

## Statistics

Statistics of Migrant Workers and dependents

Percentage of migrant works by types of work

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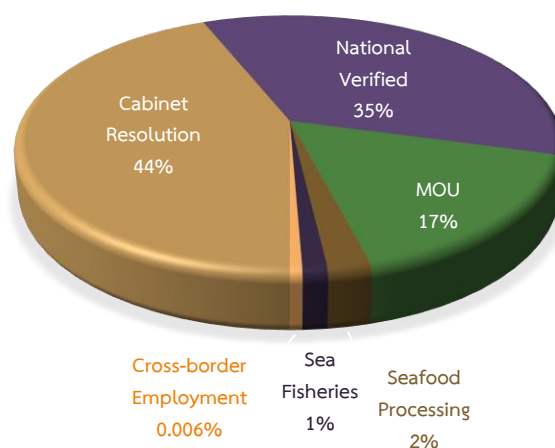
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## Migrant workers and dependents, August 2017

Statistics of Migrant Workers				
Category / Country	Myanmar	Cambodia	Laos	Total
Nationality Verified	803,001	88,356	58,772	950,129
MOU	226,754	169,109	52,675	448,538
Cabinet Resolution	723,360	385,829	69,489	1,178,678
Sea Fisheries	20,045	13,018	804	33,867
Sea food Processing	50,171	7,823	1,228	59,222
Cross-border Employment	5,062	11,846	0	16,908
<b>Total</b>	<b>1,828,393</b>	<b>675,981</b>	<b>182,968</b>	<b>2,687,342</b>

Statistics of Registered Dependents of Migrant Workers				
Category / Country	Myanmar	Cambodia	Laos	Total
Cabinet Resolution	11,157	10,559	1,953	23,669
Sea food Processing	348	256	27	631
<b>Total</b>	<b>11,505</b>	<b>10,815</b>	<b>1,980</b>	<b>24,300</b>

Percentage of migrant workers by type of work, August 2017



## 1. Interim Charter for Removing the Impediments to Smooth the Foreign Workers Management

This measure, enacted after the new law on the foreign workers management had been effective 10 days, is aimed at amending impediments to manage the working of migrants according to the ordinance during a period of transition in the law enforcement, together with the relevant officials have additional time to prepare and conduct according to the law, for equity and not too much effecting socially and economically, and maintain the spirit of the law on managing the alien workforce as a whole system to be in line with international standards, and provide the measure on combatting human trafficking in persons effectively.

### Synopsis

1. Some sections of legal punishment, i.e. 101, 102, 119, and 122, enforceable to non-work permit migrants, unregistered migrants, and employers who hire the undocumented, and who hire the migrants of other employers, come to effect on 1 January 2018 onwards.
2. Employers and migrant workers are require to expedite the registration process according to the law, completely by 1 January 2018.
3. Officials and authorities relevant to the legislative actions or this directive are prohibited to exercise authority improperly, or to perform or ignore duties which wishing for all kind of benefits or self-interest.
4. The Ministry of Labor is required to make a revision of the Foreign Workers Management law, to propose the Cabinet to complete within 120 days counting from the date of this issuance.

This is a measure that imposed for alleviating the problems on the new law enforcement which has incurred a sudden shock to migrant workers and employers in particular the increase penalties to be harsher. This caused a number of migrant workers returning to their homeland during 27 June – 4 July 2017.

It can be seen that such a measure helps indulgent in part of the penalties until the end of this year, and employers and employees need to legalize the employment process hastily. However, as observed, the measure has been launched for delaying punishment alone, without other measures related to the law on migration, a few migrant workers could be at risk of capture with accusation of illegal immigration, despite during a 180 day grace period.

Beside this, such a measure proceed along with regular measures especially on the nationality verification of the migrant workers. To launch the solution for, the group that will be affected is those who are the migrants in the fishery sector and food processing, which have been permitted in accordance with the Cabinet Resolution that will come to the end by 1 November 2017. While the measure on the nationality verification undertaken by the country of origins is still limited, so this group of migrants are as another group that is at risk and beyond this government's measure.

In terms of the law revision, although this government directive specifies clearly on the duration and public hearing process, but it is unclear on the practical measure by the Ministry of Labor on how to deal with it for establishing stakeholder involvement and public hearings. If the unclear measure of the Ministry of Labor is still, possibly the law amendment would not really response to the problem of each agency.



## 2. Notification of the Ministry of Labor Re: Criteria, processes, and conditions for applying and issuing of work permits

### Synopsis

This notification is for a short term management (23 June 2017 – 31 January 2018), and to be given for four groups of migrant worker as follows:

**1. The migrant worker who has already passed the national verification and passport process** but not applied for a work permit within 15 days according to the Notification of the Ministry of Interior is required to apply for a work permit at the Provincial Employment Office. In the case of the new employer, he/she is required to make a work contract with the migrant worker and to submit an application for a permit at the current Provincial Employment Office.

**2. The migrant worker who holds the entire necessary documents** (a pink card, or passport, and work permit), but the name of employer listed on the work permit is not matching the current employer's, the registrar shall allow to change the employer. The migrant workers can do the process of changing an employer at the Provincial Employment Office where working with the request fee of 100 baht and the change employer fee of 900 baht, and health checkup exemption. In case of the MOU worker who comes to work prior to 15 August 2016, they can change the employer under five conditions as follows: (1) an employer lays off or dies; (2) an employer is bankrupt; (3) the employer commits violation; (4) an employer has failed to comply with the law on labor protection; and (5) an employee is in a work circumstance where causes harm to life, body, mind and health.

**3. The migrant worker who is without whatsoever documents** or holds an invalid work permit, and the one

who has decided to return their home country to apply for a passport, or temporary passport, or travel document or certification of identity, the employer is required to submit employment documents at the OSS from 24 July to 7 August 2017. Once having been received the application, the official make a stamp on the paper and make an appointment date to meet with the Authorities from Labor government agencies in the province where migrant workers work, to verify that migrant is a real employee of the employer, then the authority issues a certification of travel out the country to gain a passport, temporary passport, and travel document or certification of identity or the documents issued by the country of origin. The Immigration officer shall have to facilitate to migrant workers by stamping for in-and-out permissions on the certificate of travel without the fee. When having received documents, the migrant worker is required to get stamped on the visa - ( Non-Immigrant L-A), and permission for staying until 31 March 2018, with the visa fee of 500 baht, then goes together with the employer to the Provincial Employment Office to apply for a work permit with the application fee of 100 baht and a work permit fee of 450 baht. If the migrant worker is not in the Social Security Scheme or during the process of application, they are required to undergo a check-up and purchase health insurance.

**4. Other groups of migrant workers** other than Myanmar, Cambodia and Lao who desire to engage in work, hold an expired work permit, job listed in the work permit incorrect, they are required to apply for a work permit, or change an employer at the Office of Foreign Workers Administration, or the Employment Office in Bangkok area 1-10, or in the province where migrant workers work.

This directive is a measure to mitigate urgent problems after the new law coming into effect. This highlights the management on the work of foreigners, caring the group of migrants who has been allowed to stay temporarily in the Kingdom. Strict measure on applying for a work permit within 15 days after stamping a visa, which has a major effect on the group of migrants that have already passed the nationality verification.

Another measure is to attract illegal migrants to enter the legally working system, which is originally a way of temporary permission, due to the fact there was no policy on renew registration, so that the process on the national verification proceed, or the travel document issued by the country of origin had to enforce, to change illegal status to legal. However such a measure need to have a collaboration from the country of origin. From the past implementation, it was found that it is not that easy even the collaboration from Myanmar and better position from Cambodia. But from Lao there is no any sign to show in this regard, Laotians have to undertake at their country, it is rather difficult to them and risk to take advantage by brokers.

At the same time such a new measure just coming forth causes the considerable confusion to migrant workers and employers. The arising problems are that the number of employers are still being confused with its implication, because they thought that this measure is for registering for the pink card. In effect, this is the time for self-reporting to conduct the documents that replaced passports at the country of origin. Beside this, it is found that many migrant workers hold tourist passports for applying for a permit, not sure whether they can proceed a work permit registration or not. Many employers and migrant employees consider that the duration of self-reporting is quite short (within 15 days), as well as the working duration after passing the registration process and receiving work permits is very short – until 31 March 2017. It is estimated that this might be worth doing; possibly some of employers would import migrant worker through the MOU. However, the stages of such a process have moderate problems on the high expenses, delayed procedure, limitation of some sectors in employing migrants such as the case of employing domestic workers that some of the countries of origins are not allowed their citizen to work in this kind of work through the MOU.

So, evaluating of this notification on whether to remedy the problem or not, it can be said that it can solve problem to some extent, and it is favorable for undocumented migrant workers to find the way out. All problems can be solved or not, depending on the measure after 31 March 2018. However, when compared with the pink card process, the work status of the group of workers is improved, because they have been accepted, the required documents issued from the countries of origin, so they are the legal migrant workers.

The challenges of this notification are therefore the building of confidence for operations toward migrant workers and employers, especially the measure after 31 March 2018. That the non-clarity measure has leded the employers' hesitation temperately. At the same time, joint collaboration and consensus between Thailand and the countries of origin on migrant workforce management is still a significant challenge. If initially evaluated, Thailand is still far from the success. For the long run, there should be strategies and more of collaboration from all stakeholders. Another considerable challenge is that the Ministry of Labor should create the measures that solve the exploitation of brokers from the foreign workforce process. Current measure is evaluated that it is impossible to impede broker gangs to take advantage of, including a complexity of procedures, a limited period, and obstacles to document issue from the countries of origin.



### 3. (Draft) CLMVT Joint Declaration on Safe Migration

This declaration focuses on:

1. Enhancing cooperation on safe migration management
2. Promoting legal border crossing and employment under bilateral agreement
3. Addressing problems related to irregular migration and unprotected labor in a systematic manner
4. Creating public awareness on safe migration
5. Developing pre-departure training courses on basic knowledge and skills, such as language, culture, employment contract, local laws and prohibitions, etc.
6. Promoting responsibilities on safe migration among stakeholders at the country of origin and destination

Principally, this unanimous declaration is regarded as the advancement of the management policy and collaboration on migrant workers and safe migration in Greater Mekong sub-region, and is an important threshold to develop future collaboration on measures, namely on population management, labor market expansion.

For the measure on safe migration which is a collaboration between the countries of origin and destination, it consists of training program development on pre-departure, increasing awareness among public, workers, employers and recruitment agencies and relevant bodies regarding safe migration.

However, there are still concerns and challenges in terms of policy implementation by agencies relevant which have practical problems. So there should be a strategic plan on solemn collaborations. The point is that this declaration originated by the governmental point of view, including framework and measures, despite that workers, entrepreneurs, recruitment companies, civil society, and international organizations have been effected.

**Thus, it is necessary to have spaces for all stakeholders to share ideas and information.**



## 1. Ministerial Regulation on specifying status and conditions in residing in the Kingdom of Thailand of the person who is born in Thailand but do not take Thai nationality, dated 17 August 2017

### The gist of matters

1. The definition of an ‘orphan’ defined by the Ministry of Interior means “a child who is born in the Kingdom of Thailand but does not take Thai nationality, and his/her parents were dead or absent, or are not identifiable, either the child is adopted by an individual or a foster home under the law on child protection, or who is homeless”.
2. A person who is born in the Kingdom of Thailand but does not take Thai Nationality under section 7 bi, paragraph 1, is entitled to stay in the Kingdom of Thailand as same as his/her father or mother whoever is more beneficial to that person according to the regulation stipulated by the Minister, excluding the following cases;
  - (i) A person who is born of alien parents who reside illegally in the Kingdom of Thailand without permission under the law on immigration, is to have status as same as his/her parents and is to be given permission to stay in Thailand as a special case, to await repatriation together with his/her father or mother.
  - (ii) An orphan that the office under accreditation of the Ministry of Social Development and Human Security is to be given permission to stay in Thailand as a special case, considering case by case.
  - (iii) In the case that the residentship status of the father and mother or the father or mother under (2) come to an end, the residentship status of that person who is born in the Kingdom of Thailand without Thai nationality is also terminative, except that person with the following either qualifications is to be given permission to remain staying in Thailand.
    - (1) The person aged under 18 or sui juris, except the person or the group of person who have passed the nationality verification or are certified by the country of origin and is are freewill to return homeland voluntarily.
    - (2) The person who is unable to return the countries where his/her father or mother used to live, according to the regulations stipulated by the Minister.
    - (3) The person who has a guardian, wife, husband, or child obtaining Thai nationality.
    - (4) The person who has a permanent domicile in the Kingdom of Thailand, living persistently, except that person is to be given permission by the authority under the law on immigration, to travel out the kingdom temporarily and to enter the kingdom within the due period.
    - (5) The person who is at school where is certified by the Ministry of Education.
    - (6) The person who has made a contribution to Thai society according to the stipulation by the Minister

This ministerial regulation defines the status of a person who is a child of migrant workers born in Thailand, to have status and right in residing according to their parents, barring the group of parents who migrated irregularly, their child is fully eligible to reside in the country which is different from parents. At the same time the right to inhibit of a child who was born in Thailand is to forfeit along with the parents. The exception is a person who is married to the Thai or has a Thai child, the group of children who are unable to return their parents’ homeland, including those who are in school in Thailand, those who have contributed to Thai society according to the criteria, such people may/could gain legal status of residentship in Thailand after their parents’ status lost. Beside this, the right to reside in Thailand among the children whose parents are dead is still effective. This ministerial regulation is thus a positive approach to migrant children and to the workers who assist those children, to help migrant children born in Thailand without documents to have the right to reside in Thailand as same as their parents; those children are to gain more protection on residing in Thailand, which will enhance access to social services such as health, education, and other rights. Additionally, such rights and protections are covered to that the orphan born in Thailand parents of which are dead or unidentified is eligible to stay in Thailand. Such a regulation is benefited and a measure on protecting the migrant children born in Thailand to have right to stay temporarily just like their parents, together with the children who are still in Thai school, the orphans in child welfare agencies, by giving these children the legally-resident rights and other social benefits. However, the exceptions are the dependents who are not born in Thailand and entering along with their parents. In the case that their parents’ right to stay in Thailand already coming to an end but the children are still in school, there is no a clear measure regarding having the children nurturing by their parents. So, MWG member should have insight into ministerial regulations and push through the targeted children to gain protection and social services according to the ministerial regulation.



## 2. Announcement of the Department of employment on the measures for protection and against corruption and unacceptable behavior of officers in amending hindrances of the management on migrant workforce, dated 12 July 2017

### The gist's of matter

1. Officers or authorities under the Department of Employment who are engaged in the migrant workforce management are prohibited to exercise authority unfairly, or perform or neglect in the hope of properties or benefits for oneself or others.
2. In case it appears that the officer or authority have performed or avoided their duties, that officer or authority shall be on criminal, disciplinary, or political trial abruptly and absolutely, depending on the case.
3. If it appears the fact that the superior acts unconcerned about a corrupted behavior that heavily damages to the bureau or public, or conceals such a behavior of the officer or other to have non-punishment or lesser, this holds for disciplinary offense or criminal, depending on the case.
4. If the fact is believed that the officer of the Department of Employment has brought out or supported corruption behaviors, and such a gang, the Department of Employment shall have to inform the fact, and to compile evidence to deliver to the Office of the National Anti-Corruption Commission or the Office of Public Sector Anti-Corruption Commission.

This announcement is a measure that the Ministry of Labor is to eliminate corruption or benefit-seeking among officials relevant to the implication of measures on resolutions on the impacts from the new migrant working law. It imposes prohibition items for relevant officials engaging in corruption or exercise authority improperly among migrant workers during the resolution measure issued by the Ministry of Labor, including officials who have witnessed or backed up corruption as well as offenses. This announcement imposes the section of punishment both criminal and discipline which metes also to superior of that official. Though such an announcement is a positive thing and helps migrant worker and entrepreneurs in order to not being exploited by corrupt officials. However, there are still limitations on accessing appeal mechanism or reporting officials' offenses together with such information that is not widely informed to migrant workers, probably causing obstacles to access appeals.

MWG members should take action in terms of distributing relevant information, monitoring, and applying appeal mechanisms or community-level mechanisms to stimulate migrant workers to use those mechanisms to appeal when they face with violation by officials.

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