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MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF LABOUR AND EMPLOYMENT
OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES
(the "DOLE")

AND

THE DEPARTMENT OF LABOUR and IMMIGRATION
OF THE GOVERNMENT OF MANITOBA, CANADA
("LIM")

CONCERNING: CO-OPERATION IN HUMAN RESOURCE DEPLOYMENT
AND DEVELOPMENT

WHEREAS the mandate of the DOLE is to promote gainful employment opportunities, develop human resources, protect workers and promote their welfare, maintain industrial peace, and manage the migration of Filipino workers for overseas employment;

WHEREAS the purpose of LIM is to protect workers through the enforcement of legislation governing employment standards, workplace health and safety, and employment service agencies, and to contribute to the economic and demographic growth of Manitoba through the implementation of provincial immigration, settlement, labour market and cultural integration strategies, programs and services;

WHEREAS the DOLE wishes to assist LIM in protecting workers and their families who migrate temporarily or permanently to Manitoba, and in the delivery of programs and services that contribute to their settlement and labour market success;

THEREFORE the DOLE and LIM (hereinafter jointly referred to as the "Participants") have reached the following understanding for their collaboration and cooperation in the exploration of opportunities for human resource deployment and development.

1. DEFINITIONS

- (a) In this Memorandum of Understanding ("MOU"), the following definitions apply:

"Employer" refers to an employer in Manitoba; or a person or agency licensed as an "employment agency" under the Manitoba *Employment Service Act* who acts on behalf of an employer in Manitoba, that has been approved to recruit under this MOU under a process established by LIM;

"Sending Agency" refers to a third-party recruitment agency in the Philippines that the DOLE has authorized or licensed to recruit and/or pre-screen Workers who choose to be employed in Manitoba and to facilitate the migration of those Workers to Manitoba, or where the Participants agree, the DOLE, in direct cooperation with the Government of Manitoba;

"Worker" refers to a Filipino national, whether residing within or temporarily outside the Philippines, who has signed or intends to sign an employment contract with an Employer with the objective to enter and work in Manitoba, either as a temporary foreign worker or as a permanent resident, but does not include Filipino nationals seeking to work in Manitoba as live-in caregivers or those already approved as Manitoba Provincial Nominees.

"POEA Exit Clearance" refers to the document issued to all Filipino workers processed at POEA, which comes in the form of either the Overseas Employment Certificate (OEC), E-receipt (electronic receipt), Multiple Travel Exit Clearance (MTEC) or OFW card. This document is presented on departure at the airport and exempts the worker from the payment of the Philippine travel tax and terminal fee.

- (b) Reference in this MOU to the DOLE shall, where appropriate, include its associated agencies:
- i. The Philippines Overseas Employment Administration;
 - ii. The Overseas Workers Welfare Administration;
 - iii. The Technical Skills and Development Authority; and
 - iv. The Professional Regulation Commission.

2. PURPOSE

- (a) The purpose of this MOU is to clarify and articulate the Participants' current intentions to promote and strengthen areas of co-operation in the fields of labour, employment and human resource development and employment.
- (b) The Participants intend to work together to enable Workers to enter Manitoba under a process that is effective and clearly communicated to Employers and Workers.
- (c) This MOU is not intended to be legally binding.

3. COOPERATION PRIORITIES

- (a) In facilitating this MOU, each of the Participants will make reasonable efforts to ensure the orderly, ethical recruitment and migration of Workers to Employers.
- (b) The Participants will regularly determine their shared priorities for collaboration and cooperation. This may include, but is not limited to, initiatives to:
 - I. ensure that the need of Employers for Workers with the appropriate skills are met through training and credential recognition activities;
 - II. expedite the approval of selected individuals for employment opportunities in Manitoba, including efforts to support the work of the Canadian visa office in Manila in its processing of Workers' work permits and visas;
 - III. promote sound, ethical and equitable recruitment and employment practices;
 - IV. share information to support initiatives, subject to privacy laws of the Participants; and ;
 - V. on prior agreement, explore a role for the International Organization of Migration to support the foregoing initiatives.
- (c) The Participants will confirm, in writing, their shared priorities for collaboration and cooperation through the Deputy Minister of LIM and the Undersecretary of Labor and Employment of the Government of the Republic of the Philippines. Once accepted by both Participants, the shared priorities will form an Annex to this MOU.
- (d) In pursuing shared priorities for collaboration and cooperation, the Participants will act in compliance with their respective laws and regulations including, but not limited to, on the part of Manitoba, *The Employment Standards Code, Employment Services Act, and Workplace, Safety and Health Act* and on the part of the Philippines *the Philippine Labour Code* as amended by R.A. 8042 and implemented by the 2002 Philippines Overseas Employment Administration (POEA) *Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers on the part of the Philippines*, as such legislation may be amended from time to time.

4. EXCHANGE OF INFORMATION CONCERNING EMPLOYERS AND SENDING AGENCIES

- (a) LIM and DOLE will cooperate to facilitate linkages between registered Manitoba Employers and approved Sending Agencies through processes which ensure that all participants are informed concerning the specific occupations required by those Employers and any contractual arrangements formalized between Employers and Sending Agencies prior to the recruitment of Workers.
- (b) LIM will, on a regular basis, notify the DOLE of Employers qualified under a process approved by LIM to recruit and employ Workers under this MOU.
- (c) The DOLE will regularly provide LIM with a list of the Sending Agencies licensed or authorized by the DOLE to recruit Workers under this MOU.
- (d) The Participants intend that the Employers will communicate directly with the Sending Agencies regarding deployment of Workers to Manitoba.

5. RECRUITMENT AND SELECTION OF WORKERS

- (a) The DOLE will register and accredit the Employers to recruit and hire Workers.
- (b) The Sending Agencies will provide the Employers with the names and information on the relevant skill, experience and qualifications of pre-qualified Filipino nationals who wish to be employed as Workers and meet the requirements listed in subsection (e) below.
- (c) The Employers may select qualified Workers and provide the names of those Workers to the Sending Agencies. These Workers will then apply for Canadian work permits and/or for nomination through the Manitoba Provincial Nominee Program.
- (d) The DOLE acknowledges that while the Government of Manitoba has an agreement with the Government of Canada with respect to provincial nomination for permanent residence, the Government of Canada retains final authority to determine applications for permanent residence and full authority over applications for temporary work permits. The Government of Canada has final authority to determine applications for temporary and permanent residence in Canada, including establishing policies, criteria and requirements and responsibility for processing operations and policies.

- (e) In order to pre-screen Workers before they apply for visas and work permits, the Participants will require that Workers referred to in the subsection (c):
- (i) pass the medical health examination required by Citizenship and Immigration Canada for admissibility to Canada as a temporary or permanent resident, as applicable;
 - (ii) do not have a criminal record;
 - (iii) do not have an outstanding custody or divorce dispute that might render them ineligible to become a temporary or permanent resident of Canada;
 - (iv) have satisfactory English language competency as measured by a testing system determined by LIM; and
 - (v) have the skills and knowledge sought by Employers.
- (f) The DOLE, through the Sending Agencies, will develop mechanisms to facilitate the deployment of qualified Workers.
- (g) This section does not prohibit employers in Manitoba from selecting and hiring Filipino nationals without using the arrangements or structures developed under this MOU, provided that recruitment and hiring are conducted pursuant to the Philippine Labour Code. This section likewise does not preclude hiring between the Participants' respective governments.
- (h) The recruitment of Filipino temporary workers outside the Philippines shall be coursed through the nearest Philippine Overseas Labour Office (POLO).

6. COST OF RECRUITMENT OF WORKERS

The Participants intend that Employers will cover the costs related to hiring of Workers. Employers and Sending Agencies must not request, charge or receive, directly or indirectly, any payment from a person seeking employment in Manitoba, which contravenes *The Employment Standards Code* and/or *The Employment Services Act*.

7. OFFERS OF EMPLOYMENT AND LABOUR CONTRACTS

- (a) The DOLE will require the Sending Agencies to conduct a mandatory orientation for Workers concerning the contents of the employment contract or written offer of employment sent by Employers to the Workers to ensure that the Workers have a clear understanding of the terms of their employment.

- (b) The DOLE will require the Sending Agencies to provide the Workers with a copy of the employment contract or written offer of employment. This employment contract will comply with *The Employment Standards Code*, *The Employment Services Act* and any terms and conditions set by the Government of the Province of Manitoba and the Department of Labour of Employment of the Republic of the Philippines applicable to the recruitment of temporary foreign workers to Manitoba.
- (c) LIM will provide the Dole specific orientation information that highlights the attributes of living and working in Manitoba including information on workers' rights and benefits under provincial legislation.
- (d) The DOLE will issue a POEA Exit Clearance for a Worker based on confirmation from the Employer of that Worker without requiring an original individual verified employment contract for that Worker.

8. PROTECTION OF WORKERS

The Participants intend to allow the Philippine Overseas Labour Office concerned in Canada to monitor Workers recruited under this MOU with the view to ensuring the protection and welfare of Workers under applicable Canadian and Manitoba laws.

9. HUMAN RESOURCE DEVELOPMENT

- a) Both Participants will explore projects to sustain and promote human resource development in the Philippines. These will be identified as Cooperation Priorities, as described in Section B, and the Working Committee referenced in Section 10 will work to ensure that the implementation of these projects is guided by the principle that both Participants will see mutual benefit from the operation of these projects.
- b) LIM shall encourage support and assistance to the Philippines to improve labour market training in the Philippines accessible to workers migrating to Manitoba as well as those working in the Philippines, including returning overseas Filipino workers as far as practicable in a manner similar to the programs and policy directions established by the Government of the Philippines.

10. WORKING COMMITTEE

The Participants will establish a Working Committee to coordinate activities on their shared priorities. The Working Committee will be comprised of representatives from the Philippines and Manitoba, who will articulate clear terms of reference including the membership of the group, timing and location of meetings, and appropriate mechanisms for reviewing the progress of cooperative activities.

11. COSTS

Unless otherwise agreed, each Participant will bear the costs resulting from its own participation in activities carried out in the furtherance of the objectives of this MOU. Nothing in this MOU will be construed as establishing a binding legal obligation to provide funds, goods, or services including funding, goods or services for a particular project within the areas of collaboration in Section 3 above. Funding for any project arising from participation in this MOU may be the subject of a future arrangement.

12. EFFECTIVE DATE, AMENDMENT AND TERMINATION

- (a) This MOU will come into effect on the date it is signed by the Participants and will remain in effect for a period of two (2) years from that date.
- (b) The MOU may be amended with the mutual written consent of the participants. Any such amendments will come into effect on the date determined by the participants.
- (c) In keeping with the purpose and scope of this MOU, each of the Participants will be open and transparent concerning their intention to enter into similar agreements with other jurisdictions respecting human resource development and deployment and will provide, at the other Participant's request, such other agreements made for that purpose.
- (d) During the term of this MOU, if a Participant concludes a similar agreement respecting human resource development and deployment with another jurisdiction, and if any provision of such agreement is more favourable to that third jurisdiction than what was negotiated in this MOU, the Participant which made a more recent agreement with a third jurisdiction agrees to give good faith consideration to amending this MOU in order to afford similar treatment to the other Participant, if requested by that other Participant.
- (e) Either Participant may notify the other in writing of its intent to terminate this MOU at least thirty (30) days in advance of such termination.

13. PRIVACY

Each Participant will comply with any applicable privacy legislation in their jurisdiction regarding any personal information they receive about individuals from the other Participant pursuant to this MOU. This provision will survive the expiration or termination of this MOU.

14. CONFIDENTIALITY of SENSITIVE INFORMATION THAT IS NOT PERSONAL INFORMATION

In addition to each Participant's responsibility to comply with any privacy legislation in its jurisdiction under section 3(b)(iv) and section 13, regarding sensitive information other than personal information, neither Participant will disclose any information or documents which comes to its knowledge or into its possession by reason of this MOU which the other Party has explicitly or implicitly indicated is being provided in confidence, and each Participant will treat confidentially all such information, documents or writing by the other Participant unless otherwise required pursuant to a judicial or legislative authority to which the respective Participant is subject. This provision will survive expiration or termination of this MOU.

15 NOTICE

Any notice under this MOU may be sent to the Participants as follows:

Ben Rempel
Assistant Deputy Minister
Manitoba Labour and Immigration
9 – 213 Notre Dame Ave
Winnipeg, Manitoba, Canada
R3B 1N3
Phone: 204 945 8310
Fax: 204 948 2882
E-mail: Ben.Rempel@gov.mb.ca

Francisco B. Luna
Labor Attaché II
Philippine Overseas Labor Office
801-161 Eglinton Ave. East
Toronto, ON M4P1J5
Phone: 416 975 8252
Fax: 416 975 8271
E-mail: polotr@bellnet.ca

For the Philippines:

Signed in duplicate, at Manila, Philippines this 8th day of February, 2008.



THE HONOURABLE ARTURO D. BRION
SECRETARY OF LABOR AND EMPLOYMENT
REPUBLIC OF THE PHILIPPINES

For the Government of the Republic of
the Philippines



THE HONOURABLE GARY DOER
PREMIER
PROVINCE OF MANITOBA, CANADA

For the Government of the Province of
Manitoba, Canada

ANNEX

PRIORITIES FOR COLLABORATION AND COOPERATION

Pursuant to the MOU, the Participants confirm the following shared priorities for cooperation and collaboration in the first year of the MOU:

A. Qualifications Recognition

The Participants will support initiatives and co-operate with each other and the appropriate educational and credential issuing authorities to establish training and education programs in the Philippines that meet the requirements and standards necessary for entry into specific occupations in Manitoba and that will improve the education and training opportunities in the Philippines.

B. Facilitating Expedited Processing of Applications for Work Permits and Visas

The Participants will support initiatives and co-operate with each other, the Sending Agencies and other appropriate organizations to develop mechanisms that will facilitate the work of the visa office at the Canadian Embassy in Manila to process work permit and visa applications for Workers.

The Participants aim to support expedited processing of Workers by the visa office while concurrently assisting and improving the effectiveness of the visa office in fulfilling its mandate to select and determine the admissibility of foreign nationals for temporary or permanent residence in Canada.