

Case Study

Republic of Korea

by

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Korea's Migrant Worker Policy & Employment Permit System

2006. 2



I. Current State of Foreign Residents in Korea

□ Current Statistics

- As of Dec. 2005, among 345,579 foreign residents, 164,787(48%) are legal while 180,792 illegal.

(Unit : Persons)

Total	Sub-Total	Legal Foreign Residents					Illegal Residents
		Work Permit Holders			Industrial Trainees	Trainees from Overseas Korean Company	
		Professional Skilled Workers	Trainees in Employment	Non-professional workers			
345,579 (100.0)	164,787 (47.7)	23,489 (6.8)	50,703 (14.7)	52,305 (15.1)	32,148 (9.3)	6,142 (1.8)	180,792 (52.3)

※ Based on the number of economically active population aged from 16 thru. 60

- Number of Illegal Residents by Country

(Unit : Persons)

Total	China	Korean Chinese	Thailand	Philippines	Bangladesh	Indonesia	Vietnam	Mongolia	Uzbekistan	Pakistan	Others
180,792 (100.0)	79,377 (43.9)	36,699 (20.3)	11,146 (6.2)	13,249 (7.3)	13,605 (7.5)	5,521 (3.1)	10,838 (6.0)	10,354 (5.)	6,321 (3.5)	4,991 (2.8)	25,390 (14.0)

- Development of Illegal Workers by Year

(Unit : Thousand, %)

	'97	'00	'02	'03	'04
No. of Foreign Residents	245	285	363	391	422
No. of Illegal Workers•Residents	148(60.4)	189(66.3)	289(79.6)	309(80)	188(44)

- About 28% of foreign residents have trainee status, who are subject to limited protection of the Labor Standards Act, and around 40% of them are illegal stayers.

- With the introduction of the Employment Permit System (EPS) in Aug. 2004 and continued crack down efforts against illegal residents, the growth rate has been on the decline.

II. Basic Assumptions Underlying the Foreign Worker Policy

- **To successfully implement foreign worker policy and stop illegal residents from growing**
 - Share perspectives on clear targets regarding foreign workers and the number of foreign workers to be admitted
 - economic & demographic considerations, social safety, order, addressing labor shortages, eliminating discrimination serve as basic principles.
 - utilize mechanisms to control the level of foreign workers such as labor market test, quota allocation, employment tax, and etc.
 - Implement systematic entry, departure, stay, and employment of foreign workers
 - To this end, organic cooperation and role division among different divisions, and legal and institutional framework is required.
 - Rather than concentrating on immigration control only, more attention needs to be paid to management of workers' stay and employment
 - Aside from the activities of entry control divisions, specialized labor organization with an ability to identify and analyze demand for foreign workers by occupation type, vocational ability, etc must conduct thorough examination.
 - Strictly and consistently watch out for illegal residency, employment, hiring, and continuous crosschecking related institutions and local governments.
 - Sharing and crosschecking of all foreign worker related information (entry, departure, residency, employment, etc), and utilizing the information for different purposes by individual divisions
 - Punish employers illegally employing foreign workers, to root out illegal residency

III. Factors Influencing Korea's Foreign Workforce Policy

1. Labor Market

- **Various factors contribute to the generation of illegal residents, e.g. tour, studying abroad, seeking refuge, reunion of separated families, work, business, etc.**
 - Economic factors such as GNP difference and wage difference between host country and home country, and availability of jobs, are considered to be one of the most biggest factor contributing to the rise of illegal residents.
 - Workers from neighboring countries such as South East Asian countries, prefer to work in Korea, because the wage level in Korea is about 10 times higher than in their home country.
 - Manufacturing and construction business are most popular to foreign workers in Korea.
 - When looking at the level of labor shortage by each business type, manufacturing businesses are constantly experiencing labor shortages, in short of about 120,000 ~150,000 workers, while Korean youths are avoiding to work in manufacturing sector.
 - As for construction, there is demand for about 50,000 foreign workers due to aging of existing Korean workers.

2. Insufficient (No) Response Against Illegal Residents

- As company-centered systems (Industrial Trainee System, no actions taken against illegal residents) were implemented, the interests of the companies who are the ultimate users of foreign workers, are fulfilled. However,
 - resulting human rights violation, illegal residency, settlement of illegal residents, lax implementation of legal mechanisms, and other socio-economic side-effects were left undealt.
 - Few research and preparation against increasing number of foreign workers from 40,000 to 400,000 for 10 years were done.
- In particular, due to temporary crack down on illegal residents and frequent extension of visa expiry (more than 10 times), illegal workers' law abiding spirit have weakened significantly.
 - According to the immigration laws, violators of the law are subject to certain punishment. However, in reality, the actual punishment is far less harsh

- As employer-centric policies and passive measures against illegal workers led to violation of human rights, and as many NGOs helping out illegal workers have generated a compassionate sentiment toward illegal workers, it is difficult to carry out policies to root out illegal residents.
- Moreover, as Employment System for Professional Skilled Foreign Workers, Trainee Program for Employees of Overseas Korean Company, Industrial Trainee System, Employment Permit System, etc are managed by different ministries and divisions at the same time, sense of responsibility is greatly weakened.
 - No divisions or trainee placement agencies are responsible for post-management and preventing illegal residents.
 - Only the EPS is based on the “Act on Employment of Foreign Worker, and etc.”, while Trainee System for Overseas Korean Company, Industrial Trainee System, etc are based on the Immigration Control Act, and are managed by the trainee placement agencies (Small and Medium Business Administration, Construction Business Association) based on the established regulations of the Ministry of Justice, Small and Medium Business Administration, Ministry of Commerce & Industry & Energy, Ministry of Maritime and Fisheries, and other related entities.

IV. Employment System of Foreigners

1. Employment of Professional Skilled Foreign Workers

- **Based on the Immigration Control Act, professional skilled foreign workers can be employed in Korea by being qualified to receive the following types of visas: professors(E-1), teaching foreign languages (E-2), research (E-3), special technology instructions (E-4), specialty occupations (E-5), arts and entertainment (E-6), other particular occupations (E-7).**
- **General Employment Procedures**
 - Signing a labor contract → (recommendation of the Minister of a related ministry) → Issuance of Certificate for Confirmation of Visa Issuance(CCVI) by the Minister of Justice → Issuance of Visa by the Korean diplomatic mission → Entry to Korea
 - ※ Job Security Act is applied to signing labor contract

2. Employment of Under-Skilled Foreign Workers

1) Trainee System for Employees of Overseas Korean Company

- **With the rapid growth of the Korean economy,**
 - The so called 3D industries such as small and medium manufacturing business, construction, and etc experienced shortages of low-skilled workers since the late 1980s. Therefore, some voiced the need to hire foreign workers.
 - It was mainly the employer organizations that supported receiving foreign workers. Labor organizations such as FKTU(Federation of Korean Trade Union) were against admitting foreign workers, because of their concerns on possibility of reduced employment opportunities and difficulty in improving working conditions for Korean workers.
- **In Nov. 1991, Trainee System for Employees of Overseas Korean Company was introduced** (maximum training period of up to 2 years, number of trainees determined based on company size)
 - It has helped improve management efficiency, facilitated technology transfer to developing countries, and etc by training workers from Korean factories operating abroad.
- However, following issues were raised
 - i) Due to lack of specific training standards and trainee management system, arbitrary management of trainees by individual companies led to frequent violation of workers' rights and their unauthorized leave from the company, going illegal.
 - ※ As of Dec. 2005, 5,885 (49%) trainees from overseas Korean companies have run away from their workplaces out of 12,027 trainees, leaving 6,142 (51%) legal.
 - ii) Those with the trainee status were not protected by labor-related laws.

- Therefore, the Ministry of Labor introduced the Guidelines on the Protection of Trainees From Overseas Korean Company (Nov. 23, 1999) to allow workers to provide labor and receive wages from the mother company in Korea in return for that labor, to be subjected to core provisions of the Labor Standards Act, Minimum Wages Act, Industrial Safety and Health Act, and Industrial Accident Compensation Insurance Act.

2) Industrial Trainee System

- Industrial Trainee System was introduced in December 1993, as the benefits of the Trainee System for Employees of Overseas Korean Company mainly went to fairly large companies and failed to address the labor shortage problems of the small and medium sized enterprises(SMEs)..
- Korean companies offered training programs for foreign workers to strengthen industrial & technological cooperation with developing countries (managed by the Ministry of Maritime Affairs & Fisheries, Ministry of Agriculture, Ministry of Transportation and Construction, Small and Medium Business Administration)

< Overview >

- After serving as a trainee for one year, he/she can become Trainee with work permit for two years
- 18 sending countries including China, Indonesia, Vietnam, Bangladesh.
- Placement permitted to the industries of manufacturing, construction, coastal fishing, agriculture and livestock farming
- Following problems were created by the Industrial Trainee System:
 - i) Illegally employing foreign workers by disguising them as trainees to deal with labor shortages
 - ii) Trainee sending procedures were conducted by private agencies giving way to irregularities in the sending procedures, leading to frequent runaways and illegal employment
 - iii) Lack of legal protection by labor related laws, and frequent human rights violation.
 - iv) Inefficiency caused by multi-ministry involvement leading to redundancies, and lack of unified foreign worker policy.

- v) Lack of mechanism that controls the demand for foreign workers, leading to increased number of illegal workers and taking away potential jobs from Korean nationals.

3) The Service Sector Employment Management System (Special eligibility)

- **Employment Management System for the service sector was introduced on Dec. 6th, 2002 to promote employment of ethnic Koreans of foreign nationality. It was abolished on August 17, 2004 when the Employment Permit System for Foreigners(EPS) made a debut.**
- Ethnic Koreans of foreign nationality (aged 25 years or older) who have relative(s) residing in Korea can get F-1-4 visa issued. After entry, they can be employed via local Employment Security Centers(ESC) of Labor Ministry(MOL).
- Permitted Types of Occupation : 6 types of occupation in the service sector, and construction business (construction project worth KRW 30 billion or less, construction by professional jobs).

V. Employment Permit System for Foreigners (EPS)

1. Introduction of the Employment Permit System

- **Coming up with mid-to-long-term foreign worker policy to address low-skilled worker shortages, and resolve distortions in the labor market caused by the Industrial Trainee System (Taking away native workers' job opportunities, ongoing labor shortages, high wages for illegal residents, unauthorized leave from workplaces).**
- Strengthening basic human rights of foreign workers and prohibit unjust discrimination
- The EPS was adopted to establish foreign worker employment order and strengthen immigration control, thereby eliminate illegal employment and hiring, prevent permanent settlement of foreign workers, etc.

< History >

- Since 1995, the government, the National Assembly, the labor circle and NGOs have raised the issues of introducing the Employment Permit System for foreigners, in attempt to address these problems.

- Eventually on July 31, 2003, "Act on Employment of Foreign Workers, etc." passed the plenary session of the National Assembly, which includes an introduction of the Employment Permit System, legalization of illegal foreign residents (in the fourth quarter of 2003), etc.
- And on August 17, 2004, the Employment Permit system (EPS) for foreign workers took effect with the effectuation of the Act.

2. General Overview of the System

□ Beneficiaries

- Korean employers who have failed to hire native workers (for 3 ~ 7 days) are allowed to legally hire an adequate number of foreign workers. There are several conditions that they shall meet - no records of having hired or currently employing foreign workers illegally, of having fired domestic worker(s) over the last two months before the recruitment application and of overdue wage over the last five months before the recruitment application, etc.
- Foreigners who are aspiring to get a job in Korea must be aged from 18 through 40, pass the designated Korean Language proficiency test(EPS-KLT) and medical check-ups, have no record of illegal stay in Korea, not be restricted on departure from their home country and no criminal record. They are protected as equally as Korean counterparts based on relevant laws such as the Labor Standard Act, the Minimum Wage Act, the Industrial Health & Safety Act.

□ Contract and Employment Period

- Foreign workers under the EPS can stay and be employed in Korea up to three years while the labor contract is valid for one year. An employer and a foreign worker have to decide on whether they renew the contract or not before the expiration of the contract. If there is no agreement on contract renewal reached by the both party, the worker is allowed to change his/her workplace. All the relevant processes are obliged, by law, to be done through the local ESC.

□ Relevant organizations

- With the principle of no involvement of private sector businesses, the Ministries of Labor (or equivalent ministry) both in Korean and sending countries are in charge of and responsible

for the whole process of labor sending work. It means private sector businesses are, by the MOU and the law, prohibited from intervene in the system.

- To facilitate the sending and receiving work, the both ministries have designated public organizations as field actors, for example, the HRD Korea in Korea and POEA in the Philippines.

□ **Selection of Sending Countries**

- Sending countries are selected by the "Foreign Workforce Policy Committee" based on the rate of illegally staying workers, nationality preference by employers, public and IT infrastructure for sending work, post-management capability, etc and the MOU(valid for two years) is signed with nations that accept all such requirements.
- As of Dec. 2005, the sending countries are Indonesia, Mongolia, Sri Lanka, the Philippines, Thailand, Vietnam (six countries).
- More sending countries are planned to be selected in March, 2006, among countries which are sending Industrial Trainees.

□ **Decision of Quota and Industries**

- Based on the objective criteria such as the rate of illegal stayers, nationality preference by employers, the quota of each country is decided and announced by the end of March every year. And at the same time, industries in which the employment of foreign workers is permitted is also decided. As of 2005 Dec., Manufacturing, Construction and Agriculture & Stock Breeding are in the category. As the EPS is a kind of competition system, the number of certain nationals actually to be employed may be far larger than others depending on the demand of employers.

<The number of the entered>

(Dec. 31, 2005)

Total	Vietnam	Thailand	Philippines	Mongolia	Indonesia	Sri Lanka
34,826	9,323	6,522	6,140	4,933	4,720	3,188

□ **Employment Process**

i) Job application

- Aspiring job seekers have to take and pass the EPS-KLT that is conducted in their home countries. Those who have passed take medical check-ups, if pass, and then make a job application in the designated sending agency.

ii) Making job seekers roster

- The sending agency inputs applications in the computer program and then transfer job seekers' roster to the MOL(HRD Korea) via the EPS internet.

<Required information>

Classification	Basic information
Personal details	Name, age, nationality, photo, SSN, birth date, gender, marital status, height, weight, eyesight(left and right), color blindness (normal and color blindness), homeland address and phone number), date of medial examination, hospital performed the medical examination and result of the medical examination
Desired employment conditions	Desired industry, desired wage and desired service area
Job experiences	Educational background, major, language capacity (English and others), licenses (homeland/Republic of Korea) and job experiences (industry and service years)
EPS-KLT	Test agency, date and score

iii) Application for the employment of foreign worker(s)

- A Korean employer wanting to hire foreign workers has to get through a recruitment effort (3 ~ 7days) to hire domestic workers and, if failed, he/he is permitted to make an application for the employment of foreign worker(s) in a local ESC.

iv) Selection of worker(s) and Employment Permit issuance

- After screening the legitimacy of a business, an ESC refer alien job seekers who meet the requirements of the company to an employer on a random basis. The number on the list can be up to 5 times that of job seekers to be selected by an employer. When the employer make a selection, Employment Permit(s) is issued at the ESC and a labor contract is made automatically in the EPS computer system.

v) Signing of Labor Contract

- The labor contract of the selected job seeker is transferred to the sending agency via the EPS computer system. The sending agency contacts the subject job seeker for the signing of the contract. Based on the decision of him/her - agree or not on the terms and conditions of the contract- the sending agency processes the result in the EPS computer system.

【 Contents of Labor Contract 】

- ◇ information of employer(business) and employee(foreign job seeker)
- ◇ contract period
- ◇ address of workplace, business line, contents of duty
- ◇ working hours, recess hours, holidays
- ◇ payment, payment date, payment methods
- ◇ board and accommodation (provided or not)

vi) CCVI issuance

- The HRD Korea, on behalf of employers, applies for and receives the Certificates for Confirmation of Visa Issuance(CCVI) of the contracted foreign workers in an immigration office, and then send them to the sending countries by mail.
- ※ The Ministry of Justice has launched E-visa system in September last year. With the system, there is no paper CCVI. The Korean diplomatic missions can check whether a visa applicant's CCVI has issued in the computer system. Among the first batch of about 70 countries, only two sending countries - the Phillipines and Thailand- are included.

vii) Entry of foreign workers

- On receiving a CCVI, the sending agency, on behalf of workers, applies for and receives a visa(E-9) in a Korean diplomatic mission, and based on the entry schedule by the HRD Korea, the listed workers enter Korea with arrangements of the sending agency. The sending agency also has to confirm the entry possibilities (possible, delayed and give-up) of workers on the proposed date and workers have to take the pre-departure training in advance. Workers are not allowed to be accompanied by any family member.

<Pre-departure Training>

Category	Worker not related to probation	Worker related to probation
Total	85 hours (2.5 weeks)	30 hours (1 week)
Korean Language	15 hours	15 hours
Understanding of Korean culture	7 hours	5 hours
Understanding of the EPS	13 hours	3 hours
General subjects including the industrial safety	15 hours	7 hours
Special subjects for each industry	35 hours	N/A

viii) Employment Training

- Foreign workers are obliged to take min. 20 hours of the Employment Training (Korean culture, basic skills, EPS, etc.) within 15 days after their entry. During the training, they also take medical check-ups. To make the process more convenient and effective, workers are directly transported to training centers from an airport. After the completion of the training (usually 3 days), their employers take them to the workplaces from training centers.

□ Post-Management of Foreign Workers.

- As the increasing number of foreign workers under the EPS is entering Korea, the systematic and collective post-management system is very crucial, in order to prevent and address their human rights violation, disputes, accidents, workplace changes, wage related problems, etc..
- Local labor offices of the MOL and HRD Korea, in collaboration with around 150 NGOs, are providing pertinent services and, especially this year, the HRD Korea launched the pilot project for full post-management services, which will lay the groundwork for one-stop systematic system.

【 Services 】

○ Mediate problem & conflict in workplace	○ Support management & report of foreign workers
○ Support foreign workers in accidents	○ Provide counselling and legal advice to foreign workers
○ Support early departure of foreign workers	○ Support workplace changes

3. Employment for Ethnic Koreans

- With the launch of the EPS, ethnic Koreans who meet certain qualifications (having relatives residing in Korea, etc) can obtain visa (F-1-4) and be employed in service and construction industries(manufacturing and agriculture & stock breeding will be open for them in 2006) After their entry and before their employment effort, they have to take the Employment Training in advance (20 ~ 28 hours). After completing the training, they are to make job applications at an ESC of the MOL which is authorized to job-place them. After the signing of a labor contract, an ethnic shall report the fact to an immigration office to change his visa status(F-1-4) into a working visa (E-9).
- For those wanting to work in construction, different from other industries, they are given the six-month Work Permit from an ESC and make an effort to find a job by themselves. When finding a job, they have to report to a local ESC.
- Contract Period of ethnic Korean is also max. one year and they can stay in Korea up to 3 years like foreign workers. As of Dec., 2005, 32,742 ethnic Koreans have been employed under the EPS.

VI. Conclusion

- Given rapid aging population and increasing number of younger generation shunning employment in small-and-medium sized enterprises(SMEs) with relatively unfriendly working conditions, the importing of foreign workforce is not optional but inevitable now and will also be more crucial into the future.
- Realizing the EPS is the model way to meet such change and demand, minimizing negative aspects regarding migrant workers such as illegal staying and human rights violations, sending fraud by private agencies, the Korean government led the decision, in 2005 July, to merge the Industrial Trainee System into the EPS on January 1, 2007.

- ⌘ The 65% and 60.7% of the respondents to the EPS survey said that the EPS had helped improve foreign workers' rights and interests and reduced runaway rates, respectively.
- While the one and half year-old EPS has still quite a few problems addressed to satisfy all parties involved (employers, foreign workers, governments Korea and sending countries), experiencing trials and errors, it is expected to be stabilized within a couple of years.
- As the EPS is a government-to-government system(G to G), in addition to Korean government's efforts, pro-active cooperation of the governments of sending countries is one of key factors for the success of the system.

**Memorandum of Understanding(MOU) between the Ministry of Labor of the Republic
of Korea and (Name of sending country's ministry) on the Sending of
()Workers to the Republic of Korea**

The Ministry of Labor of the Republic of Korea (hereinafter referred to as the "MOL") and (Name of sending country's ministry) (hereinafter referred to as the “ ”), hereinafter collectively referred to as the "Parties",

Desiring to enhance the existing friendly relations between both countries through cooperation in the field of sending of () workers and human capacity building based on the principle of equality and mutual benefit,

Recognizing the benefits to be derived by both countries from such cooperation,

Pursuant to the prevailing laws and regulations of the respective countries,

Have reached an understanding on the following matters.

Paragraph 1. Purpose

The purpose of this Memorandum of Understanding(MOU) is to increase transparency in the process of sending () workers to the Republic of Korea and establish a concrete framework for cooperation between the MOL and the (“ ”) by setting out the rules 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 workers 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 Indonesian citizens who have 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 () Government 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.

As the rules, the Parties will comply with to meet the purpose of this MOU as stipulated in Paragraph 3 through Paragraph 13.

Paragraph 3. Sending Agency

- (1) The (“ ”) is the primary () government agency responsible for recruiting, selecting and sending () workers to the Republic of Korea under this MOU.
- (2) In implementing this MOU, the Parties recognize and agree that (), a subsidiary organ under the auspices of and will be established by (“ ”) under the () Law.
- (3) The () will function to regulate the employment of () workers overseas and act as the 'Sending Agency' directly involved in recruiting, selecting and sending ()workers to the Republic of Korea under the Foreigner Employment Act.
- (4) Workers will be charged expenses equivalent to actual costs incurred in conducting activities of recruiting, selecting and sending () workers. The amount of such expenses and their calculation method will be agreed upon by the Parties.

Paragraph 4. Quota, Recruitment and Selection of Job-seekers

- (1) The MOL will notify the (“ ”) 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.
- (2) The sending agency will select job-seekers in accordance with the assigned quota by the MOL every given period of six months and prepare a roster of job-seekers.
- (3) In preparing the roster of job-seekers, sending agency will select workers who meet 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 Parties.
- (4) Conditions for selection of job-seekers as mentioned in paragraph(3) are as follows :
 - (a) aged between 18 and 40 (inclusive) ;
 - (b) 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) passed a health examination determined by the MOL ;
 - (d) do not possess any criminal record ; and
 - (e) not restricted from departure.

- (5) The roster of job-seekers prepared by the sending agency will include :
- (a) the job-seekers' personal data(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.).
- (6) The sending agency will send the roster of the job-seekers to the MOL(or Human Resources Development Service of Korea) by the date decided upon by the Parties.
- (7) 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.
- (8) 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 during the recruitment process.
- (9) The sending agency will conduct prescribed training for workers who are supposed to enter the Republic of Korea. The contents and period of the training will be determined through consultations between the Parties.

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 bring 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.

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 Parties will actively cooperate to ensure the worker enters the Republic of Korea at the determined date on time.

- (2) A worker who has signed a labor contract will bring 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 placed 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 client programs to facilitate the building of the computer infrastructure.

Paragraph 9. Korean Language Proficiency Test

- (1) The Parties 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) () illegal residents who departed voluntarily 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 Parties will make active efforts to encourage 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 Parties will actively cooperate, should there be any request for information or consultation from the Parties or their authorized representatives for an effective implementation of this MOU.
- (2) Representatives of the Parties may visit and assess each other's organizations at times agreed to appraise the implementation of Paragraph 2 through 8 of this MOU.
- (3) The Parties 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 Parties.
- (5) The MOL will make active efforts to protect the rights of the Indonesian workers under the Korean labor law.

Paragraph 13. Entry into Effect and Term of Validity

- (1) This MOU will come into effect upon signature by the Parties.
- (2) This MOU will remain in effect for two years : provided that one of the Parties 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 the Parties.

DONE in two copies at Seoul on this 13th day of July, 2004 in the English languages.