

# Korea Report

Young-bum Park (Hansung University, Korea)

## 1. Outline of the foreign worker management scheme

In Korea, skilled foreign workers are treated differently from unskilled one like most other countries. Skilled foreign workers are received under the seven different visa status; professor (who works for colleges or universities); language teachers; researchers; technology consultants, professional occupation; entertainment; and specific activities. Language teachers, specific activities and entertainment constituted more than 80 percent of Korea's skilled migrant workers. They are given visa if they meet minimum requirements which include a certificate signed by a host Korean institution. There is no institution in managing the scheme.

Currently there are three schemes to manage foreign unskilled labor in Korea: the employment permit scheme; an industrial trainee scheme (training/ employment scheme) which aims to help small and medium industries which experience labor shortages; and another industrial trainee scheme designed for foreign workers affiliated with Korean companies abroad.

The employment permit scheme was introduced In July 2003. Under the scheme, the Korean government is directly involved in bring and managing foreign labor. The first type of the industrial training scheme was first introduced as one-time measure to bring unskilled foreign labor in the early 1990s, but it has continued with adding some changes under different situations. Under this scheme a foreign labor is a trainee for the first year and stays as a worker for another two years.

Despite employers' preferences the training/employment system to help medium and small industries had been criticized for the following reasons;

- The foreign industrial trainees are not trainees and they are workers, therefore they should be treated accordingly.
- Many problems had taken place in bringing them. Particularly, many of them pay a very amount of brokerage fee for coming to Korea.
- A majority of the foreign trainees leave their training places and does not go back to their home countries for a long time.

From 2007 more foreign workers will not be brought under training/employment scheme, so the

employment permit scheme will be a major channel to invite unskilled labor from 2010.

Industrial trainee scheme for foreign workers affiliated with Korean companies abroad was first introduced in 1991. This system also met criticisms since some employers used the foreign trainees as cheap labor. The government has brought some measures to protect foreign labor

## 2. Organization in charge of managing schemes and practices

### (1) Employment permit scheme

In bringing foreign labor into Korea, the government signs MOUs with sending countries' governments for them to be responsible for selecting and managing their nationals who will work in Korea.

The MOU includes the following elements.

Only government agencies in sending countries will be involved in selecting labor who will work in Korea.

Objective criteria for selecting candidates are provided by the Korean government; the criteria will include education, experiences and Korean test.

The selected candidates will not be guaranteed employment in Korea.

In renewing the MOU every two year, problems concerning selecting and sending labor, the number of overstaying workers, preferences of Korean employers toward their nations will be considered.

The governments of the sending countries will have to work hard to prevent their nationals to leave their workplace without permission.

In selecting which countries it would sign the MOU with, the Korean government considered the following elements;

Preference of Korean companies based on the survey results conducted by a government agency;

The history of leaving training places without permit under the industrial trainee scheme by country

Transparency of sending its nationals (cost of sending nationals, Corruption Parity Index, and employment security infrastructure)

Guarantee of sending back its nationals (number of voluntary leavers out of over stayers and rationalization of overstayers) diplomatic and economic relationship.

The Korean employers have to find foreign labor through public employment centers and the Korean Manpower Agency under the Labor Ministry is responsible for bring foreign labor into Korea on behalf of the government.

The Korean employers who want to employ unskilled foreign labor must show that they have attempted to find domestic workers for one month without success by requesting public employment centers to find Korean workers for them.

The qualified Korean employers select their foreign employees among a list of candidates who meet their requirements such as job skills and Korean language competence.

After the maximum three-year employment period, foreign workers will have to go out of Korea and stay outside Korea for one-year period before being able to come to Korea to work again for another 3-year period.

Family members of foreign workers will not be allowed to enter. This is designed to dissuade foreign workers from permanently staying in Korea.

All labor rights including union rights will be guaranteed to the foreign workers. Their wages and working conditions may be different from those of Korean workers based on their productivity and experiences, but not by their nationality.

Procedures for selecting and bring foreign labor will be different between ordinary foreign workers and foreign workers with Korean ancestors.

Procedures for ordinary foreign workers are as follows.

- The Foreign Labor Policy Committee determines which businesses will use foreign labor and which countries can send their nationals.
- The Korean government and the government of selected sending countries sign the MOU.
- The concerned public agencies of the sending countries makes a pool of candidates who can work in Korea. In selecting candidates they must use objective criteria. If they can not select by using the objective criteria, they must do so randomly, i.e. by using computer selection process. The sending countries' government agencies must send the list of candidates to the Korean Manpower Agency regularly.
- The Korean public employment centers nationwide issue a Certificate of Labor Shortage to the Korean employers who have attempted to employ Korean workers for one month without

success. The Korean employers who obtain the Certificate apply for unskilled foreign labor with their requirements for foreign labor employment to the public employment centers.

- The public employment centers recommend multiple candidates of foreign workers to the employer and the employer select one of them.
- The Korean employer and the selected foreign worker sign a labor contract.
- With the Certificate of Labor Shortage and the labor contract the Korean employer applies for a visa recognition certificate of the foreign worker.
- The Korean employer sends the visa recognition certificate to the foreign worker. The foreign worker obtains visa from the Korean embassy in his or her country and comes to Korea. After entering Korea, the foreign worker should received a training for a certain period to have a pre-knowledge about Korea.

Procedures for foreign workers with Korean ancestors are as follows.

- The Foreign Labor Policy Committee determines which businesses will use foreign labor and which countries can send their nationals.
- The Korean embassies will issue a visa for the purpose of visit to qualified foreign workers with Koran ancestors, but if those who wish to come to Korea are more than the allowed number, Korean test will be given or computer will be used to select the candidates.
- The foreign workers come to Korea and receive training for employment. For workers who wish to work for the construction sector may be given labor permit, which means that they can freely choose their jobs without going through the following procedure.
- The foreign workers after receiving training apply for jobs to the public employment centers.
- The Korean public employment centers nationwide issue a Certificate of Labor Shortage to the Korean employers who have attempted to employ Korean workers for one month without success. The Korean employers who obtain the Certificate apply for unskilled foreign labor with their requirements for foreign labor employment to the public employment centers.
- The public employment centers recommend multiple candidates of foreign workers to the employer and the employer select one of them.
- The Korean employer and the selected foreign worker sign a labor contract.
- With the Certificate of Labor Shortage and the labor contract the foreign worker applies for change of visa status for him or her to work in Korea.
- The Ministry of Justice issues a new visa status to the foreign worker with Korean ancestors.

In deciding the size of the foreign workforce for this year, the government considered the situation of the Korean labor market, current workforce supply and demand by industry, and possibilities of employing Koreans, and set the number so that it would not exceed 2 percent of

the economically active population in Korea to prevent extra social costs caused by permanent settlement, racial conflicts, cultural or religious frictions, etc. The government stated that in principle, it was only going to import foreign workers for parts of industries that could not be sufficiently filled by Koreans.

Furthermore, considering that the Korean foreign workforce system would be unified into the EPS from 2007, the government said it would supply the necessary foreign workforce through the EPS in principle in 2006, while only allowing additional entry of industrial trainees as replacements for jobs previously held by other industrial trainees who are leaving the country.

In terms of industries open to foreign workers, fish-farming, specialized auto repair, collection and sales of recyclable material (discarded cars) and the bathhouse industry were added to the existing 12 industries where employment of foreigners is allowed, such as manufacturing, construction, agriculture & stock-breeding, coastal and off-shore fisheries and service.

The selection of additional worker-sending countries took place according to the decision made at the first Foreign Workforce Policy Committee (March 23, 2004) to re-evaluate and re-select the sending countries for the EPS every two years.

To make an objective decision, the government referred to surveys on employers with experience hiring foreign workers, field specialists and the general public. The selection was made based on employers' preferences, transparency in the sending process, rates of workers from their workplaces, possibilities of securing foreign workers return to their home countries, and diplomatic and economic influence.

Particularly, for the successful unification of the foreign workforce systems (abolition of the Industrial Trainee System) on January 1, 2007, workforce-sending countries under the EPS for 2006~2007 were selected among 12 countries, including the existing 6 sending countries and 6 others that did not have experiences in workforce import suspension due to problems in the sending process.

Consequently, 7 countries of Thailand, Vietnam, Philippines, Mongolia, Sri Lanka (existing sending countries), Uzbekistan and Pakistan (newly selected) were found to be up to par and concluded as official workforce-sending countries for the EPS, while Indonesia, China and Cambodia were selected under the condition that they would work out some existing problems through bilateral consultation. Based on this decision, the government initiated negotiations on MOUs with the concerned countries from March, and concluded the process by the end of June

2006.

(2) Training/ employment scheme

From 2007 new foreign workers will not be brought under the training/employment scheme. The differences between the new employment permit scheme and the existing training/employment system are as follows.

<Table 1> Employment permit scheme and employment/training scheme

	Employment permit scheme	Training/ Employment scheme
Status of worker	Trainee for the first year and workers for the next two years	Worker for three years
Responsible agency	Public authorities	Small Business Federation
Labor allocation system	Employers chance to choose their workers.	Neither employers nor workers have chance to choose their workers or jobs
Protecting employment opportunities for domestic workers	Employers must attempt to find domestic workers for a certain period.	Industrial policy-related considerations are given priority without regard to the labor shortage

Status of worker: Under the employment/training system, foreign labor works as a trainee for the first year and after passing a test he or she will be given worker status. On the other hand, foreign labor brought through the employment permit system is given worker status from the beginning.

Responsible agency: The Small Business Federation is mainly responsible for managing the work/employment scheme, while public authorities manage the employment permit system.

Labor allocation system: Under the employment/training scheme, neither Korean employers can select their foreign workers, nor foreign workers can choose their employers. On the other hand, the employment permit system gives employers chance to choose their workers.

Protecting employment opportunities for domestic workers: Under the employment/training system, in selecting qualified Korean employers industrial policy-related considerations are given priority without regard to the labor shortage, while Korean employers must attempt to

find domestic workers for a certain period.

### 3. Issues in management

Under the employment permit system, the government plays a pivotal role in bringing migrant workers in, increasing transparency in the process. This task was previously administered by private agencies, which often charged excessive recruitment fees, amongst other improper job-brokering activities.

The government has recently signed bilateral memoranda of understanding with labor-exporting countries covering the various aspects of the selection process, including workers' qualifications and selection methods. The sending countries are selected for the bilateral agreements based on employers' preferences, transparency, their diplomatic standing and economic impact, among other factors.

The government limits the employment period of foreign workers to three years to prevent problems related to long-term stay. The contract period of foreign workers is one year, and can be extended before it expires. A foreign worker who has left Korea can reenter and be reemployed six months after departure.

The employment permit system still falls short of filling labor shortage at small- and medium-sized enterprises as it limits the number of foreign employees at the companies. Companies with less than 10 Korean employees are restricted to no more than five foreign workers, while those with less than 50 domestic workers must have 10 or less. The quota aims to prevent foreign workers from monopolizing domestic job opportunities, but labor-poor companies have no choice but to employ illegal migrant workers.

Migrant workers and human rights groups are also unhappy about the new system. They point out that the scheme limits the changing of workplaces, forcing migrant workers to accept poor working conditions or leave the company and become irregular workers. According to government statistics, as of December 2005, half of all migrant workers lived and worked illegally in Korea.

Under the new scheme, guest workers can change jobs up to three times in three years, but only if the contract is canceled or not renewed. They are also unable to change jobs if they are the victims of unfair practices - such as wage delays, unpaid overtime work and human rights

violations - unless an official report is made to government authorities. The human rights groups claim that because of the loopholes in the law foreign workers find it hard to fight against unfair treatments. Unless their employers are punished for their wrongdoings, the workers are unable to move on. They have to accept the poor working environment or leave. So they endure the unfair treatments, or leave and take the risk of becoming irregular workers.

#### 4. Data

The foreign workers totaled 395,000 as of June 2006. The workers with working visa constituted 42.2 percent, while the proportion of the illegal migrants was 48.0 percent. The rest (9.8 percent) were industrial trainees.

When the employment permit system was introduced, undocumented workers were given a chance to leave the country with paying any fines. Some of them were also given an opportunity to come back to Korea as a worker. Many of the undocumented workers left Korea. Some of them were given a legal status to stay in Korea for a limited time. As a result of these efforts the number of over-stayers decreased to 137,000 in January 2004. But, some of them decided to stay. They seemed to believe that they could bypass the government deportation this time, too.

There were 167,000 foreigners legally working in Korea. 57 percent (95,000) of them had employment permit. 27.6 percent were with training/employment program

<Table 2> Foreign workers in Korea

(Unit: persons, %)



	Total	Workers with employment visa	Trainee		Over-stayers
			Companies with factories abroad	Industrial training scheme	
1997.12	245,399 (100.0)	15,900 ( 6.5)	32,656 (13.3)	48,795 (19.9)	148,048 (60.3)
2000. 12	285,506 (100.0)	19,063 (6.7)	18,504 (6.5)	58,944 (20.6)	188,995 (66.2)
2001. 12.	329,555 (100.0)	27,614 ( 8.4)	13,505 ( 4.1)	33,230 (10.1)	255,206 (77.4)
2002. 12.	362,597 (100.0)	33,697 ( 9.2)	14,035 ( 3.9)	25,626 ( 7.1)	289,239 (79.8)
2003.11	381,634 (100.0)	185,204 (48.5)	11,990 (3.1)	40,329 (10.6)	144,111 (37.8)
2004.1	397,521 (100.0)	212,489 (53.3)	11,594 (2.9)	36,525 (9.2)	136,913 (34.5)
2004.9	423,597 (100.0)	209,390 (49.4)	9,022 (2.1)	23,686 (5.6)	181,499 (42.8)
2004. 12	421,641 (100.0)	196,603 (46.6)	8,430 (2.0)	28,125 (6.7)	188,483 (44.7)
2005.1	415,641 (100.0)	186,334 (46.2)	8,435 (2.0)	28,105 (6.8)	187,046 (45.0)

2005.5	358,167 (100.0)	125,116 (34.9)	7,352 (2.1)	26,516 (7.4)	199,183 (55.6)
2005.8	332,653 (100.0)	103,064 (31.0)	6,880 (2.0)	33,185 (9.9)	189,724 (57.0)
2005.12	345,579 (100.0)	126,497 (36.6)	6,142 (1.8)	32,148 (9.3)	180,792 (52.3)
2006.6	394,511 (100.0)	166,599 (42.2)	6,806 (1.7)	31,886 (8.1)	189,220 (48.0)

Under the employment permit scheme, a total of 122,740 workers were brought into Korea as of June 2006. The special employment permit holders are 56 percent and the rest are the general work permit holders. 99 percent of the general employment permit holders work in

manufacturing. 93 percent of the special employment permit holders are employed in construction (57 percent) and service (36 percent). Two thirds of the general employment permit holders are Filipinos, Thais and Vietnamese. 99 percent of the special employment permit holders have Korean ancestors.

In 2006 approximately 105,000 foreign workers would enter Korea under the government's Employment Permit System (EPS). Recently, China, Pakistan, Uzbekistan and Cambodia were added to the list of official workforce-sending countries provided by the EPS. With the participation of the four additional sending-countries, the number of countries which have established workforce agreements with the Korean government will now be 10. The size of workforce import for 2006 was decided at the Foreign Workforce Policy Committee.