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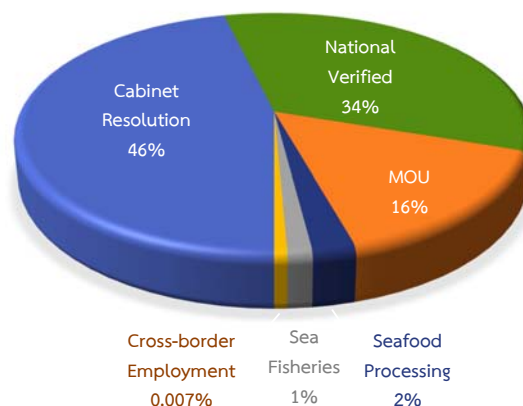
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Migrant workers and dependents, April 2017

Statistics of Migrant Workers, April 2017

Category / Country	Myanmar	Cambodia	Laos	Total
Nationality Verified	713,293	89,661	61,841	864,795
MOU	191,931	155,040	46,578	393,549
Cabinet Resolution	723,360	385,829	69,489	1,178,678
Sea Fisheries	20,035	13,013	802	33,850
Sea food Processing	50,171	7,822	1,228	59,221
Cross-border Employment	1,773	15,869	-	17,642
Total	1,700,563	667,234	179,938	2,547,735

Percentage of migrant workers by types of work, April 2017



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	255	27	630
Total	11,505	10,814	1,980	24,299

Data from the Foreign Worker Administration Office and the website of Ministry of Labor, retrieved from April 2017

1. Draft Migrant Worker Management Act, B.E. ...

Synopsis

The purpose of this Act is to ensure the protection for migrant workers through policies and regulations.

1. Setting up a **Management Policy Committee on Working of Migrant Workers** responsible for designing policy, monitoring, and administering implementation related to working of migrant workers;
2. Stipulating criteria, procedures, and conditions for alien workforce imports to the country, and stipulates 2 types of importer, those are;
 - 2.1 The person who are granted permission to bring migrant workers to work in Thailand.
 - 2.2 The employer himself who is to bring migrant workers to Thailand, he shall have to be allowed by the Director – General (DG) and is required to put up money as security with the DG to guarantee damages due to migrant imports.
3. Setting up a **Management Fund**, transformed from the Repatriation Fund, to be used for expenses for the migrant worker management;
4. Increases the protection and benefits for migrant employment under the Social Security Act; covering employers, employees, and permitted alien-workforce importers.
5. Amending further on the registrar's authority in a command of a permit and adding the provision on the announcement of the listing of the employer who violates and fails to keep on employing migrant workers to engage in work without a permit, or denies a compensation payment to the employee who has got hurt or sick from work.

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This draft law is a combination of two laws, the Working of Alien Act B.E. 2551 and the Alien Workforce Import Act B.E. 2559. Marked changes are the following issues:

1. Amending the occupational specification for migrant workers, from the allowable job to unallowable. And issuing different notifications on the job specification, such as the decisively unallowable job, conditionally unallowable, including specifying jobs for certain migrant workers - temporarily permitted and cross-border employed - differed from general migrant workers;
2. Changing the way on management; setting up the Management Policy Committee on Working of Migrant Workers, in duty bound to formulate policies, strategies, criteria, plans, as well as evaluate and monitor the management performance on migrant worker-wise. The committee comprises six members drawn from representatives of two employees, of experts at different areas – labor, industry, law and human rights. This is a good practice that the committee involved in designing policy and strategies with regard to working of migrants is to be established systematically.
3. Granting further on the Director – General's authority on immigration; for the case of the MOU migrant workers and border employment, and on issuing the non-Thai nationality cards for permitted migrant workers.
4. The Fund of Management on the working of migrant workers to be introduced instead of the Repatriation Fund; abandoning collecting employees' payments, but collecting from employers instead. The fund's objective is far more generously to use for migrant worker affairs, such as using for assisting violated migrants, GOs and NGOs using this fund for establishing the welfare and protection of all migrant workers.
5. Adding additional protection on welfare benefits, by entitling the Cabinet to stipulate action of health, education, and social protections somehow.
6. Enhancing migrant workers to be an insured person. The insurance contribution to the Social Security Fund is abided by the Cabinet's stipulation; this means that the migrant worker's payments may be varied in form from the Thai worker.
7. Adding penalties for the person who captures migrant's documents, and increasing penalties more heavily on other offenses according to the previous law.

As a whole, this law is well-improved in terms of management, cost reduction on the repatriation fund payment, and more protection. Of concern is that the protection and fringe benefit stipulation differed from Thais, as well as much heavier penalties than the previous could cause the migrant worker in trouble in certain situation.

2. Ministry of Interior Notification on Giving an Order for Each Particular Case or In General Granting Thai Nationality to a Person Born Of Alien Parents Who Is Born Within the Kingdom And Has Not Acquired Thai Nationality

According to the notification, three groups of people to be granted Thai citizenship are as follows.

Group I: The person who is a child of alien parents moving into the Kingdom and residing for long period, such as evacuated Vietnamese, Ex-Chinese nationalist soldiers, Chinese immigrants, Chinese Yunnan people, Tai Leu people, Thai descent refugees from the Cambodia's Kohkong province, Thai descent displaced Burmese, displaced Burmese, evacuated Nepalese, hill tribe people, highland people, migrated hill tribe Laotian, Hmong in Kraborg cave, illegal immigrants from Myanmar, former Chinese-Malayan Communist people, illegal Cambodian immigrants, and Moken. All this, those people must be the minority ethnic groups whose status and domiciliary rights was certified through the cabinet resolution, and was undertaken a survey by way of the civil registration under the strategies on managing status problem and individual rights following the Cabinet Resolution dated 18 January B.E 2548.

Group II: The child and the person who are studying in an education system or graduated, and his father or mother is an alien who is not a minority or an ethnic under Group I, his father and mother are not living with, or the father or mother abandoned him at an early age.

Group III: The person born within the Kingdom of Thailand and having not acquired Thai Nationality, has done apparent acts to the benefit of Thai society.

General criteria:

1. Having official proof of birth within the Kingdom of Thailand, such as a birth certificate, a birth record, Tor Ror 20/1, a birthplace certification, being registered in household registration or state database according to the law on civil registration as the case may be;
2. Not having evidence to show that the person makes use of other nationality;
3. Having knowledge of Thai language - speaking, listening and understanding;
4. Having reverence and faith in democracy with the King as head of state, as well as being well behaved and posing no threat to security;

5. Having good behavior, not acting prejudicial to national security, not having been punished by a court judgement except a penalty of offence committed due to negligence or petty, unless a period of at least five years has elapsed before the date of applying for Thai Nationality;

Group specific criteria:

Group I: His father or mother have moved into and reside in the Kingdom for long period, having a 13-digit identification number, having lived in Thailand not less than 15 years as of his child's citizenship application date;

Group II: The person has educational evidence to show the university (or equivalent) graduation in Thailand, if the person completed his university education abroad, he shall have to be a scholar given scholarship by government agencies.

In the case where the child and the person under the general criteria 1 – 5 are still in school, and in need of Thai nationality, the granting of permission for acquiring Thai Nationality shall be line with the discretion of the Minister of Interior.

In the case where the child and the person under the general criteria 1 – 5 are an abandoned child and have not yet completed education as above said, it is necessary to have a certificate of rootless people issued by the agencies under the Ministry of Social Development and Human Security, and also has a domicile within the Thai Kingdom in a consecutive period of not less than 10 years till the date of applying for Thai Nationality.

Group III: The person who engages in legitimate occupation, do good for the country, or have distinct products or knowledge/expertise that benefit consecutively for country development together with have an official certificate from state-level or department level agencies stating their benefited work in the following areas: (a) Education and sport; (b) Art and culture; (c) Science and technology; (d) Field in short supply or other fields as the Ministry of Interior deems it appropriate.

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Notification as said, Thai nationalization would be granted to the children born of the ethnic minority, other groups of migrant, and non-Thai national abandoned children born within Thailand. Furthermore, those children are eligible for their possible higher education in Thailand. Application for Thai nationalization could be easier because qualifications and processes have been stipulated quite clearly.

Things that the MWG members and the organizations working with stateless people should do both for the short and the long run are; to study and try to understand such a stipulation, to publish information over migrants and stateless people to recognize, to map out an operation with regard to birth registration and birth evidence for the child born within in Thailand, education attainment, including to encourage the qualified children as the notification stipulated to undertake a Thai nationality application, to launch mechanisms for monitoring those issues which is for making recommendations in order to offer relevant agencies.

3. Cabinet Resolution on Granting Permission for the Migrant Worker from the Neighboring Country Going Home to Celebrate Song Kran Festival 2017

The gist of this resolution are as follows.

1. Permission to return to home country on Song Kran festival from 5 to 30 April 2017 for the pink card holding migrant workers and their dependents aged under 18, which their cards expire on either 30 November 2017 or 31 March 2018, is not regarded as an illegal matter.
2. The legal migrant worker holding a passport or a travel document (Non-Immigrant L-A type) with validity - the MOU and nationality-verified migrants - including their family members aged under 18 holding a valid passport or a travel document with a valid visa, are also permitted.
3. The Immigration Official at the border checkpoint is to stamp the departure and arrival dates on the following documents:
 - (1) Letter of permission, which is an evidence issued by the Employment Department office in the province where they work;
 - (2) Passport or travel documentThey must return via their point of departure.
4. The migrant workers must return by April 30, or they would not be allowed to re-enter the country.

The benefits of this policy are that permission for migrant workers to return home is to enhance a good relationship between the two countries and to boost morale among migrant workers, perceived mercy of Thailand toward them.



This implementation is different from last year on permission for migrant workers to return their home country on Song Kran festival. For last year, the permission was carried out under section 44 of the interim constitution, exempting from the enforcement of the law on immigration and related regulations, making the travel of migrants somewhat easy to back home in a tight time. But this year, upon implementing under section 17 of the Immigration act, the procedure for obtaining permission to return home was not the same, and depends on which groups of migrant worker are. Two groups that are allowed according to this policy are as follows

Group I: Migrant workers and families in tow, holding the non-Thai national card (pink card), are granted permission under the cabinet resolution. They shall have to have a letter of permission from the Employment Department office in the province where they work, to show the officer at border checkpoints and to obtain the seal.

Group II: Migrant workers and families in tow, holding a passport or a travel document with valid visa, either the nationality-verified or the MOU groups, can travel back to the native country as usual, and can request re-entry permission at the border checkpoints or the Immigration Bureau with fee exemption.

Two conditions concerned are; firstly, the travel is allowed for the period of April 5 -30 and must return by April 30 or it would be illegal, and they would not be allowed to re-enter. Secondly, if the migrant worker is out whichever border checkpoint, he need to enter at the same point as departure, or it is regarded as not in accordance with the permission terms.

Our concern is now that back and forth trip of migrant workers is not the same process as last year, so migrant workers or employers had to request the letter of permission at the Provincial Employment office before their departure, and it is found the delay in the process. Moreover, waiting for the notification and the ministerial regulation on fee exemption from the Ministry of Interior (MOI), so the period of traveling had to be more delayed.

Furthermore, there happened an additional problem on the case of migrant workers having undertaken the national verification and already received the CI document from the country of origin and pending a work permit and a visa stamp, may have some problem on traveling. For the terms stipulated in the MOI notification that migrant workers must submit a work permit application after the process of stamping a visa within 15 days, consequently, if migrant workers go home before submitting a work permit application, it may be beyond the deadline, their visa may be revoked. This results that some migrant workers need to rush their work permit application before returning home.

Two concerns as said, lots of migrant workers have to undertake the request for a letter of permission and a work permit at the Employment Department office in the province where they live. The Employment Department office may fail to give the required documents in time, there may be some migrant workers returning home without the letter of permission.

The MWG members and the CBOs in the areas should expedite to provide necessary information to relevant parties and try to understand such situation, and should collect the information on problems and obstacles on this regard in order to make a recommendation for relevant agencies.

1. Memorandum of Understanding on Cross-Border Trafficking in Persons between Department of Special Investigation, Ministry of Justice, Kingdom of Thailand and General Commissariat of the Cambodian National Police, Ministry of Interior, Kingdom of Cambodia

Synopsis

1. Director-General of Department of Special Investigation is authorized as signatory on the MOU.
2. Approved the Department of Special Investigation to discuss in detail with the Department of Treaties and Legal Affairs, the Ministry of Foreign Affairs to consider on revising the nonessential part of the MOU, if necessary to revise further, no need to ask the Cabinet to discuss.
3. The aim of the MOU is to enhance a cooperation in the law enforcement on human trafficking on person according to item 12 of the MOU signed on 30 October 2014 (the police and other officials relevant to the two countries to work together and to share information on human trafficking in persons such as tracks, places, characteristics of traders, networking, trade methods, so on)
4. Scope of collaboration; sharing information, and providing one another documentations relevant such as arrest warrants, case reports, investigation reports, statement record, facilitating in seeking extradition, and providing mutual assistance in criminal matters in accordance with the laws and regulations of the parties.

This draft MOU, approved by the Cabinet, is to allow favorable circumstances of working and to share information related to human trafficking-related issues of responsible agencies between the two countries. Judicial process of human-trafficking gang would be followed up easier, allowing for the organizations working on this issue and with government agencies doing the job harmoniously.

2. Ministerial Regulation on Stipulating the Period of Deducting the Wage of the Employee as Contributions to Remit to the Alien Out-Of-Kingdom Repatriation Fund B.E. 2560

Issued by the Minister of Labor, the aim of this regulation is to give a two-year extension on which the employer shall have to deduct money from the employee's wage for the Alien Out-of-Kingdom Repatriation Fund, from 25 June 2016 to 24 June 2018, starting to deduct wages again on 25 June 2018 onwards. The following are the details of this regulation.

1. Not allowing the statement in item 4 paragraph 4 ([Click to see more details](#)) to enforce in terms of wage deduction for the Fund during 25 June 2016 – 24 June 2018. Wage deduction of the employee for fund contribution will start again on 25 June 2018 onwards.
2. Before this regulation coming into force, in the case where the employer has deducted employee's wage but not yet sent in to the fund in full, they are required to continue to do so until the required amount is fully contributed.

The reason behind this regulation is, that the employee's wage deducted by the employer to remit to the Fund as prescribed in such ministerial regulation is to cause extra burden to the migrant worker, giving effect to the cost of living of the employee, the employee may avoid undertaking the work permit application. This consequence will have a knock-on throughout the management process. So, it is necessary to remake the period of wage deduction to remit to the Fund, and to suspense such deduction in a temporary period.

The aim of this regulation is to postpone deducting the wage of employee to remit to the Repatriation Fund until 24 June 2018. For those migrant workers who have already been deducted, they are required to do so until fulfilling money contributions to the fund, for those who have not ever been deducted, not yet to do that.

This is, however, the last time of the period extension owing that this fund will be abolished according to the new law – Migrant Worker Management ACT, B.E...; this law is transformed from the Alien Out-of-Kingdom Repatriation Fund, not mentioning the wage deduction for remitting to whichever funds. Yet, the Fund under the new law contains the terms regarding the management on such a repatriation fund, and payment for the migrant worker who is about to back his home country.

The MWG members should give migrant workers a knowledge about this regulation concerning the employee's wage deduction exemption until 24 June 2019, for migrant employees which have been deduct their wages to the Fund previously, they are required fulfilling their money into the fund until 1000 baht. They would get the evidences of the Registrar that they have already paid in the money in full amount to the Fund, to avoid confusion and the wage deduction where are claimed to the Fund. There should be a knowledge enhancement about refund when the migrant is about to leave Thailand in the future.



3. Ministry of Interior Notification on Permission for Certain Categories of Aliens to Stay Temporarily inside the Kingdom as a Special Case According to the Cabinet Resolution Dated 24 January B.E. 2560

The Ministry of Interior has now issued three notifications respecting allowing for three categories of migrant workers – fisheries, seafood processing groups, and the group of those who desire to change a category of work. The three notifications stipulate clearly regarding self-reported duration, permission duration, and residential conditions in Thailand, similarly the previous notifications, but different in detail. The following are the details:

1. The employer is required to take the migrant worker and the dependent to register/renew for an identity card, check-up, and to apply for a work permit, from 1 February 2017 – 31 March 2017, at the area where the office situated, and 22 coastal provinces, or at the One Stop Service centers.

2. The migrant worker who has been registered are allowed to stay in the Kingdom temporarily pending repatriation out of the Kingdom not after 1 November 2017.

3. In the case where migrant worker and family have undertaken a nationality verification (NV) and already received a passport or a travel document issued by the country of origin, the competent officer under the law on immigration is entitled to put on a visa stamp, permitting the migrant worker to work and stay in Thailand, from the first date of permission to 1 November 2017. If such a migrant worker has lived in until the due date and want to continue to work, he is required to renew permission that allows to stay just for once, until 1 November 2019.

4. In the case where the migrant worker and family have undertaken a nationality verification and already received

a passport or a travel document, the competent authority under the law on immigration shall have to stamp on such a passport/travel document for permission to reside and work in Thailand, counting from the permission date until 1 November 2017. When the period of permission is due, in case the migrant worker desire to continue to work, he would be allowed to renew the work permit, the period of which is not beyond 1 November 2019, except the migrant worker whose age has already reached 15, counting until 1 November 2018. For the child of migrant workers whose age is over 15, but not over 18, he is allowed to reside temporarily in Thailand according to his parents' permission period. Such a child can engage in the categories of work under the law. In case the migrant child being allowed to work according to paragraph 2 within 30 days before attaining age of 18, if such a child desires to live in Thailand, he shall have to engage in work under an employer. When his age reaching 18, he shall have to proceed to receive a work permit. Once being granted permission, the officer shall have to make a correction to history record of that child, as well as to repeal the seal of permission of the O (L-A) type and to make a new one, L-A type.

The three notifications of the Ministry of Interior cover three groups of migrant worker – fisheries, seafood processing and the migrant worker of the said group who has changed into other categories of work according to the cabinet resolution especially about sea fishing related problem-solving. The permission period for work and living in Thailand, for the said groups, will end on 1 November 2017. The migrant worker who has passed the NV process would gain the second permission and the visa stamped for another two years – until 1 November 2019.

The permissible period of the groups above is different from the group that are allowed by the cabinet resolution regarding migrant management, the permissible periods of visa are until 31 March 2018, and 31 March 2020 for visa extension.

The difference of permissible periods between two groups are likely to confuse with migrant workers and employers in undertaking the NV process or renew a work permit, and to make both groups become illegal workers in the future unless clarification are made for migrants.

The mentioned issues are not recognized by migrant workers. So, the MWG members should provide migrant workers an understanding of the permission period, stimulate them regarding proceeding the nationality verification to be done before the due date, simultaneously, should emphasize relevant procedures, such as permission to travel outside the area where they work, a nationality verification process, a visa stamp, and a work permit application (changing from the pink card to a permit) within 15 days after the visa stamped, including such proceeding for the dependents in line with the stipulation.

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