

Symposium on
CROSS-BORDER MOVEMENT OF NATURAL PERSONS:
Economic Partnership Agreement (EPA) and acceptance of foreign workers

Summary Report

I. Outline of the Symposium

A symposium on ‘Cross-Border Movement of Natural Persons: Economic Partnership Agreement (EPA) and acceptance of foreign workers’ was held on July 27, 2004 at U Thant International Conference Hall, United Nations University. This symposium was organized by the International Organization for Migration (IOM) and the Ministry of Foreign Affairs of Japan and drew more than 300 people.

II. Opening Remarks

Mr. Kenichiro Sasae, Director-General of Economic Affairs Bureau, Ministry of Foreign Affairs

Strong interests were expressed by partner countries in the area of ‘cross-border movement of natural persons’ at the negotiating tables for Economic Partnership Agreements (EPAs). In accepting foreign workers, we need to be reminded of the significant impact it will bring to our economic lives and beyond. The aim of this symposium is to raise the major issues and arguments which can serve as the basis for further debate on acceptance of cross-border movement. I hope to hear lively discussions covering issues such as revitalization of the Japanese economy, the merits/demerits of accepting foreign workers, and the perspectives of sending countries.

III. Session I: EPA and Movement of Natural Persons - *how should Japan respond?*

Moderator: Mr. Kenichiro Sasae

Summaries of the Presentations by Panelists

Mr. Kiyooki Shimagami, Chairperson of Taskforce for Promotion of EPA, Nippon Keidanren (Japan Business Federation)/Senior Adviser, Toshiba Corporation

South East Asia became a region with strong economic power and continues to maintain great potential, thus providing an important economic base for Japan. We hope that the conclusion of EPAs with South East Asian countries will serve to further facilitate the mobility of goods, services, persons and investments.

Facilitating the cross-border movement of natural persons is important for many reasons. Foreign workers contribute to the generation of a dynamic, multicultural and diversified environment necessary for revitalizing the Japanese economy. Similarly, the recruitment of skilled and highly skilled

professionals has truly become globalized, and corporations and companies need qualified persons regardless of their nationality. Furthermore, facilitating the mobility of persons may serve to find solutions to Japan's aging population and strengthen Japan's partnership with South East Asia. As the first step to achieve these goals, deregulation of immigration policies is requested by the Nippon Keidanren to facilitate international intra-company transfers and human resource outsourcing practices.

Mr. Yasutaka Suga, Executive Director of Department of Working Conditions, Rengo (Japanese Trade Union Confederation)

Conclusion of EPAs may result in revisions and changes to be made to the national structure, social system and livelihood of Japanese citizens. Concerns over how these changes may affect the well-being of the workers of sending and receiving countries should rise. A thorough examination of the 'negative consequences' should take place before pursuing short-term economic merits.

The issue of 'movement of natural persons' needs to be examined from the standpoint to enable sustainable development of both sending and receiving countries. This requires medium- and long-term perspectives and is different from the short-term view which is based on temporary labour shortage. There are various costs associated with the influx of foreign workers, including the pressure placed on local employment, health and education services, and cultural frictions arising from differences. There is a risk that foreign workers would be marginalized to the bottom of an increasingly segmented Japanese labour market. Attention needs to be paid to the unresolved domestic employment challenges faced by over 3 million unemployed, recent graduates without jobs, and casual/temporary workers. Therefore, acceptance of foreign workers should be tolerated only for skilled workers. The trade union also maintains that this issue should be decided based on the principle of national consensus and a thorough consideration of the domestic employment situation.

Mr. Brunson McKinley, Director General of IOM

In recent years, there is a revival of interest in employment-related migration among European nations. Countries such as the UK, Germany and Ireland are opening their doors once again to foreign migrants. Some trends in European labour migration policies may be worthy of attention. First of all, it is clear that labour migration policies and comprehensive migration management are increasingly becoming integrated as exemplified by the new immigration law of Germany which encompasses issues of labour migration, border management, and integration of migrants. Secondly, dramatic diversification in the types of labour migration schemes is taking place to recruit migrants of various skills and origins. Bilateral labour agreements are by far the most common types of agreements. Identification of suitable labour migration schemes beneficial and suitable for both sending and receiving countries is achievable only through dialogue. Among all the benefits enjoyed by sending countries, the importance of migrant remittance needs to be stressed. In many sending countries, the amount of remittance often exceeds that of foreign direct investment or overseas development aid. The way to maximize the use of remittance for social and economic development needs to be explored.

Mr. Tomas Achacoso, Former Administrator of Philippine Overseas Employment Administration (POEA)

In order for Japan to effectively respond to the migration phenomena, there is a need to harmonize institutional arrangements not just between Japan and labour-sending countries but also within Japan itself. Japan will need to ensure that the administrative machinery dealing with migrant workers is adapted to reality. This could take the form of a position being created within Japan's bureaucracy which will be in charge of overseeing its system and procedures and amending them as necessary. Another option is to set up offshore offices or make use of outsourcing facilities to monitor the migration process.

From my experience, the problem is not the absence of good policies but rather the lack of attention to the details of how labour-sending countries respond to the manner in which these policies are implemented. Japan needs to ensure that its domestic system is attuned not just to its internal operation and requirements but also to the realities of the sending countries.

Summaries of Panel Discussion and Q&A

- Merits in accepting foreign workers include provision of human resources that cannot be met locally, securing of financial resources for social securities including pension, and contribution to the development of labour-sending countries through skill transfer and workers' remittance.
- Demerits in accepting foreign workers include the risk of marginalizing foreign workers to the bottom of an increasingly segmented labour market in Japan. To avoid this risk, measures to improve the existing working environment are indispensable.
- EPA negotiation touches upon the issue of acceptance of foreign workers from the standpoint of human resource exchange. This does not mean that EPA negotiation is the occasion to negotiate the nation's immigration policy. On a separate occasion, a discussion needs to take place to debate the potential schemes if foreign workers are accepted on a regular basis. Through these types of discussion, we seek consensus on a comprehensive migration policy.
- Research is needed to identify the trends in labour shortage by region and sector. Cooperation from regional governments may be required to achieve this goal.
- Globalization of crime is in progress as the cross-border movement of persons is on the rise. International cooperation among law enforcement agencies and judicial authorities is vital, especially in the areas of human trafficking and smuggling.
- It is important to provide skills training to develop the desired human resources domestically, while pursuing orderly immigration of foreign workers under the EPA framework.

IV. Session II: Panel Discussion on Acceptance of Skilled Workers

Panel Discussion I: Acceptance of Skilled Workers - *having nurses and caregivers in mind*

Moderator: Mr. Makoto Ebina, Research Fellow of Mizuho Research Institute Ltd.

Summaries of the Presentations by Panelists

Dr. Yutaka Kajiwara, AHP Network/President of Itakura Hospital

In order to contribute to the human resource development of the youth in South East Asia, Asian Human Power (AHP) Network has been running a training assistance programme for Vietnamese nurses since 1994. This programme aims for Vietnamese youth to obtain nursing licenses and carry out training internships in Japan. Training and support are provided for acquiring Japanese language ability, enrolling in Japanese nursing schools, and carrying out training internships in Japan. In the first trial phase of our programme, none of our candidates passed the entrance examination for nursing schools. The record has gradually improved, and a total of 38 Vietnamese nurses have been borne through our programme so far.

Some of the issues that have arisen from our programme may be relevant in relation to the discussion on the acceptance of foreign nurses. Under the current immigration system, there is no visa category that allows foreigners with Japanese nursing licenses to work in Japan. Having graduated from nursing schools and completed the four-year training period in Japan, our Vietnamese nurses have no option but to return home.

Dr. Keiko Okaya, Executive Director of Japanese Nursing Association

Globalization is taking place in the world of nursing. The Nursing Association is not against the provision to enable foreign nurses to work in Japan. That said, if the purpose of allowing foreign nurses in Japan is primarily to fill the domestic shortage of nurses, we do not feel comfortable with such a measure and insist that it is not a solution to the root-causes of the problems. Statistically, there is no absolute shortage of nurses in Japan as the total number of registered nurses is sufficient to fill the needs expressed. The shortage is taking place in certain regions or in particular categories of hospitals. Domestic measures to alleviate this mismatch are awaited.

The Nursing Association requests that the foreign nurses who come to work in Japan pass the National Nursing License Examination and obtain the license, have sufficient level of language ability, and receive wages and benefits equal to those of Japanese nurses. We are opposed to the mutual recognition of nursing licenses.

Mr. Mamoru Ougida, Managing Director of Asahi Sun Clean Co., Ltd./Manager of Japan Home Care Service Providers Association

Personally speaking, it may be difficult for foreign caregivers to work in Japan at this moment, considering the age group of customers and risks for potential miscommunication at the workplace. In recent years, however, the situation is gradually changing as the competition is increasing among care providers. Recruitment and retention of caregivers is a challenge for many care providers. Although there are over 20,000 home-helper license holders in Japan, not all of them are working in this area. The retention rate of caregivers is low. One of the ways in which foreign caregivers may be allowed to work in Japan without raising concern is to require them to obtain Japan's Care Helper Certificate and Care Worker Certificate, and have them work among the team of Japanese staff.

With regard to the shortage of nurses, it is an issue for us because some elements of care work indeed require attendance of the nurse. Care providers are facing tremendous difficulties in recruiting and retaining nurses. Our company hires nurses through a placement agency which is very costly.

Mr. Nilim Baruah, Head of Labour Migration Service, IOM

The shortage of nurses is increasingly pronounced in industrialized countries. Foreign nurses are often filling the gap. For them, it is the means to improve skills and benefits through higher wages. In the UK, there are over 42,000 foreign-trained nurses, representing 8% of the total number of registrations. Countries such as Ireland, Australia, Netherlands, South Africa, and the US also depend on foreign nurses.

The system of admitting nurses differ significantly among host countries in terms of recruitment practice, skill recognition, and registration. For example, some countries practice mutual recognition of nurse licenses with or without the credentials from skill/nursing organizations, while others require candidates to pass national nurse examinations. Taking the middle ground, other countries accept foreign nurses as trainees and recognize their skills based on performance. Migration of nurses should not bring adverse effects to the health system of the country of origin. Establishing ethical guidelines for recruitment may help alleviate such incidents.

Summaries of Panel Discussion and Q&A

- There are different interpretations of the future prospect of the supply and demand of nurses in Japan. The total number of registered nurses seems to be sufficient to meet the demand nationwide, while individual hospitals and clinics are suffering from shortages. There is a mismatch in the system which is generating this gap.
- Both nursing and care giving require a sufficient level of Japanese language ability in order to communicate thoroughly. Generally speaking, we have been skeptical about a foreigner's ability to acquire the Japanese language. This is becoming no longer true, and there are foreigners whose level of Japanese is sufficient for carrying out their tasks in Japan.

- Taiwan and Germany actively recruit foreign workers in the areas of nursing and care giving. To achieve sustainable welfare service, the examples of other countries should be referred to and taken into consideration.

Panel Discussion II: Institutional Framework for Receiving Foreign Workers

Moderator: Prof. Kazuaki Tezuka, Chiba University

Summaries of the Presentations by Panelists

Mr. Yasuyuki Kitawaki, Mayor of Hamamatsu City

The revision made to the Immigration Control And Refugee Recognition Act in 1990 allowed people with Japanese ancestry (*nikkeijin*) to reside and work in Japan. This amendment led to the rapid increase in the Japanese-Brazilian population in Hamamatsu City. We are debating today whether or not Japan should accept foreign workers, but Hamamatsu City is already facing problems with how to accommodate foreign residents who represent 4% of the city's total population. From our survey, it is clear that Japanese-Brazilians are settling down in Japan rather than returning home country. It is also clear that many of them do not have health insurance due to their unstable employment status. Education for the children of foreign residents remains insufficient. The children have free access to public educational institutions, but this open door policy does not seem to be enough to provide meaningful education for them. The time has come for us to begin tackling these challenges. Otherwise, the conclusion of EPAs and their consequences would leave some elements of uncertainty in the Japanese society.

Mr. Nobutaka Shinomiya, Deputy Director General of Immigration Bureau, Ministry of Justice

It is clear that cross-border movement of persons will continue into the foreseeable future. This trend poses the question of how our social and national system should respond to the phenomena, especially in the areas of diplomacy and maintenance of public order and security.

In Japan, there are 220,000 visa over-stayers and an estimated 30,000 foreigners who entered our country illegally. The existence of foreigners with irregular status, from the standpoint of social stability and public security, is urging us to take measures to prevent any unwanted consequences. Under the current immigration laws, permits issued for foreign nationals can be divided into two categories: one related to the social status of the person (ex. spouse of Japanese national) and the other related to the categories of activities engaged (ex. study, training, and employment). Any activity and employment of foreigners in Japan must be subject to the rules designated to each status/category. The Immigration Bureau alone cannot provide comprehensive support for foreign nationals. We would like to do this in collaboration with other ministries and agencies. With regard to the issue of human trafficking, the Ministry of Justice is currently undertaking a survey to understand the extent of the problem. Together

with the government, we are working to improve the protection provided for the victims of trafficking and expedite the persecution of traffickers. For refugee recognition procedure, we are in the process of improving transparency in the determination process in accordance with the revised Immigration Control and Refugee Recognition Act.

Mr. Singtong Lapisatepun, Counsellor of Royal Thai Embassy, Tokyo

A recent public opinion survey result clearly shows the ambivalent feelings that Japanese people have toward the issue of foreign workers. While the majority express 'fears and concerns' with regard to foreign workers, a similar proportion also accepts or reluctantly acknowledges Japan's increasing need for foreign workers. A new perspective that looks at the reason why foreign workers continue to come to Japan despite the absence of legal channels is much awaited. A measure must be introduced to deal with the foreign workers who are already here in Japan. The Technical Trainee System is reportedly used as a way to recruit manual workers. Trainees receive little allowance, and some trainees flee to take up illegal but well-paid jobs. Incidents of crime committed by foreigners often draw public attention in Japan. The current immigration system compels many foreign workers to go 'underground', which may make them more susceptible to crime. Crime would rarely take place if there is a system in place to allow foreign workers of a variety of skill levels to work in Japan through regular channels.

Mr. Yorio Tanimura, Director of Migration Management Services Department, IOM

In the year 2000, there were 175 million migrants in the world. In other words, one in every 35 persons is a migrant. A large number of labour receiving countries focus on how to manage the flow rather than stem the movement of people. It is not very realistic to presume that Japan will do without accepting foreign workers in the coming decades. Japan needs to shift its focus from merits and demerits of labour migration to a practical focus on cost and benefit analysis of migration. The former looks at the issue merely from the scope of whether or not to accept foreign workers, while the latter examines the economic, social and cultural costs related to migration. Needless to say, Japan's migration must take into account how its policy will affect the countries of origins of migrant workers. The global labour market for skilled workers is becoming increasingly competitive. Only by making the country a promising destination country for migrants is it possible for Japan to attract competitive and highly skilled foreign workers.

Summaries of Panel Discussion and Q&A

- There is concern that accepting foreign workers may lead to a deterioration in public order and security. At present, foreigners account for 2.3% of all crimes committed in Japan. We have to evaluate this situation and come up with possible responses to address this issue.
- Faced with a labour shortage, the challenge for the first generation is to try to examine the situation and come up with possible solutions. It is the second generation who will be hit hard by the consequences. Before it is too late, we have to commit ourselves to discuss the issue of

declining population and related issues such as the national pension scheme.

- The Overseas Exchange Panel is an advisory body to the Foreign Minister. The Panel has been conducting a series of discussions on the acceptance of foreigners. A report of the discussions is expected to become available in October 2004.

V. Closing Remarks

Mr. Kenichiro Sasae, Director-General of Economic Affairs Bureau, Ministry of Foreign Affairs

The issue concerning the acceptance of foreign workers goes beyond the framework of EPA. It is an issue which is strongly linked to our vision for the future of our country. Thorough examination of the country's future direction, global trends and costs/benefits of migration are essential in formulating our responses. Meanwhile, we are encouraged to create an adequate domestic condition and environment for foreign workers already residing in Japan and for those who will be accepted in the future.