



Memorandum of Understanding(MOU) between the Department of Labor and Employment of the Philippines and the Ministry of Labor of the Republic of Korea on the Sending of Workers to the Republic of Korea

The Department of Labor and Employment of the Philippines (hereinafter referred to as the "DOLE") and the Ministry of Labor of the Republic of Korea (hereinafter referred to as the "MOL"), hereinafter referred to as the "Ministries",

Respecting the principle of equality and mutual benefit,

Desiring to enhance the existing friendly relations between both countries through cooperation in the field of labor affairs and human capacity building,

Recognizing the benefits to be derived by both countries from such cooperation, Have reached the following understanding.

Paragraph 1. Purpose

The purpose of this Memorandum of Understanding(MOU) is to increase transparency in the process of sending Philippine workers to the Republic of Korea and establish a concrete framework for cooperation between the DOLE and the MOL by setting out the rules for both Ministries to follow concerning the sending of workers under the Employment Permit System for Foreign Workers In the Republic of Korea.

Paragraph 2. Definitions

For the purposes of this MOU :

- (1) The term "employer" refers to a business owner who obtains permission from the MOL to employ foreign nationals pursuant to the Act on Foreign Workers' Employment, etc of the Republic of Korea (hereinafter referred to as the "Foreigner Employment Act") or a person who acts on behalf of the business owner.
- (2) The term "worker" refers to a person who has signed or intends to sign an employment contract with an employer in the Republic of Korea for the purpose of working in the Republic of Korea for a certain period pursuant to the Foreigner Employment Act.



- (3) The term "sending agency" refers to an agency which has the authority to recruit, select and send workers who want to be employed in the Republic of Korea pursuant to the Foreigner Employment Act.

The rules both Ministries will comply with to meet the purpose of this MOU are as follows.

Paragraph 3. Sending Agency

- (1) The DOLE will be the primary Philippine government agency responsible for recruiting, selecting and sending Philippine workers to the Republic of Korea under this MOU. However, in implementing this MOU, the DOLE and the MOL recognize and agree that the Philippine Overseas Employment Administration (POEA) - a DOLE's subsidiary organization financed from the Philippine national budget and mandated by Philippine law to regulate the employment of Philippine workers overseas - will be entrusted by the DOLE to act as the 'sending agency' directly involved in recruiting, selecting and sending Philippine workers to the Republic of Korea under the Foreigner Employment Act.
- (2) The sending agency will receive from workers expense equivalent to actual expense incurred in conducting activities to receive job applications and select and send workers. The amount of expenses and their calculation method will be agreed upon by the DOLE and the MOL.

Paragraph 4. Recruitment and Selection of Job-seekers

- (1) The sending agency will select job-seekers of the assigned quota every given period (every quarter or every six months, etc) and prepare a roster of job-seekers.
- (2) When the sending agency selects those who want to be employed in the Republic of Korea in preparation of the roster of job-seekers, it will select workers who satisfy the conditions set out below. If the number of job-seeking applicants exceeds the total number to be selected, the selection will be made according to a method agreed upon by the DOLE and the MOL.

Conditions for selection are as follows :

- (a) persons aged between 18 and 40 (inclusive);
- (b) persons who have passed a Korean Language Proficiency Test recognized by the MOL. However this condition applies only to those to be selected after August 17, 2005 ;



- (c) persons who have passed a health examination determined by the MOL ;
 - (d) persons who have no record of a crime punishable by imprisonment or a more severe punishment ; and
 - (e) persons who are not restricted from departure.
- (3) The roster of job-seekers prepared by the sending agency will include :
- (a) the job-seekers' personal information (name, nationality, date of birth, identification number, etc) ;
 - (b) desired employment conditions (wage, type of occupation, etc.) ; and
 - (c) career record, training and experience (education, language proficiency, job experiences, etc.).
- (4) The sending agency will send the roster of the job-seekers to the MOL(or Human Resource Development Service of Korea) by the date decided upon by the DOLE and the MOL.
- (5) If there is any error in the roster of job-seekers sent by the sending agency, the MOL may send it back to the sending agency. If any fraudulent act or false statement is found, the MOL may permanently exclude the job-seeker concerned from the roster and impose certain sanctions according to the procedures prescribed by the laws of the Republic of Korea.
- (6) The inclusion of a worker in the roster of job-seekers will not guarantee him/her a job in the Republic of Korea. The sending agency will ensure that it inform all job-seekers of this fact in the course of recruitment.
- (7) The MOL will notify the DOLE of the types of occupations in which foreign workers may be employed and the total number of workers that may enter Korea in the following year(total and quarterly) by the end of November every year.

Paragraph 5. Labor Contract

- (1) The sending agency will explain to workers the content of a labor contract(draft) sent by an employer in the Republic of Korea so that they can fully understand the contract. The sending agency will also provide workers who have signed a labor contract with a copy of the contract and instruct them to carry it with them when entering the Republic of Korea.
- (2) Employers and workers, respectively, will sign a labor contract using the standard labor contract form determined by the MOL.



- (3) The sending agency will conduct prescribed training for workers on the roster of job-seekers. The contents and period of the training will be determined through consultations between the Ministries.

Paragraph 6. Entry of Workers

- (1) A worker who has signed a labor contract will enter the Republic of Korea on the date determined by an employment training organization of the Republic of Korea according to its training schedules. The DOLE and the MOI will actively cooperate to ensure that the worker enters the Republic of Korea at the determined date on time.
- (2) A worker who has signed a labor contract will carry copies of his/her labor contract and health examination certificate when entering the Republic of Korea and submit them at the request of the relevant public officials.

Paragraph 7. Employment and Sojourn Management

- (1) The MOL will conduct employment training and health examinations for a worker before he/she is allocated to a workplace. An organization in charge of the employment training and health examinations will be determined by the MOL. If it is deemed unsuitable for a worker to work in the Republic of Korea as a result of the health examinations, the MOL may restrict his/her employment and take proper measures such as notifying the Ministry of Justice of this fact. The sending agency will pay for a return trip of such workers concerned.
- (2) A worker will be allowed to work in the Republic of Korea for up to three years after the date of entry, and each of his/her contract periods will not exceed one year.
- (3) A worker will, in principle, work in his/her initial workplace. However, he/she may be allowed to apply for a change of workplace if the MOL considers it difficult to maintain a normal employment relationship in the workplace concerned.
- (4) The worker will observe all laws of the Republic of Korea including the Foreigner Employment Act and the Immigration Control Act.
- (5) The sending agency will make active efforts to ensure that workers comply with the laws and regulations of the Republic of Korea and the workplace. Such efforts will include the prevention of workers' unauthorized leave from their workplace and of their becoming illegal residents, as well as ensuring the workers' voluntary departure from the Republic of Korea upon the expiry of employment period.



Paragraph 8. Computer Infrastructure

- (1) The sending agency will build a computer infrastructure in consultation with the MOL to facilitate the sending of roster of job-seekers, help in the signing of labor contracts between workers and employers, and protect the personal information of workers and employers.
- (2) The MOL will provide the sending agency with the necessary information and programs to facilitate the building of the computer infrastructure.

Paragraph 9. Korean Language Proficiency Test

- (1) The DOLE and the MOL will administer the Korean Language Proficiency Test to select job-seekers from August 17, 2005.
- (2) Test dates, organizers, content of the Korean Language Proficiency Test, and the influence of the test scores on the selection of job-seekers will be determined in writing by the MOL.

Paragraph 10. Guarantee of Preferential Treatment for Voluntary Leavers

- (1) Philippine illegal residents who departed from the Republic of Korea voluntarily by the end of February 2004 will be given preference in the selection of job-seekers by the sending agency.
- (2) The method of preferential selection of voluntary leavers and other subsequent measures will be agreed upon in writing by the Ministries.

Paragraph 11. Efforts to Eliminate the Illegal Stay of Workers

The DOLE and the MOL will make active efforts to ensure the departure of workers illegally residing in the Republic of Korea and to prevent future workers from staying illegal.

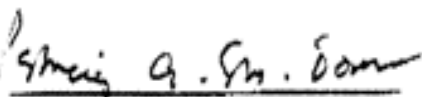
Paragraph 12. General Provisions

- (1) The DOLE and the MOL will actively cooperate, if a Party's labor attache or person in charge of a overseas branch office located in the other Ministry's country requests information or consultations in order to perform their work.
- (2) Representatives of the DOLE and the MOL may visit and assess each other's organizations at times decided upon by the Ministries to appraise the implementation of Articles 2 through 8.
- (3) The DOLE and the MOL may sign and add in writing annex on other rules governing the sending procedures of workers.
- (4) Any differences or disputes which may arise in relation to this MOU will be resolved in an amicable manner through consultations between the DOLE and the MOL.

Paragraph 13. Entry into Effect and Term of Validity

- (1) This MOU will come into effect upon signature by the DOLE and the MOL.
- (2) This MOU will remain in effect for two years : provided that the MOL may terminate this MOU if there are justifiable reasons for doing so, such as the ratio of illegally residing workers exceeding a certain limit, or the occurrence of Irregularities in the sending process.
- (3) This MOU will be amended or extended as mutually decided upon in writing by both the DOLE and the MOL.

DONE in two copies at Seoul on this 23rd day of April, 2004 in the English languages.

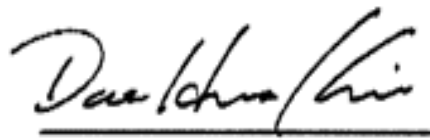


For the DOLE

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THE PHILIPPINES



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