

# **Case Study**

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**Malaysia**

**by**

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**Country Case Studies On Bilateral Labour  
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## **INTRODUCTION**

The Malaysian economy has consistently recorded impressive and sustained high growth over the period 1990-1997, i.e prior to the Asia financial crisis. The robust growth led to substantial job creation, with employment expanding faster than the growth in the labour force. Consequently, the unemployment rate remained low at 3.5%, reflecting a full employment situation (Economic Report 2004/2005, Ministry of Finance Malaysia).

Despite rapid industrialization and corporate operational restructuring towards more capital intensive manufacturing activities, strong growth in the economy resulted in labour shortages at all levels. Other major economic sectors, namely agriculture, construction and services faced the same problem.

Several measure were taken to ease the tight labour market conditions, including increasing the supply of skilled manpower and greater mechanization of operations. As an immediate solution to the problem, foreign workers were allowed to be employed in the plantation, construction and selected services sectors as well as the manufacturing sector. This is to avoid disruption to the economic growth process.

## **MIGRANT WORKERS IN MALAYSIA**

It is the policy of the Government to give priority to Malaysia workers in all sectors before opportunities are given to migrant workers. However, there are sectors that fail to attract Malaysian workers such as construction sector, manufacturing sector, domestic workers sector and others. To ensure continuous economic growth, the Government of Malaysia decided to allow recruitment of migrant workers into sectors facing shortage of labour. Recruitment of migrant worker is a temporary measure to overcome shortage of labour in the affected sectors. The recruitment of migrant workers is allowed for the manufacturing, plantation, agriculture, construction and service sectors. The number of migrant workers employed in various sectors until 31 December 2005 is as shown in Table 1.

**TABLE.1**

Table 1: MIGRANT WORKERS IN MALAYSIA ACCORDING TO SOURCE COUNTRY AND SECTORS UNTIL 31 DECEMBER 2005

COUNTRY	DOMESTIC WORKER	CONSTRUCTION	MANUFACTURING	SERVICES	PLANTATION	AGRICULTURE	TOTAL
BANGLADESH	12	9,292	36,778	5,375	2,235	1,697	55,389
CAMBODIA	3,124	257	2,053	210	157	31	5,832
CHINA	6	679	176	422	6	6	1,295
EGYPT	-	-	-	3	-	-	3
FIJI	1	-	-	-	-	-	1
INDIA	54	9,721	34,685	61,273	27,759	4,454	137,946
INDONESIA	306,598	229,908	210,029	47,191	381,582	33,819	1,209,127
LAOS	-	27	37	5	1	-	70
MOROCCO	1	-	-	-	-	-	1
MYANMAR	11	12,636	58,322	15,791	1,348	466	88,574
NEPAL	28	4,597	159,990	20,440	4,736	2,541	192,332
PAKISTAN	3	3,683	6,441	2,307	289	573	13,296
PHILIPPINES	8,912	1,327	2,415	1,594	6,835	611	21,694
KOREA	-	44	-	-	-	-	44
RUSSIA	1	-	-	-	-	-	1
SRI LANKA	838	166	1,850	138	7	51	3,050
SYRIA	-	-	-	4	-	-	4
TAIWAN	-	-	2	-	-	-	2
THAILAND	448	1,351	921	2,607	280	146	5,753
UZBEKISTAN	-	12	-	12	-	-	24

VIETNAM	7	10,732	67,320	2,467	581	87	81,194
<b>TOTAL</b>	<b>320,044</b>	<b>281,432</b>	<b>581,019</b>	<b>159,839</b>	<b>425,815</b>	<b>44,482</b>	<b>1,812,631</b>
Source: Immigration Department of Malaysia							

Migrant workers are employed in Malaysia as a temporary measure to overcome shortage of workers in certain industries. Recruitment of migrant workers involves the imposition of levy charges that is to be paid by the employers and differs by sectors. The levy charges are shown in Table 2. Higher levy charges are imposed on sectors for which Malaysian workers are still available. The visa approval is also given on a yearly basis based on the rates shown in Table 3. The employers are also responsible for paying the security deposit to the Immigration Department of Malaysia as shown in Table 3.

**TABLE.2****TABLE 2: LEVY CHARGES ACCORDING TO SECTOR AS AT JANUARY 2006.**

NO.	SECTOR	PENINSULAR MALAYSIA (MYR)	SABAH&SARAWAK (MYR)
1	Manufacturing	1,200.00	960.00
2	Construction	1,200.00	960.00
3	Plantation	540.00	540.00
4	Agriculture	360.00	360.00
5	Services:		
	Restaurant	1,800.00	1,440.00
	Cleaning Services	1,800.00	1,440.00
	Cargo handling	1,800.00	1,440.00
	Dobby	1,800.00	1,440.00
	Caddy	1,800.00	1,440.00
	Barber/hair stylish	1,800.00	1,440.00
	Retail and Wholesale	1,800.00	1,440.00
	Textile	1,800.00	1,440.00
	Metal and Used Metal goods	1,800.00	1,440.00
	Welfare homes	600.00	600.00
	Tourism Island	1,200.00	960.00
	Others	1,800.00	1,440.00
	(other special approval which do not fall into above category)		

Source: Immigration Department of Malaysia

**TABLE.3****TABLE: 3 VISA RATES AND SECURITY DEPOSITS FOR EMPLOYMENT IN MALAYSIA**

NO.	COUNTRY	VISA(MYR)	SECURITY DEPOSIT(MYR)
1	Indonesia	15	250
2	Bangladesh	20	500
3	Myanmar	19.5	750
4	India	50(SEV) 100(MEV)	750
5	Vietnam	13	1500
6	Philippines	36	1000
7	Cambodia	20	250
8	Nepal	20	750
9	Thailand	Graits	250
10	Pakistan	20	750
11	Turkmenistan, Uzbekistan & Kazakhstan	20	1500
12	Laos	20	1500
13	Sri Lanka	50(SEV) 100(MEV)	750

Source: Immigration Department of  
Malaysia

SEV=Single Entry Visa

MEV=Multiple Entry Visa

**Migrant workers are only allowed to work for 3 years in Malaysia and may be extended on a yearly basis for two years. However, the extension of the working permit depends on the market demand and the type of skills required of migrant workers at that point of time. Workers intending to work beyond 5 years need their skills to be tested by the relevant agencies as below:**

- 1. National Vocational Training Council-Manufacturing sector.**
- 2. Construction Industry Development Board-Construction sector.**
- 3. Ministry of Plantation Industries and Commodities-Plantation sector.**
- 4. Ministry of Agriculture and Agro-Based Industry-Agriculture sector.**

It is undeniable that foreign workers have contributed to the economic growth of the country, in particular by alleviating labour shortages in selected sectors of the economy. However, their presence has also put a stress on public amenities and services, such as the provision of public services, health and education facilities. Remittances by foreign workers have also increased steadily as reflected in the outflow of the current transfers in the country's balance of payments. In 2003, the account recorded gross outflow of RM 11,229 million compared to RM6,957 million recorded in 1997.

## **MEMORANDUM OF UNDERSTANDING WITH SOURCE COUNTRIES**

To monitor and control the inflow of migrant worker into Malaysia, the government has signed MoU with several source countries. This is to ensure that both the sending and receiving countries are responsible for the migrant workers. Memorandum of Understanding (MoU) which is a bilateral agreement for recruitment of migrant workers were signed with Bangladesh, China, Indonesia, Pakistan, Sri Lanka, Thailand and Vietnam. The main purpose of these MoUs to establish a framework to facilitate the recruitment and selection of workers from the source countries.

The MOU has three basic elements namely, the responsibilities of the employers, the responsibilities of the government/licensed recruitment agencies in source countries and the responsibilities if the workers.

### **A) Responsibilities of Employers**

Employers can recruit directly or through the Ministry of Labour of the sending country. They are responsible for:

- i) obtaining approval from the relevant authorities in Malaysia;
- ii) paying the cost of transporting the workers from the entry point in Malaysia to the place of employment;
- iii) preparing the contract of employment by stating clearly the basic wages, terms and condition of employment and giving to the worker upon arrival;
- iv) paying security deposit to the Immigration Department Malaysia;
- v) renewing the workers' pass at least one month before the expiry date; and



- vi) providing accommodation and basic facilities to these workers in line with the requirements of the:-
  - Employment Act 1955
  - Workmen's Compensation Act 1952; and
- vii) arranging for the funeral or the repatriation of the remains of the deceased at the expense of the employer in the event of death of the workers as provided for under the Workmen's Compensation Act 1952.

**B) Responsibilities of the Government/Licensed Recruitment Agency of the sending country**

The Government/Licensed Recruitment Agencies of the sending countries are also to play a significant role in the employment of migrant workers by:

- i) providing potential workers from their country according to the employer's specification;
- ii) facilitating the potential workers in attending induction courses, obtaining necessary travel documents and arranging for medical check-up in the source country;
- iii) ensuring the terms and conditions of the contract of employment are fully explained and understood by the worker ; and
- iv) recognizing the right of the employers to determine the terms and conditions of the workers such as wages, allowances, other benefits and hours of work.

**B) Responsibilities of the workers**

The potential workers need to understand and be responsible for:

- i) paying the levy, pass, visa, processing fee and other charges imposed by the Government of Malaysia;
- ii) bearing all expenses incurred in the source country before leaving to Malaysia;
- iii) bringing along the Certificate of Eligibility, a copy of medical examination report and showing them upon request at the entry point;
- iv) producing the foreign worker card to the enforcement agency whenever required as the identity document during their stay in Malaysia; and

- v) abiding all Malaysian laws and respecting Malaysian traditions and customs.

The MoU also outlines the basic terms of the contract of employment which includes the details of the employer, employee, occupation, working hours, leaves and other benefits in accordance with the labour laws in Malaysia. The contract of employment prohibits workers from bringing in their family and are also not allowed to marry during their stay in Malaysia.

To better coordinate the movement of Migrant Workers in Malaysia, the Government of Malaysia decided to review the MoU signed with the countries stated above. The Ministry of Internal Affairs of Malaysia (MOIA) and the Immigration Department of Malaysia have been requested to review the MoU in order to improve the management of immigrant workers in Malaysia.

## **MEASURES TO IMPROVE THE MANAGEMENT OF MIGRANT WORKERS**

### **Induction Course**

Effective 1 February 2006, the Government of Malaysia has imposed the condition that all migrant workers intending to work in Malaysia should attend and pass a compulsory induction course. Migrant workers intending to work in Malaysia need to undergo a 10 days induction course conducted in the source country. The modules for this course were prepared by the National Vocational Training Council (NVTC), a department under MOHR. Foreign workers need to complete the course and pass the test to obtain the Certificate of Eligibility (CE). CE is a prerequisite for visa application under the Immigration Department of Malaysia. The modules are:

- a. Workplace Communication in English/ Malay;
- b. Introduction to Malaysian custom, culture and social practices; and
- c. Awareness on the relevant laws, rules and regulations pertaining to the employment of migrant workers in Malaysia and the procedure for the settlement of claims and disputes under existing labour laws.

Upon successful completion of the course and the test, workers will be issued Certificate of Eligibility (CE). CE will be a requirement for visa application with Immigration Department Malaysia.

#### **Application for Migrant Workers**

The employment of migrant workers is upon the request of Malaysia employers. The application for migrant workers must be submitted to the MOIA for approval. Various criteria are to be met by the employers before application is approved. These criteria are as follows:-

- i) Workplace Registration Certificate-Section 63A, Employment Act 1955;
- ii) Insurance Cover Note - Workmen's Compensation Act 1990;
- iii) Job Clearing System Registration Form

#### **Health examination**

All migrant workers need to undergo health examination in hospitals approved by Ministry of Health of Malaysia. Upon arrival in Malaysia, these workers need to be re-examined within one month in clinics or health centers registered with FOMEMA Pte Ltd which is responsible to carry out the monitoring and supervision of the medical examination

#### **One Stop Migrant Workers Approval Center**

The Government of Malaysia has introduced One Stop Approval Center for Migrant workers application by employers. Officers from various government agencies such as Ministry of International Trade and Industry, Ministry of Human Resource, Ministry of Agriculture and Agro-Based Industry, Ministry of Plantation Industries and Commodities, and Construction Industry Development Board are placed in Ministry of International Affairs to verify and approve the application for migrant workers. This ensures that application for migrant workers is necessary and required to overcome the labour shortages in some sectors.

## **Improves Internal System**

The Ministry of International Affairs Malaysia (MOIA) is responsible for the recruitment of foreign workers. MOIA provides due consideration before approving the request for foreign workers by employers. The Immigration Department of Malaysia under MOIA is directly involved in the recruitment and departure of foreign workers. On the other hand the Ministry of Human Resources Malaysia (MOHR) is responsible for the employment and labour matter related to these workers upon being employed in Malaysia. MOHR is to ensure all foreign workers employed enjoy the protection and benefits given under the labour laws such as the Employment Act 1995, Workemen's Compensation Act 1952, Industrial Relations Act 1967 and Workemen's Minimum Standards ad Amenities Act 1990.

## **CONCLUSION**

A clear policy direction has been set recently by the Government in cognizance of the over-dependence of the economy on foreign labour. The Cabinet Committee on Foreign Workers has agreed to form a technical body to review and improve the present system of hiring workers especially the less skilled as well as to attract skilled foreign labour. The Government will also study ways to reduce the country's dependence on foreign workers by encouraging the use of more labour-saving devices such as construction methods using Industrialised Building System (IBS) so as not to disrupt the growth momentum.

Foreign workers have increased over the past decade due to sustained economic growth and the tight labour market situations. As a long term measure to ensure sustainable growth as well as minimize socio-economic implications, a medium to longer-term policy on foreign workers will be devised with the view to reducing the over-dependence on foreign workers while attracting the more skilled and trained professionals.