

INTERNATIONAL LABOUR MIGRATION INSTITUTIONS OF BANGLADESH INDIA, SRI LANKA IN FERMENT THE PHILIPPINES AS CATALYST

INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM), DHAKA

NOVEMBER 2002



IOM International Organization for Migration
আইওএম আন্তর্জাতিক অভিবাসন সংস্থা



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**Prepared for
INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM)
REGIONAL OFFICE FOR SOUTH ASIA, DHAKA**

**by
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NOVEMBER 2002



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ABBREVIATIONS AND ACRONYMS

ADB	:	Asian Development Bank
BLA	:	Bilateral Labour Agreement
BMET	:	Bureau of Manpower Employment and Training
BMLM	:	Bangladesh Ministry of Labour and Manpower. [The Ministry has since been bifurcated into two, namely, (i) Ministry of Labour and Employment, and (ii) Ministry of Expatriate Welfare and Overseas Employment]
DBM	:	Department of Budget Management
DFA	:	Department of Foreign Affairs
GATS	:	General Agreement on Trade and Services
ICPD	:	International Centre for Population and Development
IGC	:	Inter-Governmental Consultations on Asylum, Refugees and Migration
ILMP	:	International Labour Migration Phenomenon
ILO	:	International Labour Organization
IMO	:	International Maritime Organization
IOM	:	International Organization for Migration
MOA	:	Memorandum of Agreement
NGO	:	Non-Government Organisation
NLRC	:	National Labour Relations Commission
NSB	:	National Seaman Board
OCW	:	Overseas Contract Worker
OEDB	:	Overseas Employment Development Board
OEP	:	Overseas Employment Programme
OPE	:	Office of the Protector of Emigrants
OWWA	:	Overseas Workers Welfare Administration
PDOS	:	Pre-Departure Orientation Seminar
PEOS	:	Pre-Employment Orientation Seminar
PNP	:	Philippine National Police
POEA	:	The Philippines Overseas Employment Administration
RMMRU	:	Refugee and Migratory Movement Research Unit
SLBFE	:	Sri Lanka Bureau of Foreign Employment
SOP	:	Standard Operating Procedures
UNFPA	:	United Nations Fund for Population Activities, but at present known as United Nations Population Fund
UNITAR	:	United Nations Institute for Training and Research
WTO	:	World Trade Organisation

EXECUTIVE SUMMARY

International labour migration is an age old phenomenon. Due to profound economic, political and social factors, *inter alia*, of rapid population growth in many developing countries, failing development plans, increasing urbanization and environmental degradation, the management of this phenomenon has become more complex in the face of new challenges brought about by globalization. Malpractices and exploitative conditions remained unabated despite the worthy efforts of national governments, international organizations, researchers and academicians.

In the crush of factionalism and the disjointed efforts of international organizations, like the International Labour Organization (ILO) and the International Organization for Migration (IOM), the interests of migrant workers became just one in a set of interests among a variety of interests in the international labour migration field. In addition to the fragmented approach, there exists leadership vacuum in the Asia-Pacific region, to the extent that international organizations like the ILO, IOM have had to consign international labour migration concerns to the “back-burner” due to the dilemma wrought by its inherent characteristics and the complex and sensitive nature of national sovereignty.

The “reasoned rejection” of international conventions represent the reality that countries conform to certain international rules not because they abide by the principles attached to these rules but because it is within their interests to conform to them. Thus, many labour sending and receiving member states of the ILO have failed to ratify various ILO Conventions, despite the fact that these instruments are designed to promote universal norms and standards and to protect the interest of workers when employed in other countries.

The dialectic between national sovereignty and international obligations of states underlies the fundamental dynamic of the process of global restructuring that produces contrasting tendencies towards greater universalization than of localization. This stems, in most likelihood, from the inclination of international agencies to focus on issues and problems from a global or universal perspective at the expense of the narrower and less glamorous focus of individual organizations.

The Bangkok Declaration on Irregular Migration, convened at the initiative of the IOM, along with UNITAR, UNFPA and the Government of Thailand, declared, *inter alia*, the need for capacity building of government machinery’s as a means for improving the administration of the migration process in the Asia – Pacific region.

They had concluded that the mix of academic studies and interventions have not resulted in mitigating the problems encountered by migrant workers nor have the output of most research-based findings trickled down from the “knowledge factories”

to the points of applications and implementation – the international labour migration institutions of both labour sending and receiving countries.

IOM Dhaka commissioned this study to compare the institutional capacity of Bangladesh, India, Sri Lanka and the Philippines only to realize that there were hardly any previous works done to provide a basis for such a comparison. This should not come as a surprise since international institutions would much rather not undertake such a study as it can only result in a no-win situation for them due to the fact that it would invariably touch on the sensitive issues of national sovereignty and good governance.

In its stead, a proposition is offered that the ability to create and sustain institutions is as important to the successful management of an international labour migration institution as the formulation of appropriate policies and procedures and that the issue of institutional capacity be included as an important component of a framework for the protection and promotion of the welfare of migrant workers.

Further, the report strongly suggests that what happens 'within' countries can turn out to be part of a much broader international process of political and economic change; that the unilateral decisions and actions of nations can influence events in the international arena in spite of the view of how international the world has become. It is further suggested that international labour migration institutions need more practical assistance than the rhetoric of intentions that past studies and manuals can provide. These countries need assistance in transforming the knowledge derived from studies into practical ways and means and for throughput processes to shepherd them through.

All these are dealt with using the experience of the Philippine Overseas Employment Administration (POEA) to demonstrate how it managed to provide mechanisms to protect and promote the welfare of migrant workers despite the absence of international agreements and conventions. Observations on the unique and substantive aspects of the legal and administrative mechanisms of the POEA are defined, albeit piecemeal, in an appropriately extended but delimited context to showcase the proposition that the administrative mechanisms are as important as the rules and the laws themselves.

Briefly, the paper recommends that given the significant contribution of international labour migration to the Bangladesh economy, the BMLM and BMET should exert every effort to highlight this fact and strive to position themselves more prominently among the hierarchy of government offices in order to receive greater budgetary appropriations to support its goals.

CHAPTER 1

INTRODUCTION

Globalization as Catalyst

Conventional wisdom declares that international labour migration is a natural consequence of globalization – the process of rapid economic integration among countries driven by the liberalization of trade, investment and capital flows as well as rapid technological change (Serriere, 1999).

However, the globalization of the world economy has not led to the freer flow of workers - the most abundant factor of production in labour-sending countries. In fact, while the flows of the trade and investment aspects of globalization were directed towards the minimal amount of control possible, international labour migration has provoked greater intervention towards blocking and tightening controls of the flow of overseas contract workers (OCWs), or in case of Bangladesh, the "migrant workers".

Consequently, opportunities for foreign employment may have shrunk further even as the flow of capital, goods and services became freer. The logical effect is to increase the burden on individuals seeking employment abroad and to aggravate the tremendous pressure on the high labour force growth rates of countries that seek to ease unemployment and raise foreign exchange through the operations of their overseas employment programme (OEP).

Roger Boning (1995) concludes that despite political and economic barriers falling left and right towards a borderlines world, there does not seem to be a short-term remedy to removing the emigration pressure that is associated with the interplay of poverty and the existence of information and recruitment networks in Asia and the Pacific.

He further claims that even if these countries were to make notable achievements towards development, international labour migration would still take place because growth results in gaps at the bottom rungs of the labour market. The danger of massive irregular and illegal migration, especially in bottom rung jobs, will continue unabated as long as there are enough poor or close-to-poor people in Asia and the Pacific.

Low and middle-skilled workers from predominantly developing countries that typically lack measures to protect and facilitate their movement occupy most of these bottom-rung jobs. While the General Agreement on Trade and Services (GATS) accords "service providers" recognition due to their being considered as "a prominent factor in trade and its growth," the definition provided by GATS of who constitutes "service providers" is embroiled in controversy because it limits coverage only to professionals and highly skilled workers (Stahl, 1999).

In effect, whatever umbrella of protection might have been intended by this accord is rendered inutile since the low and medium-skilled workers who far outnumber professional/highly skilled workers and who need protection most are excluded from any meaningful attention. Professional and highly skilled workers usually end up working in industrially advanced countries where there are adequate protection mechanisms and safety nets.

Due to profound economic, political and social factors, *inter alia*, of rapid population growth in many developing countries, failing developmental plans, increasing urbanization, and environmental degradation, the management of the international labour migration phenomena (ILMP) became more complex in the face of new challenges brought about by globalization. It exposed the inadequateness of existing legal and institutional policies and arrangements to promote the orderly movement of people. Malpractices and exploitative conditions remained unabated despite the worthy efforts of national governments, international organizations, researchers and academicians.

Fragmented Approach

Bimal Ghosh (1997) believes that a major factor that contributes to the inadequate response of international organizations in addressing the major issues confronting the OEP is attributable to the absence of a permanent mechanism or an effective focal point within or outside the United Nations system to oversee issues in a comprehensive and coordinated manner.

He bewailed the fact that the proliferation of international institutions and the plethora of programmes on international labour migration created the illusion of a progress that was deceptive because they produced a climate of false hope while the problems of unity and coordination remained untouched at a deeper level. The concepts of unity and coordination are familiar to one and all. But even in their best form, the attempts by international organizations to help sort out the migration problems became misleading, possibly even counter-productive, because they failed to define areas or principles of agreement that would have served as a basis for unified action.

In the crush of factionalism and the disjointed efforts of international organizations, the interests of OCWs unfortunately became just one in a set of interests among a variety of interests in the international labour migration field. As Ghosh points out:

“...The present fragmented system has left a number of important gaps in institutional mandates, with the result that several situations affecting migrant and/or refugee groups tend to be ignored, with little or only marginal international attention being given to them...second, the present fragmented institutional arrangements - while they reveal important gaps - also lead to overlapping international action...that is harmful in several ways. The situation could lead to differences in the nature and scope of obligations resulting from norms that cover the same set of circumstances;

this can dilute the sanctity of the instruments. Second, differences could arise in the interpretation and supervision of the application administered by different supervisory organs. Finally, the proliferation of instruments on the same subject but adopted under the aegis of different international organizations could delay the pace of ratification just as it can impair effective implementation of standards...the most serious negative consequence... is reflected in the absence of a coordinated and comprehensive approach... (which is) why so far there has not been enough concentrated effort to develop an internationally harmonized migration policy.”

Henk Overbeek (1997) also believes that “global migration was hardly regulated at all, notwithstanding the activities of such organizations as the IOM, the International Labour Organization (ILO) and the Inter-Governmental Consultations on Asylum, Refugees and Migration (IGC),” in view of the fact that legal and national frameworks for dealing with migration movements are grossly inadequate – frameworks produced by the Cold War, “reflecting the world’s experience with the (European) refugee problems of the 1930s and 1940s caused by Nazism and Stalinism.”

Leadership Vacuum

In addition to the fragmented approach, no one is eager to fill in the leadership vacuum that exists in the Asia-Pacific region since international organizations like the IOM, ILO and others have had to consign international labour migration concerns to the “back-burner” due to the dilemma wrought by the inherent characteristics of international labour migration and the complex and sensitive nature of national sovereignty (Skeldon, 1997).

The “leadership vacuum” was further aggravated in mid-1998 when the ILO casually announced without any accompanying explanation that the Migration Branch in Geneva had been abolished and its functions transferred to the Working Conditions Office. The timing of the announcement could not have occurred at a worst time since just a few months before, no less than the Director-General called for the mobilization of all ILO means of action to promote and protect the welfare of migrant workers at the “Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration” (ILO, 1997).

Subsequently, an Issues Paper submitted by the Migrant Branch raised the question of “whether it wants to capitalize on its past work and its potential to make a unique contribution to the field of labour migration, or to leave the field to other institutions. If the ILO is to take on this challenge, it must refocus and expand its migration activities. Failure to do so would reduce the ILO to the position of being a marginal player in an increasingly contentious area for international action and leave large and growing numbers of vulnerable workers outside the protective umbrella of the ILO” (ILO, 1999).

This state of groping led to further demoralization since the very flagship of the United Nations system tasked with spearheading the development and promotion of

universal norms and standards in the field of international labour and employment had to sail in a sea of uncertainty about its future mandate.*

Intentions vs. Results

In the drive to reach a “dynamic understanding” of the ILMP, numerous researchers and scholars, mainly economists, produced a myriad of academic literature that delved, inter alia, on the historical and socio-economic causes of migration, the costs and benefits to both labour-receiving and sending countries, emigration and immigration pressures and flows, utilization of remittances, impact on foreign exchange reserve and reintegration. These undoubtedly contributed to orienting logical ways of thinking and analysis on such a complex and multi-faceted phenomena.

However, Goss and Lindquist (1995) asserted that the overall results of these studies remained ambiguous due to the adoption of incompatible theoretical approaches and selected diverse contexts and a wide range of variables for empirical analysis.

And, as Nino Falci (1995) pointed out, these studies fell short of providing practical and definite considerations since their conclusions were promptly buried ‘in the sands of inertia’ and that in spite of countless seminars, lavishly-funded regional and international conferences and ministerial summits, the problems not only remained unresolved but continued to worsen.

On a more serious note, the ILO Director-General (ILO, 1997) concluded that neither their constitutional procedures nor their regular technical cooperation activities “have had more than very limited success in reducing the daily and widespread exploitation of migrants.”

Two Contradictory Directions Simultaneously

Kenichi Ohmae (1995), renowned business economist, posits the uncomfortable theory that in an increasingly borderless economy, “nation states have become little more than bit actors...inescapably vulnerable to the discipline imposed by economic choices made elsewhere by people and institutions over which they have no practical control...at a time when the major flows of economic activity no longer follow the channels marked out by the boundary lines on political maps.”

Overbeek (1997) likewise believes that “if one of the essential functions of the modern state is to ‘govern the economy’ in order to guarantee the conditions for capital accumulation and the supply of sufficient employment and income opportunities to its population, then the process of global restructuring has made the state into a less and less effective guarantor. As the economy and with it social relations of production are dominated by trans-national processes, so the functions of the state dealing with those processes must increasingly be performed trans-nationally to be effective.”

* The Migrant Branch was restored to its former “position” as of early 2000.

On the other hand, Fred Halliday (1994), a distinguished Professor of International Relations, argues that despite the gain in currency of the concept of 'global governance' in the light of changes in the international system brought about by the end of the Cold War, "the components of that governance structure will, in the main be states, and the considerations that move politicians or publics to accept them will have to encompass a state-based ('national') interest as much as a global one...(and that) threats...are not going to be addressed, contained or solved, by a global community, or by trans-national forces. States, and only states, albeit urged on and assisted by unofficial bodies, have the power to do something about these."

National Sovereignty vs. International Obligations

The Ohmae and Halliday observations depict a world moving in two seemingly contradictory directions that have spilled over into the realm of the ILMP especially on the issues pertaining to national sovereignty and the international obligations of states.

The dialectic between national sovereignty and international obligations of states underlies the fundamental dynamic of the process of global restructuring that produces contrasting tendencies towards greater universalization than of localization. This stems, in most likelihood, from the inclination of international agencies to focus on issues and problems from a global or universal perspective at the expense of the narrower and less glamorous focus of individual organizations.

The impetus towards a better appreciation of the ILMP in the reality of this dialectic has been confined to the cursory treatment of national sovereignty as a major deterrent to devising mutually acceptable mechanisms for the promotion and protection of the welfare of migrant workers.

Of course, the reality in international politics is that many nations accept universal principles of rights and justice as formal norms but not as substantive ones. International politics severely restricts the manner in which such principles may be operationalized and the operational reality still remains as that of the domination by the interplay of power and money, or in other words, the big powers and rich nations still tend to lay down the laws and rules of the game.

The inefficacy of a set of Conventions is seen in terms of the wide variance between the prescribed behaviours as against the actual. This is clearly seen in the field of enforcement that presents another contentious situation to consider. Within national boundaries, a society manages to maintain order and discipline because it controls the legitimate monopoly of constraint or force that has been entrusted to them by the members of that society. However, in the international milieu, this is, for all intents and purposes, meaningless.

History is replete with examples of how such principles, agreed upon in bilateral and multilateral settings, are under no guarantee that they will be enforced because of a

variety of convenient excuses such as the “veil of ignorance” regarding standards of international justice, or a milieu where self-help is the rule and where force can always be used by each party (Hoffman, 1981).

Thus, in international politics, even if norms can be agreed upon, the goal remains utopian – a mirage: there is no way of obliging those states that would find the application of the principles intolerable to respect them. The “reasoned rejection” of rules of international Conventions represents the reality that countries conform to certain international rules and conventions not because they abide by the principles attached to these rules and conventions but because it is within their interests to conform to them.

Reality Check

It is no surprise, then, that many labour-sending and receiving member states of the ILO have failed to ratify various ILO Conventions and Recommendations despite the fact that such instruments are designed to promote universal norms and standards and to protect the interest of workers when employed in other countries.

To date, there have only been 41 ratifications of the Migration for Employment Convention (Revised), 1949 (No.97) and 18 ratifications for the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). The Social Policy (Basic Aims and Standards) Convention, 1962 (No.117) that contains four provisions relevant to migrant workers has received 30 ratifications (ILO, 1999a).

The International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families was adopted by the General Assembly of the United Nations on 18 December 1990 and required only 20 ratification's for the Convention to come into force. However, as of November 1999, only 15 countries have ratified or acceded to it (Rousselot, 2000).

“Based on an ILO discussion group's diagnosis, the poor rate of acceptance by member governments of ILO Conventions could be attributed to the following reasons (Sebastian, 1996):

- 1) Contents which were thought to be too complex and detailed;
- 2) Technical problems and divergences on the methods of application;
- 3) Administrative burden involved in the operationalization; and
- 4) Wish to evade the supervisory machinery including the responsibility of reporting and the risk of comments.”

Picard (1996) posits, “Since it is an area which impinges on questions of sovereignty, it is possible that many states wish to maintain wide-ranging freedom concerning the treatment of migration and migrant workers.”

The ILO has perennially been confronted by the problem of non-ratification of various Conventions by member states. While there is some consolation to be found in the fact that many provisions of these Conventions have been adapted into the legal and administrative systems of member states, still, there is the question of whether, in the absence of results, the ILO can continue to provide and be an adequate guide to the increasingly borderless world with the use of traditional policies based on traditional principles. Merely better execution or implementation of its varied programmes cannot close the gap between the intention of its plans and the absence of results.

There is the debatable argument that so long as the old operating principles continue to shape ILO plans and policies, nothing can close the gap except possibly to change the principles themselves; that it might have to attempt something different from its current course of action since people turn to records of achievement rather than the rhetoric of intentions or the elegance of analyses to determine the worth of an organization.

The experience of the World Trade Organization (WTO) which was formally established only in 1995 and has within a short period of time emerged as the *de facto* trade organization is often cited in contrast to the inertia that seems to have enveloped the ILO. The WTO itself does not embody substantive rules regarding government policies – it is simply a formal institutional structure under whose auspices member states negotiate and implement trade agreements (Hoekman & Kostecki, 1996).

A more appropriate example is the International Maritime Organization (IMO), another specialized agency within the United Nations system that deals *inter alia* with safety of international shipping, prevention of marine pollution from ships and in setting standards of employment and protection of seafarers aboard vessels plying international routes. It also keeps treaties and conventions up-to-date and ensures that these are properly implemented by its 157 member states that bear the ultimate responsibility for their implementation.

The IMO introduced a unique procedure to ensure that changes can be introduced more quickly through a process known as “tacit acceptance” which speeds up the adoption and implementation of amendments in as little as a year after being adopted.

The normal procedure for adopting amendments to international treaties or conventions is by “explicit acceptance” which means that amendments enter into force so many months after being accepted by a specified number of member states. The ILO follows the latter procedure and as cited above, conventions and treaties have taken decades to enter into force, if at all.

In addition, it meets once every two years as against other agencies like the ILO that conducts general assembly conferences every year. The IMO also boasts of the fact that it is one of the smallest agencies in the United Nations system both in terms of staff members and budget (<http://www.imo.org>).

Most studies, summits and conferences on international labour migration still strongly recommend the ratification of migration related Conventions as the best approach for promoting and protecting the rights and welfare of OCWs despite the fact that these have remained pretty much as concepts without being able to press their advantages too far nor their influence felt.

But then again, such recommendations may have become a lexicon of palliatives and may have produced a false sense of resignation that unless certain conditions are first met, no significant progress can be made in efforts to protect and promote the welfare of OCWs.

Reconfiguration

The interrelated factors cited above give the unmistakable impression of a great deal of uncertainty, trying here, then there, to see where a chink in the international labour migration armour might reveal itself. At this stage, it would be interesting to relate this situation to the contention of Economics Professor Kenneth Boulding (1968) in his book, *Beyond Economics*, that in the course of events, historical discontinuities or what he called “system breaks” occur, at which time the bag must be shaken and the contents allowed to settle down in a new configuration.

And indeed, it was a new configuration that several Asian-Pacific Ministers sought to construct when they convened at the initiative of the Royal Government of Thailand, the United Nation Institute for Training and Research (UNITAR), the United Nations Fund for Population Activities (UNFPA) and the IOM in April 1999 and adopted the *Bangkok Declaration on Irregular Migration* which declared, *inter alia*, the need for capacity building of government machinery’s as a means for improving the administration of the migration process in the Asia-Pacific region.

They had concluded that despite the worthy efforts of numerous sectors to address the varied issues plaguing the ILMP, there continues to be a wide gap between what is and what ought to be – that neither the mix of academic studies and interventions have resulted in mitigating the problems encountered by the migrant workers themselves nor have the output of most research-based findings trickled down from the “knowledge factories” to the points of application and implementation – the international labour migration institutions of both labour-sending and receiving countries.

Such a gap may have been a matter of limited concern in the past but with rapid developments brought about by globalization, the time for leisurely reflection that all these findings will have an impact in due time has been overtaken by the fact that these studies and interventions continue to remain as hypotheses’ still trying to prove themselves.

The familiar approaches have not succeeded in bridging the gap. Reconfiguration may no longer be just an option but a necessity since the results of many studies

emphasize that migration is not going to cease and recommend that governments arm themselves with an array of measures to better manage this phenomena. Abella (1996) argued that on the basis of projected future growth in the Asia-Pacific region, it will continue to experience a labour supply deficit due to the slow growth of the labour force and the shift to employment in the service sector from the production and manufacturing sectors.

For starters, the IOM conducted an international seminar during 22-27 November 1999 for 18 South and East Asian and Pacific countries on the “International Migration Policy and Law Courses for Asia and the Pacific” as a practical step towards the implementation of the *Bangkok Declaration*. The six-day high-level meeting focused on a comprehensive capacity building seminar on migration management, migration policy development and cooperation in the region.

Rationale

This particular project is one of the first attempts of the IOM since the *Bangkok Declaration* to focus on institutional capacities as a way of addressing the challenges confronting the ILMP. The IOM Dhaka office has commissioned five studies to be undertaken on the Bangladesh situation and experience in dealing with the international labour migration process. This study, as initially formulated, was to undertake a comparative analysis of the policies and procedures of India, Sri Lanka, Bangladesh and the Philippines with a view towards formulating recommendations that could assist Bangladesh in developing the rules and regulations to implement its Emigration Act of 1982.

However, after visits to the capitals of Bangladesh, India and Sri Lanka and interviews with officials and scholars of these countries, it was decided that such a survey would not be feasible at this time given the dearth of studies and assessments on the institutional capacities of the migration agencies of these countries.

Not surprisingly, the study of the institutional capacity of any government agency, independent of an invitation from the host country to do so, is something which international institutions would much rather not undertake since it can only result in a no-win situation for them due to the fact that it would invariably touch on the sensitive issues of national sovereignty and good governance.

This is the type of situation that Falci (1995) was probably referring to when he claimed that many studies “contained only tentative and partial considerations and suggestions about the actions needed and their practical implementation...as if their authors were afraid of lowering the scientific level of their work with detailed operative assertions or being given responsibility for operative programming which is commonly considered the politician’s preserve.”

Researchers and application-engineers* have also shied away from this type of study either because of a lack of interest or funding support from international organizations. Most likely, since international labour migration institutions are essentially public-service oriented entities in nature, measuring the services they render is extremely difficult and not easily susceptible to analysis since they tend to make decisions which are heavily influenced by socio-political considerations.

Modes of “Operative Programming”

The ILO has a variety of procedures that may be availed of by member states requiring assistance in managing their international labour migration system. There is the procedure involving institution-building technical cooperation projects and technical advisory services that have been the more popular modes of intervention. Unfortunately, as cited earlier, no less than the ILO Director-General considered these as not having had much success in reducing the exploitation of migrants.

The ILO may also be called upon to conduct “special surveys” on discrimination suffered by migrant workers. Another procedure is to conduct what is known as pattern and practice studies which aims to help the requesting party to find solutions in a practical way, through the low-key approach of getting policy-makers to look at what goes wrong and what can be done to right it (ILO, 1997).

Not surprisingly, the last two procedures have, to date, not been successfully invoked by any country - a prerequisite for these modes of intervention to be operationalized by the ILO (Wickramasekara, 2000). This lack of interest is due most likely to the fact that the introduction of new approaches or modes of interventions in any organization necessarily result in some tension and anxiety because they automatically raise questions about past performance.

Charting the Uncharted

The overarching concern to study and research the ILMP from every conceivable socio-economic standpoint left the topic of the institutional capacity to efficiently and effectively administer an international labour migration system in uncharted territory.

The issue of institutional capacity is not even considered as important enough to be one of the components of a broadly agreed framework for the protection and promotion of the welfare of migrant workers which Stahl (1999) and others have identified as follows: standards setting and enforcement, supervision of private recruitment and welfare services.

This is an unfortunate omission since institutional capacity has a direct correlation to the success or failure of policies and programmes in any given country. It is, after all, in the day-to-day activities and decisions of bureaucrats that the citizenry perceive government policies and programmes.

* Role developed in connection with the adaptation to broader uses of scientific knowledge originally developed out of the space program of the United States of America (Meade, 1971).

In fact, the deficiency in an institution's capacity to administer the migration system efficiently and effectively could be as serious as the gap in the institutional and legal frameworks themselves whose combined negative effects could only further aggravate an already problematic process. At this point, the degree to which the nature and extent of problems and the inherent vulnerabilities of the migration phenomena were exacerbated by the lack of institutional capacity to administer the OEP in the most efficient and effective manner can only be the subject of broad speculation.

Requests from developing countries for assistance in the design and implementation of international labour migration policies and systems continued unabated which prompted Bohning (1996) and Abella with Abrera-Mangahas (1997) to publish manuals that dealt with some of the broad nuances of international labour migration management often overlooked in other more technical researches.

However, international labour migration institutions need more practical assistance than the rhetoric of intentions that these studies and manuals can provide. Truisms do not constitute programmes and their particularization into operational terms is currently beyond the ability of many of these countries to undertake.

What these countries need is assistance in transforming the knowledge derived from such studies and manuals into practical ways and means for the benefit of international labour migration institutions and for throughput processes to shepherd these to reality. This is akin to what Falci (1995) prescribed as a shift towards pragmatic methods at the grass roots level to identify practical solutions to problems confounding the international labour migration process.

The absence of follow-up processes is one of the more serious defects of many technical assistance projects. Just as many plans are interred in archives, recommendations from consultants or external collaborators are often consigned to oblivion after their departure. Despite suggestions that may be technically sound, these may be unrealistic in the sense that they may not be politically feasible or they may be regarded as too bitter a medicine for the government to accept. Most often however, recommendations are neglected because no systematic mechanism exists for processing, evaluating and incorporating them into the existing national decision-making process.

In view of these developments, this report will proceed with the proposition that the ability to create and sustain institutions is as important to the successful management of an international labour migration system as the formulation of appropriate policies and procedures; that the appropriate combination can only develop out of further praxis – of practice and experience, of trial and error.

Further, this report will strongly suggest that what happens '*within*' countries can turn out to be part of a much broader international process of political and economic change; that the unilateral decisions and actions of nations can influence events in

the international arena in spite of the view of how international the world has become. On these grounds, this report proposes that the strengthening of the institutional capacity of international labour migration organizations can profoundly affect the manner in which relations between countries may be carried out, even without internationally agreed treaties and conventions.

The Philippines was included in this study since it is considered as the country of emigration *par excellence* (Skeldon, 1997). The experience of the Philippines Overseas Employment Administration (POEA) will serve as the “optimal or preferred model” of an international labour migration system. Not that the Philippines experience is without faults or shortcomings or that its constituents are completely satisfied with its performance but that the POEA exemplifies how unilaterally, through innovation and initiative, locally-devised mechanisms were made to respond to the challenges brought about by the paucity of international and/or bilateral agreements.

Observations on the unique and substantive aspects of the legal and administrative mechanisms of the POEA are defined, albeit piecemeal, in an appropriately extended but delimited context. These mechanisms give the POEA a decidedly distinct advantage over its competitors in managing its OEP and exemplifies Halliday’s proposition that the bottom line of global governance, in the main, remains with individual states that retain the power to promote national interests.

Table 1 is the product of the social and economic changes experienced by these four countries and stimulated by their interaction over the past years. The extensive array of policies and procedural interventions display many similarities in form but are markedly different in substance and application.

Table - 1

Areas of Government Intervention and Specific Measures Taken by Countries

Countries	Bangladesh	India	Sri Lanka	Philippines
Standard setting and enforcement				
Minimum standards for work contracts	x	x	x	x
Pre-employment briefing				x
Pre-deployment briefing	x		x	x
Restriction on passport issue	x	x	x	
Emigration clearance to leave country	x	x	x	x
Trade test requirement		x	x	x
State-subsidized skills training	x	x	x	x
Negotiation of supply agreements	x	x	x	x
Social security arrangements			x	x
Performance bond from worker		x	x	x
Repatriation bond or fund		x	x	x
Supervision of Private Recruitment				
Licensing/regulation of private recruiters	x	x	x	x
Ban/restriction on direct hiring	x	x	x	x
State operation of recruitment agency	x	x	x	x
Periodic inspection of recruitment agency	x	x	x	x
Limit recruitment fee charged to worker	x	x	x	x
Cash/security bond requirement	x	x	x	x
Regulation of job advertising	x	x	x	x
Renewal of contract clearance				x
Joint and solitary liability			O	x
Client referral service				x
Regulation of advertising and promotion	x	x	x	x
Settlement of Claims/Disputes				
Conciliation on site/upon return	x	x	x	x
Adjudication system				x
Fund to cover unpaid claims/benefits		x	x	x
Welfare Services				
Contribution to Welfare Fund	x		x	x
Labour Attaché assistance	x	x	x	x
Welfare Centres			x	x
Welfare Officers			x	x
Low-cost insurance	x		x	x
Legal aid to worker in distress on site	x	x	x	x
Repatriation assistance	x	x	x	x
Social welfare services	x		x	x
Education facilities	x		x	x
Scholarships for children of workers			x	x
Health/medical facilities				x
Livelihood programmes for family				x
Financial loan programme			x	x
Employment assistance for returnee				x
Returnee training programme				x
Trauma care centre for returnees			x	
Duty-free privileges	x	x	x	x

CHAPTER 2

DETERMINING FACTORS

This section identifies certain variables that influence the management and development of a nations' international labour migration system. They are not necessarily integral to the system *per se* but are important to warrant attention as they influence, if not determine, the institutions' capacity to successfully manage an international labour migration programme.

Good Governance

The appropriate system for a particular country depends upon the nature of the political system and the basic development philosophy of the government, together with a host of multiple determinants each connected to others in a complex network of interacting forces. Thus, there are no standard measurements that are presented in this report because each of the countries have their specific histories and stages of development to be taken into account, none of which can be said to have a comparative advantage in matters of governance. Therefore, no matter how successful an international labour migration system might be in one country, it cannot be imposed on another.

There is, however, one precondition that applies to one and all regardless of development situations or conditions. Numerous studies have shown that good policies and institutional frameworks are not synonymous with good governance. While it is essential that appropriate policies and procedures be formulated, it also requires that government have the political will to implement the policies it adopts. It must demonstrate that it can deliver what is promised and expected from its leaders and institutions. The mere predictability of mechanisms for formulating policies and procedures are not sufficient to produce good governance.

National Laws

When Switzerland was accused of benefiting from the deposits of ill-gotten wealth of corrupt leaders like deposed Philippine President Ferdinand Marcos or the infamous Idi Amin of Uganda and various other entities such as mobsters and tax evaders, it merely shrugged its shoulders and claimed that under its centuries-old banking secrecy laws, such deposits were not a crime and therefore it had nothing to be concerned about.

The international community conducted a massive campaign to decry this amoral law that served as an inducement to fraud aside from offering a haven for ill-gotten wealth. Pressure from the international community eventually succeeded in convincing Switzerland to amend its banking secrecy laws in order to conform with

the demands for it to be a more responsive member of the international community by not bypassing the laws of other nations in order to generate profits. Today, Swiss banks have to certify that deposits are not the proceeds of criminal activities and the names of account holders must be made known to a bank employee.

In essence, the international community reacted to an onerous national legislation that was considered unhealthy for the smooth functioning of the international financial system. Unfortunately, concern for international labour migration issues has not reached a level of involvement and commitment as displayed against Switzerland. Labour-receiving countries continue to insist that their national laws and interests are the final determinants for the thrust and direction of their policies and procedures in the field of international labour migration despite the global restructuring in the economic and political spheres.

For instance, in certain markets such as in Japan and Korea, the only way to entry for an OCW is through a “worker trainee arrangement” which in reality is a scheme to fill up real manpower shortfalls in the local market without having to undergo the tedious process of amending current labour and immigration laws and facing stiff resistance from opposing interest groups.

These countries also play host to thousands of entertainers who fall under the special category of “guest workers” and are therefore not covered by the regular labour and employment laws of those countries, particularly of Japan.

These schemes have spawned a whole new industry of “talent managers” and training facilities as a consequence and added to the cost of seeking foreign employment. It has forced the Philippines to adopt a certification system as a way of organizing the flow of these workers in a more systematic and orderly manner from their end without any corresponding system for protecting and promoting the welfare of these entertainers in the host country.

On the other hand, Canada represents the most-female-household-helper-friendly country whose liberal laws allow housemaids, and only housemaids, who have successfully completed their original employment contract, to automatically qualify for permanent residency in Canada. In addition, during the lifespan of the employment contract, housemaids are entitled, as a matter of right and with no deduction in salary or benefits, to avail of free vocational training programmes offered by the Canadian government on weekends. Employers are obliged to allow them to do so.

Hongkong can proudly boast that it is the only country with legal mechanisms specifically designed for foreign domestic workers seeking redress to their grievances. In addition, information regarding the process has even been translated into several Philippine dialects to ensure better understanding of the legal channels (Annex A).

Bilateral Labour Arrangements

The ILO, along with other entities and numerous studies, have consistently identified and recommended to labour-sending and receiving countries to enter into bilateral labour agreements (BLAs) as another mode of protecting and promoting the welfare of OCWs.

The POEA views BLAs as an advantageous instrument for strengthening and enhancing the rights and welfare of overseas contract workers because of its adaptability to particular situations and conditions of specific groups and circumstances. Both sending and receiving countries can decide among themselves what activities they would like to be involved in, how to share the burden of responsibilities and what stages of the migration process to manage and monitor.

Draft BLAs have been tailor-made by the POEA to reflect the peculiar conditions and idiosyncrasies of each labour-receiving country. However, labour-receiving countries likewise resist BLAs on the grounds that the same laws and regulations as their nationals already cover migrant workers and therefore no new laws or arrangements are necessary (Gonzalez, 1996).

Others argue that since the terms of employment and recruitment were negotiated between the migrant workers and the recruitment agencies or private employers, then government should not be involved in what is regarded as a purely private matter (Gonzalez, 1996) which runs counter to the principle of the *comity of nations* which is discussed below.

In addition, labour-sending countries are frequently frustrated in their attempts to negotiate BLAs with labour-receiving countries due to their weak bargaining position. The reason for this is in “the nature of the overseas employment programme as a supply and demand market where the supply outstrips the demand and ‘buyers’ have a wide spectrum of choice with little differentiation between suppliers” (Achacoso L., 1999).

The Philippines has successfully negotiated bilateral labour and maritime agreements with the following countries: (POEA, 2000)

Iran (1975)	Nauru (1976)
Nigeria (1976)	Libya (1979)
Papua New Guinea (1979)	Qatar (1981, 1997)
Jordan (1981, 1988)	Iraq (1982)
Cyprus (1984)	Liberia (1985)
Netherlands (2000)	Kuwait (1997)
Commonwealth of Northern Marianas Islands (1994).	

However, these are not trumpeted as banner accomplishments since most of these agreements are with countries that are not the top destination of Filipino OCWs and the provisions pertain mostly to social security matters while giving lip service to the more sensitive issue of protection. (Annex B)

Further, Abella (1997) would not classify these MOAs as falling within the technical definition of BLAs but rather as “more like framework agreements or statements of mutual cooperation regarding the recruitment and protection of foreign workers.”

An ILO report (1999a) concludes, “Notwithstanding the agreements concluded between the Philippines and some Member States of the European Union, no bilateral agreements have been located between Asian sending countries and receiving countries in other regions, despite their efforts, to the Committee’s knowledge.”

Code of Conduct

In the absence of bilateral and other forms of agreement, Battistella (1996) suggested that a code of conduct could be utilized as a mechanism aimed at protecting migrant workers at the occupational or floor level. For instance, those working in the construction industry may benefit from the high-degree of unionization in this industry.

But this “voluntary undertaking” cannot live up even to its limited expectations since it is easily rendered ineffective in the absence of an independent body vested with appropriate powers to monitor their application and implementation (Stahl, 1999).

POEA Rule VI, or “Code of Discipline for Overseas Contract Workers” (Annex C) does not prescribe regulations but merely focuses on what ought to be the proper behaviour of Filipino OCWs based on the Filipino value system (Scalabrini, 1992).

In Bangladesh, the Code of Conduct (No.S-XII/M-32/85-801) is utilized “to bring about order and discipline in this sector” in the hope that “every agent in his own interest and in the interest of the workers and of the country will sincerely adhere to the Code of Conduct” (RMMRU, 1999).

Licensed agencies may be “reprimanded” or “warned” by the BMET for breaches of the Code of Conduct and with the “approval” of the Ministry of Labour, they could impose more drastic penalties such as forfeiture of security deposits, suspension or cancellation of license or detention under the Special Powers Act (RMMRU, 1999).

The operational words are *may be* which underscore the voluntary nature of Codes of Conducts. Further, only government officials can lodge a complaint for violations of provisions of the Ordinance. Such discretion is contrasted to the “automatic” response of the legal mechanisms of the POEA as discussed in the next section.

Labour-sending countries have also been enticed with the proposition of forming a cartel similar to that of Organization for Petroleum Exporting Countries (OPEC) in order to counter-balance the market power of the labour-receiving countries. But until such time that labour-sending countries are able to unite and are in a position to collectively impose sanctions that can be effective against erring labour-receiving countries, this rather “sensible” proposal will continue to remain a dream.

Inter-Agency Coordination and Cooperation

Although agencies like the POEA are vested with authority to manage their OEP, they can only successfully do so with the cooperation and coordination of an array of other national government agencies. Cooperation and coordination does not come automatically but must be nourished and nurtured all throughout the process. The following presents an outline of the kind of inter-agency and inter-agency cooperation and coordination that the POEA undertakes:

- a) Department of Foreign Affairs (DFA)
 - i) Passporting of overseas workers;
 - ii) Investigation of illegal recruitment network overseas;
 - iii) Assistance to distressed victims of illegal recruitment at the receiving country;
 - iv) Corrective measures in cooperation with labour-receiving countries.

- b) Department of Justice (DOJ)
 - i) Preliminary investigation and inquest proceedings in illegal recruitment cases;
 - ii) Prosecution of illegal recruitment cases;
 - iii) Court appearances of POEA personnel in aid of prosecution;
 - iv) Monitoring of illegal recruitment cases/incidences nationwide.

- c) Philippine National Police (PNP)
 - i) Investigation of illegal recruitment and related cases;
 - ii) Institution of criminal actions against offenders;
 - iii) Apprehension of suspects/service of warrants of arrest;
 - iv) Closure of illegal recruitment establishments
 - v) Conduct of orientation sessions for PNP personnel nationwide;
 - vi) Provision of operational funds to be utilized by the PNP in anti-illegal recruitment operations.

- d) National Bureau of Investigation (NBI)
 - i) Same as with PNP

- e) Bureau of Immigration (BI)
 - i) Control in the entry of alien recruiters;
 - ii) Investigation of illegal recruitment cases involving aliens;
 - iii) Hold departures of aliens engaged in illegal recruitment;
 - iv) Control the exit of undocumented workers.

- f) Local Government Units and Non-Governmental Organizations
 - i) Monitoring of illegal recruitment activities through the barangays (smallest government unit);
 - ii) Supervision of local police units through the local chief executives;
 - iii) Cancellation of permits of business establishments used in illegal recruitment establishments;
 - iv) Assistance in the investigation and apprehension of suspected illegal recruiters.
 - v) Institutionalize the roles of the local government units and NGO's together with PNP in the anti-illegal recruitment campaign.
- g) Department of Tourism (DOT)
 - i) Closure of unscrupulous travel agencies;
 - ii) Regulation of travel agencies;
 - iii) Investigation of travel agencies engaged in the black market of overseas workers guised as tourists/illegal recruitment activities;
- h) Judiciary
 - i) Service of warrants of arrest;
 - ii) Trial of criminal cases involving illegal recruitment;
 - iii) Publication of convictions involving illegal recruitment and related cases
 - iv) Monitoring of illegal recruitment cases.
 - v) Sustain representations with the Office of the Court Administrator towards speedy and visible disposition of illegal recruitment cases.
- i) Representations with both Houses of Congress

Develop proposals for legislative agenda that would enable Congress to come up with legislative measures intended to strengthen the government's campaign to protect and promote the welfare of migrant workers.
- j) Coordination with Public Information Agencies

Sustain mutual commitments to maximize the impact of information drive.
- k) Regional Offices of the Department of Labour

Coordinate and assist POEA regional offices in implementing rules and regulations of overseas employment.
- l) Securities and Exchange Commission

Registration of corporations with recruitment as its primary activity.

These are, among others, the primary agencies that POEA has to work with in order to carry out its mandate. Without the close cooperation and coordination of each and every agency listed above, it cannot succeed otherwise.

Watchdogs

It is also important to note that the methods of study or research result from particular choices made by international agencies in response to a government's posture. The democratic environment in the Philippines has led to the development of mechanisms that enabled various public and private entities to subject the performance of government institutions to more intense scrutiny.

Whenever problems erupt and regardless of the cause, both houses of the Philippine Congress are quick, (sometimes to a fault), in calling heads of offices to testify in a no-holds-barred public hearing before its various committees investigating the issue "in aid of legislation." Congress is a potent force for publicly magnifying issues not just within the Philippines but also around the world. Thus, no one can afford to ignore its opinions.

In addition, during the annual budget deliberations, policies and programmes are scrutinized by both houses of Congress and agencies must defend their plans and programmes against the onslaught of criticisms and objections raised by members of Congress lest their budget proposal for the next fiscal year be slashed or its approval held in abeyance.

Non-government organizations (NGOs) and other advocacy groups regularly monitor the activities and performance of government agencies and distribute occasional papers offering alternative measures on current policies or practices for consideration. They are also involved in a wide range of activities and services, many of which parallel those of the government agencies in supplementary and complementary roles.

Media also plays a critical role in getting agencies to perform at peak efficiency and effectiveness lest they find themselves the subject of intense and sometimes malicious attacks.

All these sectors serve as watchdogs to ensure that agencies like the POEA are constantly on their toes and are continually improving the quality of its services to its clientele. They are also a rich source of new information or suggestions on how to improve current practices and procedures.

Responsibility of Victims

The task of enforcing laws rests largely in the hands of government. However, one should not lose sight of the equally important role that the victims, the applicant-workers, play in this effort. Much as they have rights and privileges guaranteed by a constitution or the State, the tendency is to give little attention to this other half of the equation – that workers, in addition to rights granted them, also have duties and responsibilities to uphold not only the provisions but also the spirit of this constitution.

The Pre-Departure Orientation Seminar (PDOS) is a mandatory educational programme designed to assist successful candidates prior to their actual deployment with information on the laws and procedures, cultural idiosyncrasies and practices of the host country, rights and responsibilities, protection and recourse in case of emergencies and psychosocial effects of working abroad and separation from family.

POEA rules also require that applicants for overseas employment be provided with a Pre-Employment Orientation Seminar (PEOS) to assist prospective applicants arrive at decisions based on a knowledge of the benefits and pitfalls of working abroad, application procedures, services that may be availed of from various government entities and a proper perspective of the overall overseas employment programme.

Despite these programmes, many applicant-workers still encounter difficulties and problems leading to a rather stark observation that they may not be the innocent victims that the press usually portrays them to be but are actually “willing victims” who disregard all warnings from government in the mad rush to secure foreign employment.

Many cases of illegal recruitment are dismissed for failure of the prosecution to establish the guilt of the accused due mainly to the non-appearance of victims during trials. Some cases do not even reach the courts because they are settled right at the preliminary investigation stage.

Many of the victims, driven by poverty and the desire not to be inconvenienced, willingly desist from pursuing prosecution in exchange for a settlement that sometimes do not even approximate half of the amount of money they lost to the illegal recruiter. Victims cannot be entirely faulted for this due to the tedious judicial process.

CHAPTER 3

LEGAL MECHANISMS

Aristotle once said that “law is order, and good law is good order.” Law has led to the growth of society that is maintained not merely by a sense of common interests in creating order or avoiding disorder but by a system of rules and the appropriate machinery for their consistent and effective enforcement that spell out the kind of behaviour that is orderly.

However, as cited earlier, many nations accept universal principles of rights and justice as formal norms rather than as substantive ones and that the operational reality in international relations is still dominated by countries with power and money. In view of these hard realities, the POEA was constrained to devise certain legal mechanisms to ensure that despite the constrictions wrought by the paucity of international treaties and agreements to protect and promote the welfare of Filipinos working abroad, justice may still be rendered to aggrieved parties upon their return to the Philippines. These mechanisms are tightly interconnected and intertwined to reflect the POEA’s objective of balancing welfare mechanisms with liberal policies on licensing and regulation.

In contrast, Abella (1995) believes that “effective action to stop violations of contractual obligations can only take place in the country of employment, not in the country of origin in spite of rules which hold the recruiters liable for infringements committed by the foreign employers.”

Abella is legally correct since the country of employment normally acquires jurisdiction for violations or malpractices that occur within their territory. While it is true that many countries have grievance machineries which, technically, may be accessed by OCWs, in reality, the constraints weigh heavily against the aggrieved worker by virtue of the fact that the worker does not have the luxury of time or the financial wherewithal to wait idly by for a decision on his complaint by the normally tedious judicial process of the host country. (Refer anew to Annex A that diagrams the grievance mechanism for financial claims in Hong Kong to see how tedious and time-consuming the whole process can get.)

Besides, these legal mechanisms have a “*crusading*” side to them since they were precisely developed to improve the odds of OCWs against such constraints. They indicate the determination of the Philippine government, despite the threats of prospective employers to transfer to other manpower suppliers, to extend justice to workers who would otherwise resign themselves to suffer in silence due to the great odds of getting justice in the country and the courts of the accused.

These mechanisms are unique because the POEA, as an administrative body, is authorized not only to impose administrative, as opposed to criminal, sanctions but to

enforce its own decisions as well. Further, in administrative proceedings, the appreciation of evidence is less stringent than in criminal proceedings without sacrificing the all-important element of “due process of law” or standing accused of “hometown decisions. This formula, along with its ability to conduct “summary proceedings,” bodes well for the conduct of speedy resolution of problems and cases filed before the POEA as distinguished from the tedious judicial process and machinery of regularly constituted courts which handle cases that are criminal in nature.

These features did not happen by accident but were the conscious effort of Philippine authorities to construct laws to cover every possible situation and to erect logical structures that are responsive to the problems of OCWs, both current and anticipated. Every effort was and continues to be exerted so that the context of the law would lead to highly specific and precise rules that could cover every eventuality and avoid the discretionary exercise of authority and possible abuse by officials.

Policy-Making Bodies

The government institution directly responsible for handling the migration process is usually located under the authority and supervision of their respective Ministers or Secretaries of Labour.

The laws/ordinances that serve as the basis for administering their respective overseas employment programmes are as follows:

Bangladesh - Emigration Ordinance of 1982 that amended the Emigration Act of 1922.

India - Emigration Act of 1983 that amended the Emigration Act of 1922.

Sri Lanka has its Act, No. 21 of 1985 that was amended by Act, No. 4 of 1994.

The Philippines came out in 1915 with Act 2486 that was amended in 1933 by Act 3957. In 1974 Presidential Decree 442 or better known as the Labour Code of the Philippines was enacted and further amended by Republic Act (RA) 8042 or the Migrant Workers and Overseas Filipinos Act of 1995. In addition, Letter of Instruction 537 was signed creating the Welfare Fund that was renamed as the Overseas Workers Welfare Administration (OWWA) by virtue of Executive Order 126 of 1987. (Gonzalez, 1998)

Each of these laws established an administrative body within the government bureaucracy to be the main instrument for the orderly movements of its workers to other countries:

- Bangladesh - Bureau of Manpower, Employment and Training (BMET) created in 1976;
- India - Office of the Protector of Emigrants (OPE) created in 1983;
- Sri Lanka - Sri Lanka Bureau of Foreign Employment (SLBFE) created in 1985;

- Philippines – Bureau of Employment Services (BES), Overseas Employment Development Board (OEDB), National Seamen Board (NSB); all three Offices were merged in 1982 into the Philippine Overseas Employment Administration (POEA); OWWA.

In the case of POEA, foreign employment policies emanate from the POEA Governing Board that is chaired by no less than the Secretary of Labour.

This arrangement did not also come about by accident but is the deliberate attempt to respond expeditiously to the dynamic nature of migration. Having the two top officials sitting in the same board reduces the layers in the hierarchy of authority POEA has to deal with, facilitates communication and speeds policy decision-making.

Since laws cannot anticipate, much less cover every single eventuality, and given the dynamic characteristic of the migration process, policy formulation is undertaken by a five-man governing board composed of the Secretary of Labour, the POEA Administrator, a representative each of the land-based, sea-based and women sectors.

Since 1982 to the first quarter of 2000, the POEA has issued a total of 829 Memorandum Circulars that are either new policy issuances or expand and update existing policies and procedures or serve to provide guidelines and information for all sectors involved in the programme.

Likewise, the numerous laws in various forms that have been passed and/or considered from 1974 to 1991, as shown by Tables 2 and 3, indicate the continuing concern of government officials to plug loopholes or shore up the migration programme due to the ever-changing environment under which the migration process operates.

Table - 2

Letters of Instructions and Executive Orders on Labour Migration Passed During the Marcos Administration, 1974-1986

	Number	Percent
Letters of Instruction	11	57.9
Executive Orders	8	42.1
TOTAL	19	100

Source: Asis 1992

Table - 3

Bills and Resolutions on Labour Migration Filed in the Philippine Congress 1987-91

	House of Representatives (200 members)	Senate (24 Members)	Total
Bills	32	23	55
Resolutions	46	41	87
TOTAL	78	64	142

Source: Asis 1992

All these memorandum orders and circulars highlight the fact that the POEA structure and procedures are never static and are ever-changing in response to the conditions and signs of the times.

Quasi-judicial Powers

The POEA is vested with quasi-judicial powers and until the passage of the Migrant Workers and Overseas Filipino Act of 1995, it had the exclusive jurisdiction to hear and decide all complaints or disputes stemming from overseas employment, whether pre-deployment or post-deployment. It undertakes proceedings following the due process of law requirements to determine the culpability of the accused employer/agency on matters relating to violations of rules and regulations on recruitment of workers.

This is another aspect in the management of the migration process that needs to be more effectively addressed by the other countries. A balance between protecting the interest of workers and as well as of recruiters needs to be attained. In the case of Bangladesh, India and Sri Lanka, prosecution of violators, in varying degrees, is at the discretion of government officials and the burden of proof rests with the workers/victims.

In the case of the Philippines, with or without a complainant, the POEA may, *motu proprio*, or “on its own,” initiate proceedings against certain recruitment agencies particularly when it is in possession of information or documents indicating a possible violation of its rules. This is tantamount to an automatic response to a stimulus on the part of the POEA under the specified circumstances and inaction in such instances may lead to charges against POEA officials for dereliction of duty. Further, there are rules that require adjudicators to decide cases 30 days from the conclusion of the preliminary investigation process.

It has also adopted a policy, anchored upon its power to issue and withdraw recruitment licenses and to regulate the activities of licensed agencies, whereby an amicable settlement between the offending employer/recruitment agency and the victimized worker does not prejudice against the government prosecuting the violation of its licensing rules, contrary to what is practised in the other three countries.

Employment contract related issues that require adjudication were transferred to the National Labour Relations Commission (NLRC) from the POEA by virtue of the Migrant Workers and Overseas Filipinos Act of 1995. Monetary awards may be enforced against the cash and security bonds that are deposited by licensed recruitment agencies with and in favour of the POEA as a prerequisite for the issuance of a recruitment license. Violations of the rules on recruitment and deployment of workers, including violations of the conditions for the issuance and use of recruitment license remain under the jurisdiction of the POEA and are meted a corresponding punishment based on a schedule of penalties established under its rules.

Contract Substitution

Among the difficult problems encountered by both migrant workers and employers is the enforcement of contractual obligations. Without bilateral arrangements or recognition of policies and procedures between labour sending and receiving countries, complications arise when attempting to enforce contractual obligations between employers and workers.

This dimension is aggravated in the case of female domestic workers since most countries, both labour receiving and sending-countries, do not have national legislation that confers a status on them or outrightly excludes them from coverage of labour laws making it extremely difficult to lobby for bilateral agreements or to adopt special arrangements for them.

A common scourge encountered by OCWs is the dubious practice of contract-substitution. Workers are made to sign a second or supplemental contract usually resulting in a diminution of terms and conditions at the stage when workers are most vulnerable - prior to departure or upon arrival at their destination. And since the laws of the host country prevail in the enforcement of contractual obligations, then the second contract is deemed by authorities of the host countries as valid and those signed in the country of origin and duly approved by the national authorities as having been superseded.

This is akin to the case of Switzerland cited earlier which profited from the misfortunes of other countries by bypassing the laws of other countries simply because their local laws had not been violated.

Joint and Solitary Liability Clause

Cognizant of the problem in the enforcement of contractual obligations, the Philippine government introduced complementary laws that give dominance to justice for aggrieved workers over the limitations imposed by the technical machinations of international law on jurisdictional matters.

First, there is the law restricting foreign employers from recruiting workers directly. They have to appoint a recruitment agency duly registered and licensed by the POEA to represent them and undertake all phases of the recruitment process on their behalf.

Second, every prospective employer is required to submit a special power of attorney binding them with local recruitment agencies to observe all rules and regulations of Philippine institutions and to jointly and solitarily assume full responsibility for any and all claims and liabilities that may arise in connection with the implementation of the employment contract.

Thus, any complaint filed by a worker uses the original contract that was signed and authorized by the POEA as the contract in force. Any amendment to the original contract, unless approved by the POEA, is considered null and void because it is

deemed as signed under duress. Further, any deviation from the terms and conditions of the accreditation documents submitted by the foreign employer and recruitment agency as a condition for the grant of authority to proceed with actual recruitment is considered invalid.

Recruitment agencies have objected that these provisions are biased in favour of workers over matters that they have no control over. The POEA has consistently maintained that as in any business or commercial transaction, the reliability, financial soundness, credibility and reputation of a prospective partner is routinely scrutinized before a partnership is agreed upon and established.

Thus, the joint and solidary liability clause provides a strong incentive for recruitment agencies to be more discriminating in the selection of their foreign partners. More importantly, the burden of determining the reliability and credibility of prospective foreign employers is transferred from government agencies that usually operate under debilitating budgetary constraints to the local recruitment agency.

Foreign employers are not left defenceless against possible fraud or deceit on the part of applicants/workers. First, the final decision on who gets the job rests squarely on their shoulders. They may subject the applicant to more intensive interviews and demand additional trade and other tests to assure themselves of the qualifications and capabilities of the applicant.

In addition, employers may impose as a condition for deployment the posting of a performance bond in the amount not exceeding the cost of a one-way airfare to ensure repatriation should there be a problem with the faithful compliance of their employment contracts.

Ultimately, they may appeal judgements rendered by the POEA to the highest court of the country - the Supreme Court.

In India, this takes the form of a requirement to post cash deposit with the Office of Protector of Emigrants that is refunded upon the successful completion of the contract and the workers return to India. This is unfortunately an added financial strain to the OCW since the full cost of a return airfare is demanded as against the smaller amount for the premium paid for bonds. Further, the money does not earn interest while under the custody of the Office of Protector of Emigrants and workers have to return to the office on record in order to personally reclaim the cash deposit.

Sri Lanka is the only other labour-sending country that adopted verbatim the Philippine provision on joint and solidary liability into its own system. However, the obstacles placed on the SLBFE by certain interest groups have rendered the provision inoperable but continues to be a feature of its Special Power of Attorney. (Annex D)

Schedule of Penalties

Another unique feature of the POEA quasi-judicial system is the formulation of a schedule of penalties to standardize the imposition of fines and/or suspension of license thereby eliminating discretionary judgments.

The schedule of penalties was revised in 1987 after a review of the performance of recruitment agencies showed a chronic relapse in the violation of certain rules particularly those involving exaction of recruitment fees over and above what is prescribed by law. The penalties failed to deter agencies from habitually violating this rule almost with impunity since agencies had the option of paying a fine in lieu of having their licenses suspended. Most, if not all agencies opted to pay the fines rather than have their recruitment operations suspended for a minimum period of two months.

This was revised to eliminate recidivists from participating in the programme and to make the penalties serve as a deterrent factor to future violations. Each count of violation carried the equivalent penalty of two months suspension of license. Each worker victimized by agencies in which a complaint was filed and successfully prosecuted was considered as one count. An agency could only accumulate a total of twelve counts for the lifetime of its license. Once an agency was determined to have committed violations of the rules amounting to twelve counts, (which means six workers were done harm to) whether the determination was made in a single case or a series of cases, the license was automatically cancelled. (Annex E)

The recruitment agencies succeeded in having this schedule of penalties amended in the early 90's that virtually emaciated the original concept of balancing welfare protection with liberal licensing rules and regulations. However, with the lifting of the ban on the issuance of new recruitment licenses, recruitment agencies are beginning to feel the effects of such an open system particularly those who specialize in deploying specific categories of workers such as entertainers to Japan or "trainees" to Korea or nurses to the United States. Unscrupulous individuals and entities discovered a loophole in the Philippine corporate registration system that now threatens them with the total takeover of their industry

Registration of companies wishing to engage in the recruitment business are required to have 75 per cent ownership by Filipino nationals. At present, foreigners register companies with their Filipino wives or Filipino business partners serving as the dummy majority stockholders of the corporation. The Philippine anti-dummy law has been unable to pierce the corporate veil to determine the real beneficial owners of such corporations.

Limiting the Number of Participants

Licensing is the most obvious form of regulating the participation of the private recruitment agencies in the OEP. Conditions and limitations are laid down for the acquisition and use of the recruitment license.

An applicant for license needs to prove not only that he has the financial capability to carry on the recruitment business, but that he has the moral scruples and is not a known criminal. He is required to submit an undertaking to respect and comply with all the existing labour and social legislation of both the Philippines and the host country of his recruited workers; to assume full and complete responsibility for all claims arising from the use of the license; and to assume joint and solidary liability

with the foreign employer for the proper implementation of the employment contract of its recruits.

One measure adopted by the POEA that effectively contributes to limiting the number of licensees is a performance evaluation system to determine whether a recruitment agency continues to be a viable business institution based on the number of workers deployed. The rationale for this approach is that licensees have certain fixed costs in running their operations. They need to have an office, employ a minimum number of employees and have a specified minimum number of basic office equipment. They would also have paid in advance for the license fee, cash and surety bonds and other incidental expenses prior to getting their license.

Thus, in order for an agency to realize a return on investment of at least 40 per cent, it would need to deploy at least 200 workers per year considering that the agencies' income is supposed to come from the collection of a processing fee from applicants, the amount of which is specified by law and from a service fee from the foreign employer. Failure to meet the criteria for the performance evaluation could mean suspension of the license or outright non-renewal of license.

The proliferation of recruitment licenses is a principal cause of the cut-throat competition that is destabilizing the recruitment industry and causing the greatest harm to workers. There are simply too many licensees running after a very limited number of job offers leading to unethical and illegal business practices. The overseas job market is no longer of the magnitude and scope of the early 1980's. The recent Asian financial crisis and the increase in the number of participants in the recruitment industry has narrowed the options available to all thereby causing stiffer competition not only on the national level but in the international arena as well.

The Philippines annual deployment has shown a historical average of around 600,000 OCWs a year for both land based and sea based workers. Since the lifting of the ban on the issuance of new licenses in 1991, the number of licensees has increased from approximately 650 in 1990 to around 1,200 at present or almost a 100% increase in the last decade.

Bangladesh has more than 500 recruiting agencies 'going after' less than 300,000 annual deployments, 66% of which are female workers (RMMRU, 2000).

In India, the Office of the Protector General of Emigrants has issued a total of 3,077 registration certificates to recruiting agents from January 1984 to December 1998 with an annual deployment average of 400,000 (Yearbook, 1998).

Sri Lanka has a net outflow of between 125,000 to 150,000 migrants a year and around 500 licensed recruitment agencies (Gunatilleke, 1998).

Anti-Illegal Recruitment Campaign

Jurisdiction over certain problems gets clouded and confused at times, as was the case with the anti-illegal recruitment campaign of the POEA. The presumption was

that the POEA had jurisdiction over every aspect of the international labour migration programme of the country. Thus, every time a story of an abused worker or victims of illegal recruiters appear in the newspapers, fingers were immediately pointed at the POEA for having failed to carry out its duties and responsibilities.

In response, the POEA organized *ad hoc* committees composed of representatives from other government agencies whose functions were relevant, in one way or another, with the operations of the migration process. After spending several millions of pesos, mostly for the representation and transportation allowances of committee members, illegal recruitment problems remained unabated and grew even worse.

What had been overlooked were certain basic operations of the legal process. The general perception that POEA had primary responsibility for the arrest and prosecution of illegal recruiters had surprisingly no basis in law. Under the Philippine judicial system, violations of law are the responsibility of the Philippine National Police, National Bureau of Investigation and special units of the Armed Forces of the Philippines – the only law enforcement agencies of the country. The POEA was not mandated with law enforcement powers. Neither was it vested with prosecutory powers that rightfully belong with the courts of law and the prosecutory arm of the judicial system.

This oversight led to a wrong prescription to the problem that resulted in the dismal performance of the campaign against illegal recruitment and loss of already scarce resources. The law enforcement and prosecutory agencies of government failed to appreciate the fact that they were supposed to take the lead roles in combating illegal recruitment and not be dependent on the POEA as initially thought.

A Veritable Wish-list

The Philippines Migrants Act of 1995 is an example of what happens when legislators attempt to rush headlong in attempting to resolve problems inherent to the multi-faceted nature of the ILMP with politics as its point of departure.

As a result of the political crisis resulting from the hanging on 17 March 1995 of Flor Contemplacion, a female domestic worker in Singapore, then President Fidel Ramos issued Executive Order 231 mandating a multi-sectoral “Presidential Fact-Finding and Policy Advisory Commission on the Protection of Overseas Filipinos” or better known as the Gancayco Commission.

The Philippines Congress took the cue from the Gancayco Commission and hastily enacted during a special session of Congress on 22-27 May 1995 a “magna carta” for overseas contract workers that was signed into law, Republic Act (RA) 8042 or the Migrant Workers and Overseas Filipinos Act of 1995. (Gonzalez, 1998)

The redefinition of the role of the DFA and its diplomatic posts which showed a shift from the previous “turf mentality” to a “cooperative framework” is considered as the most significant contribution of this Act. In the past, the labour and welfare attaches bore the burden of responsibility for the protection and the promotion of overseas

workers while the DFA was limited to authentication of documents and issuance of passports. Under the Act, the DFA is entrusted with the leading role by virtue of the Country Team Approach that integrates all agencies of the government in a foreign country under the leadership of the Ambassador.

The rest of the provisions of the Act, a wish list made in heaven particularly of those that created funds for various purposes, remain in limbo. The ink was hardly dry from the signing ceremonies when a judicial court issued a restraining order calling for the implementation of certain sections of the law to be held in abeyance. To date, full implementation of this law is on hold and the promised amendments to contentious provisions of the law are still pending before the Philippines Congress.

Principle of Comity of Nations

Prior to 1988, the Labour Attachés were tasked to provide documentary verification/authentication of employment documents required to be submitted by foreign employers such as employment contracts, manpower requests, and special power of attorney. The ratio of one Labour Attaché for every 100,000 OCWs was not only clerically burdensome but also resulted in undue delays in the processing of the documentary requirements (Annex E¹).

Further, in countries where there were no Labour Attachés, it was impracticable to require employers to proceed to the nearest country where there was a Labour Attaché to obtain the necessary verification/authentication of documents as required by the POEA.

A principle of international law was relied upon by the POEA to further cut down on documentary requirements needed to deploy an OCW and to put the demands on the duties and responsibilities of labour attaches in better perspective. This is the principle of *comity of nations* which refers to the recognition one nation allows within its territory of the legislative, executive and judicial acts of another nation, when these are not contrary to its policies or prejudicial to its interests.

Thus, when a labour-receiving country issues to one of its nationals or duly registered corporations visas to bring in foreign workers, the government agency responsible for this act is presumed to have verified that these entities are entitled to the working visas and that such entities have complied with specifically defined criteria for the grant of such privileges.

By acknowledging this principle, Labour Attaches were spared from the unreasonable task of having to verify whether every prospective foreign employer wishing to recruit Filipino workers satisfies Philippine prerequisites. It also helped reduce certain documentary requirements demanded by the POEA thereby reducing costs and processing times for all concerned.

Further, the Foreign Ministries and Chambers of Commerce of labour-receiving countries became more conscious of the shared responsibility they played in promoting and protecting the welfare of OCWs since they took over the task of authenticating such documents.

CHAPTER 4

ADMINISTRATIVE MECHANISMS

As mentioned at the outset, there has hardly been an attempt to study the institutional and administrative dimensions of the international labour migration phenomena of Asia-Pacific nations much less apply numerous theories and models developed by political scientists, public policy and administration specialists in particularized form.

In this section, certain basic management concepts and principles are highlighted on the basis of what the author perceives, based on experience and field observations, as common management problems that confront other international labour migration institutions from developing countries. These concepts are particularized in the light of POEA's bureaucratic experience in coping with the demands placed on its system and structure.

Studies conducted by the Asian Development Bank (ADB) have shown that good governance can still be attained regardless of the type of political regime of a country. Essentially, good governance can only be translated in terms of a demonstrable shift from a rule by moral authority vested in politicians to a rule by impersonal institutions; with rules that replace favouritism with merit and personal preferences that are supplanted by impersonal codes. These three elements comprise the basic prescription for developing a pattern of behaviour that leads to the development of the appropriately secure foundation for political and economic rights. (Root, 1996)

A good working organization demands the structuring of human efforts and pattern of behaviour towards the realization of its goals in the most effective and efficient manner. The term's efficiency and affectivity are constantly cited as the twin factors determining an organization's capacity to attain its objectives. By affectivity is meant the continuance of an organization's ability to carry out its purpose. Efficiency, on the other hand, is the necessary and productive personal contributions of the individuals to the organization. (Achacoso, 1977)

Most bureaucracies perform two basic functions. First, they undertake an array of services essential to the day-to-day operations of the government. Secondly, on their shoulders rest the primary responsibility for the economic and social development of the societies they serve. Both functions are critical to the maintenance of the political and economic viability of the state. If the bureaucracy falters in its ability to deliver the services required of it, the government may find itself unable to cope with the demands placed on it that could lead to dislocations and result in problems of incalculable proportions.

Bureaucracies were developed so that 'the cult of personality' is replaced by roles that are institutionalized and based on legal tradition and where rationality and predictability are preferred over chaos and unanticipated consequences. (Bennis, 1966)

One advantage of a well-developed institutional framework is that it provides a durable foundation that responds to two basic realities in many developing countries: 1) that governments do not recruit only public service-minded individuals who will put public service ahead of their families and friends and 2) that scarce resources result in services that are far from ideal in terms of their quality and quantity leading to further administrative problems.

The efficiency factor, which is an integral part of any attempt to have a full appreciation of an institution's capacity, will not be dealt with in this report since an inquiry into the attitudes, motives and behaviour of civil servants will at this time only serve academic interests and curiosities. It is the least, if at all, studied component of an organization's administrative capacity and would require a total commitment to reform national laws and policies for it to have any value worth considering. (Refer to # 2 Notes)

Focus is placed on the effective administration of a migration system and as in any other system, essentially deals with the classic administrative concerns such as the allocation of functions and responsibilities, authority hierarchy, formal communications, coordination between and within units, staffing, recruitment, training, salaries, incentives and promotions. Also falling within this category are matters of equipment, the physical work environment and related items of an inanimate nature that impact on the administrative process. (Achacoso, 1977)

Intentions into Action

Most of the studies on international labour migration merely accept the role of international labour migration institutions as given and presume that the organizational mission and objectives are regularly and routinely accomplished. Somehow, in the rush to understand the ILMP in the midst of the global economic and political transformations taking place, the fact that treaties and conventions, laws and regulations are only as good as the administrative machineries' capacity to implement them was shunted aside in favour of highly academic and scholarly studies.

In order to ensure that the administrative machinery of the POEA contributed towards the attainment of its mission and objectives in the most efficient and effective manner, the POEA reorganization of 1987 created the third position of Deputy Administrator for Management Services. This was the Philippine government's way of emphasizing its view that the promotion and protection of the welfare of migrant workers is equally dependent on building, creating and sustaining a migration institution that delivers efficient and effective services.

This post has overall charge of the mechanics and organization of the POEA bureaucracy and its respective units along with the various components of the classic administrative concerns cited above. The most challenging aspect of this position is how to solve the administrative problems of implementing policies and objectives.

Written Policies and Procedures

In most developed countries, the matter of putting things in writing is a common enough practice that hardly merits any attention. It is what everybody expects from the bureaucracy. However in many developing countries, written policies and procedures are often inadequate or totally missing. This inadequacy is regarded as one of the major causes of corruption and opportunism. It is even bruited about that insufficient written policies and legal clarity may be intentional in order to facilitate random interventions by political authorities based on discretionary judgments.

Reducing procedures and the objectives (mission, programmes, policies) of an institution into written form is not only essential to good management but also serves to institutionalize and standardize operations and procedures that ensure a rational environment for all concerned.

The standardization of procedures, particularly in transactions that deal heavily with the general public, is a strong deterrent for the exercise of the discretionary powers and arbitrariness in decision-making of authorities that have been shown to be major factors in the commission of graft and corruption.

Against this backdrop, every single policy, procedure, plans and programmes of the POEA are reduced into writing to cover as many anticipated eventualities as specifically as possible. Annex F illustrates the utility of a manual of procedures in terms of standardized operating procedures and as a means for training new entrants to the organization.

While India has a somewhat extensive system as well, it still has to establish a welfare mechanism in order to have a complete system for protecting and promoting the welfare of its workers. Sri Lanka has developed certain components of the system but needs to tighten its policies and put these in writing for use by their operating units and for the general public to have a better understanding of the process. Bangladesh is currently considering various rules and regulations to implement its migration ordinance.

Initiative and Innovation

This section demonstrates the fact that any effort to institute structural adjustment in any labour-sending country is inextricably linked to the wider dimensions and broad issues in labour and immigration policies of labour-receiving countries and vice-versa. Only when a consensus with regard to policies and procedures, norms and standards in national approaches to the ILMP are reached that both sides can expect a semblance of order and discipline in the conduct of the OEP between countries.

In Diplomacy

The issue of national sovereignty has repeatedly dogged many attempts not only by the POEA but by other countries as well, to arrive at mutually beneficial remedies to problems faced in the course of dealing with a sovereign country. Most countries host foreign embassies and consular offices to facilitate the conduct of relations between them as defined by certain universally accepted diplomatic rules and procedures.

One such rule requires foreign embassies to course official communication to host country government entities through the Department of Foreign Affairs (DFA) or in other words, no direct official contact may be initiated without DFA knowledge and/or participation.

There certainly are good reasons why such a rule came into force but the downside to this approach is to prolong the interaction required between the affected parties. For instance, when the POEA issued numerous Memorandum Orders (MOs), mainly administrative or procedural in nature, intended to curb malpractices in the migration process, foreign embassies reacted by adjusting their own system and procedures based on the consequences of the memorandum order issued by the POEA. Since these MOs were undertaken without benefit of consultation with each other, what ensued was a vicious cycle of MOs and counter-MOs done with the noble intention of protecting each other's national interest and sovereignty.

Realizing that much of the problems required immediate attention and that the nature of these problems bordered on procedural and administrative matters, the POEA took the initiative and proposed to the Japanese and Saudi Arabian Ambassadors the establishment of "joint technical committees" for the purpose of harmonizing and coordinating procedural and administrative matters relating to the recruitment and processing of workers bound for their countries.

With the consent of both parties but without the knowledge and stamp of approval of the DFA, these joint technical committees met regularly to discuss administrative and procedural concerns affecting both parties.

In the case of Japan, the degree of trust and confidence reached the stage where the unwritten policy and practice of the Japanese Embassy in Manila was to issue visas only to applicant's whose documents carried the seal of approval of the POEA. This was unprecedented and tantamount to Japan's "surrender" of its sovereign right to issue visas. Both parties managed to set aside the issue of national sovereignty in order to implement what were considered as the best practical solutions at that given point in time on mutually troublesome concerns.

Further, these "joint technical committees" eventually led to Japan's revision of what was then the highly controversial policy of requiring entertainers to take a sabbatical for one year after every six months of employment in Japan before being allowed to

return to Japan for re-employment purposes. This restriction to a lucrative employment opportunity created negative consequences for both countries resulting in the proliferation of fake documents.

On the Philippine side, the policy encouraged the entertainers to secure several passports and POEA certificates under different aliases which criminal syndicates readily supported with forged documents. On the Japan side, the computerized listing of POEA certificates caused innumerable delays and administrative nightmares for the Immigration Bureau since Japanese club owners exerted every effort to retain experienced entertainers to minimize on their recruitment and training costs.

POEA's diplomatic initiatives also resulted in its inclusion as an equal and regular member of the Philippine-Japan Sub-Ministerial Meetings held on a bi-annual basis that served as a venue for negotiating bilateral issues and concerns.

In 1988-89, the POEA and the Saudi Arabian Ambassador worked out a mutually acceptable employment contract for household helpers through the efforts of the "joint technical committee." The trust and confidence between the Saudi Arabian Ambassador and the POEA Administrator increased to the highest level as signified by their exchange of the telephone numbers in their respective "bedrooms."

As far as other countries were concerned, the POEA arranged regular informal luncheons or dinners with Ambassadors and other embassy functionaries primarily to maintain good relations and to exchange notes on developments of mutual interest and concern. Foreign embassies were routinely furnished copies of POEA official publications and memorandum circulars.

In Administration

A major factor that impedes efficient performance of any organization, private or public, is the lack of a sufficient budget. Most government budgets are usually top-heavy, with disproportionate sums allocated for recurring items such as salaries, operating and maintenance expenses.

In the late 80's, the POEA made history, unknown to many, when it battled with both the Executive and Legislative branches of the Philippine government to give credence to the idiomatic expression –"Put your money where your mouth is" after OCWs were declared as "new heroes" of the Republic after the 1986 EDSA Revolution.

Under the Philippine system, the Department of Budget and Management (DBM) of the Executive Branch of government issues the guidelines for preparing the annual budget proposals of government agencies. As with most developing countries, these guidelines reflect the constraints under which the budget is to be prepared since there are typically not enough resources to cover what is actually needed.

The DBM collates all the individual proposals and submits this to the Legislative Branch that has the sole authority to approve or not the budget proposal for the next fiscal year. Congress may reduce or delete any item it may wish but it cannot add or increase on what has been submitted by the Executive Branch.

The POEA appealed directly to Congress when the DBM refused to consider the urgent request of the POEA for additional funding to support the President's directive to improve services to OCWs who had been declared as the "new heroes" of the Philippine Republic. It argued that the POEA, which is not classified as an income generating agency such as the Bureau of Customs or Bureau of Internal Revenue, annually remitted amounts to the National Treasury generated from licensing and processing fees and fines paid by errant recruitment agencies that were several times greater than what had been allocated by the budget thereby making it a net income-earner for government.

POEA's persistence paid off when Congress inserted a special provision in the budget appropriation of the POEA authorizing it to retain 10 percent of its annual income for use in its anti-illegal recruitment campaign. This unprecedented action of the Congress demonstrated POEA's relentless campaign to promote and protect the welfare of Filipino OCWs despite great odds.

In Services

With POEA's increased awareness that it was primarily a service-oriented institution, it introduced numerous policies and programmes to live up to this billing. Prominent among these was to intercede with the banking industry, which surprisingly, was reluctant at that time to handle the remittances of OCWs due to its misperception that the paper work involved was not worth their involvement.

They were asked to introduce banking mechanisms to facilitate the transfer of remittances from OCWs and speed up the distribution of these to their intended beneficiaries. This was in response to numerous complaints that the "courier services" relied on by OCWs were unreliable and caused much losses.

Banks were also invited to extend their services to OCWs by setting up desks within the POEA premises so OCWs could open bank accounts and learn of other services right there and then. This way, OCWs could plan on how to handle or budget their earnings/remittances based on certain investment schemes that they may wish to avail of prior to deployment. This was also in response to the non-productive investment and high spending for consumer goods that OCWs spent their remittances on.

Another service-oriented policy involved the post-deployment processing of seafarers. The nature of the manning industry was such that on certain circumstances, seamen had to be deployed at a moment's notice. Since POEA offices operate only on weekdays and the law dictates that all OCWs must be

processed by the POEA, manning agents were forced to undertake extraordinary and quite often, extra-legal measures to comply with the demands of their shipping principals even though they were basically law-abiding individuals and organizations.

On the other hand, the POEA did not have the wherewithal to operate on a daily basis. Thus, relying on the fact that the law already binds manning agents to assume full responsibility for all its deployed OCWs, the POEA merely required manning agents to inform their seamen to register at the POEA desk at the port of departure providing all the necessary details of their travel and employment.

The licensed manning agency responsible for the deployment was given three days after departure of the seamen to complete all the documentary requirements with the POEA. This way, the demands of all parties involved were dutifully met.

Red Tape

Such magnificent efforts can be easily neutralized by the debilitating problem of red tape, a problem that in many developing countries is considered typical and “routine.” Little is achieved without a multitude of clearances, signatures, permits and stamps.

A clear case in point is the requirement for every worker to secure a clearance from the POEA prior to returning to his worksite – a necessary and important control mechanism that cannot be dispensed with. Every year, thousands of OCWs schedule their annual vacation to coincide with the Christmas holidays. This influx is not a sudden occurrence and always happens during a month abbreviated by holidays. The result is a system overload with near-panic conditions and frayed nerves for all.

After a thorough review and revision of existing procedures and requirements, the entire process was reduced from the previous average of three to five working days to an average of three hours. A worker who submits his documents at 8:00 a.m. could expect to have his documents released by 11:00 a.m. of the same day presuming all the documentary requirements are in order. Applicants were informed of each step of the process and what to expect of the process within a particular timeframe. Any undue delay may be cause for suspicion by the supervising authority and could lead to the conduct of a summary investigation.

The system was devised in a simplified manner that prevented bureaucrats from delaying the processing of papers without any legitimate reason except possibly, to extort some coffee money.

Recruitment and Staffing

Politics in the bureaucracy and vice versa are inescapable realities in all developing countries. In order to mitigate the negative effects that these factors have in the recruitment and staffing of government administrative bodies, the POEA established

a Recruitment and Promotions Committee composed of employee representatives from the different levels of the POEA hierarchy as an important step in hiring appropriate manpower who will contribute to fulfilling the objectives of the POEA.

This committee is tasked to ensure that the qualifications of applicants match the job requirements and to prepare a short-list of likely candidates for the Administrator's consideration. Final selection is still done by the POEA Administrator.

This procedure gives everyone a sense of having participated in the selection process since different levels of employees were represented by their elected delegates to the Committee and that there was transparency in the selection since it was participated in by a greater number of employees who did the actual screening, interviewing and pre-selection of candidates.

Personnel policies should be written, known and understood by all members of an organization to be fully effective. They must be characterized by consistency in all levels of the organization and also by flexibility to meet varying conditions that the organization might encounter. They need to be subjected to periodic reviews since they guide the personnel on Standard Operating Procedures (SOPs) of the organization.

Annex G provides examples of some standardized job descriptions along with the definition of the position, characteristics, qualifications guide and specific duties and responsibilities in the POEA plantilla of personnel.

Organisational Chart

The organisational chart is the most commonly used tool for studying and planning organizational arrangements. It ordinarily shows the groupings of major activities into departments and other units, as well as the main lines of authority and responsibility among the departments and units. Either functions or position titles may be charted. (Annex H displays the organisational chart of each country)

Moreover, it represents and reflects the established structure and workflow of any organization that can be thought of as a framework that holds the various functions of an organization together. In addition to representing the hierarchy of authority in an organization, an organizational chart can reveal a pattern of how orderly an organization is, whether its various units are logically arranged and even whether there is harmonious relationship between and among its operating units. It also provides the framework in which people can work systematically and productively. (Achacoso, 1977)

For instance, the POEA organizational chart reflects a structure based on the functions it undertakes. This is actually an improvement from what were previously two client-based agencies, the Overseas Employment Development Board (OEDB) and the National Seaman Board (NSB), which together with the Bureau of

Employment Services (BES) were merged in 1982 to form the POEA. This centralized responsibility and accountability to one agency and consolidated the recruitment of both land and sea-based workers.

Further, this led to the consolidation of various agencies that had duplicate functions and procedures thereby saving precious resources and sparing the general public from the confusion of dealing with a proliferation of agencies and the attendant red tape.

Annex I provides the detailed functional description of the different “boxes” in the POEA organizational chart.

Physical Structures

The POEA is one of the few government agencies of the Department of Labour and Employment to have its own building large enough to accommodate all its major functions and activities under one roof. India does not seem to have any problems along this area and continues to open additional offices in different provinces. Sri Lanka is on the verge of considering the construction of a whole new building while Bangladesh continues to wallow in its presently crowded premises.

Physical structures are not just about buildings and office equipment but also about how these items of an inanimate nature affect the efficiency and effectiveness of an organization. As seen from POEA’s experience, due to certain political considerations, other government agencies were given office space in their building that compromised it’s own operations and cramped the smooth flow of functions and processes. This structural and physical arrangement hampered its capacity to execute its tasks and created an environment prone to graft and corrupt practices. Only with the expulsion of the tenants did it manage to rationalize its administrative system and permitted the development of its potential capacity to execute its tasks more efficiently and effectively.

CHAPTER 5

RECOMMENDATIONS

Migration is a dynamic process. Since national and international circumstances are constantly changing, ageing legal and administrative mechanisms must also be subjected to constant renewal. Success depends on constant fine-tuning, in an environment enlightened by institutions that act instead of merely reacting to events and circumstances.

Gunnar Myrdal characterized development as “an upward movement of the whole social system.” Thus, the benefits of the OEP should not just be limited to the realm of economic development whose index is the increase in income per head, but in the self-sustaining forward thrust of the whole society away from the vagaries of the past. If this is to be so, the heart of this forward thrust is to be found in the political will of the nation, starting with its leadership.

However, even the most dedicated leadership must confront the hard reality that social justice, which, in the Asian context, means the creation of domestic employment and equitable distribution of assets and incomes is a “luxury” which most developing countries cannot economically afford to implement at present.

This report has shown that government institutions themselves are major components in protecting and promoting the welfare of OCWs through the workings of an efficient and effective administrative machinery; that institutional capability is a factor not only for the economic benefits derived from administering an efficient and effective institution but also enhances the human dimensions of international labour migration as well. The ability to develop a forward-looking institution can be as crucial as the formulation of the appropriate policies and procedures.

Bangladesh in Transition

Bangladesh is yet to formulate a well-defined policy *per se* on international migration. The only discernable policy at this stage is the encouragement for labour migration to ease unemployment and earn foreign exchange. The Bangladesh Ministry of Labour and Manpower (BMLM) and the BMET should stop hoping for some *deus ex machina* to deliver themselves from their present situation – they only have themselves along with an enlightened leadership to lead them to their avowed objectives.

There is however an emerging awareness about the need to formulate a national policy in line with the provisions of Chapter X of the ICPD Plan of Action. The National Plan of Action for Population and Development 1996 recommended a Plan

of Action for the implementation of the Chapter on International Migration. These recommendations are however yet to be incorporated into the policy and programmes of the relevant institutions.

“...Although Bangladesh has had at least two decades of experience with active State intervention in the emigration process, little effort, if any, has gone into an objective assessment of the latter’s effectiveness and contribution to improving the welfare of the migrant worker.” (Amin, 1998)

“Although the Emigration Ordinance was framed in 1982, the government is yet to finalize Rules to effectively operationalize the Ordinance. It is understood that a set of draft rules has been framed that detail out the key features of the Ordinance...The draft Rules has been translated and is now in the process of being vetted by the Ministry of Law...” (Siddiqui, 1999)

No reason, official or otherwise, has been given to explain the 18 year time lag between the passage of the Emigration Act in 1982 and the current efforts to develop its specific rules and regulations. But it would not be too far-fetched to suggest that Bangladeshi (and Filipino and Indian and Sri Lankan) officials were reluctant to acknowledge the contributions of the OEP to national development and consider the OEP as more than a fleeting mechanism of the development strategy of the country because of the negative implications that the OEP represented. But as Bohning (1994) pointed out, “there is no need to decry what is basically a useful phenomenon because of its unavoidable imperfections...provided the conditions of selection and return are just – the international economic order should explicitly recognize this and welcome it.”

The idiomatic expression “Better Late Than Never” aptly describes the situation that Bangladesh finds itself in at present – late in terms of developing the rules and regulations to implement the Migrant Act of 1982 and better in terms of being in a position to reform and strengthen its international labour migration system without necessarily having to experience the pain and snail-paced progress that other countries like the Philippines had to go through. It can leapfrog directly to certain policies and procedures that have been proven effective under certain conditions without having to pass through the arduous process of trial and error.

However, the BMLM and the BMET needs not only to plan but also to plan effectively so that it can accelerate the pace of its development. The road will still be long and the way difficult and the length of the journey will depend on the political will of its leaders as cited earlier.

Globalization will undoubtedly lead to heightened competition in the international labour migration field specially in bottom-rung-jobs which accounts for more than half of the annual total deployment of Bangladeshi OCWs. If Bangladesh hopes to continue utilizing international labour migration as a means to reduce unemployment and increase its foreign exchange reserves, it would need to ensure that it becomes

more competitive and this would require the efficient and effective management of its OEP.

Table - 4
Share of Low-Skill MW

Year	Total Migration Outflow	Number of MW in Low-skill category	%
1991	146,546	91,229	62%
1992	188,450	115,469	61%
1993	244,503	162,963	67%
1994	186,298	118,333	64%
1995	187,497	121,273	65%
1996	211,620	144,599	68%
1997	230,765	171,779	74%

Source : BMET (Amin, 1998)

Along these lines, the BMLM should strive to re-orient government thinking that the role it should rightfully play is not confined to just the social or labour aspects of national development but also involves the economic aspects of national development as well; that labour and migration concerns should be dealt with not only from an economic point of view but also from the human perspective; that its role and functions are inextricably linked to the rapid development of the country.

This is the tremendous challenge that faces the BMLM at this stage. It must prove with the appropriate force and vigour, that its role is inextricably linked to and is an indispensable condition for the progress of the nation.

It should position itself as a major ministry capable of influencing national policy and as an indispensable institution for national development and not merely as a ministry playing a token role for a symbolic function. It is, after all, the ministry whose primary concern is people – the most abundant and noblest resource of the country and one of its few major factors of production. And a large segment of this “people” is comprised of OCWs whose remittances have injected billions of foreign exchange into the national economy.

The following tables show that remittances from migrant workers account for a substantial percentage of the financial well being of the country. On the other hand, this also means that the economy is readily susceptible and vulnerable to changes and fluctuations in the international market that could affect the Bangladesh OEP.

Table - 5
Merchandise Export Earnings and Private Unrequited Net Transfers, (1994-95 to 1996-97)

Items	1994-95	1995-96	1996-97
i. Merchandise Exports (mil. US\$)	3,473	3,882	4,418
ii. Private unrequited transfers (net) Workers remittances (mil. US\$)	1,198	1,217	1,475
Others	228	258	295

iii. Total receipts (i+ii)	4,899	5,357	6,188
iv. Workers remittances as % of total receipts	24.5	22.7	23.8

Source: Bangladesh Bank, Statistics Department. (Ahmed, 1998)

Table - 6

Contribution of Workers Remittances to National Savings of Bangladesh

Items	1994-95	1995-96	1996-97
i. Gross Domestic Savings	8.3	7.2	9.5
ii. Workers remittances	4.1	3.8	4.3
lii. Other Receipts from abroad	0.7	0.8	0.8
lv. National Savings (i+ii+iii)	13.1	11.8	14.6
v. Workers remittances as % of National Savings	31.3	33.2	29.5

Source: World Bank, Ministry of Finance, Bangladesh Bureau of Statistics, Bangladesh Bank (Ahmed, 1998)

Table - 7

Trade and Balance of Payment

Items	1994-95	1995-96	1996-97
Exports (Mil. US\$)	3473	3882	4418
Export growth (%)	37.1	9.4	13.8
Import (Mil. US\$)	5834	6881	7120
Import growth (%)	39.2	17.95	5.44
Trade Balance (Mil. US\$)	(-) 2361	(-) 2999	(-) 2702
Current Account Balance (Mil US\$).	(-) 1030	(-) 1636	(-) 902 (p)
Workers Remittances (Mil. US\$)	1198	1217	1475
Foreign Exchange Reserve (Mil. US\$)	3070	2039	1731

Source: Bangladesh Bureau of Statistics, Ministry of Finance, Planning Commission
Export Promotion Bureau and Bangladesh Bank (Ahmed, 1998)

In light of the impact that the OEP has on the national economy of the country, the BMLM should demonstrate that as overseer of the overseas employment programme of the country, it requires more than the current 0.2% of its share of the national revenue budget while the BMET is allocated around 0.1% of the national revenue budget (RMMRU, 2000) to reflect the significant role that the OEP plays in the national development efforts.

The BMLM and the BMET would need to strengthen its capacity to anticipate and interpret conditions in the highly dynamic international labour migration market in order to shield the country from any sudden or negative consequences.

Many of the problems encountered by OCWs abroad have their origin right in their own backyards. The BMET should therefore strive to strengthen its organizational capacity to administer its international labour migration system in the most efficient and effective means possible in order to minimize situations that could put

Bangladeshi OCWs in compromising or unwanted conditions. It can do so by ensuring that its institutional capacity is constantly adapting to the ever-changing environment that is typical of the ILMP. The major components that numerous migration experts have concluded as forming the core of a complete international labour migration system should serve as the benchmark with which to compare its current capacities and capabilities.

Of these three components, the supervision of private recruitment agencies needs the most emphasis particularly in the area of workers' protection. The report that in a span of a decade and a half, only 50 cases have been filed with the main Labour Court can only evoke wild speculation and disbelief. (RMMRU, 2000)

India also presents figures that elicit the same reaction as that of Bangladesh. According to its official publication, from 1.1.92 to 31.10.98, there were only 684 complaints received against recruiting agents of which 635 were disposed. Of these, only 57 prosecutions resulted in cancellations or suspensions, 68 Registration of Certificates suspended and only 1 cancelled. (Yearbook, 1998)

Sri Lankan statistics indicate a conciliation system that is in place and which seems to receive some credence based on the number of workers who have filed complaints before the SLBFE as seen from Table 8. However the numbers belie the fact that workers have a difficult time prosecuting their cases since the current design of the conciliation system is biased in favour of recruiting agencies. The burden of proof rests squarely with the worker/complainant while recruiting agencies are provided all the leeway that is alarmingly generous and one-sided.

Table - 8
Total Complaints Made by Female Domestic Workers to the SLBFE from 1995-1997

Nature of Complaint	1995	1996	1997	As Average % of Total
Harassment	1039	1565	1526	22%
Non Payment of Wages	1025	1641	1196	20%
Lack of Communication	1751	2095	1778	30%
Breach of Contract	407	375	396	7%
Other	593	928	1166	15%
Stranded	382	311	80	5%
Deaths	40	45	73	1%
Total	5237	6960	6215	100%

Source: SLBFE (Freeman, 1999)

As mentioned earlier, a common characteristic of developing countries is the extent to which allocation of scarce resources is decided by political rather than economic criteria. This method has resulted in certain political families or clans that attempt to influence certain industries, or laws, or contracts to favour those in which the family or clan is interested with or engaged in. As a result, the appropriate laws are

compromised, or certain industries are monopolized or contracts are bloated as is being bruited about in Bangladesh due to the large number of politicians and members of Parliament who are perceived to own recruitment agencies.

Bangladesh can maximize the benefits to be derived from these IOM surveys by developing a sound sequential scheme that identifies what are urgent against those that are important. Of course, these have to be located within sound over-all development policies of the country and matched by a favourable conjuncture in the world at large.

Its best hope for the future lies in the extension of methods already employed in the most progressive fields of effort. In science and industry, they do not wait for catastrophe to force new ways upon them. They rely and with great success upon systematic analysis to point the ways; they advanced because they were constantly improving and applying analysis.

IOM Perspective Plan

These surveys should also allow the IOM to explicitly formulate priorities for technical assistance. Attention can now be devoted to developing an optimum sequence for the provision of advice and to procedures for following up survey recommendations. Perhaps, it could use the survey results to conduct a broad review of the over-all needs and potential resources for Bangladesh.

Further, the IOM can develop a long-range perspective plan for Bangladesh by developing an optimum sequence and coordinated series of objectives expressed in a definite timetable for the provision of advice or procedures for following up survey recommendations.

The result of these surveys should allow the IOM to explicitly formulate priorities for technical assistance. Domestic assistance cannot be well utilized unless the outlines of a general plan exist. IOM might wish to consider an immersion programme as suggested in Annex J.

ILO and The New Realities

The ILO may have to review its presumptions that its member states are necessarily welfare-maximizing entities when in fact they develop policies in response to their domestic political and economic realities which take into account likely reactions of others.

History is replete with examples of countries having had to be subjected to political-economic and even military pressures from a variety of interest groups to attain a desired result. The ILO may have to establish rules and principles in a regulatory framework (away from its voluntary nature) in which contending member states may seek binding resolutions under its formal institutional structure. It may have to be less "flexible" in order to be able to exert some pressure on its member states to pursue

implementation of its Conventions that are meant to balance the rights and obligations of both parties and if it is to be the *de facto* labour organization. (Achacoso, 1999)

NOTES

¹ The ILO had until 1994 the Asian and Pacific Project for Labour Administration (ARPLA) based in Bangkok which essentially devoted a great many efforts towards assisting member countries in the Asia Pacific region to strengthen their institutional capacities to administer various labour administration programmes and concerns including the management of an international labour migration system.

²The only project known to this author that attempted to correlate the attitudes, motives and behaviour of personnel with the performance of their jobs and therefore the movement towards the realization of the institutions goals was a management audit conducted by the Manpower Plans and Policy Division, Staff Development Service of the Institute of Labour and Employment under the Department of Labour and Employment from 1977 to 1978.

The ILO/ARPLA Office in Bangkok conducted a Symposium on Overseas Employment Administration in Selected Asian Countries on 21-25 May 1984. At this symposium, the ILO/ARPLA prepared an outline of what it considered as the major issues in overseas employment administration and requested the participants to provide information on national policies and specific measures, either legislative or administrative, which had been adopted to give effect to these policies. Except for the paper submitted by then POEA Administrator Sto. Tomas, none of the countries dealt at length on the administrative aspects of its work except to mention that certain offices and units handle specific functions and duties.

In 1987, the ILO/ARPLA conducted an inter-country seminar for training labour administration officials in overseas employment administration in cooperation with the Institute of Labour and Manpower Studies and the POEA which brought together senior officials from various Asian-Pacific nations to observe the Philippine experience in managing its contract migration programme. Once again, the various policies and programmes were discussed and scrutinized but nothing on the organizational ability to implement them.

Subsequently, external collaborators were hired by international agencies to provide technical assistance to countries requesting for such an intervention.

In 1996, the ILO published *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle-and-Low-Income Countries* by W.R. Bohning and in 1997, *Sending Workers Abroad: A Manual for Low-and-Middle-Income Countries* by M.I. Abella and Alcestis Abrera-Mangahas in response to a continuous flow of requests for assistance in the design and implementation of labour migration policies.

Also in 1996, a consultant from the United Kingdom was recruited for one and a half months under the auspices of the UNDP, the Philippine Department of Foreign Affairs and the Transfer of Knowledge through Expatriate Nationals (TOKTEN) Programme and the British Council to identify how the POEA could enhance its role in the deployment and management of overseas Filipino workers and ensure the organization's survival way into the next millennium. The study reviewed the structure, systems, processes and operational management of the POEA with a view to making recommendations for improvement. No significant changes have taken place at the POEA.

Sri Lanka had a study conducted by its Department of National Planning under the Ministry of Finance and Planning which conducted a literature survey and identification of data needs and policy actions and gave a running assessment of the various policies and programmes conducted by the SLBFE. It did not however assess the SLBFE's institutional capacity to implement these policies and programmes.

Bangladesh had a case study conducted by Ruhul Amin (1998) that related inputs to outputs and to an idealized state of the BMET but the unavailability of major data for most of the indicators selected to assess the programme prevented any meaningful analysis and conclusion.

³ This procedure has been the primary mode of intervention that utilized a good number of external collaborators to undertake projects. However, a report (Achacoso, 1997) observed that some of the consultancies he undertook on behalf of the ILO and IOM were clearly the result of the lack of through-put processes that produced a failure in the implementation of the recommendations and wasted resources since the same intervention was repeated several years later.

⁴ Stahl (1999) cites several authors who have categorized a number of policies aimed at protecting and promoting the welfare of overseas workers as follows: standard setting and enforcement, supervision of private recruitment and welfare services. The components of standard setting and enforcement are a) minimum standards for employment contracts; b) exit control measures; c) social security arrangements; d) restrictions on exit of selected categories of workers, specially minors and young women; for supervision of private recruitment: a) licensing of firms in recruitment; b) performance guarantees and penalties; c) limits to recruitment fees; d) measures against illegal recruitment and clandestine migration; for welfare services: a) information and counselling services prior to departure; b) labour attaché services on site; c) community facilities/centres for workers abroad; d) support services to families left behind; e) returnee training and employment assistance; f) emergency evacuation or repatriation.

⁵ Modified from Abella, M.I., "Overseas Employment Administration: A Review of Policies and Procedures," in *Overseas Employment Administration in Selected Asian Countries*, ILO/ARPLA Symposium, 21-25 May 1984, Pattaya, Thailand, pp.55-56.

⁶ Law mandates the Pre-employment orientation seminar. It has been pilot-tested by POEA but implementation has been held in abeyance.

⁷ Seventeen categories of workers are not required to secure an 'Emigration Check Not Required' (ECNR). These are mostly professional/highly skilled workers.

⁸ Sri Lanka adopted verbatim POEA provision in its Special Power of Attorney but former SLBFE Chairman David Soysa admitted during an interview conducted by the author on Feb. 2000 that said provision has never been enforced due to strong opposition of certain interest groups.

⁹ Bangladesh and Sri Lanka rely on a voluntary compliance scheme provided in their Codes of Conducts. The adjudication system in India has a framework that is somewhat tedious and not "worker friendly" unlike in the Philippines that has a particular bias in favour of OCWs.

¹⁰ The main features of RA 8042 are as follows:

- 1) Establishment of centres in diplomatic posts where there are large concentrations of workers that would operate on a 24 hour basis everyday of the week under the coordination of the Labour Attaché;
- 2) Provision of a competent lawyer and social worker in countries categorized as highly problematic;
- 3) Creation of position of Legal Assistant for Migrant Workers Affairs under the DFA primarily responsible for providing all legal assistance to workers in distress;
- 4) Reinforcement of the Country Team Approach which integrates all agencies of the government in a foreign country under the leadership of the Ambassador and gives priority to the protection and promotion of workers' welfare;
- 5) Imposition of mandatory period for resolution of illegal recruitment cases within 30 days and provision of free legal assistance and protection for victims;

- 6) Creation of 100 million pesos Emergency Repatriation Fund;
- 7) Creation of 100 million pesos Migrant Worker Loan Guarantee Fund for pre-departure loans and family assistance loans;
- 8) Creation of 100 million pesos Legal Assistance Fund to provide legal services to all migrant workers;
- 9) Creation of 200 million pesos Congressional Migrant Workers Scholarship Fund to benefit deserving migrant workers and/or their immediate descendants below 21 years old;
- 10) Issuance of travel advisories by POEA and other relevant information on receiving countries to be published at least three times every quarter in newspapers;
- 11) Development of a Comprehensive Five-Year Deregulation Plan which will phase out the regulatory functions of the POEA and leave the matter of contracts between the worker and the employer;
- 12) Appointment of 2 sectoral representatives for migrant workers provided one shall come from the women migrant workers sector.

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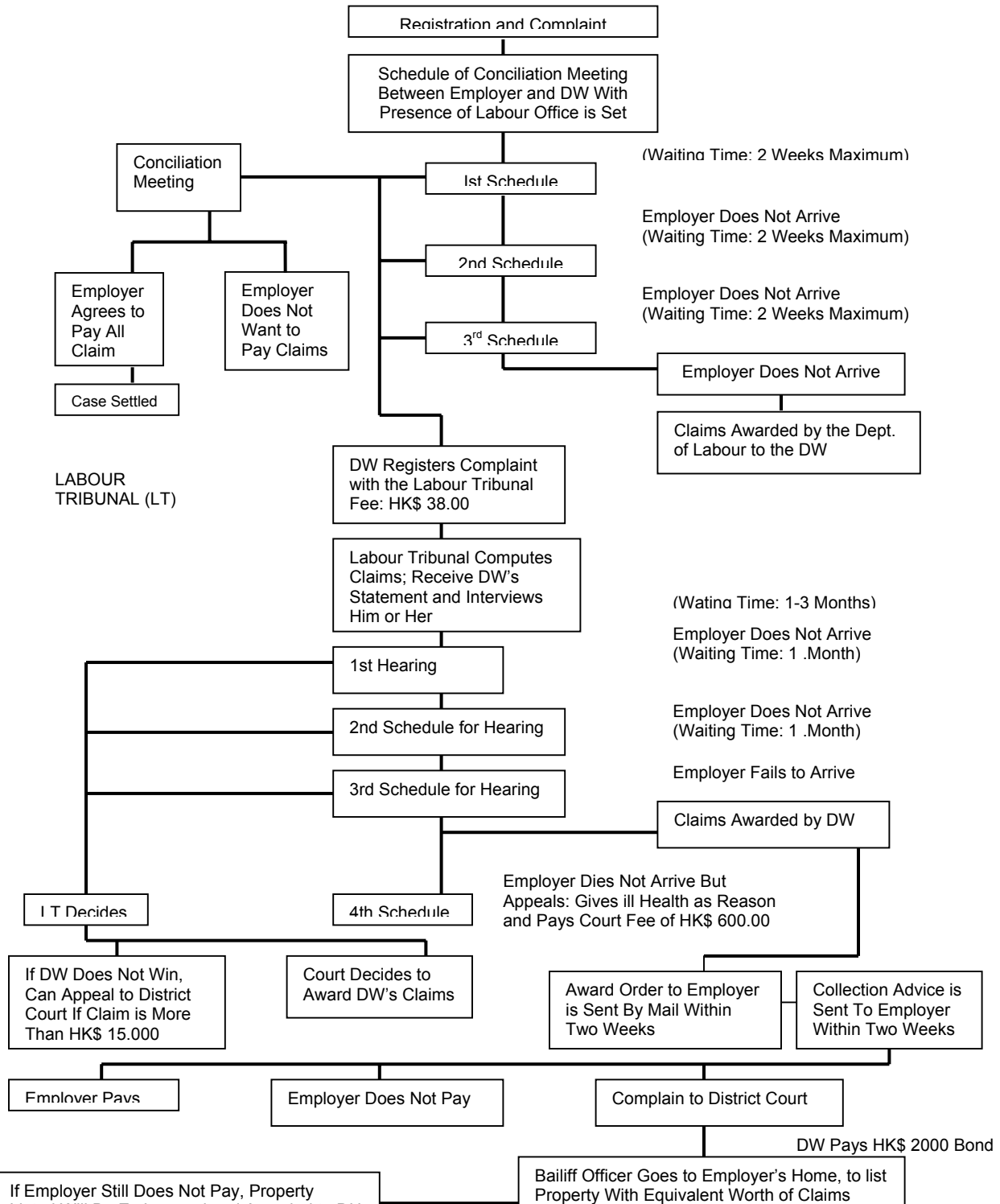
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ANNEX - A

Chart - 1

Grievance Mechanism (Financial Claims)



Source: Asia Pacific Mission for Migrant Filipinos (1992) *Filipina Domestic Workers in Hong Kong *Country Study for APDC Research Project on *Trade in Maids: Causes, Mechanisms and Consequences*

ANNEX - B

**AGREEMENT OF MANPOWER
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES
AND
THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN**

The Government of the Republic of the Philippines and the Government of the Hashemite-Kingdom of Jordan with the aim of strengthening the existing friendly and brotherly ties between the two Countries, further developing their relations and findings solutions to their labour and manpower problems, have agreed upon the following :

- Article 1 : The Governments of the two Countries, through the Department of Labour and Employment of the Republic of the Philippines and the Ministry for Labour of the Hashemite kingdom of Jordan, have decided to enhance means of recruiting manpower and are agreed to exchange information and experts on these matters. In the Philippines the Philippines Overseas Employment Administration (POEA) and in Jordan, the Ministry of Labour are authorised to implement the above objectives.
- Article 2 : The POEA and Jordan's Ministry of Labour, in accordance with their respective legislation shall undertake continuing studies for sending manpower to the two Countries and shall exchange information ---
- Article 3 : The requests for manpower from the our ore of the two countries shall be conveyed through the diplomatic representative of the requesting country to the concerned government agency. The employer can personally with the necessary procedures pertaining to the selection of workers or may appoint a representative for such purpose. The requests are to be made without naming specific individuals or regions or provinces. Circumstances for demanding specific names shall be included in a Administrative Agreement, which shall be concluded at the earliest convenience between the two Parties. The demand for manpower shall be met fully from amongst the candidates presented by the concerned government agency of the sending country.
- Article 4 : Job offers shall include information as to the required qualifications, experience, duration of employment, details of working conditions, wages, transportation, residence, maintenance and other details.
- Article 5 : The employer undertakes to pay for the travel expenses of the worker from his residence in his home Country to his workplace and upon the termination of the employment contract, and in cases of the cancellation

of the contract unilaterally by the employer, or unsatisfactory performance by the worker during the probation period. His return travel expenses to his residence in his home Country. The return travel expenses shall not be borne by the employer if the worker unilaterally quits the job or cancels the contract before its expiry date:

Article 6 : The workers shall be employed according to a contract. The text of which shall have been accepted by the competent authorities of the two Countries, concluded between the employer and the worker. The employment contract shall include working conditions, together with the obligation and the rights of the workers and shall be operated in Filipino and English.

Article 7 : The guest workers shall enjoy : fully from the rights and privileges accorded to the workers of the host Country in accordance with the provisions of the Labour and Social Security laws in the concerned Country.

Article 8 : The POEA and the Ministry of Labour of Jordan shall observe the implementation of the provisions of the employment contract. The above authorities shall act as intermediary for solving, in a friendly manner; the disputes arising between the worker and the employer. In cases where the disputes cannot be solved through such means the matter shall be conveyed to local legal authorities.

Article 9 : If the contract has expired or has been cancelled with the consent of both parties, the worker can search for another job within a period of thirty days and in accordance with effective laws and regulations. The employer undertakes to protect all the rights of the worker and meet his travel expenses back to his residence in case the worker cannot find another job and conclude an employment contract.

Article 10 : The workers shall within the context of the monetary regulation of the Country of employment, but able to transfer their savings abroad in a convertible currency.

Article 11: A joint Committee shall be formed consisting of the representatives of the relevant Miniseries/Departments and the Agencies of the two Countries which shall fulfil the following.

Provide necessary coordination between the two Countries for the implementation of this Agreement.

In case disputes occur, try to solve the difficulties arising from the implementation and the interoperation of the provisions of the Agreement.

If deemed necessary, put forward proposals for the amendment of some or all or the Articles of this Agreement or, for the conclusion of a new Agreement, meet at least once a year,

Decide the date and place of the meetings through diplomatic channels, and

Hold meetings in the Philippines and Jordan alternately.

Article 12 : The Parties shall, in order to lay out the terms of implementation of the provisions of this Agreement, conclude an Administrative Agreement at the earliest convenience.

Article 13 : This Agreement shall be implemented as of its date of entry into force. However it shall be applicable to those workers who have been employed prior to its date of entry into force.

Article 14 : This Agreement shall be amended only after necessary proposals and ratification's are awe through proper procedures:

Article 15 : This Agreement within the framework of the laws of the two Countries shall be in force temporarily following its signing and permanently after its ratification. The Agreement shall be in force for three years. Unless a contrary written statement is submitted by one of the Parties at least six months prior to its expiry date, this Agreement shall automatically be renewed for another three years.

This Agreement was signed in Amman, Jordan, on 3 November 19988 in Arabic and English, the two texts being equally authentic. Arabic text is the main reference when it is needed.

For the Government of the
Hashemite Kingdom of Jordan

For the Government of the
Republic of the Philippines

Sd/-
MARWAN UDDIN
Minister of Labour

Sd/-
FRANKLIN M. DRILON
Secretary of Labour

ANNEX - B¹

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement entered into by and between:

The PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION, hereinafter referred to as the POEA, with office address at the POEA Bldg., EDSA corner Ortigas Avenue, Mandaluyong, Metro Manila, and represented by the Hon. TOMAS D. ACHACOSO, Administration;

- and -

The MUNICIPAL MAYORS' LEAGUE OF THE PHILIPPINES (MMLP), hereinafter referred to as the League, with office address at the B & M Building, 116 Aguirre St., Makati, Metro Manila, and represented by MAYOR RENATO U. REYES, National President:

WITNESSETH

WHEREAS, the problem of illegal recruitment in the country has reached such alarming proportions as to cause serious and general concern:

WHEREAS, foremost among the reasons for the escalation of the problem is the lack or low level of public awareness on the modus operandi of illegal recruiters and the pernicious effects of illegal recruitment;

WHEREAS, while the POEA has launched an Anti-Illegal Recruitment Information Campaign, due to its limited resources, it is not in a position to implement on its own a massive and extensive nationwide information campaign that will reach the grassroots level of the public;

WHEREAS, the support and assistance of the Municipal Mayors' League of the Philippines and its Members will greatly contribute to and enhance the success of said information campaign;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereto agree to join hands and coordinate efforts to implement an intensified and well-sustained campaign against illegal recruiters. Towards this end, the parties undertake to do the following:

1. The POEA shall:

- a. Furnish each member of the League with regularly updated lists of licensed agencies and entities, information materials on the campaign against illegal recruitment such as brochures, pamphlets, posters, as well as copies of recent anti-illegal recruitment laws and regulations for distribution in their respective constituencies;
 - b. Make available on request by any member of the League, resource speakers from among POEA employees of Anti-Illegal Recruitment Seminars;
 - c. Immediately act on reports of illegal recruitment activities and/or recommendations for issuance of Closure and Seizure Order referred/submitted by any member of the League or through their duly authorized representatives;
 - d. Set up an Ad Hoc unit within the POEA to monitor and coordinate activities to be conducted under this Agreement.
2. The Municipal Mayors League of the Philippines and its members shall direct the officials under them :
- a. To include as part of their respective municipal government's regular programme, a campaign against illegal recruiters;
 - b. To assist in the distribution and dissemination of anti-illegal recruitment information materials among the different districts of their respective jurisdiction;
 - c. To investigate any reported illegal recruitment activity and recommend to POEA issuance of Closure and Seizure Order against any establishment, entity or company established to be engaging in recruitment of workers for overseas employment without the necessary license or authority from the POEA;
 - d. To cancel the permit/license to operate issued by the Mayor's Office of any establishment, entity or company ordered closed by the POEA for engaging in illegal recruitment activities;
 - e. To assist the POEA in the surveillance and investigation of any person, establishment, entity or company alleged to be engaging in recruitment of workers for overseas employment and in the implementation of Closure and Seizure Order issued against any establishment, entity or company operating within their respective jurisdiction;
 - f. To extend assistance to the POEA in relation to the custody, detention of persons apprehended while engaging in illegal recruitment activities in cases where the custody of such persons cannot be immediately turned over to the proper court authorities.

3. The POEA and the Municipal Mayors' League of the Philippines shall meet from time to time to evaluate and assess their performance and to identify problem areas, if any and resolve the same.
4. Upon the signing of the Memorandum of Agreement, the parties hereto shall immediately convene to discuss the mechanics of carrying out this Agreement.

IN WITNESS WHEREOF, the parties through their duly authorized representatives hereby sign this Memorandum of Agreement this 27th day of December, 1989, in Mandaluyong, Metro Manila.

Sd/-

TOMAS D. ACHACOSO
Administrator
PHILIPPINE OVERSEAS EMPLOYMENT
ADMINISTRATION

Sd/-

RENATO U. REYES
National President
MUNICIPAL MAYORS
LEAGUE OF THE PHILIPPINES

SIGNED IN THE PRESENCE OF

Sd/-

ATTY. LUZVIMINDA G. PADILLA
Deputy Administrator for
Adjudication & Employment Regulation
PHILIPPINE OVERSEAS
EMPLOYMENT ADMINISTRATION

Sd/-

MAYOR DAVID V. EMRALION
MMLP Provincial President
Province of Quezon

Sd/-

ATTY. ANGELES T. WONG
Director
Licensing and Regulation office
PHILIPPINE OVERSEAS
EMPLOYMENT ADMINISTRATION

Sd/-

MAYOR AURELIO S. PLAMENCO
MMLP Provincial President
Province of Bulacan

ANNEX - C

CODE OF DISCIPLINE FOR OVERSEAS CONTRACT WORKERS

Section 1. Obligations of Overseas Workers.

It shall be the obligation of every Filipino overseas worker to abide by the terms and conditions of his employment contract, to behave in the best manner and tradition of a Filipino and to observe or respect the laws, customs, mores, traditions and practices of the country where he is working. It shall also be his obligation to abide with the requirements on remittance on earnings as well as to provide material help to his family during the period of his overseas employment:

- a. Duty to family:
 - 1) to provide ample financial and moral support to his family in the Philippines;
 - 2) to communicate with his family as often as he can and make his presence felt just as if when he is around.
- b. Duty to fellow contract worker:
 - 1) to assist and cooperate with other contract workers working in the same site;
 - 2) to restrain from degrading a colleague in order to get a position or rank from ousting a fellow worker in bad light before his colleagues or superiors.
- c. Duty to country:
 - 1) to uphold the ideals of the Republic of the Philippines and to defend it, if warranted;
 - 2) to abide by the rules and regulations aimed at promoting the worker's interest and enhancing national gains; and
 - 3) to be the Ambassador of Goodwill, projecting only the good in the Filipino and restrain from tarnishing the Filipino image abroad.
- d. Duty to agency and/or employer:
 - 1) to provide the agency and/or employer with correct and true statements/certifications regarding his skill, experience and other qualifications;
 - 2) to understand and abide with the terms and conditions of the employment contract;
 - 3) to maintain a high level of productivity as well as abide by company rules and regulations; and
 - 4) to refrain from committing acts which are detrimental to the interest of his employer, agency during his documentary processing and/or employment.
- d. Duty to host country:
 - 1) to respect the mores, customs and traditions of the country; and
 - 2) to respect and obey the laws of the host country.

ANNEX - D

SRI LANKA BUREAU OF FOREIGN EMPLOYMENT

(COMPANY LETTER HEAD)

Date :.....

SPECIAL POWER OF ATTORNEY

I/We
(Name of Chief Executive/Managing Director/Director)

.....(Designation or
Status in Company)

of
(Name of Company & Address)

do hereby appoint, as our Recruitment Agent in Sri Lanka

.....
(Name of Person/Agency)

of
(Address in Sri Lanka)

Sri Lankan Foreign Employment Agent, licensed by the Sri Lanka Bureau of Foreign Employment, in terms of the Sri Lanka Bureau of Foreign Employment Act. No. 21 of 1985.

I / We confer on the said Agent and his authorized representative's power of Attorney to undertake, on our behalf, the following:

1. All recruitment activities in Sri Lanka, by way of issuing advertisements in the media, calling for application from prospective candidates, processing applications and interviewing candidates and any other activities incidental to recruitment on our behalf.
2. Signing documents on our behalf, including contracts of employment of selected candidates, and
3. To represent on our behalf, at the Embassy of in
(Country)
4. for the purpose of obtaining visa stamped on
(City and Country where Embassy is situated)
the passports of selected recruits to travel to the country of employment, as may be instructed by us.

I/We do understand that the conferring of this Power of Attorney shall hold

.....
(Name of Employer/Company)

and its authorized representatives, jointly and severally liable along with the said Recruitment Agent, for all actions authorized and undertaken by the said Recruitment Agent, on our behalf, in terms of this instrument.

.....
(Signature)

(Company Seal) Name & Title
Signed on this day of 199
at in

ANNEX - E

POEA REVISED SCHEDULE OF PENALTIES

IMPOSED BY THE POEA FOR OFFENSES COMMITTED BY
LICENSED EMPLOYMENT AGENCIES/MANNING AGENCIES
AND CONTRACTING COMPANIES

1987-1990

NATURE OF OFFENSES	PENALTY
A. OFFENSES VS. WORKERS	
<p>1. Collecting, charging, imposing, receiving, or requiring directly or indirectly from workers any amount, fees, bond deposits, guarantees, goods or services not authorized by the POEA or that which is greater than the authorized fees in consideration of overseas employment.</p>	<p>Suspension of license for two (2) months and until settlement of the claims or fine equal to the amount collected or received but not less than 20,000 pesos plus restitution of the amount collected or received in both instances.</p> <p>The act of collection from each Complainant or worker constitutes one count of violation of Article 32 or 34 of the Labour Code or of both, and the above penalty shall be imposed cumulatively provided that if the suspension period totals 12 months, the penalty of cancellation shall instead be imposed.</p>
<p>2. Recruitment or deployment of workers under false documents or through false representation or the use of deceit or other illegal machination. Ex. Using fake WTEP, passports, airline tickets, accreditation, job orders, or causing the publication of false advertisement, making false statement as to avail-ability of jobs, substitution or altering employment contract duly approved by POEA, deploying workers to principals projects or vessels other than for which they were processed, and other falsities or deceitful acts.</p>	<p>Suspension of license for two (2) months or fine of 20,000 pesos.</p> <p>The manner of application of penalty shall be the same as that under offence 1.</p>
<p>3. Withholding of travel and employment documents of workers for reasons not authorized by the Labour Code.</p>	<p>Suspension of license until return of documents.</p>
<p>4. Refusal or failure to deploy workers without valid reasons within the prescribed period.</p>	<p>Suspension of license for two (2) months and until either: (a) deployment of the workers or (b) return of his documents and refund of his expenses for documentation and placement fee or equal to the amount collected from the workers but not less than 20,000 pesos plus refund of his documentation and placement fee expense.</p>

NATURE OF OFFENSES	PENALTY
5. Influencing or attempting to influence any person or entity to prevent the employment of any worker or inducing a worker to transfer from or leave his employment to another unless such transfer is advantageous or beneficial to the worker.	Suspension of license for six (6) months or fine of 50,000 pesos.
6. Withholding of workers' salaries or remittances without justifiable reasons.	Suspension of license for two (2) months or fine equal to the salary withheld but not less than 20,000 pesos plus restitution of the amount withheld in both instances.
B. OFFENSES IN RELATION TO SECURING OR USE OF LICENSE	
1. Act of misrepresentation or giving false notice, information, statements or documents in connection with securing a license without which no license could have been issued.	Cancellation of the license.
2. Allowing other persons or entities to use the license or issued by the Minister a) When applicant workers suffer damage by reason of the use by another of the license; b) When no damage is caused directly on applicant workers.	Suspension of license for six (6) months or fine of 50,000 pesos. Suspension of license for two (2) months or fine of 20,000 pesos.
3. Appointing or designating agents or representatives or operating outside of authorized office without prior approval of POEA. a) When applicant workers suffer damage by reason of the use by another of the license. b) When no damage is caused directly on applicant worker.	Suspension of license for six (6) months or fine of 50,000 pesos. Suspension of license for two (2) months or fine of 20,000 pesos.
4. Failure to post or replenish cash bond or to renew surety bond.	Suspension of license until compliance.
5. Other acts of misrepresentation in connection with the renewal of a license.	Suspension of license for two (2) months or fine of 20,000 pesos.

NATURE OF OFFENSES	PENALTY
C. OFFENSES AGAINST POEA OPERATIONAL PROCEDURES	
1. Obstructing or attempting to obstruct inspection by the Minister or his duly authorized representative.	Suspension of license for two (2) months or fine of 20,000.
2. Recruiting or deploying workers in violation of the POEA accreditation and processing procedures.	Suspension of license for two (2) months or fine of 20,000 pesos.
3. Failure to file report as required or may be required by POEA.	Suspension of documentary processing until compliance.
4. Failure to conduct PDOS for workers sent overseas.	Suspension of license for two (2) months or fine of 20,000 pesos.
5. Publishing or causing the publication of overseas job vacancies in violation of the prescribed Rules.	Suspension of license for two (2) months or fine of 20,000 pesos.
6. Disregard of lawful orders, summons or notices.	Suspension of documentary processing until compliance.
D. OTHER OFFENSES	
1. Engaging in recruitment and placement of workers to jobs harmful to health, morality, dignity of the Republic of the Philippines.	Suspension of license for six (6) months or fine of 50,000 pesos.
<p>Offences or violations committed after the issuance of an Order or Decision carrying any of the foregoing penalties shall be penalized with cancellation of the license plus confiscation of the cash bond.</p>	
<p>The penalty of cancellation shall likewise be imposed when the offender has been previously penalized with suspension, the total period of which is 12 months or more.</p>	
<p>In cases where two or more violations or offences are established, the penalties that the offences carry shall be imposed cumulatively. Other offences or violations not herein listed shall be penalized in accordance with the specific regulations or policy issuances that penalize them or other rules which the POEA may subsequently issue.</p>	
<p>Offences or violations that may be taken cognizance of the POEA in the exercise of adjudicatory functions shall be penalized in accordance with the provision of the Labour Code on the rules that the POEA may promulgate.</p>	
<p>All rules inconsistent herewith are deemed amended or repealed.</p>	
<p>These rules shall take effect thirty days (30) days after publication in a newspaper of general circulation.</p>	

Source: POEA Rules.

ANNEX - E¹

PRESENCE OF PHILIPPINE OVERSEAS LABOUR OFFICERS

POST	1977	1985	1989	1991	1992	1993	1994	1995*
Asia								
Hong Kong	1	1	1	9	6	8	10	11
Tokyo, Japan	1	1		7	6	6	6	9
Kobe, Japan						1	2	2
Brunei				5	2	3	5	8
Singapore		1	1	6	5	5	6	8
Taiwan				2	2	2	8	10
Seoul, Korea						1	3	6
Malaysia							2	4
Europe								
Rome, Italy	1	1	1	5	4	4	4	6
Milan, Italy				2	1	2	3	4
W. Germany	1	1	1					
E. Germany	1							
Geneva, Switzerland	1	1	1	1	1	1	1	2
Spain	1			4	3	3	3	2
Greece				4	1	1	1	4
London, England								1
Americas								
Canada	1	1				1	1	
New York, USA	1							
Washington, USA	1	1	1	1	2	2	2	3
Los Angeles, USA			1	1				
Guam	1	1	1	1	1			
Pacific								
Saipan, CNMI				2	2	2	2	1
Middle East								
Riyadh, KSA			2	10	8	9	11	20
Jeddah, KSA	1	1	1	9	6	6	6	9
Kuwait		1	1	6	6	5	6	8
Abu Dhabi, UAE		1	1	8	6	4	6	9
Dubai, UAE				4	1	2	2	6
Iraq		1	1					
Libya			1	4	5	2	3	5
Jordan			1	2				
Egypt	1							
Iran	1							
Bahrain				2		2	2	4
Qatar				2			1	4
Oman				2	1	2	2	4
TOTAL	14	13	16	99	69	74	98	150

* Includes those to be deployed by May 1995.

Source : OWWA, ILAS

RATIO OF POLO PRESENCE TO FILIPINO OCWS
(as of March 1995)

Region/Country	Stock Estimate of Filipino OCWs	No. of POLOs	Ratio of Polos to Filipino OCWs
Asia and the Pacific			
Singapore	65000	7	1:9285
Malaysia	44000	3	1:14666
Saaipan	24000	2	1:12000
Hong Kong	1200000	9	1:13333
South Korea	18000	3	1:6000
Taiwan	70000	7	1:10000
Japan	120000	9	1:13333
Brunei	10000	7	1:1429
Middle East			
Saudi Arabia			
Riyadh/Alkhobar	350000	19	1:18421
Jeddah	150000	8	1:18750
UAE	50000	14	1:3571
Kuwait	45000	7	1:6428
Libya	16000	4	1:4000
Oman	24000	2	1:12000
Qatar	22000	3	1:7333
Bahrain	25000	2	1:12500
Europe and Americas			
Italy	100000	7	1:14285
Spain	90000	2	1:45000
Greece	60000	2	1:30000
USA	60000	2	1:30000

ANNEX - F
MANUAL OF PROCEDURES

I. FILING OF COMPLAINTS, MOTIONS AND OTHER PLEADINGS

1. The filing of pleadings, motions and other papers with the Adjudication Office may be done either by personal delivery or by registered/ordinary mail.
2. If the filing is made by personal delivery, the Receiving Clerk shall promptly and legibly stamp on the face of the first page of the pleading, motion or paper the exact date and hour it was filed and received.
3. If the filing is through registered mail, the date of mailing stamped by the Post Office of origin shall be considered as the date of filing. The date of actual receipt of the pleading, motion or paper by the Adjudication Office shall, however, also be legibly stamped or indicated on the first page thereof. If the filing is through ordinary mail, the date of filing shall be the date of the actual receipt of the pleading, motion or paper by the Adjudication Office.
4. In every case, a pleading, motion or paper filed with the Adjudication Office shall be deemed officially filed only upon compliance with the requirements set forth under Section B, Item No.1 hereof.
5. In the case subject of adjudication is referred to the Adjudication Office or any of its three branches by endorsement from other POEA units, the date of filing is determined as of the date the case is docketed.
6. Cases referred to the Adjudication Office by Regional Offices And POEA Regional Extension Units shall be entered in a separate Docket Book and will be assigned a specific docket number upon receipt.

A. COMPLAINTS

1. Any contract worker, his heirs, beneficiaries, attorney-in-fact or duly authorized representative as well as any licensed agency or entity or its principal or employer, whether foreign or local, may file a complaint.
2. Complainants may either file their own complaints or secure copies of standardized complaint forms from the Docket Clerk.
3. The complaint shall be filed in five (5) copies and accompanied by a verification form indicating the status of the agency involved. All complaints filed with the Adjudication Office must be under oath.
4. Upon receipt of the complaint, the Docket Clerk classifies the same as:
 - a) Purely money claims;
 - b) Money claims with recruitment violations;

- c) Disciplinary actions against contract workers;
- d) Purely recruitment violations (pre-employment cases).

Items a, b and c are cognizable by the Adjudication Branch whereas item d shall be handled by the Recruitment Regulation Branch.

5. The complaint classified, the Docket Clerk thereupon docketed the case in the respective docket book, assigned a docket number for every case and prepares the case folder. In case of doubt as to whether a case should be docketed or not, the same shall be submitted to the Chief of the Docket and Enforcement Division for resolution.
6. The Index Clerk prepares an index card for each new case filed to monitor the movement of the case folder and the status of each case. There shall be two (2) index clerks, one for the Adjudication Branch and one for the Recruitment Regulation Branch.
7. Assignment or re-assignment of cases to a particular Hearing Officer shall be done by raffle. The raffle of cases shall be conducted by a Raffle Committee on a daily basis or as soon as practicable.

In case of re-assignment or transfer of cases previously docketed or inclusion or change of party litigants, the docket records and the index cards shall be adjusted accordingly.

Referred cases from Regional Offices and POEA Regional Extension Units shall also be raffled and assigned to a particular Hearing Officer of the Adjudication Branch or the Recruitment Regulation Branch, as the case may be, for appropriate action.

8. The Chief of the Docket and Enforcement Division prepares the endorsement of docketed and assigned cases to the Chief of the Legal Research, Docket and Enforcement Branch.
9. The Chief of the Legal Research, Docket and Enforcement Branch notes the endorsement and transmits the same, together with the case folders to the respective Branch Chief. The Computer Clerk is likewise furnished a copy of said endorsement for computer-input.

B. MOTIONS AND OTHER PLEADINGS

1. All motions and pleadings other than the complaint shall be filed in five (5) copies with the proof of service to the other party or parties thereto annexed.
2. Motions, pleadings and papers filed with the Receiving Clerk shall be entered into the log book and shall be enclosed to their respective case folders and thereafter forwarded to the Hearing Officer or appropriate appellate tribunal for appropriate action.

II. DISPOSITION OF CASES

1. Upon receipt of the endorsement of docketed and assigned cases together with the case folders, the Branch Chief distributes the cases to the Hearing Officer concerned.
2. The Hearing Officer concerned shall immediately furnish the respondent a copy of the complaint and all its attachments together with a directive to file an answer, not a Motion to Dismiss, within ten (10) calendar days from receipt thereof.

The Hearing Officer shall also calendar the case for a conference with the end in view of arriving at an amicable settlement. The parties shall be duly informed of such conference that shall be immediately after the respondent files the answer.

3. If the respondent fails to file an answer and pertinent documents within the period specified or fails to appear during the conference, he shall be deemed to have waived his right to present evidence and the case shall be heard *ex-parte*.
4. If on the basis of the pleadings/evidence on record, the Hearing Officer finds that there exists sufficient ground to render judgement, the case shall be considered submitted for decision.
5. Whenever summary decision/judgement is not appropriate the Hearing Officer shall direct the parties to the case to simultaneously submit their position papers and/or memoranda within fifteen (15) days from notice, after which the case shall be deemed submitted for decision.
6. When the Hearing Officer finds that there are complicated factual issues involved which cannot be resolved by mere appreciation of the evidence on record and the position of paper/memoranda of the parties, he shall conduct an investigation by requiring the parties to submit affidavits.

The Hearing Officer may, if necessary, direct the parties to appear before him to answer clarificatory questions.

7. There shall be a ninety (90) day period for reception of evidence and another ninety (90) day period for resolution of cases.

The first 90 days shall commence from the date for pre-trial conference up to the time the case is submitted for resolution.

The 90-day period for the resolution of cases shall cover the following:

- a) The first 45 days shall be utilized for clarificatory questioning and drafting of recommendations.
 - b) The succeeding 45 days shall cover review, revisions, approval and signature by the Administrator.
8. After evaluation of the evidence submitted by the parties, the Hearing Officer drafts his recommendations/decision/order and submits the same to the Branch Chief for approval, corrections or modifications as the case may be.

9. With regard to cases referred by the Regional Offices and POEA Regional Extension Units, the Hearing Officer concerned shall prepare the appropriate decision or order based on his own appreciation of the facts and the law applicable to the case. If he finds the need for further reception of evidence or further clarification, he may remand the case to the Regional Office or POEA Regional Extension Unit concerned or conduct the necessary proceedings.
10. The following rules shall likewise be observed in the resolution of cases:
 - a) Calls for hearing shall be limited to three (3). In case of failure to appear by the parties, the case shall precede *ex-parte*.
 - b) Postponements/resetting of hearings shall be limited to two (2), each party being entitled only to one (1) postponement or resetting.
 - c) Only one motion for extension of time to file position paper shall be allowed. The Hearing Officer upon receipt of such motion shall grant a non-extendable period of ten (10) calendar days for the filing of said position paper after which the case shall be deemed submitted for resolution.

III. DECISIONS, ORDERS, RESOLUTIONS

1. Upon receipt of the draft order or decision, the Branch Chief shall review the same. The approved draft is thereupon sent to the typist of the Hearing Officer for finalization.
2. The Hearing Officer submits the finalized order or decision to the Branch Chief for initial and, thereafter forwards the same to the Director of the Adjudication Office for review.
3. The decision or order initiated by the Director shall be likewise be forwarded to the Deputy Administrator for Regulations and Adjudication for further review, while those with corrections or modifications are returned to the Branch Chief.
4. If satisfied with the findings of facts and conclusions of law, the Deputy Administrator shall initial the Order or Decision and endorse it to the Administrator for signature.
5. Decisions signed by the Administrator shall be forwarded for notation in the index cards by the Index Clerk who, thereafter, forwards the same to the Releasing Clerk for proper notice to the parties concerned.
6. Signed orders or decisions for referred cases shall be released through the Adjudication Office.

Copies of the same shall be forwarded to the Regional Office or POEA Regional Extension Units concerned for its records.

IV. MOTION FOR RECONSIDERATION AND/OR APPEAL

1. The aggrieved party may, within ten (10) calendar days from receipt of the decision, order or resolution, appeal the said decisions, order or resolution by filing with this Administration a Notice of Appeal and Memorandum of Appeal, specifying the grounds relied upon and paying the prescribed Appeal fee. If no appeal is perfected during the said period, the decision, order or resolution shall become final and executory.

A Motion for Reconsideration shall be treated as an Appeal in accordance with the POEA Rules and Regulations.

2. The Motion for Reconsideration and/or Appeal shall be filed with the Adjudication Office in five (5) copies, with the proof of service to the other party or parties thereto attached.
3. Upon receipt of the Motion for Reconsideration and/or Appeal, the Receiving Clerk shall notify the Index Clerk who shall thereupon fill in the appropriate index card with the facts of the Motion for Reconsideration and/or Appeal.
4. The Receiving Clerk refers the Motion for Reconsideration and/or Appeal to the Hearing Officer concerned, together with the case folder for the preparation of the endorsement to the National Labour Relations Commission or the Office of the Secretary of Labour and Employment, as the case may be.
5. The Endorsement to the appropriate appellate tribunal shall be forwarded to the Branch Chief for Signature.
6. The Records Officer/Index Clerk transmits the folder with the endorsement, together with the proof of payment and proof of service to the appropriate appellate tribunal.
7. The Index Clerk accordingly shall update the status of the case appealed.
8. Motions for Reconsideration and/or Appeal for cases referred by Regional Offices and POEA Regional Extension Units shall be filed with the POEA. Where such Motion for Reconsideration and/or Appeal is filed with the Regional Office or POEA Regional Extension Unit, the same shall be forwarded to the Adjudication Office within the soonest possible time for appropriate action.

Appeals on these cases shall be endorsed to the appropriate appellate tribunal.

9. Decisions on Disciplinary Cases not arising out of Employer-Employee Relations are unappealable.

V. ENFORCEMENT OF DECISIONS, ORDERS OR RESOLUTIONS

1. After the decision, order or resolution has become final and executory, the prevailing party may file a Motion for Execution or Issuance of a Writ of Execution.

2. Upon receipt of the Motion, the Receiving Clerk shall refer the same to the Hearing Officer concerned together with the case folder. If the Hearing Officer who handled the case is no longer connected with the Adjudication Office, the case shall be assigned to another Hearing Officer as a special assignment.
3. The Hearing Officer shall prepare the Writ of Execution after examination of the records of the case and upon a finding that the issuance of the Writ is proper.
4. The prepared Writ shall be forwarded to the Branch Chief for his initial.
5. He initiated Writ shall be submitted to the Administrator for his signature.
6. The signed Writ of Execution shall be forwarded to the Record/Index Clerk for updating of records.
7. All Writs of Execution received for the week shall be raffled off by the Chief of the Docket and Enforcement Division together with the members of the Raffle Committee to the Enforcement Officers.
8. The Chief of the Docket and Enforcement Division shall prepare the list of Writs assigned to each Enforcement Officer and endorse the same to the Legal Research, Docket and Enforcement Branch Chief.
9. Conformably to the Manual of Instructions for Enforcement Officers of the POEA, the Enforcement Officer to whom a Writ of Execution is assigned shall:
 - a) Serve the Writ to the losing party;
 - b) Enforce/implement Writ;
 - c) Garnish cash/surety bonds or, levy on the judgment debtor's personal and/or real properties if there is no cash/surety bond;
 - d) Prepare the order of release for garnished bonds;
 - e) Prepare/submit returns.
10. Copies of the returns are submitted to the Chief of the Docket and Enforcement Division and filed with the Records Officer for enclosure to the case folder.
11. Enforced Writs/Claims fully satisfied shall be archived and considered as closed cases.
12. Partially enforced writs shall go through the foregoing procedure for issuance of alias writ.
13. Final and executory orders of referred cases shall be enforced in accordance with existing POEA procedures.

ANNEX - G**DEPARTMENT OF LABOUR AND EMPLOYMENT
Philippine Overseas Employment Administration
Executive Director V (Administrator) (SG - 30)****Definition**

Under direction and with considerable latitude for the exercise of independent judgement, oversees the over all operations of the POEA including its Regional Extension Units/Centres.

Characteristics

Responsible for the implementation of the policies, programmes, activities, rules and regulations formulated by the Governing Board; exercises direct supervision and control over the Offices under the Administration; and does other related work as may be assigned by the Secretary, DOLE.

Qualifications Guide

Presidential appointee

Prepared by :	Immediate Supervisor :	Head of Agency :
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DEPARTMENT OF LABOUR AND EMPLOYMENT
Philippine Overseas Employment Administration
Deputy Executive Director V (Deputy Administrator) (SG - 29)

Definition

Under direction, advises and assists the POEA Executive Director/Administrator in the formulation and implementation of policies, programmes, functions of the "Administration : does other related work.

Characteristics

Employment and Welfare

Advises and assists the POEA Administrator/Executive Director in the formulation and implementation of policies, programmes, functions of the Administration in the areas of employment, licensing, accreditation, processing, welfare and marketing; assists in coordinating the operational activities of the POEA and is responsible to the Executive Director for the effective, efficient and economical administration; performs and assumes the functions of the Executive Director whenever designated, in case the latter cannot perform his functions.

Licensing and Adjudication

Advises and assists the Executive Director in the formulation of policies, programmes and activities in the area of adjudication and regulation of recruitment activities, coordinates the functions and activities of the Adjudication Office and the Licensing and Regulation Office and assists the Executive Director in the exercise of supervision and control over them; performs the functions of the Executive Director whenever designated, in case the latter cannot perform his functions.

Management Services

Advises and assists the Executive Director in the formulation and implementation of the policies, programmes and functions of the Administration in the areas of policy development, planning and international relations, information, finance, administration and computerization, coordinates all the administrative and related activities of the Administration and is responsible to the Executive Director for an effective efficient and responsive support services; performs and assumes the functions of the Executive Director whenever designated, in case the latter cannot assume his functions.

Prepared by :	Immediate Supervisor :	Head of Agency :
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DEPARTMENT OF LABOUR AND EMPLOYMENT
Agency: Philippine Overseas Employment Administration
CHIEF LABOUR AND EMPLOYMENT OFFICER (SG-24)

Definition

Under direction, plans, directs and supervises the activities of the division; and does other related work.

Characteristics**Assistance and Welfare Division**

Formulates plans and programmes aimed towards the enhancement of the living and working conditions of Filipino overseas contract workers and their families and recommends the same to the Manager, Welfare Services Branch; Supervises the AWD staff in performing the different functions of the Division; reviews actions done by the staff on requests for assistance, counselling, conciliation, meetings, communications, recommends to the Manager watchlisting of overseas Filipino workers with pending cases; recommends to the manager the suspension/lifting of suspension of local agencies with pending cases; monitors work plans, staff and office needs; makes recommendation for the courses of actions to the Branch Manager, Director, represents the Manager/Director in the GO-NGO network, meetings, conferences and other programmes of the offices; supervises the monitoring of returning overseas contract workers standard of living and level of skills development.

Recruitment and Documentation Division

Supervises all placement and recruitment programmes and projects of the division, advises the Government Placement Branch (GPB) Director of the same; formulates and recommends policies and plans for the smooth flow of work and efficient delivery of workers hired through government-to-government arrangement; acts on manpower requisition of government employers and coordinates closely with the Employment Branch and other concerned units for the sourcing of qualified applicants; signs overseas employment certificates to workers hired through the Government Placement Branch; signs, for the GPB Chief, necessary documents to facilitate the deployment documents of government-hired workers.

Client Services Division

Plans, formulates procedures and systems on facilitation through government hiring; supervises actions being taken relative to the division's operation; conceptualizes projects in government Placement operations like printing of information materials for clients, feedback mechanisms for OFWs, institution of performance gauge for staff and support service entities; conceptualizes project proposals in innovative measures to ease placement operations; assists in preparation of implementing guidelines re-

facilitation through government hiring; reviews drafts, initials/signs outgoing communications; attends/participates in corporate planning exercise; joins travel missions.

Manpower Development Division

In charge of the overall management & supervision of the division; provides technical and administrative supervision in the preparation of manpower supply and manpower development-related research & studies, particularly on critical skills for the land-based workers, supply and demand analysis of OFWs and study on training/re-training needs of OFWs; coordinates with concerned entities in the formulation of standards of training for OFWs in terms of curricular offerings, facilities, instructors qualification, among others as well as the development of pertinent training programmes.

Inspection Division

Formulates and implements inspection programmes for the effective evaluation of the activities of licensed agencies; regulates and monitors the work of subordinates to ensure the efficient accomplishment of the division's functions; prepares, reviews, and submits comprehensive reports on the results of inspection and other activities which the division may be tasked to undertake; provides advice and policy guidelines to licensed agencies; GOs and NGOs and the general public; formulates proposals, prepares concept papers on developmental projects which the division may be assigned to undertake; supervises the evaluation of performance of licensed agencies; attend meetings; seminars, conferences on licensing and inspection.

Licensing and Evaluation Division

Supervises the continuous review of licensing system including policies and procedures which serves as basis for policy recommendation to improve the said system; oversees development of systems and procedures for an effective evaluation system for applications for issuance and renewal of license and performance evaluation of licensed agencies; develops project proposals relevant to licensing and performance evaluation in accordance with prescribed technical and economic standards; supervises and reviews the evaluation of applications for issuance/renewal of license, branch authority and training centre authority; monitors progress of evaluation activities and other assigned tasks of evaluators, supervises the preparation of regular and special accomplishment reports.

Manpower Registry Division

Reviews, develops and implements systems and procedures in interviewing and classifying applicants for registration, attends meetings for the Manpower Registry Division, provides the Director II with accurate and updated report in relation to the registered applicants for placement, marketing and promotion purposes.

Employment Services Regulation Division

Supervises and coordinates activities of the staff in the regulation and monitoring of licensed agencies pre-employment recruitment activities, such as placement of advertisements for overseas employment, conduct of provincial recruitment and jobs fair activities, and the issuance of Special Exit Clearance per POEA MC 18, Series of 1997. Establishes and maintains linkages with other entities, both government and private, to ensure effective regulation of entities involved in providing pre-employment services to workers.

Labour Assistance Centre

Provides over all supervision on travel documents verification activities and monitoring of the departure and arrival of contract workers; formulates, adopts and implements work policies and system to ensure fast and smooth flow of work in serving OFWs; establishes and implements a closer reporting linkage with the processing branches and other concerned agencies; provides the Administration with periodic reports on the activities of the Centre; implements the watchlist/hold order of OFWs; implements the information system to disseminate the most recent labour/immigration law and other information relative to OFWs.

Market Promotions Division

Conceptualize market promotional policy in conformity with over-all marketing and operation philosophy/needs of the organization, the industry and the overseas employment programme, translates this into appropriate circulars; plans and formulates promotional projects and strategies to develop and maintain overseas labour markets for Filipino workers; directs/guides staff in developing an effective system of promotional perspective and marketing tools peculiar in the overseas employment programme; identifies and interprets the division's areas of priorities, recommends the allocation of resources and proposes solutions to bottleneck areas in market development as encountered by the division; supervises/manages the implementation of market promotional activities of the division in accordance with its roles in the organization and the overseas employment programme; conducts final review of all communications, project proposals, project status and evaluation reports, processed information and feedback for endorsement to higher or lateral authorities within the Administration; participates in middle level technical committee to provide inputs useful in market promotions and strategies; extends technical assistance to the Branch Manager in the formulation of overall market development programme; develops and sustains linkages and effective public relation with the industry, government missions/embassies in a spirit of mutual cooperation and exchange for the enhancement of a successful promotional programme.

Market Research and Standards Division

Conceptualizes market research and standard formulation policy; guides staff in developing and effective system of research perspectives and marketing tools peculiar in the overseas employment programme; identifies and interprets the division's area of

priorities, recommends the allocation of resources and proposes solutions to bottleneck areas in market research as encountered by the division; conducts final review of all communications, project proposal, research outputs, status and evaluation reports, processed information and feedback for endorsement to higher or lateral authorities within the Administration; participates in middle level technical committee to provide inputs useful in the advancement of labour market research and standards formulation; extends technical assistance to the Branch Manager in the formulation of over all market development programme; develops and sustains operational linkages and effective public relation with the industry, government units and other entities such as foreign government missions/embassies in a spirit of mutual cooperation and exchange for the enhancement of a successful research programme; establishes networks with government and private sector on labour market information;

Land-workers Processing Division

Supervises the review and verification of all documents submitted by private recruitment agencies, service construction, for contract processing; establishes and implements procedures that will ensure efficient and smooth flow of operation of the division according to schedule and programme of activities; supervises the programming and scheduling of release of all validated documents of land-based workers to private recruitment agencies, service construction contractors; studies and evaluates accomplishment reports of subordinates and takes note or problems encountered in the implementation of basic policies, guidelines and procedures relative to the contract processing activities; directs the preparation of reports relative to contract processing activities.

Seafarers Processing Division

Supervises the review and verification of all documents forwarded by the Accreditation Branch and Manning Agencies/shipping companies for government and seamen hiring, respectively; supervises the programming and preparation of schedule for the release of all processed and validated documents of seafarers/ government hires to manning agencies/shipping companies; responsible for the efficient and smooth flow of operations in the division according to programme and scheduled activities; evaluates accomplishment reports of staff and takes notes of problems encountered in the implementation of basic policies, guidelines and procedures relative to contract processing activities; conducts final review of endorsement letters of foreign embassies, seamen unions concerning visa applications and contract bargaining agreements (CBA) as per request of manning agencies/shipping companies; directs the preparation of reports on contract processing and related activities.

Balik Manggagawa Processing Division

Directs, supervises and coordinates the evaluation and review of documentary requirements of the vacationing/returning OFWs; establishes systems and procedures that will ensure efficient and smooth flow of operations in the division in accordance with the programmes and timetable of planned activities of the division; supervises the monitoring of the daily disposition of the Overseas Employment

Certificates (OEC) and accomplishment report of the staff; submits periodic reports on processed returning/ vacationing OFWs to the Branch Manager.

Land-based Projects Accreditation Division

Reviews, analyses and interprets evaluation of subordinates relative to recruitment service agreements covering land-based workers submitted to the division and certifies the correctness of said documents for approval of the Director II; reviews and verifies in coordination with foreign embassies and Philippine missions, the commercial registration and other business documents to prove the legal personality of the foreign principal; review and evaluate all manpower requisition or job orders filed by the accredited principals from time to time through licensed agencies; review evaluate and recommend solutions on multiple accreditation cases and other cases involving conflicts between foreign principals and local recruitment agencies; ensures the effective monitoring of files on blacklisted foreign principals and OFWs.

Seabased Accreditation Division

Directs, supervises and coordinates the activities of the division; develops and recommends measures, policies, guidelines for an effective synchronisation and implementation of POEA/Department objectives relevant to manning agreements and/or application for accreditation activities; directs and supervises the analysis and evaluation of manning agreements and of terms and conditions of employment contracts offered by shipping companies and its agents in the Philippines in accordance with the prescribed requirements set by the Department; review, analyses and interprets evaluation reports of subordinates relative to manning agreements and/or accreditation activities and certifies to the correctness of said documents for approval of the Branch Manager; supervises the processing of recruitment orders and request for processing of manning agencies.

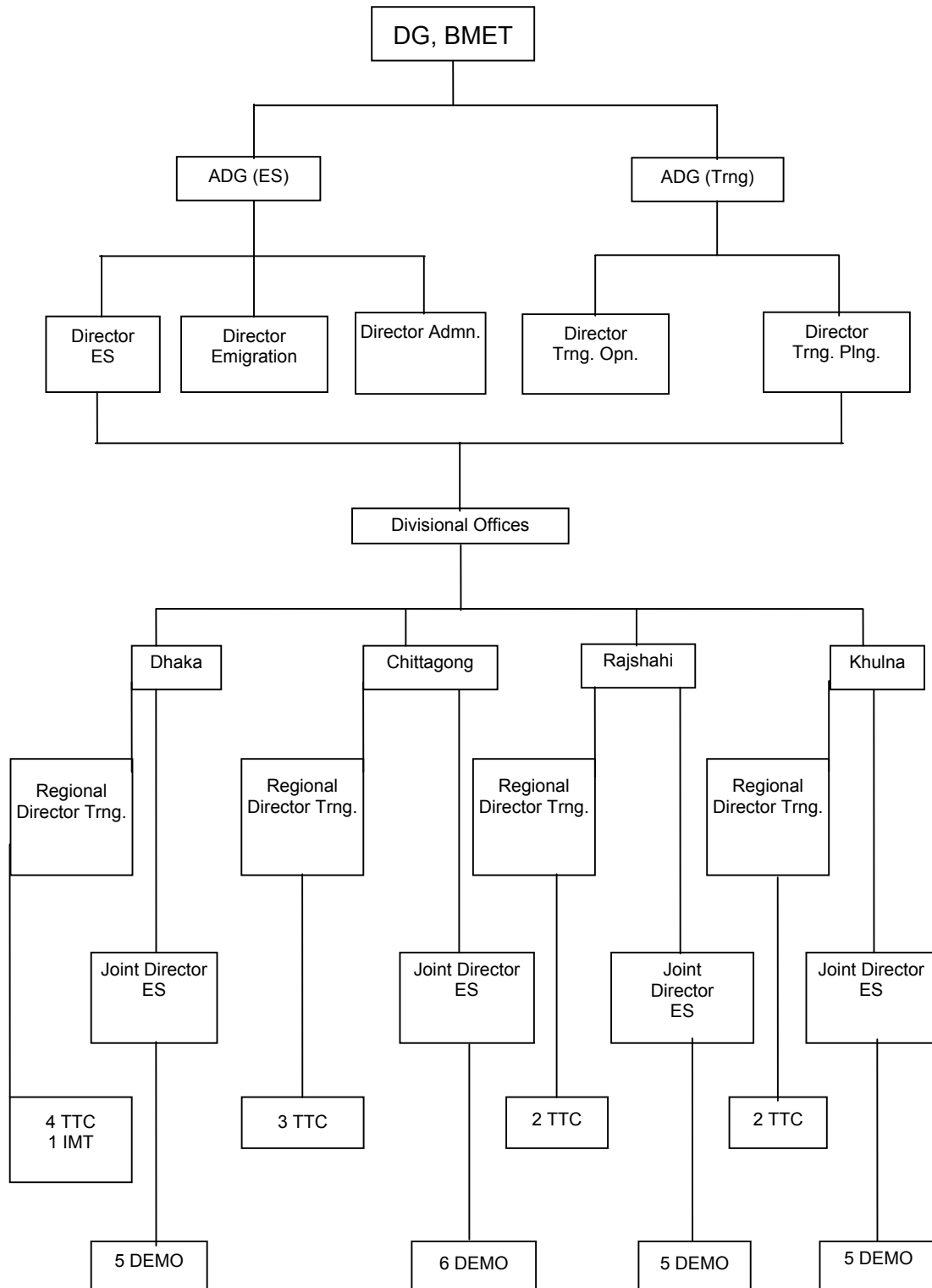
Qualification guide

Masters degree; 4 years in position/s involving management and supervision; 24 hours of training in management and supervision; Career Service Professional eligibility/second level eligibility.

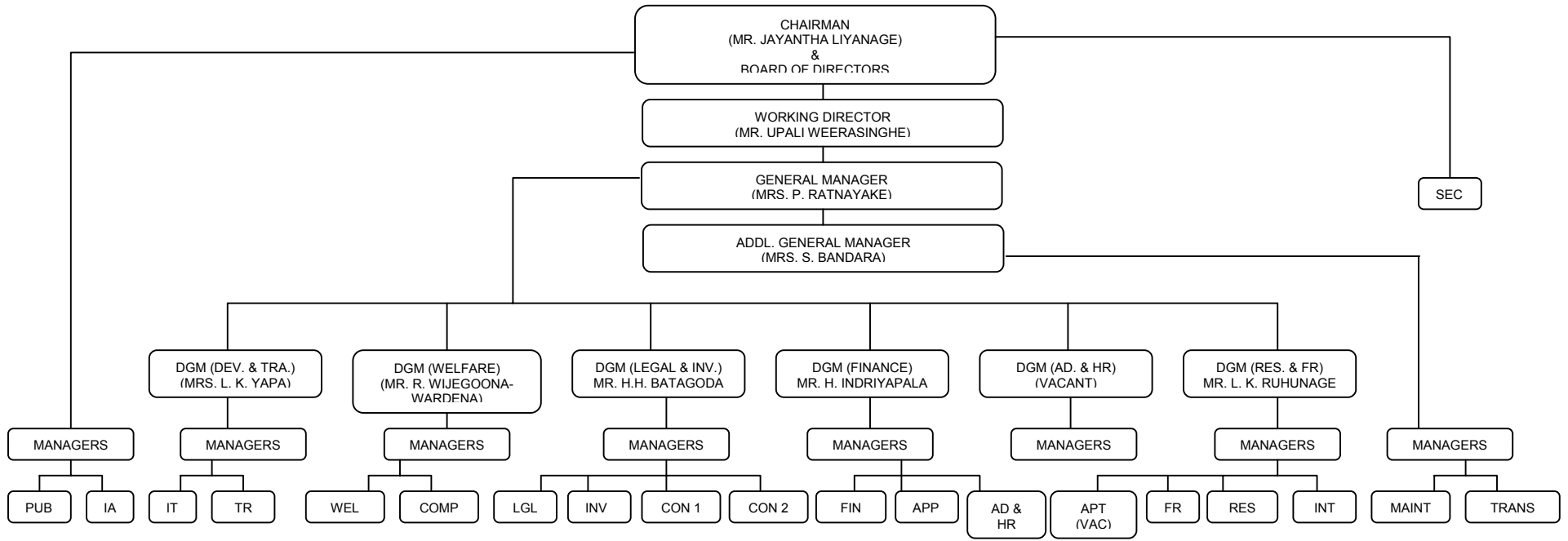
Prepared by :	Immediate Supervisor :	Head of Agency :
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ANNEX - H

The Organisation of BMET is as follows



ORGANISATION CHART-SLBFE



- * DGM (DEV & TRA) – DEPUTY GENERAL MANAGER (DEVELOPMENT & TRAINING)
- * DGM (WEL) – DEPUTY GENERAL MANAGER (WELFARE & COMPENSATION)
- * DGM (LGL & INV) – DEPUTY GENERAL MANAGER (LEGAL & INVESTIGATION)
- * DGM (AD & HR) – DEPUTY GENERAL MANAGER (ADMINISTRATION & HUMAN RESOURCES - VACANT)
- * DGM (FR & RES) – DEPUTY GENERAL MANAGER (RESEARCH & FOREIGN RELATIONS)
- * Pub – PUBLICITY (MR. I. BEYSEKARA)
- * SEC – SECRETARY (MR. P. H. GUNARATNE)
- * IA – INTERNAL AUDITOR (MR. D. D. P. SENANA YAKE)
- * IT – INFORMATION TECHNOLOGY (MR. K. O. D. D. FERNANDO)
- * TR – TRAINING (MISS GANGA WIMALASENA)
- * WEL – WELFARE (MRS. G. P. M. LIYANARAHCHI)
- * APT. AIRPORT (MR. T. A. P. THILAKARATNE)
- * INT. INTELLIGENCE (VACANT)

- * COMP – MR. H. M. SUNIL (ACTG)
- * LGL – LEGAL (MR. H. A. R. SOMASINGHE)
- * INV – INVESTIGATION (MR. A. RUPASINGHE)
- * CON 1 – CONCILIATION 1 (MR. N. I. D. ABEYRATNE)
- * CON 2 – CONCILIATION 2 (MR. N. I. D. ABEYRATNE)
- * TRANS – TRANSPORT (MR. W. R. C. PEERA)
- * FIN – FINANCE (MR. M. A. D. CHANDRAWANSHA) ACTG
- * APP. APPROVAL (MR. S. K. MENIKE)
- * AD & HR – ADMINISTRATION & HUMAN RESOURCES (MRS. C. K. PREMASIRI)
- * RES – RESEARCH (VACANT)
- * FR – FOREIGN RELATION (MISS R. W. PATHIRAGE)
- * MAINT – MAINTENANCE (MR. U.A.K. WUETHUNGA)

LEGEND

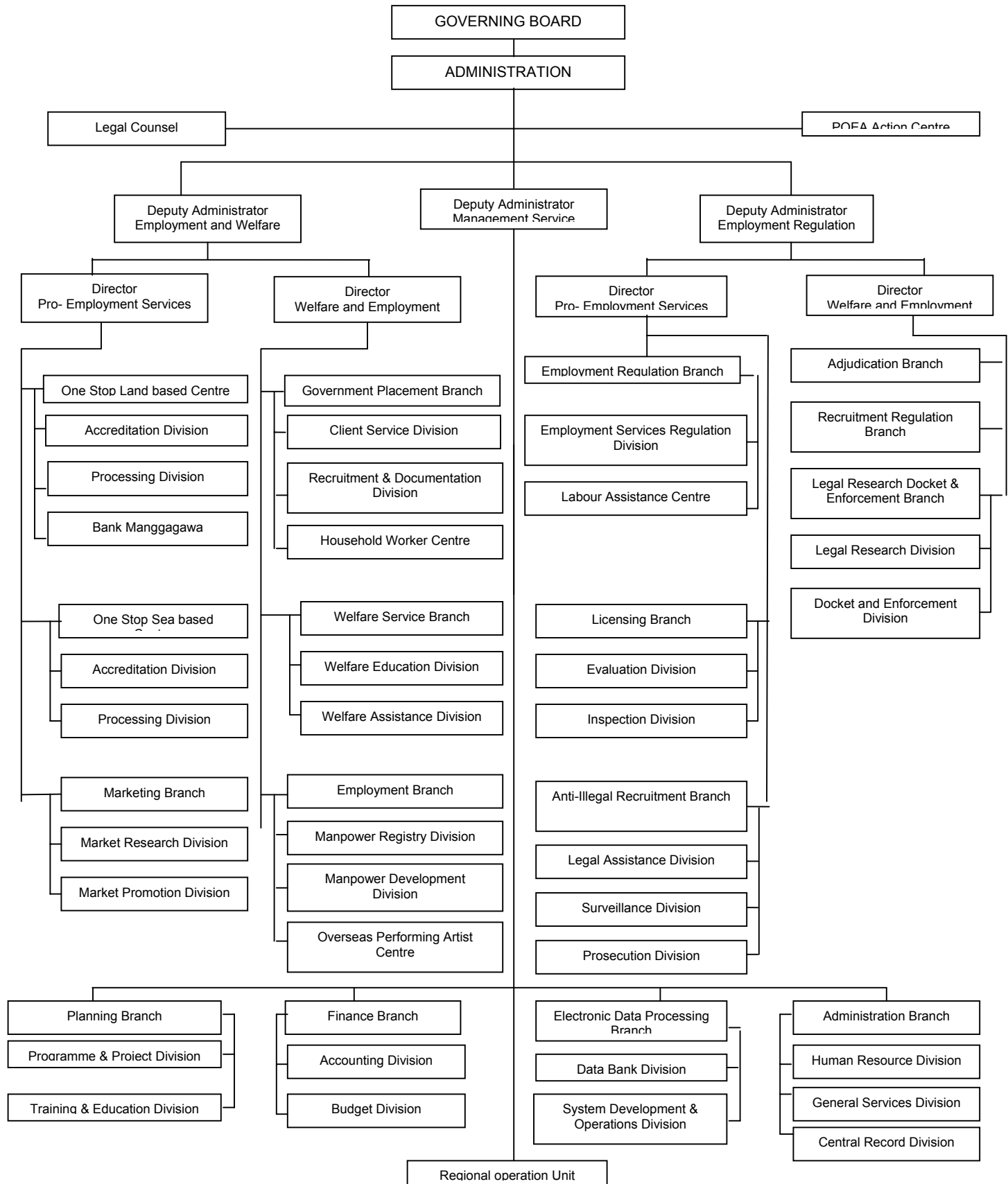
Designations in Ministry

JS	-	Joint Secretary
LEA	-	Labour & Employment Adviser
DGLW	-	Director General Labour Welfare
PGE	-	Protector General of Emigrants
FA	-	Financial Adviser
DIR	-	Director
DS	-	Deputy Secretary
WC	-	Welfare Commissioner
CA	-	Controller of Accounts
JD	-	Joint Director
US	-	Under Secretary
DD	-	Deputy Director
SA	-	Senior Analyst

Names of Sections/Desks/Units

AA	-	Anuvad Anubhag
ADM	-	Administration
AC	-	Audit Cell
B	-	Bank
B & A	-	Budget & Accounts
BL	-	Bonded Labour
C	-	Coal
C&WL	-	Budget & Women Labour
CLS	-	Central Labour Service
CMT	-	Career Management & Training
COORD	-	Coordination
CR	-	Central Registry
DU	-	Departmental Undertaking
EMIG	-	Emigration
ESA	-	Economic & Statistical Analysis
FIN	-	Finance
ILAS	-	International Labour Affairs Section
IMP	-	Implementation
IR	-	Industrial Relations
ISH	-	Industrial Safety & Health
IWSU	-	Internal Work Study Unit
LC	-	Labour Conference
LDRC	-	Labour Documentation & Research Centre
LW	-	Labour Welfare
MISC	-	Miscellaneous
MMO	-	Meeting and Maintenance Officer
PAO	-	Pay & Accounts Office
PG	-	Policy General
PL	-	Policy Legal
PLG	-	Planning Unit
PU	-	Parliament Unit
RBN	-	Raj Bhasha Niti
RW	-	Rural Workers
SS	-	Social Security

ORGANISATIONAL STRUCTURE



ANNEX - I**PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION
FUNCTIONAL DESCRIPTIONS****I. OFFICE OF THE ADMINISTRATOR**

The Office of the Administrator is responsible for the implementation of the policies, programmes, activities, rules and regulations formulated by the Governing Board and exercises direct supervision and control over the Offices under the Administration and the various departments and divisions composing it. The Office of the Administrator and the various departments and divisions composing it. The office of the Administrator shall exercise supervision over the Regional Extension Units.

A. REGIONAL EXTENSION UNITS

The Regional Extension Units shall be the field offices of the Administration. It shall among others, coordinate and give direction to the employment, promotion and recruitment regulation functions as well as assist in the implementation of the campaign against illegal recruitment in regions outside Metro Manila.

1. Executes the policies, plans and programmes of the Administration in the regions outside of the Metro Manila area;
2. Coordinates with the local government officials on the matter of implementation of the Administration's programme on overseas employment;
3. Advises the central office on the needs of the region for particular welfare and regulatory programmes;
4. Establishes linkages with other allied government agencies in the pursuance of the objectives of the overseas employment programme;
5. Coordinates the anti-illegal recruitment campaign in the regions;
6. Performs other functions as the Administration may deem necessary.

II. OFFICE OF THE DEPUTY ADMINISTRATOR FOR EMPLOYMENT AND WELFARE

Advises and assists the Administrator in the formulation and implementation of policies, programmes, functions of the Administration in the area of employment, accreditation, processing, welfare and marketing.

Assists in coordinating the operational activities of the Administration and is responsible to the Administrator for effective, efficient and economical administration.

Performs and assumes the functions of the Administrator whenever designated, in case the later cannot perform his functions.

A. PRE-EMPLOYMENT SERVICES OFFICE

Undertakes the formulation of comprehensive marking programmes, industry service projects, continuous market research and development of overseas standards in

order to generate overseas employment opportunities and improve the condition of employment of overseas Filipino workers; provides integrated accreditation and processing services to facilitate the fast delivery of qualified Filipino workers hired through private agencies/entities; processes the documents of Filipino workers returning to worksite to resume their contractual employment with foreign employers.

1. LANDBASED CENTRE

Facilitates accreditation and processing of employment documents of land-based workers. The Centre is composed of land-based projects accreditation division, land-based processing division, balik-manggagawa processing division and Facilitation and Review Office (FARO) for special accounts.

a) LANDBASED PROJECTS ACCREDITATION DIVISION

1. Evaluates and approves recruitment/services agreements covering land-based workers and approves those which meet the minimum requirements prescribed by the Administration;
2. Reviews and verifies in coordination with foreign embassies and Philippine missions, commercial registration and other business documents to prove the legal personality of foreign principals;
5. Evaluates and approves all manpower requisition or job orders filed by accredited foreign principals from time to time through licensed agencies and overseas projects of licensed construction and service contractors;
6. Reviews and decides multiple accreditation cases and other cases involving conflicts between foreign principals and local recruitment agencies and entities;

b) LANDBASED PROCESSING DIVISION

1. Verifies against the approved manpower requisition or job order the request for processing submitted by licensed agencies and entities;
2. Undertakes the review and processing of individual employment contracts and other travel documents such as insurance certificates, medical certificates, etc. of land-based workers of different classification/categories hired through licensed agencies and entities; and
3. Prepares and issues the necessary endorsement for processing and issuance of other travel documents.

c) LANDBASED PROCESSING DIVISION

1. Undertakes the expeditions processing of travel documents required by all vacationing overseas Filipino workers; and
2. Issues the necessary endorsement to other appropriate government agencies.

d) FACILITATION AND REVIEW OFFICE (FARO)

The FARO shall perform the following basic functions:

1. Facilitate the job creation programme of POEA particularly for Taiwan.
2. Generate and maintain labour market data and other market developmental plans.
3. Network with other agencies and other programme implementers.
4. Determine the urgent needs of clients and provide the necessary support and assistance.
5. Maintain systematic and complete records on all services offered/rendered
6. Review, evaluate and enforce all activities, functions and programmes pertaining to matters on legal and internal audit.

Operational functions

1. Evaluation and approval of job orders;
2. Accreditation of Taiwanese employers/principals;
3. Processing of employment contracts;
4. Issuance of Overseas Employment Certificates;
5. Tabulation of approved job orders for endorsement to accredited medical hospitals;
6. Processing of name hires to Taiwan;
7. Other related functions as may be assigned by the Administrator.

2. SEABASED CENTER

Facilitates accreditation and processing of employment documents of sea-based workers. The Centre is composed of sea-based projects accreditation division and sea-based processing division.

a) SEABASED PROJECTS ACCREDITATION DIVISION

1. Evaluates and approves manning agreements to ensure that they meet the minimum requirements prescribed by the Administration;
2. Checks and verifies the legal personality of the foreign principal hiring Filipino seamen;
3. Approves and actively monitors all vessels assigned by the foreign principals to its local agents indicating venues of the vessels and their full particulars;
4. Approves crewing orders of foreign principals filed by manning agencies for time to time which meet the requirements of the Administration, and

b) SEABASED PROCESSING DIVISION

1. Verifies against the crew compliment the request for processing submitted by licensed manning agencies;
2. Undertakes the processing of the employment contracts of seamen and other documents needed for travel; and
3. Prepares and issues the necessary endorsement to other appropriate government agencies.

3. MARKETING BRANCH

Undertakes the development of hiring standards and overseas employment opportunities for Filipino workers through market research, employment standards development and market promotion activities in coordination with the private sector; designs market plans and strategies to tap existing and potential markets for Filipino manpower.

a) MARKET RESEARCH AND STANDARDS DIVISION

1. Conducts continuous studies and surveys here and abroad for the formulation of standards on employment terms and conditions and practices;
2. Monitors as studies developments in various work-sites that affect the acceptability of Filipino workers;
3. Conducts research studies for the continuing analysis of the overseas employment programmes; and
4. Integrates and analyses statistical data on the overseas employment programme.

B) MARKET PROMOTIONS DIVISION

1. Develops and implements marketing plans and programmes for the promotion of overseas employment for Filipino workers;
2. Coordinates and assists the private sector in its market development efforts;
3. Organises and manages special events to promote the employment of Filipino workers;
4. Establishes cordial and harmonious relationship with foreign government agencies, foreign employers and embassies and other entities for the promotion of Filipino workers; and
5. Assists visiting foreign delegations interested in hiring Filipino workers.

B. WELFARE AND EMPLOYMENT OFFICE

Develops and implements policies and programmes to undertake the Administration's thrust of promoting the interest and welfare of overseas contract

workers and their families. To pursue such objectives, the Office is responsible for the maintenance of a registry of workers for placement purposes; promotes and develops recruitment agreements with foreign governments employers and their instrumentality's; provides comprehensive facilities for handling all phases of recruitment of Filipino workers hired through government-to-government agreement; develops and undertakes programmes for the enhancement of the living and working conditions of overseas Filipino workers and their families; establishes procedures and capability within the Administration for the immediate and effective repatriation of Filipino workers whenever the same shall be necessary; conducts workers education programmes to inform the workers on migration realities, labour and employment conditions, country profile and other facts about the host country; performs all necessary acts to attain the purpose and objective of the Administration in the promotion and protection of the welfare of the overseas workers and their families.

1. EMPLOYMENT BRANCH

The Employment Branch provides and develops the real manpower pool for present and future employment opportunities; provides skills evaluation, classification and certification, as well as identifying future skills requirements for purposes of skills upgrading and/or training.

a) MANPOWER REGISTRY DIVISION

1. Pre-screens, evaluates and registers employment applications for classification to various occupational categories both for land-based and sea-based workers;
2. Issues certificates of competence to various skills requiring such certification for purposes of employment;
3. Maintains a nationwide manpower pool of classified land-based and sea-based workers for referral to appropriate job openings with the Government Placement Branch and private agencies;

c) MANPOWER DEVELOPMENT DIVISION

1. Identifies and formulates training policies and standards for workers in coordination with present local and foreign employers, training institutions and others.
2. Certifies, formulates and implements, in coordination with relevant government and private entities, special training and skills upgrading for overseas workers; and
3. Undertakes short and long term manpower planning both for overseas and local utilization of skills.

2. GOVERNMENT PLACEMENT BRANCH

Provides comprehensive facilities for handling the selection, documentation and placement of workers hired through government-to-government arrangement.

a) CLIENT SERVICES DIVISION

1. Takes charge of recruitment negotiations with foreign government employers and signs up recruitment agreements;
2. Prepares and evaluates employment contracts;
3. Accepts, processes and monitors manpower recruitment orders;
4. Assists selected workers with securing of visas, confirmation of travel arrangements with airlines and notifies foreign employers of departure schedules; and
5. Provides airport, hotel and tour assistance to arriving and departing employers and foreign delegations.

b) RECRUITMENT AND DOCUMENTATION DIVISION

7. provides the foreign government employers with applicants in accordance with their requirements through a system of job matching, personal interview and skills evaluation, and
8. Gives assistance in conducting trade testing of selected workers;
9. Monitors the progress of the documentation of selected workers and advises foreign employers of the same;
10. Handles the processing and issuance of necessary travel documents to selected applicants, including referral to medical examination, preparation of travel documents and other papers such as passport, clearances etc.

3. WELFARE SERVICES BRANCH

Implements policies, plans, programmes and activities for the betterment of the working and living conditions of overseas Filipino workers and their families; coordinates with the Labour Attaches and other foreign offices as well as with the Overseas Workers Welfare Administration (OWWA), on matters relating to follow-up of claims against foreign employers on the repatriation of workers or their remains; and coordinates with relevant government entities and the private sector in developing cultural and educational programmes for overseas Filipino workers in developing and implementing programmes designed to promote good working relationships between foreign employers and overseas Filipino workers and their families.

a) WELFARE ASSISTANCE DIVISION

1. Formulates and implements plans and programmes aimed towards the enhancement of the living and working conditions of overseas Filipino workers and their families in coordination with OWWA;
2. Assists in processing and facilitating insurance, injury and death claims of overseas Filipino workers;
3. Coordinates with OWWA on the repatriation of workers and/or worker's remains;

4. Develops and implements programmes designed to promote good working relationships between foreign principals and overseas Filipino workers;
5. Provides various types of assistance to overseas Filipino workers and their families.

b) WORKERS EDUCATION DIVISION

1. Conducts pre-departure orientation seminars to government placed workers including name hires;
2. Accredits agencies or entities conducting PDOS seminars;
3. Monitors pre-departure orientation seminars conducted by agencies or entities;
4. Undertakes a trainers' training for agencies or entities;
5. Designs programmes to equip workers with necessary skills to cope with or adopt to changes in environment;
6. produces and updates materials used for orientation seminars; and
7. Serves as a centre for disseminating information to agencies conducting PDOS.

III. OFFICE OF THE DEPUTY ADMINISTRATOR FOR MANAGEMENT SERVICES

Advise and assist the Administrator in the formulation and implementation of the policies, programmes and functions of the Administration in the areas of policy development, planning, and international relations, information, finance, administration and computerization.

Coordinates all the administrative and related activities of the Administration and is responsible to the Administrator for effective, efficient and responsive support services.

Performs and assumes the functions of the Administrator whenever designated, in case the latter cannot perform his functions.

1. PLANNING BRANCH

Provides POEA with staff support and assistance in the formulation of short and long range policy/plans and programmes necessary for the achievement of its assigned objectives; coordinates with DOLE's planning and research units and other government planning and research agencies; executes information programmes that contribute to the attainment of the objectives of the overseas employment programme; and informs and assists the general public on matters relating to overseas employment programme.

a) POLICIES AND PROGRAMMES DIVISION

1. Prepares the overall strategy directions and programme of the Administration in pursuing its objectives and goals;
2. Undertakes technical formulation, review and evaluation of policies and development projects in coordination with all sectors both government and private;

3. Provides technical advise to the Administrator and operating units on matters relating to policies and programmes; and
4. Coordinates the corporate activities of the Administration that are international in character.

b) INFORMATION AND EDUCATION DIVISION

1. Develops and executes information and education programmes and projects to the overseas employment programmes;
2. Handles media relations and public relations functions;
3. Responsible for the media liaison including preparation of press releases as well as establishment of linkages with other government and private agencies involved in information dissemination;
4. Handles production of information materials for the Administration;
5. Assists in the technical preparation of exhibits, displays and other promotional activities for marketing; and
6. Extends assistance to the general public for inquiries related to the functions, programmes and operational activities of the Administration.

2. FINANCE BRANCH

Provides the Administration with technical staff assistance on fiscal and organisational matters particularly on the management of the financial resources, determination of budgetary requirements, and accounting of the Administration's funds.

a) BUDGET DIVISION

1. Reviews and updates preparation of the annual, supplemental and special budget for the Administration in accordance with the Department of Labour and Employment's programme thrusts;
2. Reviews expenditures and budget allocation to ensure that they do not exceed the authorized allotment subjects to budgetary rules and regulations;
3. Assists and coordinates in the formulation of fiscal policies; and
4. Prepares physical reports of operations for use of the Budget Office.

b) ACCOUNTING DIVISION

1. Makes accurate recordings of all financial and other related transactions of the Administration in the books of accounts and accounting records;
2. Obligates the funds of the Administration;
3. Prepares and submits financial reports to management and other government agencies specially authorized to receive these reports; and
4. Provides technical assistance on financial matters specifically policies and plans which have accounting implications that will have some effects on POEA's financial operations.

3. EDP BRANCH

Implements plans and programmes relative to the monitoring of data on overseas Filipino workers and shall be responsible for all data generation and output for use of management; undertakes the design, review and monitoring of operational systems and gathers operational data for use of management.

a) DATA BANK DIVISION

Maintains and manages the safekeeping of EDP files so as to provide management with timely and accurate data and reports.

b) SYSTEMS DEVELOPMENT AND OPERATIONS DIVISION

1. Designs/reviews and monitors the operational systems of POEA; and
2. Assists operating units in the establishment and determination of efficient operational systems.

4. ADMINISTRATIVE BRANCH

Provides POEA with economical, efficient and effective services relating to personnel, records management, supplies, equipment, collection and disbursement, security and custodial work.

a) HUMAN RESOURCE DEVELOPMENT DIVISION

1. Provides advice and action on personnel administration;
2. Develops and implements sound personnel policies and programmes on recruitment, performance rating, employee welfare and employee benefits concomitant with civil service rules and regulations;
3. Designs and implements staff development programmes; and
4. Acts on all matters pertaining to personnel, attendance, leave of absences, appointments, promotions, transfer and other personnel matters.

b) GENERAL SERVICES DIVISION

1. Coordinates messengerial, janitorial, and security services of the POEA;
2. Plans and administers an effective programme for the proper maintenance of building, furniture and fixtures and office equipment;
3. Provides transportation services for the office and takes charge of the proper maintenance of the motor pool;
4. Undertakes general utility service;
5. Maintains custody of all POEA's properties and equipment; and
6. Takes charge of the procurement, distribution, storage, and inventory of all POEA's properties including supplies.

c) CASH DIVISION

1. Responsible for all money/funds received and collected by the Administration;
2. Prepares payrolls, vouchers for payment of obligations;
3. Reports on collection and disbursements.

d) CENTRAL RECORDS DIVISION

1. Plans, administers and coordinates an effective records management;
2. Undertakes studies for effective records creation, processing, maintenance, control and preservation and disposition;

IV. OFFICE OF THE DEPUTY ADMINISTRATOR FOR ADJUDICATION AND EMPLOYMENT REGULATION

Advises and assists the Administrator in the formulation of policies, programmes, and activities in the areas of adjudication and regulation of recruitment activities.

Coordinates the functions and activities of the Adjudication Office and the Regulation Office and assists the Administrator in the exercise of supervision and control over them.

Performs the functions and activities of the Administrator whenever designated, in case the latter cannot perform his functions.

A. LICENSING AND REGULATION OFFICE

Develops and implements policies and programmes for the licensing and supervision activities of private sector participants in the overseas employment industries for the curtailment of recruitment and employment activities of unlicensed recruiters, agencies and entities and for the regulation of the activities of entities servicing pre-employment requirements of overseas Filipino workers. Implements policies, plans, and programmes of the Administration in the areas of anti-illegal recruitment campaign and monitors deployment and related activities of licensed agencies.

1. LICENSING BRANCH

Develops and implements a system for licensing of private employment agencies and manning agencies engaged in the recruitment and deployment of overseas Filipino workers; formulates and implements an inspection programme for the effective supervision of the activities of active private employment agencies and manning agencies engaged in the recruitment and placement of workers overseas; develops a programme for appraisal of the performance of private employment agencies and manning agencies licensed or authorized to recruit and deploy workers for overseas employment.

a) LICENSING AND EVALUATION DIVISION

1. Processes all applications for license/authority of private employment agencies and manning agencies and all documents in support thereof;

2. Issues licenses or authorities to qualified applicants upon approval of the Administrator and/or the Secretary;
3. Monitors status of case and surety bonds and requires the replenishment or renewal thereof;
4. Prepares and updates list of licensed agencies;
5. Processes application for transfer of business address, issuance or renewal of branch office authorities and for the conduct of recruitment activities outside the agency's duly registered office;
6. Maintains files of all licensed agencies including an index of their authorized signatories;
7. Issues IDs to authorized liaison officers of agencies and entities and supervises their activities;
8. Hears all disputes involving the issuance of license or the use thereof by its holder;
9. Implements programmes for the evaluation of the performance of private employment agencies;
10. Evaluates application for issuance of license or authority per company's record of performance;
11. Appears in court hearings on illegal recruitment activities and estafa cases to testify on the legal status of an agency or a recruiter;
12. Monitors foreign exchange remittances of private recruitment entities and manning agencies;
13. Monitors compliance with capitalization requirements of the Administration;
14. Acts on all matters and inquiries concerning authorities of all licenses of agencies.

b) INSPECTION DIVISION

1. Formulates and implements an inspection programme for the effective supervision of the activities of licensed agencies;
2. Conducts periodic inspection of the premises of agencies to verify if they conform to operational standards or to verify reports of violation;
3. Examines books of accounts and records of licensed agencies to determine compliance with the provisions of the Labour Code and the Implementing Rules and Regulations Governing Overseas Employment;
4. Conducts ocular inspection on foreign registered vessels with Filipino crew members to determine working and living conditions of Filipino seamen;
5. Recommends to the Director appropriate policies concerning the supervision of actual operations of licensed agencies.

2. EMPLOYMENT REGULATION BRANCH

Formulates and implements policies, plans and programmes for the regulation and supervision of entities providing services to workers desiring to work abroad. Formulates policies, plans and programmes in connection with the monitoring of the departure of overseas Filipino workers, the checking of their travel and employment documents as well as the monitoring of their return to they country. Assists in the dissemination of information to both departing and returning contract workers.

a) EMPLOYMENT SERVICES REGULATION DIVISION

1. Establishes linkages with other entities, both government and private, to ensure the effective regulation of entities involved in providing pre-employment services to workers';
2. Monitors overseas job advertisement both on print and broadcast media and calls attention of advertisers and publishers of printed ads or radio-TV station managers to illegal job advertisements;
3. Performs other related functions.

b) LABOUR ASSISTANCE CENTRE

1. Formulates and implements policies on the checking of travel and employment documents of departing contract workers;
2. Implements policies and programmes on the monitoring of the arrival of returning contract workers;
3. Assists workers in all his needs and problems in connection with his departure for overseas work or with his arrival from worksite;
4. Assist in the dissemination of information to workers on policies, rules and regulations on labour, immigration and other related matters.
5. Performs such other functions.

3. ANTI-ILLEGAL RECRUITMENT BRANCH

Assists, facilitates, and provides relief to the victims of illegal recruitment; coordinates with other government agencies and instrumentality's respecting common strategies and activities to check illegal recruitment activities; acts as the National Secretariat for all government efforts against illegal recruitment.

a) LEGAL ASSISTANCE DIVISION

1. Receives all complaints or reports on illegal recruitment;
2. Assists victims of illegal recruitment and other exploitative practices in filing criminal complaints with the Prosecution Division or of administrative complaints against licensed agencies with the Adjudication Office;
3. Acts as special counsel for victims of illegal recruitment and other exploitative practices of agencies, whenever necessary;
4. Performs other functions as directed.

b) OPERATION AND SURVEILLANCE DIVISION

1. Conducts surveillance on activities of illegal recruiters and carries out raid operations;
2. Implements warrants of arrest, search and seizures or closure orders;
3. Serves notices and summons issued by the Prosecution Division;
4. Performs other functions as directed.

c) PROSECUTION DIVISION

1. Conducts preliminary investigation on cases for illegal recruitment or estafa committed in connection with recruitment for employment;
2. Prepares resolution on complaints for illegal recruitment;
3. Files information for illegal recruitment or estafa in court;
4. Prosecutes cases in court;
5. Monitors status of cases and progress of prosecution of cases filed by it;
6. Secures warrants of arrest, search and seizure from the courts.

c) ADJUDICATION OFFICE

Advises top management on legal matters affecting interpretation, administration and enforcement of laws affecting Filipinos working or desiring to work overseas; hears, arbitrates and adjudicates cases or complaints for disciplinary action as well as violation of the rules and regulations on recruitment and placement of workers or for violation of the conditions for the use of license; docket and records all cases filed with the Administration, serves notices and processes in connection therewith and issued by it; conducts legal research in aid of case disposition.

1. ADJUDICATION BRANCH

- a) Arbitrates, hears, and adjudicates cases or matters involving violation of employment contracts or breach of discipline by Filipino overseas workers and provides relief of sanctions therefrom;
- b) Prepares necessary summons, orders, notices and subpoenas in connection to the conduct of hearings;
- c) Recommends draft decisions, orders or regulations on cases handled by it;
- d) Maintains a file of watchlisted/blacklisted foreign principals/employers and overseas workers.

2. RECRUITMENT REGULATION BRANCH

Arbitrates, hears and adjudicates cases arising out of abuses or violations of rules and regulations on recruitment and placement of workers by licensed agencies.

- a) Assists victims of recruitment abuses committed by licensed agencies by prosecuting the cases/charges filed against the latter;

- b) Prepares summons, orders, notices and resolutions relative to the investigation of erring licensed agencies;
- c) Prepares draft decisions, resolutions or orders on cases and disputes handled.

3. LEGAL RESEARCH, DOCKET AND ENFORCEMENT BRANCH

Responsible for receiving and docketing of all complaints filed with Adjudication Branch and Recruitment Regulation Branch. It shall enforce decisions of both branches and act as the legal research arm of the Administration in aid of case disposition.

a) LEGAL RESEARCH DIVISION

1. Conducts researches in aid of case disposition and recommendation of decisions;
2. Prepares case digest;
3. Assists the operating units in determining the legal implications of policies and/or positions taken by them on a given issue;
4. Coordinates with Chief, Legal Counsel of the Administration in responding to notices and other processes issued by Courts and other administrative bodies relative to the functions of the Adjudication Office;
5. Answers queries/gives opinions and counsels the public regarding their problems; and
6. Performs other related functions as may be directed by top management.

b) DOCKET AND ENFORCEMENT DIVISION

1. Receives all complaints, motions and pleadings as well as letters, communications and reports;
2. Dockets and records all cases filed with the Administration;
3. Keeps records of all cases pending and decided;
4. Recommends the watchlisting/blacklisting of overseas contract workers;
5. Issues clearances to overseas Filipino workers and agencies;
6. Prepares writs of execution of all final decisions;
7. Serves writs, orders, summons, orders and decisions;
8. Enforces writs, subpoenas, orders and prepares sheriff's reports; and
9. Takes charge of collection and satisfaction of claims per writs issued.

RESIDENT OMBUDSMAN

1. Attends to requests for assistance filed directly with the office, or assigned to the office by its head, by the Office of the Ombudsman or by the Civil Service Commission;

2. Reports anomalies, irregular acts, unethical conduct or illegal activities committed by the officials and employees of the office;
3. Aids the Office of the Ombudsman in gathering evidence in cases under investigation by the latter;
4. Makes a study of standing procedures and systems in the office with a view to suggesting improvements therein, or recommending changes in the same as would prevent the incidence of graft and other irregularities perceived to have been facilitated by the existing systems and procedures;
5. Submits an accomplishment/progress report to the Office of the Ombudsman at least once a month, or oftener as circumstances may require, and
6. Perform such other functions as may be assigned by the Office of the Ombudsman.

OVERSEAS EMPLOYMENT LEGAL COUNSEL

1. Provides legal advice on laws, statutes, rules and regulations applicable and related to the overseas employment.
2. Renders illegal opinion on and/or prepares agreements, contracts and similar documents for the Administration;
3. Prepares answer to written complaints and legal queries on overseas employment;
4. Reviews and renders legal opinion on recruitment, manning, and service agreements as well as master employment contracts submitted to the Land-based and Sea-based Accreditation Divisions.
5. Hears and mediates in matters of transfer on multiple accreditation of foreign principals/projects and its agencies which may involve directly or indirectly financial claims arising out of contractual obligations.
6. Advises and assists the Land-based and Sea-based Accreditation Divisions in the implementation of rules and regulations in the accreditation of foreign principals/ projects.

ANNEX - J

A COURSE ON THE ADMINISTRATION OF AN OEP

While some developing countries are already in a stage of a migration *transition* like Korea, Malaysia and Thailand (now experiencing skills shortages and thus are resorting to hiring foreign workers), there are newcomers that have significant increases in their deployment of workers overseas. Moreover, there are the established labour-sending countries that have registered steady increases in their deployment in the past ten years.

As stated at the outset, the management of worker flows has become more difficult and contentious for new labour-sending and receiving countries as well as for traditional sources and hosts of OCWs. The concerns of labour-sending countries revolve around securing the greatest quantity of high-quality job opportunities for their nationals, ensuring that private recruitment agents do not abuse workers in the course of their matching and placement functions and the successful re-absorption of those who are settling back after overseas work.

Also mentioned at the outset was the conduct of a comprehensive capacity building seminar on migration management, migration policy development and cooperation in the region as the first step to implement the provisions of the **Bangkok Declaration**. As part of the overall goal towards an effective management of migration flows, a proposal (Achacoso, 1997) submitted some years ago is reconstituted here as a recommendation which the IOM may wish to consider. It aims to coach newcomers to the international labour migration “market” in the effective administration of government programmes involving migration for employment. The proposal will optimise use of available funds for migration-related activities by institutionalising a course in the effective administration and management of government-sponsored overseas employment programmes as a form of technical assistance to new senders of migrant workers or to traditional sources experiencing difficulties with their current system.

The proposal diverges from the concept of study tours as a mode of learning, which, in many instances in the past, would spend more time paying courtesy calls to top officials of the host country. And as observed in the mission report of the Vietnamese study tour to the Philippines (Achacoso, 1997), the POEA turned down the initial request for it to devote 5 days to teaching a country regarded as a competitor. The POEA agreed to accommodate the Vietnamese delegation for just a one-day briefing of its operations. (See Note # 3)

This proposal is a more practical and productive approach to the problems of sending countries newly embarking on an overseas employment programme for almost the same cost and length of time. The results of the course are also highly flexible and measurable, indicating whether the objectives set by the participants are being met.

Objectives

1. To orient implementers on the requirements of a government-run overseas employment programme including organisational structure and such components as labour market information and database, welfare assistance, licensing system and workers education;
2. To inform programme implementers on the costs and benefits of an OEP;
3. To design a comprehensive and integrated OEP which would include a reintegration component;
4. To design a re-entry programme based on experience and learning's from the course, fully endorsed by the course director and to be implemented upon the return of the participant in his or her own country.

Methodology

The course shall be participative and proceed using the lecture and workshop style methods and aided by multi-media presentations. Each participant shall present a country paper detailing how overseas employment is being managed in his own country. The paper shall identify policy gaps and shall propose corrective measures or recommendations.

Each participant shall design a re-entry programme, a plan of action to be implemented upon return to his country of origin. Either the course director or the sponsoring agency shall periodically monitor the implementation of the re-entry programme.

Participation:

The course shall be attended by implementers of OEP's from interested countries specially those from newly embarking on such a programme. For the course to be effective, participation shall be limited to 10-15 participants.

Resource Persons

A course director shall take care of managing the course on a day-to-day basis to be assisted by a secretariat of two people. Specific topics shall be discussed by persons acknowledged to have the expertise on a particular topic from the government, recruitment industry and non-government organisation.

Duration

The course shall run for at least six to eight days.

Follow-up Mechanism

One year after the course, a follow-up workshop in the sending country may be conducted to check on the progress of the implementation of the re-entry programmes. If this is not possible, the course director or an expert on migration should visit the sending country to follow-up on the implementation of the re-entry programmes.

Budget

Return airfare of participants;
 Cost of accommodation/food of participants
 Cost of venue
 Cost of running the course
 Supplies and materials
 Local Transportation
 Communication
 Equipment
 Honoraria for resource persons
 Field Trip/s

Course Design

- I. Introduction to Overseas Labour Administration
- II. Introduction to International Labour Migration
 - * Theories of migration
 - * Costs and benefits of migration
- III. Analysis of Country Experiences of Programmes on Overseas

Employment

- * Philippines
 - * Participating countries in the course
- IV. Administration of an Overseas Employment Programme
 - * Labour market information
 - * Looking for markets for skills
 - * Documentation of foreign job requirements
 - * Documentation system for overseas workers
 - * Regulation system for recruitment agencies
 - * System for welfare assistance and workers' complaints
 - * Workers' education programme
 - * Complementary orientation programme for workers' families
 - * Orientation programme for recruitment agencies
 - * Database development
 - * Monitoring system for workers overseas
 - * Collaborative programmes for labour-sending countries
 - * Gender-sensitivity workshop

Note : All subjects are to be followed by a workshop. In between these subjects, visits may be scheduled to the POEA, OWWA, some recruitment agencies, and other institutions and establishments relevant to the course.

- V. Design and development of re-entry programmes
- VI. Presentation and critique of re-entry programmes
- VII. Culminating programme