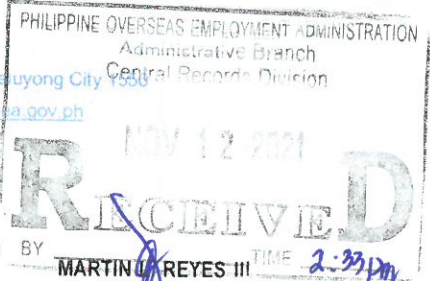




Philippine
Overseas
Employment
Administration

Republic of the Philippines
Department of Labor and Employment
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GOVERNING BOARD RESOLUTION NO. 10
Series of 2021

WHEREAS, Section 4 of Republic Act No. 8042, as amended by Republic Act No. 10022, provides that: "the State shall allow deployment of overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. xxx xxx For this purpose, the Department of Foreign Affairs (DFA), through its foreign posts, shall issue a certification to the POEA, specifying therein the pertinent provisions of the receiving country's labor/social law, or the convention/declaration/resolution, or the bilateral agreement/arrangement which protect the rights of migrant workers."¹

¹ The provision reads in whole:

Section 3. Section 4 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

SEC. 4. Deployment of Migrant Workers. - The State shall allow the deployment of overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection of the rights of overseas Filipino workers:

"(a) It has existing labor and social laws protecting the rights of workers, including migrant workers;

"(b) It is a signatory to and/or a ratifier of multilateral conventions, declarations or resolutions relating to the protection of workers, including migrant workers; and

"(c) It has concluded a bilateral agreement or arrangement with the government on the protection of the rights of overseas Filipino Workers:

Provided, That the receiving country is taking positive, concrete measures to protect the rights of migrant workers in furtherance of any of the guarantees under subparagraphs (a), (b) and (c) hereof.

"In the absence of a clear showing that any of the aforementioned guarantees exists in the country of destination of the migrant workers, no permit for deployment shall be issued by the Philippine Overseas Employment Administration (POEA).

"The members of the POEA Governing Board who actually voted in favor of an order allowing the deployment of migrant workers without any of the aforementioned guarantees shall suffer the penalties of removal or dismissal from service with disqualification to hold any appointive public office for five (5) years. Further, the government official or employee responsible for the issuance of the permit or for allowing the deployment of migrant workers in violation of this section and in direct contravention of an order by the POEA Governing Board prohibiting deployment shall be meted the same penalties in this section.

"For this purpose, the Department of Foreign Affairs, through its foreign posts, shall issue a certification to the POEA, specifying therein the pertinent provisions of the receiving country's labor/social law, or the convention/declaration/resolution, or the bilateral agreement/arrangement which protect the rights of migrant workers.

"The State shall also allow the deployment of overseas Filipino workers to vessels navigating the foreign seas or to installations located offshore or on high seas whose owners/employers are compliant with international laws and standards that protect the rights of migrant workers.

"The State shall likewise allow the deployment of overseas Filipino workers to companies and contractors with international operations: *Provided*, That they are compliant with standards, conditions and requirements, as embodied in the employment contracts prescribed by the POEA and in accordance with internationally-accepted standards."

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BY ORD ON NOV 12 2021

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Amador
 Filipinos
 Paul Malaya

WHEREAS, pursuant to the abovementioned provision, the DFA should issue a certification specifying the countries as compliant with any of the conditions on the deployment of Filipino workers;

WHEREAS, in all the certifications issued by the DFA, the same do not include the country of South Sudan as one of the countries that is compliant with any of the conditions on the deployment of Filipino workers;

WHEREAS, based on the communication of the DFA dated 16 March 2018, and upon the review of Post's certification pursuant to Section 3 of RA 10022, the DFA has confirmed that South Sudan is *Non-Compliant* with any of the conditions on the deployment of Filipino workers, due to current unstable peace and security therein;

WHEREAS, the DFA, in a letter-reply on 02 July 2019 regarding the Administration's clarification on the alert level in Sudan, indicated that South Sudan is a separate country from Sudan and is placed under Alert Level 4;

WHEREAS, upon POEA's request for further advice/clarification on the alert level in South Sudan, the DFA reiterated in its letter of 09 September 2019 that the said country is still under Alert Level 4 since 19 July 2016 and its alert level has not been lowered;

WHEREAS, the DFA recommended the raising of the alert level in the Republic of South Sudan from Alert Level 2 (Restriction Phase) to Alert Level 4 (Mandatory Repatriation) due to an upsurge in violence that erupted between forces allied with President Salva Kiir (the leader of Sudan People's Liberation Army or SPLA) and of the Protection Unit from the SPLA-in Operation (SPLA-IO) of Vice President Riek Machar;

WHEREAS, on 24 September 2019, the POEA issued Governing Board Resolution No. 11, Series of 2019, imposing a total ban on the processing and deployment of all OFWs bound for South Sudan;

WHEREAS, in a letter dated 01 March 2021, the DFA informed the POEA of the lowering of the alert level in South Sudan from Alert Level 4 to Alert Level 3 (Voluntary Repatriation) due to the recent political developments in the said country following the formation of a unity government on 22 February 2020. However, the Department still noted several outstanding security concerns, such as the high level of violence and armed conflicts that still persist in various parts of the country, as well as the surge of COVID-19 infections;

WHEREAS, the POEA issued Governing Board Resolution No. 1, Series of 2021 on 28 May 2021 sustaining the imposition of a total deployment ban in the said country;

WHEREAS, on 25 October 2021, the DFA, through Secretary Teodoro Locsin, informed the Department of Labor and Employment (DOLE) that the Alert Level in South Sudan has been lowered from Alert Level 3 to Alert Level 2 (Restriction Phase) considering the continued improvement of the peace and order situation in the said country and the commitment of the Unity Government to adhere and implement the provisions of the 2018 Peace Agreement that ended the civil war; and

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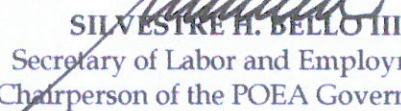
WHEREAS, under Alert Level 2, the processing and deployment of workers shall be allowed only for OFWs returning to their current employers and are with existing employment contracts.

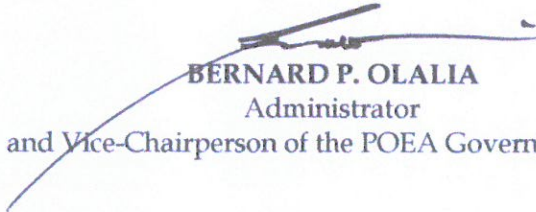
NOW, THEREFORE, the POEA Governing Board, in a meeting duly convened, **RESOLVES AS IT IS HEREBY RESOLVED**, to allow the processing and deployment to South Sudan of returning Filipino workers with valid and existing contracts, subject to the submission of the necessary documents cited by the DFA, as follows:


1. Affidavit of Undertaking from the employer to ensure the safety and security of the worker;
2. Repatriation clause in the contract as a responsibility to be undertaken by the employer;
3. Contingency Plan from the employer to provide for the needs of the worker until safe return to the Philippines; and
4. Addendums to their existing contract if the above items are not present.

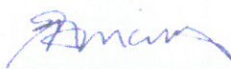
The deployment ban for newly-hired OFWs shall be maintained until further advice.


Done in the City of Manila, Philippines, this 12th day of November 2021.


SILVESTRE H. BELLO III
Secretary of Labor and Employment
and Chairperson of the POEA Governing Board


BERNARD P. OLALIA
Administrator
and Vice-Chairperson of the POEA Governing Board


NOEL M. MALAYA
Member
Private Sector Representative


ALEXANDER E. ASUNCION
Member
Landbased Sector Representative


FELIX M. OCA
Member
Seabased Sector Representative

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