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The ASEAN Forum on Migrant Labour (AFML) (2nd edition 2015)

Background information booklet

Tripartite Action for the Protection and Promotion
of the Rights of Migrant Workers in the ASEAN Region
(ASEAN TRIANGLE Project)

Regional Office for Asia and the Pacific



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The ASEAN Forum on Migrant Labour (AFML)

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(2nd edition 2015)**

Tripartite Action for the Protection and Promotion of
the Rights of Migrant Workers in the ASEAN Region
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Regional Office for Asia and the Pacific

The ASEAN Secretariat:

"The AFML is a positive development. Engaging civil society organizations brings valuable resources including technical expertise, grounded perspectives, funding and wide social capital that cuts across the region and anchored on strong relations with grassroots communities. For the ASEAN Community-building process to be successful and meaningful, people engagement and participation is required."

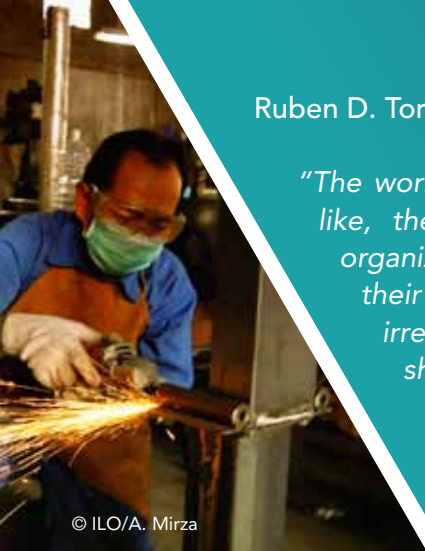


ASEAN Confederation of Employers (ACE):

"In today's economy, labour mobility is essential for ASEAN businesses as shortages of skilled and unskilled labour constitute bottlenecks for productivity, competitiveness, and economic growth. Getting the right people to the right places at the right time, with proper support, is crucial to the success of every firm."



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Ruben D. Torres, ASEAN Trade Union Council (ATUC):

"The workers, with the invaluable help of organizations like, the ILO, and other international humanitarian organizations, must rely on their strength made real by their own organizations – the trade unions. Workers, irrespective of nationality, race, sex or creed must share the burdens of their brothers and sisters, particularly those who seek a better life by taking the courageous move to be migrant workers!"



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Sinapan Samydorai, Convenor of the Task Force on ASEAN Migrant Workers (TFAMW)

"Migrant workers are human beings with rights, and ASEAN Member States are obligated to protect those rights. The TFAMW deems it critical that cooperation be developed among governments in countries of origin, transit and destination, and among non-governmental organizations, civil society and trade unions, and the migrants and their organizations. Only through such cooperation can we ensure the ASEAN Declaration [is] effectively implemented, and monitored by migrant workers who have been made aware of their rights."



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Acronyms

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



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

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

1.1 The creation of the AFML

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



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

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

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

1.2 Regional framework: Institutionalising the AFML

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

1.3 Objectives of the AFML

The objectives of the AFML are threefold:

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

1.4 Hosting of the AFML

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

1.5 The AFML Coordination Committee

The AFML has an AFML Coordination Committee (ACC) consisting of the representative of the ACMW Chair, the ASEAN Secretariat, ILO, IOM, TFAMW, and UNWomen. Every year, the ACC meets prior to the AFML to agree on the modalities of the meeting, including its theme, agenda, and objectives.

1.6 Participants to the AFML

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

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

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

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

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

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

Observers: All requests for observer status are decided by consensus of ASEAN Member States.

1.7 Output and Recommendation for each AFML ---

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

The AFML's thematic discussions across its past seven meetings have provided comprehensive Recommendations for AMS and social partners in the areas of information services; return and reintegration; promoting a positive image of migrant workers; regulation of recruitment; labour migration data collection, analysis and sharing; complaints mechanisms, protection during employment and coordination amongst stakeholders. The progress made against these Recommendations in each country is reported on at the following years' forum and is being tracked bi-annually by the ILO. For the summary of progress of implementation against the Recommendation from the 3rd to 6th AFML, see Annex A and B.

In addition, post-AFML meetings are held by different stakeholders to agree upon activities to pursue to implement the Recommendations made at the AFML. These stakeholders also share their respective experiences and challenges of implementing Recommendations at the AFML at national preparatory meetings. Further information about the post-AFML meetings can be found in Section 4 and 5 of this booklet. The ILO monitors the progress and challenges of implementing the Recommendations faced by different stakeholders.

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

1.8 Funding of the AFML

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

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

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

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

2. AFML themes

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

The themes from the past AFML were as follows:

1st AFML: Institutionalization of the AFML

2nd AFML: “ASEAN Declaration on migrant workers: Achieving its commitment”

3rd AFML: “Enhancing awareness and information services to protect the rights of migrant workers”

4th AFML: “Development of a public campaign to promote understanding, rights and dignity of migrant workers in countries of destination: Return and reintegration and development of sustainable alternatives in countries of origin”

Subthemes:

- 1) Promotion of positive image, rights and dignity of migrant workers.
- 2) Promotion of strategies for effective return and reintegration, as well as sustainable alternatives for migrant workers.

5th AFML: “The protection and promotion of the rights of migrant workers: Towards effective recruitment practices and regulations”

6th AFML: “Enhancing policy and protection of migrant workers through data sharing, and adequate access to the legal and judicial system during employment, including effective complaints mechanism”

Subthemes:

- 1) Enhancing policy and protection of migrant workers through data collection and sharing.
- 2) Enhancing policy and protection of migrant workers through adequate access to the legal and judicial system during employment, including effective complaints mechanisms.



7th AFML: “Towards the ASEAN Community by 2015 with enhanced measures to protect and promote the rights of migrant workers”

Subthemes:

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

8th AFML: “Empowering the ASEAN Community through Protection and Promotion of the Rights of Migrant Workers”

Subthemes:

- 1) Occupational Health and Safety to foster a safe and healthy working environment
- 2) Labour inspection to ensure workplaces provide minimum employment rights

3. AFML dates, venues and hosts

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



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4. AFML government national tripartite preparatory meetings

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

National preparatory meetings are organized with the objective to:

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

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

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

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

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

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

Preparatory meetings

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

Post-AFML consultation meetings

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

6. Regional meetings of Civil Society Organizations (CSOs)

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



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7. Recommendations of the 3rd, 4th, 5th, 6th and 7th AFMLs

Recommendations of the 3rd ASEAN Forum on Migrant Labour

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

19-20 July 2010 – Ha Noi, Viet Nam

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

Promotion and protection of the rights of migrant workers

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



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Information and services

2. Ensure that information services are more accessible to women and men migrants and reflect their specific and diverse needs. Pursue the use of varied delivery channels for pre-employment, pre-departure and on-site information, including schools and training institutions, migrant community representatives, the media and public information campaigns. Continually assess the quality and reach of information services for migrant workers and the capacity of service providers to meet these needs.
3. Provide accessible channels for women and men migrant workers to report and seek redress for violations of rights and terms and conditions of employment, and promote the implementation of the national legislation and international commitments.

The role of sending country representatives in receiving countries

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

Broad stakeholder cooperation

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

Partnerships of ASEAN, stakeholders and international organizations

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

Recommendations of the 4th ASEAN Forum on Migrant Labour

Development of a public campaign to promote understanding, rights and dignity of migrant workers in countries of destination; Return and reintegration and development of sustainable alternatives in countries of origin

24-25 October 2011, Bali, Indonesia

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

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

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

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

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

1. Deliver comprehensive pre-departure education in sending countries, not only about culture and social norms, but also working and living conditions, reality of migration including financial implication, laws and procedures, rights of migrant workers, among others;

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

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

6. Undertake a regional study on the programmes of skills trainings, pre-departure and post-arrival orientations, and return and/or reintegration support offered by ASEAN Member States;
7. Improve the availability of employment services to the returned migrant workers, including voluntary psychosocial counselling (before and upon return), gender sensitive reintegration, access to resources, and legal aid. Such services should also include information, advice, training, loans, placement, health, and interpretation/translation service. These services should be made available/extended to the family members of migrant workers left behind;
8. Provide incentives to the returned migrant workers, e.g. the absence of penalty for the irregular migrants, tax exemption of import duties for tools and equipment to be used by migrant workers;
9. Ensure as much as possible that mass/group deportation will not take place;

10. In case of mass returns of migrant workers in emergencies, contingency plans should be prepared at company and embassy levels with the participation of migrant workers. For this purpose, assistance/contingency funds which cover repatriation costs need to be set up at national level. Formulation of national disaster preparedness plans shall be in consultation with and with the participation of migrant workers and migrant organizations;
11. Ensure that sustainable economic reintegration policies and strategies are evidence-based, market demand/need based and gender sensitive;
12. Ensure that return and repatriation programmes are effective, sustainable, and rights based, and with the involvement of tripartite partners and civil society organizations;
13. Encourage a speedy development of an ASEAN instrument on the protection and promotion of the rights of migrant workers that includes the family members of all migrant workers in its coverage. The instrument shall comply with the international human rights and labour standards and be legally binding;
14. Set up of ASEAN Guidelines on Effective Return and Reintegration;
15. Develop bilateral and multilateral agreements for portability of the social security benefits and better implementation of existing schemes;
16. Provide access to legal support and essential services, including consular services, for migrant workers and members of their families;
17. Recommend the following specific responsibilities and roles with respect to return and reintegration and sustainable alternatives for migrant workers:

(a) Responsibilities of sending countries:

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

(b) Responsibilities of receiving countries:

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

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

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

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



Recommendations of the 5th ASEAN Forum on Migrant Labour

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

9-10 October 2012, Siem Reap, Cambodia

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

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

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

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

1. Adhere to the following principles in promoting and protecting the rights of migrant workers:
 - Universal human rights and fundamental principles and rights at work must continue to apply to migrant workers;
 - Transparency, accountability and affordability should be practiced throughout the entire cycle of migration process;

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

(b) Promote transparency, accountability and affordability

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

(c) Promote information sharing and awareness of the public

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

(d) Promote effective monitoring and complaint mechanisms

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

17. Establish effective complaint mechanisms in ASEAN Member States that should be widely disseminated to and accessible by migrant workers with legal aid and assistance;

(e) Promote meaningful involvement of multi-stakeholders

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

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

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

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



Recommendations of the 6th ASEAN Forum on Migrant Labour

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

26-27 November 2013, Bandar Seri Begawan, Brunei Darussalam

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

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

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

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

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

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

- Data on the families of migrant workers in the countries of origin and destination
- Nature and incidence of complaints filed
- Data on irregular migrants and trafficking of persons, where possible;

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



(b) Promote effective complaint mechanisms and grievance handling mechanisms

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

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

9. Develop and strengthen the existing complaint mechanisms for migrant workers in ASEAN Member States that are transparent, accessible and simplified during recruitment, employment and in case of termination and deportation. In this regard, it is important to ensure that the integrity of complaints be carefully examined;

10. Ensure that complaint mechanisms are gender sensitive and responsive to the vulnerability of migrant workers;
11. Support the development of “one-stop” service centre for migrant workers that among others, facilitate access to complaint mechanisms and assistance, including interpretation and free legal counseling/referral, in collaboration with all stakeholders including migrant communities, workers’ and employers’ organizations, and CSOs to ensure that the service are accessible to migrant workers;
12. Ensure that information of the availability of such service centres and complaint mechanisms is disseminated to migrant workers and their families through appropriate communication channels, such as, electronic and print media, migrant workers resource centres, information outreach programmes, pre-departure trainings, pre-employment orientation seminar, and diplomatic missions;
13. Ensure and strengthen the roles of labour attaches, embassies, and consular officials to include support services on availing of complaint mechanisms for migrant workers;
14. Dispute resolutions, mediation, and other alternative dispute settlement mechanisms should be fully explored before administrative or judicial litigation processes;
15. Ensure timely notification and communication between the countries of destination and origin on judicial cases of migrant workers and extend cooperation to provide access to migrant workers to file cases for violation of rights in the country that the violation took place;
16. Promote inter-country trade unions collaboration to support migrant workers in case of complaints;
17. Ensure, where possible, the joint accountability of employers and recruitment agencies in case of migrant workers’ complaints when the recruitment agencies are responsible for recruiting and placing workers abroad;
18. Ensure adequate arrangements in case of return and repatriation to be shouldered by the employers;
19. Promote sharing of experiences and information among ASEAN Member States in implementing their respective complaint mechanisms through stock taking of the processes in handling grievances of migrant workers;
20. Consider developing regional guidelines and tools on the establishment of key aspects and standards of complaint mechanisms for migrant workers.

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

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

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



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Recommendations of the 7th ASEAN Forum on Migrant Labour

Towards the ASEAN Community by 2015 with enhanced measures to protect and promote the rights of migrant workers

20-21 November 2014, Nay Pyi Taw, Myanmar

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

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

1. Employment contracts should be standardized by the national labour laws, based on core labour standards and in line with Article 22 of the ILO’s Migration for Employment Recommendation (Revised). 1949 (No. 86).
2. Standard employment contracts should stipulate clear terms and conditions of employment, rights and responsibilities of men and women workers and employers, including in vulnerable and hard-to-reach sectors such as fishing, domestic work and construction work, and grievance mechanisms including contact information and legal systems to file complaints. Employment contracts should be written in language understood by migrant workers, and signed by employers and workers

prior to departure. Copies of employment contracts should be provided to migrant workers;

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

be undertaken with all stakeholders to explore challenges and policy gaps of reintegrating migrant workers with disabilities upon their return to their countries of origin;

9. Labour attachés should be well trained and adequately supported to provide effective on-site protection. Gender balance amongst labour attachés should be by and large proportionate to the composition of male and female migrant workers.
10. Recruitment agencies should be capacitated, where relevant, in securing better package of remunerations and benefits of migrant workers including minimizing or eliminating fees to be charged to migrant workers;
11. Measures should be taken to facilitate access of men and women migrant workers into trade unions and associations, particularly those in sectors where workers are not organized.
12. Workers filing complaints should be given support to stay within the country of destination while complaints are being processed. In this regard, migrant workers and migrant workers' representatives should be provided with appropriate and timely assistance including protection from employers' reprisal while filing complaints.

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

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

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

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



Annex A. Summary of progress against Recommendations from the 3rd to 7th AFML

5th AFML background paper (2012)

In 2012, the ILO prepared a background paper to the 5th ASEAN Forum on Migrant Labour. The purpose of this report was to consolidate and summarize the activities, experiences, good practices and challenges of various stakeholders in implementing the Hanoi 2010 and Bali 2011 AFML Recommendations. The paper serves as a marker as to what has been done, and what still needs to be carried out. It describes the activities to implement the Recommendations, whether undertaken in receiving and/or sending countries. It is hoped that the experiences of the ASEAN Member States as contained in the report have mutually assisted countries in responding to the Recommendations.

A full copy of the ILO Background paper is available at: www.ilo.org/afml

Table 1. Summary of progress against Recommendations from the 3rd ASEAN Forum in Hanoi

Rec #	Recommendation summary	Eligible countries	Progress	Remarks
<i>Information and services in countries of origin and destination</i>				
1	Strengthen information and services; provide opportunities for migrants to realize their labour rights	All countries	Yes	Migrants' need for information and services is recognized in countries of origin and destination, and addressing this need is part new legislation and policy measures in several countries in the region.

Rec #	Recommendation summary	Eligible countries	Progress	Remarks
<i>Information and services in countries of origin and destination</i>				
2	Ensure that information services are more accessible and reflect their specific and diverse needs. Continually assess the quality and reach of information services, and the capacity of service providers to meet these needs	All countries	Partial	Conventional and innovative methods have been adopted to provide information to migrants prior to departure and on site. However, there have been limited efforts to assess these methods and the capacity of service providers to deliver them.
3	Provide accessible channels for migrant workers to report and seek redress for violations, and promote the implementation of the national legislation and international commitments	All countries	Partial	Migrants have greater access to channels to seek redress, particularly with the assistance of CSOs. There is scope for trade unions and migrant associations to play a bigger role. However, migrants are sometimes dissuaded from filing complaints for fear of retribution, and the length of time and complexity involved.
4	Strengthen and raise the visibility of labour attachés and consular staff, through close engagement with the migrant community and employers, and in cooperation with authorities of the host countries	Countries of origin	Partial	In countries that deploy larger numbers of migrants, the labour attachés are active; However, certain consular offices could do more to provide services and engage with the stakeholders in host countries.

Rec #	Recommendation summary	Eligible countries	Progress	Remarks
<i>Information and services in countries of origin and destination</i>				
5	Actively engage and consult stakeholders in developing and implementing information campaigns and services for migrant workers at all stages of the migration cycle	All countries	Yes	There is increased consultation between governments, social partners and CSOs – within countries and between countries.
6	Share good practices in the provision of information and services; and continue cooperation with international organizations to enhance capacity	All countries	Yes	There are an increased number of platforms through which to share developments bilaterally and multilaterally. These are supported by Member States, the ACMW and international organizations.



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Table 2. Summary of progress against Recommendations from the 4th ASEAN Forum in Bali

Rec #	Recommendation summary	Eligible countries	Progress	Remarks
<i>Promoting positive image, rights and dignity of migrant workers</i>				
1	Deliver comprehensive pre-departure education	Countries of origin	Yes	A number of countries have committed to developing standardized training curricula. Challenges exist in terms of the limited literacy of migrants from certain countries, and the limited capacity of the trainers.
2	Conduct post-arrival orientation programmes in receiving countries, performed by the government, employers, trade unions, civil society	Countries of destination	No / limited	An orientation is delivered in Singapore, but not in Brunei Darussalam, Malaysia or Thailand. There is scope for greater cooperation with employers' and workers' organizations to provide such a briefing.
3	Raise awareness and build capacity on the delivery and monitoring of recruitment and placement services, and different forms of direct hiring of migrant workers	All countries	Partial	Most sending countries have identified the need to strengthen legislation and/or monitoring procedures. However, there is limited regulation of recruitment practices in some receiving countries.
4	Collect and disseminate factual information through the media and other channels on the contributions of migrant workers to the economy and society in host countries	All countries	No / limited	With the exception of a couple of countries, there is still considerable scope for progress in this area, for both sending and receiving countries.

Rec #	Recommendation summary	Eligible countries	Progress	Remarks
<i>Promoting positive image, rights and dignity of migrant workers</i>				
5	Carry out joint efforts with various stakeholders to present a positive image of migrant workers	All countries	Partial	In most countries, these efforts have been led by civil society or international organizations, and greater engagement from government and social partners is required in order to increase the reach of such campaigns.
6	Undertake a regional study on the programmes of skills trainings, pre-departure and post-arrival orientations, and return and/or reintegration support offered	All countries	No / limited	Studies have been carried out at the individual country level, but no regional study has been undertaken.
7	Improve the availability of employment services to returned migrant workers, including voluntary psychosocial counselling, gender sensitive reintegration, access to resources, and legal aid	Countries of origin	No / limited	Services for returned migrant workers are stated policy aims in several countries, but the actual provision of services does not appear to be available on a systematic basis in most countries of origin.
8	Provide incentives to returned migrant workers, e.g. no penalties for irregular migrants, exemption of import duties for tools and equipment to be used by migrant workers	Countries of origin	No / limited	Such measures exist in some countries, but little information has been provided on the impact of these policies.
9	Ensure as much as possible that mass/group deportation will not take place	Countries of destination	—	No information has been provided or collected on this Recommendation so far.

Rec #	Recommendation summary	Eligible countries	Progress	Remarks
<i>Promoting positive image, rights and dignity of migrant workers</i>				
10	Draw up contingency plans and make funds available in case of mass returns of migrant workers in emergencies	Countries of origin	Yes	Several (but not all) countries of origin have funds and plans in place, which were utilized in repatriating workers from the recent unrest in several Middle East and North African countries.
11	Ensure that sustainable economic reintegration policies and strategies are evidence-based, market-demand/need based and gender sensitive	Countries of origin	No / limited	As yet, only information from Philippines has been provided under this Recommendation.
12	Ensure that return and repatriation programmes are effective, sustainable, and rights based, and with the involvement of tripartite partners and civil society organizations	All countries	Partial	The laws in several countries lay out the obligations of recruitment agencies and the services to be provided by the government, but there appears to have been limited assessment of the effectiveness of such programmes.
13	Encourage a speedy development of an ASEAN instrument on the protection and promotion of the rights of migrant workers that includes the family members of all migrant workers in its coverage	All countries	Partial	A timeline for completing the Agreement has been agreed on, and the drafting committee meets on a regular basis.
14	Set up ASEAN guidelines on effective return and reintegration	All countries	No / limited	No information has been gathered on any initiative or proposal to develop these guidelines so far.

Rec #	Recommendation summary	Eligible countries	Progress	Remarks
<i>Promoting positive image, rights and dignity of migrant workers</i>				
15	Develop bilateral and multilateral agreements for portability of the social security benefits and better implementation of existing schemes	All countries	No / limited	While there are numerous bilateral agreements between countries within ASEAN, and with countries outside of ASEAN, little progress has been made in increasing the portability of social security
16	Provide access to legal support and essential services, including consular services, for migrant workers and members of their families	All countries	Partial	Refer to Hanoi Recommendations 3 and 4 above.
17a	Establish specific responsibilities and roles with respect to return and reintegration and sustainable alternatives for migrant workers	Countries of origin	Partial	A number of countries have developed policies that identify specific roles related to the provision of reintegration services, as well as innovative programmes. However, there is clearly a lot more that can be done.
17b	Establish specific responsibilities and roles with respect to return and reintegration and sustainable alternatives for migrant workers	Countries of destination	No / limited	There appears to have been little progress made on the establishment of programmes to facilitate reintegration as specified under this Recommendation. Most of the progress reported relates to the broader point that migrant workers' rights are covered under the labour protection laws in destination countries.

7th AFML background paper (2014)

In preparation for the 7th AFML, a second AFML Background paper was drafted to look at the progress made in implementing the recommendations made in the past six AFML meetings, taking into consideration the progress made on the recommendations made at the **5th and 6th meetings**, as well as updating the implementation of recommendations made during the **3rd and 4th AFMLs**. This background paper was decided on by the AFML Coordinating Committee to serve as an input to the 7th AFML meeting and will also be presented at the 8th meeting of the ACMW as it prepares for its post-2015 workplan.

The methods in preparing this report adhere closely to the process implemented in the preparation of the 2012 background paper for the 5th AFML. This ensures that the two reports are consistent and complementary. The extensive nature and various themes of the different AFMLs require that the recommendations be clustered for ease of tracking and monitoring. This is also to help ensure consistency and focus in the implementation. To date, 64 recommendations have been accepted and these were grouped as follows:

1. Information sharing, dissemination, and public information campaigns regarding overseas work – including costs at all stages and working conditions information for sending countries – and creating a positive perception of migrant workers.
2. Collection, sharing, and analysis of data regarding migrant workers for both sending and receiving countries.
3. Effective return and reintegration strategies, including sustainable alternatives for migrant work.
4. Facilitative access to complaints and grievance mechanisms for both sending and receiving countries.
5. Promotion of cooperation, partnerships, information exchanges, and meaningful involvement among all stakeholders in both sending and receiving countries.
6. Regulation of overseas recruitment.

The conclusions of the report were as follows:

On information sharing, dissemination, and public information campaigns regarding overseas work – including costs at all stages and working conditions information for sending countries – and creating a positive perception of migrant workers:

There is already a broader sense of information sharing, dissemination, and public information on migrant work in ASEAN in the form of pre-departure and post-departure seminars or orientation. The presence of Migrant Resource Centres (MRCs) in the majority of AMS also provides venues for information sharing. However, there still remain untapped possibilities that stakeholders can utilize to ensure broader and more sustainable information dissemination on migration. Firstly, the wide coverage and extent of social media has not been capitalized on by all AMS. For instance, the use of Facebook and Twitter as an avenue of interconnection can be tabled as a key agenda by all AMS. Second, the creation of MRCs is critical, but it is also expensive and difficult to expand. In most AMS, MRCs require sustained funding to enable them to gather more information and spread that information. Post-arrival orientation in destination countries is conducted only by a few origin and destination countries. Information on the coverage of these programmes needs to be collected.

On collection, sharing, and analysis of data regarding migrant workers for both sending and receiving countries.

The efforts on generating data on migration for ASEAN are already gaining traction. Individual countries have embarked on developing their databases, while others are already improving what they have. Despite these, ASEAN should come up with a standard set of data that will be collected on a regular basis and reported in future AFMLs. As capacities to collect and maintain data are improved, additional information should be gradually added into the database, thereby addressing all indicators recommended at the 6th AFML. Likewise, to ensure transparency of data generation, a website and regular publication of these should be implemented.

On effective return and reintegration strategies, including sustainable alternatives for migrant work.

There is a need to further collaborate and find ways to come up with effective return and reintegration strategies. Even the Philippines, who has the longest migration experience among the AMS, has not had a sustained return and reintegration strategy. Along this line, AMS should come up with a minimum set of standard policies, guidelines, and strategies that can be common to all. These are highlighted in this report as covering welfare funds, emergency repatriation, and financial literacy training. These can also be integrated into any information campaigns prior to departure providing a “goal-based and time-bound” migration for work.

On access to complaints and grievance mechanisms for both sending and receiving countries.

AMS and their CSO counterparts have worked on improving complaints mechanisms. This cluster of recommendations can be considered one of those that have seen much implementation over the last four years, though the effectiveness of complaint mechanisms needs to be assessed. What may be a final gap is the presence of a coordinated regional mechanism, beyond the labour attachés, that extends through trade unions, employers and CSOs.

On promotion of cooperation, partnerships, information exchanges, and meaningful involvement among all stakeholders in both sending and receiving countries.

In terms of cooperation and information exchanges, a number of agreements have already been set in place. What may be lacking are sets of binding agreements on standards in terms of basic social protection and rights protection of workers. These too can be implemented by improving on current good practices such as regular dialogues among tripartite members and cross-training experiences, such as those being led by the Philippines with other AMS.

On regulation of overseas recruitment.

Finally, with regard to regulation of overseas employment, AMS have already put in place a number of measures to ensure that migrant workers are protected from illegal activities, unfair contracts, over charging of fees, among others. Still there is a need for agreements on many ILO Conventions that govern overseas work. Nonetheless, employer groups and recruitment agencies from both receiving and sending countries have already started to work towards a covenant of ethical conduct. This should be fully supported by AMS and other stakeholders to ensure its immediate implementation.

A full copy of the second ILO Background paper is available at: www.ilo.org/afml

Annex B. ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

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

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

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

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

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

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

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

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

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

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

HEREBY DECLARE AS FOLLOWS:

GENERAL PRINCIPLES

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

OBLIGATIONS OF RECEIVING STATES

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

5. Intensify efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers;
6. Work towards the achievement of harmony and tolerance between receiving states and migrant workers;

7. Facilitate access to resources and remedies through information, training and education, access to justice, and social welfare services as appropriate and in accordance with the legislation of the receiving state, provided that they fulfill the requirements under applicable laws, regulations and policies of the said state, bilateral agreements and multilateral treaties;
8. Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers;
9. Provide migrant workers, who may be victims of discrimination, abuse, exploitation, violence, with adequate access to the legal and judicial system of the receiving states; and
10. Facilitate the exercise of consular functions to consular or diplomatic authorities of states of origin when a migrant worker is arrested or committed to prison or custody or detained in any other manner, under the laws and regulations of the receiving state and in accordance with the Vienna Convention on Consular Relations.

OBLIGATIONS OF SENDING STATES

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

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

COMMITMENTS BY ASEAN

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

15. Promote decent, humane, productive, dignified and remunerative employment for migrant workers;
16. Establish and implement human resource development programmes and reintegration programmes for migrant workers in their countries of origin;
17. Take concrete measures to prevent or curb the smuggling and trafficking in persons by, among others, introducing stiffer penalties for those who are involved in these activities;
18. Facilitate data-sharing on matters related to migrant workers, for the purpose of enhancing policies and programmes concerning migrant workers in both sending and receiving states;
19. Promote capacity building by sharing of information, best practices as well as opportunities and challenges encountered by ASEAN Member Countries in relation to protection and promotion of migrant workers' rights and welfare;
20. Extend assistance to migrant workers of ASEAN Member Countries who are caught in conflict or crisis situations outside ASEAN in the event of need and based on the capacities and resources of the Embassies and Consular Offices of the relevant ASEAN Member Countries, based on bilateral consultations and arrangements;
21. Encourage international organizations, ASEAN dialogue partners and other countries to respect the principles and extend support and assistance to the implementation of the measures contained in this Declaration; and
22. Task the relevant ASEAN bodies to follow up on the Declaration and to develop an ASEAN instrument on the protection and promotion of the rights of migrant workers, consistent with ASEAN's vision of a caring and sharing Community, and direct the Secretary-General of ASEAN to submit annually a report on the progress of the implementation of the Declaration to the Summit through the ASEAN Ministerial Meeting.

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

For Brunei Darussalam:

HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

For the Kingdom of Cambodia:

SAMDECH HUN SEN
Prime Minister

For the Republic of Indonesia:

DR. SUSILO BAMBANG YUDHOYONO
President

For the Lao People's Democratic Republic:

BOUASONE BOUPHAVANH
Prime Minister

For Malaysia:

DATO' SERI ABDULLAH AHMAD BADAWI
Prime Minister

For the Union of Myanmar:

GENERAL SOE WIN
Prime Minister

For the Republic of the Philippines:

GLORIA MACAPAGAL-ARROYO
President

For the Republic of Singapore:

LEE HSIEN LOONG
Prime Minister

For the Kingdom of Thailand:

GENERAL SURAYUD CHULANONT (RET.)
Prime Minister

For the Socialist Republic of Viet Nam:

NGUYEN TAN DUNG
Prime Minister



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Haji Rani Bin Haji Mohd Yusof, Acting Commissioner of Labour, Labour Department, Ministry of Home Affairs, Brunei Darussalam:

"It is our hope that this forum [AFML] will be an engaging and productive platform for discussion with active participation in sharing of good practices and information from ASEAN Member States in order to work towards betterment of the quality of working life.....we will continue to work closely together importantly to realize the success of ASEAN integration, which is our common goal of creating an ASEAN Community in 2015."

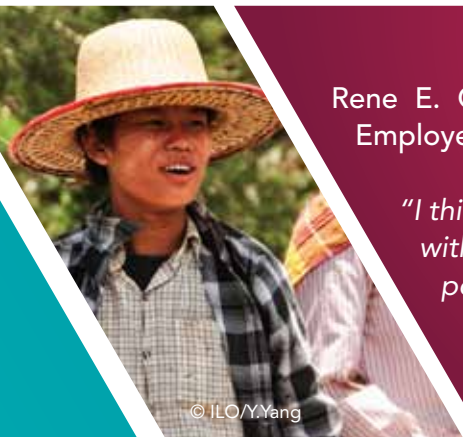
Nguyen Thanh Hoa, Vice Minister, Ministry of Labour, Invalids and Social Affairs, Viet Nam:

"Workshops like this [AFML].....really help us. First, they allow us to examine our progress in comparison to previous recommendations by ASEAN for this topic. This allows us to see what areas still need to be improved and what cooperation we still need from ASEAN and other international organizations. At the same time, we also prepare ideas from Vietnamese side to contribute. Together, at the forum, we can reach certain conclusions and draft recommendations for the next forum."



Dr Ivan, Operations Director, World Vision International, Myanmar:

"AMFL allows all the stakeholders [that] include the government, UN agencies, international NGOS, local people, workers, employers and trade unions to work together and then address the issues and challenges faced by migrant workers, to find solutions to promote and protect migrant workers in this region."



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Rene E. Cristobal, Member of Council of Leaders,
Employers' Confederation of the Philippines:

"I think that if we as the ASEAN region cooperate with one another in protecting especially the poor, the jobless, and underemployed, it will be a great benefit economically, to the region."

Lao Lyhock, the Association of Cambodian
Recruitment Agencies:

"ASEAN must have one policy so this forum for migrant workers is good....all of us can have one rule to work together."

A person in a yellow shirt and dark pants is working on a high-voltage power line. They are suspended by ropes and are positioned between two large metal insulators. The background is a clear blue sky.

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The ASEAN Forum on Migrant Labour (AFML) Background information booklet

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

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration) was adopted by the ten ASEAN Member States (AMS) in 2007 in Cebu, the Philippines. The Cebu Declaration shows the AMS' commitment to protect and promote the rights of migrant workers in the region. In order to advance the principles of the Cebu Declaration, the AFML was established to provide an open platform for governments, employers, workers and civil society organizations to discuss complex and regional labour migration issues. Seven AFMLs have been held to date. This publication contains information on the establishment of the AFML, past themes, and the Recommendations adopted at the 3rd-7th AFMLs showing progress being made toward the implementation of the Cebu Declaration.



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