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Enhancing the movement of natural persons in the ASEAN region: Opportunities and constraints

By

Tereso S. Tullao, Jr.*
Michael Angelo A. Cortez

*Tereso S. Tullao, Jr. is the Executive Director at Centre for Business and Economics Research and Development, and Assistant Professor, and Michael Angelo A. Cortez is Assistant Professor, De La Salle University Manila, Philippines. The views presented in this paper are those of the authors and do not necessarily reflect the views of ARTNeT members, partners and the United Nations. This study was conducted as part of the Asia-Pacific Research and Training Network on Trade (ARTNeT) initiative, aimed at building regional trade policy and facilitation research capacity in developing countries. This work was carried out with the aid of a grant from the International Development Research Centre, Ottawa, Canada. The technical support of the United Nations Economic and Social Commission for Asia and the Pacific is gratefully acknowledged. Any remaining errors are the responsibility of the authors. The authors may be contacted at tullaot@dlsu.edu.ph and cortezm@dlsu.edu.ph

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Executive Summary

The overall objective of the movement of natural persons (MNP) in the ASEAN region is to contribute to expanding trade in services and to deepening economic integration. However, the regional movement of human resources has proceeded beyond the expansion of trade and has persisted in response to labor market imbalances. Thus, movement of workers in the region can be viewed from two perspectives: trade negotiations and labor market disparities. This paper aims to describe the measures addressed by ASEAN and its Member Countries in expanding the movement of human resources under multilateral and regional trade agreements and by responding to labor market asymmetries.

From a trade negotiations perspective, numerous bilateral and regional agreements have been formulated that were aimed at enhancing intra-ASEAN cooperation in trade in commodities, investment and trade in services. However, the extent to which these agreements have realized their intended benefits depended on the degree to which regional goals prevailed over domestic political and economic interests of Member Countries. For instance, the impact of the ASEAN Framework Agreement on Services (AFAS) on MNP is very limited. The commitments of ASEAN Members are similar to their commitments in the General Agreement on Trade in Services (GATS). Particularly, commitments on MNP are intimately linked to commercial presence and seen as simply facilitating the movement of professionals, managers, and technical staff for intra-corporate transfers. There are also substantial limitations on market access, national treatment and domestic regulations that restrict the movement of workers across the region.

From another perspective, the movement of workers can be seen as a legitimate response to the labor market asymmetries in the ASEAN. Sending countries are pressured to open up their markets or face the shortages of labor. For sending countries, the teeming number of surplus workers will also pressure them to seek bilateral or regional agreements that will facilitate entry and employment of surplus human resources in neighbouring countries. However, due to costly restrictions in immigration, pre-employment requirements, and other domestic policies, the optimal movements of foreign workers is not realized and many of these workers turn into irregular migrants and are subjected to exploitation and unfavourable working conditions.

Given the rising trends in the movement of workers over the years as a result of globalization, liberalization measures under the AFAS and demographic asymmetries on regional markets, the movement of workers can be a potent avenue for enhancing the formation of an ASEAN economic community.

To this end, there is a need for mutual recognition agreements; lifting market access and national treatment limitations; de-linking mode 4 from mode 3; moving toward regulatory homogeneity; and liberalizing measures or management of temporary

migration. Regional cooperation in this area can help in the realization of positive contributions from the movement of foreign workers to regional output and employment.

I. Introduction

Globalization and the liberalization of trade in services have made the movement of natural persons (MNP) an important and visible contemporary global phenomenon that involves people moving with ease for employment across national boundaries. Such movement is reinforced further by the imbalances in demographic and development trends between nations.

The movement of people across national frontiers to render a service, however, remains a highly regulated activity in many countries because of the information asymmetries that exist between service suppliers and consumers. As such, public interest demands that countries establish various regulations to narrow the gap of these asymmetries including the restriction and prohibition of foreigners in the provision of a service, nationality and residency requirements, technical standards, immigration laws, and economic needs test (Tullao & Cortez, 2004a).

For the purpose of this paper, temporary migration is used interchangeably with movement of natural persons keeping in mind the argument of developing countries that MNP should not be limited to skilled workers and professionals. While the GATS and AFAS have an exact technical definition of MNP, the temporary movement of workers in ASEAN is influenced by other factors such as labor market asymmetries in the region.

The movement of natural persons can be viewed from two general perspectives. The first refers to a *trade negotiation perspective* that considers MNP as one of the four modes of supply where global trade in services can flow. The second is a *labor market perspective* that underscores the asymmetries in demographic, economic and labor environments across national boundaries. Under the first perspective, Article 28 of the General Agreement on Trade in Services (GATS) defines MNP or Mode 4 as “supply of the service (includes the production, distribution, marketing, sale and delivery of a service) by a service supplier of one member, through the presence of natural persons of a member in the territory of any other member”. The definition stresses that the individual or natural person, as distinct from a juridical person (commercial presence or Mode 3), is moving to another territory on a temporary basis and does not seek full-time employment in the host country neither a change in his/her immigration status.

Winter et al (in Self & Zutshi 2002) clarifies that Mode 4 involves a service delivered by a foreign worker under employment contract to a local provider may be treated differently from precisely the same service provided by the same person acting as an unattached service provider or under contract to a foreign company (Self & Zutshi 2002). Generally, MNP is made possible though intra-corporate transferees of managers and technical staff, business visitors and exchange of professionals. At the regional and bilateral trade negotiations, the concept of MNP generally follows the definition under the GATS but it can be inclusive of other workers and thus covers more professions,

skills and occupations. More often than not, MNP in these regional and bilateral trade accords is still linked with commercial presence or Mode 3.

From the labor market perspective, on the other hand, MNP has been referred to as temporary labor migration. These flows of human resources across boundaries occur outside the commitment of the country with the GATS and the AFAS and are usually considered as macro-economic and individual responses to the asymmetries in labor markets within the region.

According to Manning & Bhatnagar (2003), there are three categories of temporary labor migration: unskilled workers, skilled workers and intra-corporate transferees. The first movement occurs due to regional wage differentials, armed conflicts or even social upheavals that often lead to irregular status of migrants in host countries. On the other hand, skilled workers migration is a well-managed undertaking by both host and sending countries. More than inter-country wage differentials, this type of temporary labor migration refers to the sending and receiving countries answer to the imbalances in the labor markets in the region. For example, countries like the Philippines, Indonesia and Myanmar have been net exporters of skilled as well as semi-skilled labor for several decades now. On the other hand, more progressive economies like Singapore, Malaysia and Thailand have become net importers of skilled labor in recent years due to rapid economic growth as well as the slowdown in demographic trends. The third category of is the movement of highly skilled professionals and technical staff associated with capital movement or foreign direct investment. Many of these transnational corporations (TNC) are manned by highly skilled foreign professionals including managers, engineers and technical workers. In the past, Japanese managers and technical staff consist most of the intra-corporate transferees in the region. However, more and more Koreans, Taiwanese and Indians professionals are replacing them in recent years reflecting the flows of foreign direct investment in the region (Manning & Bhatnagar, 2003). (See the Philippine case of TNCs in Appendix S).

Thus, in order to evaluate the magnitude of MNP in the region and how they contribute to the expansion of trade and the enhancement of economic integration, MNP should be evaluated from the perspectives of trade accords as well as the responses to the asymmetries in the labor markets.

Given the potential benefits of a more vibrant flow of workers across national boundaries that may create greater income and employment for developing countries, on the one hand, and the difficulties of implementing current proposals of expanding MNP at the global level, on the other hand, there is a need to study alternative avenues of expanding the application of MNP at the regional and bilateral levels.

The purpose of this study is therefore to review the existing commitments and policies of ASEAN countries on MNP, as defined above, and to identify measures that could be considered by individual countries and by the ASEAN to expand the trade in services specific to the supply mode of movement of natural persons.

A. Liberalization measures on the movement of natural persons in the ASEAN region

From the perspective of temporary labor migration, countries in the region adopted various measures to manage the movement of people for temporary employment. The Philippine migration management is considered as a model system in administering around 2,700 Overseas Filipino Workers (OFWs) leaving the country everyday despite the government reluctance to integrate overseas employment in its overall country development strategy (Tullao & Cortez 2004a). The advancement of the rights, welfare, and interests of overseas Filipino workers has become a major thrust of the country's foreign policy and has been vigorously pursued by the government in bilateral, regional and multilateral forums (Tullao & Cortez, 2004b). The overseas employment program of the Philippines must be understood more in terms of managing a migration phenomenon, rather than boosting or promoting labor migration, per se, for commercial returns. "What the program wants is to maximize the opportunities for development of our people, in condition of dignity, if they decide to work beyond our shores" (Soriano 2004 in Tullao & Cortez 2004b).

In a study by Manning and Bhatnagar (2003), they described the various programs and strategies pursued by countries in the ASEAN to manage the inflows and outflows of workers. In Singapore, temporary labor migration has been included as one of the key elements of government economic strategy. In its efforts to attract highly skilled professionals, there are clear and distinct policies for unskilled workers and skilled manpower as reflected in differential migrant levy, quotas on employment of unskilled migrants, and effective implementation of laws regulating temporary migration.

Malaysia has been very liberal in the entry of expatriates who work for foreign companies as a strategy of attracting foreign direct investments. Because of its porous borders, on the other hand, it has attracted unskilled workers from neighboring Indonesia and the Philippines that enter the country illegally. The Malaysian government, however, has pursued an ambivalent policy as regards unskilled foreign workers. On the one hand, Malaysia has deported thousands of illegal workers as part of its strict implementation of the immigration law. On the other hand, because of the labor shortage in Malaysia, it has allowed the entry of unskilled workers but imposes levies on their entry.

Thailand is considered a net importer of temporary workers as a result of the rapid expansion of foreign direct investment as well as the political and economic instabilities among its neighboring countries. Through its One-Stop Service Center, it has encouraged the temporary migration of business and professional workers associated with foreign direct investments. Because of the attendant social costs of the inflows of foreign unskilled workers, it has reduced the number of sectors open for unskilled workers from 27 in 1997 to six in 2002. It has also restricted the issuance of work permits to a number of criteria. It had involved various government agencies in coordinating temporary labor migration policies and in overcoming the problem of illegal migration. From a trade negotiation perspective, Thailand has made more commitments under bilateral FTA

agreements than under the multilateral trade frameworks (ASEAN-ANU Migration Research Team 2005).

B. Factors affecting the movement of natural persons

According to Mashayekhi (2000), many countries have established regulatory measures that limit the application of MNP through nationality and residency requirements in the provision of service. The extreme case is the outright prohibition of foreigners. On the other hand, even if foreigners are allowed to render service, the conditions on residency and immigration status may restrict the free flow of human resources across boundaries. In other countries, for natural security, consumer protection, and other reasons, the provision of certain services are exclusively reserved for residents and citizens of the country (Hoekman & Braga, 1997). Aside from protecting the domestic labor market, the host countries are worried on the job security of domestic workers, lower wages, and pressures on social infrastructure that foreign workers may bring as their reasons for restricting the entry of foreign workers (Tullao & Cortez 2005).

In addressing the problem of asymmetric information, technical standards and licensing measures are required for the practice of a profession or the provision of a service. These may include the educational, experience and licensing requirements for certain professionals to practice and provide a service. In addition, there can also be discriminatory standards imposed on foreign-service providers compared with those required on domestic providers that may discriminate against foreigners in the name of public interest (Hoekman & Braga 1997). These legal restrictions have been incorporated in the limitations on the horizontal commitments made by GATS members that classify temporary entry procedures around job skills rather than specific sector requirements (Self & Zutshi, 2002).

Mode 4 has been considered under the GATS as an avenue for expanding trade and providing improved services globally. However, it is an immigration issue for host countries since it involves the transfer of people across national boundaries. This makes Mode 4 a very sensitive issue since it can complicate the flexibility of countries in regulating the entry of foreign workers. Although the GATS has accepted the legitimacy of countries to shape their immigration policies based on strategic, public interest, and other domestic reasons for as long as these policies are not used to restrict trade. However, in the movement of natural persons, the distinction between restriction of trade and the domestic regulation becomes ambiguous (Tullao & Cortez 2005).

Many of these trade agreements at various levels have provisions on the limitations on market access. Related to the movement of natural persons are limitations on the number of professionals allowed to enter, and economic needs test. Other market access restrictions on Mode 4 include among others limitations on the period of engagement of foreign service-providers, type of workers allowed and the requirement for a transfer of technology through a local understudy. For example, Viet Nam requires that foreigners must have high professional qualifications, which cannot be provided by

Vietnamese employees. Similarly, a labor market test is required in the Philippines before hiring a foreign worker.

In addition, many countries in the region prescribe nationality requirements in practice of professions. National treatment limitations include the requirement that sectors and the practice of professions are only open to citizens of the country. Regulated professions include accounting, auditing, medicine, engineering, law and others and may require nationality and residency requirements.

Another policy being pursued domestically that restricts the application of MNP, as a mode of supply of service is the requirement for an economic needs test as a condition for accepting foreigners to render service in a host country. Because of the discretionary nature of the test, it may create uncertainties on the market access commitments of member countries. Similarly, uncertainties in the labor market can likewise prevent member countries in making commitments to open the domestic market to foreign workers especially when changes in the domestic market do not justify the entry. Liberalization may be useless if changes in the labor market results in the joblessness of foreign workers (Tullao & Cortez 2005).

The facilitating factors may include the removal of market access restrictions, national treatment limitations and the liberalization of domestic regulations under the countries' commitments with the GATS. At the regional level, countries in the ASEAN have facilitated trade in services including the mode on the movement of natural persons with the establishment of the AFAS. At the bilateral level, countries have established bilateral free trade agreements with other countries outside the region. These trade accords include among others components of the movement of natural persons.

The AFAS has concluded three packages of commitments from two rounds of negotiations between 1996 and 2001 (Rajan & Sen, 2002). However, because of the sensitivity of various sectors in the services sectors, very few commitments have been made under the AFAS. Even the more economically progressive countries like Singapore, Malaysia and Thailand have not significantly increased their commitments. It has been said that this has constrained the enhanced economic integration of the region via mode 4 (Manning & Bhatnagar, 2003). In addition, Singapore has set specific restrictions on Mode 4 including entry restricted to skilled/senior workers, pre-employment requirements, limited period of stay, linked to commercial presence and the linking to creation of local employment.

Although the objective of the AFAS is to provide an avenue for trade liberalization through the expansion of the depth and scope of the GATS, it has not achieved its goal because most of the countries commitments in the AFAS are similar to the GATS. Moreover, there is also a lack of political will and genuine commitment to open up the service sector, weakness in negotiation framework, legal restrictions and a host of institutional limitations. This reluctance of the countries to make commitments under Mode 4 the same reason why these countries are not requesting other countries to

make commitments in various service sectors under Mode 4. Any request on their part would imply that they are willing to liberalize their sectors as well.

At the regional level, the AFAS has also facilitated the movement of natural persons through Mutual Recognition Arrangements (MRAs). According to the document, “Each State may recognize the education or experience obtained, requirements met or licenses or certification granted in another Member State for the purpose of licensing or certification of suppliers. Similarly, the Asia Pacific Economic Cooperation (APEC) formed the Engineer Project or Directory of APEC Engineers as a way of harmonizing the engineering qualifications in the Asia Pacific.” Such accreditation of credentials, educational and experience can facilitate the movement of people in the region. In December 2005, the ASEAN Mutual Recognition Arrangements on Engineering Services was signed to facilitate the mobility of engineering services professionals by exchanging information on the adoption of standards and qualification. In this regard, the qualifications were set on the ASEAN Chartered Professional Engineers (ACPE), and the conditions established for the eligibility to practice the profession in a host country.

At the bilateral level, under the Singapore-Australia Free Trade Agreement, both countries have agreed to encourage the exchange of quality assurance process among teachers, administrators, researchers and the mutual recognition of academic and vocational qualifications between recognized institutions of higher learning. Under the Singapore-Japan Economic Partnership, cross border supply and the movement of natural persons in the field of educational services is likewise encouraged. In the Singapore-New Zealand Closer Economic Partnership Agreement the “presence of natural persons is unbound except for intra-corporate transfers and business visitors.” The entry for intra-corporate transferees is limited to a three-year period while business visitors are granted an initial one-month stay, which is extendable up to three months.

Beyond trade agreements, however, the movement of natural persons in the field of education in the region is promoted and facilitated through existing agreements among institutions of higher learning in the region including the ASEAN University Network (AUN) and the Association of Southeast Asians Institutions of Higher Learning (ASAIHL).

There are also a host of cultural barriers in the movement of natural persons in the region. One thing going against ASEAN is the diversity of languages. Although English is the official language in ASEAN official communications, aside from the Philippines and Singapore, the language of commerce in Thailand, Malaysia, Indonesia, and Viet Nam is not English. This language diversity may impair the movement of people across the region to render services.

Aside from limitations on market access, national treatment and domestic regulatory measures meant to restrict the entry of foreign service-providers particularly independent professionals, there are a host of pre-employment requirements and immigration policies that can make the entry costly. Pre-employment requirements include drug test, police and security clearance, reference checks and medical

requirements. On the immigration policies, the limitation of stay, non-extendable visa, the cost of visas, the long processing periods are some examples that can make movement across boundaries of natural persons costly and may impair economic integration.

Thus, in order to enhance the movement of natural persons in the ASEAN, there is a need to lower the cost of pre-employment requirements and immigration rules, decrease the number and scope limitations on market access, lift national treatment requirements, establish mutual recognition arrangements and reduce the limitations on temporary labor migration.

Based on the preceding discussion, the movement of people to render a service in the region is influenced by trade accords at various levels as well as the changing demographic and labor market trends in the region. Given the limited scope and depth of commitments made by countries in the ASEAN on the movement of natural persons in multilateral and regional trade agreements and the strong link of commitments on movement of natural persons with commercial presence, the contribution of these trade agreements in enhancing regional integration is rather limited as shown by many studies. This brings us to the labor market perspective on MNP as a potent avenue in enhancing regional economic integration. Thus, there is a need to explore various factors that may facilitate and restrain the temporary movement of people for employment purposes.

Given these various factors that restrict the utilization of MNP, as a mode of supplying services globally, there is need to identify what measures may be implemented to address these real and politically charged restrictions. At the global level, it may be too ambitious given the multiplicity of national interests as well as the slow rate of multilateral negotiations. However, there can be breakthroughs in expanding MNP at the regional and bilateral levels, and they should be pursued with vigor.

II. Framework of analysis in the movement of natural persons in the ASEAN

There are two ways of viewing the movement of natural persons in the ASEAN region, (i) the *trade negotiation perspective* (ii) and *the labor market perspective*. The trade negotiation perspective refers to the role of trade negotiations at various levels in facilitating or restricting the flow of human resources across the region. Since the commitments of countries incorporated in various formal trade can ease or impede the flow of workers in the region, this approach can also be considered as the institutional drivers on the movement of natural persons (see figure 1).

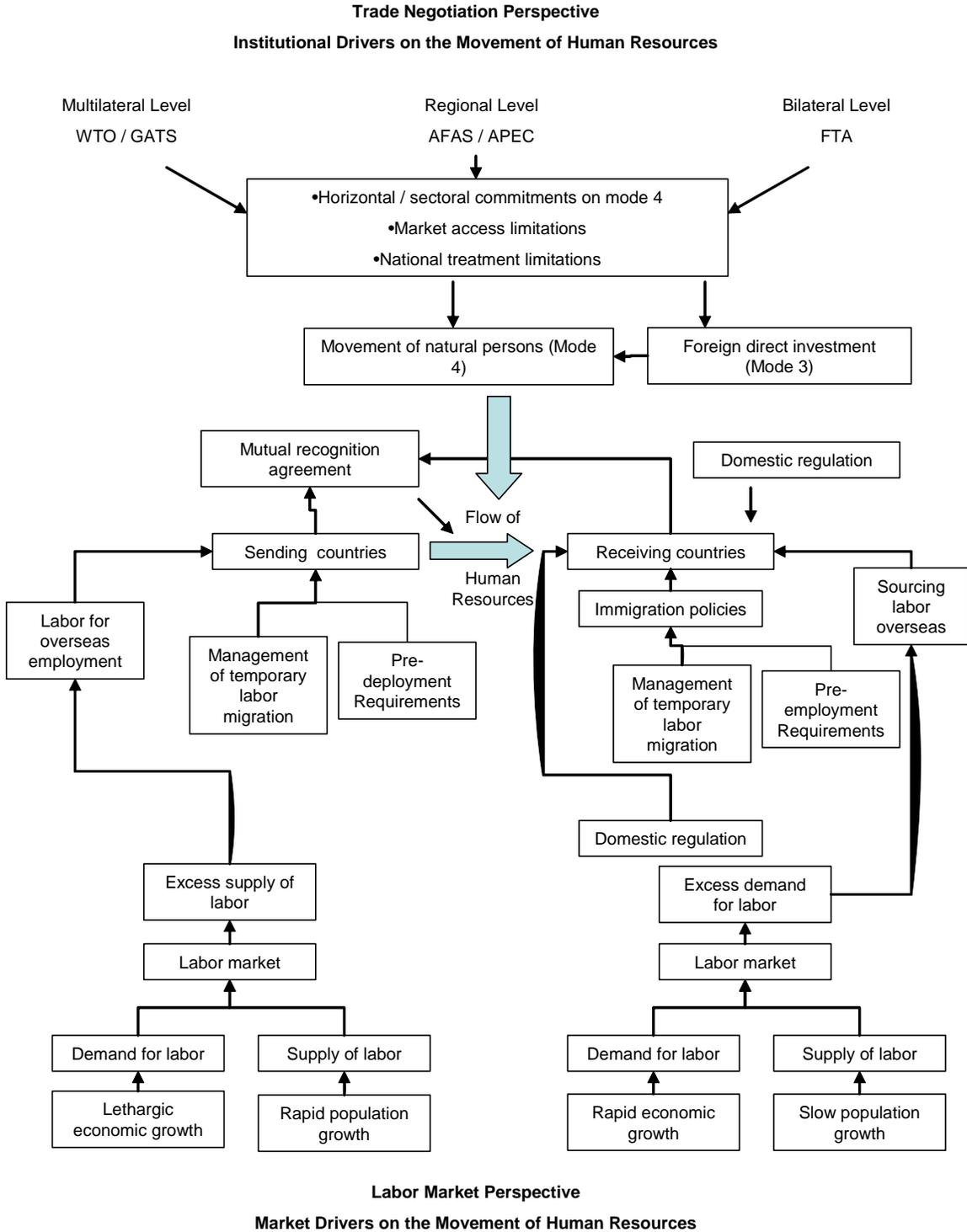
Some countries in the region have participated in trade negotiations at multilateral levels that formulated the General Agreement on Trade in Services (GATS) under WTO while others have acceded to the requirements and disciplines of the global pact. Similarly, member countries in the ASEAN have forged several agreements towards regional economic cooperation and integration including the ASEAN Framework

Agreement on Services (AFAS) to facilitate the trade in services. An interesting note to consider is the extent on how facilitative or restrictive the AFAS commitments of countries are relative to their GATS commitments as they impact on the movement of natural persons. On a broader regional sphere, there are programs within the Asia Pacific Economic Cooperation (APEC) that are intended to enhance trade in services and the flow of services via Mode 4 or MNP. Some of the measures initiated by the APEC to facilitate such movement are the adoption of the APEC Business Card, APEC Visa and the APEC Registry of Engineers. At the bilateral level, countries enter into Free Trade Agreements (FTA) or Preferential Trade Agreements (PTA) to facilitate the flow of goods, capital, services and people with their major trading partners. An important component of an FTA template is a section on the movement of natural persons.

These agreements entered into by countries at various levels of trade negotiations include horizontal and sectoral commitments pertaining to the movement of natural persons. In addition, part of the schedule of commitments is the listing of limitations on market access and limitations on national treatment. Market access limitations refer to qualifications and restrictions on the number and type of foreign workers in activities and economic sectors where foreign workers are allowed. National treatment limitations, on the other hand, refer to qualifications and restrictions on activities and sectors on the basis of nationality of workers.

These limitations will have a direct impact on the movement of natural persons between the sending and receiving country. For example, setting-up a limit on the number of foreign chefs in the hotel industry, barring accountants to practice their profession in a foreign country and requiring an economic needs test before a foreign worker can work in a receiving country will definitely temper the flow of workers globally. In addition, since movement of natural persons (Mode 4) is inherently linked with Mode 3 or commercial presence, these commitments under various trade accords and limitations on market access and national treatment can also affect Mode 4 indirectly through their impact on foreign direct investments. The current debate on the movement of natural persons is to de-link Mode 4 from commercial presence. This would allow greater flow of independent professionals to move across boundaries to practice their professions.

Figure 1. Proposed framework of analysis in the ASEAN MNP



More often, national treatment limitations are linked with domestic regulations that restrict foreigners from practicing their professions for various reasons including the promotion of public interest. In cases where foreign professionals are allowed to practice in a receiving territory, they have to hurdle certain qualification requirements before they are allowed to practice. These requirements arise as responses to the asymmetry of information in the provision of a service. These requirements include among others, education and training, experience, licensing procedures and other requirements. However, since these set of qualifications vary across countries, domestic regulation can serve as a restriction on the global flow of human resources even if there are no market access and national treatment limitations scheduled in the commitments of receiving countries in trade agreements. .

To address these gaps in the qualification requirements across boundaries, receiving and sending countries can establish mutual recognition arrangements (MRA). The objective of MRA is to set up accreditation procedures and mechanisms for equivalency while recognizing the inter-country differences in education and training, experience and licensing requirements for the practice of professions.

The second view in the analysis of the movement of natural persons is the labor market perspective that refers to the market drivers on the regional flow of human resources. This analysis stems from the responses of individuals and countries to regional economic and demographic asymmetries that produce differential impact on the labor markets in various countries.

From the sending countries side, lethargic economic performance and rapid population growth can create an excess supply of labor. To mitigate the growing internal underutilization of labor, the international market and overseas employment can serve as a vent for excess labor.

From the receiving countries side, rapid economic growth, slow population growth and other effects of the demographic dividend create an excess demand for labor. One response to this critical labor market disequilibrium is sourcing labor from overseas. However, the entry of foreign workers can be influenced by immigration policies of receiving countries, pre-employment requirements, management of temporary labor migration and domestic regulations. Receiving countries may set-up stringent immigration policies that limit the duration/length of stay, restrictions on renewal of visas, prohibitive cost of getting visas including the period of processing. Pre-employment requirements include security clearance, health clearance, personal and professional references and other requirements.

Domestic regulation has been discussed in the trade negotiation perspective since it affects the practice of professions by citizens and foreign professionals. It is likewise included in the labor market perspective since the entry of foreign workers has an impact on wages and the employment of domestic workers. Because of this potential impact,

receiving countries may require economic needs test before allowing foreigners to enter the territory and work.

Since temporary labor migration is a global phenomenon, with attending benefits and costs to the sending and receiving territories, countries have formulated various programs to mitigate the costs and advance the benefits of the global movement of workers. The management of the temporary labor migration includes the institutions/agencies involved in the management of external flows of human resources, taxes imposed, and managing the cost of temporary labor migration, and programs for the protection of overseas workers. In the Philippines, the Philippine Overseas Employment Administration (POEA) is charged to manage the outflow of migrant workers including certifying recruiters, orientations programs, protection of workers and collection of funds for mutual assistance. In addition, non-governmental agencies in the Philippines conduct pre-deployment seminars to acquaint temporary labor migrants of their destination country's culture, laws, and other relevant information related to their temporary work. On the other hand, one way of restricting the flow of temporary workers is to make employers shoulder the costs. A levy can be imposed to manage the flow.

III. An overview of labor flows in the region

Wickramasekera (2002) in an ILO international migration paper has classified the migration status of Asian countries into net labor sending and net labor receiving, and both labor sending and receiving. With reference to ASEAN, Wickramasekera's earlier classification could be adapted in table 2.

Table 1. Migration status of ASEAN countries

| Labor sending | Labor sending & receiving | Labor receiving |
|---|---------------------------|--------------------------------|
| Cambodia Indonesia Myanmar Philippines Viet Nam Laos | Malaysia Thailand | Brunei Darussalam Singapore |

Abella (2004) of the ILO explains that the exhaustion of the labor reserves of Japan, Republic of Korea, Hong Kong and Taiwan made them progressively turn to external sources of labor to meet their emerging shortages. The neighboring Asian countries with less dynamic economies but with abundant labor supply expectedly met their requirements.

Migrant workers in South East Asia were drawn by better paying jobs in Japan, Taiwan, Republic of Korea, Hong Kong, Singapore and Malaysia.

Manning and Bhatnagar (2003) proposes to divide the economies of the region into two geographical groups to understand the forces that link trade, investment and migration flows within the ASEAN. First is the Mekong River group consisting of relatively developed Thailand and the four lower income countries, Myanmar, Lao PDR, Cambodia and Viet Nam. These countries have common borders and Thailand seems to be the favorite destination. The second group is the Malay-Filipino consisting of two high per capita income countries Singapore and Brunei Darussalam, middle income Malaysia and the lower income countries, Indonesia and the Philippines. These countries have historical links on trade and migration (Manning & Bhatnagar 2003).

In the early 1970s, migration within South East Asia was estimated to be around 300,000. This figure doubled to around 500,000 workers in the early 1980s. This pattern can be observed from a decade to the next and as of year 2000, migration within the region is estimated at around three million workers.

A. Main importers of labor in ASEAN

Labor importation in the ASEAN is a function of economic growth and development. The net importers are Singapore and Brunei Darussalam. Malaysia and Thailand for their parts both receive and send workers in the region.

Singapore has been a favorite work destination for the less economically developed neighbors. Indonesian and Filipino female domestic helpers have been hired for childcare and housekeeping services in Malaysia, Singapore and Hong Kong (Abella 2004). As of year 2000, there were approximately 607,000 migrant workers (authorized and without work permits) in Singapore composed of Indonesian, Malaysians, Chinese, Filipinos and Thai (Abella 2004). Singapore's open approach to importing highly skilled workers has been notable in labor migration. It offers employment contracts to temporary migrants that can be considered almost as secure as those offered to permanent residents in other countries (Manning & Bhatnagar 2003).

Oil rich **Brunei Darussalam** accepts migrant workers from South East Asia with skills varying from domestic helpers, contract workers to teachers. Because of the country's small population and its expanding economic activities derived from oil revenues, Brunei has experienced shortages in its workforce for decades. This has forced the country to import labor services. It is estimated that almost 74 percent of its manpower needs are sourced externally (De Guzman, 2003). Brunei had been importing skilled workers and laborers since the mid-1980's from Singapore, Malaysia, Thailand, Indonesia, Philippines, India and Bangladesh.

Foreign investments and the presence of global production networks of multinational corporations in **Malaysia** and **Thailand** facilitated the inflow of migrant and highly skilled workers from the ASEAN. Malaysia's economic development and Thailand's enviable tourism sector has attracted workers from Japan, Taiwan, China, India and the Philippines.

Malaysia, like Singapore, has followed an open policy to foreign employees of multinational firms. Table 3 shows the inflows of migrant workers in Malaysia based on employment classifications. By accepting unskilled workers in the 1970s in rural public works programs, Malaysia has been the destination to date by workers from neighboring Indonesia and the Philippines (Manning & Bhatnagar 2003). Its crackdown on illegal migration, however, has been intermittent and criticized by neighboring countries as cyclical and done when there is no more need for unskilled workers in agriculture, manufacturing, and construction.

Table 2. Inflows of employed immigrants by occupation, Malaysia, 1986 to 2003

| Year | Total | Professional, technical and related workers | Administrative and managerial workers | Clerical and related workers | Sales workers | Service workers | Agriculture, animal husbandry, forestry workers, fishermen | Production workers, transport, equipment operators and laborers |
|------|---------|---|---------------------------------------|------------------------------|---------------|-----------------|--|---|
| 1986 | 307,500 | 37,500 | 11,000 | 38,100 | 26,800 | 58,300 | 52,300 | 83,400 |
| 1987 | 312,500 | 37,400 | 6,400 | 34,600 | 35,400 | 55,200 | 52,900 | 90,600 |
| 1988 | 339,000 | 42,300 | 10,400 | 38,100 | 33,500 | 57,200 | 55,300 | 102,400 |
| 1989 | 303,900 | 40,200 | 5,800 | 30,600 | 24,700 | 48,900 | 43,200 | 110,400 |
| 1990 | 327,400 | 40,300 | 8,600 | 35,300 | 26,300 | 54,500 | 30,300 | 132,200 |
| 1991 | - | - | - | - | - | - | - | - |
| 1992 | 35,500 | 1,800 | 700 | 200 | 900 | 6,400 | 7,100 | 18,400 |
| 1993 | 72,600 | 4,300 | 1,000 | 300 | 100 | 13,100 | 14,500 | 39,300 |
| 1994 | - | - | - | - | - | - | - | - |
| 1995 | 36,900 | 2,300 | 2,000 | 200 | 600 | 7,700 | 9,800 | 14,300 |
| 1996 | 9,600 | 8,100 | 3,500 | 1,300 | 2,400 | 16,800 | 21,600 | 42,300 |
| 1997 | 60,200 | 3,500 | 2,900 | 900 | 1,300 | 18,900 | 11,800 | 20,900 |
| 1998 | - | - | - | - | - | - | - | - |
| 1999 | 45,900 | 2,800 | 3,800 | 100 | 600 | 13,700 | 15,000 | 9,900 |
| 2000 | 79,700 | 2,800 | 1,900 | 700 | 1,000 | 17,500 | 26,400 | 29,400 |
| 2001 | 77,100 | 2,300 | 1,700 | 300 | 1,700 | 21,800 | 21,800 | 27,500 |

Source: ILO 2006. International Labor Migration (ILM) Database. Migration Survey Report, Malaysia

The flow of capital in **Thailand** has inevitably opened its doors to business and professional workers. Allowable unskilled worker categories are limited as of 2002 to only six including agriculture and fisheries, construction, manufacturing and domestic help.

Table 4 from Manning & Bhatnagar (2003) presents an approximate of migrant stocks within and outside the ASEAN. Around 3 million workers have moved within the ASEAN region from 2000 to 2001.

Table 3. Countries of origin and destination of temporary migrants within South East Asia and abroad, approximate migrant stocks (2000 – 2001)

| Country of origin | Destination | | | | | Total | Outside South East Asia |
|-------------------|---------------------------------------|------------|------------|------------|--------------|-------|-------------------------|
| | Within South East Asia ('000 persons) | | | | | | |
| | Malaysia | Thailand | Singapore | Others | | | |
| Indonesia | 1,500 | | 200 | 50 | 1,750 | | 1,000 |
| Myanmar | 5 | 500 | 2 | 5 | 512 | | 100 |
| Philippines | 300 | 10 | 150 | 20 | 480 | | 2,000 - 2,500 |
| Malaysia | | 5 | 300 | 10 | 315 | | 200 |
| Indochina states | 25 | 75 | 5 | 5 | 110 | | 50 |
| Other | 10 | 5 | 2 | 20 | 37 | | 300 |
| Total | 1,840 | 595 | 659 | 110 | 3,204 | | 4,000 - 5,000 |

Source: Manning & Bhatnagar (2003)

In an earlier study, Manning (2000) approximated the number of legal and illegal migrants in the ASEAN (see Table 5). He related the proportion of migrants to the work force of host countries. Tullao & Cortez (2003) explained that the presence of illegal migrants is in a way needed to address jobs that were deemed as 3Ds – *dirty, difficult and dangerous*. In a way, their presence is condoned until political and social pressures arise to crackdown on them.

Table 4. Approximate number of legal and illegal migrants, approximate share of work force (%), and main countries of origin, 2000

| | Migrant numbers (000) | | Approximate share of the work force (%) | Main countries of origin |
|------------|-----------------------|-----------|---|---|
| | Legal | Illegal | | |
| Japan | 1,300 - 1,500 | 250 | 1 - 2 | Korea, China, Philippine, Iran Philippines (+/-60%), Indonesia, China |
| Hong Kong | 240 - 250 | 10 - 20 | 5 - 7 | Malaysia (+/-40%), Philippines, Thailand |
| Singapore | 530 | <10 | 25 - 27 | Thailand (+/-35%), Philippines, Indonesia |
| Taiwan | 300 | <20 | 1 - 2 | China, Philippines |
| Korea | 90 - 100 | 166 | 1 | Indonesia (+/-70%), Philippines, Bangladesh |
| Peninsular | | 500 - | | |
| Malaysia | 700 | 1,000 | 10 - 15 | |
| Thailand | 110 | 500 - 750 | 1 - 2 | Burmese (+/-70%), Cambodian, Lao |

Source: Manning (2000)

B. Main exporters of labor in the ASEAN

The Philippines, Indonesia, and Viet Nam are the major sources of labor in the ASEAN. Cambodia, Myanmar and Laos to a certain extent also export labor migrants to neighboring Thailand.

Labor migration has been a significant driver of economic activity in the **Philippines**. What started as a temporary relief from the burden of unemployment in the 1970s and in reaction to the upsurge of demand for laborers in the Middle East, is now the epitome of migration management in South East Asia. For a country with a population of 80 million, around 2,700 migrant workers of varying skills leave the Philippines everyday. While the Philippine development plan has been discreet in promoting labor migration, workers take it upon themselves and their families with regards to their decision to migrate. Migration culture has emanated and a network of migrants has facilitated the migration of family members, relatives and friends. However, as a result of migration management aiming at protecting the worker, the Philippines has an explicit policy of allowing the movement only of skilled migrants.¹ Domestic helpers, contractual factory workers, entertainers and other classifications are deemed to have a certain level of skill.

Table 5. Top ten destination of overseas Filipino workers

| Destination country | Deployment January to December | | |
|-------------------------|-----------------------------------|---------|----------|
| | 2005 | 2004 | % Change |
| 1. Saudi Arabia | 193,991 | 188,107 | 3.13% |
| 2. Hong Kong | 94,553 | 87,254 | 8.37% |
| 3. United Arab Emirates | 81,707 | 68,386 | 19.48% |
| 4. Taiwan | 46,714 | 45,059 | 3.67% |
| 5. Japan | 42,586 | 74,480 | -42.82% |
| 6. Kuwait | 40,248 | 36,591 | 9.99% |
| 7. Qatar | 31,418 | 21,360 | 47.09% |
| 8. Singapore | 27,599 | 22,198 | 24.33% |
| 9. Italy | 21,261 | 23,329 | -8.86% |
| 10. United Kingdom | 16,799 | 18,347 | -8.44% |

Source: Philippine Overseas Employment Administration www.poea.gov.ph

Filipino workers are in more than 200 countries and trust territories while there are just 149 members of the World Trade Organization. The POEA has been active in forging bilateral relations with destination countries to protect the rights of migrant workers. Table 7 presents the breakdown of Asian country destination of Filipino workers.

¹ R.A. 8042 otherwise known as Migrant Workers and Overseas Filipinos Act of 1995

Table 6. Asian destination of overseas Filipino workers, 1998 to 2005

| Destination country | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Afghanistan | - | 16 | 1 | - | 2 | 19 | 148 | 498 |
| Bangladesh | 501 | 220 | 190 | 230 | 182 | 416 | 286 | 350 |
| Bhutan | - | 5 | 1 | - | 1 | - | 3 | 3 |
| Brunei | 16,264 | 12,978 | 13,649 | 13,068 | 11,564 | 9,829 | 10,313 | 8,666 |
| Cambodia | 179 | 224 | 355 | 524 | 629 | 719 | 605 | 689 |
| China | 1,280 | 1,858 | 2,348 | 1,979 | 2,046 | 2,168 | 2,942 | 4,606 |
| East Timor | - | - | - | 24 | 812 | 439 | 553 | 730 |
| Hong Kong | 122,337 | 114,779 | 121,762 | 113,583 | 105,036 | 84,633 | 87,254 | 94,553 |
| India | 191 | 165 | 185 | 454 | 249 | 408 | 316 | 392 |
| Indonesia | 2,471 | 1,706 | 1,507 | 1,411 | 1,492 | 1,534 | 1,744 | 2,138 |
| Japan | 38,930 | 46,851 | 63,041 | 74,093 | 77,870 | 62,539 | 74,480 | 42,586 |
| Kazakhstan | 3 | 4 | 32 | 311 | 548 | 1,580 | 314 | 558 |
| Kirgiztan | - | 2 | 1 | 2 | - | - | 2 | - |
| Korea | 2,337 | 4,302 | 4,743 | 2,555 | 3,594 | 7,136 | 8,392 | 9,970 |
| Laos | 63 | 82 | 118 | 174 | 71 | 181 | 54 | 164 |
| Macau | 2,021 | 1,983 | 2,208 | 1,860 | 1,963 | 2,335 | 2,361 | 2,546 |
| Malaysia | 7,132 | 5,978 | 5,450 | 6,228 | 9,317 | 7,891 | 6,319 | 6,058 |
| Maldives | 82 | 147 | 117 | 123 | 105 | 186 | 142 | 174 |
| Mongolia | 72 | 31 | 47 | 28 | 15 | 9 | 32 | 48 |
| Myanmar | 153 | 96 | 153 | 215 | 187 | 221 | 139 | 151 |
| Nepal | 3 | 7 | 7 | 13 | 4 | 5 | 6 | 6 |
| Pakistan | 186 | 136 | 107 | 180 | 65 | 58 | 84 | 170 |
| Singapore | 23,175 | 21,812 | 22,873 | 26,305 | 27,648 | 24,737 | 22,198 | 27,599 |
| Sri Lanka | 230 | 290 | 396 | 629 | 502 | 309 | 293 | 361 |
| Tadzhikistan | 3 | 3 | - | 3 | 3 | 4 | 3 | - |
| Taiwan | 87,360 | 84,186 | 51,145 | 38,311 | 46,371 | 45,186 | 45,059 | 46,714 |
| Thailand | 1,384 | 1,014 | 1,015 | 2,056 | 1,162 | 2,139 | 1,750 | 2,400 |
| Turkmenistan | 98 | 35 | 94 | 126 | 33 | 2 | 29 | 41 |
| Uzbekistan | 4 | 80 | 28 | 17 | 18 | 8 | 5 | 3 |
| Vietnam | 802 | 531 | 494 | 549 | 588 | 596 | 783 | 1,102 |
| Total | 307,261 | 299,521 | 292,067 | 285,051 | 292,077 | 255,287 | 266,609 | 253,276 |

Source: POEA www.poea.gov.ph

Indonesia similarly has been at the forefront of labor migration by sending semi-skilled and unskilled labor. Low wage in Indonesia is caused by the large surplus of workers. The government sanctioned migration scheme facilitates migration to the Middle East, East Asia and other wealthier countries in the ASEAN. Saudi Arabia has been the major destination of workers since the 1980s. There is also a gendered dimension to Indonesian migration. Almost all the migrants to Saudi Arabia (169,000) are in the informal sector (168,114) and 91 percent of which are female workers (Ford 2005).

Table 8 shows that Saudi Arabia and Malaysia are the top destinations of Indonesian migrant workers. The demand for migrant workers from Singapore, Hong Kong, Taiwan and Korea fluctuates over the years 1995 to 2003.

Table 7. Outflows of employed nationals by sex and by country of destination, Indonesia, 1986 to 2001

| Year | Total | Male | Female | Destination Country and Employed Indonesian Workers | | | | |
|------|---------|---------|---------|---|----------|-----------|--------|-----------|
| | | | | Saudi Arabia | Malaysia | Singapore | Korea | Hong Kong |
| 1995 | 120,603 | 39,232 | 81,371 | 43,451 | 29,712 | 20,975 | 3,732 | 4,205 |
| 1996 | 220,162 | 39,431 | 180,731 | 115,209 | 38,652 | 29,065 | 10,718 | 8,888 |
| 1997 | 502,977 | 226,641 | 276,336 | 317,685 | 116,844 | 31,928 | 9,445 | 9,062 |
| 1998 | 367,526 | 77,658 | 289,868 | 151,288 | 108,775 | 39,656 | 15,969 | 15,509 |
| 1999 | 427,619 | 124,822 | 302,797 | 169,177 | 131,157 | 34,829 | 29,372 | 17,584 |
| 2000 | 435,219 | 137,964 | 297,255 | 191,700 | 114,067 | 50,508 | 25,707 | 21,709 |
| 2001 | 338,992 | 66,578 | 272,414 | 110,490 | 103,235 | 38,119 | 34,295 | 23,929 |
| 2002 | 480,393 | 38,143 | 442,250 | 213,603 | 152,680 | 35,922 | 20,431 | 16,071 |
| 2003 | 293,694 | 79,885 | 213,809 | 169,038 | 89,439 | 7,495 | 6,103 | 3,509 |

Source: ILO 2006

ILM Database 2006. Ministry of Manpower, Indonesia

The flows in international migration in Viet Nam were accompanied by rapid increases in internal migration. Until 1999, Viet Nam exported medical, educational and agricultural specialists to Libya, Iraq and former socialist countries in Eastern Europe, generally based on bilateral agreements. Between 1980 and 1990, around 244,186 workers and 7,200 specialists were sent to these countries; they contributed around VND800 billion (USD53 million) in remittances.

C. Labor flows by major occupational groups

Information from the Philippine Overseas Employment Administration (POEA) shows the varying skills of overseas Filipino workers. Professional and technical workers almost equaled the outflow of service workers for the comparative years 2002 and 2003. Considering the total of semi-skilled workers in the Philippines, their deployment outnumbers the skilled workers (professional and technical) (see table 9).

Table 8. Deployment of Filipino new hires, 2002 to 2003

| | 2002 | | | 2003 | | |
|-------------------------------|----------------|---------------|----------------|----------------|---------------|----------------|
| | Female | Male | Total | Female | Male | Total |
| Professional and technical | 84,839 | 14,849 | 99,688 | 67,336 | 11,620 | 78,956 |
| Admin. and managerial workers | 128 | 246 | 374 | 103 | 284 | 387 |
| Clerical workers | 2,511 | 1,501 | 4,012 | 2,204 | 1,761 | 3,965 |
| Sales workers | 1,452 | 1,591 | 3,043 | 1,394 | 1,096 | 2,490 |
| Service workers | 88,082 | 9,292 | 97,374 | 76,296 | 7,725 | 84,021 |
| Agricultural workers | 16 | 596 | 612 | 29 | 384 | 413 |
| Production workers | 20,323 | 49,190 | 69,513 | 18,766 | 42,586 | 61,352 |
| For reclassification | 10,927 | 585 | 11,512 | 8,975 | 952 | 9,927 |
| Total | 208,278 | 77,850 | 286,128 | 363,978 | 66,408 | 430,386 |

Source: POEA 2006

For Thailand, their migrant worker composition is 40.5 percent skilled and semi-skilled, 21.5 percent unskilled, and others, presumably for reclassification at 38 percent (Abella, 2004).

Table 9. Placement of informal and formal sector Indonesian workers in Asia Pacific 2003

| Receiving country | Informal sector | | | Formal sector | | |
|-------------------|-----------------|---------------|---------------|---------------|---------------|---------------|
| | Male | Female | Total | Male | Female | Total |
| Malaysia | 340 | 9,831 | 10,171 | 56,694 | 22,574 | 79,268 |
| Singapore | 5 | 6,082 | 6,087 | - | 16 | 16 |
| Brunei Darussalam | 12 | 480 | 492 | 376 | 278 | 654 |
| Hong Kong | 1 | 3,473 | 3,474 | - | 35 | 35 |
| Taiwan | 52 | 288 | 340 | 1,255 | 335 | 1,590 |
| South Korea | 297 | 30 | 327 | 6,093 | 1,075 | 7,168 |
| Japan | - | - | - | 100 | - | 100 |
| Total | 707 | 20,184 | 20,891 | 64,518 | 24,313 | 88,831 |

Source: Adapted from Depnakertrans (2003) in Ford (2005)

The concentration of Indonesian migrant workers employed in the informal sector reflects the large number of female labor migrants (between 70 to 80 percent of all Indonesian labor migrants) employed as household labor in the Middle East and other Asian destinations like Malaysia, Singapore and Hong Kong (see table 10). Aside from domestic helpers, 35 percent of Indonesia workers imported by Malaysia are in the industrial sector while 3 percent are in the plantation and agricultural sector (Ford, 2005).

IV. MNP in the region: trade negotiation perspective

A. Commitments of ASEAN countries under the GATS and AFAS Packages 1, 2, 3 & 4

The GATS classifies services into 12 broad sectors while the ASEAN Framework Agreement on Services (AFAS) narrows this down to 7 priority sectors of service trade liberalization – namely, air transport, business services, construction, financial services, maritime transport, telecommunications, and tourism.

In a recent assessment of the AFAS by Thanh & Barlett (2006), they compared the depth of commitments of ASEAN countries in the GATS and in relation to the commitments with the various packages of the AFAS.

As for the GATS, Cambodia, Malaysia, Singapore, Thailand and VietNam have more liberal commitments (more than 100 subsectors) in services as compared with the rest of the ASEAN countries (See Table 10). While Viet Nam recently became a member of the WTO, their latest offer to the WTO involved 139 sub-sectors of services.

Table 10. Sectoral coverage of commitments in the GATS and AFAS Packages 1, 2, 3, 4

| | Brunei Darussalam | Cambodia | Indonesia | Lao PDR | Malaysia | Myanmar | Philippines | Singapore | Thailand | Viet Nam | Total ASEAN |
|------------------------|-------------------|----------|-----------|---------|----------|---------|-------------|-----------|----------|----------|-------------|
| Sectors covered | | | | | | | | | | | |
| GATS + AFAS 1, 2, 3, 4 | 88 | 177 | 95 | 90 | 154 | 108 | 109 | 111 | 172 | 151 | 1255 |
| GATS + AFAS 1, 2, 3 | 82 | 157 | 95 | 90 | 150 | 103 | 109 | 108 | 159 | 149 | 1202 |
| GATS + AFAS 1, 2 | 71 | 157 | 77 | 41 | 144 | 48 | 89 | 105 | 158 | 145 | 1035 |
| GATS + AFAS 1 | 30 | 0 | 66 | 12 | 125 | 37 | 38 | 104 | 131 | 141 | 684 |
| GATS | 26 | 146 | 61 | 0 | 122 | 36 | 36 | 102 | 127 | 139 | 795 |

Source: Thanh & Barlett (2006)

Table 11. AFAS sector-wise commitments under mode 4

| | Business services (46) | | Telecomm. Services (24) | | Construction & related eng. Services (5) | | Financial services (17) | | Air transport services (35) | | Maritime transport services (12) | | Tourism & travel services (4) | | Total | |
|-----------|------------------------|------|-------------------------|------|--|------|-------------------------|------|-----------------------------|------|----------------------------------|------|-------------------------------|------|-------|------|
| | WTO | AFAS | WTO | AFAS | WTO | AFAS | WTO | AFAS | WTO | AFAS | WTO | AFAS | WTO | AFAS | WTO | AFAS |
| Singapore | 22 | 1 | 9 | 1 | 5 | 0 | 16 | 0 | 0 | 0 | 3 | 0 | 3 | 0 | 58 | 2 |
| Malaysia | 27 | 2 | 12 | 0 | 5 | 0 | 15 | 1 | 0 | 0 | 3 | 1 | 3 | 1 | 65 | 5 |
| Brunei | 7 | 4 | 8 | 3 | 0 | 5 | 4 | 1 | 1 | 1 | 0 | 2 | 0 | 1 | 20 | 17 |
| Thailand | 14 | 2 | 8 | 0 | 3 | 2 | 13 | 0 | 1 | 1 | 4 | 2 | 3 | 1 | 46 | 8 |
| Indonesia | 9 | 3 | 9 | 0 | 4 | 1 | 14 | 0 | 0 | 0 | 2 | 0 | 3 | 1 | 41 | 5 |

| | | | | | | | | | | | | | | | | |
|-------------|---|---|---|----|---|---|----|---|---|---|---|---|---|---|----|----|
| Philippines | 0 | 5 | 4 | 0 | 0 | 5 | 14 | 0 | 3 | 0 | 4 | 0 | 3 | 0 | 28 | 10 |
| Myanmar | 0 | 5 | 0 | 9 | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 20 |
| Viet Nam | - | 5 | - | 13 | - | 5 | - | 4 | - | 2 | - | 4 | - | 1 | - | 34 |
| Cambodia | - | 4 | - | 7 | - | 5 | - | 0 | - | 1 | - | 2 | - | 1 | - | 20 |
| Lao PDR | - | 7 | - | 12 | - | 5 | - | 1 | - | 1 | - | 2 | - | 1 | - | 29 |

Source: Manning & Bhatnagar (2003)

The extent of commitments in Mode 4 under the GATS has been, in general, conservative. The level of commitments under the AFAS followed the general trend commitments under the GATS. The extent of commitments vary widely across the region under the GATS with Malaysia and Thailand making commitments in nine sectors, Singapore and Indonesia in six sectors, Brunei and the Philippines in four sectors and Myanmar made a commitment in one sector. Most commitments have been made in the business services sector, followed by the communication services and financial sectors, respectively. Only 43 services sector were committed under Mode 4 by countries in the ASEAN as compared to the 155 services sectors within the region (Manning & Bhatnagar, 2003).

In table 11, Manning & Bhatnagar (2003) related the AFAS commitments with WTO commitments broken down per services sector. Comparing the GATS commitments with the AFAS commitments, the most significant expansion was noted in the commitments in construction services under the AFAS while the least expansion was registered in financial services. There was also poor expansion of commitments in transport services. Larger ASEAN economies (e.g. Singapore and Malaysia) made little additional commitments under the AFAS; limiting its contribution in enhancing regional economic integration through the movement of workers via Mode 4. The largest expansion in commitments was made by Myanmar (from one under GATS to 20 under AFAS).

In terms of the depth of commitments, only partial commitments were made in most cases by countries in the ASEAN nations. Countries making commitments dilute their liberalization commitments with a host of limitations on market access and national treatment. Thailand has the deepest level of commitment with 95 percent of all commitments allowing for MNP from abroad. There are also a number of restrictions arising from domestic regulations that limit the flow of services under the movement of natural persons (Manning & Bhatnagar 2003).

Table 12. Depth of AFAS commitments under mode 4

| Country | Number of Services | Number of services with commitments | Number of services with mode 4 commitments | % "Unbound" | Depth of mode 4 % "none" | Commitments % partial commitments |
|-------------|--------------------|-------------------------------------|--|-------------|--------------------------|-----------------------------------|
| Singapore | 104 | 62 | 60 | 3 | 7 | 93 |
| Malaysia | 104 | 81 | 70 | 14 | 2 | 98 |
| Brunei | 104 | 39 | 37 | 6 | 8 | 92 |
| Thailand | 104 | 57 | 54 | 5 | 28 | 72 |
| Indonesia | 104 | 48 | 46 | 4 | 0 | 100 |
| Philippines | 104 | 49 | 38 | 22 | 25 | 75 |
| Viet Nam | 104 | 41 | 34 | 17 | 0 | 100 |

| | | | | | | |
|----------|-----|----|----|----|----|-----|
| Cambodia | 104 | 20 | 20 | 0 | 0 | 100 |
| Lao PDR | 104 | 30 | 29 | 4 | 0 | 100 |
| Myanmar | 104 | 31 | 21 | 32 | 18 | 82 |

Source: Manning & Bhatnagar (2003)

In terms of depth of commitments, out of 104 services as illustrated in table 12, Singapore, Malaysia and Thailand shows the highest commitments. Brunei, Indonesia, Viet Nam and the Philippines have committed the same range of services in proportion to the total while Cambodia, Lao and Myanmar registered the minimal commitments.

Malaysia, Singapore and Thailand also posted the highest number of services with mode 4 commitments. The Philippines and Myanmar have the highest number of unbound services sector followed by Viet Nam. Thailand, the Philippines and Myanmar registered the highest number of “none” commitments.

Table 13. Nature of limitations on mode 4 commitments, types of restrictions along with frequency of application (%)

| | Entry restricted to skilled / senior workers | Numerical quotas | Labor market tests | Pre-employment | Transfer of technology | Restriction on purchase of real estate | Limited period of stay |
|-------------|--|------------------|--------------------|----------------|------------------------|--|------------------------|
| Singapore | 100 | - | - | 100 | - | - | 100 |
| Malaysia | 100 | 100 | 100 | 100 | 100 | - | 100 |
| Brunei | 100 | - | 6 | 100 | 6 | - | 100 |
| Thailand | 100 | 25 | - | 100 | - | 100 | 100 |
| Indonesia | 100 | 17 | - | - | 9 | 100 | 100 |
| Philippines | - | - | 100 | - | 43 | 100 | 43 |
| Viet Nam | 100 | 4 | - | - | 100 | 100 | 100 |
| Cambodia | 100 | - | - | - | - | 100 | 100 |
| Lao PDR | 100 | - | - | - | 100 | - | 100 |
| Myanmar | 100 | - | - | - | - | - | 50 |

Table 13 continued

| | Subject to commercial presence | Residency requirement | Linked to creation of local employment | Economic needs test | Subject to domestic regulations | Subject to recognition of qualifications |
|-------------|--------------------------------|-----------------------|--|---------------------|---------------------------------|--|
| Singapore | 100 | - | 100 | - | - | - |
| Malaysia | 6 | 3 | - | - | - | 100 |
| Brunei | 100 | - | - | - | 6 | - |
| Thailand | - | - | - | 100 | - | - |
| Indonesia | - | - | - | 100 | 100 | - |
| Philippines | - | - | - | - | 3 | 11 |
| Viet Nam | - | 4 | - | 4 | 100 | 4 |
| Cambodia | - | - | - | - | 100 | - |
| Lao PDR | - | - | - | - | 100 | - |

B. Commitment of countries under the AFAS Fourth Package (2004)

1. Sectors committed in the AFAS Fourth Package (2004)

ASEAN countries have planned to commit the earlier liberalized service sectors of tourism, telecommunication, and banking / financial services. The next group of sectors for commitments is composed of construction and maritime services. Business services like architectural, accounting, bookkeeping, and auditing services. However, not all countries have submitted commitments on taxation.

The ASEAN countries are also realizing the need for translation, market research and legal services. The rest of the service sectors will tend to remain closed to liberalization.

Table 14. Mode 4 commitments of countries under the AFAS (Fourth Package 2004)

| Service sector | Brunei | Cambodia | Indonesia | Lao PDR | Malaysia | Myanmar | Philippines | Singapore | Thailand | Viet Nam |
|---|--------|----------|-----------|---------|----------|---------|-------------|-----------|----------|----------|
| Air transport | x | | | | | | | | | x |
| Business services | x | x | | x | x | | | | x | |
| Accounting / bookkeeping | | | | | x | | | | x | x |
| Aircraft rental / leasing services | x | | | | | | | | | |
| Architectural | | x | | | x | | | x | x | x |
| Auditing services | x | | | x | x | | | | x | x |
| Engineering | | x | | | x | | | | x | x |
| Market research | | x | | | x | | | x | x | |
| Research & experimental services on economics | | | | | x | | | x | x | |
| Taxation | | | | | x | | | x | x | |
| Translation | | x | | | x | | | x | x | |
| Construction | x | x | x | | x | | | | x | x |
| Construction machinery rental / leasing | | x | | | x | | | | | |
| Financial services | x | | | | | | | x | | |
| Banking & other financial | x | | x | x | | | x | x | | |
| Insurance | x | | | | | | | | | |
| Reinsurance | x | | | | | | | x | | |
| Services auxilliary to insurance | x | | | | | | | | | |
| Healthcare | x | | | | | | | x | | |
| Legal services | x | | | x | | | | x | | |
| Maritime | | x | | | x | x | x | x | x | x |
| News paper publishing | | | | x | | | | | x | |

| | | | | | | | | | | |
|--------------------|---|---|---|---|---|---|---|---|---|---|
| Radio & television | x | | | | | | | | | |
| Telecommunication | x | x | | | x | x | | x | x | x |
| Tourism | | | x | x | x | x | x | x | x | x |
| Transport | | | | | | | x | | x | x |

Source: www.aseansec.org

2. *Limitations on market access under mode 4*

Mode 4 horizontal commitments of ASEAN countries are limited to highly skilled and intra-corporate transferees. Brunei Darussalam has been explicit in its definition that intra-corporate transferees cover only managers, executives and specialists. While Cambodia and Lao PDR would allow the presence of foreign workers, they shall be subjected to domestic laws. Malaysia allows the presence of intra-corporate transferees but they shall be subject to specific measures on such worker classification. Indonesia and the Philippines reserve the right to economic needs tests. Indonesia sets a maximum of two years for directors, managers and technical experts and advisors.

Table 15. AFAS Fourth Package horizontal commitments on mode 4

| Country | Limitations on market access | Limitations on national treatment |
|-------------------|---|--|
| Brunei Darussalam | Unbound except for intra-corporate transferees (managers, executives and specialists) | Unbound except for intra-corporate transferees (managers, executives and specialists) |
| Cambodia | Foreign workers shall be subject to Cambodian laws | Foreign workers shall be subject to labor law and immigration law |
| Indonesia | Maximum of two years for directors, managers & technical experts/advisors subject to economic needs tests | Foreign workers shall be subject to expatriate charges, labor laws & regulations and immigration laws. |
| Lao PDR | Foreign workers shall be subject to the law on promotion and management of foreign investment in the Lao PDR and the regulations on immigration | Foreign workers shall pay personal income tax, calculated in accordance with the provisions of applicable laws and regulations of the government |
| Malaysia | Unbound except for measures affecting the entry and temporary stay of intra-corporate transferees, specialists or experts. | Unbound except for referred in market access |
| Myanmar | | |
| Philippines | Non-resident aliens may be admitted after conducting a labor market test | |
| Singapore | | |
| Thailand | Unbound except for business visitor, intra-corporate transferee | |
| Viet Nam | Unbound | Foreign workers shall obtain a labor permit; shall be subject to specific income tax scheme and shall not own immovable property |

3. Limitations on national treatment on mode 4

Foreign workers shall naturally be subject to immigration and labor laws in their country of destination. Indonesia, however, has expatriate charges applied to foreign workers while Viet Nam has a specific income tax scheme.

4. Final list of MFN exemptions on mode 4

Brunei has preference for the entry and temporary stay of workers from their traditional sources of supply. The intended duration of workers is indefinite and subject to periodic review in the light of domestic and national policy considerations. Having a relatively small population, the government needs to regulate the flow of foreign workers, both skilled and unskilled to ensure social cohesion in the country.

Indonesia reserves low level occupations for its citizens. The government policy is to grant limited exemptions to citizens of certain countries (Malaysia, Singapore, Brunei Darussalam, Papua New Guinea and Australia) with an indefinite duration.

Malaysia's liberalization measures affecting the movement of foreign semi-skilled and unskilled workers into Malaysia may be carried out in a differentiated manner based on reasons including proximity either contiguous or regional, religious and / or cultural compatibility. This is seen to maintain arrangements under existing bilateral agreements and ensure that the movement of foreign semi-skilled and unskilled workers contributes to the social stability and industrial harmony in Malaysia.

A special visa category is provided for traders and investors of countries which the **Philippines** has concluded treaties with on entry rights for traders and investors. This is seen to facilitate trade, investment and related activities.

Singapore allows the presence of unskilled and semi-skilled natural persons on the condition that they come from traditional sources of supply. The intended duration is indefinite while Singapore will periodically review this policy in the light of domestic and national policy considerations.

Thailand would allow the entry of audit professionals if there is a bilateral agreement based on reciprocity treatment.

5. Features of MNP in bilateral trading agreements

a) U.S. – Singapore FTA

The U.S. – Singapore Free Trade Agreement is seen as the hallmark of free flow of natural persons between the two countries. The U.S. commitments include:

- Immediate national treatment in substantially all services sectors with posted exemptions
- Sub-federal and local market opening commitments
- Full, future liberalization of exemptions
- Regulatory transparency

The U.S.-Singapore FTA on the movement of natural persons provides for freer movement with some qualifications as quoted below:

Creates separate categories of entry for citizens of each party to conduct a wide variety of business and investment activities on a temporary basis. Singapore citizens who are business visitors can enter the U.S. to conduct business activities up to 90 days without the need for labor market tests, subject to usual immigration and security measures.

The U.S. - Singapore FTA more than covers the movement of traders and investors and business visitors. It provides for the movement of intra-corporate transferees (managers, executives and specialists). The movement of professionals to perform services is also allowed provided they comply with immigration measures applicable to temporary entry. Further, the U.S. – Singapore FTA provides for the movement of professionals that “*a party shall not as a condition for temporary entry, require prior approval procedures, petitions, labor certification tests, or other procedures of similar effect; or impose or maintain any numerical restriction to temporary entry*”.

b) Japan – Philippines FTA

In as far as movement of natural persons is concerned, the Philippines requested Japan to open its health services sector. This would allow the entry of caregivers and nurses in the light of Japan’s ageing population. Japan, on the hand, is discouraging the entry of entertainers who are not certified professionals. This FTA is seen to restructure the flow of semi-skilled migrants from the Philippines to Japan (Tullao & Cortez 2003). The recently signed FTA provides for a numerical quota of 400 to 500 Filipino nurses that would be allowed entry in Japan annually.

c) Japan – Thailand FTA

The Japan – Thailand FTA provisions on movement of natural persons allows a small number of Thai nurses to work in Japan, but only in exceptional cases, much like the Japan – Philippines FTA.

d) Proposed U.S. – Thailand FTA

The movement of natural persons concern of Thailand is different from Singapore. Their priority regarding Mode 4 includes the Thai chefs and skilled culinary workers that can fall within the uniquely skilled classification of the United States. This demand favors Thailand because native-born American citizens cannot fill in positions requiring expert knowledge of Thai culinary arts (Hunton & William 2004).

V. MNP in the region: temporary migration perspective

The immigration policies of the ASEAN countries vary in terms of the types of visa given to foreigners for temporary employment, duration of visas, possibility of extension, period of processing, visa fees, and other requirements. In addition, variations also exist in terms pre-employment requirements as well as how countries, as sending or receiving countries, manage temporary labor migration.

A. Visa requirements

The information from Appendices A to J shows that most ASEAN countries issue business visas for temporary employment. These business visas can also vary in its validity depending on the preference of the applicant. There are also certain countries that issue different types of visas depending on the reason for such stay. These countries are Singapore, Thailand, and the Philippines.

The validity of each visa issued for temporary employment varies according to the country where the applicant is coming from and where he is going. Some countries issue visas that are valid for only 2 months, while others reach a maximum of a year before expiry date. The type of visa that will be issued must be taken into consideration when trying to compare the difference in the length of validity of a certain visa.

The processing time for a visa to be completed ranges from three days to a week depending on the type of visa that is applied and the duration of stay that a worker intends to stay. Furthermore, the processing time for the visa also depends on the receiving of the complete and necessary documents for the issuance of a visa.

Applicants have to pay a certain amount for the issuance of their visas. The visa fee varies per country. Moreover, the amount of visa fee is also dependent on the duration the applicant intends to stay. A longer term visa application means a more expensive visa fee. The visa fee may either be paid in local currency, dollars, or lira.

Finally, in the prerequisite entry requirements, it can be seen that there are other important things to be considered when applying for a visa. These include a passport and other important and supporting documents like application forms, passport photos, letter from counterpart, company letter.

B. Pre-employment requirements

The second component in the labor market perspective in the flow of workers regionally refers to the pre-employment requirements. Pre-employment requirements include health clearances, security clearances, and personal and professional references.

By examining the data in Appendix K on Work Permit Regimes in ASEAN Countries, it can be observed that sectors that have the largest inflows of workers in the ASEAN region come from three sectors/categories. Namely these sectors include (1) manufacturing sector, (2) intra-corporate transferees, & (3) short term business travelers. Also, it can be observed that the domestic help sector also has a relatively high amount of inflows from several ASEAN countries.

The normal type of authority that can be observed for the issuance of work permits are mostly coming from the labor sector. Though different ASEAN countries refer to it with different names, its functions and objectives are parallel with each other.

The average time for the issuance of work permits vary per country. The shortest time comes from Singapore and Thailand with 7 working days. On the other hand, countries like the Philippines, Indonesia, Malaysia, and Brunei takes an average of 5-6 weeks for the issuance of work permits. On the issue of validity, the average time for all ASEAN countries is between 6 months to 2 years with the possibility of extension. It can be seen however that Viet Nam extends its work permit for 6 years before expiry.

Applicants of temporary work permits must also secure several important documents to support his/her stay in a country. The Appendix shows that these are important requirements for the issuance of a work permit. The other requirements include: (1) visa, (2) medical certificate, & (3) police clearance. Moreover, almost all the ASEAN countries require these things before an applicant can work.

Another thing that an applicant must consider applying for a work permit is the equivalent cost of his/her application. There are costs that need to be shouldered by the worker before he/she can procure a work permit. These costs include taxes, levies, bonds, and other pre-employment requirements depending on the host country. There are some countries, however, that do not charge any tax or levies to workers. Provided that the worker must be able to comply to the standards and requirements set by the host country.

In terms of concessions, there are several ASEAN countries like Singapore, Malaysia, & Brunei have concessions with ASEAN nationals. Like for the case of Singapore, the S\$5,000 security bond is waived for Malaysian workers. In Malaysia, on the other hand, it indicated countries that could only work for the unskilled/semiskilled bracket while Brunei offers exemption to Singapore and Malaysian Nationals in their application for a work permit.

The final part of the table offers different comments regarding the work permit regimes of a certain ASEAN country. It shows the advantages and disadvantages that each ASEAN country's policy towards temporary workers, which could either facilitate or impede workers' entry into the country. The common disadvantages mentioned in each ASEAN country is the relatively high cost of application and other requirements that need to be addressed by the applicant.

C. Management of temporary migration in the region

The third component in the labor market perspective in the flow of human resources refers to the management of temporary labor migration in the ASEAN region. The topics that will be discussed in this section are (1) objectives of the country's temporary labor migration programs; (2) the key government agencies that are responsible in the management of the flow of temporary workers; (3) taxes levies, and other fees that are imposed to an outgoing and incoming applicant worker; (4) impact of temporary labor migration and other issues; and (5) the issue regarding protection of temporary workers abroad.

The overall objectives of temporary labor migration differ from the views of sending countries from the receiving countries. Many of the sending countries use overseas employment to address growing unemployment domestically, provide an alternative of improving the standard of living for their citizens, generate foreign exchange, and protection of their workers. On the other hand, for receiving countries, their objectives include addressing the shortages in the labor market, mitigating the impact of uncontrolled inflows of temporary workers especially the unskilled ones, and supporting the skilled human resource requirements of foreign direct investments.

Since the management of temporary labor migration is a comprehensive program that covers issues on awareness, recruitment, placement, protection and return, many government agencies are involved. Aside from the Ministry of Labor, other pertinent agencies included are Immigration Department, Ministry of Home Affairs and Ministry of Foreign Affairs. It can be seen that there is a collaboration among various agencies of the government so as to help consolidate efforts for an easier management of temporary workers abroad.

The third element of the management of temporary labor migration refers to the imposition of fees on the incoming and outgoing worker. For receiving countries, they have used variable levies paid by the employers on various types of occupational categories and economic sectors. Usually, since unskilled workers are less preferred in these countries, they impose higher levies on unskilled workers and sometimes no levy on highly skilled professional. For sending countries, there are no taxes imposed but outbound workers are required to contribute to a welfare fund for their insurance, protection and support upon return.

The fourth element refers to the economic and social impact of overseas employment. The effects and issues of temporary labor migration differ whether a country is sending or receiving. For sending countries, the issue of exploitation of workers, high cost of migration, and protection are very prominent. On the receiving countries, the issue of dependence on foreign workers, the economic and social impact of unskilled workers and irregular migrants, and the displacement of local workers and

professionals are some of the reasons why these countries are imposing strict rules and regulations on the entry of foreign workers.

The last element of the management program is the protection of temporary workers. It can be seen that the different ASEAN states have their own institutions and agencies that foster the welfare and protection of temporary workers. These agencies are either supported by legislation or by a consolidated effort of different welfare groups to help promote fair and equal treatment to temporary workers abroad. Furthermore, these agencies and institutions see to it that the temporary worker is given the equal opportunity like the nationals of the receiving state is getting in terms of healthcare, working environment, and other social services.

The following section is a detailed discussion of the elements of the management of temporary labor migration from the perspective of selected countries in the ASEAN.

Brunei

The sultanate has been an attractive destination for foreign workers particularly skilled and professionals given the absence of income tax, free housing, provision for accessible education and medical services and high wage levels. Aside from these pull factors, the government has programs that emphasize the significant role of foreign workers in the development of this tiny state.

According Immigration and National Registration Department foreigners who intend to work in Brunei must have valid employment visas with the exception of Malaysians and Singaporeans workers. The functions of the department which is under the Ministry of Home Affairs is to *“control and regulate movement of foreigners into and out of the country so as to safeguard without jeopardizing the national interest in respect of security, economy, social, religion and culture as well as to support the Government aspiration to promote investment and tourism”*.

The employer must have a quota license issued by the Labor Department. Issued work permits last from two to three years which can be extended for another two to three years provided the foreign worker returns home at the end of the work permit. Additionally, a pre-requisite for the approval of the work permit includes a cash deposit or bank guarantee to cover a one-way fare to the worker's home country. A Smart Identity Card (Green) is also issued to any foreigner staying in the country for more than three months.

As a result of the country's heavy dependence on foreign workers, various aspects of national interest including security, economy society and culture may be made vulnerable. Other issues on temporary labor migration include the preferential treatment given to Malaysian and Singaporean workers, the cost implication of requiring foreign workers to return home after the completion of the initial contract as a requisite for renewal, and the bureaucratic procedures in the issuance of labor permit and work permit by different departments within the same Ministry of Home Affairs.

Indonesia

Indonesians have been going to various capitals in the region to work for many years now, and the country has been a major global source of overseas workers. Most legal temporary labor migration is processed through the role of agents who are involved in recruitment, placement and travel arrangements of overseas workers. The government has recognized the importance of overseas employment as an alternative avenue for improving its citizens' economic conditions immediately after the economic crisis that hit the country in late 1990's.

This recognition compelled the Department of Labor to address the problems of costly migration, inadequate information, and the rise of irregular temporary workers. The government has initiated various programs that provide accurate and timely information to potential overseas workers on potential markets and compensation in destination countries; reduce the cost of processing placement for overseas employment by simplification and reduction of processing time; and through the decentralization of processing migration papers. To reduce the cost and the number of irregular overseas workers, the government has been trying to control the recruiters and middlemen so that commission, travel and recruitment costs become reasonable.

Aside from a global source of overseas workers, Indonesia is also a host country to a growing number of skilled technicians and professional workers. Because of the inflows and dominance of foreign workers in the domestic market, regulations have been tightened on the entry of these foreign workers. Some of the regulations incorporated in the country's Manpower Act 25 include the obligation of employer to obtain a written permission from the pertinent government agency in hiring expatriates, prohibition of individual job providers in employing expatriates, limitation on positions, and limitation on the period of employment for expatriates.

The government has made it a policy that the employment of expatriates should be aligned with the objectives of the country for national development. Companies wishing to employ foreign workers must submit an Expatriate Placement Plan, RPTKA - Rencana Penempatan Tenaga Kerja Asing- to the Manpower Department if the employing company is a domestic company; or to the BKPM (Investment Coordinating Board) if the company is a foreign investment company. For foreign investments, work permits for foreigners in senior positions can be granted for 3 years and can be renewed. Other position slots in the RPTKA are only for one year and can be renewed annually, usually up to a fixed number of years.

Companies employing foreigners are charged USD100/month per expatriate employee to offset the costs of training Indonesian nationals. Payment of the Skill & Development Fund (DPKK) fee must be for one whole year before work permit is granted.

The country also implements an economic needs test in hiring foreigners other than directors. Because the government wants to limit the entry of foreign workers to

experts, and because there is a high unemployment rate for local workers, the foreigner's expertise must be proven and must be aligned with the objectives of national development (Expat, 2006).

Malaysia

The rapid progress achieved by the Malaysian economy in recent decades has created greater productive activities and higher standards of living for its citizens. Accompanying this economic growth is the increase in the demand for various types of labor services. Excess demand for labor became evident as Malaysians sought higher paying jobs in the formal sector and forcing the government to open the borders to foreign unskilled workers for the dirty, difficult and dangerous jobs

Malaysia has pursued liberal policies for foreign workers especially those accompanying foreign direct investments. However, policies toward the admission of professionals in other segments of the economy have been less open. In 1970's, the country allowed a significant number of unskilled migrant workers, particularly from Indonesia, into the rural public works programs. Because of the lenient enforcement of rules on the inflow of unskilled workers, a large number of undocumented migrants have emerged.

Foreigners working in Malaysia are usually given one of any three work visas: employment pass, temporary employment visit pass, or professional visit pass depending on the type of work they will perform inside the country. An employment pass is given to investors, skilled workers, professionals, and senior managers with a minimum period of 2 years. The temporary employment visit pass is given to unskilled and semi-skilled workers in the manufacturing, construction, and service fields for 3 years but can be extended on a year to year basis. The professional visit pass is given to technical experts, including experts in the installation of machinery, and technical trainees for a short-term basis (Littler Global, 2006).

After the issuance of an entry visa, a foreign worker through a sponsoring company has to undergo a series of labor market tests to determine whether there are no available Malaysians who can perform the services or skills of foreign workers. After passing these tests, the Malaysian Immigration Department will issue an employment pass to the foreign worker. However, employment permits are employer specific and foreign workers cannot change employers without notifying the Immigration Department (Littler Global, 2006).

Despite these stringent rules, many workers from neighboring Indonesia and Philippines are still attracted to seek employment in Malaysia. As mentioned earlier, the relatively rapid economic growth experienced by the country together with the labor protection policies for foreign temporary workers are making Malaysia an attractive destination for overseas employment. However, with the impact of the global economic slowdown and the financial crisis on domestic unemployment, the government has renewed its campaign on irregular workers by repatriating them to their home countries. Amendments to the Immigration Act and other new laws were aimed at limiting the

influx of irregular migrants. These laws and policies are geared at minimizing the inflow of foreign labor and providing more jobs for the domestic labor instead.

Malaysia also imposes a migrant levy for various categories of unskilled workers. The country has actually placed major restrictions on the sectors that are open for employment of foreign workers including agriculture, manufacturing, construction, domestic help and selected services. It has been noted that foreign workers are specifically not allowed to work in 136 occupations including semi-skilled jobs like welders, fitters, taxi drivers, and the likes.

Philippines

As a matter of policy, the Philippine government seeks to manage overseas employment as consistent as possible with national development objectives. The advancement of the rights, welfare, and interests of overseas Filipinos continue to be a major thrust of the country's foreign policy.

While the objectives of the initial overseas employment program were to mitigate the high unemployment problem and generate foreign exchange, the policy has long been abandoned by the Migrant Workers and Overseas Filipinos Act of 1995 (R.A. 8042) which is anchored on the philosophy of providing a higher standard of protection for OFWs. (Tullao & Cortez, 2004b)

This legislation has been the basis for the government's role in licensing and regulation of recruitment agencies for overseas employment. Before any foreign employer can recruit Filipino workers, accreditation is required to ascertain the existence of the principal/project and its manpower requirement. The Philippine Overseas Employment Administration (POEA) grants licenses to recruitment agencies, regulates and monitors their performance, and prosecutes illegal recruiters. Also, it regulates the placement fees which recruiting agencies may charge.

The Philippine migration management program covers documentation, protection, social services, and human resources development involving fourteen government agencies including the Department of Foreign Affairs (DFA), Department of Labor and Employment (DOLE), Philippine Overseas Employment Administration (POEA), Overseas Workers Welfare Administration (OWWA)..

To ensure that all private entities wishing to engage in the manpower business supply are well equipped, recruiters are required to enter into escrow agreements in the amount of PhP1 million (equivalent to almost USD 20,000) aside from providing proof of financial capacity with a minimum capitalization of PhP2 million (equivalent to almost USD 40,000).

For skilled and professional workers various documents are required including original and photocopy of employment contract duly signed by the employer and worker, work permit, visa or equivalent document; photocopy of valid passport. After evaluation the following documents are required including medical referral form, pre-departure

orientation referral, employer compliance form if there are deficient provisions, sworn statement if documents are unverified and if there are waivers in the employment contract provisions.

For household workers, several initial documents are required including employment contract signed by the worker and employer, work permit, visa or equivalent document, valid passport, medical certificate, personal accident insurance (for family drivers bound for the Middle East), verified ticket exchange voucher or booking certificate (for Hong Kong & Singapore), and request from the direct hiring policy issued by the labor attaché (for direct hires).

For the protection of temporary workers, mandatory life and personal accident protection are provided to all departing OWWA-registered and documented OFWs on a per contract basis. In addition to this, an OFW Flexi-Fund Program was also introduced to serve as a retirement protection scheme and can be treated as part of OFWs future investments that will ensure them a more secured future. OWWA members are entitled to life insurance, disability and dismemberment benefits, total disability benefit and burial benefit. Repatriation programs provided by OWWA cover scholarship programs, skills for employment, education for development, and seafarers' upgrading program. Lastly, bilateral agreements concerning land-based workers for better terms and conditions are continuously being pursued.

Singapore

Because of a shortage of labor, approximately 30 percent of the labor force of Singapore is sourced externally from unskilled workers coming from neighboring Asian countries to highly skilled professionals from developed economies. The country has adopted a guest worker system in implementing its demand-driven system of temporary migration. Singapore has a relatively liberal policy on the entry of foreign workers especially highly skilled and those employed or attached with FDI under its Foreign Talents Policy. The policy offers employers tax rebates to cover relocation and recruitment costs for attracting highly skilled foreign professionals.

The general policy of Singapore's demand-driven system of migration is guided by several objectives. The entry of foreign workers is permitted under the principle of supplementing domestic market. There is a labor market test in hiring foreign workers. Preference is given to domestic workers and foreign workers are hired on a supplementary basis and at placed at a minimum.

In addition, because they do not encourage the permanent settlement of unskilled and low-skilled workers, the government has instituted various measures to control the entry of unskilled workers including the prevention of irregular migration through bilateral agreements, imposition of variable migrant levies, and the strict implementation of the limitation on the period of employment under work contracts. The policy also provides equal treatment of local and foreign workers as regards protection and application of labor laws.

Lastly, the entry of foreign workers should not undermine the objective of Singapore to have competitive firms and industries through industrial restructuring.

Although Singapore does have a relatively open policy to foreign employees in accompanying foreign direct investments (FDI), there are still certain barriers to the easy entry of foreign laborers in the country. Entering nurses and medical doctors are limited to a temporary entry only (temporary labor migration). Another restraining factor is the fact that the Singapore government imposes a levy on the employment of foreigners with work permit. The levy is to encourage employers to seek domestic workers and make hiring foreign workers prohibitive. The levy varies from industry and by type of workers. Higher levies are imposed on unskilled worker and no levy is placed on the employment of a highly skilled professional.

Thailand

Thailand has a unique position in the temporary labor migration map. It is both a major labor sending and labor receiving country. Many of its workers have found employment in Singapore, Malaysia, Brunei, Taiwan, South Korea and Japan. However, because it shares common borders with some low income ASEAN countries, workers from Laos and Myanmar seek employment in Thailand's border cities.

For the outflow management of temporary labor migration, the government together with several NGOs and other workers networks conduct pre-departure education and awareness programs to orient overseas workers on the working and living conditions in their destination countries. The Ministry of Labor has also assigned an office dedicated for migrant affairs. Moreover, part of the government's temporary labor migration management program is the monitoring of the recruitment processes. The government issues licenses to recruiters to improve the transparency in processing migration papers, to ensure the placement of overseas employment, to reduce the cost of migration and to prevent abuses and irregular migration. The government has also instructed its embassies abroad to take care of Thai overseas workers in their jurisdiction.

For the management of in-bound foreign workers to Thailand, the government has streamlined its regulations in hiring migrants from neighboring countries. It continues to monitor the regulations and laws protecting the human and labor rights of migrant workers in the kingdom. To discourage irregular migration, there is a proposal to tax illegal migrants from Myanmar and remit the money to Myanmar for the latter to accept the re-entry of illegal migrants.

A major component in the management program of the inflows of foreign workers is the role of non-government organizations and other network groups. Since many of the human flows crossing Thailand are unskilled workers with no travel documents, they are often neglected by government agencies in the provision of basic services. The role of NGOs is to fill in the gap left by the government in terms of primary health and workers rights. In addition, these NGOs coordinate with financial institutions to provide

accessible, reliable, efficient and cheap avenues in sending remittances to their home countries (Charupa & Musicpunth 2006).

Because of the problems caused by the enormous transit of people who became have irregular migrants, the Thai Cabinet in a 2004 resolution has emphasized several strategies to address these concerns. Among the programs being proposed include the establishment of migration workers employment system by allowing all illegal migrants to apply for temporary legal status, to ensure equivalence in employment standards with the local workers, to control illegal migration at the border, to suppress all involved in illegal migration movement, and to repatriate illegal migrants, and others. (Charupa & Musicpunth, 2006)

Viet Nam

In the 1990s, the government introduced a series of policies to institutionalize and regulate labor export as part of a longer-term strategy to help alleviate unemployment and increase the income of Vietnamese workers. This resulted in rapid increases in the number of workers, both professionals and unskilled, seeking overseas employment. Between 1991 and 2000, the deployment of documented workers abroad increased 28 folds as Viet Nam sent a total of 120,000 workers abroad.

Starting in 1992, state-owned companies with operation licenses were permitted to send workers to other countries based on employment contracts. In subsequent years, the government reiterated its recognition of the importance of temporary labor migration by issuing a policy statement calling for expansion and diversification of export of labor services, setting up procedures and mechanisms outlining the responsibilities of placement agencies and requiring migrant workers to attend vocational skills training prior to overseas deployment.

The Ministry of Labor, Invalids and Social Affairs (MOLISA) is the lead Vietnamese government agency on labor issues, including job creation and training, labor management relations, wages and hours of work, occupational safety and health, and social insurance. Placement agencies—the majority of whom are government-regulated—need to comply by the guidelines set and must have an office at the country of destination. Agencies must inform workers/applicants clearly of expected living and working conditions, responsibilities they must fulfill, and laws and culture that they will encounter in the receiving country. They should also submit all necessary documentation to MOLISA and ensure that each applicant / migrant worker has the relevant insurance.

Vietnamese migrants who are often employed in low-skilled, low-paying jobs tend to be the most vulnerable class of employees. These workers are often handicapped by inadequate training and language skills, face discrimination in pay and other employment conditions, lack legal protection, and are sometimes victims of intolerant harassment.

In order to promote welfare protection for Vietnamese temporary labor migrants, the Vietnamese embassies all over the globe are required to protect Vietnamese overseas workers. Another set of policies proposed in the National Assembly for the protection of Vietnamese workers abroad include a stricter monitoring on labor agencies, procedures for sending workers abroad and workers abroad who plan to return home. Labor agencies would be the one to be held liable for workers who do not finish their contract. Returning workers who are not successful abroad are given financial assistance to invest in production units and other businesses. Local governments often collaborate with NGOs to provide support to returning workers in the form of vocational training, farmland, or capital for micro-credit loans.

Viet Nam also has a set of policies governing the inflow of foreign workers. Given the shortage of management and technical skills in the Vietnamese economy, the control of access to expatriate workers is an important issue. Both firms with direct foreign investment and local firms have the right to hire foreign workers and overseas Vietnamese. However, this right is limited in time and tightly regulated. Prior to 2000, the maximum period of employment for a temporary worker is limited to three years.

There are procedures to be followed by foreign firms in hiring foreign workers including foreign labor requirements in their investment plan, approval of the plan by the Ministry of Planning and Investment, and the hiring of foreign workers with limitation on period of engagement. The government also requires the inclusion of a training program for Vietnamese workers.

However, since 2000, policies on the entry of foreign expatriates particularly the issuance of work permits have been rationalized and liberalized, some of the major changes include the elimination of work permit fees, extension of maximum period of engagement to six years, non-insistence on training Vietnamese workers to replace expatriates, exempting a number of categories where work permit is not required for foreign workers, reduction of the processing of the issuance of work permits from 45 days to 15 days, and reduction in bureaucratic red tape.

VI. Facilitating and restricting factors affecting the MNP in the region

A. Trade negotiation perspective

1. Liberalization measures in AFAS

The ASEAN Framework Agreement on Services (AFAS) has been forged by member countries to facilitate trade in services and contribute to greater economic integration in the region. After a decade of its implementation, mixed results have been found on its performance relative to its intended objectives. One of the encouraging contributions of AFAS is the fact that it has expanded the coverage of liberalization compared with the liberalization measures committed by ASEAN countries in WTO. In

particular, ASEAN member countries have made 50 percent more commitments under the AFAS than under the GATS. In addition, the level of restrictiveness in intra-ASEAN trade in services has been reduced since the implementation of the AFAS.

Although these are positive developments that may impact in enhancing economic integration and hopefully the movement of natural persons, the expanded coverage of services liberalization under AFAS has to be viewed in the light of the marginal increases in preferential treatment by the key services economies in the region including Singapore, Malaysia and Thailand. Moreover, although intra-ASEAN trade restrictiveness has fallen compared with extra-ASEAN trade restrictiveness, the extent of difference between intra-ASEAN and extra-ASEAN trade restrictiveness has been marginal for the three major services economies in the region (Thanh and Bartlett, 2006).

The AFAS has also made moderate progress in improving transparency and predictability in trade in services especially in cross border transactions and consumption abroad supply modes. However, almost two-thirds of the commitments made by ASEAN member countries under various sectors and modes are still unbound commitments. Many restrictions are still in place under commercial presence and movement of natural persons.

Future rounds of negotiations under the AFAS should focus on reducing the unbound commitments in various sectors and modes of supply and in reducing the restrictions under Mode 3 and Mode 4. Since movement of natural persons is linked with commercial presence, further liberalization in Mode 3 will have an indirect effect in enhancing the movement of natural persons in the region.

2. Measures in addressing the regulatory differences

Domestic regulations are made to protect the consumers in the light of asymmetric information between service providers and consumers. Since trade in services involves the transfer of either the producer or consumer across boundaries to provide or consume services, trade may be hampered as a result of differences in the regulatory environments governing the provision of services between borders.

If regulatory differences across the region are rooted on inadequate information and regulatory capture, then it is imperative that countries pursue measures towards regulatory homogeneity for trade in services to expand. There are three ways of addressing regulatory heterogeneity arising from inadequate information and capture: regulatory convergence, mutual recognition, and regulatory harmonization.

Under regulatory convergence, countries are allowed to maintain their autonomy in pursuing different regulatory policies but they are likewise tempered by exercising self-restraints in order to make regulations converge regionally. Specifically, regulatory convergence is made possible by any of the following measures: strict implementation of non-discrimination on market access and national treatment, application of the “sham

principle” to review regulations that are suspect, transparency in the disclosure of regulations, and the application of the generality requirements and the least restrictive means.²

The second avenue in addressing regulatory differences is through mutual recognition. The avenue of mutual recognition allows for the continuance of different regulatory environments across boundaries but countries agree to set up a system of accreditation and mechanisms for equivalency in recognizing inter-country differences in education and training, experience, standards, and licensing requirements for the practice of professions. Thus, trade in services is not hampered since a qualified service provider who has been certified in his home territory can easily render service in another territory since his qualifications are likewise recognized in another territory through the process of mutual recognition.

The third option towards regulatory homogeneity is regulatory harmonization. In this case, countries will have to surrender their autonomy in defining their regulatory framework. Instead, they all accede with an integrated regulatory framework formulated for universal application in all member countries. This avenue is ideal if the objective is to attain transparency and predictability towards enhanced trade in services. However, it may be difficult to achieve given the various factors that determine inter-country differences in domestic regulation. In particular, countries may also be reluctant to surrender their independence in crafting their regulatory policies that reflect historical, cultural, political and economic internal interests.

The experience of AFAS in addressing regulatory differences is very modest. Although the agreement have set requirements to improve transparency in their domestic regulations, and member countries are obligated to explain the reasons for restrictions and non-commitment in cross border transactions and consumption abroad, regulatory convergence is minimal given that the generality requirements and least restrictive means are sparsely applied.

In terms of mutual recognition, ASEAN member countries are very slow in the concluding mutual recognition arrangements. Only an MRA in engineering has been established to date. The MRA in nursing is still under negotiations and plans for mutual recognition arrangements in other sectors including architecture, accounting and land

² These measures on regulatory convergence fall under “policed decentralization that allows members of an international agreement to maintain their regulations while at the same time requiring them to self-impose a number of constraints on those policies to reduce their adverse impact on trade. These constraints are as follows: (1) non-discrimination requirements based on national treatment and most favored principles, (2) the application of the sham principle in reviewing regulations for improper motive. Sham arises when the alleged objectives of regulations are found to be devious and the real intention is to be protectionists, (3) transparency requirements including requirements for notice and comment prior to the issuance and implementation of new regulations, regulations to be published promptly in an accessible forum, and establishing enquiry points where interested parties can get official information on regulations, (4) generality requirements and the least restrictive means, aim to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services” (Thanh and Bartlett 2006).

surveying are still under discussions and planned to be completed for 2008 (Thanh and Bartlett, 2006).

3. Extension of preferential arrangements in AFAS

At the bilateral level, some countries offer concessions to other member countries that enhance the movement of natural persons. In particular, the preferential treatment of Brunei extended to Singaporean and Malaysians workers by excepting them from an employment visa which is a requirement for all foreigners seeking employment in the sultanate. In the U.S.-Singapore Free Trade Agreement, the U.S. grants immediate national treatment in substantially all services and exempts Singaporean business visitors to engage in business activities without the need for a labor market test. It has liberalized the movement of natural persons by requiring that “*a party shall not as a condition for temporary entry, require prior approval procedures, petitions, labor certification tests, or other procedures of similar effect; or impose or maintain any numerical restriction to temporary entry*”.

If these examples of preferential treatment can be extended to other ASEAN member countries, the movement of natural persons can be enhanced. This may be difficult as it opens the floodgates in receiving countries that may jeopardize their objective of tempering the flows of foreign workers. Aside from historical reasons, it is easy for Brunei to extend this preferential treatment because Singapore and Malaysia are also net importers of labor in the region and they like to attract the highly skilled professionals from Singapore. In the same light, Singapore gives preferential treatment to U.S. nationals because it is consistent with its Foreign Talents Policy of attracting skilled professionals.

B. Labor market perspective

1. Economic dynamism in the region

The economic dynamism in the region in the past decades have significantly improved the incomes of peoples, improved their standard of living, expanded trade, attracted foreign investments and stimulated the flow of people across the region. Continuing this economic dynamism will further expand the flows of human resources.

Aside from economic growth, the forces of globalization, the rise of information and communications technology and stiff competition among firms are also market driven factors that can influence the flow of human resources across the region. Countries have liberalized their trade and investment regimes as responses to these forces. A substantial rise in foreign direct investments and global production networks in the region have been observed in recent years. This expansion in FDI has likewise brought greater traffic of skilled and professionals manpower to accompany these foreign investments.

2. Pressures of economic and demographic asymmetries

The economic dynamism in the region has heightened the economic and demographic asymmetries among the countries. In net importers of labor services in the region, aside from substantial improvements in income, the ageing population and the demographic dividends have put enough pressure on the domestic labor market to source overseas manpower not only for skilled and professional slots but also for jobs that are considered dirty, difficult and dangerous.

On the other hand, workers in the sending countries are attracted by the high paying jobs in economically advanced countries and the possibility of improving their standard of living through the remittances that they can send to their dependent families. Moreover, domestic economic problems and rapid population growth further delay the internal resolution of the chronic unemployment problem. These factors can push people to seek employment overseas.

3. Stringent immigration policies and pre-employment policies

Although countries experiencing labor shortages have opened their labor markets to foreign workers, they tend to be discriminating in the type of workers that they allow to enter. To this end, they have used their immigration and pre-employment policies to limit the entry of certain types of workers. Singapore gives incentives to employers in hiring highly skilled professionals and imposes heavy levies on unskilled workers in less preferred industries and sectors. Brunei, which is almost 75 percent dependent on foreign work force has to balance the need for foreign manpower and the need to maintain national security. In Viet Nam, the issuance of work permits has been rationalized to attract FDI and highly skilled foreign workers. The government has eliminated work permit fees, extended the period of engagement, and removed the requirement of local workers.

VII. Conclusion and recommendations

The overall objective of enhancing movement of natural persons in the region is to expand and deepen regional economic integration. However, there are two major means of achieving this expansion in the movement of natural persons, through trade negotiations and through the mechanism of the labor market.

On the trade negotiation perspective, numerous regional agreements have been crafted in the past that were aimed at enhancing intra-ASEAN cooperation in trade in commodities, investment and trade in services. Sometimes, the commitments of member countries in these regional accords reflect domestic interests. Thus, the extent to which these regional arrangements have realized their intended objectives depended on the degree to which regional goals prevailed over domestic political and economic interests in member countries.

As can be seen in the accomplishments of the ASEAN Framework Agreement on Services (AFAS), its impact in MNP is very limited. The commitments of member countries under the AFAS are similar to their commitments under the GATS. In particular, the movement of natural persons or mode 4 is intimately linked with mode 3 or commercial presence with the frequency of intra-corporate transfers of managers, professionals and technical staff of transnational corporations. There are also substantial limitations on market access and national treatment that restrict the flow of professionals across the region. These limitations are reinforced by domestic regulations governing the practice of professions in many member countries.

A number of reasons have been cited for this dismal impact including lack of transparency, continuance of regulatory heterogeneity and to some extent the apprehension of member countries in making bound commitments in international accords.

It does not mean, however, that movement of natural persons and regional flow of workers and human resources will not proceed because of the inadequacies of institutional drivers. Another major explanation on the regional movement of workers can be traced on the member countries management of temporary labor migration. These human flows are not influenced by regional agreements or by the huge flows of foreign direct investments but as a legitimate response to the labor market asymmetries in the region.

These market drivers will pressure countries to open up their economies to workers. From this perspective, sending countries are pressured to open up or face the consequences of shortages of labor. They could become uncompetitive in the future and the sustainability of their economic dynamism experienced in recent decades could be threatened. For sending countries, the teeming number of surplus workers will also

pressure them to seek bilateral or regional accords that will facilitate entry and employment of their surplus human resources in neighboring countries.

However, due to costly restrictions in immigration, pre-employment requirements, and other domestic policies, the optimal flows of foreign workers is not realized and many of these workers become irregular migrants and are subjected to exploitation and unfavorable working conditions.

The movement of natural persons in the region has been substantial over the years given the impact of globalization, liberalization measures under the AFAS and demographic asymmetries on regional labor markets. Regional movement of workers whether influenced by trade arrangements or by the labor market asymmetries can be a potent avenue for enhancing the formation of an ASEAN economic community.

To this end there is need for regional cooperation to enhance the regional flow of workers in order to realize the positive contributions of the movement of foreign workers on regional output and employment. The following specific proposals are recommended that will address the issues raised in this paper.

A. Establishment of mutual recognition agreements

Since the practice of professions has domestic regulatory implications, there is a need to evaluate the capability of the service provider to render the services in order to safeguard public interest and the welfare of the consumers. If a certification process is done for domestic service providers, it should also be done for foreign service providers as part of the regulatory function of governments. Once an MRA is established, it will be easier for professionals to move within the coverage of the MRA.

At the regional level, improvements in market access on the movement of natural persons can proceed through the establishment of MRAs on specific professions and occupations. Since MRAs are difficult, lengthy and tedious to undertake at the multilateral level, a bilateral or a regional MRA may be more practicable and feasible that can contribute positively to the liberalization of the movement of natural persons at least at the regional level.

B. Lifting market access and national treatment limitations

Limited market access, national treatment and preference for traditional sources of supply impede further trade in services through the movement of natural persons. The commitment of ASEAN countries reflected various measures that limit market access and preferential treatment to traditional suppliers of labor. Since not much commitment can be seen in the AFAS framework, the GATS framework could not be advanced due to these limitations.

Future rounds of negotiations under the AFAS should focus on reducing the unbound commitments in various sectors and modes of supply and in reducing the restrictions under Mode 3 and Mode 4. Since movement of natural persons is linked with commercial presence, further liberalization in Mode 3 will have an indirect effect in enhancing the movement of natural persons in the region.

C. De-linking of mode 4 from mode 3 in trade accords

Most of the proposed commitments by ASEAN member countries on the movement of natural persons are reflective of the global notion that mode 4 is linked with mode 3 or commercial presence. Developing countries have been arguing that mode 4 should be seen and taken as a separate modality.

However, developed countries committed to mode 4 in order to simply facilitate their intra-corporate transferees at senior levels and highly skilled professionals and specialists, which is clearly linked to commercial presence. In this light, since movement of capital is a major interest for developed countries, these countries are the ones that will benefit from the implementation of mode 4. Developed countries, on the other hand, have surplus labor and act as the major suppliers of overseas workers globally. Mode 4 will only be meaningful for developing countries if it is de-linked from mode 3. Notwithstanding immigration policies and regulations of labor receiving countries, mode 4 should allow the movement of individual professionals and service providers independent of corporate presence.

D. Move towards regulatory homogeneity

Specific sector commitment would entail liberalization of domestic regulations. As mentioned, this can be attained through regulatory convergence, mutual recognition and regulatory harmonization. The last option which is equivalent to regulatory integration is more difficult to achieve.

The increasing openness to business services, architectural, auditing, accounting, bookkeeping, construction, engineering, market research, translation, banking and finance, maritime, telecommunication, and tourism services would require liberalization of domestic regulations. Member countries would have to make adjustment mechanisms to facilitate opening up these committed sectors.

E. Liberalization measures or management of temporary migration

Most proposed commitments in the AFAS contained provisions naturally subjecting foreign workers to immigration laws and labor market tests. These are already in place and regulate the flow of intra-corporate transferees. However, deeper commitments and greater liberalization are challenges to facilitate the freer movement of workers from the point of view of developing countries.

If trade accords cannot enhance freer movement of human resources, then the market perspective can be used to this end. Exploiting the opportunities offered by the labor markets, bilateral labor agreements should be pursued by concerned countries to manage inflows and protect the overseas workers.

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Appendices

Appendix A
TEMPORARY WORKER VISA REQUIREMENTS
BRUNEI

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|--|---|-------------------------|--|---|
| <p>Professional/ Business Visit Visa -the application is required to lodge the visa application personally to the visa section of the department</p> | <p>Length of validity of visa is 3 months</p> | <p>1-3 working days</p> | <p>Single Entry B\$ 20.00</p> <p>Multiple Entry B\$ 30.00 (for less than 3 months)</p> <p>B\$ 50.00 (for more than 3 months)</p> | <p>A person should have a valid passport/travel document recognized by the Brunei Director of Immigration and National Registration.</p> <p>The passport must have a validity of 6 months before entering the country.</p> <p>The following countries stated below are exempted from the requirement for social, business, or professional visits of certain periods</p> <p>Canada, Denmark, France, Japan, Liechtenstein, Luxembourg, Belgium, Switzerland, Sweden, The Republic of Maldives, Norway, Indonesia and Thailand, the Philippines – 14 days</p> <p>Malaysia, The Netherlands, South Korea, Singapore, Germany, New Zealand, United Kingdom – 30 days</p> <p>United States – 90 days</p> <p>Professional Visa – recognized passport must have a validity of 6 months before entering the country</p> <p>Introductory or sponsorship letters from associated companies, business representatives, government agencies or other authority</p> <p>Two passport-size photograph</p> |

Tabulated by the authors from various sources

Appendix B
TEMPORARY WORKER VISA REQUIREMENTS
CAMBODIA

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|----------------------|-----------------|-------------------|-------------|---|
| Business Visa | | | | <p>Business Visa Submit your U.S. Passport, signed and valid 6 months beyond intended stay</p> <p>1 Visa Application Form, fully completed and signed</p> <p>1 recent Passport-type Photograph</p> <p>1 Recent Passport-Type Photograph</p> <p>Completed Cover Page (print from browser)</p> <p>Copy of travel itinerary</p> <p>A business letter of financial responsibility is required, to be written on company letterhead, and addressed to: "Embassy of Cambodia, Visa Section, Washington D.C." The letter must explain the purpose of travel and duties to be performed in Cambodia and guarantee financial support for the administration fee does not guarantee that the application would be successful.</p> |

Appendix C
TEMPORARY WORKER VISA REQUIREMENTS
INDONESIA

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|--|---|---|--|--|
| <p>BUSINESS SINGLE ENTRY VISA</p> | <p>A business single entry visa will be issued for up to 60 (sixty) days A single entry business visa is valid if presented within 3 (three) months from the date of issuance. It can be extended in Indonesia and can be converted into Temporary Stay Visa. Holders of certain types of business visa may be able to work in Indonesia if they possess a working permit from the relevant institutions in Indonesia. Several other types are strictly classified as 'business not to work', including Journalist Visa.</p> | <p>Visa fee A\$ 60.00 and has to be made in money order or company cheque payable to the Indonesian</p> | <p>It requires at least 3 (three) working days to process the visa</p> | <p>BUSINESS SINGLE ENTRY VISA-Application form must be completed in duplicate with two passport size photographs (2X2 inch). 2. Passport must be valid for at least 6 (six) months after the date of entry. 3. A covering letter from the Company in Australia and or the counterpart in Indonesia explaining the position of the applicant, the purpose of visit and duration of stay. If deemed necessary, a guarantee of the availability of funds to cover living expenses while in Indonesia. 4. A business single entry visa will be issued for up to 60 (sixty) days. 5. A copy of the airline ticket/itinerary from the travel agent. 6. Visa fee A\$ 60.00 and has to be made in money order or company cheque payable to the Indonesian Embassy. 7. It requires at least 3 (three) working days to process the visa. 8. Payment of the visa administration fee does not guarantee that the application will be successful</p> <p>MULTIPLE ENTRY BUSINESS VISA - Application form must be completed in duplicate with two passport size photographs (2X2 inch). 2.Passport must be valid for</p> |

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| | | | | <p>at least 18 (eighteen) months after the date of entry.</p> <p>3A covering letter from the Company in Australia and a sponsoring letter from the company or counterpart in Indonesia explaining the position of the applicant, the purpose of visit and duration of stay. If deemed necessary, a guarantee of the availability of funds to cover living expenses while in Indonesia.</p> <p>4.A copy of the Airline ticket/Itinerary from the travel agent.</p> <p>5.Visa fee A\$ 165.00 and has to be made in money order or company cheque payable to the Indonesian Embassy.</p> <p>6.It requires at least 3 (three) working days to process the visa.</p> <p>7.Please note that payment of the visa</p> |
|--|--|--|--|---|

Appendix D
TEMPORARY WORKER VISA REQUIREMENTS
LAOS

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|---|--|---|---|--|
| <p>Business Visa Business visas (B2) Business visas are issued to foreign experts and their performing assignments under projects provided by loan agreements and as provided by employment contracts or project wards, to experts and volunteers of Non-governmental Agencies, experts in education and medical sciences generating income for an agency, staff, members of Diplomatic Missions, General Consulates, the United Nations Agencies, and other international organizations holding normal passports from countries or from third countries, as well as foreign business persons.</p> | <p>All types of visas are issued for one entry and must be used within two months of issue date.</p> | <p>Business visas (B2) are subject to the payment of mandatory visa and service fees. Multiple entry visas may be obtained for a period of six (6) months and may be renewed every six (6) months until completion of assignments.</p> | <p>Higher consular fees apply for multiple entry business visa.</p> | <p>For stays exceeding 15 days 2 Visa application forms, fully completed and signed 3 Passport-type photographs Completed Cover Page (print from browser) Submit you Passport, must have at least six months remaining validity and one blank visa page</p> <p>Photocopy of travel agency, or airline itinerary</p> <p>2 visa Application Form, fully completed and signed 3 Passport-type photographs Completed Cover Page (print from browser) Submit your Passport, must have at least six months remaining validity and one blank visa page</p> <p>Your host country in Laos must obtain an approval letter from the Immigration Department in Vientiane, to be sent to the Embassy of Laos in Washington. Process is facilitated if a copy of the letter is submitted with the application</p> <p>Business Visa – Visa authorization is arranged by sponsor in Laos and the embassy can not process visas until it receives authorization or approval from the authorities concerned in Laos. One month for stay (can be extended until completion of your business term)</p> <p>Multiple entry visa – available from the Ministry of Foreign Affairs, Consular Department only.</p> <p>A Laos Business visa is usually issued for a Single Entry within three months from the date of issue for a period of stay not to exceed 30 days. The visa may be extended in Laos for a further 30 days</p> <p>A Multiple-Entry business visa can only be issued after a business joint-venture has been established. Higher consular fees apply.</p> <p>Passport must have at least six months validity remaining and one blank visa page in order for the visa to be issued</p> |

Appendix E
TEMPORARY WORKER VISA REQUIREMENTS
MALAYSIA

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|--|--|---|-------------|--|
| <p>Single Entry Visa Issued to foreign nationals who require a visa to enter Malaysia mainly for social or business visit. This visa is normally valid for a period of 3 months from the date of issue.</p> <p>Multiple Entry Visa Issued to foreign nationals who require visa to enter Malaysia mainly for business or government to governmental matters.</p> <p>Business Visitors</p> | <p>The business Visa validity period is dependent upon the applicant's nationality. While consulates and immigration officers can exercise discretion in determining the length of stay for any visitor, the normal validity for most Business Visas is from 30 – 90 days.</p> <p>A Business Visitor Visa may be extended in Malaysia. The extension may be obtained from the Immigration authorities in Malaysia, prior to the expiration of the initial visa. An extension is discretionary and valid business reasons must be shown in order to extend a stay</p> <p>Maximum Period of Stay as a Business Visitor</p> <p>The Business Visa validity</p> | <p>The Business Visa application process takes three to five business days to complete.</p> | | <p>The following requirements for a Business Visitor Visa are subject to change or modification:</p> <ol style="list-style-type: none"> a) Must have a residence and an employer outside of Malaysia and must be traveling to Malaysia for a defined, limited period, not to exceed the authorized period; b) May not receive compensation from sources within Malaysia; c) Must have proof of adequate funds to defray expenses while on the business visit; d) Must have specific, realistic and predetermined plans for his/her stay in Malaysia; e) The period of stay must be consistent with the intended purpose of the trip. <p>Additional documents</p> <ol style="list-style-type: none"> 1.) valid passport 2.) Completed application form 3.) Letter from employer stating the purpose and length of trip as well as the financial responsibility during the business trip in Malaysia 4.) Proof of legal residence in the country where the application is being submitted 5.) Two passport size photographs 6.) Travel itinerary 7.) Application fee |

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|--|--|--|--|--|
| | <p>period is dependent upon the applicant's nationality. While consulates and immigration officers can exercise discretion in determining the length of stay for any visitor, the normal validity of most Business Visas is from 30 – 90 days.</p> | | | |
|--|--|--|--|--|

Appendix F
TEMPORARY WORKER VISA REQUIREMENTS
MYANMAR

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|--|--|-----------------------|--|---|
| <p>E.V.T (F.I.T) VISA Travelers can easily get this type of visa by applying directly to the Myanmar Consulate or Embassy in country. Now EVT Visa does not have to exchange US\$ 200 upon arrival, a minimum of USD 200 per person or equivalent with Foreign Exchange Certificate 200 Units (called FEC). E.V.T. (PACKAGE) VISA. This type of visa is given to those travelers that have booked a package tour to Myanmar. You do not have to exchange US\$ 200 upon arrival.</p> | <p>Visa valid for 1 year. Maximum duration of stay is 14 Days</p> | <p>5 Working Days</p> | <p>Fee Details: Handling Fee £36.42 Visa Fee £ 200.00</p> <p>Royal Mail Special Delivery next day by 1pm £7.05</p> <p>Total Fee (for one applicant) £243.47</p> | <p>A valid passport with entry visa is required for all visitors. A tourist visa allows a stay of 28 days extendable for an additional 14 days. A business visa allow a stay of 10 weeks, extendable up to 12 months on case-by-case basis. Visa on Arrival is granted on prior arrangement with the Ministry of Hotel and Tourism. Children over seven years of age require a separate visa even traveling on parent's passport.</p> <p>Requirements:</p> <ul style="list-style-type: none"> • Passport (which must be valid 6 months on submission). • 2 Visa application form(s). • 3 Passport photo(s). • Copy or Original letter of invitation. • Copy or Original company letter |
| <p>and E.V.T (PACKAGE) VISA.</p> <p>Business 1 year Multiple Entry</p> | <p>Visa valid for 1 year. Maximum duration of stay is 14 Days</p> | <p>5 Working Days</p> | <p>Fee Details: Handling Fee: £36.42 Visa Fee £100.00</p> <p>Royal Mail Special Delivery next day by 1pm: £7.05</p> <p>Total Fee (for one applicant) £243.47</p> | <ul style="list-style-type: none"> • Passport (which must be valid 6 months on submission). • 2 Visa application form(s). • 3 Passport photo(s). • Copy or Original letter of invitation. • Copy or Original company letter |
| <p>Business 3 Months Single Entry</p> <p>Business 6 Months Multiple Entry</p> | <p>Visa valid for 6 Months. Maximum duration of stay is 14 Days</p> | <p>5 Working Days</p> | <p>Royal Mail Special Delivery next day by 1pm: £7.05</p> <p>Total Fee (for one applicant) £243.47</p> | <ul style="list-style-type: none"> • Passport (which must be valid 6 months on submission). • 2 Visa application form(s). • 3 Passport photo(s). • Copy or Original letter of invitation. • Copy or Original company |

Appendix G
TEMPORARY WORKER VISA REQUIREMENTS
PHILIPPINES

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|--|---|------------|------|---|
| <p>PRE ARRANGED EMPLOYMENT VISA</p> | <p>Nationals from countries listed below who are traveling to the Philippines for business and tourism purposes are allowed to enter the Philippines without visas for a stay not exceeding twenty-one (21) days, provided they hold valid tickets for their return journey to port of origin or next port of destination and their passports valid for a period of at least six (6) months beyond the contemplated period of stay. However, Immigration Officers at ports of entry may exercise their discretion to admit holders of passports valid for at least sixty (60) days beyond the intended period of stay.</p> <p>B. Nationals from the following countries are allowed to enter the Philippines without a visa for a period of twenty one (21) days or less:</p> <p>Passports issued in Macao</p> <p>Holder's of Macau Special Administrative Region (SAR) passports</p> | | | <p>Who can apply? Professors and teacher for educational institutions, doctors and nurses for hospitals, scientists, professionals and other workers for banking commercial, industrial, agricultural and other business enterprises may qualify for this visa.</p> <p>Requirements:</p> <ol style="list-style-type: none"> 1. Letter request from the petitioner-organization 2. General Application Form duly accomplished and notarized (BI Form RBR 98-01) 3. 2x2 picture to be attached to the application form 4. Articles of Incorporation, Bylaws, SEC Certificate of Registration of petitioner 5. Alien Employment Permit (AEP) from the Department of Labor and Employment 6. Income Tax return and proof of payment of taxes by the petitioner 7. Contract or agreement entered into for applicant's service stating term of service and exact compensation and other benefits to be received 8. Bio data of applicant 9. Affidavit of support and guarantee executed by the petitioner in favor of the applicant 10. certificate of Human Resource Director/Personnel Officer as to the number of foreign nationals employed by the petitioner 11. True copy of the applicant's passport showing admission status and updated stay 12. Other supporting documents which will aid in the evaluation of the application <p>If the applicant will be accompanied by his/her spouse and unmarried minor children Marriage Certificate/ Birth Certificate of unmarried minor children if dependents are included in the application True copies of passport of the spouse and unmarried minor children</p> <p>Extension of Prearrange Employee (Commercial)</p> |

Appendix H
TEMPORARY WORKER VISA REQUIREMENTS
SINGAPORE

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|---------------|----------|--|------|--|
| | | <p>The visa processing time is 3-5 days from the receipt of the visa applications, provided that all documents furnished are in order and no further verification is required. The visa, if approved, can be collected from the Singapore Overseas Missions or couriered to the applicant at the applicant's expense. Processing time does not include the mailing time taken for an application to reach a Singapore Overseas Mission and for the visa, if approved, to reach the applicant. Hence, applicants are advised to factor in the total mailing time when applying for a visa</p> | | <p>visa applications need not be made in person but could be sent by courier to the SOM. a photocopy of the bio data page from the passport can be used in-lieu of sending the</p> <ul style="list-style-type: none"> • actual passport. • the same application procedure for participants will apply to accompanying persons travelling with them to Singapore. • visa application fees will be waived for participants and accompanying persons travelling with them to Singapore |

Appendix I
TEMPORARY WORKER VISA REQUIREMENTS
THAILAND

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|--|--|---|---|--|
| <p>NON-IMMIGRANT VISA (May require the approval from the Ministry of Concerns from Thailand in case by case and required invitation letter from Thailand) Purpose of visit: BUSINESS and CONFERENCE (requiring the business letter with letter-head explains purpose of visit, also included name of company, organization or mission and address in Thailand), RESEARCH, TEACHING, MASS MEDIA or MISSIONARY (requiring the letter with letter-head from company, agency or organization sending you on your mission, and also the letter from your counterpart in Thailand.) TEACHING AND EDUCATION (requiring the letter with letter-head from educational institution in Thailand.) FAMILY REUNION (requiring marriage or birth certificates). SETTLEMENT AFTER RETIREMENT (requiring proof of retirement and financial support). MEDICAL TREATMENT (requiring letter from licensed doctor).</p> | <p>Visa has a 3-month validity and, as a result, must be utilized within 3 months as from the date of issue (more than 3-months up to 1-year validity of visa may be granted on a case-by-case basis if more than one or multiple entry visa is issued.)</p> | <p>Applications are usually processed within 2 days if submitted in person. Applying by mail will take approximately 10 business days plus mailing time</p> | <p>Non-immigrant visa US\$50.00 per entry and US \$125.00 per multiple entries. (for investment & former Thai citizen) Tourist visa US\$25.00 per entry Transit Visa US\$20.00 per entry When submitting application by mail, please include a self addressed envelope size 6'x9" or large enough to fit all passport(s) with sufficient postage stamps and choose one of the following options: Include \$14.40 in postage for a next-day express mail (and additional 39-cent stamp for the cost of previously mailed form). Include at least \$3.27 in</p> | <p>General Requirements The following must be submitted: Current passport valid for travel to Thailand. One completed and signed application form. Two passport-size photographs (2"x2") (Photostat or Photocopy will not be accepted). Photographs must have a light color background with a full-face view of the person without wearing a hat or dark glasses. Photos must be taken within 6 months. If submitting application in person, processing fees are payable only in cash or money order. If application is submitted by mail, please pay by money order only. Processing fees: Non-immigrant visa US\$50.00 per entry and US\$125 per multiple entries. (require invitation letter from Thailand) Purpose of visit: Business, Conference, Research, Teaching, Education, Mass Media, Missionary, Family Reunion, Medical Treatment (please, see visa types & purpose visit), Retirement (please, see retirements for person 50 years or over) (Maximum stay 90 days, extension of stay may be applied in Thailand.) Tourist Visa US\$25.00 per entry for pleasure purposes only (require copy airline ticket or itinerary) (Maximum stay of 60 days, extension of stay may be applied in Thailand.) Transit Visa US\$20.00 per entry. Purpose of visit: TRANSIT (require copy airline ticket or itinerary), SPORTS or CREW (require business letter and invitation from Thailand) (Maximum stay 30 days, extension of stay may be applied in Thailand.)</p> |

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| <p>(maximum stay 90 days, extension of stay may be applied in Thailand) TOURIST VISA Purpose of visit: for pleasure purpose only (requiring proof of confirmed onward ticket to a Third country). SPORTS or CREW (requiring letter from organization concerned and invitation letter from Thailand.) (maximum stay 30 days, extension of stay may be applied in Thailand)</p> | | | <p>postage for certified mail, depending on weight, (and additional 39- cent stamp) Include at least \$8.74 in postage, depending on weight, for registered mail (and additional 39-cent stamp) Metered stamps will not be accepted** Federal Express, UPS, Air Borne or DHL with account number (do not accept credit card)</p> | <p>When submitting application by mail, a self-addressed envelope size 6"x9" or large enough to fit all passports with sufficient postage stamps is required. Metered stamps will not be accepted. Please do not include a 30-cent stamp for the cost of the previously mailed application form to the applicant. Applicant may have their visa mailed by choosing one of the following options: \$14.40 postage for a next-day express mail (and additional 39-cent stamp for the cost of the previously mailed form). Please include self address mailing if possible. \$3.27 in postage, depending on weight for certified mail (and an additional 39-cent stamp) \$8.74 in postage, depending on weight for registered mail (and additional 39-cent stamp) Federal Express, UPS, Air Borne or DHL with account number (do not accept credit card) Important notice: Applications are usually processed within 48 hours if submitted in person. Applying by mail will take approximately 10 business days plus mailing time. Applicant who is a holder of a reentry permit or those who hold passport from Bangladesh, the Peoples Republic of China, Cambodia, India, Laos, Myanmar, Nepal, Nigeria, Pakistan, Sri Lanka, Viet Nam, the Middle East countries and the Socialist Countries need to submit additional requirements. (please see list of countries for additional requirements) Visa must be activated or used within three months from the date of issuance. ADDITIONAL REQUIREMENTS Holders of re-entry permit or nation passport from Bangladesh, the People's Republic of China, Cambodia, India, Laos, Myanmar, Nepal, Nigeria, Pakistan, Sri Lanka, Viet Nam, the Middle East Countries, and the Socialist Countries are required to submit the following: Current passport or re-entry permit valid for travel in Thailand One completed and signed</p> |
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| | | | | <p>application forms Passport-size photographs. (Photographs must have a light color background with a full-face view without wearing a hat or dark glasses and taken within six (6) months) 3 photographs for re-entry permit holder 5 photographs for the holder passport of Cambodia, China and Viet Nam If submitting applications in person, fees are payable in cash or money order. If submitting application by mail, fees are payable in money order to the Royal Thai Embassy only. Employment verification or a guarantor's letter from a U.S. resident Proof of confirmed round trip ticket and itenary Proof of permanent resident alien card Proof of Financial, such as bank statement showing personal savings or checking's account A personal bio-data of applicant(s) since leaving the country of birth or refugee camp. (For the person who is former nationality from Lao, Viet Nam, Cambodia only) Confirmed reservation a place or hotel to stay in Thailand. (name and address) Reference person and address the next country after Thailand or your native country.</p> |
|--|--|--|--|---|

Appendix J
TEMPORARY WORKER VISA REQUIREMENTS
VIET NAM

| TYPES OF VISA | VALIDITY | PROCESSING | FEES | PRE REQUISITE ENTRY REQUIREMENTS |
|---|--|--|-------------|---|
| <p>Business 1 Month Multiple Entry</p> <p>Business 6 Months Multiple Entry</p> <p>Business 1 Month Single Entry</p> | <p>Viet Nam Business Visas are also valid for 90 days with a duration of 30 days for each entry.</p> <p>To apply for a single or multiple entry visa, you must have approval from Authorities in Viet Nam acquired through a sponsor in Viet Nam. If you do not have a sponsor, you can contact the Viet Nam embassy for assistance.</p> | <p>Processing your Viet Nam travel visa takes 5 business days for regular service and 2 business days for expedited service.</p> <p>When applying for your Viet Nam visa by mail, you will need to add on the delivery time.</p> | | <ul style="list-style-type: none"> • a valid passport; • a recent passport photo (taken within one year of application); • completed Viet Nam visa application form; • visa fee (money order or cashier's check); • a self-addressed prepaid return envelope with postage (FedEx, US Express Mail or US Certified Mail); • a cover sheet that tells the content of the envelope, your contact telephone number and your request. <p>Viet Nam travel visas are affixed in your passport on the pages specifically marked for them. Countries require that visa stamps be placed on those pages that do not contain any other stamps.</p> |

Appendix K
Work Permit regimes of ASEAN Countries

| Country | Sectors with large inflows of workers | Nodal Authority for work Permits | Average time taken to issue WP | Validity | Other mandatory formalities | Conditions for approval of WP | Concessions to ASEAN Nationals | Comments |
|------------------|--|--|--------------------------------|-------------------|---|--|--|---|
| Singapore | Manufacturing construction, domestic help, & other 3d jobs | MO Manpower (controller of work permits) | 7 days | Generally 2 years | Prior approval required for employing foreign workers in construction, ship building, grass cutting, & hot and dirty work | <ol style="list-style-type: none"> 1. Foreign worker levy S\$30 pm (skilled workers) to S\$470 pm (unskilled construction workers). 2. Employment of specific no. of locals per foreign worker 3. Personal accident insurance cover of S\$10000 minimum coverage for domestic helper 4. S\$5000 security bond per worker | S\$5000 security bond waived for Malaysian workers | <p>Advantage: Transparent and efficient Disadvantage: High cost</p> <p>Employment Pass issued for foreign workers earning more than S\$2500 not subjected to levy or dependency ceiling</p> |

| | | | | | | | | |
|-----------------|--|--|-------------|--|---|---|--|---|
| Malaysia | Manufacturing plantations, domestic help construction, some services | M/O Home affairs (Registration and Immigration Office) | 4 – 6 weeks | 2-3 years in general subject to renewal every year up to a maximum of 25 years (no time limit for domestic helper) | Employer must prove to the Labor department, that all efforts had been made to hire local workers by writing to the employment exchange, advertising in local newspapers and radio, A foreign worker has to enter on a non-immigrant visa before applying for a work permit | <ol style="list-style-type: none"> 1. Foreign worker levy @ RM 30 per (domestic helper/plantation worker) and @ RM 100 per for all other workers. 2. Bank guarantee for each worker ranging from RM 200 (Singapore) to RM 1500 (Viet Nam) 3. Unskilled/semiskilled workers not allowed to work in any sector other than manufacturing construction, plantations, domestic help & selected service sectors 4. Age limit of 18-45 years (25-45 years for domestic helpers) 5. Minimum monthly income requirement for hiring foreign housemaids (RM | Only nationals of Indonesia, Thailand, Philippines, Cambodia, Myanmar, Laos, Viet Nam, Nepal, India, Sri Lanka, Kazakhstan, Turkmenistan & Uzbekistan allowed in unskilled/semiskilled jobs, In Sabah & Sarawak unskilled/semiskilled jobs open only to Indonesians and Filipinos. | <p>Different WP rules for East Malaysian provinces</p> <p>“Employment Pass” Issued to foreign workers earning more than RM 1200. Not subjected to levy but prior approval required from relevant ministry bureau.</p> |
|-----------------|--|--|-------------|--|---|---|--|---|

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| | | | | | | 3000 for Indonesian housemaid or RM 5000 for a Filipino housemaid) | | |
| Brunei | Construction, Mfg. domestic helpers | M/O Home Affairs (D.O. of Immigration & National Registration) | 5 – 6 weeks | 2-3 years (extendable by 2-3 years at a time provided foreign workers returns home at the end of each period). | Employer must obtain labor/housemaid license from the Labor department | 1.Cash deposit/Bank guarantee to cover one-way fare to workers home country. 2. Foreigners barred from certain jobs like security guards, clerical positions and drivers. | Singapore and Malaysian nationals exempted from the requirements of a work permit | In Brunei, the Labor department (that issues labor license) and the Immigration department (that issues the Employment Pass) are part of the same Ministry (M/O Home Affairs) |
| Thailand | Agriculture, construction, Mfg. domestic help, short term business travelers, intra-corporate transferees | M/O Labor & Social Welfare (D/O Employment) | 7 days (One day for certain categories of foreign workers) | 1 year, extendable on a year-to-year basis. (2 years for foreign investors bringing more than 10m Baht) | 1.Non-immigrant visa for the period of the work permit applied for 2.Medical certificate not more than 6 months old | 1.Foreign workers barred from 39 occupations e.g. rice farming, fishing, accountancy, advertising, brokerage 2.No. of foreigners employed linked to registered capital of firm | NIL | New WP rules issued in May 2002 have liberalized entry of foreign workers but the concessions are skewed towards skilled workers. Also, a large number of unskilled workers from neighboring countries remain outside the purview of the Working Aliens Act. |

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|--------------------|--|--|------------|---|---|--|------------|--|
| | | | | | | <p>amount of tax paid, foreign currency brought in & no. of locals employed</p> <p>3. Quantitative limits on the number of foreign workers employed</p> <p>4. 34 countries listed as sensitive including 5 ASEAN countries</p> | | |
| Indonesia | Short term business travelers, intra-corporate transferees | M/O Labor (D/O Manpower) Investment Coordination Board (BPM) for FDI related workers | 6-8 weeks | 12 months (extendible for 12 month periods with permission) | <p>1. If stay more than 1 year then foreign worker has to obtain Residence Card from D/O Immigration.</p> <p>2. Foreign worker needs to register with local Police department</p> | <p>1. Employer must contribute to a skills development fund @ US\$100 per worker per month</p> <p>2. Professional foreign workers can only be employed against specified positions that are open to expatriations</p> | NIL | Of late Indonesia has relaxed the list of positions opened to expats. However the list has not been abandoned and the general rule continues to be that foreigners can be employed only if the position cannot be filled by Indonesians. |
| Philippines | Short-term business | D/O Labor and | 8-10 weeks | 6 months- | Once the Alien | A work permit is issued only if no | NIL | While it takes 2 weeks for the Labor department to issue a |

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|-----------------|--|--|--------------------|-----------------------------|--|--|------------|---|
| | travelers, intra-corporate transferees | Employment (Bureau of Local Employment) | | 2years | Employment Permit (WP) has been issued, it is necessary to apply to the Bureau of Immigration for a Pre-arranged Employment Visa | objections are received from a publication process | | WP, there are delays in the Bureau of Immigration for issue of the visa. |
| Viet Nam | Short-term business travelers, intra-corporate transferees | M/O Labor War Invalids and Social Affairs (MOLISA) | 15 days prescribed | 6 years | All documents submitted with WP application need to be translated into Vietnamese | Only firms and individuals can hire foreign workers | NIL | Since 2000 Vietnamese authorities have revamped WP procedures to facilitate foreign business travel |
| Lao PDR | Short-term business travelers, intra-corporate transferees, some unskilled contract workers on foreign aided | M/O Interior (D/O Immigration) | Several Weeks | Till 30 November every year | 1. All foreign workers below manager level have to obtain a labor card from the concerned Ministry. 2. Foreign workers | 1. Only firms, not individuals can hire foreign workers. 2. Such firms must obtain a recommendation for hiring foreign workers from the Myanmar Investment Commission | NIL | The authorities look upon Work Permit Visa procedures as a source of generating government revenues. This approach can come in the way of policy reform |

| | | | | | | | | |
|-----------------|--|-----------|---------|--------|---|--|------------|--|
| | infrastructure projects | | | | staying for more than 90 days need to obtain Foreigners Registration Certificate | (MIC) or the concerned Ministry 3. Employers of foreign workers are required to upgrade skills of local employees with the view of ultimately replacing them. | | |
| Cambodia | Short-term business travelers, intra-corporate transferees, semi skilled workers and technicians | M/O Labor | 8 weeks | 1 year | 1. Workers has to clear a mandatory fitness test in the format prescribed by the Health Dept. of the D/O Labor. 2. The foreign worker has to enter Cambodia on a business entry visa, before applying for a WP | 1. No. of foreign workers cannot exceed 100% of the total employees 2. If exceeding this ceiling, employers are required to upgrade the skills of local employees with the view of ultimately replacing them 3. A foreign worker fee is levied @ US\$ 100 per worker per annum | NIL | Work permit procedures are disputed over different departments and offices. A clearer convergence of responsibilities between D/O Labor and the M/O Interior can reduce the formalities required to be undertaken and also the cost of the applicant. |
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Source: Liberalizing and Facilitating the Movement of Individual Service Providers under AFAS. REPSF Project 02/004: Final

Appendix L
Management of Temporary Labor Migration
BRUNEI

| Objectives Of Temporary Labor Migration | Key Government Agencies | Taxes and other Fees on Incoming and Outgoing Temporary Worker | Impact of Temporary Labor Migration and Other Issues | Protection of Temporary Workers |
|---|--|---|---|---|
| <p>Control and regulate movement of foreign workers</p> <p>To fill in the labor shortages in various industries</p> <p>Safeguard national interest while allowing entry of foreign workers</p> <p>Prevent possible dumping of unskilled workers</p> | <p>Ministry of House Affairs</p> <p>Immigration and National Registration Department</p> <p>Labor Department</p> | <p>Cash deposit or bank guarantee equivalent to one-way fare to the home country</p> <p>Payment for Smart Identity card</p> | <p>Heavy dependence on foreign workers</p> <p>Dependence on foreign workers may jeopardize various aspects of national interests</p> <p>Preferential treatment on Malaysian and Singaporean workers</p> | <p>Tax free wages</p> <p>Free housing</p> <p>Medical allowances</p> |

Tabulated by the authors from various sources

Appendix M
Management of Temporary Labor Migration
INDONESIA

| Objectives Of Temporary Labor Migration | Key Government Agencies | Taxes and other Fees on Incoming and Outgoing Temporary Worker | Impact of Temporary Labor Migration and Other Issues | Protection of Temporary Workers |
|---|--|---|--|---|
| <p>Take advantage of the opportunities of overseas employment to improve the economic condition of Indonesians</p> <p>Provide pertinent information to potential overseas workers</p> <p>Protection of overseas workers</p> <p>Generate foreign exchange through remittances</p> <p>Reduce the number of illegal overseas workers</p> <p>Reduce the cost of migration</p> | <p>Department of Labor</p> <p>Department of Manpower</p> <p>(AKAN) – sending workers abroad</p> <p>(PPTKI) – handles labor cases in Indonesia</p> <p>Indonesian Manpower Supplier Association (IMSA)</p> | <p>All Indonesians going abroad must pay a tax every time they depart from Indonesia. They must pay 250,000 rupiah for each departure.</p> <p>The tax can be waived if laborers have proof that they have:</p> <ol style="list-style-type: none"> 1. paid 200,000 rupiah (Foundation of Indonesian Human Resources Development. 2. paid 50,000 rupiah (education funding) to the Ministry of Labor 3. contribution of 10,000 rupiah to APJATI (Associations of Indonesian Labor-Sending Firms) 4. 70 rupiah for insurance in PT Jamsostek <p>or will have to pay 330,000 rupiah for the tax to be waived.</p> <p>USD 100 per expatriate employee to affect cost of training local workers</p> <p>USD 1,200 skill and development fund annual fee per expatriate</p> | <p>Generation of Foreign Exchange</p> <p>Overseas fees are charged to the migrants vary between one migrant and another. These fees cover five cost components</p> <ol style="list-style-type: none"> 1. transportation and accommodation 2. accommodation and food consumption 3. administrative cost for education and training 4. fees for employment other costs | <p>The government has drafted a legislation on the protection of migrant workers and the establishment of a ministerial body on migrant workers.</p> <p>Victims of abuse are taken to a special ward at Sukanto Hospital for treatment.</p> <p>The Ministry of Manpower and Transmigration has placed increase emphasis on pre-departure training programs.</p> <p>Issuances of decrees that help promote the welfare of migrant workers. Examples of these are: the 2002 Labor Ministerial Decree on the Placement of Migrant Workers Overseas and the 2003 Labor Ministerial Decree on Insurance.</p> |

Appendix N
Management of Temporary Labor Migration
MALAYSIA

| Objectives Of Temporary Labor Migration | Key Government Agencies | Taxes and other Fees on Incoming and Outgoing Temporary Worker | Impact of Temporary Labor Migration and Other Issues | Protection of Temporary Workers |
|--|--|--|--|--|
| <p>Promotion of economic growth and industrial upgrading</p> <p>Limit the entry of unskilled workers</p> | <p>Malaysian Immigration Department</p> <p>The Ministry of Human Resources</p> <p>Malaysian Business Council</p> <p>National Wages Council</p> | <p>USD 22.63 per foreign worker contribution to Foreign Worker Compensation Scheme</p> <p>Payment of foreign workers levy</p> <p>- permit fee is equivalent to at least 12.5% of the wage</p> <p>Visit Pass for Professional Employment</p> <p>- a security type of bond is required by employers hiring foreign workers under this type.</p> <p>Employment Pass provided that compensation exceeds the minimum monthly salary requirement of RM 1,200 levies range from RM 2,400 – technical personnel, RM 3,600 for professionals and middle managers, RM 4,800 for upper level managers</p> | <p>Rise of irregular migrants</p> <p>Displacement of local workers</p> <p>Rise of the informal labor market</p> <p>Repatriation of irregular migrants</p> <p>Foreign workers are allowed by law to be member of unions, but employer prevent them</p> <p>Foreign workers in the informal market are not covered by social security</p> | <p>Workmen's Compensation (Foreign Workers Scheme)(Insurance Order 1993)</p> <p>Malaysia Employers Federation (MEF) which is a central organization of private sector employers. It's aim is to promote and safeguard the rights and interests of employers.</p> <p>Ministry of Human Resources is the one responsible for the policies to be implemented and imposed on foreign labor coming in the country.</p> <p>Malaysian Trade Union Congress (MTUC) whose interests include (1) promotion of interests of its affiliate unions, (2) ensure policies are developed and put into action and (3) to establish Social Security measures</p> |

Appendix O
Management of Temporary Labor Migration
PHILIPPINES

| Objectives Of Temporary Labor Migration | Key Government Agencies | Taxes and other Fees on Incoming and Outgoing Temporary Worker | Impact of Temporary Labor Migration and Other Issues | Protection of Temporary Workers |
|--|---|--|--|---|
| <p>Advance the rights, welfare and interests of overseas workers</p> <p>Higher standard of protection for overseas workers</p> <p>Generation of foreign exchange</p> | <p>Department of Finance</p> <p>Philippine Overseas Employment Administration (POEA)</p> <p>Overseas Workers Welfare Administration (OWWA)</p> <p>Department of Foreign Affairs (DFA)</p> | <p>There is no tax imposed on migrant workers in the Philippines. According to Section 35 of the Migrant workers and Overseas Filipino Act of 1995 (RA 8042) “the migrant workers shall be exempt from the payment of travel tax and airport fee upon proper showing of proof of entitlement by the POEA</p> | <p>Brain drain</p> <p>Rise of undocumented overseas workers</p> <p>Abuse and non-protection of undocumented overseas workers</p> | <p>OWWA life insurance, disability and disbursement benefits</p> <p>Repatriation programs</p> <p>Bilateral labor agreements</p> <p>The creation of Migrant Workers and Overseas Filipinos Act of 1995 (RA 8042). Aims to establish a standard of protection and equality of employment opportunities for all.</p> <p>Creation and establishment of repatriation of workers in case of war, epidemic, disaster, calamities, etc. to be shouldered by the OWWA.</p> <p>Creation of a legal assistant position in the Department of Foreign Affairs in the Office for Migrant Workers Affairs to coordinate legal assistance and service overseas Filipinos.</p> |

Appendix P
Management of Temporary Labor Migration
SINGAPORE

| Objectives Of Temporary Labor Migration | Key Government Agencies | Taxes and other Fees on Incoming and Outgoing Temporary Worker | Impact of Temporary Labor Migration and Other Issues | Protection of Temporary Workers |
|---|--|--|---|--|
| <p>Foreign Talents Policy</p> <p>Supplementing domestic market</p> <p>Prevention of irregular migration</p> <p>Managing the entry and stay of unskilled workers</p> <p>Support industrial restructuring</p> | <p>Immigration and Checkpoints Authority (ICA)</p> <p>Ministry of Home Affairs</p> <p>Ministry of Manpower</p> | <p>Monthly Migrant Levy</p> <p>Unskilled workers SD 330 (domestic worker) SD 400 (manufacturing worker) SD 470 (construction worker)</p> <p>Skilled Workers Purchase of security bond SD 200 (marine workers) SD 100 (construction worker)</p> <p>Skilled Professionals Security bond SD 5000 no fee</p> | <p>Dependence on foreign workers</p> <p>High cost of migration for unskilled worker</p> | <p>Equal protection of foreign workers and local workers and in the application of labor laws.</p> |

Appendix Q
Management of Temporary Labor Migration
THAILAND

| Objectives Of Temporary Labor Migration | Key Government Agencies | Taxes and other Fees on Incoming and Outgoing Temporary Worker | Impact of Temporary Labor Migration and Other Issues | Protection of Temporary Workers |
|--|---|---|--|--|
| <p>Protection of Thai overseas workers</p> <p>Mitigate the economic and social impact of migration</p> <p>Reduce the incidence of illegal recruitment</p> <p>Protection of human and labor rights of foreign workers</p> <p>Reduce illegal migration into Thailand</p> | <p>Ministry of Labor</p> <p>NGO's</p> <p>Provincial Labor Office of the Ministry of Labor</p> <p>Ministry of Interior</p> | <p>Health Insurance = Bt 1,300</p> <p>Medical Examinations = Bt 600</p> <p>Registration Fee = Bt 100</p> <p>First time registration fee = Bt 450</p> <p>Renewal of expired work permit = Bt 450</p> <p>15% of foreign employees' salaries are placed in a repatriation fund</p> | <p>Social and economic displacement of foreign workers</p> <p>Violation of human and labor rights of undocumented foreign workers</p> <p>Redirection of government services toward undocumented foreign workers</p> <p>Illegal recruitment</p> <p>Welfare of Thai workers abroad</p> | <p>The protection of Thai workers abroad is under the jurisdiction of the Thai Ministry of Foreign Affairs (MFA). The division specifically in-charge is The Protection of Thai Nationals Abroad.</p> <p>Coordination with government agencies and institutions to stop illegal recruitment</p> <p>Protection for overseas Thai workers are also enacted in the Recruitment and Job Seekers Protection Act, B.E. 2528</p> <p>The establishment of the Overseas Workers' Welfare Fund which is designed to help Thai nationals.</p> |

Appendix R
Management of Temporary Labor Migration
VIET NAM

| Objectives Of Temporary Labor Migration | Key Government Agencies | Taxes and other Fees on Incoming and Outgoing Temporary Worker | Impact of Temporary Labor Migration and Other Issues | Protection of Temporary Workers |
|--|--|---|---|---|
| <p>Alleviate unemployment</p> <p>Increase income of Vietnamese workers</p> <p>Protection of overseas workers</p> <p>Address the shortage of management and technical skills</p> <p>Enhance foreign direct investment</p> | <p>Ministry of Labor, Invalids, and Social Affairs (MOLISA)</p> <p>Ministry of Foreign Affairs</p> | | <p>Exploitation and discrimination of Vietnamese workers</p> <p>Many of the workers deployed abroad are unskilled and prone to abuse and exploitation</p> | <p>Vietnamese embassies are required to protect Vietnamese overseas workers</p> <p>Strict monitoring of labor agencies</p> <p>Financial assistance to returning overseas workers</p> <p>LGU and NGO's provide support to returning overseas workers</p> |

APENDIX S

Utilization of MNP through intra-corporate transferees: The case of selected transnational corporations in the Philippines

The physical as well as logical structures of organizations largely determine the level of intra-corporate transfers that occur therein. This is illustrated by the following cases.

Utilization of MNP through intra-corporate transfers among Philippine audit firms

Most of the top Philippine audit firms are members of their global counterparts. This is especially true for the Philippine's "Big Five"³. This arrangement provides these firms with the necessary structure through which cross-border intra-corporate transfers are facilitated.

While audit firms do not normally employ expatriates, in cases wherein the assessed human resource need(s) cannot possibly be fulfilled locally, expatriates are hired for this purpose. The exact number of expatriates employed at any given time is determined by the existing business need and the number of expatriates needed to fulfill this need. The source country, from which these expatriates are hired, like the number of expatriates employed, is largely dependent upon the nature of the need to be fulfilled. These expatriates can come from any country; rarely, if ever, are they sourced from ASEAN nations.

The larger audit firms have various types of secondment or training abroad programs that may be classified according to the purpose and duration of employee secondment. These secondment programs are roughly classified into need-based programs and training programs; each of which may be further classified into short-term and long-term. They may be distinguished as follows:

Need-based programs

Need-based programs are secondment programs that are in place to fulfill existing demands for particular skills by a member practices abroad through the secondment of local employees or vice versa. These programs are usually billable – i.e. the sending office charges the receiving office for the costs of secondment plus a mark-up thereon – and may be short-term or long-term. While the duration of the secondment depends on the duration of the business need, most need-based programs are short-term in nature and last for lengths as short as a six weeks to as long as six months. For long-term programs, on the other hand, the existing resource need must be of such importance and urgency to merit the higher costs of long-term secondment. These last for at least a year.

Similar to the duration, source and number of expatriates hired, the duration, destination and number of persons sent on need-based programs is likewise largely dependent upon the nature of the need being filled. The identity of the person sent is likewise determined. The following trends hold, however. The number of persons sent is

³ The global accounting firms are: Ernst and Young, Deloitte Touche, KPMG, Pricewaterhouse Coopers, and BDO.

usually close to a minimum – i.e. less than ten per annum. For some firms, however, the short-term need-based and the short-term training programs are one; thus, increasing the average number to as high as 60-70 persons per annum for the largest firm(s) in the industry. A significant percentage of persons are sent to the U.S., while almost none are sent to ASEAN countries. This is consistent with the logical structure of the firm and the business. For both the short-term and long-term programs, the secondment of employees is contingent upon the availability of excess skills; hence, most need-based short-term secondment are exchanges with countries whose business cycle exhibits an inverse relationship with respect to the local business cycle. For example, Australia's June busy season corresponds with the Philippine's post-April slack season.

Training programs

Training programs are secondment programs that are in place for employee development. Coincident with the development objective is the motivational objective of secondment. These training programs may be classified crudely into the categories general training and special training. General training are of broader scope than special training. For example, take general audit of financial institutions training in comparison to training on the accounting for financial instruments. Furthermore, training programs may be of the types trainer's training or regular training. For some firms, the costs of sending employees abroad for regional training outweigh the benefits that could be derived. Hence, only trainers are sent for regional training and are thereafter tasked to cascade information down locally. Regular training programs are training programs that are not the trainer's training programs as defined above. Only experienced employees in good standing are sent abroad for regular training whether for general or special training.

Like need-based programs, training programs may be short-term or long-term in nature. However, almost all training programs are short-term. These last for as short a duration as a few days up to as long as a few weeks. The number of persons sent varies largely depending on the size of the firm in question. This number may range from as few as less than ten to as large as 60-70 per annum for the largest firm(s). For some audit firms, most of the short-term training occurs within the ASEAN region. However, the long-term training programs are mostly U.S.-based, last for up to 18 months and send less than ten persons per annum per firm.

Note that the long-term need-based programs are usually long-term training programs as well. The union of developmental and resource-balancing objectives is usually necessary to justify the high costs of long-term secondment. Further note that the advent of the Sarbanes-Oxley Act in 2002 has contributed significantly to the rise in secondment for both training and resource-balancing purposes.

According to human resource officers working with these firms, immigration bureaucracy does not constitute a significant barrier and does not largely hinder or delay secondment, at least for the most part. An established secondment framework, excellent long-standing relationships with the related embassies, and either specifically designated organizational units responsible for facilitating secondment arrangements or the outsourcing of such tasks to external parties, all serve to smoothen out the secondment

process, eliminating most potential problems. Short-term programs are more susceptible to damages due to immigration process delays as less pre-deployment preparation times are usually allotted for such programs.

Therefore, secondment provides the following advantages in this context: (1) employee development whether on general or specific skills, (2) motivation or incentive for employees, (3) improvement in employee retention, and (4) billable programs provide supplementary income.

On the other hand, the disadvantages of secondment, includes the unwillingness of employees to return as a significant drawback. Related thereto, high costs of replacing lost employees and the sunk cost of secondment of lost employees are the other major drawbacks to secondment. The temporary absence of skilled employees may also be a source of trouble for firms when actual skill requirements deviate from the required.

In order to ensure the return of workers on secondment, audit firms usually employ both formal mechanisms and informal or soft mechanisms. Among the formal mechanisms employed is the use of a post-secondment service contract or bond with an appended penalty clause, while the promise of greater responsibilities and, concurrently, compensation acts as a soft mechanism. Otherwise, besides the limited duration of the acquired visa, there is really no other means by which employees may be made to return. The constitutional limitation on forced labor, after all, substantially limits the measures that can be possibly implemented.

Utilization of MNP through intra-corporate transfers among transnational corporations: the case of Procter & Gamble and Citibank

In the case of transnational corporations (TNCs), cross-border intra-corporate transfers are, by nature, more abundant. The adoption of particular organizational structures only serve to heighten or dampen the level of such movement albeit sometimes quite significantly.

TNCs with regional structures have significantly greater intra-corporate movement within the ASEAN versus those that do not. Regional structures imply regional integration of business processes and a regional approach to business management in general. This structure both encourages and necessitates greater regional movement as greater regional cooperation becomes necessary. Of course, firms that support other organizations with regional structures are also likely to have higher degrees of intra-corporate movement.

Citibank and Procter & Gamble, as may be expected, avoid hiring expatriates directly. Rather, as it is, the more financially sound practice involves hiring locally whether the employee be a citizen or alien as much as possible. In those rare cases where a business need cannot be filled otherwise, then employees of other offices are transferred to the local office as expatriates for this purpose. As a rule, these expatriates can come from any office. For firms that do not have a regional structure, a significant proportion

of expatriates are sourced from the head office. For firms adopting a regional structure a significant proportion of expatriates come from within the region.

There are other means by which intra-corporate movement within TNCs can be made to increase. For example, the integration of secondment or training abroad into the organization's people systems by, for instance, its formal inclusion into human resource promotion requirements also serves to heighten the level of intra-corporate transfers within firms.

The secondment or training abroad programs of TNCs are parallel to those described above for Philippine audit firms – i.e. they may also be categorized into training programs or extended business trips (or need-based programs, as termed above). Similarly, they may be short-term or long-term and, for the training programs, may provide basic training or special training. For some TNCs, offshore basic training may be provided. This is often the case where business is managed regionally and basic training is provided regionally as well. For a particular TNC with a regional structure, this short-term training program lasts for one to two weeks, sends approximately 50 persons per annum, and is conducted at the TNC's regional headquarters.

Long-term training abroad almost always fills both development and business needs, as was the case for the Philippine audit firms. The employees seconded are usually higher-ranking, with substantial prior secondment experience, and possessing the specific business skills useful abroad. For the TNC aforementioned, this long-term secondment sends at most ten persons per annum, lasts for approximately two years and is conducted within the ASEAN, for the most part, at the regional headquarters.

For the same TNC, extended business trips are mostly for assignments within the ASEAN with a vast majority occurring at the regional headquarters and last for no longer than six months at a time.

The advantages and disadvantages identified for Philippine audit firms were the same advantages and disadvantages identified for TNCs. Similarly, the immigration problems normally encountered by individuals seeking visas, work permits and the like are not considered significant barriers to secondment. The increased concentration of intra-corporate movement within the ASEAN for some TNCs also helps reduce immigration difficulties.

Unlike the Philippine audit firms, however, TNCs, as in the case of Citibank and Procter & Gamble, have a lesser tendency to utilize formal mechanisms for ensuring the return of workers. Since TNCs generally offer larger compensation for employees, the financial lure of work abroad becomes less compelling. While some TNCs will opt to utilize service contracts and penalties as measures, a substantial number rely on such soft mechanisms as company culture, values, employee loyalty, etc. more primarily. Furthermore, some TNCs practice open career or project planning such that a clear path is defined for each employee. This also acts as a soft measure ensuring the return of employees on secondment. In short, retaining employees in secondment is, for the most

part, not considered distinct or separate from retaining employees in general. The generic employee retention system then applies.