving unskilled and semi-skilled workers rather than limiting labor movements to skilled workers and professionals as emphasized in Chia (2011) will help achieve the vision of a “single market and single production base” of the AEC better. One only needs to realize that a typical agricultural, manufacturing or service firm is dominated by low and semi-skilled workers. The difference of this and what is currently promoted under AFAS/AEC is the emphasis on lower skilled workers which data confirms dominates the migration movements anyway. The proposal can be already be considered as currently covered by GATS mode 4. But it is also proposing that the coverage be extended to mining, manufacture and agriculture where opportunities for lower skilled workers abound (Bhatnagar and Manning, 2004).

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