



"FREE FLOW OF SKILLED LABOUR IN ASEAN: A RISK FOR CAMBODIAN GRADUATES?"

Symposium on ASEAN Economic Integration 2015
American University of Phnom Penh (AUPP)
April 8, 2015



By Dr. Sok Siphana
Managing Partner, SokSiphana&associates
Advisor to the Royal Government of Cambodia

Brief background of the Presenter

- Managing Partner of the law firm of **SokSiphana&associates**
- **Chairman of the Board of Cambodia Development Resource Institute (CDRI)**, Cambodia's oldest and prominent independent research institute.



OTHER IMPORTANT ADVISORY POSITIONS

- Advisor to the Royal Government of Cambodia attached to:
 - the Deputy PM and Minister of Foreign Affairs **Hor Namhong**
 - the Permanent Deputy PM **Keat Chhon** at CDC on development and economic policy matters, particularly focused on private sector development
 - the Supreme National Economic Council (SNEC)
- Cambodia Representative to the ASEAN High Level Task Force to Strengthen ASEAN Secretariat and Related Organs 2014
- Eminent Person for the Lower Mekong Initiative 2014
- Member of the ASEAN Task Force on Substantive Issues 2012
- ASEAN India Eminent Person Group Co-Chair 2012
- ASEAN Cambodian Sherpa to G20 2012

CURRENT LEGISLATIVE DRAFTING ASSIGNMENTS

- Building Construction Law with MLMUPC
- E-Commerce Law



Labour Mobility in AEC: Some Facts and Perspectives

Migration in Cambodia

- Cambodia is net labour exporting country
- There were an estimated **1.04 million** Cambodian workers (both regular and irregular) migrating in 2013, around 6.9 per cent of Cambodia's total population ([source: UNICEF Cambodia's Migration Profiles](#))
- Thailand is the largest destination country (750 109 workers or 72%). Other destination countries are USA, France, Australia, Canada, Malaysia, Korea.
- Most Cambodian migrants are irregular
- Majority of migrants are young but they have low education and skills.

Overall mobility of skilled labour in Cambodia

Inward mobility

- 3000/yr
- Over 50 nationalities
- Mainly from China (textile industry), Philippines, Malaysia
- Corporate transferees coming in 5 years
- Independent persons are beginning to increase as it is possible to convert from a tourist to a work visa after finding a job
- A few highly specialised doctors coming in from Viet Nam, Thailand and France
- Internship students may return to work here

Outward mobility

- Few skilled personnel have the possibility of working abroad
- Exception is IT professionals going to Singapore, Canada/US, Japan/Korea

Major immigration regulations affecting incoming skilled labour

- If employer sponsors, person gets work permit prior to or on entry and stay permit on arrival
- If independent arrival receive job offer, they must leave country and then return on a business visa and apply for work permit (Labour) and stay permit (Mol).
- Work permit can be 1 or 2 years

Major labour regulations affecting ASEAN skilled labour

- Labour Law of 1997 allows em/yers to request em/yees from o/s up to 10% of most workplace or 18-20% where necessary
- Some professions, eg. medicine, nursing and engineering, are regulated and procedures exist for assessing and recognizing foreigners
- No quota and flexibility with numbers if find need for more worker o/s

Source: Iredale, et al. (2010), *Free Flow of Skilled Labour Study, ASEAN-Australia Development Cooperation Program Phase II.*



Migration within ASEAN

- The ASEAN region has seen a rapid increase in migration. Between 1990 and 2013, intra-ASEAN migration increased from 1.5 million to 6.5 million. Intra-ASEAN share of total migration increased to 68.6%
 - Three main migrant destinations are Malaysia, Singapore, and Thailand. Together they account for approximately 90 per cent of the region's total migrants
 - Most intra-ASEAN labour migration involves low- and medium-skilled workers.
 - AEC are confined to high-skilled workers. On average, share of eight occupations covered in AEC in total employment accounts for 1%.
 - Regardless of the AEC, flows of low-skilled migrant workers are likely to continue in the short and medium-term.
- 



Impacts of ASEAN Trade Integration on Labour Market

Source: ADB and ILO (2015), ASEAN community 2015: Managing integration for better jobs and shared prosperity

- AEC could generate 14 million additional jobs for ASEAN in 2005.
- The largest absolute demand generated by AEC is generally for low- and medium-skill occupations.
- For Cambodia, AEC will generate 1.1 million in 2025. Retail and wholesale trade managers and electrical equipment installers and repairers are projected to grow fastest.
- Since skilled professions account for a tiny share of total employment the AEC's provisions on labour mobility may have limited short-term impact.





Key issues in labour mobility

- AMS are still reluctant to enshrine the capacity to allow the free flow of skilled human resources in commitments. At this stage they are apprehensive about the impact of liberalization on domestic employment and the maintenance of occupational standards.
- There are many domestic regulations and practices that impede such mobility. These include:
 - constitutional provisions reserving such jobs for nationals;
 - requirements and procedures for employment visas and employment passes and permits;
 - economic and labor market tests;
 - lack of recognition of foreign professional education, training and experience;
 - licensing regulations of professional associations; and
 - language proficiency requirements.



Key issues in labour mobility

- MRAs appear to be the main tool for skilled labor mobility in ASEAN.
- Negotiating for recognition is a complex and time-consuming process given the wide differences in development levels among ASEAN countries.
- Effective implementation of these MRAs pose even further problems.

Any questions ?



For contact:
Dr. Sok Siphana
(855) 98 666 323
Emails: sok.siphana@zicolaw.com
soksiphana@yahoo.com

SokSiphana&associates
a member of ZICOlaw