

Memorandum of Understanding between
the Ministry of Labor and Transport Management,
Government of Nepal and
the Ministry of Labor of the Republic of Korea
on the Sending of Workers to the Republic of Korea
under the Employment Permit System

The Ministry of Labor and Transport Management, Government of Nepal and the Ministry of Labor of the Republic of Korea (hereinafter referred to as the “Parties”),

- Respecting the principle of equality and mutual benefit,
 - Desiring to enhance the existing friendly relations between the two countries through cooperation in the field of labor affairs and human capacity building, and
 - Recognizing the benefits to be derived from such cooperation by both countries,
- Have reached the following understanding.

Paragraph 1. Purpose

The purpose of this Memorandum of Understanding (hereinafter referred to as “MOU”) is to establish a concrete framework for cooperation between the Parties and to increase transparency and efficiency in the process of sending Nepali workers to the Republic of Korea, by setting out the provisions for the Parties to follow concerning the sending of workers under the Employment Permit System for Foreign Workers (hereinafter referred to as the “EPS”) in the Republic of Korea.

Paragraph 2. Definitions

For the purposes of this MOU

- (1) The term “employer” refers to a business owner who obtains permission from the Ministry of Labor of the Republic of Korea (hereinafter referred to as the “MOL”) to employ foreign workers pursuant to the Act on Foreign Workers’ Employment of the Republic of Korea (hereinafter referred to as the “Foreigner Employment Act”) or a person who carries out specific tasks as a proxy of the business owner.
- (2) The term “job seeker” refers to a Nepali national who wants to work in the Republic of Korea pursuant to the Foreigner Employment Act.
- (3) The term “worker” refers to a person who has signed or intends to sign a labor contract with an employer in the Republic of Korea for the purpose of working in the Republic of Korea for a certain period pursuant to the Foreigner Employment Act.
- (4) The term “sending agency” refers to an agency, which has the authority to recruit, select and send workers who want to be employed in the Republic of Korea pursuant to the Foreigner Employment Act.
- (5) The term “receiving agency” refers to an agency which has the authority to coordinate and manage with sending agency matters pertaining to the entry of workers in the Republic of Korea pursuant to the Foreigner Employment Act.

(6) The term “steering committee” refers to a committee formed under the Ministry of Labor and Transport Management, Government of Nepal (hereinafter referred to as the “MOLTM”) to look after matters pertaining to recruitment, selection and sending of the Nepali job seeker to the Republic of Korea under the EPS.

Both Parties will comply with the following provisions to meet the purpose of this MOU.

Paragraph 3. Sending Agency and Receiving Agency

(1) The MOLTM shall be the primary Nepali government agency responsible for recruiting, selecting and sending Nepali workers to the Republic of Korea. However, in implementing this MOU, the Parties agree that the Department of Labor and Employment Promotion (hereinafter referred to as the “DOLEP”) will be designated by the MOLTM to act as the sending agency.

(2) The DOLEP, as a department under the control of the MOLTM, is directly involved in recruiting, selecting and sending Nepali workers and no other organization than the DOLEP can take part in the process under this MOU.

(3) The MOL shall be the primary Korean government agency responsible for receiving Nepali workers to the Republic of Korea. However, in implementing matters pertaining to entry of workers, the Parties agree that Human Resource Development Service of Korea (hereinafter referred to as the “HRD Korea”) will be designated by the MOL to act as the receiving agency.

Paragraph 4. Sending Fee

(1) The DOLEP shall receive the actual amount of money (hereinafter referred to as “sending fee”) that will be spent in carrying out recruiting, selecting and sending operations from each worker.

(2) Pursuant to item 1 of this Paragraph, the DOLEP shall provide the MOL with information on the total amount of sending fee to be collected per worker as well as a breakdown of the sending fee upon signing of MOU. The MOL can request the DOLEP to reduce the sending fee if the MOL deems that the sending fee includes unnecessary items or is assessed to be excessively high when considering Nepali economic situation (such as national income) and other countries’ sending fees.

(3) The MOLTM and the DOLEP shall publicly announce in Nepal the sending fee that was agreed with the MOL.

(4) When changes in the sending fee which has originally been agreed upon are inevitable due to inflation or other reasons, the DOLEP shall inform the MOL and consult on the matter in advance.

Paragraph 5. Advertisement of the EPS

(1) The MOLTM and the DOLEP shall actively advertise the key contents and employment procedure of the EPS in Nepal. Specifics such as the advertisement method and date shall be jointly decided by the Parties and carried out accordingly.

(2) The MOLTM and the DOLEP shall assist the MOL or the HRD Korea in advertising the EPS through various means in Nepal.

Paragraph 6. Conduct and Administration of the Korean Language Proficiency Test

- (1) The MOL shall conduct the EPS Korean Language Proficiency Test (hereinafter referred to as the “EPS-KLT”) for an objective selection of job seekers.
- (2) General matters concerning the execution of the EPS-KLT such as public notification of the test, question selection and the conducting of the test shall be carried out by a test agency authorized and announced by the MOL.
- (3) Qualifications for the EPS-KLT are as follows:
 - (a) Persons aging from 18 to 39 (inclusive);
 - (b) Persons who have not been convicted of a crime punishable by imprisonment of a more severe punishment;
 - (c) Persons who have no record of deportation or departure orders from the Republic of Korea ; and
 - (d) Persons who are not restricted from departure from Nepal
- (4) The MOLTM and the DOLEP shall advertise the EPS-KLT via public media for its smooth implementation and support the execution of the EPS-KLT pursuant to the “implementing Agreement between the MOLTM and the MOL on the Conduct and Administration of the EPS-KLT” to be signed later by the Parties.
- (5) Other various matters related to the conduct and administration of the EPS-KLT such as the frequency, the execution procedure, test contents and limits of examinees shall be decided by the parties and carried out accordingly.

Paragraph 7. Recruitment and Selection of Job Seekers

- (1) The DOLEP shall prepare job seekers’ roster and send it to the HRD Korea.
- (2) When the DOLEP prepare the job seekers’ roster, the DOLEP shall select job seekers who satisfy the following qualifications:
 - (a) Persons who have passed the EPS-KLT recognized by the MOL; and
 - (b) Persons who have passed the medical examination determined by the MOL

If the number of qualified job seekers exceeds the total number allocated to Nepal, the selection shall be made according to a method agreed on by the Parties.

- (3) The job seekers’ roster prepared by the DOLEP shall include the following information:
 - (a) Personal information (name, nationality, date of birth, identification number, passport number, etc.);
 - (b) Desired employment conditions (wage, type of occupation, etc.);
 - (c) Personal and career background (education, work experience, etc.); and
 - (d) Information on the EPS-KLT taken by the jobs seekers (test agency, test date and score).
- (4) The DOLEP shall actively cooperate to shorten the time incurred in issuing a passport to facilitate a job seeker to obtain one in advance and submit its copy when making a job application.

- (5) The DOLEP shall inform the job seekers that their inclusion in the job seekers' roster shall not guarantee them a job in the Republic of Korea.

Paragraph 8. Management of Job Seekers' Roster

- (1) The job seekers' roster is valid for one year.
- (2) The DOLEP shall confirm the willingness to find jobs, the contact address, etc. of the job seekers listed in the job seekers' roster every four months, and shall inform the HRD Korea of any changes and the reason for the changes.
- (3) The HRD Korea can return the roster to the DOLEP if there is any error in the job seekers' roster, and the DOLEP shall correct those mistakes and send the roster back to the HRD Korea.
- (4) If there is any misconduct or false declaration in the process of the recruitment and selection of job seekers, the MOL can impose certain restrictions such as exclusion of the job seeker in question from the job seekers' roster or reduction of the allocated number of job seekers to Nepal.
- (5) The MOL shall inform the MOLTM of the types of occupations allowed under the EPS and the allocated number of job seekers each year.

Paragraph 9. Labor Contract

- (1) The DOLEP shall announce job seekers selected by employers via public media in Nepal immediately after receiving the employer's draft of the labor contract from the HRD Korea.
- (2) The DOLEP shall explain the content of the labor contract to each worker so that he/she can fully understand it and shall decide whether or not to sign the labor contract at his/her own will.
- (3) The DOLEP shall inform the HRD Korea whether the labor contract has been signed by the worker, and if not, the reason for not signing within 14 days of receiving the contract. If the position on signing of the labor contract is not conveyed within the given period, the HRD Korea make it not signed through consultation with the employer.
- (4) If any job seeker cancels the already signed labour contract or does not sign the labor contract two times without any due reason, the MOL can exclude him/her from the job seekers' roster.
- (5) The DOLEP shall provide the original copy of the labor contract to the worker who signed it and have him/her bring it when arriving in the Republic of Korea.

Paragraph 10. Preliminary Education

- (1) The MOLTM and the DOLEP shall conduct a preliminary education immediately for the workers who signed the labor contract, and shall decide the content and period of the education through prior consultation with the MOL.
- (2) The MOLTM shall select a public agency (agencies) to be entrusted with the preliminary education through prior consultation with the MOL.

(3) If any worker is found, after his/her arrival in the Republic of Korea, not to have received the preliminary education or have but not from the designated agency, the MOL can deport the worker and take necessary measures such as reduction of the allocated number of job seekers.

Paragraph 11. Visa Issuance

(1) The DOLEP shall inform the workers immediately after receiving the Certificate for Confirmation of Visa Issuance (hereinafter referred to as "CCVI") from the HRD Korea and apply for visa for the worker at the Korean diplomatic mission in Nepal with the required documents.

(2) The HRD Korea can cancel the labor contract of any worker who does not apply for visa within the three months of the validity period of the CCVI.

(3) If any worker issued with the CCVI decides not to enter the Republic of Korea or is unable to enter the Republic of Korea due to reasons such as the employer's cancellation of the labor contract, the DOLEP shall return the CCVI of the worker to the HRD Korea.

(4) If the number of workers with the CCVI who decide not to enter the Republic of Korea for personal reasons exceeds a certain percentage or the returning of the CCVI is not carried out in accordance with item 3 of this Paragraph, the MOL may take necessary measures such as reduction of the allocated number of job seekers.

(5) The DOLEP is the single organization authorized to assist in visa application, and no other organizations can intervene in the process.

Paragraph 12. Entry of Workers

(1) Any worker who has signed a labor contract shall enter the Republic of Korea on the date determined by the MOL and the HRD Korea according to each employment training schedule. The Parties shall actively cooperate to ensure that he/she enter the Republic of Korea on that date.

(2) The DOLEP, in order to prevent the postponement of the entry of any worker into the Republic of Korea due to shortage of flights, shall take necessary measures such as making advance flight reservations.

(3) All workers shall carry the original copies of his/her labor contract and medical examination certificate when entering the Republic of Korea and submit them at the request of the relevant public officials.

Paragraph 13. Provision of Information on the Sending Process

The DOLEP, in order to provide information on the progress of the workers' preparations for their entry into the Republic of Korea, shall input it into the EPS Network at every stage. Information shall include the purchase of social insurance, the completion of preliminary education, the application for visa, etc.

Paragraph 14. Employment and Sojourn Management

- (1) The MOL shall conduct employment training and medical examination for workers before they start to work. The organization(s) in charge of the employment training and medical examination shall be determined by the MOL.
- (2) If a worker is found unfit according to the result of the medical examination, the MOL can take adequate measures such as notifying the Ministry of Justice of the Republic of Korea.
- (3) If a worker returns to Nepal prior to the termination of his/her labor contract period due to disqualification in the medical examination, maladjustment to the workplace, and etc, he/she shall bear the general expenses including the airfare for his/her departure from the Republic of Korea. If he/she is unable to afford such expenses, the MOLTM shall assist the cost of his/her return to Nepal.
- (4) A worker can be allowed to work in the Republic of Korea for up to three years after the date of entry, and each labor contract period shall not exceed one year.
- (5) The MOLTM and the DOLEP shall ensure that all workers observe all laws of the Republic of Korea including the Foreigner Employment Act and the Immigration Control Act. The MOL shall protect foreign workers' rights in accordance with related labor laws of the Republic of Korea.
- (6) The MOLTM and the DOLEP shall make active efforts to prevent a worker's absence without leave from his/her workplace and to provide post-managerial support such as facilitating his/her voluntary departure from the Republic of Korea upon the expiry of employment period.
- (7) If the number of Nepali workers absenting themselves from their workplace without leave exceeds a certain percentage, the MOL may take necessary measures such as reduction of the allocated number of job seekers.
- (8) The MOLTM and the DOLEP shall make active efforts for efficient post-management via measures such as dispatching post-management officers to the Republic of Korea. The specifics such as the date and process concerning the dispatching of the post-management officers as well as their roles shall be determined by future consultations between the Parties.

Paragraph 15. Computer Infrastructure

- (1) The DOLEP shall establish a computer infrastructure in consultation with the MOL to facilitate the transmission of the job seekers' roster, the signing of each labor contract between every worker and employer, and the protection of their personal information.
- (2) The MOL shall provide the DOLEP with the necessary information and programmes to facilitate the establishment of the computer infrastructure.

Paragraph 16. Preferential Treatment for Voluntary Leavers

The DOLEP shall make efforts for the reemployment of workers that voluntarily left the Republic of Korea via Korea's Program for Voluntary Departure by listing them first in the job seekers' roster.

Paragraph 17. Efforts to Eliminate the Illegal Stay of Workers

- (1) The Parties will make active efforts to ensure the departure of any worker illegally staying in the Republic of Korea and to prevent future workers from staying illegally.
- (2) If the number of the Nepali workers staying illegally in the Republic of Korea exceeds a certain percentage, the MOL may take necessary measures such as reduction of the allocated number of job seekers.

Paragraph 18. Support in the Sending Process

- (1) The MOL, in order to support the process of sending Nepali workers to the Republic of Korea, may dispatch officers of the MOL and the HRD Korea (hereinafter referred to as “resident officer”) to Nepal.
- (2) The resident officers, through consultations with the MOLTM and the DOLEP, may supervise, assess, advice and coordinate the labor sending process at all times.
- (3) The MOLTM and the DOLEP shall provide active cooperation such as issuance of long-term visa and provision of related materials in order to facilitate the tasks of the resident officers.
- (4) The specific roles and duties of the resident officers in the sending process shall be determined through future consultations between the Parties.
- (5) The EPS Steering Committee shall monitor and assess the duties and roles of the DOLEP and parties involved in the sending process; and report to the concerning authorities.

Paragraph 19. Grandfather Clause Due to Abolishment of the Industrial Trainee System

With the abolishment of the Industrial Trainee System starting January 1, 2007, the status of Nepali workers who have entered the Republic of Korea under the system shall be decided by the Korean government.

Paragraph 20. General Provisions

- (1) The MOLTM shall actively cooperate when a Ministry’s labor attache or a resident officer requests information or consultation in order to perform their work.
- (2) The representatives of the Parties, jointly with relevant authorities if necessary, may visit and assess each other’s organizations at times decided on by the Parties to appraise the implementation of Paragraphs 2 through 18.
- (3) The MOLTM shall make active efforts to eliminate malpractices in the process of sending workers such as operating a complaint center where malpractices can be reported.
- (4) In the process of sending workers, the Parties may add supplementary provisions in writing by mutual consent.
- (5) The DOLEP and the HRD Korea may sign an implementing instrument regulating specific matters regarding the process of sending Nepali workers to the Republic of Korea.

(6) Any differences or disputes which may arise in the interpretation or implementation of this MOU shall be resolved through consultations between the Parties.

Paragraph 21. Effectuation and Term of Validity

(1) This MOU shall come into effect on the date of the signature by the Parties.

(2) This MOU will remain in effect for two years; however, if either side does not comply with the terms of the MOU or if there is any justifiable reason such as occurrence of irregularities in the process of sending and receiving workers, the Parties may decide to suspend or terminate the validity of this MOU.

(3) This MOU may be amended or extended based on mutual written consent between the Parties.

Signed in two original copies on July 23, 2007 in the English language.

Minister of State for Labor
and Transport Management

*For the Ministry of Labor and
Transport Management*

Minister of Labor

*For the Ministry of Labor
of the Republic of Korea*