

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF THAILAND
AND THE GOVERNMENT OF THE UNION OF MYANMAR
ON COOPERATION IN THE EMPLOYMENT
OF WORKERS**

THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE UNION OF MYANMAR, hereinafter referred to as “the Parties”;

BEING CONCERNED about the negative social and economic impacts caused by illegal employment;

DESIROUS of enhancing mutually beneficial cooperation between the two countries;

HAVE AGREED AS FOLLOWS:

OBJECTIVE AND SCOPE

ARTICLE I

The Parties shall apply all necessary measures to ensure the following:

- 1) Proper procedures for employment of workers;
- 2) Effective repatriation of workers, who have completed terms and conditions of employment or are deported by relevant authorities of the other Party, before completion of terms and conditions of employment to their permanent addresses;
- 3) Due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights they are entitled to;
- 4) Prevention of, and effective action against, illegal border crossings, trafficking of illegal workers and illegal employment of workers.

This Memorandum of Understanding is not applicable to other existing processes of employment that are already in compliance with the laws of the Parties.

AUTHORISED AGENCIES

ARTICLE II

For the purpose of this Memorandum of Understanding, the Ministry of Labour of the Kingdom of Thailand and the Ministry of Labour of the Union of Myanmar shall be the authorised agencies for the Government of the Kingdom of Thailand and for the Government of the Union of Myanmar respectively.

ARTICLE III

The Parties, represented by the authorised agencies, shall hold regular consultations, at senior official and/or ministerial levels, at least once a year on an alternate basis, on matters related to the implementation of this Memorandum of Understanding.

The authorised agencies of both Parties shall work together for the establishment of procedures to integrate illegal workers, who are in the country of the other Party prior to the entry into force of this Memorandum of Understanding, into the scope of this Memorandum of Understanding.

AUTHORITY AND PROCEDURE

ARTICLE IV

The Parties shall take all necessary measures to ensure proper procedures for employment of workers.

Employment of workers requires prior permission of the authorized agencies in the respective countries. Permission may be granted upon completion of procedures required by laws and regulations in the respective countries.

The authorised agencies may revoke or nullify their own permission at any time in accordance with the relevant laws and regulations.

The revocation or nullification shall not affect any deed already completed prior to the revocation or nullification.

ARTICLE V

The authorised agencies may through a job offer inform their counterparts of job opportunities, number, period, qualifications required, conditions of employment, and remuneration offered by employers.

ARTICLE VI

The authorised agencies shall provide their counterparts with lists of selected applicants for the jobs with information on their ages, permanent addresses, reference persons, education, experiences and other information deemed necessary for consideration by the prospective employers.

ARTICLE VII

The authorised agencies shall coordinate with the immigration and other authorities concerned to ensure that applicants, who have been selected by employers and duly permitted in accordance with Article IV, have fulfilled, inter alia, the following requirements:

- 1) Visas or other forms of entry permission;
- 2) Work permits;
- 3) Health insurances or health services;
- 4) Contribution into savings fund as may be required by the authorized agencies of the respective Parties;
- 5) Taxes or others as required by the Parties;
- 6) Employment contracts of employers and workers.

Contract of the terms and conditions of employment shall be signed between the Employer and Worker and a copy each of the contract submitted to the authorised agencies.

ARTICLE VIII

The authorised agencies shall be responsible for the administration of the list of workers permitted to work under this Memorandum of Understanding. They shall keep, for the purpose of reference and review, the lists of workers who report themselves or have their documents certified to the effect that they have returned to their permanent addresses after the end of the employment terms and conditions, for at least four years from the date of report or certification.

RETURN AND REPATRIATION

ARTICLE IX

Unless stated otherwise, the term and conditions of employment of workers shall not exceed two years. If necessary, it may be extended for another term of two years. In any case, the terms and conditions of employment shall not exceed four years. Afterwards, it shall be deemed the termination of employment.

A three-year break is required for a worker who has already completed the terms and conditions of employment to re-apply for employment.

ARTICLE X

The Parties shall extend their fullest cooperation to ensure the return of bona fide workers, who have completed their employment terms and conditions, to their permanent addresses.

ARTICLE XI

The authorised agencies of the employing country shall set up and administer a savings fund. Workers are required to make monthly contribution to the fund in the amount equivalent to 15 per cent of their monthly salary.

ARTICLE XII

Workers who have completed their terms and conditions of employment and returned to their permanent addresses shall be entitled to full refund of their accumulated contribution to the savings fund and the interest by submitting the application to the authorised agencies three months prior to their scheduled date of departure after completion of employment. The disbursement shall be made to workers within 7 days after the completion of employment.

In the case of workers whose services are terminated prior to completion of employment and have to return to their permanent addresses, the refund of their accumulated contribution and the interest shall also be made within 7 days after termination of employment.

ARTICLE XIII

Temporary return to country of origin by workers whose terms and conditions of employment are still valid and in compliance with the authorized agencies' regulations shall not cause termination of the employment permission as stated in Article IV.

ARTICLE XIV

Procedures and documents required in the application for refund as stated in Article XII shall be set forth by the authorised agencies.

ARTICLE XV

The right to refund of their contribution to the savings fund is revoked for workers who do not return to their permanent addresses upon the completion of their employment terms and conditions.

ARTICLE XVI

The authorised agencies of the employing country may draw from the savings fund to cover the administrative expenses incurred by the bank and the deportation of workers to their country of origin.

PROTECTION

ARTICLE XVII

The Parties in the employing country shall ensure that the workers enjoy protection in accordance with the provisions of the domestic laws in their respective country.

ARTICLE XVIII

Workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.

ARTICLE XIX

Any dispute between workers and employers relating to employment shall be settled by the authorised agencies according to the laws and regulations in the employing country.

MEASURES AGAINST ILLEGAL EMPLOYMENT

ARTICLE XX

The Parties shall take all necessary measures, in their respective territory, to prevent and suppress illegal border crossings, trafficking of illegal workers and illegal employment of workers.

ARTICLE XXI

The Parties shall exchange information on matters relating to human trafficking, illegal immigration, trafficking of illegal workers and illegal employment.

AMENDMENTS

ARTICLE XXII

Any amendment to this Memorandum of Understanding may be made as agreed upon by the Parties through diplomatic channels.

SETTLEMENT OF DISPUTES

ARTICLE XXIII

Any difference or dispute arising out of this Memorandum of Understanding shall be settled amicably through consultations between the Parties.

ENFORCEMENT AND TERMINATION

ARTICLE XXIV

This Memorandum of Understanding shall enter into force after the date of signature and may be terminated by either Party in written notice. Termination shall take effect 90 (ninety) days following the date of notification. In case of termination of this Memorandum of Understanding by either Party, for the benefit of the workers, the Parties shall hold consultation on how to deal with employment contracts that are still valid.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Understanding.

DONE at Chiang Mai on the Twenty First Day in the Month of June of Two Thousand and Three of the Christian Era, in the Thai, Myanmar, and English languages, in two original copies all of which are equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
THE KINGDOM OF THAILAND

FOR THE GOVERNMENT OF
THE UNION OF MYANMAR

Original signed

Original signed

Surakiart Sathirathai
Minister of Foreign Affairs

Win Aung
Minister of Foreign Affairs