

Memorandum of Understanding between  
the Department of Labor and Employment of the Philippines  
and the Ministry of Labor of the Republic of Korea  
on the Sending and Receiving of Workers to the Republic of Korea  
under the Employment Permit System

The Department of Labor and Employment of the Philippines and the Ministry of Labor of the Republic of Korea (hereinafter referred to as the "Parties"),  
Respecting the principle of equality and mutual benefit,  
Desiring to enhance the existing friendly relations between the two countries through cooperation in the field of labor affairs and human capacity building, and  
Recognizing the benefits to be derived from such cooperation by both countries,  
Have reached the following understanding.

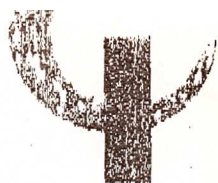
*Paragraph 1. Purpose*

The purpose of this Memorandum of Understanding (hereinafter referred to as "MOU") is to sustain the existing strong cooperation between the Parties and to increase transparency and efficiency in the process of sending and receiving Philippine workers to the Republic of Korea, by setting out the provisions for the two Parties to follow concerning the sending and receiving of workers under the Employment Permit System for Foreign Workers (hereinafter referred to as the "EPS") 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 Ministry of Labor of the Republic of Korea (hereinafter referred to as the "MOL") to employ foreign workers pursuant to the Act on Foreign Workers' Employment of the Republic of Korea (hereinafter referred to as the "Foreigner Employment Act") or a person who carries out specific tasks as a proxy of the business owner.
- (2) The term "job seeker" refers to a Philippine national who wants to work in the Republic of Korea pursuant to the Foreigner Employment Act.



- (3) The term "worker" refers to a person who has signed or intends to sign a labor 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.
- (4) 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.
- (5) The term "receiving agency" refers to an agency which coordinates with the authorities in charge of screening and pre-qualifying employers and manages with the sending agency all matters pertaining to the entry of workers in the Republic of Korea pursuant to the Foreigner Employment Act.

Both Parties will comply with the following provisions to meet the purpose of this MOU.

### *Paragraph 3. Sending Agency*

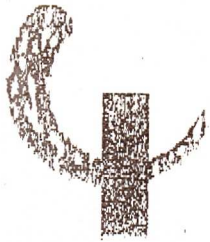
- (1) The Department of Labor and Employment of the Philippines (hereinafter referred to as the "DOLE") will be the primary Philippine government agency responsible for recruiting, selecting and sending Philippine workers to the Republic of Korea. However, in implementing this MOU, the Parties agree that the Philippine Overseas Employment Administration (hereinafter referred to as the "POEA") is designated by the DOLE to act as the sending agency.
- (2) The POEA is a subsidiary organization of the DOLE financed from the Philippine national budget and is directly involved in recruiting, selecting and sending Philippine workers and no other organization than the POEA can take part in the process under this MOU.

### *Paragraph 4. Receiving Agency*

The MOL will be the primary Korean government agency responsible for screening and pre-qualifying employers in Korea. However, in implementing matters pertaining to the entry of workers, the Parties agree that Human Resources Development Service of Korea (hereinafter referred to as the "HRD Korea") is designated by the MOL to act as the receiving agency.

### *Paragraph 5. Sending Fee*

- (1) The POEA shall ensure that workers are charged the actual expenses incurred in job application, selection and deployment. The determination of actual expenses shall be mutually agreed by the Parties.



- (2) The POEA shall inform the MOL in advance pursuant to Paragraph 1 of the amount of the fee to be paid by every worker and shall deliver its list to the latter. The MOL can request the POEA to reduce the fee if the MOL deems that the fee includes unnecessary items or is assessed to be excessively high when considering Philippine's economic situation (such as national income) and other countries' sending fees.
- (3) The DOLE and the POEA shall publicly announce in the Philippines the fee that was agreed with the MOL. The MOL, when necessary, can investigate the fee and its composition paid by the Philippine workers that entered the Republic of Korea.
- (4) When changes in the fee which has originally been agreed upon are inevitable due to inflation or other reasons, the POEA shall inform the MOL and consult on the matter in advance.

#### *Paragraph 6. Advertisement of the EPS*

- (1) The DOLE and the POEA shall actively advertise the key contents and employment procedure of the EPS in the Philippines. Specifics such as the advertisement method and date will be jointly decided by the Parties and carried out accordingly.
- (2) The DOLE and the POEA shall assist the MOL or the Human Resources Development Service of Korea (hereinafter referred to as the "HRD Korea") in advertising the EPS through means such as holding presentations in the Philippines.

#### *Paragraph 7. Conduct and Administration of the Korean Language Proficiency Test*

- (1) The MOL shall conduct the EPS Korean Language Proficiency Test (hereinafter referred to as the "EPS-KLT") for an objective selection of job seekers.
- (2) General matters concerning the execution of the EPS-KLT such as public notification of the test, question selection and the conducting of the test will be carried out by a test agency authorized and announced by the MOL.
- (3) Qualifications for the EPS-KLT are as follows :
  - (a) persons aging from 18 to 39(Inclusive) ;
  - (b) persons who have not been convicted of a crime punishable by imprisonment or a more severe punishment ;
  - (c) persons who have no record of deportation or departure orders from the Republic of Korea ; and
  - (d) persons who are not restricted from departure from the Philippines.



- (4) The DOLE and the POEA shall advertise the EPS-KLT via public media for its smooth implementation and support the execution of the EPS-KLT pursuant to the "Implementing Agreement between the Republic of Korea and the Philippines on the Conduct and Administration of the KLT" signed by both Parties.
- (5) Other various matters related to the conduct and administration of the EPS-KLT such as the frequency, the execution procedure, test contents and limits of examinees will be decided by the Parties and carried out accordingly.

### *Paragraph 8. Recruitment and Selection of Job Seekers*

- (1) The POEA will prepare job seekers' roster (hereinafter referred to as the "roster") and send it to the HRD Korea.
- (2) When the POEA selects the workers who want to work in the Republic of Korea in order to prepare the job seekers' roster, the POEA will select job seekers who satisfy the following qualifications.
  - (a) persons who have passed the EPS-KLT recognized by the MOL; and
  - (b) persons who have passed the health examination determined by the MOL;

If the number of qualified job seekers exceeds the total number allocated to the Philippines, the selection will be made according to a method agreed on by the Parties.

- (3) The roster prepared by the POEA will include the following information:
  - (a) job seeker's personal information (name, nationality, date of birth, identification number, passport number, etc.) ;
  - (b) desired employment conditions (wage, type of occupation, etc.) ;
  - (c) personal and career background (education, work experience, etc.) ; and
  - (d) information on the EPS-KLT taken by the job seeker (test agency, test-date and score)
- (4) The DOLE and the POEA will actively cooperate to shorten the time incurred in issuing a passport to facilitate a job seeker to obtain one in advance and submit its copy when making a job application.
- (5) In the selection process the POEA will inform the job seekers that their inclusion in the roster will not guarantee them a job in the Republic of Korea.

### *Paragraph 9. Management of Job Seekers' Roster*

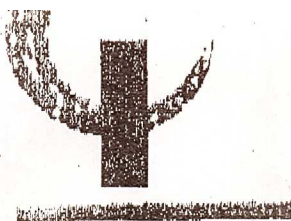
- (1) The job seekers' roster is valid for one year.



- (2) The POEA will confirm the willingness to find jobs, the contact address, etc. of the job seekers listed in the roster every four months, and will inform the HRD Korea of any changes and the reason for the changes.
- (3) The HRD Korea can return the roster to the POEA if there is any error in the roster, and the POEA will correct those mistakes and send the roster back to the HRD Korea.
- (4) If there is any misconduct or false declaration in the process of the recruitment and selection of job seekers, the MOL can impose certain restrictions such as exclusion of the job seeker in question from the roster, reduction of the allocated number of job seekers to the Philippines, temporary suspension of sending workers or termination of the MOU.
- (5) The MOL will inform the DOLE by the end of March of each year of the types of occupations allowed under the EPS and the allocated number of job seekers.

### *Paragraph 10. Labor Contract*

- (1) The POEA will announce job seekers selected by employers via public media in the Philippines immediately after receiving the employer's draft of the labor contract from the HRD Korea.
- (2) The POEA will explain the content of the labor contract to each worker so that he/she can fully understand it and shall decide whether or not to sign the labor contract at his/her own will.
- (3) The POEA will inform the HRD Korea whether each labor contract has been signed by a worker, or if not signed, the reason for not signing the same within 14 days of receiving the labor contract. If the position on signing of labor contract is not conveyed within the given period, the HRD Korea can make it not signed through consultation with the employer.
- (4) If any job seeker cancels the already signed labor contract or does not sign the labor contract two times without any due reason, the MOL can exclude him/her from the roster. The HRD Korea shall notify the POEA of the list of job seekers who have been excluded from the roster.
- (5) The POEA will provide the original copy of the labor contract to the worker who signed it and have him/her bring it when arriving in the Republic of Korea.
- (6) The DOLE and the POEA should cooperate so that the workers designated to work in the Republic of Korea enter into the Philippine social insurance program prior to entering the Republic of Korea, once the Social Security Agreement (hereinafter referred to as the "SSA") is ratified.
- (7) The Parties should make continuous efforts, through close mutual cooperation, to find some workable solution(s) to minimize labor contract cancellations by either employers or foreign workers.



### *Paragraph 11. Preliminary Education*

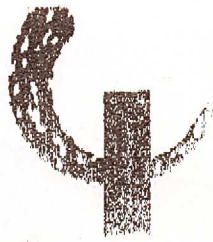
- (1) The DOLE and the POEA will conduct a preliminary education for the workers who signed the labor contract, and shall decide the content and period of the education through prior consultation with the MOL.
- (2) The DOLE shall select a public agency to be entrusted with the preliminary education through prior consultation with the MOL.
- (3) If any worker is found, after his/her arrival in the Republic of Korea, not to have received the preliminary education or have but not from the designated agency after his/her arrival in the Republic of Korea, the MOL can deport the worker and take necessary measures.

### *Paragraph 12. Visa Issuance*

- (1) The POEA will inform the workers immediately after receiving the Certificate for Confirmation of Visa Issuance from the HRD Korea and apply for the visa for the worker at the Korean diplomatic mission in the Philippines with the required documents.
- (2) The HRD Korea can cancel the labor contract of any worker who does not apply for the visa within the three months of the validity period of the Certificate for Confirmation of Visa Issuance.
- (3) If the number of workers with the Certificate for Confirmation of Visa Issuance who decide not to enter the Republic of Korea for no valid reasons exceeds a certain percentage, the MOL may take necessary measures such as reduction of the allocated number of job seekers or the temporary suspension of sending workers.
- (4) The POEA is the single organization authorized to assist in visa application, and no other organizations can intervene in the process.

### *Paragraph 13. Entry of Workers*

- (1) Any worker who has signed a labor contract will enter the Republic of Korea on the date determined by the MOL and the HRD Korea according to each employment training schedule. The Parties will actively cooperate to ensure that he/she enter the Republic of Korea on that date.
- (2) The POEA, in order to prevent the postponement of the entry of any worker into the Republic of Korea due to shortage of flights, will take necessary measures such as making advance flight reservations.



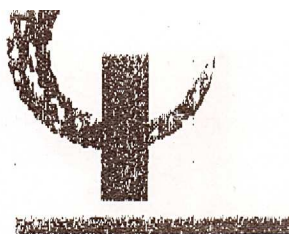
- (3) All workers will carry the original copies of his/her labor contract and health examination certificate when entering the Republic of Korea and submit them at the request of the relevant public officials.

#### *Paragraph 14.* Provision of Information on the Sending Process

The POEA, in order to provide information on the progress of the workers' preparations for their entry into the Republic of Korea, will input it into the EPS Network at every stage. Information will include the purchase of social insurance once the SSA is ratified, the completion of preliminary education, the application for visa, etc.

#### *Paragraph 15.* Employment and Sojourn Management

- (1) The MOL will conduct employment training and health examinations for workers before they start to work. The organization(s) in charge of the employment training and health examinations will be determined by the MOL.
- (2) If there is any worker found medically unfit according to the result of the health examination, the MOL can take adequate measures such as notifying the Ministry of Justice.
- (3) If a worker returns to the Philippines prior to the termination of his/her labor contract period due to disqualification in the health examination, maladjustment to the workplace, etc., he/she will bear the general expenses including the airfare for his/her departure from the Republic of Korea. If he/she is unable to afford such expenses the Philippine government shall assist the cost of his/her return to the Philippines.
- (4) A worker can be allowed to work in the Republic of Korea for up to three years after the date of entry, and each labor contract period will not exceed one year.
- (5) A worker will, in principle, work in his/her initial work place. 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.
- (6) The DOLE /POEA and the MOL/HRD Korea shall undertake concerted efforts to ensure that all workers and their respective employers observe all laws of the Republic of Korea including the Foreigner Employment Act and the Immigration Control Act. The MOL will protect foreign workers' right in accordance with related labor laws of the Republic of Korea.



- (7) The DOLE and the POEA will make active efforts to prevent a worker's absence without leave from his/her workplace and to provide post-managerial support such as facilitating his/her voluntary departure from the Republic of Korea upon the expiry of employment period.
- (8) If the number of Philippine workers absenting themselves from their workplace without leave exceeds a certain percentage, the MOL may take necessary measures such as reduction of the allocated number of job seekers, temporary suspension of sending workers, and termination of the MOU.
- (9) The DOLE and the POEA will make active efforts for efficient post-management via measures such as dispatching post-management officers to the Republic of Korea. The specifics such as the date and process concerning the dispatching of the post-management officers as well as their roles will be determined by future consultations between the Parties.
- (10) The on site management concerning foreign workers such as training & medical examination, transfer of workplace and breach of labor contract will be attended to by the MOL, through its duly authorized entities, to ensure the harmonious implementation of the EPS.

#### *Paragraph 16. Computer Infrastructure*

- (1) The POEA will maintain a computer infrastructure in consultation with the MOL to facilitate the transmission of the roster, the signing of each labor contract between every worker and employer, and the protection of their personal information.
- (2) The MOL will cooperate in the improvement of the existing computer infrastructure, including systems updates and technical assistance.

#### *Paragraph 17. Preferential Treatment for Voluntary Leavers*

The POEA will make efforts for the reemployment of workers that voluntarily left the Republic of Korea via Korea's Program for Voluntary Departure by listing them first in the roster.

#### *Paragraph 18. Efforts to Eliminate the Illegal Stay of Worker*

- (1) The Parties will make active efforts to ensure the departure of any worker illegally staying in the Republic of Korea and to prevent future workers from staying illegally.





- (2) If the number of the Philippine workers staying illegally in the Republic of Korea exceeds a certain percentage, the MOL may take necessary measures such as reduction of the allocated number of job seekers, temporary suspension of sending workers or termination of the MOU.

### *Paragraph 19. Support in the Sending Process*

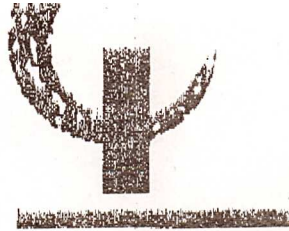
- (1) The MOL, in order to support the process of sending Philippine workers to the Republic of Korea, may dispatch officers of the MOL and the HRD Korea (hereinafter referred to as "resident officer") to the Philippines.
- (2) The resident officers, through consultations with the DOLE and the POEA, may monitor, assess, advise and coordinate the labor sending process at all times.
- (3) The DOLE and the POEA will provide active cooperation such as issuance of long-term visa and provision of related materials in order to facilitate the tasks of the resident officers.
- (4) The specific roles, authority, and duties of the resident officers in the sending process will be determined through future consultations between the Parties.

### *Paragraph 20. Grandfather Clause Due to Discontinuance of the Industrial Trainee System*

As of January 1, 2007, the Industrial Trainee System will be discontinued and the qualifications for the previous Industrial trainees in the Republic of Korea may be determined according to the decision of the Korean government.

### *Paragraph 21. General Provisions*

- (1) The Parties will actively cooperate, through their respective labor representatives, to establish and maintain a channel for the efficient exchange of information regarding the EPS.
- (2) The representatives of the Parties, jointly with relevant authorities if necessary, may visit and assess each other's organizations at times decided on by the Parties to appraise the implementation of the EPS.
- (3) The DOLE and the MOL will make active efforts to eliminate malpractices in the process of sending and receiving workers such as operating a complaint center where malpractices can be reported.



- (4) In the process of sending workers, the Parties may add supplementary provisions in writing by mutual consent.
- (5) The POEA and the HRD Korea may sign an implementing instrument regulating specific matters regarding the process of sending and receiving Philippine workers to the Republic of Korea.
- (6) Any differences or disputes which may arise in the interpretation or implementation of this MOU will be resolved through consultations between the Parties.

*Paragraph 22.* **Effectuation and Term of Validity**

- (1) This MOU will come into effect on the date of the signature by the Parties.
- (2) With the effectuation of this MOU, the MOU on sending labor signed in April 23rd, 2004 between the Parties will be invalid.
- (3) This MOU will remain in effect for two years. However, one of the Parties may suspend or terminate this MOU, after due consultations, if there is any justifiable reason for doing so, such as the ratio of illegally residing workers exceeding a certain limit, or the occurrence of irregularities in the sending of workers.
- (4) The Implementing Agreement between the DOLE and the MOL on the Conduct and Administration of the Korean Language Test signed between the Parties will remain in effect during the validity period of this MOU.
- (5) This MOU may be amended or extended based on mutual written consent between the Parties.
- (6) Termination of the MOU by either party shall require a 30 days written notice citing the reasons for such termination. Notwithstanding the termination, duly concluded employment contracts shall remain valid, binding and enforceable.

Signed in two original copies on October 20th, 2006 in the English language.

Secretary of the Department of  
Labor and Employment

*For the Department of Labor and  
Employment of the Philippines*

Minister of Labor

*For the Ministry of Labor  
of the Republic of Korea*