Managing International Labor Migration in ASEAN: Thailand (Immigration)

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ABSTRACT
This paper aims to review the policies on international migration in Thailand and discuss difficulties in implementation. Today, Thailand is the host country of international migration from neighboring countries. Most legal migrant workers are professionals, but there are also illegal migrants from Cambodia, Lao PDR, and Myanmar (CLM). It is difficult to measure the impacts of migration on wages and employment choices of local workers. Yet some studies assert that illegal CLM migrant workers are paid less than the minimum wage or they are not treated equally with Thai workers. As a result, CLM workers work under poor labor conditions. Moreover, CLM migrants are blamed for various kinds of social problems, presenting an obstacle to social integration, among others. To cope with such problems, the government of Thailand has enacted laws to regulate migrant workers and provide policy frameworks for legal migrant workers on the aspects of supply and demand, and taking into account many dimensions and principles such as national security, human rights, and social protection, among others. However, the implementation of such policies is not easy, and the situation had often been beyond control in many respects. The registration process requires a concerted effort from various government offices and consultations at the senior official and/or ministerial level. In addition, the entry of alien workers is very costly. Thus, it is still imperative to promote human resource development in administering admission policies on illegal migrant workers and to enforce consistent foreign labor policies.

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INTRODUCTION

In the context of international labor migration, Thailand has transformed from a net labor emigration to net labor immigration country during the past decade when taking into account undocumented workers from neighboring countries. The country receives more than a million migrant workers from Myanmar, Lao PDR, Viet Nam, Cambodia, and other countries. This has been mainly due to the fact that the Thai economy achieved remarkable development during the mid-1980s and early 1990s. The increase in cross-border labor immigration has become more evident especially before the economic crisis. The existence of a tight labor market during periods of economic boom with low level of unemployment, increasing wage, and better living standard until the mid-1990s was a major pull factor. The structural change of the labor market was interrupted shortly by the economic crisis. The transition from low-end, labor-intensive operation to more capital- or technology-intensive manufacturing could not be achieved by all producers.

The objectives of this paper are mainly to review and analyze policies and management of international labor immigration in Thailand as part of regional cooperation initiatives and bilateral or multilateral agreements, and recommend solutions for regularization of undocumented migrants. Because of the scale and complex nature of the problem, an emphasis is given to irregular migrant workers from three neighboring countries of Thailand, namely, Cambodia, Lao PDR, and Myanmar (hereafter referred to as CLM).

OVERVIEW OF LABOR IMMIGRATION IN THAILAND

Legal migrant workers: trend and composition

By Thai law, a legal migrant worker is an alien who temporarily and legally enters the Kingdom under the Immigration Law\(^1\) and receives a work permit under the Alien Employment Act (AEA). Legal migrant workers can be classified into six types according to the conditions specified by law (OFWA 2010):

1. **Temporary or general permit migrant** – An alien who is granted a work permit to work in the occupation stipulated by the ministerial regulation under Section 7 (of AEA 2008). In December 2010, there were 70,449 migrant workers with temporary work permits.

2. **Permanent resident or lifetime permit migrant** – An alien who had resided in the Kingdom under the Immigration Law, had worked before December 13, 1972, receives a work permit issued under Revolutionary Order (RO) No.

\(^2\) The present study is confined to international labor migration of Thailand excluding refugees, asylum seekers, displaced persons, and temporary border immigrants (under Section 7 of the Working of Alien Act B.E. 2551).

\(^3\) The Immigration Act B.E. 2522.
322 dated December 13, 1972 (OFWA 2010). From 1937 to 2007, 962,819 foreigners were granted permanent resident status, of whom 705,463 died, left the country, or changed nationalities. As of December 2010, there were 14,423 migrants with permanent resident status (Sciortino and Punpuing 2009).

3. **National verification permit migrant** – A formerly illegal migrant worker from CLM who has changed his or her status from illegal to legal through a process of national verification (NV) and has received a temporary passport or a Certificate of Identification. As of December 2010, there were 210,044 CLM workers under this category.

4. **Migrant worker under Section 11 or MOU** – A migrant worker from CLM who is imported under the memorandum of understanding (MOU) between Thailand and the CLM. The MOU was signed with Lao PDR in 2003 and with Cambodia and Myanmar in 2004, but its implementation has underperformed (Sciortino and Punpuing 2009). As of December 2010, there were 26,525 CLM migrants under the MOU.

5. **Migrant worker under Section 12 or BOI** – A migrant worker who comes to work in the Kingdom under Investment Promotion Act or related laws. As of December 2010, there were 23,245 workers under this category.

6. **Migrant workers under Section 14 or border workers** – A migrant worker who has residence and nationality of the country borders with Thailand and temporarily enters Thailand with travel documents (passport or border pass) and is permitted to work temporarily or seasonally in the border area. Statistics for this category are not available.

Migrant workers in 1 to 3 are under Section 9 of AEA 2008.

In addition, there are other groups of working foreigners who are not covered by AEA 2008 due to diplomatic privileges. According to Section 4, this act does not apply to (1) a member of a diplomatic mission; (2) a member of a consular mission; (3) a representative of member-countries and official of the United Nations and specialized institutions; (4) a personal servant coming from foreign countries to work regularly for the person under (1) or (2) or (3); (5) a person who performs duties or missions in accordance with agreements between the Government of Thailand and a foreign government or international organization; (6) a person who performs duties or missions for the benefit of education, culture, art, sports, or other activities as may be prescribed by the Royal Decree; (7) a person permitted, with or without any condition, by the Cabinet to enter and perform any duty or mission.

The trend of legal immigration into Thailand (excluding CLM migrants) during 1997–2010 was closely related to foreign direct investment (FDI) and
economic cycles. During 1997 when there was a global financial crisis, the number of legal migrant workers was very low (63,582 persons). The trend recovered in later years corresponding to economic recovery in Thailand, and dropped again during the period 2008–2010 reflecting the economic downturn in Thailand possibly due to the subprime crisis in the United States. The sharp drop of the trend of migrants from all major FDI countries was possibly due to the subprime crisis in 2008–2009. The trend, however, started to rise again in 2010 with 117,706 migrants.

According to Sciortino and Punpuing (2009), Filipinos had the fastest growth in the number of legal migrants since 2003. In 2010, about 65 percent of Filipinos were teachers or lecturers and about 11 percent were in the entertainment industry (OFWA 2010).

The composition of legal migrant workers reflects countries which significantly invest in Thailand, namely, Japan, China, Britain, India, and the United States. Japan, the largest long-term investor in Thailand, had the largest share at 23 percent, followed by China, India, and the United Kingdom.

More than 90 percent of legal migrant workers (from countries other than CLM) were professionals, executives, managers, and technicians. The proportion of production or operation managers was the largest with 42.8 percent of the total number of legal migrant workers. The proportions of low- or semiskilled workers were only 1.4 percent and 1.3 percent for domestic workers and office clerks, respectively. The majority of legal migrant workers were in Bangkok and vicinity and the Central region.

**Illegal migrant workers: trend and composition**

Migrant workers in Thailand are dominated by CLM migrant workers, both legal and illegal. In 2010, there were 1,168,824 CLM workers, accounting for 89.9 percent of the total migrant workers. Migrant workers from other countries and minorities reached 108,117 persons and 23,340, respectively.

CLM workers came to Thailand beginning 1988, starting with the Burmese. Those from Lao PDR and Cambodia followed when Thailand changed its policy from “battlefield to market places” in 1989. In 2010, illegal migrant workers were required to go through a national verification process. By February 24, only 200,000 migrants registered for verification and the Thai government extended the deadline until March 2. By this date 850,000 migrant workers from CLM had visited local employment offices and signed agreements to complete the procedure by March 31, whereupon they were given two-year work permits (Slipper 2011). As of December 2010, the number of CLM migrant workers was reduced to 932,255 persons consisting of 812,984 Burmese, 62,792 Laos, and 56,479 Cambodians. The top three
industries that absorbed the most CLM illegal migrant workers were farming and livestock (171,857 workers), construction (148,211), and fisheries related (101,849).

On April 26, 2011, the Cabinet approved five measures submitted by the Ministry of Labor to tackle the problems of illegal migrant workers from CLM, including another round of registration for those who missed the February 2010 deadline.

**Impact of immigration**

It has been asserted that CLM immigration prolonged the life of agricultural industries, which had been under threat of extinction because of high labor costs and labor shortages. CLM migrant workers had also contributed to the growth of regional economies. It had reduced the costs of structural change and the transition to higher-technology industries. This especially applies to work in the low-cost or nontradable activities like construction, which supports both the building industry and improved communications necessary for industrial upgrading. Some labor-intensive firms in industries such as garments have survived largely due to migrant labor (Athukorala et al. 2000).

The presence of migrant workers has been found to reduce wages and slow structural change (Martin 2007). CLM migrant workers contribute positively to real national income, averaging 2.3 percent, or 760 million baht (about USD 25.3 million) per year (Pholphirul and Rukumnuaykit in Sciortino and Punpuing 2009). The same study also asserted that employing migrant workers increases country competitiveness, with migrant unit labor costs lower at an equal level of productivity than those of Thai workers (*Ibid.*). Migrant workers’ expenditures in Thailand increased Thai GDP by USD 2 billion (Martin in Sciortino and Punpuing 2009).

However, according to Martin (in Sciortino and Punpuing 2009, 75), “it is difficult to measure the impacts of migrants on the wages and employment choices of local workers. Migrants can have little effect on wages, if all or many workers in the industry or occupation are paid the minimum wage, which can prevent wage depression when migrants in fact receive the minimum.” Migrants are both substitutes and complements for national workers. Their presence

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4 For a good review of studies on the impacts of immigration from CLM into Thailand, see Sciortino and Punpuing 2009.

5 This assumption may not hold in the case of Thailand. A study (Paitoonpong et al. 2008) found that illegal CLM migrant workers are paid less than the minimum wage by at least 50 percent. A study by Chalamwong (2007) said that the migrant workers' wage rate is less than the Thai workers'. Survey results from the Asian Research Center for Migration (ARCM 2000 in Pholphirul et al. 2010) at Chulalongkorn University indicate that migrants are not treated equally in terms of wage compensation. According to the study, migrants were being paid, on average, around 70 percent of the wage paid to Thai workers.
affects both the wage rates and employment options of local workers, and the
degree to which migrants are substitutes for or complements to national workers
varies with factors that range from migrant and national workers characteristics
to technologies of production and the nature of labor and product markets.” The
impacts of migrant workers on local wage are questionable if the demand for
labor curve is not smooth or kinked in particular sectors with the schedule more
elastic at higher wage rates and more inelastic at lower wage rates. As migrants
are removed from the labor market, wages rise, but at some critical wage (in
the part of elastic demand for labor), the quantity of labor demand falls sharply
with less proportion of the wage rise. In other words, the removal of migrant
workers will raise wage rates very little in such a case (Martin in Sciortino and
Punpuing 2009).

In 2010, Pholphirul et al. (2010) examined seven economic impacts of
foreign migrant workers on the Thai economy, namely, production, productivity,
labor cost, competitiveness, innovation, skill development, and investment.
Through various methodologies, it was found that migrant workers had affected
the Thai economy and the labor market.

The social impacts on Thailand are more difficult to measure. CLM
migrants are scapegoats for various kinds of social problems—from drug
trafficking to illegal logging as well as spreading diseases and perpetrating
crime—even if reliable evidence to substantiate such claims is lacking
(Paitoonpong et al. in Sciortino and Punpuing 2009). Examples of social
impacts caused by or related to CLM migrants include security and crime,
contagious diseases, HIV/AIDS, human trafficking, prostitution, child labor,
poor labor standards, drug trafficking, illegal logging and timber trafficking,
ethnic minorities and the Mekong River ecosystem monitoring, rural or
agricultural economy, way of life and community, stateless children, public
task forces, and social integration.

GOVERNMENT POLICIES
Labor immigration policy on illegal migrant workers, particularly from CLM,
can be classified into two major groups: policies on the employment of migrant
workers, i.e., on the management of migrant workers; and policies toward the
social inclusion and protection of migrant workers in Thailand. The first group of
policies has implications, to some extent, on the latter policies. This study focuses
on the former.

Laws and regulations
According to AEA 2008 (Section 13), there are two major groups of illegal
migrant workers in Thailand: migrant workers from CLM and ethnic minorities.
Regulations of these different groups of migrant workers differ, particularly in details. The regulations can be grouped into four major topics, namely, (1) immigration law or requirements, (2) AEA 2008 or work permit, (3) irregular migrant worker registration, and (4) MOU on the employment of workers from CLM. In addition, migrant workers are also protected by the Labor Protection Act B.E. 2541 and B.E. 2551, the Social Security Act B.E. 2533, and the Criminal Code.\(^6\)

**Immigration law**

According to the 1979 Immigration Act, entry into Thailand requires an entry visa except for the case of special agreements such as the Association of Southeast Asian Nations (ASEAN) cross-border agreement that allows the people of ASEAN member-countries to enter Thailand without a visa for a given period. Basically, those entering without visa and/or acting in breach of the immigration law are illegal and may be deported and/or penalized by other sanctions. Thus, migrant workers who enter without visas or work without work permits are liable to be deported. However, Section 17 of the act provides the Minister of Interior with discretion in applying (or not applying) the strictures of the act. This has provided a window for exempting irregular migrant workers from being deported, at least when they come out into the open to be registered. Thus the various cabinet decisions noted above offer leverage in applying the act and interplay with the half-open door policy which was practiced in recent years toward migrant workers (Muntarbhorn 2005).

Thailand has two major types of visa: tourist visa and non-immigrant visa. A tourist visa is issued to applicants wishing to enter the Kingdom for tourism purposes. The holder of the visa is not allowed to work or conduct business. A tourist visa is valid for 60 days and can be extended by 30 days. The fee is 1,900 baht. Most western countries do not need a tourist visa.

A non-immigrant visa is required for a foreigner who wants to stay or work in Thailand. With reference to Section 34 of the Immigration Act B.E. 2522, this type of visa has 12 categories: diplomatic visa (D) is for those employed by an embassy; business visa (B) or a mass media visa (M) are for accredited business or press representatives; expert visa (EX) is for those performing skilled or

\(^6\) With regard to labor relations, there are the Labor Relations Act 1975 and the State Enterprise Labor Act 2000. There is some differentiation between Thais and non-Thais with regard to these laws. Under the first act, membership of the board of such union is only open to Thai nationals (Section 101). Also, only Thai nationals can set up a trade union in a state enterprise under the second act (Section 41). There is no prohibition against foreign nationals becoming members of such unions. In practice, a migrant worker with an irregular status is unlikely to be accepted as a member (Muntarbhon 2005).
expert work; investor visa (IM)\(^7\) is for foreigners who had set up their companies under the Board of Investment (BOI); study/education visa (ED) is for teachers or for educational study or observation; official (F) is for performers of official duties (involving the Thai government); investment (with concurrence of the ministries and departments concerned), BOI (IB); missionary work (R); scientific research or training, or study in an educational institution in the Kingdom (RS); participation in an officially recognized sports event (S); and others (O) which include dependents and retired persons (http://www.thailawforum.com/database1/immigration-law-majesty-5.html; accessed on July 1, 2011).

In addition are the transit visa, immigrant visa, nonquota immigrant visa, and courtesy visa (www.thaijaidee.com/forum; accessed July 1, 2011).

For commuters in the border areas along Cambodia and Lao PDR, other forms of visa are applied. At the Khlong Luek gate in Sa Kaeo, for example, the documents used are passport (A passport holder could go anywhere in Thailand and Cambodia), border pass (A Cambodian border pass holder can work in Sa Kaeo and nearby provinces), temporary border pass (A Cambodian temporary border pass holder can cross the border to work, on the daily basis, in Rong Kluea market only. The pass costs 10 baht per entry. There is a special temporary pass for a cart pusher and a trader, allowing him to cross [in and out] the border four times per day [two round trips per day], and to cross [in and out] the border two times per day [one round trip per day] respectively. Recently the Cambodian immigration authority allowed temporary border pass holders to pay the fee by week.

In practice, regulations are not usually followed. Those with tourist visas are not permitted to work but they sometimes do. To get away with the visa length of stay, a tourist has to leave the country every three months to renew his/her visa. Some people have been making quarterly “visa runs” to cities in nearby countries like Vientiane or Penang and returning to the country to resume paid employment for many years. According to the law, tourists can come into the country for three months at a time as long as they keep their tourist visas current. This can be done as long as they do not work. It is illegal to work under a tourist visa.

If the tourists wish to stay on and get a job, they need to have their tourist visa changed to a non-immigrant visa for business. Or they need to have the right visa in the first place before entering the country. Some “tourists” do not even try to renew their visa but “overstay” and do not report to the Thai authority, thus becoming a type of illegal migrant worker.

\(^7\) A new category of visa with issuance controlled by the Board of Investment. This visa can carry a residence permit for the applicant and his or her immediate family if a specified amount of capital is brought into Thailand for investment.
Alien Employment Act

The first Thai law dealing specifically with the employment of foreigners was probably RO 281 (1972) announced on November 24, 1972. Article 3 defines “alien” or “foreigner” as a normal person or legal body who does not have Thai nationality, and Article 7 specifies the qualification of an eligible foreigner. Article 4 forbids a foreigner from 12 occupations under List A, and 36 occupations under List B. Exemptions for occupations under these lists can be done through a royal decree. There are 14 occupations under List C that a foreigner can apply for with permission from the Director-General of Trade Registration.

On December 13, 1972, RO 332 was promulgated to deal directly with foreign workers. First, this decree defined “alien” or foreigner simply as “a regular person who does not have Thai nationality” and “work” or employment as any work performed by using physical ability or knowledge for oneself or other for income or other compensation. Second, the enforcement of the law was placed under the jurisdiction of the Minister of Interior and Director-General of Labor. Third, different types of work permit were specified. Article 19 established a “Committee on Employment of Alien” composed of representatives of various civil ministries except the Ministry of Defense. Article 5 stipulated that occupations prohibited to aliens must be specified by a royal decree. RO 332 is probably the origin of the Alien Employment Act B.E. 2521.

In 1978, RO 281 was amended by an act (called An Amendment of the 28 November B.E. 2515 Revolutionary Order 281 B.E. 2521) to include irregular migrant workers or foreigners who had unlawfully entered the Kingdom. Under this law, the permission for irregular migrants to perform an occupation is under the Cabinet, instead of the Director-General of Trade Registration. (RO 281 was amended again in 1992 to redefine foreigner legal body.)

On July 8, 1978 the Alien Employment Act B.E. 2521 was promulgated. Article 3 abolished RO 332. In essence, this act was the same as RO 332. Article 12 is similar to RO 281, the amended B.E. 2521, which dealt directly with irregular migrant workers or foreigners who had unlawfully entered the Kingdom. The enforcement of the law was the same as RO 332 which was under the jurisdiction of the Minister of Interior and Director-General of Labor. The act was amended in 2001 by the (Second) Alien Employment Act B.E. 2544 to fix fees for extension of work permits.

The introduction of the Alien Employment Act B.E. 2551 (2008) replacing the Alien Employment Act B.E. 2521 (1978) is another step in creating a sound and comprehensive body of legislation for managing labor migration in a more targeted manner, taking economic and security needs into account. The new legislation contains four sections, namely, (i) type of work allowed for migrant workers to engage; (ii) repatriation of foreign worker funds; (iii) committee to
review the employment of migrant workers; and (iv) committee to review appeal on work of migrant workers, monitoring and oversight, penalties, and provisional clauses. The act does the following: (1) define the categories of immigrants eligible for engaging in temporary employment; (2) establish a list of occupations which are allowed for migrant workers; (3) set up the deportation fund; (4) collect the levy from employers; (5) allow migrants to change employers and workplaces; and (6) provide the involvement of trade unions and employers in the committees to review the employment of migrant workers and to appeal the employment of migrant workers. The controversial provisions include allowing the authority to enter and search the workplace, without any court warrant, for irregular migrant workers; rewards for apprehension of illegal migrant workers; and deduction from wages of migrant workers for the deportation fund (Vasuprasat 2009).

Moreover, the act formally regulates the hiring of low-skilled and semiskilled migrant workers from CLM, structuring their contract employment through a Singapore-type system of dependency ceiling, sector-specific restrictions, and employer levies (Chalamwong 2008). The act also gives permission to employ cross-border contract workers on the border or in areas adjacent to the border (IOM 2008).

**Labor Protection Act**

From the angle of protection of all workers, the Labor Protection Act 1998 provides the most comprehensive coverage and is, to a large extent, consistent with international labor standards. In principle, it applies to all migrant workers, irrespective of their migration status. The law includes the following key provisions:

- General provisions which cover collateral funds and their redemption, gender equality in employment and remuneration, termination of work contract, and sectors exempted from the coverage of the act;
- Employment provisions which cover hours of work, overtime work, annual leaves, maternity leaves, and holidays;
- Employment of women, child labor, and youth which covers the prohibitions of women, children, youth in engaging in certain kinds of jobs, and the limitation on number of working hours and age of the children and youth;
- Wage, overtime, and compensation for holiday work;
- Establishment of the National Minimum Wage Committee, the National Labor Welfare Committee, the Enterprise-based Welfare Committee, the National Occupational Safety and Health Committee, the Enterprise-based Occupational Safety and Health Committee, and the National Employee Welfare Funds to assist workers in distress situations; and
Other provisions such as suspension from work, payment of severance, lodging complaint mechanism, labor inspections, and penalty clauses.

However, the gap between law and implementation has been frequently witnessed for noncompliance in accordance with the minimum wage and overtime regulations, uncompensated extended working hours, the use of child labor, practices tantamount to forced labor in the factory and in fishing industries, and the termination of contracts of pregnant migrants. In addition, the law does not cover some occupations in sectors for which migrants are usually hired, such as agriculture, domestic work, transport, fishing, etc.

The challenge for the Thai government is to revise the law/regulations to provide more comprehensive protection to migrant workers, especially to extend the coverage to sectors outside the jurisdiction of the present act. The government should ensure the participation of migrant workers in the Enterprise-based Welfare Committee, the Enterprise-based Occupational Safety and Health Committee, and the National Employee Welfare Fund (Vasuprasat 2009).

The Labor Protection Act 1998 was amended and replaced by the Labor Protection Act (Second) B.E. 2551 (2008). The new law does not have a significant change with regard to migrant workers. Article 11/1 may have an implication on migrant workers in the sense that subcontracted or leased migrant workers become the responsibility of the owner of an establishment, not the subcontractor.

Other labor laws
As regards labor relations, which deal with the freedom of association and collective bargaining, the relevant law is the Labor Relations Act 1975. It provides some differentiation between nationals and non-nationals in connection with the formation of a trade union. Under this act, membership of the board of the trade union is only open to Thai nationals. While there is no prohibition against foreign nationals becoming members of such unions, only a few migrant workers are accepted as members of Thai trade unions (Vasuprasat 2009).

Process of immigration from CLM
In addition to overstaying or visa runs, illegal migrant workers from CLM can enter Thailand illegally in many ways mainly because Thailand has long borders with Cambodia, Lao PDR, and Myanmar. Between Cambodia and Thailand there are a few international gates which are officially monitored while there are a

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8 Thailand has a land boundary of approximately 5,656 kilometers: 2,401 of which are shared with Myanmar, 1,810 kilometers with Lao PDR, 798 kilometers with Cambodia, and 647 with Malaysia. The sea boundary is about 1,840 kilometers on the Gulf of Thailand side and 865 kilometers on the Andaman side (www.chatvariety.com/space/read.php?tid=10997; accessed January 4, 2011).
number of informal or cultural gates which are usually open for cross-border trade during the weekend or daily. These informal gates are not strictly controlled. In some of the international gates, there are uncontrolled crossing tracks which can be used as channels to cross the border without a border pass or travel documents. In some cultural gates, villagers from both sides can cross borders virtually freely. Similarly, borders between Thailand and Lao PDR and Myanmar consist of both official international gates and informal gates where border crossings can be done. In addition to these types of access, a considerable number of illegal migrants are smuggled or trafficked into Thailand through jungles or rivers. There are many occasions in which some of them die during the process of “transportation”.

In the case of Burmese migrants, there were three major phases of the flow from Myanmar (Caouette et al. 2000 in Martin 2004). First, between 1945 and 1983, there were ethnic minorities on the Thailand-Myanmar border who fought the central government in Yangon especially after Myanmar declared itself a socialist country in 1962. Burmese who fled to Thailand before March 9, 1976 were called “displaced persons of Burmese nationality”. Second, from 1984 to 1987, there was a Thai-Burmese rapprochement that led to fighting between Karen and Mon and the Government of Myanmar, and resulted in many Burmese near the Thai border fleeing to Thailand. Third, since 1988, the State Law and Restoration Council in Myanmar promoted Thailand’s investment in Myanmar. Many Thai and foreign investors chose to invest in Thailand near the Thai-Myanmar border; so that products such as garments could be made with Burmese labor in Thailand and exported from Thailand, avoiding sanctions on Burmese exports. Since 1988 onward, migrant workers from Myanmar keep coming to Thailand mostly through arrangements by agents or trafficking. In the early 1990s, regional integration and its economic and demographic dividend produced a strong increase for intraregional immigration to Thailand and a shift in the nature from politically caused to economically induced (World Bank 2006 in Sciortino and Punpuing 2009).

International labor migration policy

Committee on Illegal Migrant Workers Administration (CIMWA)
The main body in charge of irregular migrant workers is the CIMWA established by the Office of the Prime Minister, with regulations released in 2001 and revised in 2003. The major responsibility of the committee is to formulate policies, guidelines, work plans, and measures to manage and monitor actions against illegal migrant workers both in the short run and long run. The responsibility also includes preventive actions, suppression, and other necessary measures to manage illegal migrant workers.
CIMWA consists of eight subcommittees responsible for each strategy, as follows:

1) Overall Illegal Migrant Workers Administration Subcommittee chaired by the Minister of Labor with the Director-General of the Department of Employment acting as its secretary; 2) Subcommittee on the Prevention of Illegal Migrant Workers chaired by the Chief of Staff (of the Royal Army) with the Director of Policy and Planning Agency, Directorate of Operation, Ministry of Defense acting as its secretary; 3) Subcommittee on the Employment System and Standard Setting of Illegal Migrant Workers chaired by the Chief of the National Competitiveness Section, Ministry of Labor with the Director of the Office of Migrant Workers Administration acting as its secretary; 4) Subcommittee on Public Relations chaired by the Permanent Secretary of the Prime Minister Office with the Executive Director of National Policy and Planning Development Office, Public Relation Department acting as its secretary; 5) Subcommittee on Suppression, Arrest, and Prosecution chaired by the Deputy Commissioner General (Special Task Force), Royal Thai Police with the Commissioner of Crime Suppression Division, Royal Thai Police acting as its secretary; 6) Subcommittee on Repatriation chaired by the Commissioner, Immigration Bureau with the Commander, General Staff Division, Immigration Bureau acting as its secretary; 7) Subcommittee on Monitoring and Evaluation chaired by the Permanent Secretary, Ministry of Labor with the Director of the Office of Migrant Workers Administration (OFWA) acting as its secretary; and 8) Subcommittee on Directing and Cooperating Security Measures Related to Solving Problems of Illegal Workers of Laos, Cambodia, and Myanmar chaired by the Secretary of Internal Security Operation Command with the Director of the Security Coordination Center, Internal Security Operation Command acting as its secretary. In addition to the eight subcommittees, there are three task forces working on illegal migrant workers, namely, Task Force on Expediting the Certification of Identification of Illegal Migrant Workers from Lao PDR, Cambodia, and Myanmar; Task Force on Developing a Database on Illegal Migrant Workers from Myanmar, Lao PDR, and Cambodia; and Task Force on the Allocation of the Nonregular Fund for Administrate Illegal Migrant Workers.

In addition to CIMWA, its subcommittees, and task forces, there are other government agencies working hand in hand to regulate and monitor the employment of illegal migrant workers. The key responsible agencies are 1) Ministry of Interior; 2) Ministry of Labor; 3) Ministry of Public Health; 4) Ministry of Defense; 5) the Royal Thai Police; and 6) Ministry of Foreign Affairs.

As put by an expert on migrant workers, “The Illegal Alien Workers Management Committee, an umbrella of 22 agencies, really doesn’t work. It has very little budget and is a smokescreen for decisions clearly made elsewhere.
The ministry is put forward as the face of migration management in Thailand but everyone knows it is clearly not the brains behind it all” (Hall 2011).

On April 26, 2011, the cabinet approved five measures submitted by the Ministry of Labor to tackle the problems of illegal migrant workers from CLM, including the reopening, registration, and restructuring of the CIMWA secretariat to become a department under the ministry, with subcommittees at the subnational level (The Nation, April 27, 2011). Under the new measures, immigrant workers are allowed to bring in their children under 15 who can stay for one year with each permit. Those due for repatriation are allowed to work temporarily in Thailand under a case-by-case permission. Drastic action is threatened on Thai employers or those providing illegal migrant with shelter, and the workers themselves who do not cooperate by registering, including blanket inspections and arrests at local factories, together with heavy fines and alternative imprisonment.

Direct employment of workers from Lao PDR, Myanmar, and Cambodia is encouraged in Thailand to reduce the number of illegal immigrants and their subsequent smuggling into Thailand jointly by smugglers and corrupt officials.

Provincial and regional committees will be set up to work on immigrant worker issues under the supervision of a national board through integration. The former CIMWA secretariat was proposed to be upgraded to a new department in MOL but has not been approved by the Office of the Public Sector Development Commission.

**Labor immigration policies**

In the past, there were frameworks for the employment of foreigners in order to preserve some occupations for Thai nationals (RO 218 and RO 322, 1972). As a result, legal migrant workers in Thailand had always been skilled workers in higher positions. Such frameworks have been relaxed since 1988 after political situations in neighboring countries became more stable and Thailand’s policy of “turning battle fields to market places”. Particularly, the economic boom in Thailand during that period resulted in increasing demand of the private sector for lower-skilled labor, particularly in construction and fishery. The labor migration policies were relaxed to allow illegal migrants to work temporarily under Section 17 of the Immigration Act 1978.

Indeed, the formulation of government policies on irregular migrant workers is a long-term process, and is reflected through various channels such as laws and regulation, subregional or bilateral agreements on the matter, and short-term interventions. By and large, as already reviewed in section II, the Thai government policies on irregular migrant workers are lenient and considerate.

During the past 20 years, the Thai government has formulated several policies and measures to cope with irregular migration problems that include
regional policy, bilateral policy, and national policy to deal with illegal migrant workers (Huguet 2008). As the number of illegal migrant workers was rising, policymakers became concerned about the migrants for two major reasons: national security and trafficking, as shall be discussed later. The approach has been taken by successive governments to gain control and better manage this type of immigration by regularizing the desired magnitude, type, and location of migration. The key concern for policymakers has been to prevent illegal migration and to encourage migrants to return home after their work permits expire.

In April 1999, Thailand organized an International Symposium on Migration and the symposium adopted “The Bangkok Declaration on Irregular Migration”. The declaration stated that “international migration, particularly irregular migration, has increasingly become a major economic, social, humanitarian, political and security concern for a number of countries in the Asia-Pacific region”, and “comprehensive, coherent and effective policies on irregular/undocumented migration have to be formulated within the context of a broader regional framework based on a spirit of partnership and common understanding” (Huguet 2008, 5).

However, the implementation of such policies is not easy and the situation was beyond control in many respects. Recently, efforts have been made to register irregular migrant workers with the Department of Employment and allow them to work in specified occupations. However, migrant workers are often cited as a threat to national security and attempts have been made to arrest them and send them home. Nevertheless, up to now the Thai policy on illegal migrant workers has been lenient, resulting in an increasing number of illegal migrant workers mainly from CLM. According to Martin (2004, 16) “Thai law prescribes fines and jail terms for employers of unauthorized foreign migrants, and for unauthorized migrants. However, border and interior enforcement have not prevented the estimated number of migrants from rising steadily in the 1990s.” Another study said that “Thailand’s domestic policy development is not comprehensive; as a result, its migration policies and programmes are marked by omissions and ambiguities (Hueget and Punpuing 2005, 7; Huguet 2008, 9). The assessment is still valid up to now although in the author’s view, Thailand’s policies on irregular migrant workers are consistently pro-employers (Matichon, March 9, 2011).

**MOU**

An integral part of Thailand’s new policy in regulating irregular migrant workers are MOUs that Thailand had signed with Myanmar, Lao PDR, and Cambodia concerning cooperation on migrant workers. This development opened the door to a more systematic approach to manage migration and migrant workers, interlinking supply and demand source and destination countries.
The MOU between Lao PDR and Thailand was signed on October 18, 2002. It set up channels of cooperation to send back the names of migrant workers to the country of origin to verify identity and nationality. The conversion of irregular status to regular status for the purpose of employment covers only those who are already registered as workers in Thailand. There will be more control over employment agencies while there will be protection of the migrant workers themselves. Countries will assist each other in the return process concerning migrant workers whose employment contract has ended or has been terminated. There will also be suppression of illegal migration and illegal employment, as well as follow-up between officials under the MOU. The first follow-up meeting took place on June 28, 2003.

The MOU between Thailand and Cambodia was signed on May 31, 2003, with a duration of five years. It provides a governmental channel for sending and receiving migrant workers, guaranteeing their basic rights, while emphasizing that they must abide by local laws. Safety of workers is ensured, and the workers are entitled to send their income home. Employment contracts can be terminated for a variety of reasons, including poor health of the workers and HIV/AIDS.

The MOU between Thailand and Myanmar was signed on June 21, 2003. Like the other MOUs, it established a channel to manage migration and to exchange list(s) of potential migrant workers. The implementation of the MOUs, however, was not successful, especially in the case of Myanmar and national verification. More discussion of the national verification (NV) implementation is given in Section V.

MANAGEMENT OF LABOR IMMIGRATION

Government agencies involved
For the general management of migrant workers in Thailand, the OFWA under the Department of Employment is the main office taking care of migrant workers, as the secretariat of CIMWA.

OFWA has the following roles and responsibilities:

- Processing work permit applications of migrant workers who are currently working in the country or who wish to enter the country for work in both formal and informal sectors. It also assists employers in applications for migrant works.
- Processing cases related to illegal entry and illegal migrant workers who are currently working and residing in the country. By law, OFWA has no right to arrest an irregular migrant worker. It has to report the case to the Royal Thai Police.
Managing migrant workers who are working in the country by coordinating with all relevant parties and agencies and following up on all cases related to their work and their employers.

Disseminating all relevant and important information to all concerned parties about relevant policies, laws, systems, developments, and changes related to the registration system and work permit application. This also extends to educating migrant workers about their rights and privileges along with the relevant policies and laws that they have to follow and abide by.

Working with other agencies and authorities in gathering relevant information about migrant workers residing and working in Thailand, including studying and analyzing employers’ needs, labor market situations, migration trends, and other important statistics and data related to migrant workers.

However, OFWA is not responsible for the prevention or suppression of irregular migrant workers. The duty of prevention of cross-border migration is discharged to another subcommittee of CIMWA, particularly the National Security Council, while the suppression duty belongs to another subcommittee, particularly the Immigration Office.

On April 26, 2011, the cabinet approved the proposal of the Ministry of Labor to upgrade OFWA to a new department in the MOL (The Nation, April 27, 2011), but the proposal was not approved by the Public Sector Development Commission (http://www.siamhrm.com/report.php?max=4402; accessed May 14, 2011).

Regulating illegal migrant workers

Figure 1 depicts the process of regulating migrant workers from the CLM in Thailand in 2005. In the figure, migrant workers from CLM are classified into two major groups, the legal ones (day workers and MOU workers) and illegal ones (registered and unregistered).

From 1992 to 2002 there were seven registrations of undocumented migrant workers from CLM. The policy prior to 2003 for regulating irregular migrant workers was ad hoc and reactive, rather than systematic and proactive. In 2003 there was a move toward a less ad hoc approach with a new cabinet decision on August 19, 2003 and related announcement from the Ministry of Labor on September 16, 2003 to the effect that those who re-register would be permitted to work for another year until September 25, 2004, with the implication that this is a transition toward a new policy. This extension covered some 409,000 migrant workers, but some 12,000 persons working in factories were not covered. The re-registration only covered migrant workers from CLM.

In 2003, work/employment for migrant workers was only permitted in six sectors, i.e., general labor such as in transportation activity; labor in fisheries-
Figure 1. Overview of alien worker management in Thailand as of 2005 (adjusted from World Bank 2006)
related activities; labor in factories with some exceptions in relation to health; domestic service; labor in animal husbandry; and labor in relation to plantations. This coverage was applied for the whole country; there was no geographic limitation. The figures of those who had turned up to re-register in 2003 were 288,780 (September 2003) according to the MOL. The policy undertone was that after the extension of re-registration for one year under the 2003 cabinet decision, another approach would be tried. The new approach was to adopt a more “open door” policy to manage rather than reject migrant workers. It was worked out with the National Security Council, with the blessing of the Prime Minister, and was forwarded to the cabinet for approval at the end of 2003. The MOL proposed seven strategies to deal with the problems, namely, prevention or interception, suppression, repatriation, regulation, determination of employment standard, public relations, and monitoring the implementation of strategies. The cabinet approved the strategies in 2004.

Four key measures were proposed as part of the above strategies:

1. **Registration of employers.** This was, then, totally new for Thailand as the policies before that were targeted to registering workers rather than employers. Under this strategy, employers will have to provide details of the types and number of workers that they were employing and the manpower gaps to be filled.

2. **Openings for Thai workers.** Thai workers will be given the opportunity to apply for jobs responding to the manpower gaps identified by employers. The MOL will help advertise positions on this front, and the period open for job applications is 15 days.

3. **Permission to employ migrant workers.** Where there are not enough Thai applicants to fill the manpower gaps noted, the committee vested with the power to consider the employment of migrant workers will assess the situation and allow the relevant employers to employ migrant workers as appropriate. Employers are obliged to employ the latter within a year of receiving the permission.

4. **Employment of migrant workers.** Where an employer receives permission to employ migrant workers, other procedures, particularly linked with various MOUs concluded between Thailand and neighboring countries come into play. These include identification of the nationality of migrant workers (NV) and issuance of a document by the country of origin as evidence of the status of migrant worker(s) to facilitate issuance of a visa and a work permit by Thailand. Where the nationality of the persons cannot be identified, these cases could be cross-referred to the Ministry of Interior to verify whether they fall into the 18 groups of minorities (in Thailand) listed by authorities.
The approach was adopted by cabinet decisions of March 2, 2004 and April 27, 2004, covering migrant workers from CLM, with three key stages for the regularization of migrant worker status: registration of both migrant workers and their employers, medical test which migrant workers have to pass, and grant of work permit for one year.

The 2004 registration time (initially) expired on July 1, 2004 but was extended until November 15, 2004. It was not strictly enforced even at the beginning of 2005.

By the end of 2004, an estimated 1,284,000 migrant workers from CLM needed to come forward to register. Some 1,220,000 came forward to have their photographs and fingerprints taken for the purpose of registration, while some 160,000 did not.

The use of cabinet resolutions as the regulatory mechanism for CLM migrant workers had been based on the general belief that their employment would be temporary and that more substantial legislative changes were unnecessary (Chantavanich 2007). As this belief proved incorrect, in 2002/2003 the Thai government signed MOUs on Cooperation for the Employment of Workers with CLM that allow nationals of these countries to enter and work legally in Thailand as contract labor for up to two terms for a total of four years. The MOUs further aimed to regulate migrant workers already registered in the country by having their nationalities verified before the grant of stay and work permits. In addition to the MOUs, the government, taking note of high concentration of migrants along the border, authorized border provinces to negotiate cross-border agreements for employment of daily and seasonal laborers (IOM 2009).

The government remained lenient to those who received work permits and allowed another year of extension during 2005–2008. In addition to the yearly work permit renewal, the government also opened a new round of registration to allow unregistered migrant workers to obtain a temporary stay registration and a work permit, such as from a new round of registration in the Special Development Zone for Migrant Workers in the five southernmost provinces (Yala, Pattani, Narathiwas, Satun, and four districts in Song Khla) to solve severe labor shortages due to the unrest, and to keep industries in the area in business in 2007.

In 2009, the Royal Thai government (RTG) continued to regulate low-skilled migrant workers from Cambodia and Lao PDR and took new steps to start the process with the government of Myanmar. In addition to work permit renewal which allowed migrants to renew it for a year, the RTG announced in July 2009 the opening of a new registration round to allow unregistered migrant workers the opportunity to obtain a temporary stay registration (Tor/Ror 38/1) and a work permit. Work permits were renewed/issued until February 28, 2010 and migrants had to complete the NV process by this date. A valid work permit was
required to apply for NV and to get a temporary passport and visa. If migrants had successfully completed the NV by February 28, 2010, they were allowed to lawfully live and work in Thailand for up to four years. If they did not complete the NV by the end of February 2010, they were deported. NV for Cambodians and Laotians started in 2006, while for Myanmar nationals it only started in July 2009 (IOM 2009).

On January 19, 2010, the cabinet approved a resolution to extend the national verification deadline and to extend for two more years the work permits of CLM migrant workers whose work permit would expire on January 20, 2010 and February 28, 2010. Other major developments in immigration policy include the enrollment of migrant workers in the social security system, the idea of repatriating pregnant migrants, and the collection for the repatriation fund.

The collection for the repatriation fund was very provocative. The government announced the collection of the repatriation fee of 2,100–2,400 baht per worker to be effective as of December 27, 2010, with the first installment of the fee due on January 15, 2011. There were protests from a few employers which resulted in the postponement of the collection until March 1, 2012.

According to a senior MOL official, the RTG planned to take a tough measure to repatriate CLM migrant workers if they did not show up for NV. “This is enough now. If migrants still refuse to comply with government rules, then we must send them home” (Hall 2011). The source referred to a February 28, 2010 deadline for 1.3 million migrants to enter national verification. The same official said on June 26 that “preparations are now under way to set up a committee to suppress alien workers which will be completed by the end of 2010 so new workers can be brought in legally from neighboring countries to replace illegal aliens” (Ibid.). In this connection, the RTG issued an order in June 2010 to set up a committee to arrest and deport migrants who had missed the NV deadline. With the Mae Sot-Myawaddy official deportation route closed, law enforcement officials had nowhere to send Burmese workers, so they either demanded money for their release or handed them to traffickers or people smugglers during deportation. Workers were thus returned to Thailand. In mid-September 2010, after months of debate, the BOI relaxed rules for companies receiving government incentives to employ migrants, citing massive low-skilled labor shortages and despite an ongoing crackdown. Stringent conditions were attached to revocation of the rule for

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9 The recap of situation in 2010 and 2011 was mainly excerpted from Hall (2011).
10 With a condition that the company must have invested in Thailand for a period of not less than 10 years.
BOI companies to employ only Thais. At the end of the same month, the MOL changed positions on migrant policy in the midst of the crackdown. The ministry stated publicly it was considering reopening migrant registration in the face of massive low-skilled labor shortages. In the meantime, officials still apparently were trying to work out how to ensure effective deportation of undocumented workers and rapid import of legal workers to replace them in one seamless process.

In October, the government issued a fourth migrant crackdown order and created yet another committee. This was likely a response to petitions to the visiting United Nations Secretary-General about deportation and trafficking links in Ranong. The Prime Minister said the Ranong issue would be investigated and stopped. Reports suggest nothing has changed there.

In January 2011, the MOL officials went to Burma. Burma’s delegation raised concerns on exploitation of Burmese workers in Thailand which were “unfortunately being reported too often in the media”. They also apparently suggested a new registration was better than a crackdown, agreed to increase NV centers in Thailand, and requested the RTG to reduce the NV fee from 600 baht.

In March, the MOL confirmed plans to import migrants from Bangladesh and Indonesia to replace undocumented migrants who would be deported in the ongoing crackdown. With only around 30,000 workers imported legally over eight years from neighboring countries (only around 1,500 from Burma), labor shortages were threatening Thailand’s national and economic security. Most migration observers laughed off the prospect of employers shelling out hefty airfares to bring such workers in and coping with the cultural difference they would encounter with less passive workers. The importation of workers from Bangladesh and Indonesia could likely be just a media tactic intended to push Burma on the import issue.

A new migrant registration in April 2011 was recommended for approval to the cabinet by CIMWA. Meanwhile, an unregistered migrant worker crackdown continues, NV is ongoing, and plans for the fresh import for workers from Indonesia and Bangladesh remain in place. In 2011, there was another round of registration to extend the work permit of those whose permit would expire on January 20, 2011 and February 28, 2011.\footnote{The registration was held between July 15 and August 14, 2011.} The extension will last two more years.

**Problems and obstacles in implementation**

Thailand has constantly used the registration of migrant workers as a tool to
enable them to work legally. From the first registration in 1996 to the most recent one in 2010, the process repeatedly covers the registration of migrant workers by employers, health examination, the photo ID card and finger print procedures, and the issuance of a work permit. In each registration, the government announced the policy through cabinet resolutions. The process required concerted effort from various government offices.

Registration system
Despite more than a decade of experience, the registration system has pitfalls and obstacles as follows:

i) **Registration fees.** As of 2009, in order to register, the employer had to pay fees of 3,780 baht, including 80 baht for a photograph and documents for registration (Tor Ror 38/1), 600 baht for medical check-up, 1,300 baht for medical insurance, 100 baht for the application for a work permit, and 1,800 baht for a one-year work permit. This does not include other costs such as transportation and the opportunity cost of time to go through the tedious process. Many employers were not willing to pay because they found the fees to be expensive and registration a waste of time, although they deducted monthly installments from their employees (ARCM 2002).

ii) **Awareness of registration.** In the past, awareness of the registration system was low. At present, this problem ceases partly due to the availability and wide use of mobile phones among migrant workers. Migrant workers can learn from their peers through mobile phone.

iii) **Discontinuity of the measures in the registration policy.** From registration in 1992–2009, the government policy on registration continued in different measures.

iv) **Inadequate capacity of government officials.** In 2006, about 500,000 migrant workers from CLM illegally crossed the border to Thailand, and the number increased to 1.31 million migrant workers in 2009. The figures suggest that the trend of irregular migrant workers is rising every year and there are more requirements for registration staff.

v) **Tedious process of registration.** Employers or workers have to spend a lot of time to go to different places for registration. They have to go to the Employment Services Office, the local administration office, the hospitals for check-up, the hospital again to get the medical examination certificate, and back to Employment Services to submit the result of physical examination and again to finally get a work permit.

vi) **Corruption among government officials.** Some employers who hire illegal migrant workers have been ignored by government officials because of bribery.
vii) *Ineffective mandates of registration.* For every registration, there has always been a mandate of registration time, duration of work permits, repatriation warning, etc. These mandates have been ineffective due to the fact that there have been registrations over and over and the mandates have never been successfully implemented.

*MOU*

The process of MOU is also facing some implementation problems. The system requires consultations at the senior official and/or ministerial level. Temporary employment of workers is conducted through the permission of authorized agencies of the respective countries. The MOU states terms and conditions, such as the employment of a worker shall not exceed two years, which may be extended for another two years. A worker who has completed a four-year contract must take a three-year break before the next round of application can take place. According to the MOU, the employing country shall set up and manage a savings fund, that every MOU worker makes 15 percent of his or her monthly wage contribution. This individual savings plus interest earned will be given back to the workers within 45 days after the end of their employment. In addition, both governments are responsible for ensuring the return of workers to their permanent address at the end of employment.

In addition, the entry of alien workers under the MOU entails a relatively high cost. For example, agency and management fees in Laos are about 10,000 baht. Additional expenses when they arrive in Thailand reach about 5,000 baht—1,800 baht a year for work permit, 100 baht for an application fee, 600 baht for medical check-up, and transportation costs from the borders to the workplace. Although it is required that prospective employers assume all expenses, all the expenses are forwarded to the migrant who will pay in installment.

Of the MOUs, the most difficult to implement is that between Thailand and Myanmar due to the precarious political situation in the latter country. There is also the fact that since there is an ongoing struggle between various minorities and the Myanmar authorities, it is improbable that migrant workers from minority communities will come forward to be managed by a regime with which they disagree. Collection of fees under all three MOUs also needs to be realistic, and bureaucratic red tape needs to be minimized. If the fees are too hefty and if there is too much red tape, they may drive potential applicants underground and again fuel illicit channels of migration.

Up to December 2009, the number of workers from Lao PDR and Cambodia brought into Thailand under MOUs reached 27,187 migrant workers (11,957 from Lao PDR and 15,230 from Cambodia). And since 2006 until December 3, 2009, a total of 121,203 migrant workers had their nationality verified. Of these,
58,430 were Laotians and 59,238 Cambodians. Only 3,535 Myanmar nations successfully completed the process,\textsuperscript{12} and only 0.4 percent of them got approval for nationality verification. The important causes of the limited progress were from rumors among migrants and employers concerning i) unofficial tax collected from the relatives of migrants in the origin community; and ii) the possibility of the migrants being arrested by the Myanmar government. To get rid of such rumors, Thai and Myanmar governments launched various campaigns to eradicate these rumors (Holumyong and Punpuing 2010).

Like the registration system, the effectiveness of MOUs is also questionable. Obstacles remain in implementing these bilateral agreements, including:

i) **High recruitment expense and fees.** Under the MOU, a migrant has to pay about 10,000 baht for agency and management fees in Lao PDR. Additional expenses when they arrive in Thailand reach about 5,000 baht—1,800 baht a year for work permit, 100 baht for an application fee, 600 baht for a medical check-up, and transportation costs from the borders to the workplace. Although it is required that prospective employers assume all expenses, all the expenses are forwarded to the migrant who will pay back in installment. The wide disparity between the recruitment expenses incurred under the MOU and the informal channel could be a major factor tempting prospective migrants to illegally travel to Thailand for employment.

ii) **Long and complex procedure in processing/obtaining documents within and between the receiving and the sending country, especially identity verification, passport, and other documents.** The whole recruitment process in Laos normally takes three months or in the worst case over six months before the migrants can travel to the destination country. The duration may be less or longer than three months depending on the search process duration in Lao PDR and the processing duration in Thailand. The complexity in processing of documents and unavailable support services at the provincial level have greatly contributed to high cost of recruitment (Vasuprasat 2007).

iii) **Lack of experience among agencies.** Lack of experience in the recruitment process among agencies of origin country causes disputes between migrants and their employers and recruitment agencies. The dispute has arisen from being misinformed about actual working conditions (especially agreed wage, working hours, and facilities) and the recruitment processing duration.

iv) **Inadequate capacity of government administration to provide support to both the host and the origin country.** The complexity of the recruitment

\textsuperscript{12} The process of national verification for Myanmar nationals only started on July 15, 2009 (IOM 2009).
process and the absence of a standard of documentation disrupt employers. Moreover, the lack of main government agencies in sending countries to take care of MOUs delays coordination between agencies.

v) ** Agencies in the origin country do not have networks in villages.** Agencies do not have their network presence in the local areas to identify and screen the prospective workers from the villages. Rather, they depend on local authorities to assist in searching for the prospective migrants, who may not necessarily be the right candidates for the job (Vasuprasat 2007).

vi) **Restrictive regulations in the labor-sending countries.** Lao PDR prohibits the recruitment of migrants to work as domestic helpers and employment abroad has to be processed through local agencies (Vasuprasat 2007). In Cambodia, a passport is issued to migrants aged not more than 35 years although they already work in Thailand.

vii) **Returning prematurely.** Not all migrant workers under MOUs are successful. There were a number of migrant workers who had ended their work contracts and returned to origin countries prematurely. Three percent of Lao migrant workers under MOUs ran away and returned home compared with the rate of Cambodia migrant workers of 30–50 percent. The dispute is due to being misinformed about the actual working conditions.

viii) **Limitation of migrant workers.** Most of Laos’s migrant workers are farm laborers and have no experience in working in the factory environment. Hence, they find it difficult to adjust to the new work environment.

Moreover, as put by Hall (2011), “…the management systems creating all this are clearly not working. Thailand remains without a long-term migration policy that integrates human, national and economic security”. CIMWA, an umbrella of 22 agencies, really does not work. It has very little budget and is a smokescreen for decisions clearly made elsewhere. It is put forward as the face of migration management in Thailand but everyone knows it is clearly not the brains behind it all.

On April 26, 2011, with a view to improving the policy implementation, the cabinet approved five measures to tackle the problems of illegal migrant workers from CLM submitted by the MOL. The measures are:

i) **Registration.** Reopening of registration for those who missed the February 2010 deadline. Under new guidelines, the registration includes immigrant workers’ children under 15. The registered migrants and their children can stay temporarily in Thailand for one year while waiting for repatriation. Those due for repatriation are allowed to work temporarily in Thailand under a case-by-case permission.

ii) **Prevention and suppression.** The measure will be strengthened with serious and continued enforcement both before and after the new registration, and for both illegal migrants and unlawful employers of illegal migrants.
iii) Encouragement of importing workers legally. Under the cabinet resolution of December 20, 2005, legally importing workers from CLM is encouraged and will be expedited.

v) Measure to restructure CIMWA. The major restructure is to add CIMWA subcommittees at the central and provincial levels.

vi) Upgrading the CIMWA secretariat. The secretariat will be upgraded to a department status. (The Nation, May 27, 2011).

The management of CLM migrants has also been criticized to be poor. With a cycle of exploitation, corruption, and unrealistic targets for migrant deportation and import and protection for around 2–3 million migrants, assistance to good employers as well as the national, economic, and human security of Thailand and its people are undermined. The situation has been the same since the 1980s, with the exception now of increased focus on NV and imports. The re-opening of registration for up to one million CLM migrants is commendable. But the migration management systems are clearly not working. Thailand remains without a long-term migration policy that integrates human, national, and economic security. The re-opening of migrant registration in 2011 proves that the government’s previous migration management strategies have dramatically failed (Hall 2011).

CONCLUDING REMARKS AND RECOMMENDATIONS
Since the mid-1980s, the country has received millions of migrant workers from Burma, Lao PDR, Viet Nam, Cambodia, and other countries. Immigration has also become an issue for policy debate, in particular, the pros and cons of migrant workers with implications on labor policies and implementation. The Thai government has been trying to cope with the problems both from the supply and demand sides, and from many dimensions and principles such as national security, human rights, social protection, etc. This is evident in policies and actions to regulate irregular migrant workers such as a series of registrations, MOUs with sending countries, and the amendment of the Alien Employment Act (1978) with the Migrant Workers Employment Act (2008). Yet, the problem of labor immigration is a complicated one that cannot be solved by one solution, one dimension, or one side by the Thai government alone. Although there is regional cooperation such as the ASEAN Community Blueprint which is aimed at free movement of skilled workers by 2015, it does not seem to be able to solve the problem of the movement of low-skilled workers.

In conclusion, Thailand’s migration policy is inconsistent but pro-employer. There have been endless rounds of registrations that do not promote a good climate for regularization of migrant workers and do not let the MOU or levy system work.

13 This measure was not realized.
There have been no effective preventive and/or suppressive measures or other supporting measures to discourage dependency on migrant workers. In addition, the regulation of labor protection law on migrant workers is questionable.

To mitigate the problems of labor immigration management, the following are recommended:

1) long-run and consistent foreign labor policy and measures;
2) strong leadership and effective secretariat for CIMWA;
3) adequate financing for the management of foreign workers;
4) more effective enforcement of related laws;
5) punishment for perpetrators and elimination of trafficking of foreign workers; and
6) an international policy for low-skilled workers in ASEAN.

REFERENCES


