

## Moving Freely? Labour Mobility in ASEAN

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### Summary

This policy brief reviews the level of labour market integration in ASEAN and assesses labour market reforms being undertaken as part of the establishment of the ASEAN Economic Community (AEC). Key findings:

- Labour migration is already a reality in ASEAN with millions working in other member states both legally and under irregular conditions.
- The ambition of the AEC is that it will “transform ASEAN into a region with free movement of goods, services, investment, skilled labour, and freer flow of capital.”
- In the area of labour mobility ASEAN is falling short of its stated goals calling into question whether there will be effective free movement of high-skilled labour by the end of 2015.
- Mutual Recognition Agreements (MRAs) are intended to facilitate the movement of professionals by ensuring their qualifications are acknowledged in other ASEAN members. But only a few sectors are currently covered and MRAs do little to overcome other barriers like nationality requirements.
- By restricting liberalization on labour mobility to skilled professionals, the region is also missing out on the benefits that a well-managed co-operative scheme covering all labour, including lower-skilled workers, could bring.
- In addition to further labour market liberalization, greater co-operation is also needed to protect migrants’ rights and improve the portability of social security schemes.

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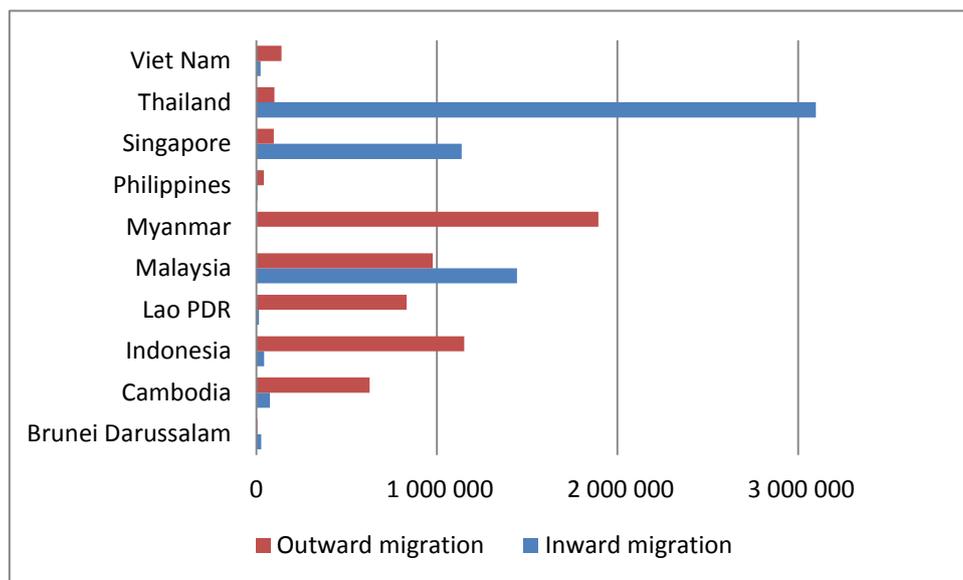
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## 1. Labour migration in ASEAN today

Each year thousands of migrants move between ASEAN member countries in search of work. There are a reported six million ASEAN citizens currently residing in other ASEAN member states though this is probably a large underestimate (figure 1). ASEAN members can be broadly divided into net sending and net receiving countries for labour: Cambodia, Lao Democratic People's Republic, Myanmar, Indonesia, Viet Nam and the Philippines are net senders; Singapore, Thailand, Malaysia and Brunei Darussalam are net receivers (Capannelli, 2013). The majority of migrants are low-skilled, and many are irregular.<sup>1</sup> Large income disparities among geographically-close ASEAN members; differential rates of population growth and aging; and the absence of regional redistributive mechanisms create large labour deficits and surpluses (Chia, 2013). These are a powerful spur to migration with labour flowing mainly from the poorer countries to the richer.

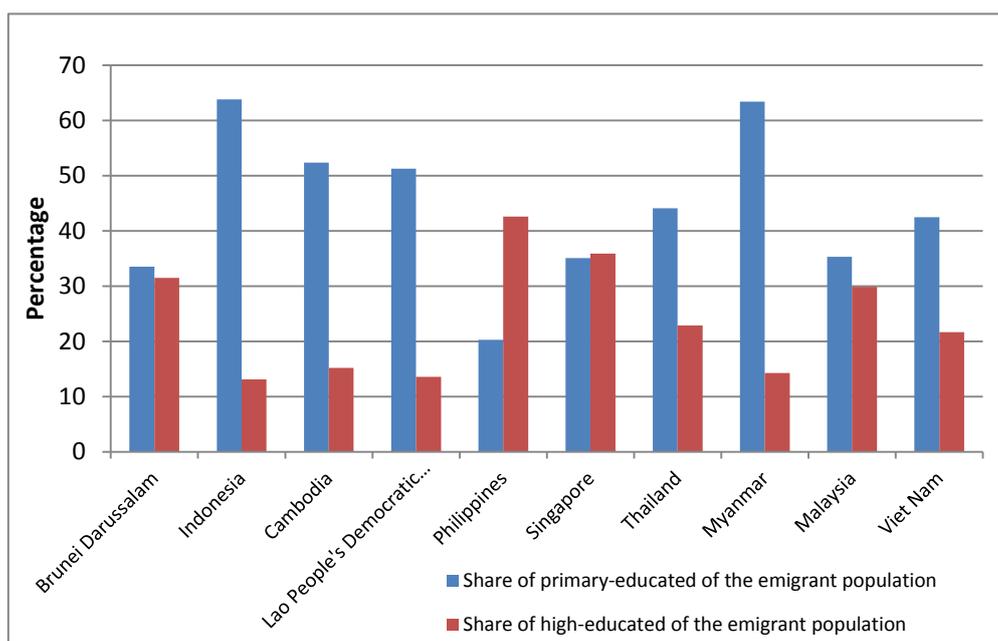
**Figure 1: Intra-ASEAN migration: stock of total migrants, 2013**



Source: UN DESA, Global Migration Database

Although flows of skilled labour in ASEAN have increased, they remain small in comparison to the flows of unskilled or semi-skilled labor migration. The majority of emigrants have only primary education (figure 2). In Indonesia, Myanmar, Cambodia, Thailand and the Lao People's Democratic Republic, unskilled migration outstrips skilled migration significantly.

<sup>1</sup> *Irregular migration* is defined by the International Organization for Migration as "Movement that takes place outside the regulatory norms of the sending, transit and receiving countries." This policy brief follows that usage. Usage of the term *illegal migration* is usually restricted to cases of smuggling of migrants and trafficking in persons.

**Figure 2: Educational attainment of migrants**

Source: OECD Database DIOC-E

## 2. Managing Labour Migration in ASEAN

ASEAN members are pursuing economic integration across numerous fronts. The expected benefits of integration include: an enlarged market with economies of scale and scope; enhanced resource allocation with free movement of factors of production; and improved resource pools of capital and labour; and enhanced competition which spurs efficiency and innovation (ADB, 2013). Indeed, labour migration, when well-managed, can bring substantial benefits to: (i) migrants themselves in terms of higher wages and opportunities to acquire skills and experience; (ii) host economies by addressing labour shortages and boosting growth; and (iii) sending countries through financial remittances and knowledge transfers (Anukoonwataka and Heal, 2014). For host societies, greater openness to migrants also needs to be weighed against public concerns over social cohesion. There is little evidence, however, that migrants generally depress wages for native workers as is often feared (Gaston and Nelson, 2002; Okkerse, 2008).

However, mobility of labour currently lags behind integration in other areas. In trade and investment, growth in regional production networks has been facilitated by improved customs procedures, standards harmonization and logistics. Similarly, investment liberalization, facilitation and stronger protection have boosted FDI. With regards to the movement of persons less has been achieved, with the exception of the easing of requirements for short-term travel between members.

In ASEAN members, as in most other countries, migration policy is primarily handled

at the national level, with few constraints imposed by international agreements. National governments decide on key elements of labour market openness including: visa policies; eligibility to work in certain sectors; and necessary qualifications and requirements. As well as pre-migration processes such as screening visa applications, post-migration policies are important, for instance on the protection of labour rights for foreign workers. Systems for dealing with migrant workers who overstay their permitted time and for managing irregular migrants are elements of an overall policy framework.

Policies vary widely between countries making generalization difficult. Migration policies in individual ASEAN countries have so far mainly been reactive and have not actively guided or planned migration flows (IOM, 2008). Most ASEAN countries offer little in the way of access to jobs for low-skilled labour migrants, while several countries compete openly for highly skilled migrants. The large numbers of irregular migrants are evidence that there are too few legal channels for migration to meet regional demand. Treatment of irregular migrants is often unsatisfactory and they are often vulnerable to abuse (IOM, 2008).

While national policies remain paramount, ASEAN members are already co-operating in a number of areas, and a number of ASEAN agreements also have a bearing on migration policy. For instance, the ASEAN agreement on the Movement of Natural Persons (MNP) was signed in 2012 (overtaking commitments made under the ASEAN Framework Agreement on Services - AFAS). The commitments of members in this area, however, do not go far beyond those very limited pledges already consented to through the WTO; the MNP Agreement only deals with the temporary movement of persons pursuant to mode 4 of the AFAS. Indeed, the MNP Agreement is specifically limited to business visitors, contractual service suppliers, and intra-company transferees and is focused on facilitating for ASEAN companies to send their personnel (professionals and executives) temporarily to other countries to provide services. Likewise, the MNP Agreement does not allow for permanent entry by such persons, nor does it allow for movement of all persons (e.g., unskilled labor) even on a temporary basis.

Another area of co-operation has been migrants' rights. Following the 1999 Bangkok Declaration on Irregular Migration, members strengthened commitments to migrants' rights in the *Declaration on the Protection and Promotion of the Rights of Migrant Workers* agreed in 2007. In this declaration ASEAN member states commit to protect migrant workers' human rights and to promote decent, humane, productive, dignified and remunerative employment for migrant workers. However, enforcement mechanisms are absent and irregular migrants, who are often the most vulnerable to exploitation, are not covered. The declaration also led to the establishment of the ASEAN Forum on Migrant Labor in 2008 which provides an ongoing forum for governments and civil society.

Some of the most substantive co-operation on labour market access among ASEAN members is not through ASEAN but in bilateral labour agreements (BLAs) and MOUs. Thailand, for example, has signed MoUs with Cambodia, Lao PDR and Myanmar in order to regulate the entry of labor migrants and to cope with irregular migration. The Philippines, normally a labour exporting country, also has MOUs governing the arrival of workers from Indonesia and Lao PDR. These bilateral agreements can provide valuable learning and provide a basis for great multilateral co-operation within ASEAN. Non-binding forms of co-operation, notably through Regional Consultative Processes, can also facilitate the sharing of information and best practice in migration management. The Colombo Process brings together several ASEAN members with South Asian countries such as India, Pakistan and Sri Lanka for dialogue on the management of overseas employment and contractual labour.

### 3. Towards Skilled Labour Mobility under the ASEAN Economic Community

The formal establishment of the ASEAN Economic Community (AEC) at the end of 2015 will ceremonially mark a milestone in the process of economic integration in Southeast Asia. The ambition of the AEC is that it will “transform ASEAN into a region with free movement of goods, services, investment, skilled labour, and freer flow of capital.” The ASEAN Economic Community Blueprint, launched in 2008 outlines the vision for the AEC and the steps towards its realization (ASEAN 2008).<sup>2</sup> ASEAN is committed to the achievement of “Free Flow of Skilled Labour” under Pillar A (“Single Market and Production Base”). Despite the ambition, actions required to be undertaken of member states in pursuit of this are relatively limited when compared to the extensive actions and commitments given in relation, for example, to trade in goods and services, or trade facilitation.

#### **Box: Labour Mobility in the AEC Blueprint**

Paragraphs 33 and 34 of the Blueprint cover commitments and actions on labour mobility:

*33. In allowing for managed mobility or facilitated entry for the movement of natural persons engaged in trade in goods, services, and investments, according to the prevailing regulations of the receiving country, ASEAN is working to:*

*Action:*

*i. Facilitate the issuance of visas and employment passes for ASEAN professionals and skilled labour who are engaged in cross-border trade and investment related activities.*

<sup>2</sup> See also <http://www.asean.org/communities/asean-economic-community>.

34. In facilitating the free flow of services (by 2015), ASEAN is also working towards harmonization and standardization, with a view to facilitate their movement within the region.

*Actions:*

- i. Enhance cooperation among ASEAN University Network (AUN) members to increase mobility for both students and staff within the region;*
- ii. Develop core competencies and qualifications for job/occupational and trainers skills required in the priority services sectors (by 2009); and in other services sectors (from 2010 to 2015); and*
- iii. Strengthen the research capabilities of each ASEAN Member Country in terms of promoting skills, job placements, and developing labour market information networks among ASEAN Member Countries.*

Progress to date in relation to the major commitments has been made but many areas require further attention:

**Facilitating Visas and Employment passes** – Access to working visas is one of the most fundamental issues in relation to labour market opening. ASEAN is committed to facilitating the issuance of visas and employment passes for professionals. However, this commitment only applies to persons ‘engaged in cross-border trade and investment related activities’. This very limited scope falls far short of free flow of skilled professionals. Other remaining barriers include high case fees and cumbersome and lengthy application processes. Additionally, requirements for work visas vary greatly across ASEAN countries and many restrictions remain that effectively limit the ability of non-nationals to gain access to employment in many sectors. For instance, in Cambodia, Thailand, Myanmar and the People’s Democratic Republic of Laos employers hiring foreigners have to guarantee that knowledge is transferred to locals and the foreign employee will eventually be replaced by a local (Yue, 2011). In Indonesia, foreigners are only allowed to hold positions that cannot be filled with nationals; foreign employees must have a minimum of 5 years relevant work experience, must state their willingness to relinquish the position to a national, and must be able to communicate in Indonesian. Likewise, the Philipino constitution reserves the practice of many licensed professionals to nationals including accountancy, medicine and engineering.

**Mutual Recognition Agreements (MRAs)** - MRAs are a major instrument for skilled labour mobility in ASEAN. Through MRAs, ASEAN members may recognize the education or experience obtained, requirements met, and certification or licensing granted by other ASEAN members. MRAs have been completed in accountancy, engineering, medicine, dentistry, and nursing. MRA frameworks (which provide the agreed platform for negotiation of a future MRA) are expected by 2015 in architecture

and surveying. Negotiation of MRAs can be complicated by wide variations in educational standards and practices. There are further problems related to determining the equivalence of on-the-job training and formal training in some professions e.g. chefs or IT workers. Further, implementation of these MRAs does not equate to market access; permission to work is still subject to domestic rules and regulations which, as seen above, are highly restrictive in many ASEAN members. While the ASEAN 'scorecard' for 2011 judged that ASEAN has 'fully implemented' required measures on the free flow of labour, no assessment or report has been undertaken on the implementation of MRAs or their effectiveness (Chia, 2013).

**Greater Mobility for Students and Researchers** - The AEC Blueprint calls for enhanced cooperation among universities in ASEAN countries in order to expand student and staff mobility within the region (Pornavalai, 2012). The ASEAN University Network (AUN) is the vehicle for this goal. Additionally, research capabilities are to be strengthened in each ASEAN country in terms of promoting skills, job placements and developing labor market information networks among ASEAN countries. This last point will have beneficial effects on labor migration in that it allows prospect labor migrants better information about potential job placements in the host country.

**Concordance on qualifications and certifications** - After the first phase of the AEC Blueprint in 2008, core competencies were to be developed for job and occupational skills that are required in the above mentioned priority service sectors in 2009 (ASEAN, 2008). In 2014 and 2015, such core competencies are planned to be developed for all service sectors. Yet to date to ASEAN concordance has been made public; its development is proving time-consuming and difficult.

#### **4. Towards More Open Labour Markets: Overcoming shortcomings with the AEC**

The AEC framework is inherently limited. While the ambition to have free flows of skilled labour is bold, current policies even if fully implemented are insufficient to achieve this. Many sectors will remain largely limited to nationals even where MRAs have been concluded. Further, the majority of labour migrants in ASEAN are low-skilled and the AEC framework does little to either: (i) open labour markets to low-skilled migrants; or (ii) provide co-operative mechanisms to better regulate existing patterns of migration and discourage irregular migration. By limiting substantial co-operation on labour market access to high-skilled labour, ASEAN members are missing out on the opportunities and positive developmental impacts from facilitating well-managed migration.

It is unlikely that ASEAN could in the foreseeable future consider EU-style freedom of labour movements; the large disparities in income and limited land and populations in popular destinations such as Singapore and Brunei Darussalam will make this a

political impossibility. But to realize the full potential benefits of deeper labour market integration, more co-operation is needed. In particular, policy-makers should give attention to the following options:

- **Expand MRAs and link them to genuine market access** - Existing MRAs could be extended to include increasingly more sectors while a regional agreement is negotiated. The example of Malaysia's Qualification Agency which has a well-formulated qualifications framework to recognize foreign higher education and vocational competencies may serve as an example which could be transferred to the regional level. More efforts are needed to develop MRAs in sectors where formal qualifications may be less relevant than practical experience, for example in IT or cooking.
- **Remove nationality provisions in areas where MRAs have been negotiated** - While domestic regulation will be required to maintain certain standards – for instance language requirements may be legitimate in some settings – in general individuals meeting MRA standards in any profession should have the right to work in any other ASEAN member in that sector. Market access could be conditioned on the holder having a legitimate job offer and could initially be made temporary, perhaps for three-years to reduce concerns over surges of migrants.
- **Expand labour market access for low-skilled workers through temporary schemes** - Neither the regulations in the Blueprint nor the 2012 Agreement on the Movement of Natural Persons cover low-skilled workers, but expanding labour market access for lower-skilled workers is possibly the action with the largest developmental gains. Full liberalization will remain impossible, but an expansion of well-managed temporary schemes would enhance market access and thus the earning potential of would-be migrants. It would also channel irregular migrants into legal programmes while reassuring receiving countries that migration will be limited and controlled. ASEAN-wide sharing of information on labour market opportunities would be an initial step. Best-practice schemes that involve sending countries in vetting would-be emigrants for suitability and also involve them in ensuring timely returns are the most effective.
- **Protect the rights of irregular migrants** - Without reforms to widen channels for legal migration, irregular migration will remain a common feature within ASEAN. Irregular migrants still lack access to the rights accorded to other migrants under the AEC Blueprint and the 2012 Agreement. An extension of the protections outlined under the *Declaration on the Protection and Promotion of the Rights of Migrant Workers* to irregular workers, is an essential step. Further co-operation should also focus on reducing the exploitation of irregular migrants. Since labour migration has become highly commercialized in the ASEAN region (ILO, 2006), irregular, commercially-assisted border-crossings that involve human exploitation

are widespread (IOM, 2010). Agencies and middle-men generate an estimated \$10 billion annually by assisting migrants to cross national borders or to gain illegal entrance to the host countries.

- **Increase Social Security Portability** - A regional scheme of portable social security would enhance economic security and fairness. At present the contributions that migrants make to host country social security systems are lost when they return home. By making these contributions portable, sending countries would reduce the costs associated with returning migrants who lack social security coverage. Portability would also reduce incentives for migrants to overstay and thus be of benefit to host countries. Portability of social security benefits affects migrant workers' decision of when and where to retire (Pasadilla, 2011) and thus the distribution of migrants in the long-run. The 2007 Declaration on the rights of migrant workers acknowledges the obligation for receiving states to "facilitate access to justice and social welfare states as appropriate and in accordance with the national legislation of the receiving state" and to "promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions" (ASEAN, 2007: §7 & §8). However, the Declaration contains no explicit actions towards the establishment of portability schemes for social security benefits (Hall *et al*, 2011).

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