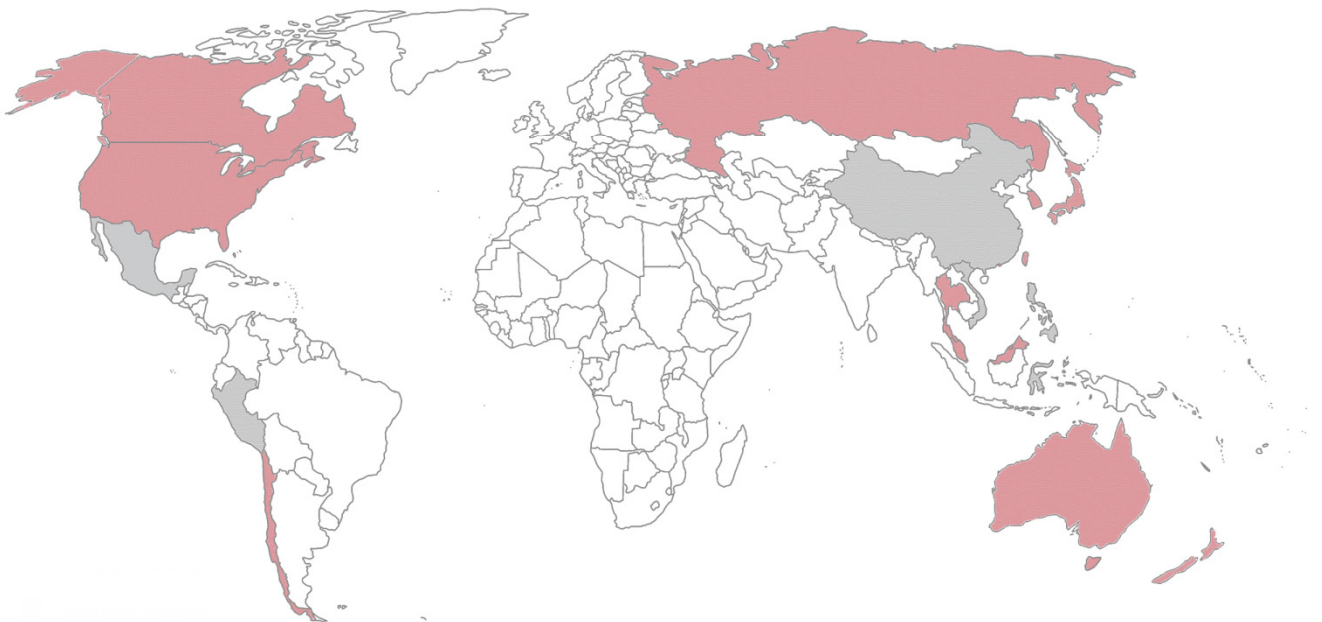




Facilitating Temporary Worker Mobility within APEC: Opportunities & Challenges

2009





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Executive Summary

Facilitating Temporary Labor Mobility within APEC Region: Opportunities and Challenges

This report offers a detailed analysis of temporary worker labor mobility policies, and their impact on businesses, across the APEC region. Its objective was to provide policy makers with information critical to engaging in the dialog needed to create a rationalized policy framework for facilitating the movement of temporary workers.

This report, unfortunately, makes it easy to understand why labor mobility is a neglected topic in discussions of globalization and trade and investment. Issues surrounding temporary worker movement are a full magnitude more difficult and complex than those of liberalizing and facilitating trade in goods and services. Public opinion has been conditioned, a priori, to be against labor mobility. Fears of job losses, the lowering of local wages, and unwelcomed burdens on social services, quickly push reasoned discussions of the economic benefits of temporary workers from the public agenda. But real shortages of skilled and lower-skilled workers exist in many APEC economies, even during this recessionary period. And these labor shortages and imbalances of skills and jobs are predicted to become increasingly critical because of the changing demographics of aging populations. This gives business real concern as access to workers is directly correlated with business competitiveness and growth. A rationalized policy framework for the movement of workers will give APEC economies benefits of economic development, and do so in an inclusive way.

Our research included the following:

- A comprehensive line by line analysis of all labor provisions within 42 Free Trade Agreements and 25 Labor-Specific Memorandums of Understanding/Agreement across the APEC Region.
- Creating a comparative catalog of APEC Labor Agreements (available on CD)
- In depth interviews with 156 business executives, government officials, and thought leaders, knowledgeable about temporary worker labor mobility in all APEC economies.

Key Findings

1. The most critical frictions, bottlenecks, barriers, and problems in temporary labor flows reported include:
 - Absence or complexity of labor agreements in FTAs and MOUs
 - Restrictiveness of national temporary worker visa regimes
 - Deficient governmental agency capabilities and systems for managing and coordinating temporary worker flows within and across economies
 - Misalignments between government labor policies and programs and immediate business needs
 - High recruitment fees and travel logistics costs for businesses and workers
 - Lack of adequate governance labor recruitment/ placement agencies and foreign employers
 - Lack of mutual recognition and verification of worker qualifications and credentials.
 - Overly restrictive temporary worker visa regimes driven by protectionist sentiment and cultural biases

- Weak or non-existent processes and systems to ensure the repatriation of workers
2. Existing temporary worker labor policy within APEC is uneven and patchy. FTAs focus principally on the movement of business persons. Fully 98 percent of all labor provisions in FTAs focus on the movement of businesspersons. The movement of the skilled and unskilled workers has been neglected: 10 of the 42 FTA's have no chapter on labor mobility; 28 FTA's address labor in a Movement of Business or Natural Persons chapter; only 7 contain a labor chapter.
 3. The scope and comprehensiveness of labor-specific MOUs/MOAs, negotiated in place of or as supplements to FTAs, is equally lacking. MOUs contain 30 percent fewer provisions than FTAs, and they are typically written with less specific policy detail. Disquietingly, of the 39 labor-specific MOUs identified, more than a third (equivalent to 14 agreements) were not available to the public.
 4. No international labor agreement standards or labor mobility model measures exist. The absence of guidelines has resulted in differing approaches to preparing labor agreements. Against a proposed set of 30 essential labor provisions (considered important for ensuring comprehensiveness and effectiveness) the most thoroughly prepared labor agreement includes less than half.
 5. Business executives do not want more studies documenting the existence of labor shortages. Executives want the conversation in APEC to move to focusing on developing more policy to improve temporary labor flows. Improving the cyclical pattern of temporary worker movement is a key concern of stakeholders in both sending and receiving economies.
 6. Specific key problems reported by businesses were: the lack of comprehensive worker movement policies which create inefficiencies and high transaction costs; overly restrictive entry requirements in some economies; arbitrary quotas misaligned with labor shortages that reduce the level of workers hired; costs incurred by businesses and workers, from placement fees, double-taxation and lack of pension-portability; unregulated recruiting agencies; lack of worker pre-departure training; lack of mutually recognized training, assessment and qualifications; and assurance that workers return home when their employment term is complete.

Action Agenda

APEC has an important role to play in setting the agenda for the needed discussion and debate on temporary worker movement, and in encouraging regional rather than unilateral or bilateral approaches. Unilateral and bilateral approaches are suboptimal. They introduce unnecessary complexity, increasing costs to individuals and businesses. The extra-territorial dimension necessitates regional cooperation. Approaches must be found that address the interests of both sending and receiving economies. Regional approaches to facilitating temporary labor movement will ensure that economic growth is more inclusive and benefits are shared more widely.

1. **Make international labor mobility an APEC priority.**
We urge APEC Leaders to make a joint statement prioritizing labor mobility.

2. Coordinate the development of governmental capabilities to manage temporary worker flows across economies.

We urge APEC to establish an APEC taskforce to study current systems and capabilities across economies and to offer recommendations for establishing a region-wide architecture for developing governmental management systems and capabilities.

3. Improve governance and oversight of sending and receiving labor agencies.

We urge APEC to establish a taskforce to establish governance protocols for labor agencies, to make recommendations on how to create and implement an APEC-wide certification process, and to offer proposals for creating an APEC-wide entity to monitor and evaluate labor agencies.

4. Develop APEC-wide model measures for effective labor policy.

We urge APEC to establish a taskforce to create a set of model measure for labor chapters within FTAs, and for negotiating labor-specific MOUs.

5. Foster and improve public-private cooperation within and across economies.

We urge APEC to take the lead in convening across economy public-private forums for voicing business concerns and for the sharing of ideas and sharing of business practices on temporary labor mobility.

6. Centralize responsibility and accountability for temporary worker labor policy formulation, implementation, and management within a single government agency.

We urge APEC to recommend to member governments that responsibility and accountability for temporary worker labor mobility be centralized in a single government agency.

7. Focus creative energy on approaches that facilitate mutual recognition and verification of professional credentials and qualifications.

We urge APEC to use its influence to encourage government agencies, industry associations, employers, and educational and training institutions across economies to begin seriously addressing the issue of mutual recognition and verification of worker qualifications and credentials.

Facilitating Worker Mobility

Few subjects make politicians, policy makers, and citizens more uncomfortable than the issue of migration, in general, and temporary workers in particular, especially in times of recession. Fears of job losses, the lowering of local wages, and unwelcomed burdens on social services, quickly push reasoned discussions of the economic benefits of temporary workers from the public agenda. But real shortages of skilled and lower-skilled workers exist in many APEC economies, even during this recessionary period. And these labor shortages and imbalances of skills and jobs are predicted to become increasingly critical because of the changing demographics of aging populations. Businesses are very concerned since access to workers is directly correlated with business competitiveness and growth. A rationalized policy framework for the movement of workers will give APEC economies the benefits of economic development, and do so in an inclusive way. Much is lost if protectionist tendencies prevail and the topic of international labor mobility continues to be neglected.

Few economies are capable of addressing these imbalances internally, or with immigration. External sources of labor are needed. This report focuses on the need to create a policy framework to address the circular movement of skilled and lower-skilled temporary workers to ensure its businesses and economies have access to the workers needed for inclusive progress and economic development.

Policy responses to the need for increased temporary worker movement are lacking. Current temporary worker policies have tended to focus on controlling and limiting worker movement rather than facilitating it. The important circular dimension of temporary worker flows has not been well addressed; often resulting in problems of overstaying workers who become a drain on resources of receiving economies, and a brain drain for sending economies. Collective courage and political will is needed to create an effective policy framework that addresses these concerns, and produce inclusive growth. Progress toward truly creating responsive and effective temporary worker programs will take time, perhaps requiring decades of collective effort. How progress is made depends critically on the economic and labor market policies put in place now by individual economies, the international community, and businesses.

If the challenge of formulating and implementing effective temporary worker policies is not addressed a number of things will remain certain:

- Critical labor shortages and skill gaps will continue to inhibit the competitiveness of businesses and the economic growth of economies,
- Businesses will seek their solutions to ensure their own survival,
- Economies that develop and facilitate effective temporary worker programs, all things being equal, will outperform those that do not, and
- Without the guidance of policy makers, the invisible hand of the market will continue to seek its own solutions. Whether that process is smooth, awkward, or an utter failure depends on the extent of the collaborative effort invested now.

This report suggests APEC has an important role to play in setting the agenda for the needed discussion and debate on temporary worker movement, and in encouraging regional rather than unilateral or bilateral

approaches. Unilateral and bilateral approaches are suboptimal. They introduce unnecessary complexity, which increase costs to individuals and businesses. Currently economies differ widely in approaches taken to establishing temporary worker entry requirements, and in temporary worker labor provisions included in FTAs and MOUs. In our view, the extra-territorial dimension of temporary worker movement necessitates regional cooperation. Approaches must be found that address the interests of both sending and receiving economies, as well as the workers. Regional approaches to facilitating temporary labor movement will ensure that economic growth is more inclusive and the benefits are shared more widely.

Temporary Worker Movement Research Project

Our research is intended to provide an in-depth analysis on labor policies and agreements between the APEC economies, with a focus on the effect these policies and agreements have on businesses. With labor agreements rapidly increasing in number and complexity, there is a serious need for policy makers to understand where effective policy is facilitating the intended type of labor movement and where it is causing unnecessary stress to businesses. Policy is intended to facilitate trade and efficiency, but implementation often falls short, resulting in a barrier to economic growth.

This report is designed to provide an agnostic perspective on labor policy and movement. It provides basic information to guide policymakers in effectively addressing critical issues surrounding temporary worker movement. The first portion of our research involved an interview analysis, designed to capture the voice of the key stakeholders, evaluate labor policy implementation, and understand what business needs have not been met by current labor policies. The second component of our research comprised of an extensive labor policy analysis, which is designed to identify which types of labor agreements have been made, who the stakeholders are, what content is included, and where they are located.

With a better understanding of existing agreements and how they have been implemented, APEC economies can focus on writing achievable, implementable, effective policy. The economic benefits of increased worker flows are significant and shared across both net labor sending and receiving economies.

Specific Research Objectives

- Review existing research on labor mobility topics from academic literature and government publications.
- Compile a comprehensive catalogue of APEC region labor provisions, which includes visa entry requirements, free-trade agreements (FTA) and labor memorandum of understanding and agreements (MOU/MOA).
- Analyze agreements and evaluate the content across the APEC economies.
- Conduct field research (in person and phone interviews) with business executives, government officials and non-government/non-profit organization representatives to capture the voice of key thought leaders and stakeholders.

Project Scope

The focus of our research was three-fold:

- Determine the current status of labor trade agreements and movement of workers within the APEC economies.
- Capture the voice of thought leaders to identify best practices for agreements/programs that facilitate the mutually beneficial exchange of workers across APEC economies.
- Evaluate where businesses are experiencing problems as a result of labor shortages, skill gaps or poor implementation of labor policy.

Project Details

Number of FTA's: 42
Number of MOU's/MOA's: 39
Number of Economies' Visa Requirements: 21
Number of Excluded Labor Policy Agreements: 14

Number of economies interviewed: 21
Number of field interviews: 119
Number of phone interviews: 37
Number of survey interviews: 42

Research Limitations

Our research findings are subject to several limitations:

- This research project does not address the severity of the labor shortages within the APEC economies. The team relied on established research estimates of labor shortages and the opinions of business executives relative to finding and employing temporary workers. Further research should be conducted to obtain an updated estimate of each APEC economy's labor shortage.
- This report was designed and created to capture the voice of all businesses in the APEC economies. Despite efforts to obtain a representative sample, our research is biased toward larger companies in major industries. Furthermore, we did not speak with particular workers to attain their opinions.
- We attempted to catalogue all APEC economies' labor agreements. The team identified 81 labor agreements, but was only able to access 67. Some economies declined to provide the original text of the agreements and therefore we noted and specifically excluded these agreements from our analysis.
- Due to the sensitivity and negative stigma associated with the topic of labor movement, many of our primary and secondary research sources had strong preconceptions and opinions on certain issues, even without firsthand experience. In some cases, interviewees declined to comment on this topic.
- Generalizations of our research should be made with caution. Our field research was largely conducted with APEC affiliates and large businesses, so our data sample may not accurately represent the views of all businesses

Key Findings Summary

1. Some work is location-specific. Workers must come to the jobs; the jobs cannot be outsourced or off-shored. This is the *raison d'être* for needing to focus attention on temporary worker programs. When there are critical labor shortages in industries where the work is location-specific, for example, healthcare, infrastructure construction, and agriculture, serious negative impacts on the quality of life and economic development may occur. Location-specific work may be highly-skilled, semi-skilled or lower skilled.
2. Temporary worker mobility has been forced from the trade and economic development agenda by primarily political rather than economic concerns.
3. The most critical frictions, bottlenecks, barriers, and problems in temporary labor flows include
 - Absence or complexity of labor agreements in FTAs and MOUs
 - Restrictiveness of national temporary worker visa regimes
 - Deficient governmental agency capabilities and systems for managing and coordinating temporary worker flows within and across economies
 - Misalignments between government temporary labor policies and programs and immediate business needs
 - High recruitment fees and travel logistics costs for businesses and workers
 - Lack of adequate governance labor recruitment/ placement agencies and foreign employers
 - Lack of mutual recognition and verification of worker qualifications and credentials.
 - Overly restrictive temporary worker entry visa regimes driven by protectionist sentiment and cultural biases.
 - Weak or non-existent processes and systems to ensure the repatriation of workers.

Analysis of Existing Labor Agreements within APEC

1. Existing temporary worker labor policy within in APEC is uneven and patchy. Within the 42 FTAs:
 - 10 FTAs do not include a chapter on labor mobility; within these 10 agreements, 3 include labor issues in the Trade in Services chapter.
 - 10 FTAs include only a Movement of Natural Persons chapter.
 - 15 FTAs include only a Movement of Business Persons chapter.
 - 7 FTAs include a Labor chapter. Of these 7 agreements, 3 also include a Movement of Business Person chapter and 1 also includes labor mobility issues in the Trade in Services chapter.
2. 98 percent of all labor provisions in FTAs focus on the movement of business persons. The movement of skilled and lower skilled workers has largely been neglected in FTAs. Where addressed it is typically done in separately negotiated labor-specific MOUs.
3. No international labor agreement standards or labor mobility model measures exist. The absence of guidelines has resulted in differing approaches to preparing labor agreements.

4. The comprehensiveness and detail of FTA labor provisions varies, but are generally limited. Against a proposed set of 30 essential labor provisions (considered important for ensuring comprehensiveness and effectiveness), the most thoroughly prepared labor agreement includes less than half of the labor provisions considered necessary to be an effective labor agreement. Critical provisions such as repatriation, health insurance, pre-departure orientation, oversight of recruitment agencies, portability of social security, and transportation logistics are addressed in fewer than 15 percent of all agreements.
5. The scope and comprehensiveness of labor-specific MOUs/MOAs, negotiated in place of or as supplements to FTAs, is equally lacking. MOUs contain 30 percent fewer provisions than FTAs, and they are typically written with less specific policy detail. Disquietingly, of the 39 labor-specific MOUs identified, more than a third (14 agreements) are not available to the public.
6. More positively, there is a strong degree of similarity in the content and language of labor policy across FTAs. This is a reflection of the singular focus in FTAs the movement of business persons. There is considerably less convergence across MOUs. Provisions relating to Entry Requirements and Legality are highly convergent, while those addressing Worker Movement Logistics (including repatriation, orientation, family reunification, and transportation) are widely divergent.

APEC Business Voice

1. Businesses in receiving economies want better access to people. When faced with labor shortages and/or skill gaps businesses want flexibility to quickly fill their talent needs domestically or from labor rich economies.
2. Businesses in receiving economies complain that options to hire foreign workers either do not exist, or are slow, bureaucratic, and costly. Procedures for hiring skilled professions are far more developed than those for semi or lower skilled workers.
3. Businesses in receiving economies want increased collaboration with governmental agencies to develop temporary worker policies that are more cost-effective and responsive to growth and competitive needs. Businesses want improved communications with government agencies tasked with managing temporary worker programs to ensure that existing polices (i.e. quotas) reflect the changing realities of labor markets.
4. Business executives are concerned that their needs are out-pacing the capacity and capabilities of governmental agencies to effectively manage the flow of temporary workers into and out of economies. A key concern also raised was that in many economies responsibility for managing the flow of temporary workers was shared across multiple government agencies. This has made it difficult for businesses to get policy makers to focus on the issue.
5. Executives in multinational corporations complained of the unnecessarily high transaction costs incurred, usually in the form of hiring specialist agencies, in deploying their employees to assignments across economies. The differences in visa entry requirements, differences in protocols for verification

of professional qualifications, differences in employment requirements, all add to the complexity and costs of operating simultaneously in multiple economies.

6. Improving the cyclical pattern of temporary worker movement is a key concern of stakeholders in both sending and receiving economies. For sending economies the long-term negative impact of cumulative brain drain on economic development was a priority concern. For receiving economies it was concerns over poorly managed programs creating domestic unemployment, lowering wages, overtaxing public social services, and increasing the numbers of undocumented workers within their economies.
7. One of the most important barriers reported was the lack of mutually recognized qualifications and credentials. Further businesses were concerned that regional bodies did not exist to facilitate the process of recognizing education, training, and qualifications. This problem was referenced for highly-skilled, semi-skilled and lower-skilled workers.
8. Developing cross-economy systems that lowered costs for businesses and ensured benefits earned by workers were received was an important concern. Processing fees, cost of time and resources to complete documentation, issues of double-taxation, and lack of social-security/pension-portability were raised as important concerns.
9. Appropriate and effective governance of private recruitment agencies was a major concern. Problems of corruption, worker abuse and trafficking (sending economies), and exploitation (receiving economies) were problems that businesses wanted addressed.
10. At the top of the list of concerns for sending economies was the fair treatment of their citizens while aboard, the return of their citizens at the end of employment terms, and effective reintegration of returning workers into the local economy.
11. Across our interviews a consistency in the voice shared with us by business executives was that they do not want more studies documenting the existence of labor shortages. Executives want the conversation in APEC to move to focusing on developing more policy to improve temporary labor flows.

Introduction

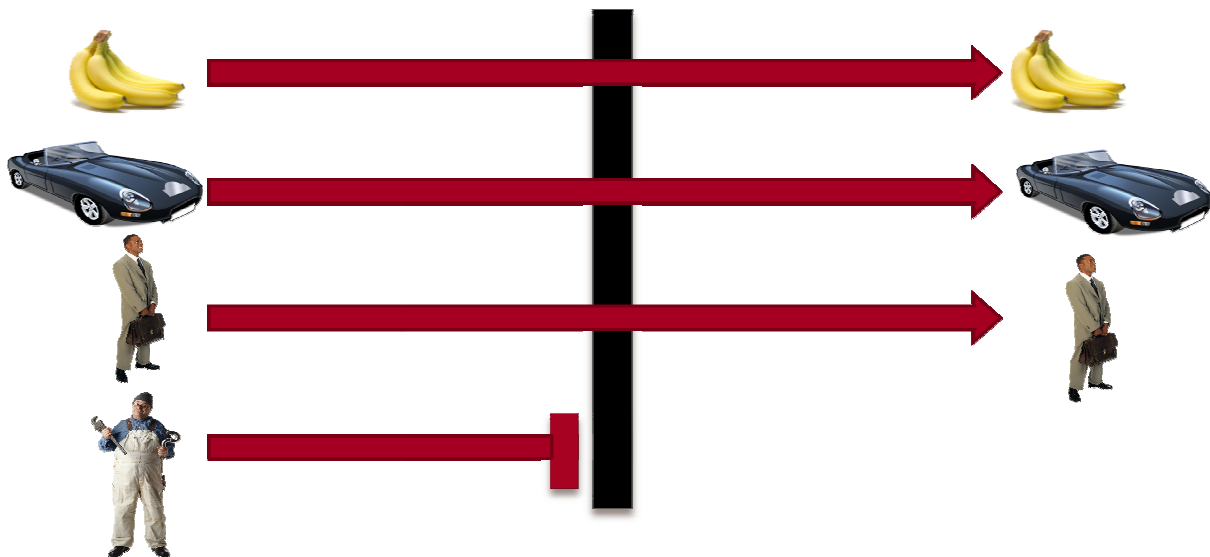
Temporary Worker Mobility – An Overview

The Neglected Issue in Globalization is Worker Movement

Temporary worker movement has been the neglected topic in the discussions on liberalizing and facilitating trade despite its critical importance to economic growth. Due to the complex nature of moving people to and from different economies, this topic necessitates bilateral and multilateral government coordination, and some degree of extra-territorial control. In addition, the negative stigma associated with the topic of temporary worker movement often skews discussion of this topic.

Trade practices do not effectively address temporary worker movement...

Figure 1: Global Trade



... which results in barriers that are difficult to overcome.

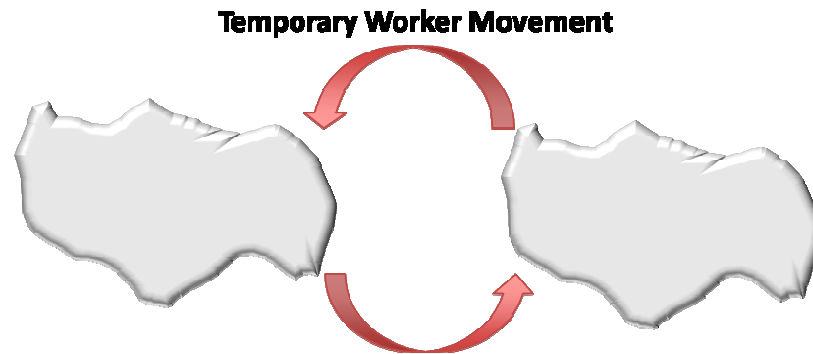
Negative concerns divert attention from the economic benefits that temporary workers can bring to economies. Many economies institute increasingly restrictive entry regimes, which limit rather than facilitate temporary worker movement. This results in businesses constantly encountering intentional and unintentional barriers as they attempt to recruit and employ foreign workers. This is in stark contrast with the collaboration between economies, which has led to substantive progress in the trade of goods and services. For example, despite the pathogens that concern agricultural inspectors, economies have developed sanitary and phyto-sanitary standards that facilitate trade of agricultural products. Another example of effective multilateral cooperation is the promotion of trade in complex goods, such as automobiles and electronic products, even in the presence of complicated rules of origin and non-tariff barriers. Economies have even made great progress in facilitating the movement of highly skilled business persons. Labor movement, on the other hand, has not been addressed to the extent that it should be. It is now imperative that economies look to achieve the same level of progress in this area.

Temporary Worker Movement is Cyclical and Transient

“Temporary Worker Movement” refers to the *cyclical* and *transient* movement of labor between economies to temporarily fill labor shortages as they emerge. Workers enter economies on a temporary basis to work in jobs that cannot be filled by the local labor market. Businesses enjoy access to the labor input they need, bolstering their productivity and industry competitiveness.

Businesses can obtain temporary workers from around the world...

Figure 2: Temporary Worker Movement Illustration



...while workers return to their origin economy when the job ends.

While extensions in the destination economy may be arranged, workers generally return home under temporary programs after an established timeframe. They are then able to begin a new career in their home economy using funds and knowledge accrued during their time overseas, or seek employment in a new economy. In order to bring about this type of temporary movement, institutions must exist in both sending and receiving economies, not only to prepare workers for their new lives and jobs overseas, but also to help them reintegrate back into their home economy.

A well-developed model of temporary worker movement exists in the maritime industry. Regulations previously inhibited shipping companies from staffing their vessels with seamen outside of the port of origin. Due to short supply of seafarers in the late eighties and early nineties, these rules were relaxed and international standards were set to govern the movement, management and return of seafarers to their home economies. The collaboration of the public and private sector entities in this industry led to the standardization and implementation of the regulation across economies. A key player in the collaboration was the International Labor Organization (ILO), which acted as a mediating and overseeing entity in these discussions.

Temporary Worker Movement is Necessary

Location-Specific Jobs Require Workers to Move

Businesses look to increase profits by increasing revenue and reducing costs. A key input in any business is labor. In an environment where adequate labor is either scarce or increasing in cost, businesses may be forced to seek solutions outside of the domestic economy. However, there is a subset of work that cannot move due to the nature of the location-specific service provided. Examples of location-specific positions include nursing, construction, and agricultural work. For such location specific work, temporary workers provide an ideal solution.

Systemic and Recurring Labor Shortages Necessitate Temporary Workers

The estimates of labor shortages and skill gaps are staggering. The United States and European Union estimate a combined labor shortage totaling 120 million by the year 2050. According to the Global Commission on International Migration, differences in demography, development and democracy are the principal driving forces of international migration (International Organisation for Migration, 2005). These drivers, in conjunction with economies' quest for global competitiveness, support the fact that labor and skill gaps are going to continue to be prevalent in many economies.

Demographic, development and democracy disparities are prevalent around the world...

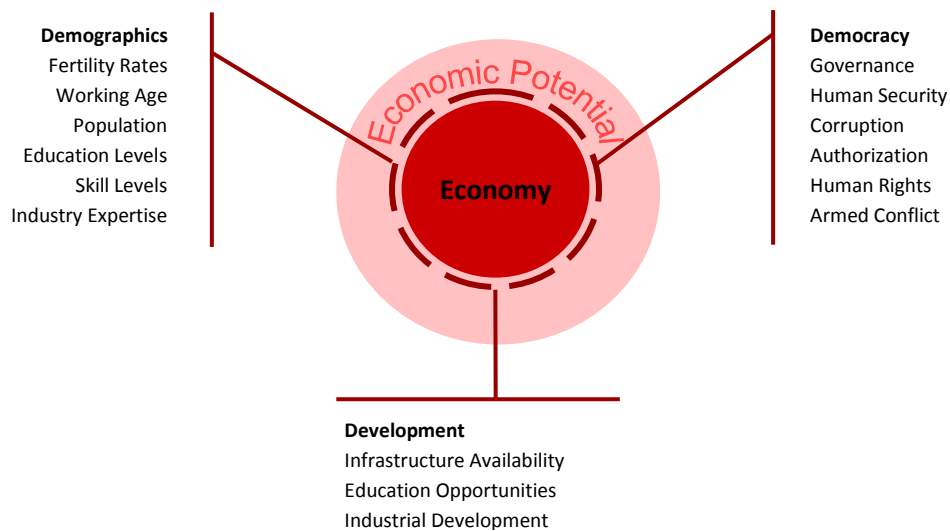
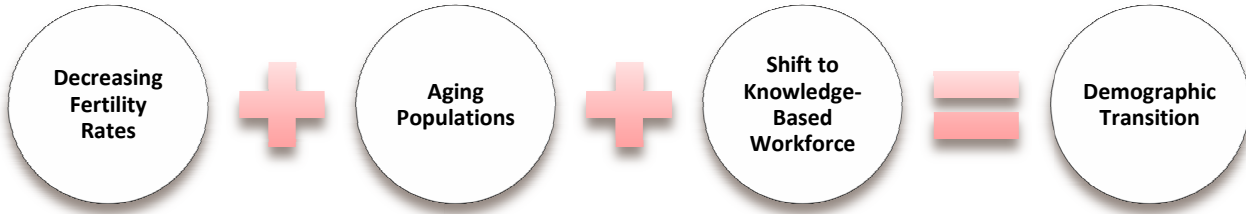


Figure 3: Demographic, Development and Democracy Disparities

...and they are expected to continue increasing.

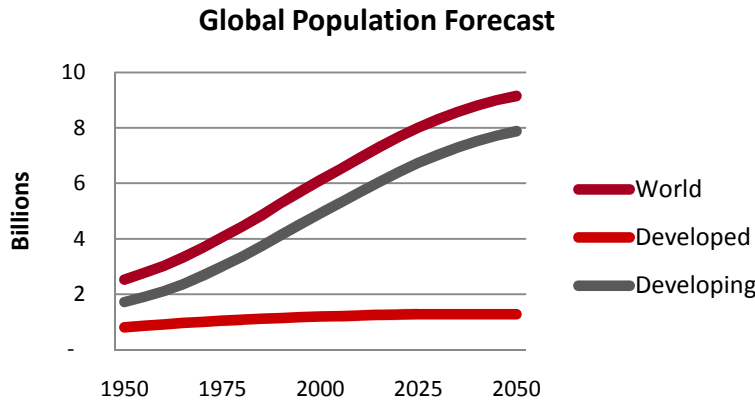
Disparities Are Expected to Continue Their Upward Trend



A combination of worldwide demographic shift and strong economic growth over the years has increased the demand for additional labor and has strained economies' labor forces. This strain on labor is being amplified as aging populations retire and leave the workforce while fertility rates continuously drop below replacement levels. This widening gap will make adequate labor pools more difficult to access and will severely impede business attempts to grow and remain competitive. Developed economies are ageing, while economic growth is increasing the demand for labor, which cannot be supplied internally.

This demographic transition is not consistent across all economies, however. Although many countries are experiencing increasing shortages in labor, different demographic conditions have created labor surpluses in others.

Economy	Fertility Rate
Hong Kong	1.02
Singapore	1.09
Taiwan	1.14
Korea, South	1.21
Japan	1.21
Russia	1.41
Canada	1.58
Thailand	1.65
Australia	1.78
China	1.79
Vietnam	1.83
Brunei	1.91
Chile	1.92
United States	2.05
New Zealand	2.10
Indonesia	2.31
Mexico	2.34
Peru	2.37
Malaysia	2.95
Philippines	3.27
Papua New Guinea	3.62
World	2.58



- The United States is estimated to require an additional 35 million workers by 2030.¹
- Japan will need an influx of 17 million workers by 2050 to restore its demographic equilibrium.²
- Europe will need 80 million additional workers by 2050 to maintain its working population size.³
- Canada is expected to face a shortage of one million workers by 2020.⁴
- Ontario alone could face a shortfall of 364,000 workers by 2025.⁵
- Russia's will require over 25 million workers in the next two decades.⁶
- Korea will experience a shortage of up to 4.8 million workers in 2020.⁷

¹ United States Senate. *Special Committee on Aging*. 2009. - <http://www.aging.senate.gov/issues/olderworkers/index.cfm>.

² Jared Taylor. *The New York Times Says Japan Needs Immigrants. The Japanese Politely Disagree*. 2003 - <http://www.vdare.com/taylor/japan.htm>

³ Jonathan Equeter. *Can Migrant Workers Save an Ageing Europe?* ILO Bureau for Worker Activities. 2002 - <http://www.ilo.org/public/english/dialogue/actrav/publ/129/22.pdf>

⁴ Deloitte, Inc. *It's 2008. Do You Know Where Your Talent Is?* 2008. http://www.deloitte.com/view/en_CA/ca/services/consulting/article/4316a7d2770fb110VgnVCM100000ba42f00aRCRD.htm

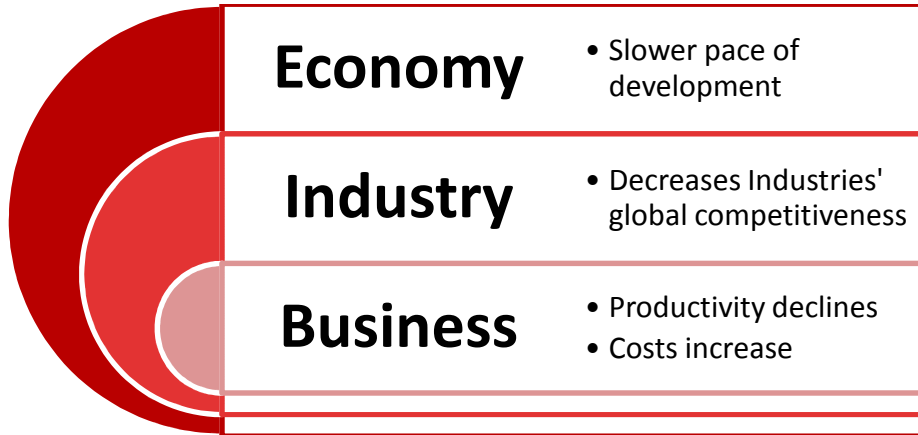
⁵ Ken Mark. PEM Magazine. *Skills Shortage Report*. April 2008. - http://www.skillscanadasask.com/component/docman/doc_download/20-skills-shortage-report-2008.html

⁶ Zhanna Zayonchkovskaya. *Director of the Research Center for CIS Compulsory Migration Issues*. Russian Expert Review. 2009. - <http://www.rusrev.org/eng/content/review/default.asp?shmode=8&ids=141&ida=1703&idv=1721>.

⁷ Andrew Eungi Kim, "Demography, Migration and Multiculturalism in South Korea" *The Asia-Pacific Journal*, Vol. 6-2-09, February 1, 2009. - http://www.japanfocus.org/-Andrew_Eungi-Kim/3035

Labor Shortages Impact Economies, Industries and Businesses

Figure 4: Examples of Labor Shortage Impacts



Global Labor Shortages Halt the Pace of Development

As a consequence of the rapid economic growth and demographic transition experienced throughout the past several decades, systemic labor shortage has become and will continue to be a major issue affecting economies worldwide. However, not every economy has been affected in the same way. While many economies have large, growing shortages, other economies such as China, Indonesia, and the Philippines have an excess supply of labor willing and able to meet this demand for labor.

Some economies do not have enough workers to sustain domestic work...

Figure 5: Labor Shortage Estimates

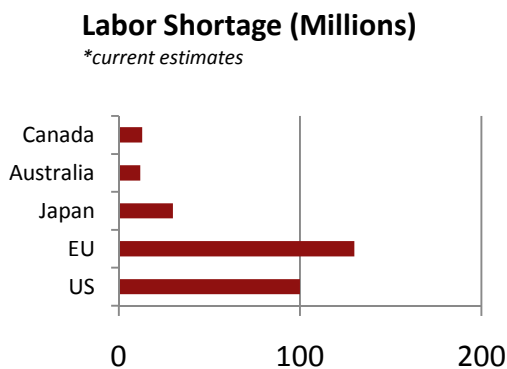
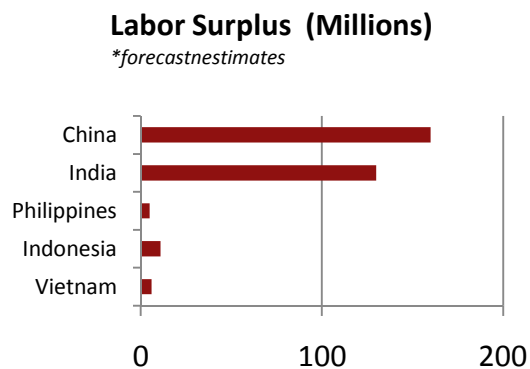


Figure 6: Labor Surplus Estimates



...and other economies have too many workers that are willing to move internationally.

There are strong opposing supply and demand forces creating the labor shortages across the globe, which if not balanced, will lead to a drastic slowing in the growth and loss of national competitiveness that economies have realized over the decades. Simply put, access to labor will be the world's binding constraint, limiting economic growth potential.

Industries See a Decline in Competitiveness

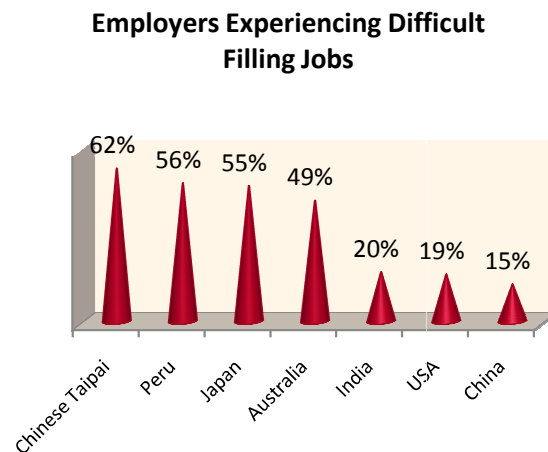
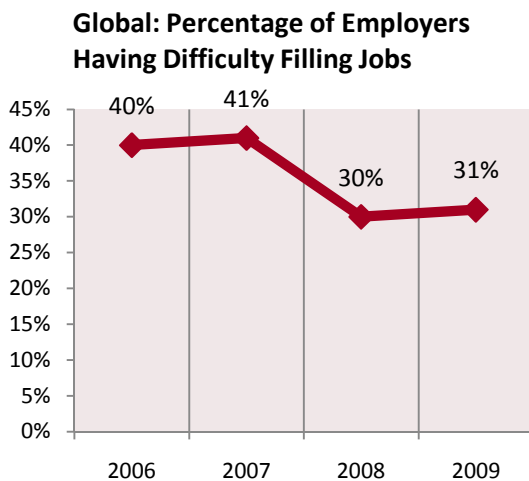
The ability of Industries to compete globally is significantly impacted by the shortage of labor. In economies where this problem exists, industries face obstacles like increased costs of hiring workers and poaching of workers amongst industries, leading to decreased productivity in these sectors.

Businesses Feel the Impact of Labor Shortages and Skill Gaps

Labor shortages have significant and far-reaching ramifications for businesses. The primary result of labor shortages on businesses is the inhibition of their growth and competitiveness. However, different business groups feel the impact of labor shortage differently. This differential impact can be attributed to the varying skill set requirements across businesses. Further, as new industries develop and existing ones expand, the ability of an economy to adapt and supply a skilled workforce lags behind business' demand for that workforce.

- In China, major export industries are short of at least 1 million workers.⁸
- Korean manufacturing businesses are short 120,000 to 150,000 workers. 50,000 workers are needed in construction.⁹
- The global shortage for skilled manufacturing workers will exceed 14 million by 2020.¹⁰

The graphs below represent how the labor shortage persists despite severe global recession in 2008–2009. The percentage of employers stating that they had difficulty hiring people has stayed between 30-31%, not significantly different from that during boom times, proving that skill shortages continue to pose a significant challenge to businesses.



⁸ David Barboza. *The New York Times*. *Labor Shortage in China May Lead to Trade Shift*. 2006. - http://www.nytimes.com/2006/04/03/business/03labor.html?_r=1

⁹ ILO Asian Regional Programme on Governance of Labour Migration Working Paper No.2: Labour Shortage Responses in Japan, Korea, Singapore, Hong Kong, and Malaysia: A Review and Evaluation, Geoffrey Ducanes and Manolo Abella, January 2008.

¹⁰ American Welding Society. *Welding Shortage Fact Sheet*. 2007. - <http://www.aws.org/pr/shortagefactsheet.pdf>.

Businesses with Labor Shortages Have Limited Choices

Businesses and industries have to take appropriate steps to overcome the effects of skill and labor gaps.

The options available to businesses are:

- *Internal Measures.* Attempt to reallocate capital and resources to improve internal productivity.
- *Domestic Measures.* Look to the domestic economy to supply necessary labor or inputs.
- *Global Measures.* Venture into the global marketplace in search of external solutions.

Labor shortages can be addressed in several ways...

Figure 7: Businesses Choices



... but some are more effective than others.

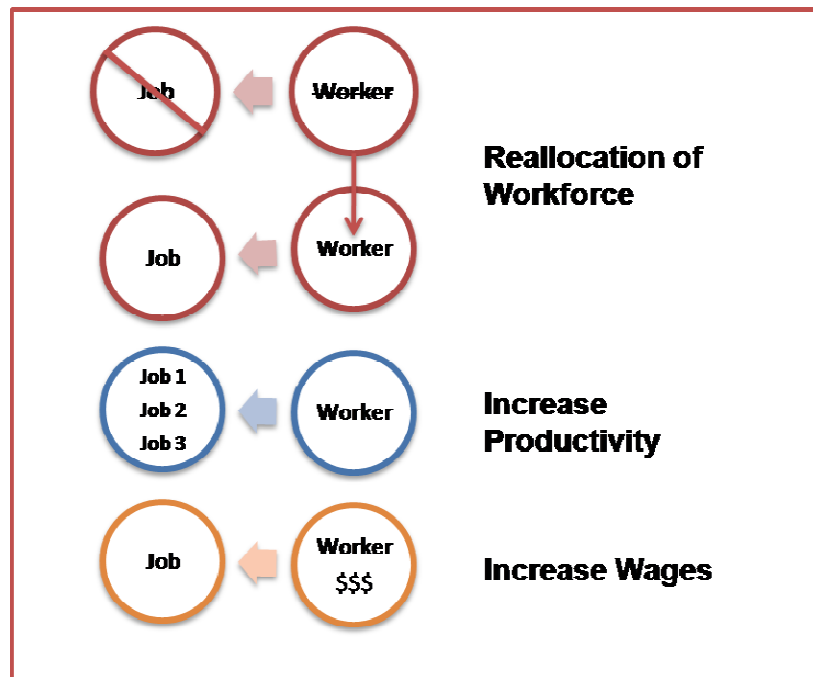
Changing Internal Business Operations Carry Inherent Risks

When presented with a challenging environment, businesses tend to initially look inward to their internal operations to meet the demands of the marketplace.

Businesses can reallocate resources within their business in three different ways:



1. Reallocate workers within the organization to better align worker capabilities with more productive job functions.
2. Increase a worker’s utilization by assigning him or her additional tasks, raising their overall productivity.
3. Increase wage levels for needed job functions to attract labor from other sectors within the economy.



Increased Liabilities	Increased Employee Turnover
Lower Quality of Labor Output	Increased Workload
Lower Skill Caliber of Worker	Lower Satisfaction

Although these internal measures have the potential to organically increase the capacity within a business, the negative repercussions mentioned above suggest that that reallocation may be ineffective.

Domestic Initiatives Will Only Be Realized in the Long-Term

A business will next look to the domestic workforce to plug labor gaps. But when labor gaps exist in a domestic economy, jobs will still go unfilled. Domestic economy solutions can be effective, but they are extremely difficult and can only be achieved in the long-run.



To address shortages domestically, policymakers have various tools at their disposal. *We have identified a few basic responses to organically grow or realign an economy's labor force*



As a measure to bolster a nation's competitiveness, economies can invest in education and training that raises worker productivity. If workers have a greater range of skills and training, then they will be able to take a variety of jobs. Active labor market policies that help prospective workers obtain training that prepares them for productive future employment can foster economic growth.

The short term options mentioned above are unsustainable because raising wages and poaching workers will increase overall costs to businesses. Thus, in the short term, temporary workers provide a more viable option for businesses.

Global Alternatives Have Become the Most Attractive to Businesses

Globalization has dramatically changed the structure of international competition. If businesses cannot access adequate levels of domestic labor needed to remain competitive, they will be forced to seek external measures to gain access to labor pools abroad.



This can be done in two distinct ways:

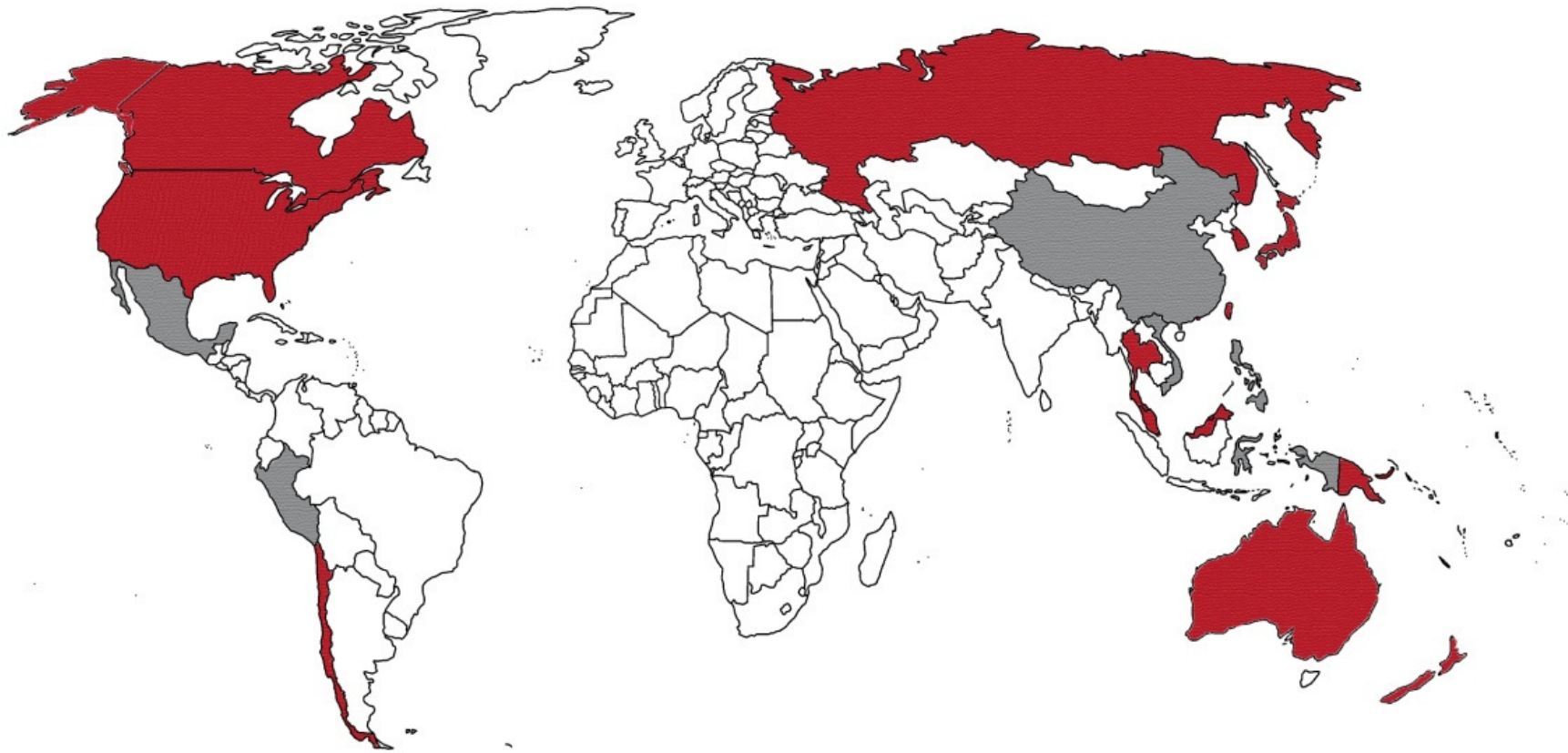
1. Bring the jobs to locations where adequate levels of workers exist, through outsourcing or relocation.
2. Recruit foreign workers to fill the jobs through temporary worker movement programs.

Global options offer optimal benefits...



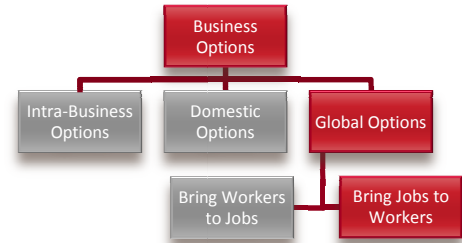
... especially when there is a short-term need.

Figure 8: Map of Sending and Receiving Economies



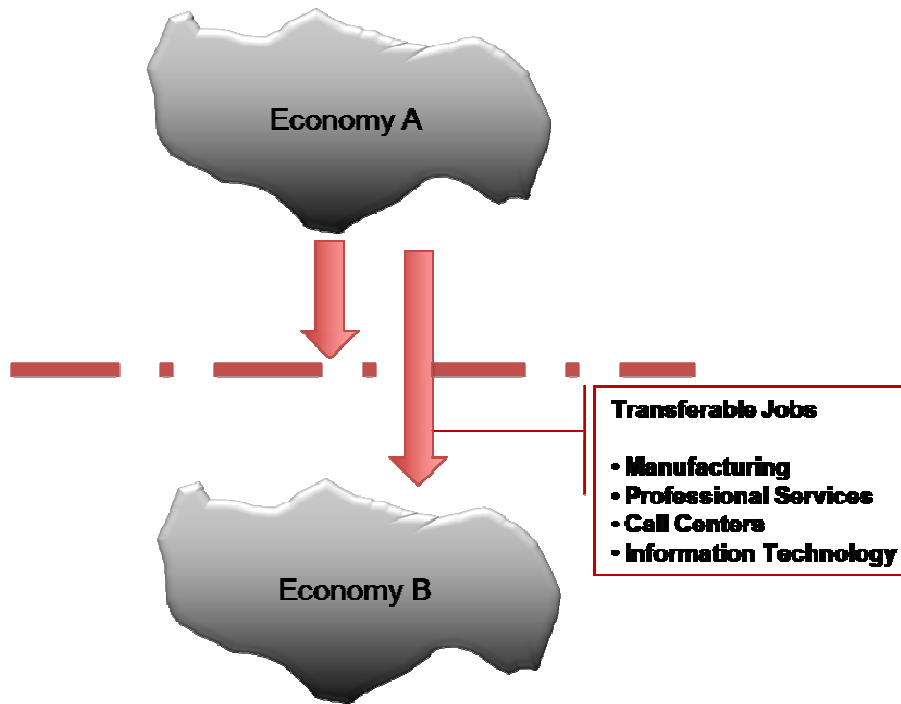
Outsourcing and Relocation Only Benefit Some Businesses

Advances in technology allow for certain jobs such as computer programming and data entry to be performed as easily across the globe as they can from the company’s home economy. When faced with workforce shortages, outsourcing aspects of a firm’s value chain not only allows for access to needed labor pools, but also provides the opportunity to lower costs. Outsourcing, however, tends to draw mixed reactions from a domestic economy standpoint. On one side, people in the economy are afraid of losing their jobs to foreign workers. While on the other, policymakers are anxious to bolster the economy by creating cheaper and more viable labor options for businesses. However, outsourcing remains a critical option to the problem of labor shortages.



Trade liberalization has made outsourcing easy...

Figure 9: Illustration of Jobs That Can Be Moved to Another Economy

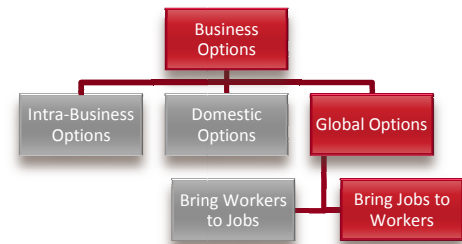


... but it has overlooked temporary worker movement.

Trade liberalization has significantly reduced the barriers to moving the capital and technology that makes outsourcing possible. Without further liberalization of labor movement, outsourcing will remain a highly utilized option for businesses

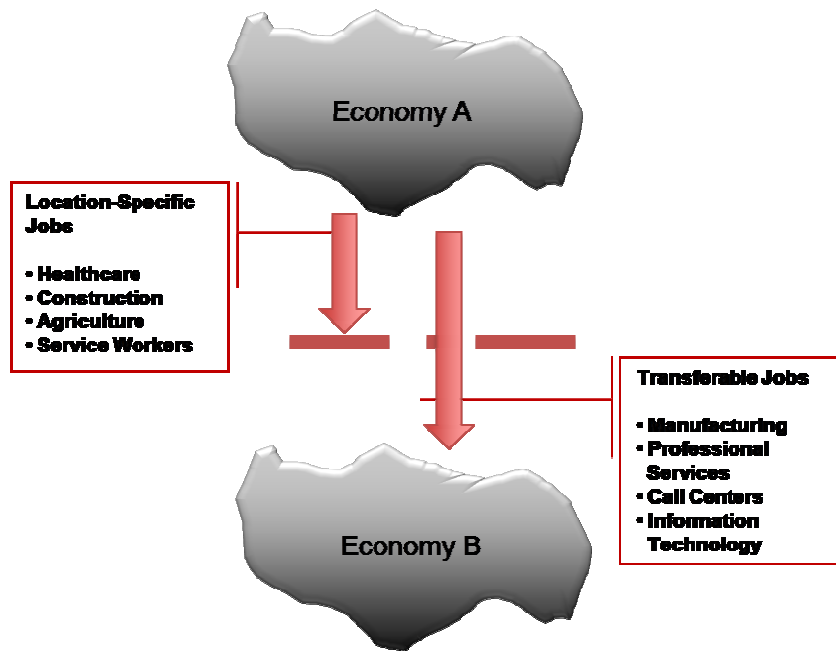
Location-Specific Jobs Must Continue to Deal With Labor Shortages

By their very nature, certain jobs are *location-specific* and cannot be outsourced. Not all jobs are *generalized-location* or are able or willing to outsource or relocate. These location-specific professions, such as welding or nursing, require face-to-face interaction with the customer or client. Economies experiencing a labor shortage in location-specific sectors are left with only one option – to recruit workers from outside.



Location-specific jobs cannot be outsourced or relocated...

Figure 10: Illustration of Location-Specific Jobs That Cannot Be Moved to Another Economy



... which leaves these businesses with no option but to obtain foreign labor.

- Japan needs 40,000 additional nurses, a shortage that is expected to surge to 550,000 by 2014.¹¹
- New Zealand is experiencing fill rates between 10% and 30% in trades workers, engineers, nurses, and architects.¹²
- In the United States, there will be nearly 450,000 unfilled welding jobs in 2014.¹³
- Australia is currently facing a 30% shortage for mining engineers and metallurgists.¹⁴
- Canada needs an additional 267,400 construction workers to keep pace with new projects and to replace retiring baby boomers by 2016.¹⁵
- Thailand suffered a shortage of 50,000 engineers in 2008, this number is expected to double to 100,000 by 2010. Thailand's current overall labor shortfall of is estimated at 580,000.¹⁶

¹¹ D-8 Secretariat. Developing-8 Organization for Economic Cooperation. *Press Release 2009*. - <http://www.developing8.org/2009/02/17/sg-expects-that-issuing-of-elderly-will-be-discussed-by-task-forces-in-1st-d-8-working-group-on-health-tourism/>

¹² New Zealand Department of Labor. Survey of Employers who have Recently Advertised (SERA) 2005. - <http://www.dol.govt.nz/PDFs/sera-key-findings.pdf>

¹³ American Welding Society. *Welding Shortage Fact Sheet*. 2007. - <http://www.aws.org/pr/shortagefactsheet.pdf>.

¹⁴ WorkPermit.com. - http://www.workpermit.com/australia/skills_shortage_mining.htm

¹⁵ Canada Temporary Foreign Worker Guide, TempForeignWork.ca is an initiative of the Construction Sector Council. Accessed 9.19.09. - <http://tempforeignwork.ca/en/tfw-guide/construction-industry/>.

¹⁶ Edward Russell. "Thailand's Skilled Labor Shortfall – When Will it End?" Thai-American Business Journal. Volume 2. 2007.

Temporary Worker Movement Effectively Addresses Labor Shortages

In the absence of adequate domestic labor, economies can facilitate business attempts to attract workers in two ways. Economies can:

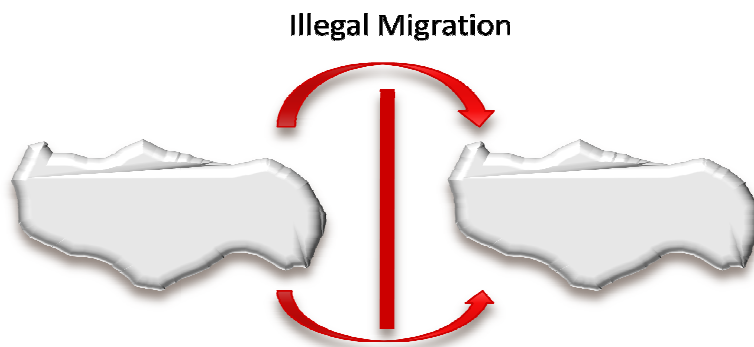
1. Allow immigrant workers to enter on a permanent basis, or
2. Bring in temporary Foreign Workers to fill positions

Figure 11: Comparison of Permanent Migration and Temporary Worker Movement



Not allowing foreign workers to enter an economy in some regulated fashion, either permanently or temporarily, will either lead to economic stagnation, or market forces will prevail and illegal migrant workers will find their way into the economy.

Figure 12: Illustration of Barriers Resulting in Illegal Migration



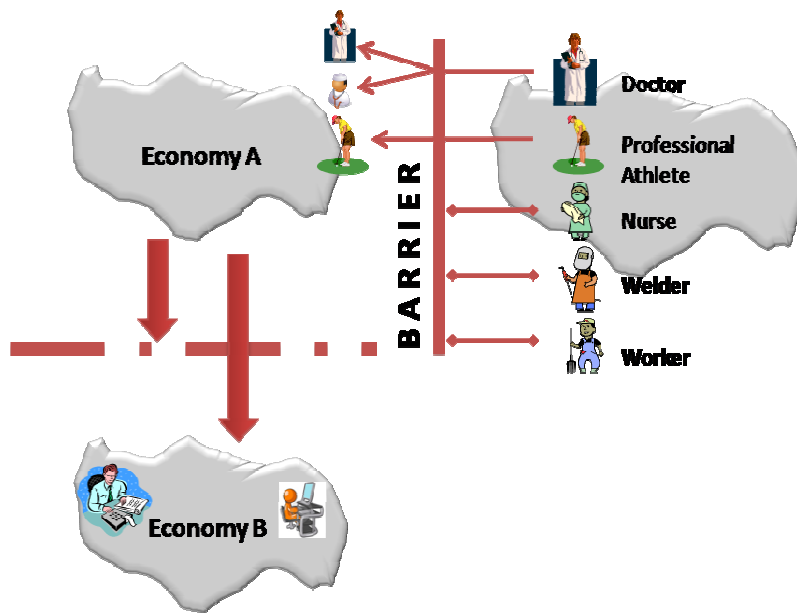
Permanent migration has many externalities associated with it and thus is highly sensitive and politicized negative issue. Temporary worker movement on the other hand, is a more optimal solution with fewer externalities.

Significant Barriers to Temporary Worker Movement Still Exist

The movement of temporary workers is an optimal solution to solving labor shortages and skill gaps. However, significant barriers to this approach still exist. Global trade liberalization efforts have spent great efforts breaking down the barriers to move jobs to workers. Much progress has also been made in reducing barriers for the movement of *business persons*. But where shortages continue, considerable barriers still remain that prevent foreign workers from accessing jobs.

Workers entering an economy to fill location-specific jobs encounter many barriers, which have unintentional consequences. One such consequence is *Occupational Skidding*. This term pertains to a situation where certain workers are only allowed to enter an economy to provide services for a lower-skilled profession than they are trained for. Occupational skidding reduces the productivity level of the worker entering an economy and does not offer the receiving economy the maximum benefit of the workers skill set.

Figure 13: An Illustration of Barriers



Barriers Are Real

Economies Do Not Accept International Certifications or Qualifications.

The lack of global certification standards creates additional obstacles for businesses seeking to obtain temporary foreign workers.

High costs of recruitment and paperwork processing place additional pressures on businesses and workers.

Temporary foreign workers do not have access to health and social benefits in the receiving economies.

Retirement and other social benefits are not transferrable across borders.

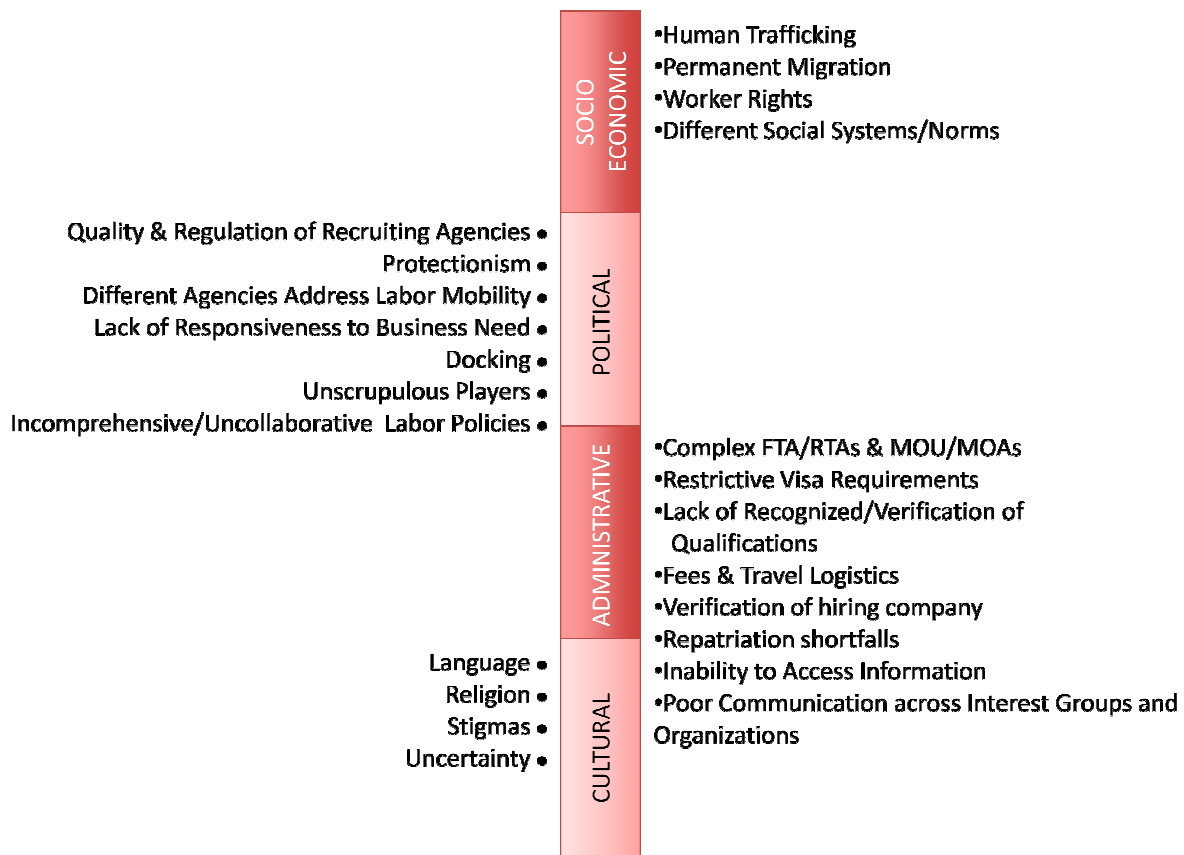
The inability to extend stays in the receiving economies legally leads to a pattern of irregular migration.

Some of the barriers to temporary labor movement are discussed in detail in the section below. Without working to remove these barriers, business facing labor shortages in location specific tasks must suffer the burden and operate at a reduced level of competitiveness. When businesses suffer, economies suffer.

Policy Makers Should Focus on Eliminating Controllable Barriers

The barriers to Temporary Worker Movement can be classified into four main categories – socioeconomic, political, administrative and cultural. Although socioeconomic and cultural barriers are significant, they are not inherently controllable. Governments should focus their efforts on political and administrative barriers that they can influence.

Figure 14: Temporary Worker Movement Barriers



Comprehensive temporary labor mobility sections within free trade and other labor agreements are critical to reducing the barriers in this area. They can address many political and administrative issues that will facilitate temporary worker movement to meet businesses needs. It is also critical that policy frameworks be aligned with business needs to better address the facilitation of temporary workers. A multilateral approach will help APEC make greater progress toward inclusive growth.

Barriers Prevent Economies From Meeting Their Labor Demand

Through our analysis, we have identified 11 distinct barriers impeding the efficient movement of temporary workers.

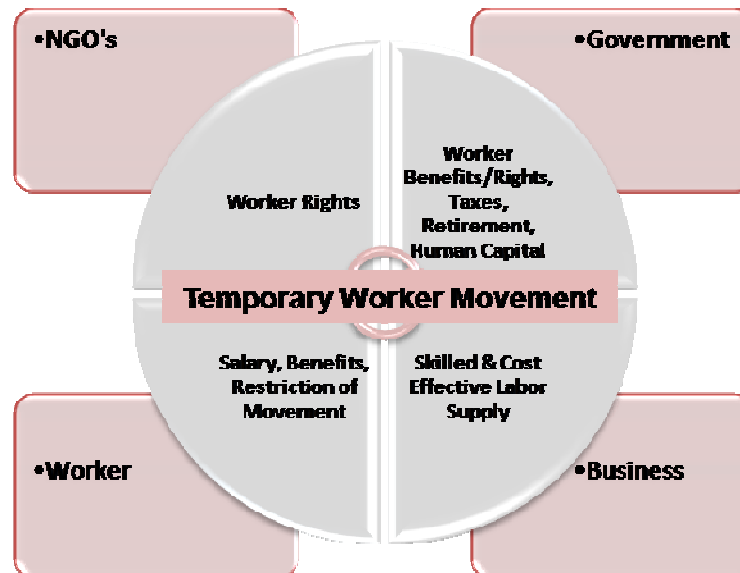
Table 1: Barriers to Temporary Worker Movement

<i>Barriers to Effective Temporary Worker Movement</i>	<i>Barrier Because...</i>
Complexity of Visa Requirements	Visa requirements are designed to control and restrict. Their complexity in requirements and documentation inhibit movement of workers. Their use is inconsistent across economies.
Complexity of FTAs, MOUs, and Other Labor Agreements	Labor agreements are lacking in substantive content, detail and consistent language & methodology. Businesses and workers must create individual processes to facilitate workers to and from multiple economies.
Ineffective Communication & Coordination Between Economies	The issue of worker mobility is lost amid cultural sensitivities and political gamesmanship. Key issues that increase costs are not being discussed with the urgency they deserve.
Recognition & Verification of Qualifications	The inability to verify the legitimacy of workers and businesses is adding to the traditional, negative perceptions regarding temporary worker programs. If workers and businesses cannot identify and verify legitimate counterparts, trade is reduced or breaks down altogether.
Worker Travel Logistics and Fees	Businesses and workers incur significant fees and expensive travel logistics, reducing the quantity of labor trade and adding costs to the hiring process.
Regulation of Agencies	The exploitative practices of illegitimate agencies are undermining the hard work of legitimate workers and businesses.
Identification of Legitimate Employers	The inability to verify legitimate businesses leads to exploitation, abuse and trafficking.
Worker Repatriation Process	Ineffective repatriation leads to brain drain in sending economies and restrictive policy in receiving economies. Both problems reduce the desire to trade labor.
Protectionist Sentiment and Cultural Biases	Protectionist sentiment and cultural bias restricts flows of labor, decreasing the economic benefits to trade.
Policy Does Not Reflect the Business Needs for Workers	Restrictive quotas are not in line with the private sector's significant need for temporary workers.
Intra-Governmental Responsibilities and Communication	The issue of temporary worker movement is lost in the split responsibility of multiple government entities. A lack of clear authority undermines government's ability to progress.

APEC Should Pursue Multilateral Solutions for Temporary Worker Movement

Any discussion of labor movement will bring to the table many different stakeholders because of its wide-ranging impact on an economy. This topic of labor movement becomes even more complicated as discussions move towards workers moving across borders. The discussion becomes a complex balancing act of the different interests and mandates.

Figure 15: Various Interest Groups in Temporary Worker Movement



Every economy that faces labor shortage and skill gaps has a different set of requirements and interests. This divergence of interests implies that every economy will develop its own approach to fixing the issue. These uncoordinated, unilateral approaches to the problem will result in inefficient solutions to labor shortages and to barriers to temporary worker movement. Developing a more sustainable and effective solution calls for a multilateral approach to the discussion of temporary worker movement. APEC can play a very important role in facilitating this multilateral dialogue. It can help governments coordinate their approaches and aid in the development of capabilities for managing cross border flows. This is important because governments need to invest in:

- Infrastructure,
- IT Systems and,
- Standard Operating Procedures

Given the complex nature of the discussions, the spirit of coordination and cooperation fostered, APEC can facilitate a directed conversation regarding cross border labor flows which contribute to inclusive growth.

APEC Stakeholder Interview Analysis

Voice of the APEC Stakeholders

Capturing the Voice of APEC Stakeholders: Interview Objectives

The first major objective of this research study was to capture the voice of the APEC stakeholders. The Marshall ABAC team used interviews and a follow-up survey to assess the efficacy of and challenges associated with the existing temporary worker mobility policies and programs across APEC economies. In total, 157 interviews were conducted in *all* 21 APEC economies.

The purpose of the interview research is to:

- Identify problems with temporary worker movement policy and process.
- Consider the cost to businesses, as well as the related costs to economies and workers.
- Identify differences between the perspectives of sending and receiving economies and all APEC economies.
- Document effective and ineffective labor policy from a business perspective.
- Seek recommendations for improvements sought to facilitate temporary worker movement.

Following the initial analysis of these interviews, the ABAC team synthesized the core problems facing businesses and the possible actions to address these issues. A follow-up survey was conducted to verify this information. In total, 42 individuals completed this follow-up survey.

This section summarizes the key findings from these interviews and presents recurring problems that surfaced, along with ideas about how APEC should facilitate collaboration to address temporary worker movement.

Interview Key Findings

1. **Interviewees from receiving economies face both labor shortages and skill gaps that can inhibit the growth of individual businesses and the economy at large. Ineffective or non-existent policy prohibits the movement of temporary workers from sending economies to receiving economies to fill those shortages and gaps.**

Where policy is lacking, APEC should facilitate dialogue among member economies to create effective multilateral agreements such as FTAs and MOUs to facilitate and govern the process of temporary worker movement in the interests of both sending and receiving economies. Where policy exists, APEC should encourage dialogue among members to render existing policy more effective.

2. **Businesses lose competitive advantage when they are unable to access temporary workers or because of the high costs of using current policy. Businesses in receiving economies want to collaborate with government to form temporary worker policy that is cost-effective and responsive to growth and competitive needs.**

An APEC Temporary Worker Mobility Task Force can work with ABAC leaders in order to gather data on the need for temporary workers in different sectors and economies. APEC and ABAC collaboration can increase the voice of the business community in policymaking.

3. **Sending and receiving economies share concerns about ensuring a cyclical pattern of temporary worker movement. From a sending economy perspective, this prevents brain drain and promotes inclusive growth. This addresses receiving economy workforce needs without putting stress on public services.**

Sending and receiving economies should collaborate to register and monitor temporary workers and ensure their return. APEC leadership could facilitate this throughout the region.

4. **Businesses and workers incur high costs due to official and unofficial fees; the lack of benefits and social security portability; and the cost of time and administration to complete paperwork required by current temporary worker movement policy.**

APEC can relieve these specific costs to businesses by promoting standardized multilateral policy and facilitating transportable retirement benefits among member economies.

5. **Corruption and lack of oversight of private recruitment agencies sometimes lead to workers' abuse and exploitation or trafficking. In addition, sending and receiving economies agree that more education is needed for temporary workers to be aware of their rights and prepared to enter the workplace.**

APEC can provide a forum to certify, regulate and provide oversight of private recruiters. This provides workers with the assurance that job opportunities are legitimate and that they will receive full information on their rights and responsibilities abroad. In addition, it would reduce the liability for businesses who want to hire workers who are processed and trained appropriately.

6. **Businesses have trouble identifying temporary workers with the right skills and training, including language skills, meanwhile workers' education and certification are not recognized by receiving economy governments or employers. APEC should create regionally accepted job certifications and shared standards for job skills education and training. Also, sending and receiving economies should collaborate to train workers on language and culture as well as workplace safety and norms.**

Perspectives from 157 Key Stakeholders in all 21 APEC Economies

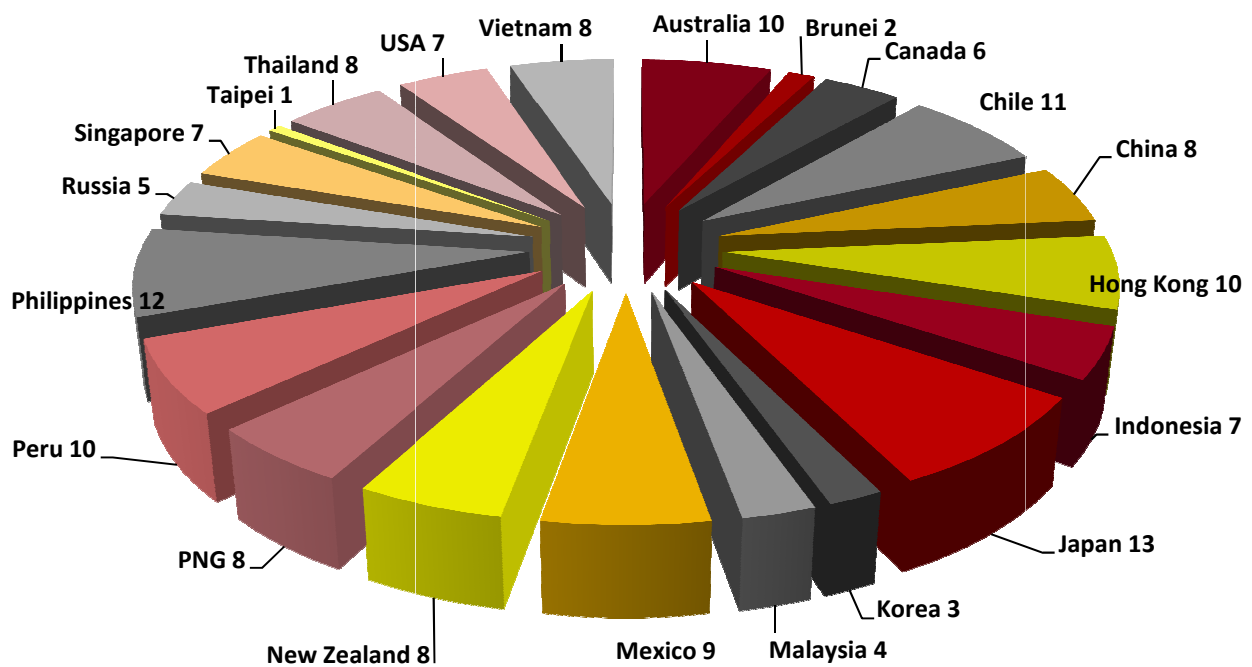
A total of 157 interviews were conducted across all 21 APEC economies. Of these, 119 interviews were conducted in person in 15 economies and an additional 38 interviews were conducted by phone or email in the other 6 economies.

Four major categories of stakeholders were interviewed to gain feedback on the implications of current temporary labor mobility policy. These include representatives from:

1. Businesses or trade associations representing business interests
2. Governments
3. Academic institutions or research organizations
4. Non-governmental organizations

The graphs and tables below summarize the number of interviewees by economy and stakeholder group.

Figure 16: Number of Interviews by Economy



Capturing the APEC Stakeholders' Perspectives: Our Interview Method

Interviews were conducted using a standardized interview protocol (Appendix A) that was structured to:

1. Confirm the process flow for temporary workers for each economy
2. Identify business problems or “points of pain” throughout this process flow and with current labor policy and policy implementation
3. Gather detailed stories to further understand the business impact, and
4. Document best practices for the movement of temporary workers

While the protocol gave a general structure to the interview, individual conversations took a variety of forms. A total of 13 interviewers conducted the 157 interviews, and the focus of these conversations varied depending on interviewees' breadth and depth of subject matter expertise. Also, interviews were conducted in several languages and sometimes involved language interpreters. Regardless, analysis revealed very consistent themes across these conversations.

Table 2: Number of Interviewees by Economy

Economy	No. of Interviews
Australia	10
Brunei	2
Canada	6
Chile	11
China	8
Hong Kong	10
Indonesia	7
Japan	13
Korea	3
Malaysia	4
Mexico	9
New Zealand	8
PNG	8
Peru	10
Philippines	12
Russia	5
Singapore	7
Taipei	1
Thailand	8
USA	7
Vietnam	8
Total	157

Interview Analysis Method

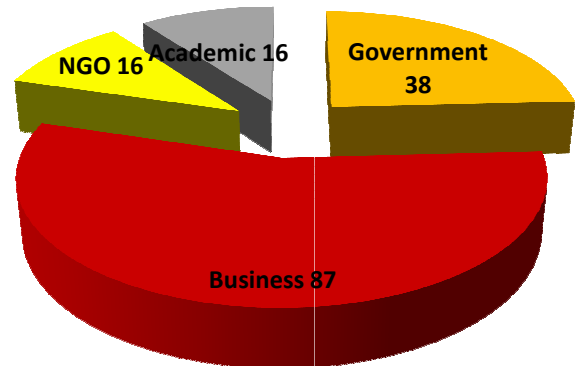
The interviews were analyzed in two phases. The first phase was to identify the best practices and points of pain for businesses in each economy individually. The second phase of analysis involved the aggregation of all the findings from the various economies, to identify the common problems and inefficiencies across economies.

For the purpose of this stage of analysis, the APEC economies were divided into labor sending and receiving economies, based on the net flow of workers relative to other APEC economies. Several APEC economies have complex labor flow patterns because they both send and receive workers within the APEC region. These economies were ultimately classified as receiving economies because of the concerns that businesses expressed about policies that govern bringing workers into the economy.

Table 3 : Number of Economies by Stakeholder Type

Stakeholder Type	No. of Interviews
Business	87
Government	38
Academic	16
NGO	16
<i>Total</i>	<i>157</i>

Figure 17: Number of Interviews by Stakeholder Type



Survey and Analysis

A survey was distributed to all of the interviewees as a second part to the research analysis (see Appendix B) for the full survey questionnaire), to allow for quantitative analysis of the qualitative results. There were 42 responses to the survey, representing 13 of the 21 APEC economies. These 42 respondents represented an even distribution of sending and receiving economies. The figures and tables below summarize the demographic data on survey respondents.

Figure 18: Number of Survey Respondents by Economy

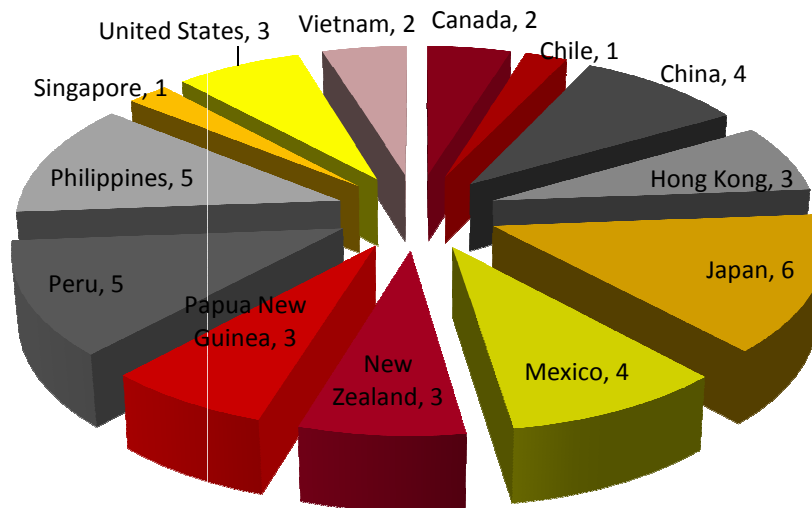
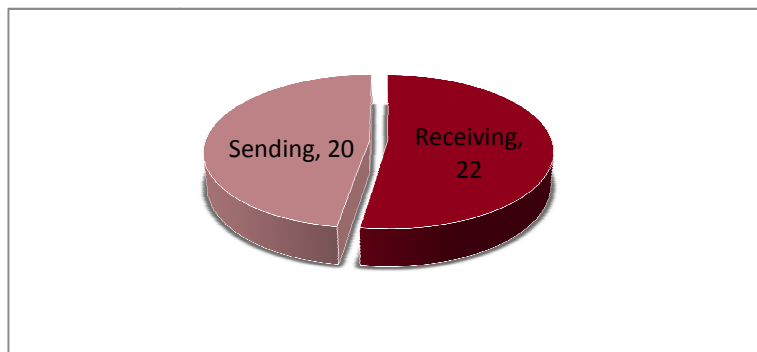


Table 4: Number of Survey Respondents by Economy and Economy Type

Economy	Type	No. of Respondents
China	Sending	4
Mexico	Sending	4
Peru	Sending	5
Philippines	Sending	5
United States	Receiving	3
Canada	Receiving	2
Chile	Receiving	1
Hong Kong	Receiving	3
Japan	Receiving	6
New Zealand	Receiving	3
Papua New Guinea	Receiving	3
Singapore	Receiving	1
Vietnam	Sending	2
Total		42

The first section of the survey asked respondents about the problems that were identified in the initial interview analysis. They were given a basic rating scale ranging from 1= this is not a problem at all to 5= this is a very severe problem and responded to each of the problems from the perspective of their economy.



The second section of the survey asked individuals to respond to a list of recommendations that were gathered from the interviews and developed based on the interview analysis. The respondents judged the recommendations on a scale ranging from 1= not at all effective to 5= extremely effective.

The survey data was analyzed by ranking the frequency of responses in each category. In addition, the data was disaggregated by sending and receiving economy to compare the views from each perspective (see Appendix C for summary survey data analysis graphs).

Major Concerns with Temporary Worker Mobility within APEC

The table below provides a high level inventory of the major problems reported in interviews with business executives, government officials, and other stakeholders across all economies. A cell that is highlighted in light red signifies that the problem was raised in at least one interview in that economy, but the coloring does not indicate the frequency of mention within that economy. For example, the problem of workers overstaying visas and irregular migration was raised in a number of sending and receiving economies, however, it may have been raised in a single interview in Canada but in more than four interviews in the USA. The analysis found that certain problems or issues were specific to sending economies or receiving economies, while others were shared across economies. For clarity of presentation, the problems have been sorted into sending, receiving and both.

Figure 19: Matrix summarizing economies where one interviewee voiced problem

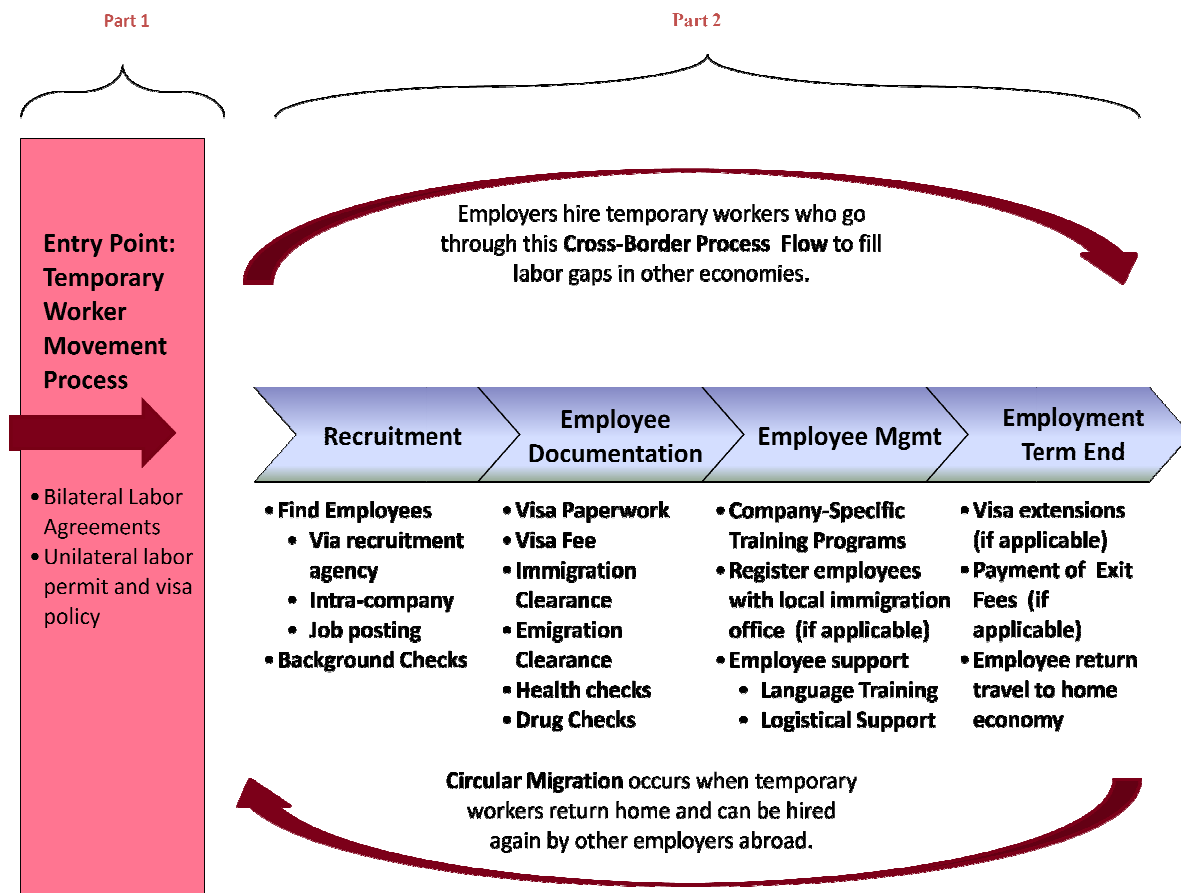
Economies	Australia	Brunei	Canada	Chile	Hong Kong	Japan	Korea	Malaysia	New Zealand	PNG	Russia	Singapore	Taipei	Thailand	USA	China	Indonesia	Mexico	Peru	Philippines	Viet Nam
Sending and Receiving																					
Workers Overstay Visas																					
Corruption in the Process and Associated Costs																					
Lack of Private Recruitment Agency Regulation																					
Poor Regulation Enforcement																					
Availability / Transparency of Policy																					
Exploitative Fees for Workers or Businesses																					
Lack of Pension Portability																					
Lack of Policy to Facilitate Hiring Workers																					
Restrictive Economy-Specific Quotas																					
Receiving																					
Locating / Recruiting the Right Workers																					
Labor Shortages in Domestic Economy																					
Skill Gaps in Domestic Economy																					
Language Barriers																					
Presence of Irregular Migrants																					
Policy Not in Line with the Business Need																					
Workers Cannot Extend Time Length of Visa																					
No Mutual Recognition of Skill Standards																					
Documentation Process Delays																					
Costs of Healthcare / Benefits																					
Cultural Biases																					
"Tax Equalization" Costs to Businesses																					
Sending																					
Dispute Resolution without Policy in Place																					
Training and Pre-departure Orientation																					
No Mutual Recognition of Skill Standards																					
Language Barriers																					
Workers Cannot Extend Time Length of Visa																					
Workers Unprotected by Local Laws																					
Lack of Healthcare / Benefits																					
Documentation Process Delays																					
Workers Leave During Productive Years																					
Brain Drain																					
Location of Legitimate Employers																					
No Exit Processing by Sending Economy																					

	Problem not mentioned in any interview in this economy
	Problem mentioned in at least one interview in this economy
	Sending or receiving economy issue not relevant to this economy

Process Flow of Temporary Workers

In order to understand and analyze the problems that businesses face with temporary worker movement, the themes raised in the interviews were mapped onto a conceptualized process flow chart. This flow chart summarizes how a worker leaves one economy and enters another, and then returns at the completion of a temporary work assignment.

Figure 20: Process Flow of Temporary Workers



This process can be understood in two key parts: (1) entry point to the temporary worker movement process flow and (2) the actual process that a worker undergoes in order to leave one economy and enter another for work, which is comprised of Recruitment, Employee Documentation, Employee Management, and Employment Term End.

Part 1: Entry Point: Temporary Worker Process

At the point of entry to the temporary worker movement process, unilateral laws and policies determine the access that workers and employers have, while process bilateral labor agreements define which economies have relationships to facilitate the movement of workers. For example, national immigration policy may define what type of worker can access a visa to enter an economy and work legally.

Part 2: Temporary Worker Movement Process Flow

There are four basic steps that all temporary workers pass through as they leave one economy and enter another to work.

1. Recruitment involves employers identifying workers to fill their labor needs. This can happen through a formal recruitment process involving private or government recruitment agencies, or it may happen through a job posting available publically or within a company. Workers may be subject to a hiring process screening or background check to ensure that they meet the employers' need.
2. Employee documentation involves the process of obtaining clearance from the sending and receiving economies for a worker to go abroad to work. This will usually involve submitting paperwork and paying fees to government agencies that oversee this process. In addition, workers may undergo health checks or drug screenings.
3. Employee management involves the steps that economies and employers take to ensure that workers have the training and information that they need to work abroad. Sometimes workers receive pre-departure training in their home economy and/or language or job training in the receiving economy. This aspect of the process may also include other logistics such as housing, healthcare and benefits for workers.
4. Employment term end involves the steps governing a worker who is either renewing his visa or work permit or exiting the economy and returning home. These costs may be handled by the worker or his employer.

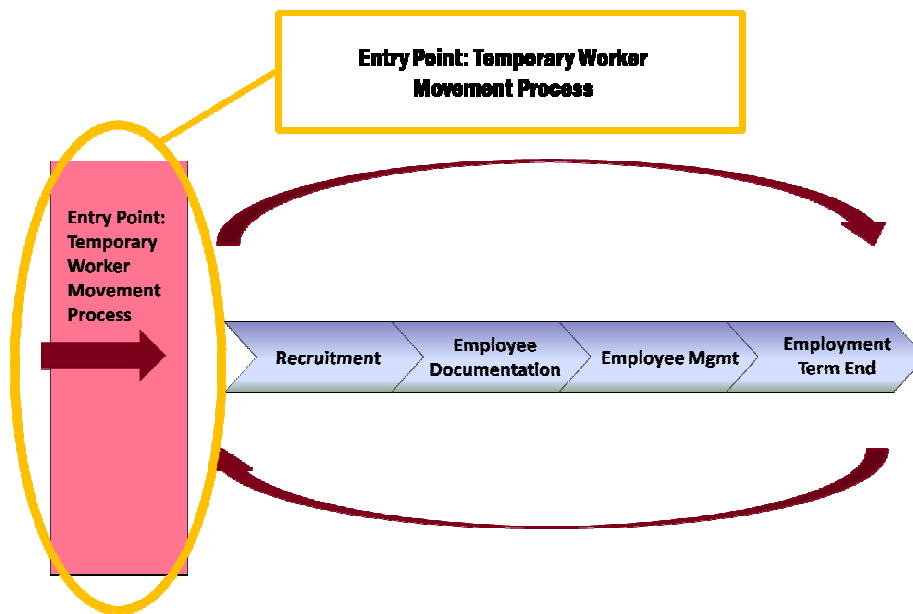
The entire process can be repeated, creating a circular pattern of migration wherein workers are able to regularly return to their home economy and have continuous opportunities to work abroad.

Business Grievances: Overcoming Frictions and Barriers

Entry Point Issues Inhibit Temporary Worker Movement Process Flows

As described above, the process of a temporary worker leaving one economy and entering another can be thought of in two parts. This first part of the process is the point of entry. This includes the restrictiveness of labor policies, the availability of regulations, limitations or quotas on the entry of workers, and other characteristics of economies that determine whether or not businesses can hire temporary workers. These factors are important elements in shaping the movement of temporary workers.

Figure 21: The Entry Point of the Temporary Worker Movement Process



Interviewees raised grievances in three major areas:

1. Policy issues
2. Labor agreements
3. Cultural and social barriers

Problems identified in each of these areas are discussed in detail below.

Policy Alignment, Availability, Complexity and Inconsistency Are Significant Issues
Mismatch of Policies and Business Needs:

An immediate and recurring problem reported by businesses was a mismatch between their employment needs and government policies intended to meet those needs. Businesses felt that the visa requirements and labor policies for temporary workers are unnecessarily restrictive and do not facilitate their access to critical labor. The reasons they cited for these restrictions varied from cultural and protectionist attitudes to a lack of understanding on the part of government officials of what businesses need. Across economies, businesses acknowledged that this is a highly politicized issue making it difficult for government entities to devise effective solutions. Across the interviews, business executives suggested that government entities responsible for temporary worker entry were on a different page.

Impact on Business & Economies

The disconnect between government and business has led businesses to relocate operations to areas where they are able to find labor or has resulted in curtailed growth for many businesses. If left unaddressed, the continuation of these trends could lead to serious economic consequences for economies.

Chile

Companies with over 25 employees must comply with a 15 percent cap on non-national labor composition irrespective of their actual requirement.

Malaysia

A business wanted to hire 20 Indonesian engineers because they could not find Malaysian engineers with the particular skills to do the job. The government refused because they did not believe that it took a specific skill set to operate the machinery and they thought that there were enough Malaysian engineers who could fit the role. The business finally invited a high level government official to watch a test of a Malaysian and an Indonesian engineer. After witnessing that the Malaysian engineer did not even know how to turn on the machine, the government official finally understood that their economy lacked engineers with the right training for this job.

PNG

PNG needs semi-skilled workers, but policy does not allow temporary workers at this level. The government is trying to make the labor policies stricter even though businesses need more labor to complete a major infrastructure project.

Availability of Policy Information

There is a serious lack of transparency and access to existing labor policies. Businesses reported an awareness of policies, but frequently maintained that the detailed information was not available to them. Interviewees wanted government to make this information available through public mediums including the Internet, as well as in simple English and in local languages.

Vietnam

Vietnam has 7 bilateral labor MOUs. Recruiting agencies and other businesses involved in the temporary worker process reported that they know that these agreements exist but they do not have access to the contents. They felt that this put them at a disadvantage since they were unaware of any special stipulations and regulations that could govern movement of labor and rights of workers.

Impact on Business & Economies

This lack of access causes two types of issues. First, it causes frustration and pain to workers who do not understand their rights and sometimes fall prey to exploitation, abuse, and even illegal trafficking. Second, businesses – both employers and recruiters – spend more effort, time and money to navigate an opaque process.

Complexity of Temporary Worker Policy

Even when it was available, businesses in many receiving economies suggested that temporary worker movement policy is hard to understand or interpret. In many receiving economies that are experiencing growth, governments regularly change the national policies including visa entry requirements, quotas, and work permit requirements. Businesses find it difficult to keep track of such changes in temporary worker policy.

Russia

Businesses in Russia stated that the temporary worker policy changes frequently. In order to keep track of these changes they are forced to hire third party law firms or migration firms. This significantly increases their costs when they need to bring in temporary workers.

Impact on Business & Economies

Businesses and employers in economies with complex or fast changing policies hire specialist firms to interpret and navigate the processes, which increases their transaction costs significantly.

Inconsistency of Policy Enforcement

Interviewees particularly in receiving economies reported problems with the implementation and enforcement of existing temporary worker regulations. In their view, policies are sometimes exercised differently for different types of businesses. The perception reported was that larger organizations or organizations with political connections received more support in hiring temporary workers.

Impact on Business & Economies

Small businesses that do not have political clout or financial resources struggle to hire temporary workers even if their businesses require it. In terms of real labor and skill shortages, small firms experience significant fallout when large firms with more resources hire away their workers.

Brunei

A HR Director compared her large company's experience with the situation of her aunt who owns a small tailoring shop. Her aunt wants to bring in Filipino and Indonesian workers to do tailoring, but the government tells her to get locals and they will not increase her quota for workers. However, she cannot find locals with the right skills so she cannot expand her business.

Lack of Labor Agreements and Quotas Inhibit Worker Flows

Lack of Bilateral and Multilateral Labor Agreements

Many interviewees from both sending and receiving economies stressed that temporary worker movement is significantly easier when government agreements exist, because those agreements articulate the proper channels and requirements. A lack of labor agreements between economies poses a strong barrier to temporary worker movement.

Mexico

Interviewees noted that the lack of defined labor policy between Mexico and the United States resulted in significant flows of irregular migrants. One interviewee estimated that there are about 60,000-70,000 Mexicans entering the US using H2A visas, but almost 500,000 who enter as undocumented workers.

Impact on Business, Workers & Economies

There are two consequences of this barrier at the entry point. Businesses that cannot get temporary workers that they need from other economies may choose to relocate their operations or hire the required workers illegally. The former has a direct economic impact on the economy and the latter increases irregular migration that can lead to strains on the social benefits system.

Arbitrary Economy-Specific Labor Quotas

Interviewees noted that receiving economies sometimes set quotas that limit how many temporary workers can enter from a specific economy. These quotas arbitrarily prohibit businesses from hiring some workers that they need.

Impact on Business, Workers & Economies

Without access to the talent that they need, businesses may not be able to grow. This also represents a lost opportunity for qualified workers in sending economies.

Russia

Businesses submit an estimate of their hiring needs to the government at the beginning of the year and the government uses these numbers to set the annual quotas. These estimates include how many temporary workers they need and from which economy. If a business exceeds their individual quota they cannot hire individuals from the specific economy, even if their business requires it.

Cultural and Social Barriers Influence Temporary Worker Movement

Cultural Bias Against Outsiders

Some businesses mentioned that historical biases in their economy do not support the entry of temporary workers. Sometimes these attitudes or barriers are driven by fears that temporary workers take away local jobs, are a burden on social services, increase crime, and generally have a negative impact on communities. In addition, in some economies with homogenous cultures there is a fear that temporary workers do not understand the local culture. Negative stereotypes portrayed by media and contemporary culture can fuel disdain for temporary workers.

Japan

Interviewees in Japan noted that the concept of insiders vs. outsiders is a factor in limitations on hiring temporary workers. They suggested that the Japanese fear miscommunication with foreigners because “80 percent of Japanese language is non-verbal.” This further drives the preference for hiring “locals.”

Chile

Businesses in Chile mentioned that its borders are so closed off geographically and that it is so culturally distinct, people would not be open to a large influx of temporary workers.

Impact on Business, Workers & Economies

This results in a lost opportunity for businesses and workers. Businesses are unable to get the labor they need to remain competitive and temporary workers are unable to pursue opportunities in these economies.

Irregular Migration

Many interviewees noted that undocumented workers entering receiving economies is a major issue when creating temporary worker policy. When irregular migration is a problem in an economy, members of the public are focused on the social burden and security threats posed by this pattern. Migration becomes the focus of public concern, and the government is pressured to direct resources toward irregular migration control rather than facilitation of temporary worker movement.

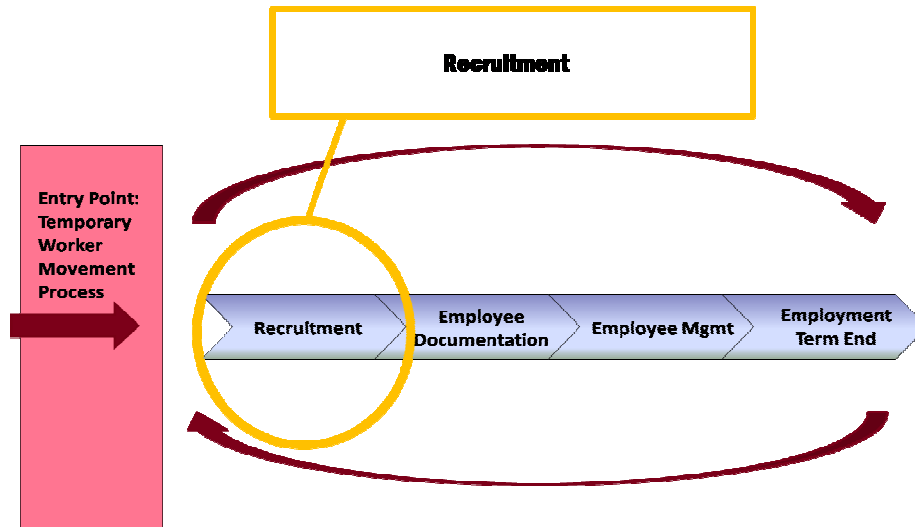
Impact on Business, Workers & Economies

Irregular migration has multiple consequences. Undocumented workers lack social and legal support in the receiving economy and receiving economies experience increased costs to their social systems. For businesses, there are indirect consequences. When governments tighten the controls at their borders businesses have more difficulty bringing in the temporary workers that they need.

Recruitment Is a Major Issue For Businesses and Workers

When temporary worker movement occurs, recruitment is the first step in the process flow. Recruitment includes employers locating talent with the necessary skills and training; employers connecting with workers directly or through private agencies; and employers and workers verifying skills and certifications.

Figure 22: Recruitment in the Temporary Worker Movement Process



Interviewees reported problems in each of the following aspects of recruitment:

1. Locating the right talent
2. Portability of certifications and qualifications
3. Regulation and enforcement of recruitment agencies
4. Exploitative recruitment fees

Businesses Have Difficulties Locating The Right Talent

Receiving economy businesses have trouble filling labor shortages and identifying the right skilled labor when there are no systems in place for temporary worker movement.

Shortage of Labor

Employers in receiving economies talked of a shortage of workers to fill certain hiring needs within their economies. These shortages stem from a lack of certain skill sets within the economy or from a lack of manpower required to meet business demands.

Inability to Locate and Recruit Skilled Temporary Labor

Businesses in receiving economies suggested that they were unable to locate temporary workers with necessary skills due to the lack of support of recruiting agencies and networks in sending economies.

Korea

Government HR agencies in the sending economy are responsible for identifying the right foreign worker for a position, so employers have little choice but to use government channels. When a specific type of worker is difficult to locate, there is a lengthier wait-time since it is not possible to tap into additional

Impact on Business, Workers & Economies

When businesses are unable to access the right skilled labor this leads to increased wages , irregular migration and restricted growth.

Difficulty in locating credible employers

Workers and businesses in sending economies were concerned that they cannot verify job opportunities in receiving economies. They are concerned about the increasing number of cases where temporary workers fall prey to unscrupulous recruiters, human traffickers, or false job advertisements. A recent Business Week article revealed that this is a serious problem in the United States technology outsourcing sector.¹⁷ Their investigation revealed that many major companies are hiring subcontractors that exploit workers and extort illegal fees for processing their work visas. In our interviews, businesses and representatives from government and NGOs attributed this problem to the absence of systems or channels to identify and authorize potential employers in receiving economies.

¹⁷ Hamm, Steve and Herbst, Moira, "America's High-Tech Sweatshops," Business Week, October 12, 2009.

Impact on Business, Workers & Economies

The inability to find credible employers leads to potential exploitation of workers. Sending and receiving economies spend more to ensure basic human rights and worker protections, indirectly leading to higher business costs as their “social safety net” tax costs increase to account for the higher spending.

Philippines

The Philippines Overseas Employment Agency stated that employer verification is a critical issue. Often, employers or agencies offer a worker a specific job, but the worker arrives to a fake or misrepresented job. The Philippine government certifies foreign employers and recruiters to address worker exploitation.

Certifications and Qualifications are Not Portable Across Economies***Absence of Global / Regional Certifications and Lack of Acceptance of Qualifications***

Interviewees in sending and receiving economies noted that the absence of global or regional certification standards is a major problem that needs to be addressed. Businesses in receiving economies are unable to hire temporary workers because they cannot verify that workers’ skills are a fit or because their economy will not accept the workers’ certifications. For temporary workers and recruiters from sending economies this makes it difficult to demonstrate that workers are qualified to fill job opportunities. In addition, in some receiving economies governments or industries do not have any mechanisms in place to certify temporary workers or help employers translate workers’ skills and training into local standards. As a result, some businesses have found that temporary workers appear to have the right skill set on paper, but do not have the actual ability or skills to do the job.

Impact on Business, Workers & Economies

This inability to compare workers’ skills, training and certification with employers’ needs has negative impacts on both parties, as workers in sending economies struggle to find jobs and businesses in receiving economies struggle to find the workers to keep their businesses running. In some cases this results in missed opportunities. In cases where businesses hire temporary workers with the wrong skills, they may incur costs for re-training these individuals or recruiting a replacement worker.

Thailand

Thailand does not recognize medical qualifications from other countries. In order to become a registered doctor in Thailand, a worker must take the medical board examination which is only offered in Thai. The general perception is that Thailand wants to keep certain industries restricted to national Thai employment.

USA

An interviewee explained that for call center jobs in the US, employers have to compare the training that workers receive in their home economy with the demands of the job. Sometimes a worker with a 4 year degree from another economy has the equivalent skill as someone with 2.5 years of training in the US. So, an employer has to do an assessment of the worker to see if they really have the necessary skills and abilities before they go through the process of hiring them and processing their visa.

Lack of Language Skills

Interviewees noted that a lack of language skills is a barrier to trade in workers' services. Businesses in receiving economies described their need for workers with specific language skills as a barrier to bringing labor into their economies. In sending economies, interviewees noted that if workers do not have the necessary language skills this inhibits their opportunities to seek temporary work abroad, even if they have the technical training and skills needed in other economies. In some cases, language skills are a barrier for workers and employers despite the fact that they are not central to job performance.

Singapore

English is the official business language, but many Malaysian workers are unable to overcome this barrier because Malaysia did away with English as the business language about 17 years ago. This is also an issue for Chinese workers, because Mandarin is another official language in Singapore but the lower skilled workers do not also have the English language skills that they need.

Australia

Interviewees in Australia reported that workers had to show a certain level of proficiency in English to be approved for a work permit. This proves to be a barrier for businesses trying to bring in workers from certain economies like China and Vietnam, even if the demands of the job do not require English language skills.

Impact on Business, Workers & Economies

This problem results in missed opportunities for temporary workers and employers in receiving economies. Many qualified workers in sending economies are unable to travel to fill vacancies in other economies because they lack the language skills required to work in those economies. This leads to businesses in receiving economies facing a shortage in workers even though skilled workers exist in other economies.

Recruitment Agencies Are Not Governed or Regulated

In receiving and sending economies private recruiting agencies offer workers placement services or help employers locate workers. Common complaints in this area revolve around the exploitation of workers by these third-party agencies and the lack oversight of these agencies.

Inadequate Regulation of Recruiting Agencies

Businesses and other sources in sending and receiving economies reported that their economy lacked regulation of recruiting agencies. In most cases there were no basic policy guidelines for recruiting agencies and there was no government or private agency responsible for overseeing these agencies.

Inadequate Enforcement of Regulations

In many sending and receiving economies where recruiting agencies are regulated, businesses reported lack of enforcement of these regulations. They attributed this the issue to a lack of government resources to manage this process or to corruption and inefficiencies in the political bodies

Impact on Business, Workers & Economies

Businesses and workers pay a steep price when recruiting entities are not regulated or when regulations are poorly enforced. Unregulated recruiting agencies are more likely to exploit workers and these practices do irreparable damage to legitimate enterprises and the overall flow of temporary workers. Employers who use these agencies then become liable for the abuses against workers. These instances become hotbed issues causing fear among workers and employers.

Indonesia

There are regulations for recruiting agencies, but enforcement is hindered by geography and the proliferation of brokers who operate outside the regulations. Indonesia has a large population spread over many islands, so there are many disconnected communities where the government is less able to monitor agencies. Also, recruiting agencies work with brokers who bring in workers even though they know that these brokers are not following the law.

When regulations are poorly enforced there are similar consequences for workers and businesses. Also, businesses that are conscientious about their practices have to spend more money on identifying the recruiting agencies to help them find workers and on overseeing the work done by them.

Businesses and Workers are Subject to Exploitative Recruitment Fees

Many sending and receiving economies suggested that temporary workers pay large fees to have recruitment agencies help them find jobs and obtain their travel documents and work permits. In many cases employers in the receiving economies pay these fees upfront, but deduct it from employee salaries once the employee is on board, causing further economic hardship for the employee.

Impact on Business, Workers & Economies

These exploitative recruitment fees increase the transaction costs for temporary workers and businesses. In many cases workers have to access loans or borrow against their future wages to pay the recruiting agencies. Employers and businesses pay large sums to recruiters to help them acquire the right type of workers.

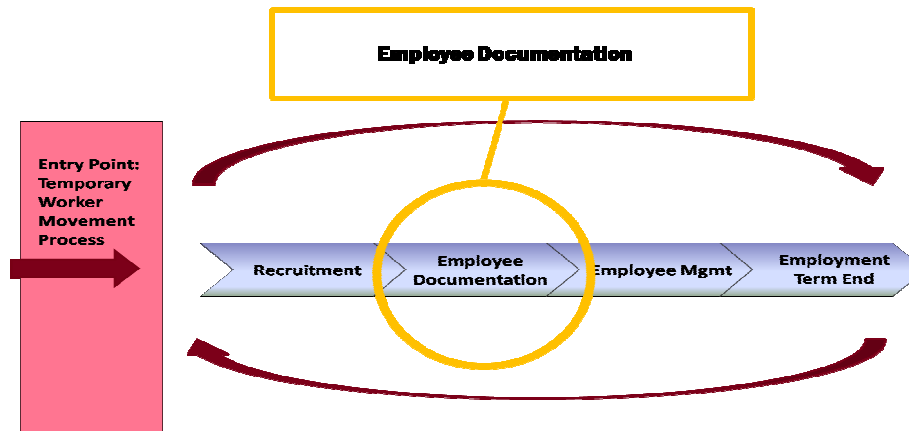
Vietnam

Workers in Vietnam pay money to recruiting agencies to be listed and considered for temporary work assignments abroad. In many cases the worker has to borrow his life away to get abroad, often selling land and cattle.

The Processes For Obtaining Work Permits and Visas are Complex

The third step in the process of temporary worker movement is employee documentation. This involves the visa processing, employment paperwork and other employment requirements that are an important aspects of the worker mobility process. The level of complexity associated with these steps can aid or seriously hinder temporary labor movement.

Figure 23: Employee Documentation in the Temporary Worker Movement Process



Sending and receiving economy representatives suggested that the following broad issues associated with documentation processing were of great concern to them:

1. Bureaucracy, bribes, delays and corruption
2. Cost associated with applying for work authorization

Bureaucracy, Bribes, Delays and Corruption Complicate the Work Authorization Process

Corruption

Workers and/or employers face corruption and have to pay "fees" or bribes to facilitate immigration or work permit processing. This issue was reported by both sending and receiving economies. All parties involved in temporary worker movement reported that they had to deal with varying levels of corruption when trying to move workers between economies. In many economies this was considered "normal" procedure in getting paperwork processed.

Impact on Business, Workers & Economies

Businesses in economies that are plagued by corruption issues have to pay high costs in hiring temporary workers. To help navigate the system businesses may also be required to hire third party agencies, adding further to their transaction costs.

PNG

Bribery is considered a standard in obtaining temporary workers.

Vietnam

Government and enforcement agencies collect money from workers to provide a safety net for these workers. These fees are pooled into a fund for workers; however, the workers almost never see the benefits of this safety net.

Complicated Paperwork and Processing Delays

Businesses in receiving economies cited complicated paperwork and process delays as a major source of concern for them. This delays the process of hiring a temporary worker. Also, businesses noted that the process requires significant time on the part of administrative employees or temporary workers themselves.

Russia

One of the biggest complaints in interviews was the complications and length of the process for temporary workers to enter. Workers fill out 10-15 page forms to obtain a work permit. The waiting time is almost 6 months before they are granted a work permit. And the renewal process requires that workers complete the process again every year.

Impact on Business, Workers & Economies

The delays in this process cost businesses and workers productivity. Businesses may hire external help to manage the process of hiring and bringing temporary workers into the economy, leading to higher transaction costs.

Lack of a single responsible government entity

In many receiving economies multiple government departments are involved in temporary worker policy implementation and oversight, causing complications for businesses bringing in workers. This causes complications for businesses since organizations now have to deal with these multiple agencies to be able to bring in temporary workers.

Impact on Business, Workers & Economies

The additional level of complexity costs businesses time and effort to coordinate with all the government entities. Some businesses have to hire third party agencies or additional personnel to help them build and manage these relationships. This is significantly easier for larger organizations with adequate resources, but may prove challenging for smaller businesses.

Japan

An interviewee in Japan mentioned that there were three different departments handling foreign labor issues:

1. Ministry of Justice – oversight immigration policy
2. Ministry of Foreign Affairs – oversight of visas
3. Ministry of Education – oversight of language, welfare and labor

According to the interviewees, businesses must maintain contacts with each of these agencies to bring labor into Japan. The complex interaction of these multiple agencies further complicates the process of bringing labor into Japan.

Costs Associated with Applying for Work Authorization are Prohibitive ***Prohibitive Fees***

Many sending and receiving economies suggested that the workers moving into and out of their economies pay large fees to obtain their travel documents and work permits from the government. Sometimes this is an incentive for workers and businesses to avoid the legal channels for temporary worker movement.

Impact on Business, Workers & Economies

Businesses that hire skilled workers pay the paperwork costs for the workers. High fees increase the transaction costs for businesses. In such cases, smaller businesses within an economy are at a disadvantage as they deal with these higher costs.

Philippines

The Philippines requires that employers pay all government fees required to employ a temporary worker from the economy. The fees are very high and this is a disincentive for workers and for employers to work through this legal, government process. Additionally, in many cases the employees say that these fees get transferred back to them through deductions from their pay when they reach the receiving economy.

Thailand

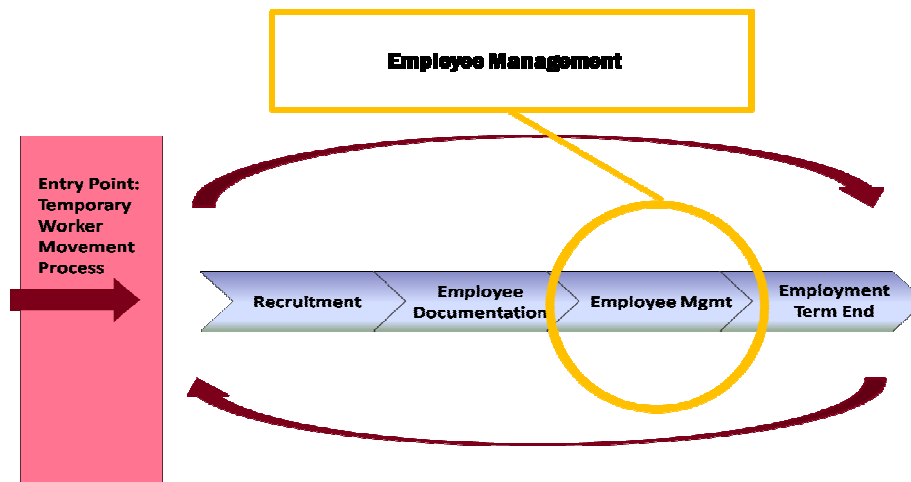
Interviewees in Thailand reported high costs to register foreign labor that they employ. Companies have to demonstrate that they need foreign employees. Additionally, they have to pay 15-20 percent of the worker's first year earnings for a work permit – this could equal 3,700 Bhat (\$110 USD) a month. Employers are responsible for the fees and they usually deduct this from the workers paycheck at a later time.

A manufacturing firm in Thailand pointed out that they did not hire foreign workers because the documentation process was too expensive. Their perception is that small businesses that are under less public scrutiny can hire illegal workers, but as a big company they cannot do this.

Employee Needs During Their Employment Term Are Overlooked

Workers entering a receiving economy require training and orientation, as well as healthcare and other benefits to help them succeed in the temporary work assignment. Currently, the onus is on businesses in receiving economies to provide these services to employees. Typically, when businesses employ skilled workers they pay competitive benefits to hire and retain this talent. However, the same standards do not apply when businesses in receiving economies hire lower skilled temporary workers.

Figure 24: Employee Management in the Temporary Worker Movement Process



Some of the most serious concerns expressed by interviewees in sending and receiving economies were in the area of employee management. The two critical issues reported in this area were:

1. Portability of social benefits
2. Access to healthcare and worker protections

Social Benefits Are Not Portable

One issue that was considered extremely urgent and important by both sending and receiving economies was the non-portability of retirement and social security benefits. In most receiving economies workers pay into the social security and other benefits systems, but do not receive these benefits when they are employed or when they leave the economy

Impact on Business, Workers & Economies

This is a significant cost to workers and sending economies. Without access to these funds workers do not realize the full benefit of their work. In addition, this will cost sending economies later when these temporary workers retire without sufficient resources and put more strain on the social safety net.

Philippines

Interviewees noted that the retirement or social security contributions made by workers when they are in another economy need to be accessible to workers when they return home. They felt that if these benefits are available to workers when they return home this will incentivize the circular pattern of temporary worker movement.

Workers Are Not Guaranteed Access to Worker Protections and Healthcare

Inadequate legal and social protections for temporary workers

Sending economies reported that their workers did not receive the same protections and rights as local workers in the receiving economies where they worked. Many receiving economies had regulations protecting temporary workers. However, in many cases lack of enforcement of these regulations has led to workers getting exploited by employers or other third parties in the receiving economies.

Malaysia

Interviewees reported many examples of temporary workers in this economy not being protected from abuse or exploitation. In numerous reported cases, employers have held temporary workers' travel papers or identification cards. This effectively enslaved the workers in the working environment and they were forced to work long hours for little or no pay.

Impact on Business, Workers & Economies

Lack of legal and social protection of workers leads to exploitation of workers by employers and other third parties. This exploitation costs workers their earnings and in some cases their lives and dignity. Mistreatment discourages potential workers and creates a barrier to labor trade. Addressing problems with exploitation can cost an economy a massive amounts of resources, time and effort.

Lack of access to healthcare and social benefits

Interviewees noted that temporary workers often do not have access to basic medical care in receiving economies, often because employers are not mandated to provide healthcare access. This added to expensive healthcare costs in receiving economies resulting in workers not purchasing healthcare and retirement options and therefore not having access to these benefits. Compared with their economy of origin, the cost of healthcare and benefits in receiving economies is usually extremely high for temporary workers to assume.

Impact on Business, Workers & Economies

Lack of access to social and health services puts an immense strain on economies and temporary workers. The worker with no access to basic benefits put themselves in serious jeopardy especially if they are faced with emergency health issues. Also, a lack of access to education for children of temporary workers can place additional pressures on these workers. Economies incur high costs to provide services to these workers when need arises.

Thailand

Thai government does not provide any services to temporary workers. Workers do not get any education, healthcare benefits. There are 90,000 children of illegal Burmese workers – these children are “stateless” because they are neither Thai nor Burmese documented citizens. They become a “lost group” of people with few prospects.

Japan

The Philippines requires that all Filipino workers traveling abroad must be insured and employers in receiving economy must treat them like a domestic employees. Japan circumvents this regulation this because the nurses are treated as apprentices rather than full-fledged nurses.

High costs of healthcare and other benefits

On the one hand, sending economies complained that their low- and semi-skilled labor did not receive healthcare and other benefits from their employers in receiving economies. On the other hand, businesses in receiving economies complained about the extremely high cost of healthcare and benefits provided to high-skilled temporary workers. To attract the right talent companies must pay substantial benefits to skilled workers, sometimes more than that paid to their domestic workers.

USA

One interviewee noted that the cost of a relocation package for a high-level employee for a multinational firm typically involves substantial benefits. In order to attract these high-skill workers to temporary assignments, businesses will offer a compensation package that costs as much as five times the employees’ typical salary.

Taxation

Businesses moving workers across borders reported that they incurred additional taxation expenses due to double taxation of workers or from taxes equalization between various economies. This was a serious concern for businesses in receiving economies. Interviewees believed that this added tax cost were a result of missing tax treaties between the sending and receiving economies.

Impact on Business, Workers & Economies

The lack of tax treaties and the resulting tax related issues add a large cost to businesses that are trying to move workers. These businesses have to pay the tax related costs or risk losing the skilled talent they are trying to bring in to an economy.

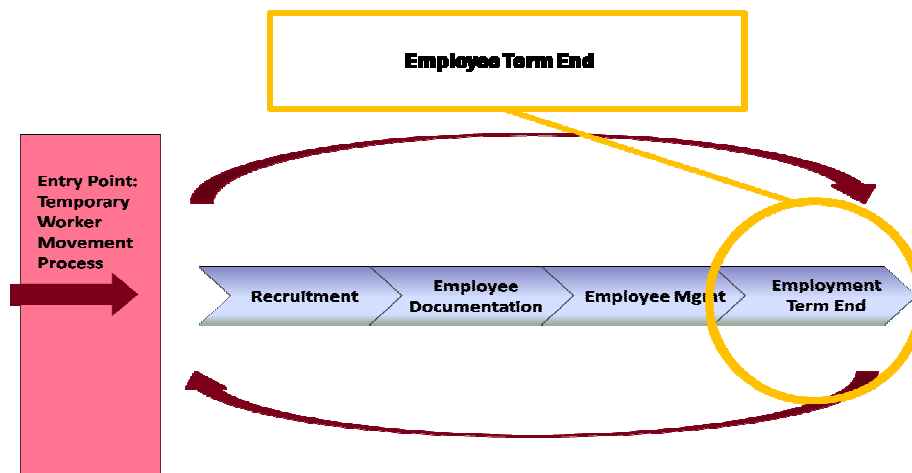
Chile

The cost of bringing someone in to work legally is very high. Companies sometimes pay double taxes. One interviewee noted that because of this cost, the benefit of bringing someone on is barely paid for during the two year contract period.

The Impact of Process Issues Extends Past the Employment Term

The employment term end is the final step in the process flow for temporary workers. At the end of the employment term, a temporary worker has 3 options: (1) to extend their stay if the labor need still exists, (2) return to their home economy, or (3) stay illegally. Typically, extending a temporary worker contract requires that businesses reapply for a work permit extension. In some economies workers find it difficult to extend their stay because of restrictive government policies. In such cases businesses have to find new temporary workers to fill vacancies and retrain these new workers to ensure continued productivity.

Figure 25: Employment Term End in the Temporary Worker Movement Process



Interviewees in receiving and sending economies expressed a few key concerns that need to be addressed at the end of a worker's employment term:

1. Overstay on visas
2. Inability to extend worker stays
3. Brain drain
4. Mistreatment of workers when they return

Visa Overstays Lead to Irregular Migration

Temporary workers overstay on visas or work permits and do not return to their home economy. This problem was identified by both sending and receiving economies, but was more vocally identified by sending economies. Many workers enter receiving economies legally and then stay beyond the allowed period to find employment in the economy. Many interviewees from sending economies noted that they believe this trend exists because there are no legal means for these temporary workers to come home and then re-enter the receiving economy.

Impact on Business, Workers & Economies

Overstays result in economies spending large amounts in immigration enforcement and in added costs to the social system (emergency care, education, etc.) due to undocumented workers. This in turn leads to higher taxation of individuals and businesses, further increasing the strain on businesses.

Korea

Interviewees in Korea also noted that many workers circumvent the process and enter or remain in the economy illegally. The number of workers overstaying has decreased because of increased oversight, but it is still a problem for the government.

Philippines

Overstay of workers was mentioned as a significant problem for the Philippines. Several interviewees noted that workers go abroad and do not want to return home. Or, in some cases they are abroad illegally and they cannot leave the receiving economy because they will not be able to re-enter. This breaks the pattern of temporary labor mobility and results in permanent migration.

The Inability to Extend Worker Visas Increases Costs to Businesses and Workers

Temporary workers are not able to formally extend their stay and work longer in many receiving economies. This causes problems for businesses in these economies because employers lose the workers who cannot renew their contract. In some cases, this results in irregular migration patterns mentioned above where workers decide to remain in the receiving economy even though they cannot do so legally.

Impact on Business

Inability to extend worker visas adds cost and reduces productivity in businesses. In many cases businesses in receiving economies provide training to workers they employ. When these workers are not able to renew their visas and leave the economy, businesses have to spend more money hiring new workers and retraining them. The transition time results in loss of productivity for businesses.

Korea

Korean businesses noted that the extension process is a challenge. Temporary workers start with a one year contract, and can extend it for two additional years under the program, but after that the worker must return to their home economy regardless of the business' need.

Japan

An example of difficulty of extending visas was quoted by interviewees in Japan. Bilateral agreements between Japan and the Philippines and Indonesia allow nurses and caregivers to enter Japan for a 3 year period. At the end of 3 years the temporary worker must pass a national exam in Japanese if they desire to stay on in the economy. This test is very difficult and the pass rate is only 50 percent even for native Japanese. This means most trained nurses have to return to their country or stay on illegally in Japan. Interviewees felt this was counter-productive to the Japanese economy considering that Japan faces a severe shortage of nurses. They also reported that many temporary worker nurses chose to remain in the economy illegally.

Brain Drain Is a Significant Issue For Sending Economies

An interesting finding across interviews is that labor-rich sending economies are far more concerned with the return of workers than receiving economies. This revolves around the issue of brain drain. Sending economies recognize that their best and brightest workers are attracted to opportunities abroad and they are concerned that their workers may never return home. Some of this brain drain was attributed to the fact that some workers are unable to exit from the receiving economies they entered fearing that they may not be able to return at a later point.

Impact on Business, Workers & Economies

Brain drain is a serious issue for sending economies. As their skilled workers go to other economies, they struggle to find skilled labor for their own vacancies. When these trained workers do not return the sending economy does not benefit from the experience the workers have gathered abroad. This inhibits the rate of development of sending economies.

Peru

One interviewee that brought up the issue of brain drain illustrated it by noting that 80 percent of all scientific research done by Peruvians takes place in other economies.

Philippines

In a pattern known as occupational “skidding” doctors from the Philippines go to other economies to become nurses owing to better pay and career opportunities.

Mistreatment of Returning Workers is a Point of Concern

Sending economies reported that many of their citizens returning home faced problems on their return. The governments are then required to step in to provide protections for these returning workers.

Impact on Business, Workers & Economies

Mistreatment of returning workers has multiple consequences for economies. First, workers may be reluctant to return because of safety concerns in their home economy. Second, governments have to spend large costs in ensuring safety for returning workers and incentivize their return.

Indonesia

When workers return, the government arranges for them to travel by bus back to their home communities. However, there are frequent reports of workers being extorted by the drivers, who require cash or leave them in a remote area instead of taking them to their community.

Confirming the Business Grievances and Solutions

The grievances discussed above were identified during the initial analysis of the field research interviews. These ideas were then summarized and synthesized, and a follow-up survey was completed by 42 interviewees. Below are the follow-up survey findings that confirmed the central issues economies face, and gauged respondents' thoughts on how to improve temporary worker mobility.

A large majority (68 percent) of survey respondents from both sending and receiving economies rated portability of social security and retirement benefits as a problem facing temporary worker movement.

Lack of labor agreements between economies was cited as a problem preventing temporary worker movement by 62 percent of survey respondents.

An overwhelming majority (88 percent) of sending economy respondents said that lack of legal protections for their workers travelling abroad was a problem.

The 3 key concerns for all economies and for sending and receiving economies individually are provided below.

Figure 26: Top Three Issues Affecting Both Sending and Receiving Economies

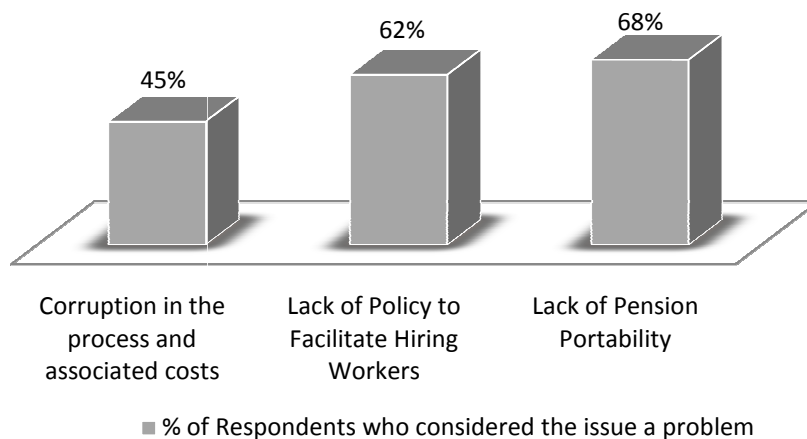


Figure 27: The Top Three Issues Affecting Receiving Economies

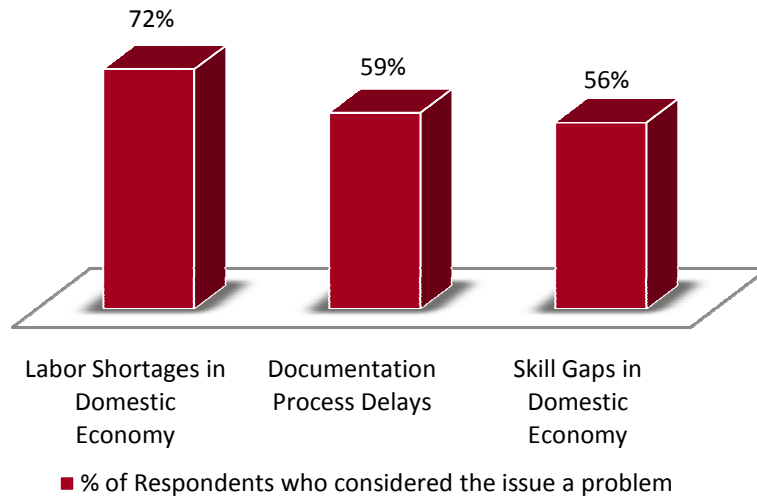
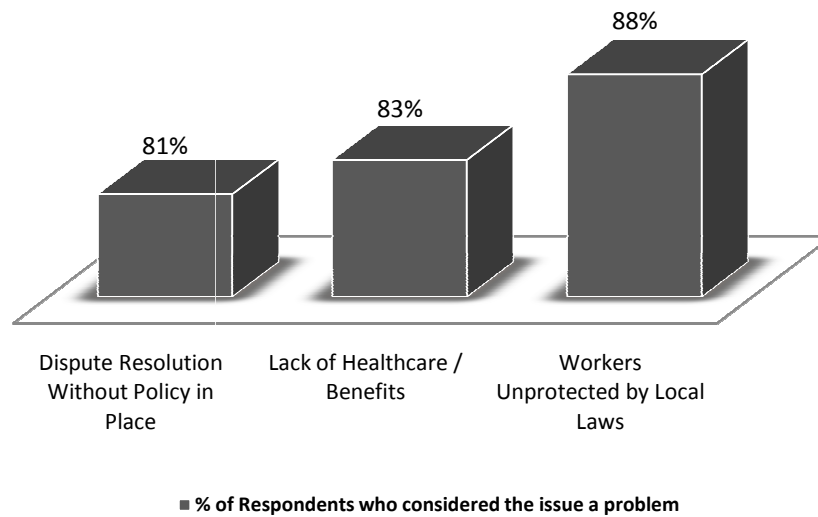


Figure 28: Top three problems for issues affecting sending economies



A more detailed description of our follow-up survey data and the information on the findings are discussed in the following sections.

Economies Can Take Action To Resolve Business Grievances

Conclusion 1: APEC should prioritize and facilitate regional efforts to improve temporary worker mobility.

Interviewees from sending and receiving economies articulated the benefits to be gained by facilitating temporary worker movement in the APEC region. Receiving economies face both labor shortages and skill gaps that can inhibit the growth of individual businesses and the economy at large. Ineffective or non-existent policy prohibits the movement of temporary workers from sending economies to receiving economies to fill those shortages and gaps. APEC should facilitate dialogue among member economies in order to improve the policies that govern this process.

Several interviewees suggested that APEC should create a Temporary Worker Mobility Task Force to work with ABAC leaders and address temporary worker movement to support business and economic growth throughout the region. Businesses in sending and receiving economies want to collaborate with policymakers to form temporary worker policy that is cost-effective and responsive to growth and competitive needs. Some interviewees noted that APEC should collect data on the need for temporary workers in different sectors and economies. They suggested that APEC and ABAC can improve the data collection in this area and increase the voice of the business community in policymaking.

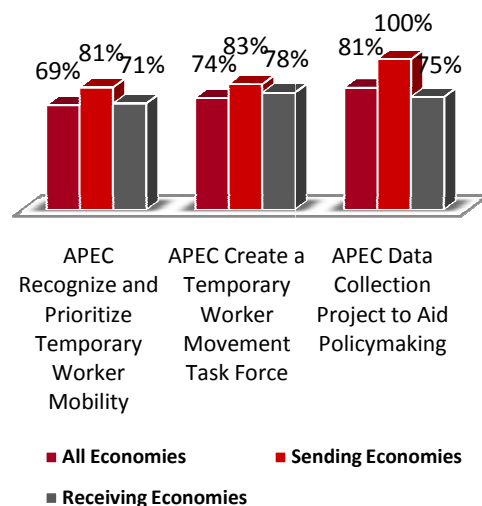
Follow-up Survey Interviewee Opinions: Recommendations

The follow-up survey asked respondents to rate the effectiveness of various APEC actions. Over four-fifths (81 percent) of respondents in sending and receiving economies felt that an “APEC Data Collection Project to Aid Policymaking” would be effective. Sending economy respondents unanimously supported this recommendation. In addition, there was strong support for creating a Temporary Worker Mobility Task Force (74 percent). Of sending and receiving economy respondents 69 percent felt that it would be effective for APEC to recognize and prioritize temporary worker movement.

Best Practice Box: “Creating Temporary Worker Movement Policy To Support Business”

Australia follows a very proactive policy in facilitating temporary worker movement, especially for skilled worker categories. The government realizes that their future competitiveness relies on the economy being able bring in workers to fill business needs. To this effect, all of the policies and procedures are created with the intention of facilitating business needs. The government works with businesses to create a list of skills that have shortages. If a profession appears on the list then businesses have no barriers to bringing in workers to. These lists are reviewed and revised periodically to reflect current needs. There are no yearly quotas for foreign workers and employers have a way to bring workers in as long as the demand exists. Additionally, other than language and some specialized skills requirements, the onus of verifying most employment qualifications are generally pushed to the employers and various professional organizations. This helps industries formulate their own methodologies for validating qualifications.

Figure 29: Interviewee Opinions on APEC Involvement



Key Takeaway: Over four-fifths of survey respondents want APEC to gather data to help facilitate temporary worker movement.

Conclusion 2: Governments should engage other governments more on the topic of temporary worker movement and establish FTAs and MOUs.

Although existing agreements are often complex, difficult to enforce, and lack some of the measures necessary to eliminate inefficiencies in the movement of labor, they are vital to providing access to the temporary worker mobility process by encouraging a constructive dialogue between economies. Such dialogue has allowed some economies to see significant improvements in the movement of labor between their signatories.

Follow-up Survey Interviewee Opinions: Grievances

The follow-up survey confirmed the importance of more government-to-government engagement by highlighting the need for ongoing dialogue to get businesses the workers they need, and to address specific temporary worker movement-related topics.

Table 5: Grievances Supporting More Government-to-Government Agreements Are Needed

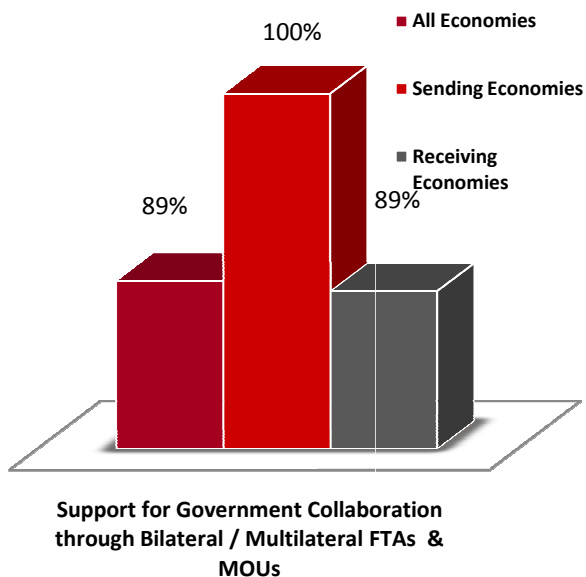
Grievances that Support Conclusion 2: More Government-to-Government Agreements Needed		
Origin of Issue*		
Sending	Workers Unprotected by Local Laws (in Receiving Economy)	88%
Sending	Lack of Healthcare / Benefits (in Receiving Economy)	83%
Sending	Dispute Resolution Without Policy in Place	81%
Sending	Difficulty Locating Legitimate Employers	75%
Receiving	Skill Gaps in Domestic Economy	72%
All	Lack of Pension Portability	68%
All	Lack of Policy to Facilitate Hiring Workers	62%
Receiving	Labor Shortages in Domestic Economy	56%
Receiving	"Tax Equalization" Costs to Businesses	43%
All	Restrictive Economy-specific Quotas	42%
All	Exploitative Fees for Workers / Businesses (for Document Processing)	41%
Receiving	Cultural Biases	41%
Receiving	Policy Not in Line with the Business Need	35%
Receiving	Cost of Healthcare / Benefits	35%
All	Availability / Transparency of Policy	33%
Receiving	Undocumented Workers Entering the Economy	33%
Receiving	Workers Cannot Extend Time Length of Visa	20%

*Respondents were all asked one universal set of questions and one type-specific set

Follow-up Survey Interviewee Opinions: Recommendations

The follow-up survey asked respondents from both labor sending and receiving economies to rate the importance of ongoing government-to-government engagement using FTAs and MOUs. Overall, 89 percent of respondents rated “Improve Government-to-Government Interaction” an effective measure from the perspective of their economies making this the second most popular measure. While 89 percent of receiving economy respondents supported more agreements, 100 percent of sending economy respondents did the same. Although sending economies seemed to show greater interest, this was the second highest response for receiving economy respondents. The results are consistent with stronger overall support for all measures in sending economies.

Figure 30: Interviewee Opinions on Government Collaboration on FTAs and MOUs



Best Practice Box: “Overcoming barriers through a labor mobility framework”

Today, barriers to the movement of persons are harming business, but additional barriers may emerge at any time - even where they don't currently exist. Last year, following the swine flu outbreak, the Canadian government exacted additional visa requirements on Mexican nationals. This policy change threatened Canadian agriculture businesses who were weeks away from beginning the harvest season which depends strongly on temporary workers from Mexico. However, the existence of the Canada – Mexico MOU on agriculture allowed the Canadian and Mexican governments to work together to expedite the visa process for these temporary workers and ensure Canadian farmers had the labor they needed.

Key Takeaway: “Improved Government-to-Government Interaction” was one of the most popular measures in both sending and receiving economies

Conclusion 3: Private entities should be regulated through government regulation and supervision or through non-governmental oversight.

One of the key findings of our interviews was that best practices were sometimes undermined by poor enforcement of policy. Many respondents from agencies and governments felt that better enforcement of existing policy was needed either in their home economy or in partner economies. Where governments are handicapped by limited resources or other constraints that hinder their ability to implement these policies, third-party NGO oversight may be a welcome addition to existing resources.

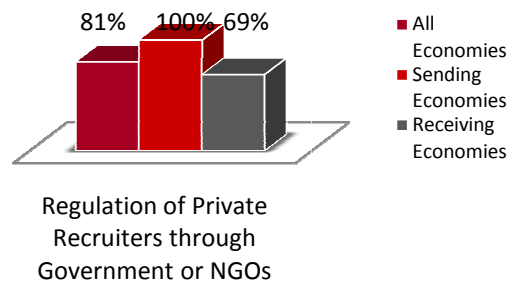
Follow-up Survey Interviewee Opinions: Grievances

Many respondents feel disenfranchised by poor oversight and enforcement of existing policies. Perhaps the biggest case for oversight confirmed in the follow-up survey was that delays frequently occur in procuring migration documents.

Table 6: Grievances Supporting Greater Oversight of Policies is Needed

Grievances that Support Conclusion 3: Greater Oversight of Policies by NGOs and/or Governments Needed		
Sending	Documentation Process Delays (Workers)	71%
Receiving	Documentation Process Delays (Businesses)	59%
All	Corruption in the Process and Associated Costs	45%
All	Lack of Private Recruitment Agency Regulation	31%
All	Poor Regulation Enforcement	31%

Figure 31: Interviewee Opinions on Recruiting Agency Regulation



Follow-up Survey Interviewee Opinions: Recommendations

There was strong overall support in all economies for more regulation and oversight of existing policies. 81 percent of all respondents indicated that “[Increased] NGO and/or Government Regulation of Private Entities” would be an effective means of resolving systemic inefficiencies in labor movement. However, there was a significant difference between sending and receiving economies: 100 percent and 69 percent, respectively. This data suggests that more policy enforcement is needed in sending economies in particular. It also suggests that stakeholders in sending economies believe that policy needs better enforcement throughout the process flow.

Best Practice Box: Effective Oversight

Indonesia is reducing corruption and fraud in temporary worker movement thanks to government oversight stipulated in MOUs with Korea and Japan. BNP2TKI - the government administrative body responsible for the execution of temporary worker programs - has established administrative centers in cities far from the capital. These new "one-roof" service centers inform workers of their rights under the law early on. Documents are verified by public servants who have no vested interest in placing any particular worker. BNP2TKI contends that this system has dramatically reduced abuse by middlemen. Since agents and brokers are aware that workers who want to work in Korea or Japan must be processed through these centers, they are less likely to falsify documents or information for these workers. Plans to add more such service centers across the archipelago are being pursued.

Vital Insight: “There is a perception in many sending economies that policy needs better enforcement throughout the process flow”

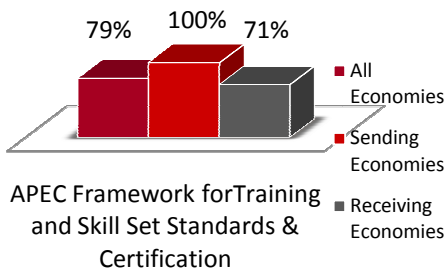
Conclusion 4: Movement of skilled workers could be better facilitated by developing an APEC framework of training and skill sets standards or job skills certifications that are recognized across APEC.

Interviewees in sending and receiving economies strongly support multilateral collaboration to establish a rubric for the standardization of skill sets, alongside creating skill certifications that could be recognized in the entire region. Businesses emphasized that they face difficulties matching available jobs with truly qualified temporary workers. Agencies and governments in sending economies sought clearly defined guidelines that could be used to train workers and meet business needs.

Follow-up Survey Interviewee Opinions: Grievances

Our interview results suggested that lack of skill standards and certifications has meant businesses have a hard time identifying qualified labor, while workers face challenges educating themselves and proving their abilities, and our follow-up survey confirmed this.

Figure 32: Interviewee Opinions on APEC Training Standards & Certification



Follow-up Survey Interviewee Opinions: Recommendations

About 79 percent of respondents support skill set standardization or an APEC-wide job skills certification program. This result was supported by 100 percent of respondents from sending economies, while only 71 percent of respondents from receiving economies marked these as effective measures. One explanation for the large spread is that governments in sending economies feel that their workers are not given due credit for training received, while businesses in receiving economies seek more specific training.

Table 7: Grievances Suggesting APEC-Wide Standards and Certifications are Needed

Grievances that Support Conclusion 4: APEC-wide Training/Skill Set Standards & Certifications Needed		
Sending	No Mutual Recognition of Skill Standards (Workers Cannot Prove Skills)	72%
Receiving	No Mutual Recognition of Skill Standards (Employers Cannot Verify Skills)	35%
Receiving	Locating / Recruiting the Right Workers	12%

Best Practice Box: Standardizing & Certifying Skill Sets

Examples of the need for standardized industry practice abound. Leaders in the Canadian construction sector, recognizing the need for international standardization of practice in the construction industry, commissioned a research study entitled “A Study of Assessment and Recognition of Foreign-Trained Worker Credentials in the Construction Industry.” The report concluded that “[little consensus on] immigration and credential issues make the [labor flow] process difficult to understand and navigate.” A Mexican interviewee suggested that standardized international practices would enable sending economies to match training and education to global business needs. Meanwhile, with FTAs and MOUs in place to recruit foreign nurses for the U.S. and Japan, workers from Indonesia and the Philippines have received more appropriate training recognized in and applicable to their destination economies.

Key Takeaway: Many industries have a need for temporary worker certifications that confirm a worker’s ability to conform to industry practice, protocols, and safety procedures.

Conclusion 5: Language and other pre-departure training for temporary workers is inadequate.

Interviewees from both sending and receiving economies felt that more pre-departure training, including language instruction, is needed to fulfill the demands of the temporary worker movement process. Workers must adapt quickly to their new work and social environments, and interviewees noted that without adequate language ability workers are more vulnerable to abuse, and in the case of 3D jobs, were more prone to safety-related accidents.

Follow-up Survey Interviewee Opinions: Grievances

Respondents in sending and receiving economies were unified in their concern about adequately preparing workers for their placements overseas.

Table 8: Grievances Suggesting Efforts to Encourage Cyclical Migration is Needed

Grievances that Support Conclusion 5: Additional Language and Pre-departure Training Needed		
Sending	Language Barriers (Workers Need Language Skills to Find Work)	78%
Sending	Training and Pre-departure Orientation	56%
Receiving	Language Barriers (Employers Cannot Find Workers with Language Skills)	50%

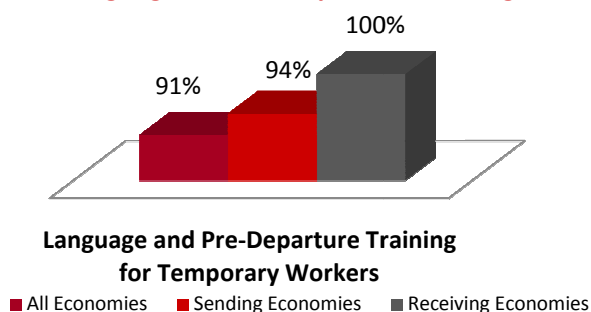
Follow-up Survey Interviewee Opinions: Recommendations

Training was the most popular measure recommended by both sending and receiving economies at 91 percent of respondents indicating this as an effective solution. This measure was also supported with the least spread between sending and receiving economies, at 94 percent and 100 percent, respectively. The mutual recognition of the need for better training is fueled by concerns for worker safety, financial planning ability and job satisfaction in sending economies, as well as worker safety and productivity in receiving economies.

Best Practice Box: Effective Training Programs

In recent years, the Philippines has improved pre-departure training for workers. Workers receive language training lasting from one to three months depending on economy in order to pass qualification exams. Given the challenges associated with learning a language so quickly, those workers who perform well often continue to receive language assistance through programs in their destination economy. In addition, workers receive required training on topics ranging from financial planning and values, to cultural phenomena and HIV-awareness. A Canadian interviewee noted training is important to receiving economies to ensuring workplace safety for temporary workers and their colleagues in receiving economies.

Figure 33: Interviewee Opinions on Additional Language and Pre-departure Training



Key Takeaway: Training was the single most important area for reform among interviewees in the sending and receiving economies.

Conclusion 6: Overstay of visas leading to irregular migration is a concern of both sending and receiving economies.

Visa overstays and irregular migration are another area wherein respondents felt the cyclical movement of temporary labor is inefficient. In some economies, workers continue to overstay visas and work illegally, with undesirable results for both receiving and sending economies. More needs to be done to address this issue, which might include better documentation of workers overseas, improved support for workers overseas, and incentives to encourage their return home. The success of temporary worker movement for both sending and receiving economies depends on the cyclical process of workers going abroad and returning home. Interviewees feel that resource sharing and collaboration between sending and receiving economies could help produce and enforce related policies.

Follow-up Survey Interviewee Opinions: Grievances

While all economies' respondents expressed concerns about a lack of cyclical migration, respondents from sending economies were particularly vocal about devising frameworks that would encourage their workers to return home.

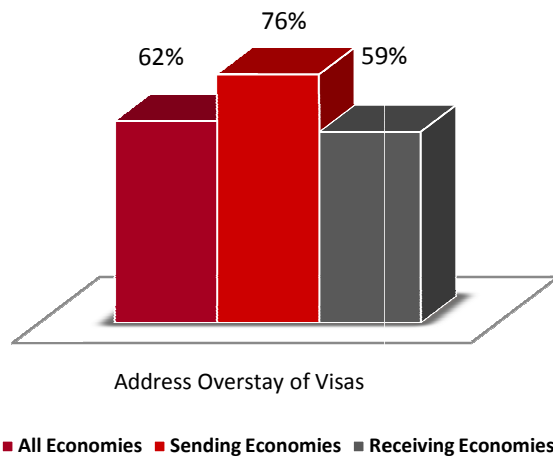
Table 9: Grievances Suggesting Efforts to Encourage Cyclical Migration is Needed

Grievances that Support Conclusion 6: Efforts to Reduce Overstays and Encourage Cyclical Migration Needed		
Sending	Workers Leave During Productive Years	76%
Sending	Brain Drain (Trained/High-skill Workers Leave and Do Not Return)	65%
Sending	Workers Cannot Extend Time Length of Visa	64%
Sending	No Exit Processing by Sending Economy	57%
All	Workers Overstay Visas	40%

Follow-up Survey Interviewee Opinions: Recommendations

Only 62 percent of respondents overall felt that addressing visa overstay would be an effective policy recommendation, but closer scrutiny of the data may explain why. While 76 percent of respondents in sending economies indicated curbing visa overstay as an important agenda item, only 59 percent of respondents from receiving economies felt concerned about this issue. The curious spread – and lukewarm response from those in receiving economies – is likely due to two factors. First, the majority of interviewees from receiving economies were business representatives from large firms that are less affected by this issue. Second, a significant number of interviews in sending economies were with government representatives. These individuals are quite concerned about visa overstays since they want to see temporary workers return; when workers do not return home, sending economies do not receive the full benefits of temporary worker mobility. Government representatives from receiving economies would likely place similar importance on addressing this issue.

Figure 34: Interviewee Opinions of the Need for Cyclical Migration



Best Practice Box: Key Policies and Cyclical Migration

Both the Philippine and Indonesian governments collect data on migrant workers leaving the country and encourage these workers to register at their embassies abroad. This enables these governments to maintain communication with their workers abroad and provide support and programs that encourage their return home. For example, Indonesian government officials cited several mechanisms used to encourage the repatriation of workers including government subsidies for new businesses started by returning workers, financial planning programs for Indonesian migrant workers through its missions overseas, medical attention on their return, and free transportation back to their home city.

Vital Insight: “[Government officials in sending economies] are quite concerned about visa overstays since they want to make sure their workers come back”

Interview Conclusion

As we draw together the sentiment, the passion, and the urgency from our interviews we see that labor movement today is riddled with many critical problems. Access to temporary workers is essential for business competitiveness. Yet, current policies governing temporary worker movement extract high costs from businesses, workers and economies. Where policy is absent or protectionist, there is no trade in workers' services and businesses and workers suffer. Where policy is complicated and inefficient, businesses and workers experience significant direct and indirect costs that decrease the benefits from trade.

Businesses compete to maximize the creation of wealth and in their interviews they communicated the opportunities for both sending and receiving economies to increase their growth. Without policy improvements, however, businesses will seek out their own solutions, which may not accumulate to optimal solutions for all economies.

Businesses understand that this is a complex problem that cannot be solved in one step. But, smart policymaking can improve the current situation and provide opportunities to build and enlarge the movement of workers to meet the needs of businesses and economies. In addition, both business people and government representatives went to exceptional length to communicate the need to protect the health and welfare of temporary workers. There is a clear understanding that temporary worker movement can both provide essential labor and benefit workers themselves and their home economies.

Although they recognize the complexity of this issue, business executives are incredulous at the inability of government agencies to work together on these problems. Businesses understand that bilateral agreements and national temporary worker policy can be effective in individual economies. We know, however, that multiple bilateral agreements and national policies across the APEC region will increase transaction costs for businesses. Only multilateral solutions provide an effective and sustainable strategy to facilitating movement and minimizing costs to businesses and workers.

The areas where improvements easily can be made include: proper certification and oversight of private recruitment agencies to reduce worker abuse and exploitation; additional pre-departure training for temporary workers to ensure that they are aware of their rights and prepared to enter the workplace; regionally recognized job certifications or recognized standards for job skill training and education that enable businesses to identify skilled workers; transportable retirement benefits; and, improved temporary worker documentation processes and fees that reduce costs to businesses and workers.

A more difficult issue is getting economies to talk together about building processes, procedures and infrastructure that facilitate the smooth trade in workers' services. APEC should facilitate dialogue among member economies to create effective multilateral agreements that will improve the process of temporary worker movement. These policymaking efforts must include the voice of businesses – large and small – that are impacted by labor and skill shortages. In addition, policy must address sending and receiving economies' concerns by ensuring that temporary workers return home. An APEC Temporary

Worker Mobility Task Force can build on this research and support policymaking through further data collection.

In the absence of APEC-wide action, individual economies should take steps to improve access to temporary worker movement and respond to businesses' needs. We see significant progress in the unilateral policies of economies like Canada and Australia, which are taking proactive steps to recruit the temporary workers their businesses need, and the Philippines and Indonesia, which are training and deploying temporary workers and encouraging their return home. Our interviews also show that effective bilateral programs like the Canada-Mexico agreement on temporary agricultural workers can benefit both sending and receiving economies.

Policies that we create now can lead to either a smooth or awkward processes going forward. While unilateral or bilateral policy improvements may increase an individual economy's competitive advantage in the short term, there will be inefficiencies as businesses are forced to continue managing complex policies that we heard in our interview across APEC. This will reduce the potential gains in trade and prevent the rate of growth throughout the region. Ultimately, multilateral policy is the best solution to improve trade in workers' services and promote progress through inclusive growth within the APEC region.

Case Studies

Construction

Healthcare

Agriculture

Recruitment Agencies

Construction

Introduction

The rapid economic growth in the last 20 years has resulted in considerable growth in the construction industry. The richest economies in the world spend an average of 5-8% of their GDP in development of infrastructure¹⁸. The need for infrastructure development across developed nations has greatly increased the demand for construction workers.

The construction industry is a prime example of an industry requiring location specific work. Unlike manufacturing where jobs can be relocated to cheaper locations, the need for infrastructure development within an economy requires that construction workers be present on location in the economies where the project is being built. Construction is also by its very nature a labor intensive industry. Labor in the construction sector ranges from low (manual labor) to high-skilled (welders) and is often considered 3-D – difficult, dirty and dangerous.

Shortage of Workers

The construction sector has seen a growing shortage of workers over the last few decades. This shortage of workers, especially in developed economies can be attributed to a few reasons:

The “3-D” Nature of Construction Jobs

Most jobs within the construction sector require physical labor to be done outdoors. As such, the upwardly mobile workforce moves away from these jobs as an economy develops. This trend is especially true in developed economies where workers are able to find other less labor intensive and dangerous jobs with ease.

Aging Population Trends & Loss of Trained Workers

In the decades after World War II, economies built up their infrastructure and new workers flooded the construction sector. These workers developed skills and remained in the industry for long careers. However, as this population ages and retires, the industry is losing workers and the skill and expertise they bring. This is especially true in economies like Japan and Korea where the population is aging rapidly. Unless the industry can attract younger workers and train them in the various jobs within this sector, the shortage of labor within this sector is expected to grow significantly.

Cyclical Nature of the Industry

The construction industry goes through cyclical periods of growth and decline, often mirroring the economic trends of an economy. As an economy grows so does the need for greater infrastructure development and hence the construction industry. This cyclical nature of the industry makes it

¹⁸ Social and Labour issues concerning migrant workers in the construction industry, By International Labour Organisation, Sectoral Activities Programme.

unattractive for workers that traditionally prefer stable, non cyclical industries. The nature of the industry adds to further worker shortages as more people migrate towards stable industries.

The shortages in this industry can be reduced in two ways. First, an economy can incentivize the population within its boundaries to enter this industry. This will require that the market provide higher wages, specialized training and other perks to attract people to the sector. However, based on current trends and worker preferences, these intra-economy solutions are inefficient and only effective over long run. Alternatively, an economy can bring in workers from the neighboring economies. A number of developing economies have a surplus of mobile workers that can work in this sector. Economies can facilitate movement of workers into their economy to fulfill their economic demands.

Labor Movement in Construction

The construction industry has traditionally depended heavily on migrant labor to fulfill its labor demands. This trend stems from two factors. First, certain economies like the Philippines, China and India have worker surpluses whereas Japan and the US have a constant shortage. Second, the wage differentials between various economies are fairly significant causing businesses to bring in workers from cheaper economies to work on their projects.

In the past, the industry has filled its labor requirements in multiple ways: using legal sources to hire workers, hiring temporary workers who enter the economy as tourists or trainees and through hiring of illegal migrants. The legal worker channels are small in many economies and so businesses opt for other options to bring in workers. Trainees and temporary workers (tourists) fill the need to an extent. However, these workers may not be available for the entire duration of a project. Businesses often hire illegal migrants simply because there are no other options for them to bring in low and semi-skilled workers into their economies. According to an ILO survey done in Japan in the 1990s, out of 300,000 illegal migrants in Japan, about 28% percent were workers employed in the construction sector. Though this data is not current, the trend is believed to have grown significantly over the last decade.

Barriers to Temporary Worker Movement

Despite the excess labor available in some regions, economies still face shortages of labor in others. These shortage trends are caused by barriers to labor flow that exist when moving workers between economies.

Policy Barriers

Regulations and restrictions on hiring of labor is a significant factor in blocking businesses from accessing qualified workers. Governments in most economies are extremely concerned about the flow of low and semi-skilled labor into their economies because they fear that these workers will take away jobs from the domestic workforce. Second, during times of recession, policies tend to become more protectionist and the jobs that are most affected by these protectionist policies are the low and semi-skilled jobs.

Portability of Skills

Within the construction sector many skills like welding, heavy equipment operation etc. are specialized and need people to be trained and qualified to perform this jobs. These jobs are typically harder to fill

because of the qualification requirements in most economies. In some cases workers have the required qualifications to do these jobs within their home economy. However, they are unable to qualify for the same jobs in other economies because their credentials are not recognized by the receiving economy. Even though there are qualified workers available across the globe, businesses are unable to fill their vacancies.

Welders – An Example Case

Virtually every construction or manufacturing company in the world requires welders. However, there is a serious global shortage of welders that is estimated to grow. The American Welding Society states that the average age of a welder is in the mid-fifties, with many approaching 60 years old. AWS also estimates that more than half of the industry's trained workforce will retire and there may be a potential shortage of more than 200,000 skilled welders in the near future. This year, 50,000 welders will leave the industry while only 25,000 students begin their welding education. This trend continues across much of the developed world¹⁹. According to the *National Tooling & Machining Association*, an estimated 40% of member companies are turning away business due to lack of welders.

Despite the severe shortage and need, many economies have stringent controls before welders can enter their economy. In Canada, the federal government works in conjunction with industry trade groups to help facilitate movement of welders from other economies, to address Canada's welder shortage. The government performs a paper examination of the credentials before the worker is allowed into Canada. If the government is satisfied that the worker's skills would allow him to take the provincial exam for his trade, it will issue a six-month work permit. That will give the worker time to become oriented to the Canadian workplace and to take the Canadian provincial exam. If the worker is successful, the work permit will be extended for a specific period of time.

Barriers such as examinations and probationary periods exist because of lack of mutual recognition of credentials from other economies. Some of these barriers stem from legitimate concern about safety especially with construction careers. However, this additional testing step delays the movement of workers to fill jobs and in some cases prevent a business from filling its vacancies. In some cases language and costs can pose a block for welders trying to travel into economies. To undertake a credential examination in another economy, a worker has to be able to take a complicated test in another language. This could pose a serious problem for a worker who is skilled but does not have good language skills. Additionally, costs associated with taking such a test could be prohibitive for businesses and workers.

A developed, multilateral system to recognize and assess basic credentials from different economies would reduce many of these problems exacerbating skill shortages. Such a system may also help economies with a surplus labor force to train their workers to global standards and help with movement of temporary workers.

¹⁹ "Welding For the Strength of America", American Welding Society. - www.aws.org/pr/corppresentation.ppt

Consequences of Labor Shortages

The labor shortages in the construction segment have significant impacts on economies. If an economy is unable to fill labor gaps in this industry, it may lead to delays and declines in infrastructure development and this in turn will have significant impact on the growth of an economy.

Labor shortage also has a second significant impact. As more jobs in this sector remain unfilled by local workers or legal temporary workers, businesses tend to turn towards illegal migrants to fill the vacancies. This attracts more irregular migrants to fill these jobs. The irregular migrants may enter legally on temporary permits and stay to work or they may enter the economy illegally. In either case, irregular migration adds significant cost burdens on an economy as governments need to spend more in social infrastructure.

Papua New Guinea (PNG): Business Pains due to Labor Shortages in Construction

ExxonMobil has completed key agreements to build a proposed Liquefied Natural Gas (LNG) plant in the Southern Highlands and Western provinces of Papua New Guinea (PNG). At \$11-\$14 billion in development cost, the project is expected to bring nearly \$30 billion in cash flows to the government and landowners and is the largest private-sector investment ever undertaken in Papua New Guinea.²⁰ Exxon Mobil's subsidiary Esso Highlands is the sole operator and sole marketing representative for the project. The PNG state has established the legal and fiscal framework for the project based on its negotiations with Exxon Mobil. As a part of this effort Exxon (Esso) has agreed to assist the government with many development initiatives including training of a new workforce for the construction effort.

Labor Shortage

The PNG Department of Labor has indicated that the project will require roughly 7,500 construction workers, including 1,200 skilled welders. These workers need to be on site no later than the start of the fourth quarter of 2009 to finish by the target deadline of 2014. Currently, there are only 342 licensed welders²¹ in PNG. Therefore, skilled welders from abroad will be needed if the project is to be completed on time.

PNG has an apprenticeship program in place to train and increase the skill level of local workers to meet market demands for skilled labor. The LNG project has agreed work under the covenants of this apprenticeship program and train the local workforce to prepare them for jobs on the site. The training program, however, will require 3 to 6 years for long term production positions. Initial projections state that about 400 newly qualified PNG employees will emerge from the program by the end of 2016. These programs therefore will be unable to meet the immediate demand of the project given the timeline and skill requirements.

Further, the government places severe restrictions on employers that hire workers. Current regulations, in particular labor and immigration laws pertaining to work visas, make it very difficult for the local businesses to get the labor that they need, especially low and semi-skilled labor. Policies are more

²⁰ Euromoney. - <http://www.euromoney.com/Article/2173612/PNG-LNG-What-could-Papua-New-Guineas-pipeline-project-bring.html>

²¹ Interview with Dr. Nadliy, Papua new Guinea Department of Labor

favorably positioned for bringing in high skilled labor. Businesses claim that it takes anywhere from 6 to 8 months to get a worker on the ground assuming there are no special clauses to comply with. The delay in getting the worker into PNG or the inefficiency of a worker therefore comes at high costs to the businesses.

Businesses that import workers, including Exxon, are mandated to allow the temporary workers to work as instructors in the apprentice program and work permits are only issued to workers on the condition that they train locals as apprentices. Businesses now bear the cost of investing in the visas for the worker, paying above market rates plus retention perks, and funding the instruction of local workers. PNG law mandates this apprenticeship but does not monitor its implementation and so, newly trained workers are free to jump to new employers, leaving the company that paid for their training with nothing to show for its investment.

Consequences of the Labor Shortage

Due to the labor and skills shortage, *pirating* employees is commonly viewed as a cheaper alternative to training new hires. But this method creates an expensive, vicious cycle for businesses that are constantly losing employees, forcing wages much higher and undermining efforts to train and develop the domestic work force.

The skill gap and job pirating poses a problem not only for the LNG project but for the other businesses in PNG as well. The labor force can shift easily to the highest paying industries, leaving their previous employers empty-handed after having invested in their training and development. The accompanying increase in wages and buying power puts upward inflationary pressure on the domestic economy, adversely affecting all sectors. PNG is already seeing increased inflation in the project region, Port Moresby, in the form of the increased rents.

The LNG project brings jobs, wealth and much needed foreign direct investment and allows PNG to capitalize on its abundance of latent natural resources. With 75% of the population engaged in subsistence agriculture, the official unemployment rate is a lean 1.9%. However, estimates of urban unemployment soar to nearly 80% due to a difficulty of attracting FDI and the lack of capital assets needed to spur domestic investment.²² The LNG project has committed to various socio-economic activities which will benefit the local community and its completion alone is expected to *double* PNG's current GDP of \$12 billion by 2014. The success of this project can have a monumental impact on the overall economy. Right now the success of this project is being severely threatened by the lack of labor resource. If this issue is not addressed correctly, it could have a severe negative impact on the economy.

Takeaways

The magnitude of this project has brought to light the massive labor shortage and difficulty creating a workable system for workforce development in PNG.

²² Index Mundi. - http://www.indexmundi.com/papua_new_guinea/unemployment_rate.html

PNG's immigration and work permit policy makes it difficult for businesses to bring much needed low and semi-skilled labor into PNG. The government policies are much more conducive to bringing in high skilled workers when required. This policy decision in light of the current shortages in manpower in PNG makes it very hard for businesses to grow in the economy.

Further, well intentioned policy, intended to promote private sector investment in workers is creating severe strain on businesses in PNG. This problem has now reached a head where business and market failures are a possibility. More cooperation is needed between PNG's government and the private sector to ensure that good policy is implementable enough to see that the mutual goal of local labor force development is achieved.

Canada: A novel approach to handling worker shortages

Canada faces shortage of workers in many sectors including the construction sector. About 0.5% of the construction workers in Canada are temporary workers and key source economies for these workers are US, UK, Germany and the Philippines. The Canadian Construction sector and the government together have now developed tools and created transparent processes and best practices to improve hiring of labor in the construction sector. The following factors make the Canadian approach successful:

Transparent Labor Provisions:

Citizenship and Immigration of Canada (CIC) provides detailed information for interested temporary workers who wish to work in Canada. Through the CIC website, www.cic.gc.ca, temporary workers can learn about prior arrival procedures, after arrival procedures, extension of stay, and their rights under the Canadian laws. The handbook is continuously updated to reflect the most up-to-date information.

Planning model

Over the past 5 or 7 years, the Canadian Construction Sector Council has developed a sophisticated model for forecasting labor demands in the construction sector. This model covers 4 sub-sectors, 33 trades and occupations in construction and presents information for a nine year horizon. The model is reviewed and adjusted every year. In years of economic volatility it is reviewed multiple times a year to adjust it to market conditions.

Development of the Model

The model has been developed with support from the industry across the economy. The CSC forms industry group committees in every province that help with the development of the forecast.

The development of the model starts with the study of the macroeconomic outlook and construction investment projects. This information is then used to build employment demand data. Once the demand data is available, the model then compares that with the employment supply based on retirement, mobility, and apprenticeship/training information. All this data is then consolidated to get the availability of labor by trade and region.

Usage

This model is used by industry and the government to help them forecast labor needs. In 2008, the CSC conducted a survey to determine who is using their data. It was found that the government was one of the biggest users of the model at the national and at many local levels. According to business sources, the usage of this model by the government seems to have helped businesses obtain temporary workers as needed.

Recognition of Qualifications

Canada maintains national occupational skills standards for most key trades in the construction sector. These standards have been developed by the government in conjunction with the construction industry. Additionally, the CSC has completed a trade mapping exercise that compares the qualification and education system for different construction trades like electrical and plumbing in Philippines and South Africa with the Canadian system. This exercise also mapped the training levels within these economies against that of Canada so that employers can understand the level of training in other economies and can ascertain skill levels of potential employees. This study is designed to understand gaps in training if any and to help employers identify the right workers from these economies to fill their vacancies. In the next phase, the CSC plans to extend this study to EU and Mexico. Eventually, the goal of this effort is to develop an assessment tool that would help employers assess the skills of individual workers.

Takeaways

Both the government and industry trade groups play an important role in successful temporary worker policies in the Canadian construction industry. The government recognizes the industry's need for temporary workers and tries to cooperate with businesses by developing the right tools and systems to make the process easier. The businesses and the trade groups also do their part in developing internal methodologies like demand forecasting models and qualification tools that help the government tailor their policies to business needs. This symbiotic relationship has contributed in no small measure to the success of Canadian policies and temporary worker systems in the construction industry.

Conclusions

It is clear that cooperative interaction between government and businesses play an essential part in ensuring success of any temporary worker program. Governments should clearly understand business needs and try to cooperate with them to ensure continued success of businesses within their economies.

A global or regional certification system is needed to overcome the problem around portability of skill set across borders. In the absence of such a system, economies must at least have a way of mapping skill sets across economies so that the skills of workers traveling between the economies can be ascertained accurately. Certification systems are complex and may take time to implement. However, the added benefits of such a system would greatly outweigh the incremental costs.

Construction is an industry that faces severe shortage of labor. But, it is also an industry that is global, cyclical and project based in nature. It is an ideal industry for workers to move across economies from

project to project to fill labor demands. The construction industry appears to have developed a few practices aimed at facilitating this movement. Other industries that face labor shortages can do well to adopt some of these practices to their own sectors.

Barriers to temporary worker movement exist, some arising out of legitimate concerns and the others not. However, economies must find a way to overcome these barriers to ensure competitiveness in the global stage and continued success in the future.

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Healthcare

Introduction

Healthcare is an industry with location-specific occupations that cannot be outsourced to another economy. While elective surgeries can be outsourced through industries like medical tourism, a person having a heart attack cannot spend 14 hours on a plane flying across the globe for treatment. Around the world, there are critical shortages of healthcare professionals. In economies with rapidly ageing populations, there is a lack of qualified nurses. However, a lack of recognition of qualifications and training, numerical quota restrictions and overstaying remain very significant barriers in the movement of healthcare professionals. Although some progress has been made on facilitating healthcare workers through FTAs and MOUs, improvements must continue to be made and implemented by the policy makers.

Organizations worldwide have projected the future shortages for nurses. Some of startling facts include:

- Japan needs 40,000 additional nurses, a shortage that is expected to surge to 550,000 by 2014.²³
- Japan needs an additional 120,000 doctors to reach the average level of OECD nations.²⁴
- Canada needs 78,000 additional nurses by 2011, rising to 113,000 by 2016.²⁵
- The United States' excess demand for nurses will balloon to 500,000 by 2025.²⁶
- New Zealand is experiencing fill rates between 10% and 30% in trades workers, engineers, nurses, and architects.²⁷

Below are two illustrative examples of how Japan and Canada handle the nursing shortage issue.

Japan

Of the APEC economies, Japan will be the first to face a significant aging population. By 2020 it is estimated that more than 1 in 4 of Japan's 120 million population will be over 65. As many of these people will require care, the Health and Welfare Ministry expects that it will need many more nurses in Japan.²⁸ The Japanese government has adopted many internal policies to increase the nursing workforce, such as providing education loans, expanding budgets for nursing education facilities and involving local governments to help develop nursing professionals. From 1998 to 2008, the total

²³ http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20071121/nursing_shortage_071121/20071121?hub=Health

²⁴ Mini-Iren. - <http://www.min-iren.gr.jp/english/2007/20070104.html>

²⁵ Allhealthcare. *Amid Nursing Shortage, Hospitals Focus on Retention*. 2009. - <http://allhealthcare.monster.com/news/articles/3083-amid-nurse-shortage-hospitals-focus-on-retention>

²⁶ Allhealthcare. *Amid Nursing Shortage, Hospitals Focus on Retention*. 2009. - <http://allhealthcare.monster.com/news/articles/3083-amid-nurse-shortage-hospitals-focus-on-retention>

²⁷ New Zealand Department of Labor. *Survey of Employers who have Recently Advertised (SERA) 2005*. - <http://www.dol.govt.nz/PDFs/sera-key-findings.pdf>

²⁸ *Japan to allow in foreign nurses to care for old people*, BMJ, Joe Lamar, Tokyo, <http://www.bmj.com/cgi/content/full/320/7238/825/a?ck=nck>.

number of nursing schools has decreased from 1,884 to 1,663, while the student capacity has increased from 229,817 to 233,018 students.²⁹ Japan has the following type of nursing professionals: Public Health Nurses, Midwives, Nurses (2-, 3-, and 5-year courses) and Assistant Nurses. As of the end of 2004, there were 1,292,593 nursing professionals in work force, including 46,024 public health nurses, 26,040 midwives, 797,233 registered nurses and 423,296 assistant nurses.³⁰ However, despite the proactive effort of the Japanese government to foster the growth of the nurses locally (Japanese Nurses 1994: 961,844 & 2004: 1,292,593) the demand for nurses exceeds the supply.

One of the major economies involved in sending nurses overseas is the Philippines. There are more than 150,000 Filipino nurses (85% of all Filipino nurses) working outside of the Philippines. About 70% of nursing graduates go overseas.

Japan does not have a system that acknowledges professional nursing certifications from other economies. It requires every healthcare professional entering the economy to work as a public health nurse, midwife or nurse to complete and pass the standard government examination that is only given in Japanese. A nurse entering Japan is recognized as a temporary worker and can serve only under the supervision of a Japanese nurse (Kangoshi). Under the Japanese Philippines Economic Partnership Agreement (JPEPA), Filipino nurses are granted a 1-year contract with a 2-year extension period for a total of 3 years.³¹ During the first 6 months after entry into Japan, Filipino nurses are required to take Japanese language and nursing training. At the end of this training period, the nurse is required to sit for the National Licensure Exam, given only once a year in February. Only if the contract to stay in Japan is extended, the nurse may retake the test for a total of three times to pass, before the Japanese government will require the nurse to go back home. It is also important to note that prior to passing the examination, the nurse in training salary is much lower than that of a Japanese nurse (approximately \$2,000 vs. \$400 USD per month for trainee). The Japanese government also holds the right to choose specific dates of entry for nurses. This can be problematic for nurses if entry is granted too close to or after the annual examination time because this forces them to remain as trainees and be underpaid for a year or more.

The specific requirements listed above for Filipino nurses show the level of difficulty involved in entering into Japan as a healthcare professional. One way in which Japan could counter this problem would be to allow for recognition of global standards for nursing certifications and link them to the Japanese nursing system. Also, the requirement for Japanese language training should also be allowed and be completed prior to arrival into the economy. This would allow for nurses to be ready to practice nursing from day one in the economy, helping to also eliminate the salary discrepancy.

²⁹ *Year Changes in the Number of Schools and Student Capacity*, Japan Nursing Association, <http://www.nurse.or.jp/jna/english/statistics/index.html>, <http://www.nurse.or.jp/toukei/pdf/toukei11.pdf>

³⁰ *Employment Status of Nursing Professionals in Japan*, Japan Nursing Association, <http://www.nurse.or.jp/jna/english/nursing/employment.html>.

³¹ Japan Philippines Economies Partnership Agreement & FTA details

Another approach would be to use labor agreements to develop joint education systems that would promote training nursing professionals in a method similar to that of the receiving economy. The Philippines has done an excellent job of understanding receiving economies needs and implementing those needs into the training of their workers. This pre-planned system benefits both economies by providing a seamless labor mobility process and most importantly helps provide the care that the aging population of Japan needs.

Canada

According to Canadian Nurses Association, Canada estimates it will have a shortage of 78,000 nurses by 2011, rising to 113,000 by 2016.³² In Alberta, about 100,000 registered nurses will be retiring by 2012.³³ Part of the reason for the nursing shortage is due to the cut in nursing programs across Canada. Each year, there are about 8,000 graduates, as compared to 12,000 graduates in the 1990s.³⁴

In order to facilitate the movement of nurses, Canada has defined the job qualification guidelines for nurses.

“[Minimum education requirement for] Registered nurse: State/provincial license, or Licenciatura Degree, or Enfermera” - Canadian Foreign Worker Manual, page 85

“In the case of nurses, however, they are required to hold the appropriate provincial license before they can be granted Professional status. Officers may facilitate their entry (e.g., as a business visitor) to permit them to obtain the appropriate license, providing they can demonstrate that they have initiated steps towards achieving that objective.” - Canadian Foreign Worker Manual, page 135

However, the Canadian Registered Nurses Examination (CRNE) can only be taken in Canada and takes place four times a year in January, June, August and October. A nurse can also be accepted to become a Licensed Practical Nurse in Canada if he/she obtains a US Practical Nurse License. The National Council Licensure Examination-Registered Nurse (NCLEX-PN) exam, which is a required test in order to practice in all US states, is available in the Philippines.³⁵

With an employment offer, the nurse can apply to Canada through two options: Temporary Foreign Worker (TFW), which allows for employment for up to 2 years, or apply for the permanent landed immigrant status. The Canada Immigration Act in 2002 also allows TFW holders to apply for landed status from within Canada.³⁶

³² http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20071121/nursing_shortage_071121/20071121?hub=Health

³³ <http://canadaimmigrationblog.com/2008/04/24/nursing-shortage-can-the-philippines-solve-the-growing-nursing-crisis-in-alberta/>

³⁴ http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20071121/nursing_shortage_071121/20071121?hub=Health

³⁵ <http://www.nursejobs.ca/NursingJobsCanada.html>

³⁶ *Id.*

Some provincial governments have examined the possibility of providing training programs in sending economies that are recognized by the respective Canadian provinces. However, there is no nationwide mutual recognition of nurses. For example, in Saskatchewan province, they are willing to take the Filipino nurses but only as a graduate of nursing, with a lower classification, even though the Filipino nurses are professionals that graduated with Bachelors in Nursing, with higher education and classification.³⁷

The province of Alberta, however, has a fairer policy towards temporary nurses. In addition, the Alberta government has signed a MOU with the Philippines to hire nurses and set up training programs in the Philippines.

“[W]ill explore the potential of 1) Alberta institutions partnering and/or training with Filipino post secondary institutions to deliver Alberta-recognized nursing and related education program in the Philippines and 2) developing mutually acceptable assessment and credential recognition systems.” – MOU between the Philippines and Alberta

By providing training in the home economy, it allows the Filipino nurses to receive education that is recognized by Canada. Such program would allow nurses to begin their employment sooner in Canada. Canada’s system varies between practices and provinces. There needs to be a consistent method of license recognition that is fair to the nurses to avoid brain-drain or skill-drain. Reciprocity should be based on comparable standards and not the fact that the nurses are from a different economy.

Conclusion

As a services industry where professionals go through years of training, healthcare is a sector that requires a talented, qualified workforce. As such, nursing is an occupation where significant workforce shortages exist. The barriers to facilitating the movement of healthcare professionals are often unintended and rooted complexity implementing a system with many moving parts. While the high skill level of healthcare workers adds complications, the overall process is one that can either be helped or hindered by policy. Negative perceptions and protectionist sentiment do real damage to economies where the availability of healthcare is a serious issue. Changing demographics have shed light on the global shortage of healthcare professionals in the APEC region. Increased movement must be based on coordination of industry needs and a national level focus. Adequate access to healthcare professionals is the foundation of a proper healthcare service and essential for economies to be able to care for its citizens.

³⁷ From interview with Dr. Teresita R. Irigo-Barcelo, PhD, RN, National President of the Philippines Nursing Association on September 3, 2009

Agriculture

Introduction

Agriculture is a critical industry in many developed economies because of its importance to net exports and economies' national interests in maintaining domestically produced food supplies. Agriculture by definition is seasonal, location-specific work, which often involves 3-D, manual labor tasks. Therefore, developed economies often face critical shortages in the domestic workforce. Temporary worker programs are critical to enable farmers' access to the needed workers to plant, harvest and pack crops in order to get them to market on time.

Agricultural workers are in short supply throughout many developed APEC economies, leading farmers to take extreme measures to access needed labor. In 2006, a cooperative of more than 500 growers in Washington State, U.S.A. complained that they had 15% fewer workers than the needed number due to tighter immigration controls and high gas prices.³⁸ Some farmers were able to bring in workers from Thailand under H2A visas, but others resorted to bidding up wages, harvesting crops later than normal, or leaving crops unpicked altogether. In other economies like Japan and Thailand, shortages have also continually impeded productivity, since such contingencies cost businesses more resources and render them less competitive.

Temporary Worker Movement Is the Best Option

A combination of factors is leading to the shortage of agricultural workers in more developed APEC economies. First of all, many such economies have more skilled workers in their domestic workforce who are unwilling to do jobs considered "dirty, dangerous, and difficult" (3-D jobs). In more developed economies and economies in transition, the domestic workforce has moved away from agriculture jobs because they have higher expectations as a result of their increased education levels. In addition, the social stigmas associated with 3D jobs make it difficult for farmers to find workers. This is especially true of agricultural work, which the U.S. Bureau of Labor Statistics lists among its most dangerous jobs; "fisherman" and "farm worker" are ranked as two of the five occupations with the highest fatality rates.³⁹ Additionally, agriculture is seasonal by nature, reducing the attractiveness of this type of work for the domestic workforce, who may elect to work in jobs with more stable income.

Given the importance of the agricultural industry to economies and governments, farmers face difficult decisions on how to fill the labor gaps. One option is to hire illegal migrant workers, circumventing the immigration controls that would otherwise prevent an adequate number of workers from entering

³⁸ Steve Wilhelm. "Farmers Fear Worker Shortage." *Puget Sound Business Journal*. May 12, 2006. <http://seattle.bizjournals.com/seattle/stories/2006/05/15/story3.html>

³⁹ "United States Most Dangerous Jobs." *U.S. Bureau of Labor Statistics*. Summer, 2004.

developed economies. In Malaysia, illegal workers enter Sarawak from Indonesia to work on plantations during the palm oil harvest. But when the harvest is over, these workers are quickly deported back to Indonesia. This cycle helps fuel the Malaysian palm oil industry with cheap Indonesian labor, while Indonesian workers have no legal protections (a point of contestation, which the Indonesian government says undermines an MOU signed between the two economies). Also, as anti-terrorist policies and protectionist sentiments during the current recession become incorporated into immigration laws, stricter controls make it harder for farmers to find workers this way.

A second option is to focus on automation, to reduce the number of workers required to plant, harvest and produce crop. However, developing new technologies takes time, and many crops are simply considered too “labor-intensive” for machines currently available. Produce such as fruits, nuts, vegetables and horticultural crops demand a high level of manual field labor, and are produced in many of APEC’s developed economies. And although other agricultural products, such as livestock and fisheries, are highly automated and demand higher wages, their characterization as 3D jobs means that agriculture businesses still find it difficult to fill labor shortages.

Temporary workers are an optimal solution for farmers. A framework for temporary worker mobility between APEC economies allows farmers to find workers to sustain their needs without exacerbating political relations or being subject to fluctuations in immigration policy. An effective temporary worker regime finds and moves workers to receiving economies when they are needed, and returns them home to work in their home economies during the off-season. In fact, temporary worker mobility is more than just a solution to the shortages plaguing the industry – it is a means to improved prosperity for all APEC economies. When temporary worker mobility frameworks work effectively, they benefit both labor-sending and labor-receiving economies by lending much needed labor to farmers, while also sharing wealth and skills with the workers that travel to these farms.

Best Practices

There are a few MOUs on agriculture already in existence that encapsulate some of the benefits of having a framework for agricultural workers. One of these, the Canada – Mexico MOU on Agriculture, signed in 1974, has been a remarkable success for both parties to the agreement. Canadian farmers, on the one hand, have gained from a dependable and experienced flow of workers from Mexico to Canada as they are needed. Mexican participation in the program has grown every year since 1974, and 70% of participants are repeat, experienced workers. Canadian farmers have enjoyed easy access to the same workers through the agreement. The quality of this relationship was epitomized when Canada exacted visa requirements for Mexicans entering Canada during the H1N1 outbreak. Thanks to the agreement, Canadian farming was not disrupted by the external shock, as the agreement allowed the Mexican and Canadian government agencies to accelerate the visa process for these temporary workers.

Mexican workers too, profit enormously from the existence of the agreement, and the repeated participation of many workers demonstrates the program’s popularity. The agreement provides that both Canada and Mexico should provide certain support systems for workers before they leave and

during their sojourn abroad. These include a pre-departure “training,” which includes a basic orientation program on life in Canada, and a briefing on workers’ rights. Wage-rates are guaranteed through the program to be on par with equivalent domestic workers’ salaries, which both protects industry wage rates in Canada and ensures a steady flow of workers. Also, additional perks and benefits, such as housing and healthcare costs are shared by farmers, governments and workers. Farmers are required to post safety signs and draft contracts in Spanish, and workers are empowered with the information they need to do their work effectively.

The success of this program has been premised on cooperation between governments in each economy for 35 years. Other APEC economies, such as New Zealand, have also had positive experiences with MOUs documenting a framework for temporary agriculture worker programs. In New Zealand, the “Recognized Seasonal Employer Program” (RSE) with four Pacific states is not an APEC agreement, but is another compelling example of industry best practice using agreements. Like the Canada-Mexico MOU, workers accepted by New Zealand farmers are paid a wage rate equal to domestic workers in similar jobs, and temporary workers enter to plant and harvest for up to seven months at peak seasons and return home with savings and skills from the job. Employers reduce workers’ incidental costs by covering transportation and healthcare, as well as subsidizing housing. Although the program is new, the workers 60% return rate attests to its initial success.⁴⁰

Conclusion

The success of temporary worker programs for the agricultural sector in some APEC economies to date is a lesson for the region to learn from. As many more developed APEC economies experience shortages in their agricultural sectors, government can and should do more to help these industries find eager and experienced workers to temporarily fill these shortages. With more temporary worker frameworks in place, benefits accrue to the entire region in the form of higher productivity and performance of its farms. However, only through a concerted and coordinated effort towards cooperation on seasonal temporary worker movement will agreements bearing the fruit of more productive agricultural sectors be achieved.

⁴⁰ Smoot, Stephen. (June, 2009). [Interview with Steven Dunstan, New Zealand Department of Labor].

Manpower Agencies in Indonesia

Introduction

Today there are about six to eight million Indonesian workers employed abroad, including at least two million without proper documentation. This number is projected to increase due to the growing number of unemployed job seekers in Indonesia – now 10 million by one estimate – as well as more overseas demand for labor.⁴¹ *Manpower*, or recruitment, agencies in Indonesia are the primary means of finding employment for these workers, but although governed by Indonesian federal law, many of these agencies skirt required government regulations to save time, effort and make more money.

The National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI) – the government body responsible for the implementation of policy related to migrant workers – characterizes this phenomenon as *human trafficking* and the problem represents a significant concern for government officials. These human trafficking crimes are significant enough that those in the industry who follow the law complain that they lose business to those who cheat the system. In addition, such problems create a negative public perception in Indonesia of working overseas, and this perception has resulted in many able and highly-trained workers choosing overseas work only as a last resort. But the worst outcome of this illegal activity is the dissatisfaction of both workers and employers when worker agreements are not followed and the costs that accompany it.

Most Common Types of Illegal Activity

Corruption

Corruption often occurs when agencies pay bribes to illegitimate middlemen to recruit workers without applying for official overseas work permits with the government. Corruption remains a major challenge to government authorities, as it often follows the inconsistency of law enforcement. Proper enforcement is often undermined by corrupt officials involved in the process – for example, those who agree to change a worker’s age in exchange for a payment from the worker or the agency.

Misinformation

The system is frequently undermined by agencies and middlemen, who take advantage of workers’ inability to understand or access information regarding their employment overseas. False promises are made to workers on the nature of the job and the circumstances of their employment. At best, workers are taken advantage of financially. At its worst, misled workers end up in illegal status, debt bondage, forced labor or prostitution.

⁴¹ Masefield, Chris. (June, 2009). [Interview with Anjar Prihantoro, Director of Protection and Advocacy, BNP2TKI].

Poor or Abusive Conditions

Many agencies lack appropriate programs to prepare workers for their work overseas, with deficits in skills training, language instruction, and/or values recitation. The lack of adequate preparation is illegal if it does not comply with the relevant MOUs or international agreements; agencies that do not register workers with the government also prevent workers from receiving the pre-departure orientation required of all workers. BNP2TKI reports that of 506 recruitment agencies in Indonesia, only 350 have training facilities. In addition to this concern, some agencies have been said to hold workers against their will for months in walled-in compounds, and/or to threaten illiterate workers who wish to leave but don't properly understand the terms of their contracts.

Illegal Activity: Causes and Remedies

The ineffective enforcement of existing laws has been conducive to many of the human rights violations and inefficiencies that are damaging to the industry and the businesses that conduct legitimate operations. Poor enforcement may be attributed to such factors as: 1) difficulty using limited resources to influence a vast geography; 2) establishing the trust of the national government in local communities; 3) overcoming the inertia of decades-old illegal practices among industry participants.

Indonesia has made an effort to curb the above crimes and increase federal policing through the institution of a new, tougher anti-trafficking law in April, 2007, and subsequent arrests by the national police task force. This type of activity has effectively eliminated many trafficking rings, particularly those involved in trafficking young women and children for prostitution. In addition, the formation of community-based training facilities in 20 villages throughout the economy, and the introduction of BNP2TKI satellite offices in several major population centers, offers many Indonesians a chance to circumvent private agencies' services altogether if they deem these agencies untrustworthy.

The G2G Paradigm: A Best Practice

Through government-to-government (G2G) policy cooperation with economies such as South Korea and Japan, Indonesia has created additional temporary, overseas employment opportunities for low-skilled workers. But in creating these agreements, the government has also markedly changed the nature of industry for the better. For example, the Labor MOU with South Korea, under the economy's Employee Permit System, stipulates that all workers must pass through a government-administered agency, which ensures language training, pre-departure orientation, health check, and age requirements are met. Moreover, both Korean and Indonesian officials agree to share resources to help implement the program in both countries.

This practice has led to synergies that reduce crime while improving overall satisfaction with the system. For example, in Indonesia, there is added incentive to create government job centers that list positions in Korea. Korean officials stationed in Indonesia provide an additional layer of oversight on the system, and even channel IT skills to job centers, for greater organizational efficiency. In Korea, the Indonesian government can keep track of its overseas workers, and hold seminars explaining how its workers can take full advantage of their earnings and knowledge once back at home. The system improves both

worker and employer, and reduces illegal activity in both economies by helping to ensure a smooth transition to and from the host economy.

Conclusion

Many crimes that undermine the goals of labor policy continue to impede efforts to produce an efficient and effective labor mobility regime. By establishing extra-territorial systems of governance and oversight, governments can ensure temporary workers are facilitated smoothly and crime is reduced. Greater government intervention and international cooperation can further advance the labor goals of both economies. Governments can achieve needed oversight of their legal environments through the establishment of government-administered manpower agencies and in drafting more agreements with receiving economies. In particular, agreements with receiving economies should detail mechanisms that promote shared resources to effectively monitor both agencies and workers' progression through the system.

The changes in Indonesia represent a striking example of how government involvement in the industry and enhanced international coordination might significantly reduce illegal activity afflicting manpower agencies. Both sending and receiving economies have a shared interest in initiating cooperation on labor movement. Increased oversight of agencies should be buttressed by a commitment to transparency, and an effort to empower overseas workers by reaching out to prospective workers early - with vital information on the process and the importance of following it.

Temporary Worker Labor Policy Analysis

Objectives

A primary objective of this research study was to provide a comprehensive catalog of all temporary worker labor policy provisions within Free Trade Agreements (FTAs), Regional Trade Agreements (RTAs), Memoranda of Understanding (MOUs) and Memoranda of Agreement (MOAs) within the APEC region. Over time APEC economies have negotiated an increasing array of trade agreements with differing goals and purposes. This proliferation of trade agreements, while facilitating trade at one level, has created a complex web of bilateral and multilateral agreements which make coordination across economies increasingly difficult.

A modest yet important intended contribution of this research project was to produce a digital repository with all the temporary worker labor policy agreements that currently exist in APEC. Knowing what currently exists, how comprehensive and detailed they are, and how much convergence or divergence exists within them, is an important first step in developing improved temporary worker labor policies within APEC economies. With that goal in mind, we have collected, consolidated, and analyzed all temporary worker labor provisions within all trade agreements across all APEC economies. If this analysis has succeeded, it will have done so in a way that focuses the attention of policy makers on the aspects of labor policy that have the most potential to impact individuals and businesses, and that can provide a more streamlined mechanism for the flow of temporary labor within the APEC region.

Specifically, the objectives of the temporary worker labor policy analysis were to:

- Identify and locate all relevant FTAs, RTAs, MOUs and MOAs that have been executed between APEC economies.
- Create a digital repository (which is provided in the CD accompanying this report) of all available FTA/RTAs, MOU/MOAs related to labor mobility policy.
- Construct a comparative catalog of all relevant APEC FTAs, RTAs, MOU/MOAs. This catalog will contain in-depth details and analysis regarding the agreements in force today.
- Compare the level of policy detail within labor provisions, across agreements, and across economies.
- Analyze the similarities (convergence) and differences (divergence) in the language used to address temporary worker labor issues within all relevant agreements.
- Provide suggestions for APEC-wide model measures for temporary worker mobility.

Key Findings

There are considerable barriers to the trade of labor in the APEC region. Lack of mutual recognition of qualifications, absence of recruitment agency regulation, few standards for pre-departure orientation, exploitative placement fees, limitations regarding travel logistics and pension portability are causing significant inefficiencies to individuals and businesses.

- Unilateral temporary work visa requirements are created to regulate and restrict inflows of workers. Due to the fact that economies pursue different national agendas, there is wide divergence in the options and requirements for temporary entry.
- FTAs have been written, in part, to facilitate the flow of workers. However, the scope of these FTAs is primarily limited to movement of business persons. The movement of other medium skilled and low skilled workers has been neglected. Of the 42 FTAs currently in force, 10 have no chapter on labor mobility. While 28 of the FTAs address labor in a Movement of Business or Natural Persons chapter, only 7 of these agreements contain a Labor chapter.
- MOUs specifically address worker movement. However, the scope and comprehensiveness of these MOUs is lacking. MOUs contain 30 percent fewer provisions, are far less detailed, and tend to lack impact and transparency.
- A positive finding is that there is a level of consistency in the content and language of labor provisions. Convergence is greatest with regard to the movement of business persons (FTAs). Less encouraging, however, is the highly divergent policy within MOUs, which tend to focus on the movement of temporary workers. Convergence in FTAs and MOUs is highest for provisions relating to Entry Requirements and Legality & Transparency. In contrast, the lowest level of convergence relates to Worker Movement Logistics and Temporary Worker Program Administration.
- No international labor policy standards exist. There is a large variation in the types of policy content included in the standards. Critical provisions regarding workers have been ignored.
- Given the lack of an international standard, we have created a framework of 30 “Essential Labor Provisions” that should be addressed in every effective labor agreement. Even the most thoroughly prepared agreement contains less than one-half of these provisions. The five most frequently and five least frequently used Essential Labor Provisions are:

Figure 35. Level of Use of Labor Provision

Most Frequently Used	Least Frequently Used
Definition of Type of Visitor	Avoidance of Double Taxation
Establishment of Joint Committee	Protection & Treatment of Migrant Workers
Length of Term & Extensions	Family Reunification
Agreements are Publicly Available	Administrator Contact Procedures
Recognition of Qualifications	Health Insurance

- Provisions vary widely in comprehensiveness. FTAs regarding the movement of business persons contain considerably more detailed policy than MOUs on worker movement. Provisions relating to Entry Requirements and Legality & Transparency are highly detailed, while those addressing Costs & Worker Benefits and Worker Movement Logistics are lacking in substance.
- The public availability of MOU agreements is a concern. Of the 39 labor-related MOUs that we identified, 14 (or 35.9 percent of all MOUs and 17.3 percent of all agreements combined) were “unavailable” to the public, despite requests from ABAC executives and from our research team.

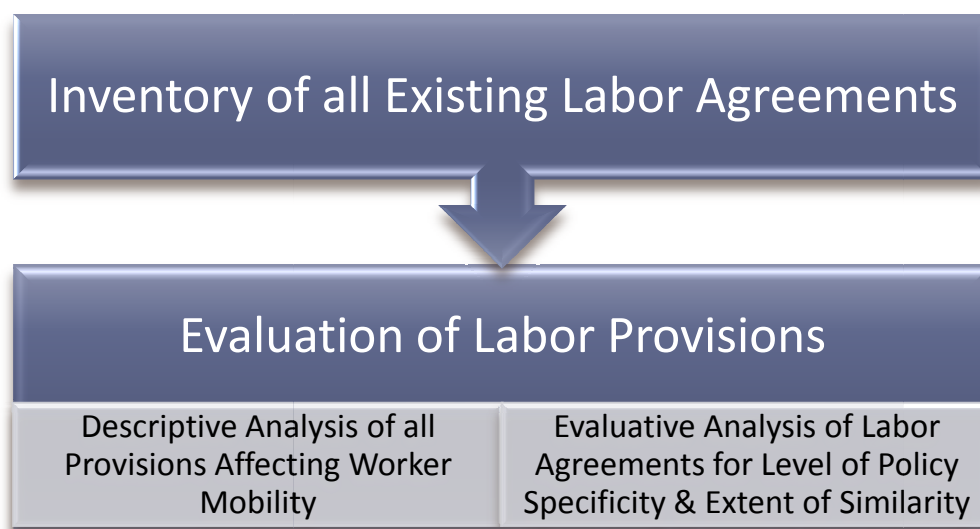
Research Approach

A descriptive approach was taken to analyze temporary worker labor policy within APEC. This report does not attempt to judge the effectiveness or ineffectiveness of labor policies or to label existing policies as being restrictive versus facilitating. Rather the purpose of the report is to provide a descriptive analysis in the form of a comparative catalog of all temporary worker labor policies across APEC. This research is very much an exercise of identifying, collecting, sorting and reporting. We leave it to others to draw evaluative conclusions.

Our research of all existing labor agreements within APEC was divided into two main parts:

1. Creating an inventory of all existing labor agreements. This included:
 - Comparatively reporting similarities and differences in national entry regimes for temporary workers,
 - Examining the presence or absence and the nature of labor provisions within negotiated FTA/RTAs, and
 - Identifying labor-specific MOU/MOAs among economies.
2. Evaluating the content of labor agreements for level of policy detail and for extent of similarity across agreements. This included:
 - A line-by-line analysis of the specific language included in all labor agreements to determine the extent of policy specificity,
 - A provision-by-provision analysis of all labor agreements to determine the extent of similarity/differences present within existing agreements.

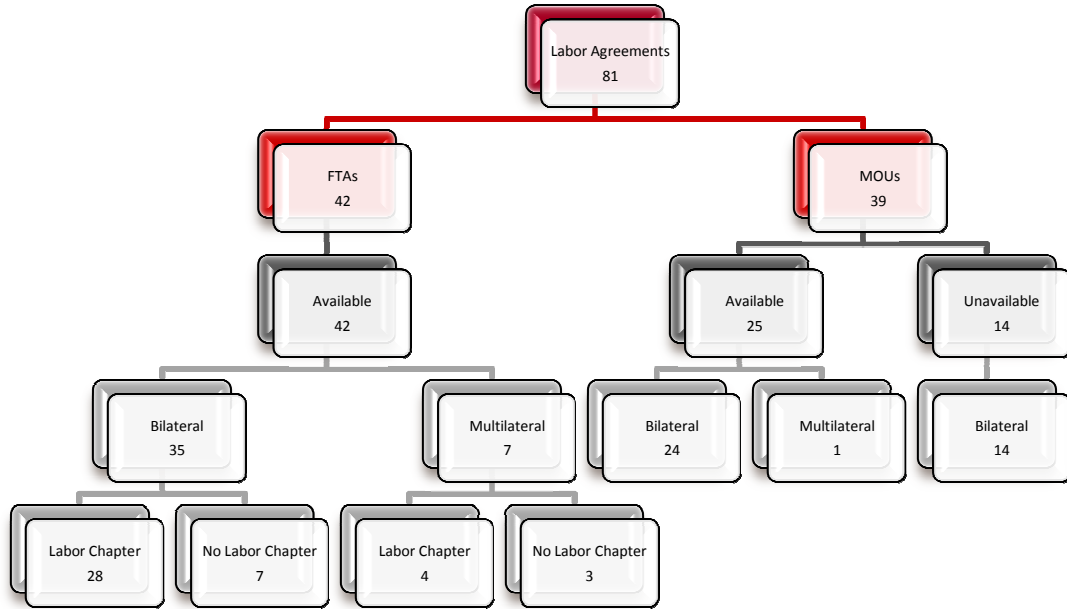
Figure 36. Labor Policy Analysis Process



Compiling an Inventory of all APEC Labor Provisions Within FTAs and MOUs

As of August 2009, based on an extensive search of all publicly available data, a total of 81 labor-related agreements were found to be in existence in the APEC Region. If agreements were not posted or references made or linked on government websites, they may not have been included in this study.

Figure 37. Labor Agreements – Breakdown by Type



The table below summarizes the *available* agreements entered by each of the APEC economies.

Figure 38. Labor Agreements - Breakdown by Economy

Agreements Signed by APEC Economies			
	FTA	MOU/MOA	TOTAL
Australia	6	1	7
Brunei Darussalam	7	1	8
Canada	3	5	8
Chile	9	2	11
China	6	3	9
Chinese Taipei	0	1	1
Hong Kong, China	1	0	1
Indonesia	6	2	8
Japan	10	1	11
Korea	4	2	6
Malaysia	7	2	9
Mexico	4	1	5
New Zealand	6	6	12
Papua New Guinea	1	1	2
Peru	7	0	7
Philippines	6	16	22
Russia	0	1	1
Singapore	13	2	15
Thailand	9	0	9
United States	6	3	9
Viet Nam	6	2	8
Total:	117	52	169
Receiving Economies %	70%	54%	65%
Sending Economies %	30%	46%	35%

As indicated in the chart on the previous page, 14 of the 81 agreements (17.3 percent) were unavailable to the public. Those agreements are listed below:

Figure 39. 14 Unavailable Labor Agreements

14 Unavailable Agreements:	
Chile - Peru Economic Cooperation Agreement	Korea - Thailand Labor MOU
Chile - Peru Migratory & Labor MOU	Korea - Viet Nam Labor MOU
China - Malaysia Labor MOA	Japan - Viet Nam Labor MOU
Chinese Taipei - Indonesia Labor MOU	Malaysia - Thailand Labor MOU
Chinese Taipei - Thailand Labor MOA	Malaysia - Viet Nam Labor MOU
Chinese Taipei - Viet Nam MOA	Mexico - Peru Consular & Migratory MOU
Korea - Indonesia Labor MOU	Russia - Viet Nam Labor MOU

In addition to the 81 agreements analyzed as part of our research, we identified a number of other agreements specifically related to working holiday programs, social security, double taxation, and others unilateral matters. However, these agreements have been excluded from our research based on the scope of our project charter.

Analyzing Labor Provisions Within FTA/RTA's and MOU/MOA's

The analytical approach used to analyze the labor provisions within FTAs/RTAs and MOUs/MOAs was as follows:

1. The full text of all agreements was obtained and stored digitally.
2. The text in all provisions was then aligned against a set of 91 labor provisions in a large matrix. Since there are no model measures or globally accepted set of standards for labor agreements, we created a standard through an inductive/deductive process. The full set of 91 provisions was a mix of International Labor Organization (ILO) standards, categorizing schemes used in academic literature, and observable issues addressed in existing agreements. These 91 commonly used labor provisions were separated into the following three broad categories:
 - *General Elements*: focus on legality, diplomatic process, as well as the adherence to the ILO standards of basic worker rights
 - *Business Person Movement*: focus on types and activities of business persons, quotas, visa requirements, and recognition of qualifications
 - *Worker Movement*: focus on point-to-point procedures from departures to arrival, and post-employment repatriation arrangements.
3. The action clauses within each provision were then recorded on a matrix. These data in the summary matrix were then used to make evaluative comparisons within and across labor agreements (see below for a screen shot of the Comparative Catalog of Labor Agreements).

Figure 40. List of 91 Commonly Used Labor Provisions

1 - GENERAL ELEMENTS

- 1.1.1 Eliminates Discrimination in the Workplace
- 1.1.2 Eliminates Forced Labor
- 1.1.3 Eliminates Child Labor
- 1.2.1 Proper Working Conditions
- 1.2.2 Health Insurance
- 1.2.3 Prevention and Compensation for Work-Related Injuries and Illnesses
- 1.3.1 Foreign Workers Have Access to Fair Tribunals
- 1.3.2 Compliance with Due Process of Law
- 1.4.1 Agreements are Publically Available
- 1.4.2 Worker Education of Labor Laws
- 1.5.1 Commitment to Ensure that Labor Laws are Not Used for Protectionism
- 1.6.1 Members of Public on Advisory or Consultative Body
- 1.6.2 Employees and Worker Representatives on Advisory or Consultative Body
- 1.7.1 Establishment & Responsibilities of Joint Committee
- 1.7.2 Administrator Contact Procedures

2 - BUSINESS PERSON MOVEMENT

- 2.0.0 Recruitment Fees
- 2.0.1 Approves APEC Business Card
- 2.0.2 "Business Visitor" Definition
- 2.1.1 Definition of Employee: Function
- 2.1.2 Definition of Employee: Industry
- 2.1.3 Prior Work Experience Needed
- 2.1.4 Length of Term (Per Entry)
- 2.1.5 Length of Extensions
- 2.1.6 Business Visitors Subject to Immigration Law?
- 2.1.7 Entry Visa Requirements
- 2.1.8 Spouses and Dependents - Length of Stay
- 2.1.9 Spouses and Dependents - Work Visa
- 2.1.10 Numerical Quotas
- 2.1.11 Recognition of Qualifications
- 2.2.1 Market Access Requirements
- 2.2.2 Definition of Business Visitor
- 2.2.3 Length of Term (Per Entry)
- 2.2.4 Length of Extensions
- 2.2.5 Short-Term Business Visitors Subject to Immigration Law?
- 2.2.6 Entry Visa Requirements
- 2.2.7 Numerical Quotas
- 2.2.8 Recognition of Qualifications
- 2.3.1 Activity of Investor
- 2.3.2 Activity of Traders
- 2.3.3 Length of Term (Per Entry)
- 2.3.4 Length of Extensions
- 2.3.5 Investors and Traders Subject to Immigration Law?
- 2.3.6 Entry Visa Requirements
- 2.3.7 Numerical Quotas
- 2.3.8 Recognition of Qualifications
- 2.4.1 Definition of Professionals
- 2.4.2 Activity of Professionals
- 2.4.3 Type of Professional
- 2.4.4 Length of Term (Per Entry)
- 2.4.5 Length of Extensions
- 2.4.6 Professionals Subject to Immigration Law?
- 2.4.7 Entry Visa Requirements
- 2.4.8 Numerical Quotas
- 2.4.9 Recognition of Qualifications

3 - WORKER MOVEMENT

- 3.0.0 Recruitment Fees
- 3.0.1 Portability of Social Security
- 3.0.2 Avoidance of Double Taxation
- 3.1.0 Length of Term (Per Entry)
- 3.1.1 Are Agreements Binding?
- 3.2.1 Governments
- 3.2.2 Employer
- 3.2.3 Recruiting Agencies Responsibility & Regulation
- 3.2.4 Employee/Worker
- 3.3.1 The Competent Government Authority
- 3.3.2 Establish Channels to Exchange Information
- 3.3.3 Migrants in an irregular situation
- 3.3.4 Notification of Job Opportunities Rights
- 3.3.5 Basic Requirements
- 3.3.6 Pre-Selection of Candidates (i.e. Language Test, Health Check)
- 3.3.7 Nomination of Candidates by the Employers
- 3.3.8 Medical Examination
- 3.3.9 Entry-Documents
- 3.3.10 Residence and Work Permits
- 3.3.11 Transportation
- 3.3.12 Employment Contract
- 3.3.13 Pre-Departure Orientation
- 3.3.14 Company Training
- 3.3.15 Employment Conditions (i.e. Accommodation, Meals, Health Insurance)
- 3.3.16 Conflict Resolution Mechanism
- 3.3.17 The Role of Trade Unions and Collective Bargaining
- 3.3.18 Remittances
- 3.3.19 Family Reunification
- 3.3.20 Repatriation Processes
- 3.3.21 Protection From Embassies in Case of Emergencies
- 3.3.22 Education Program to Prepare the Worker to Return Home
- 3.3.23 Social and Religious Organizations
- 3.3.24 Establishment of Joint Commission
- 3.3.25 Validity and Renewal of Agreement
- 3.3.26 Applicable Jurisdiction
- 3.3.27 Resident Officers (Permanent)
- 3.3.28 Officials to Monitor the Program in the Sending Economy (Temporary)

Comparative Catalog Summary Matrix

The matrix below is a screen shot⁴² of the Comparative Catalog Summary Matrix. In addition to providing the full agreement text for each provision, this matrix contains a summarized phrase or action clause drawn from the language of each labor provision within each agreement. Each column represents one labor agreement; each row represents each of the 91 provisions identified. A cell is highlighted in green when the agreement contains that provision.

Figure 41. Screen Shot of Comparative Catalog Summary Matrix

The figure shows a large grid matrix with columns grouped under 'FTAs' and 'MOUs'. The rows are categorized into three main sections: 'General Elements', 'Business Person Movement', and 'Worker Movement'. Each cell in the grid is either green (indicating the presence of a provision) or white (indicating its absence). The 'Business Person Movement' section shows a high density of green cells across both FTAs and MOUs. The 'Worker Movement' section shows fewer green cells, primarily concentrated in the MOU group.

⁴² The digital copy of this matrix is available on the accompanying CD.

Proposing “30 Essential Labor Provisions”

An important development that came out of the detailed provision-by-provision analysis was the emergence of a set of essential labor provisions. Based on a detailed analysis of the 91 provisions across all the FTAs and MOU/MOAs and on the interviews with more than 157 business executives and thought leaders, we identified a set of labor provisions that we suggest are minimally necessary for temporary worker labor agreements to be considered comprehensive. This resulted in a set of 30 temporary worker labor provisions. We have labeled this set of 30 provisions the “30 Essential Labor Provisions.” These 30 Essential Labor Provisions can be broadly grouped into seven main characteristic categories, as detailed below⁴³.

Figure 42. Essential Labor Provisions

<u>Essential Labor Provisions</u>		
<u>Legality & Transparency</u>	<u>Entry Requirements</u>	<u>Program Administration</u>
Foreign Workers Have Access to Fair Tribunals & Due Process	Approves APEC Business Card	Worker Education of Labor Laws
Agreements are Publicly Available	Definition of Type of Visitor	Establishment of Joint Committee
Are Agreements Binding?	Business Visitors Subject to Immigration Law?	Administrator Contact Procedures
	Numerical Quotas	Recruiting Agencies Responsibility & Regulation
<u>Costs and Worker Benefits</u>	Entry Visa Requirements	Establish Channels to Exchange Information
Health Insurance	Medical Examination, Health Checks & Pre-Selection	Officials to Monitor the Program in the Sending Economy
Recruitment Fees	Entry Documentation & Permits	
Portability of Social Security		
Avoidance of Double Taxation		
<u>Details of Employment Term</u>	<u>Logistics of Workers' Movement</u>	<u>Worker Rights</u>
Length of Term & Extensions	Transportation	Proper Working Conditions and Occupational Health & Safety
Legal Rights of Workers' Spouses and Dependents	Pre-Departure Orientation	Protection & Treatment of Migrant Workers
Recognition of Qualifications	Family Reunification	
Company Training	Repatriation Processes	

This set of 30 Essential Labor Provisions was used in evaluating the content of labor agreements for level of policy detail and for extent of similarity across agreements.

⁴³ Additional details regarding each provision can be found in Appendix E.

Evaluating Labor Agreements for Level of Policy Detail and Extent of Similarity

A key objective of our analysis of all labor agreements was to assess their effectiveness in facilitating temporary worker movement, which required a detailed qualitative analysis of the content within each agreement. We evaluated two different qualitative aspects of all agreements, each of which will be described in greater detail below:

- Level of Policy Detail
- Degree of Similarity (Convergence/Divergence)

Simple evaluative ratings schemes⁴⁴ were developed to allow for first-order quantifiable comparisons on a provision-, agreement-, and economy-level.

Level of Policy Detail Evaluative Scheme

A simple evaluative approach was constructed to assess the level of specificity within labor agreements. Three broad categories (and associated matrix colors) were:

- Policy Guidelines with Specific Details ●
Example: Definition of Type of Worker provision clearly specifies the type of business worker and professional allowed entry
- Policy Guidelines without Specific Details ●
Example: Pre-Departure Orientation is mandatory for the worker but no specific details are written
- Issue is Addressed without Policy Guidelines or Specific Detail ●
Example: Recognition of Qualifications provision hopes to explore future possibilities of mutual recognition of qualifications but does not state specific details

The *Level of Policy Detail Rating* was created by first evaluating each provision within each agreement based on the above categories. Weights were then assigned to each category in the following manner:

“Policy Guidelines with Specific Details”	=	3
“Policy Guidelines without Specific Details”	=	2
“Issue is Addressed without Policy Guidelines or Specific Detail”	=	1

The Level of Policy Detail Rating was determined by multiplying the category weights by the number of occurrences in each category and by then calculating a weighted average of the result. For example, if a certain provision were referenced by a total of 4 different agreements (2 agreements providing “Policy Guidelines with Specific Details”; 2 agreements providing “Policy Guidelines without Specific Details”); the Level of Policy Detail Rating for this agreement would be calculated as follows:

Equation 1: Level of Policy Detail Rating Computation

$$\frac{[(\# \text{ of green}) (\text{weight of green})] + [(\# \text{ of blue}) (\text{weight of blue})]}{\# \text{ of green} + \# \text{ of blue}} = \frac{[(2) (3)] + [(2) (2)]}{2 + 2} = 2.5$$

⁴⁴ The evaluate rating scheme does not qualitatively distinguish between provisions that are restrictive and those that are facilitative

Similarity (Convergence/Divergence) Evaluative Scheme⁴⁵

Four broad categories of convergence were used to assess levels similarity across labor agreements. Those categories (and associated matrix colors) were:

- Most Common Usage ●
- Common Usage ●
- Less Common Usage ●
- Uncommon Usage ●

The Similarity Rating was created by reviewing the language used to address a particular provision in an agreement and by comparing it to the language to address the same provision in all other agreements. Similar to the method used in the Level of Policy Detail Rating, weights were then assigned to each category in the following manner:

“Most Common Usage”	=	4
“Common Usage”	=	3
“Less Common Usage”	=	2
“Uncommon Usage”	=	1

The Convergence Rating was calculated by multiplying the category weights by the number of occurrences in each category and by calculating a weighted average of the result. For example, if a certain provision were referenced by a total of 6 different agreements (4 agreements providing “Most Common Usage”; 2 agreements providing “Uncommon Usage”); the Convergence Rating for this agreement would be calculated as follows:

Equation 2: Convergence Rating Computation

$$\frac{[(\# \text{ of green}) (\text{weight of green})] + [(\# \text{ of red}) (\text{weight of red})]}{\# \text{ of green} + \# \text{ of red}} = \frac{[(4) (4)] + [(2) (1)]}{4 + 2} = 3.0$$

⁴⁵ The color-coded Similarity Matrix was created by comparing the language across individual rows.

National Temporary Worker Entry Regimes

National Entry Regime Requirements Vary Across Economies

Essentially developed to restrict and control the movement of individuals across boundaries, entry regimes are a critical component to the flow of temporary workers across economies. Unlike this current form of restrictive policies, temporary entry schemes aimed at actually facilitating the movement of temporary workers are an essential component to effective, mutually beneficial temporary worker movement. The need for such facilitating policy is further stressed with most bilateral agreements referring back to the actual requirements and restrictions posed within the specific economy's immigration and visa policies.

Economy-specific entry regimes were evaluated against 10 attributes presented below to allow the necessary qualitative and quantitative data collection; we stopped short, however, of attempting to determine which economies are excelling above others in the analysis.

Figure 43. Parameters of Analysis for Economy Specific Entry Regimes

Availability of Visa Information Factors	Visa Offering Comparison Factors
<ul style="list-style-type: none"> • Basic Information Available Online • Detailed Instructions Online • Application Documents Online 	<ul style="list-style-type: none"> • General Temporary Visa that Allows Work • General Business/Working Visa • General Work Permit • Visas by Specific Visitor Type • Visas by Specific Industry/Function • Temporary Work Visas that Differ by Origin Economy • Working Holiday Program

The classifications for availability of visa information are straightforward but the visa offering comparison classifications require more thorough explanation:

- *General Temporary Visa that Allows Work*: This refers to economies that have a general temporary visa option that specifically *allows* temporary entrants to work.
- *General Business/Working Visa*: This visa option is provided for temporary entrants seeking to work or conduct business for a short period of time.
- *General Work Permit*: This refers to economies that allow temporary work permits in place of, or in conjunction with, other temporary work visa options.
- *Visas by Specific Visitor Type*: Different visa options are offered depending on the type of visitor and are ordinarily defined by specialists, general business, executives, etc.
- *Visas by Specific Industry/Function*: Different visa options are offered for specific functions and industries, such as teachers, engineers, welders, actors, etc.
- *Temporary Worker Visas that Differ by Origin Economy*: Some economies have varying requirements for temporary visas depending on the workers' country of origin.
- *Worker Holiday Program*: Some economies offer short-term programs for entrants to discover the culture and obtain work experience within their economy.

National Entry Regimes are Designed to Control and Restrict Entry

Differences in the number and composition of visa options across economies create a costly impediment to effective temporary worker movement by creating the need for economy-specific expertise or the use of an expensive third party. Having a wide variety of visa options for temporary entrants does not necessarily signal an efficient policy of temporary worker movement. Singapore was noted by many of our interviewees as an economy with temporary worker policies that do a good job of facilitating effective temporary worker movement. It offers only three entry options for workers, one of which is a general business visa option. Furthermore, national policies are by definition self-interested and benefit one economy or a select group of economies. A multilateral approach is essential to creating effective temporary worker movement that provides benefits for all economies involved.

Figure 44. Number of Temporary Worker Migration Visa/Scheme Options per Economy

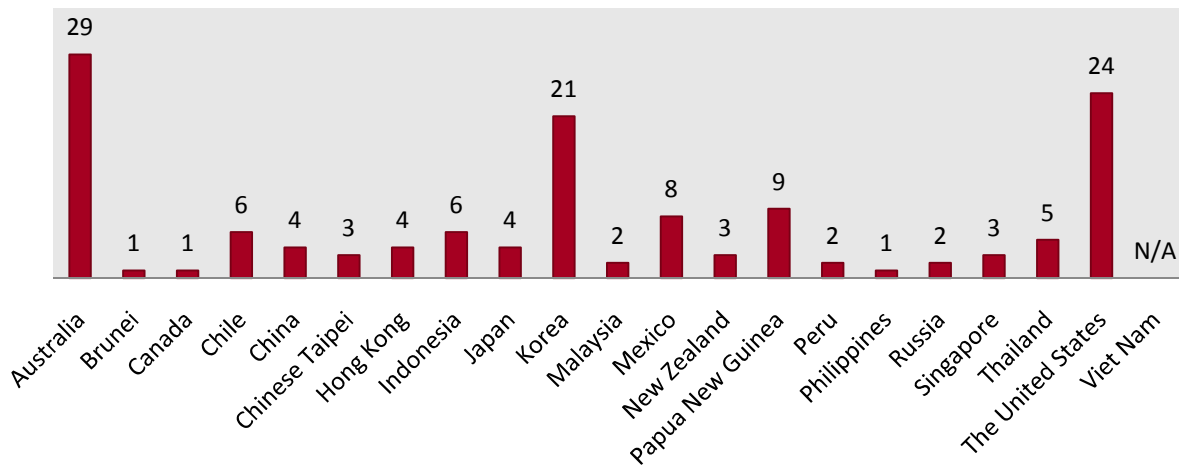


Figure 44⁴⁶ above shows that:

- There is an absence of a multilateral approach to visa policies, resulting in uneven benefits and encumbrances across economies.
- No two economies offer the same set of visa options or maintain the same regulations. As a result, multinational firms face enormous obstacles, in both time and cost, as they try to understand each economy's standards.

⁴⁶ Conclusive information for Viet Nam was unavailable and is therefore excluded from the chart above

Variation in National Interests Creates Complexity

The visa requirements catalog, which was constructed to compare APEC member economies using the ten identified attributes, is shown below in its abbreviated form. The red squares represent the applicability of particular attributes for the matched economy and the white squares represent the absence of a match. The availability of visa information and online instructions is clearly apparent across the majority of the economies but the sporadic occurrence of white space in the visa offering comparison section emphasizes the diversity in visa options. Blue squares represent factor-economy matches that we were unable to confirm with certainty. Information for these cells was usually only found on the economy’s United States embassy website or the content was only available in the local language.

Figure 45. Screen Shot of Visa Requirement Catalog

	Australia	Brunei	Canada	Chile	China	Chinese Taipei	Hong Kong	Indonesia	Japan	Korea	Malaysia	Mexico	New Zealand	New Guinea	Papua New Guinea	Peru	Philippines	Russia	Singapore	Thailand	United States	Vietnam
Information Availability																						
Does Information Available Online	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Does Visa Instructions Online	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Applicants Must Appear	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
General Temporary Visa That Allows Work	White	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Blue
General Business/Working Visa	White	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Blue
General Work Permit	White	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Blue
Visas by Specific Visiting Type (Business, Spouse, etc.)	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Blue
Visas by Specific Industry/Profession	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Blue
Temporary Work Visas Offered by State/Province	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Blue
Work Visa Holder Process	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Blue

Based on the examination of visa regulations and processes for each of the 21 economies within APEC, the following conclusions have been reached:

Visa Catalog Key	
	Encompassed
	Not included
	Cannot be Confirmed

- Economies need to work on developing a more standardized set of visa options. Doing so will make it easier and more cost effective for businesses to comply with visa requirements and processes.
- Complexity in temporary worker movement visa policies and regulations results in unnecessary compliance costs. As a temporary entry applicant to Canada for example, a person actually has to comply with virtually all requirements typically required for permanent migration.
- At least 12 economies hold differing requirements for temporary entry visas for subjects entering from specific sending economies, further complicating the process for participants(employers, workers etc.) unfamiliar with the economy’s regulations.

Visa Information is Publicly Available but Specific Regimes Differ Widely

Every APEC member economy made visa requirements publicly available online in the most basic form and 86 percent of the economies have provided detailed information that provides more thorough instructions and guidelines. However, it is impossible to make qualitative judgments on each economy's level of achievement in efficient temporary worker movement. This is due to the fact that economies like Australia offer numerous visa options by specific industry and function but are still known to have a well-developed temporary worker policy, while the same is true for economies that maintain a simple scheme of a general work permit or general business visa, such as Singapore. What became evident were the differing approaches across economies and the absence of an inclusive sharing of benefits yielded by truly efficient, cyclical movement of temporary workers.

Figure 46. Level of Usage of Different Types of Visa Information by APEC Member Economies

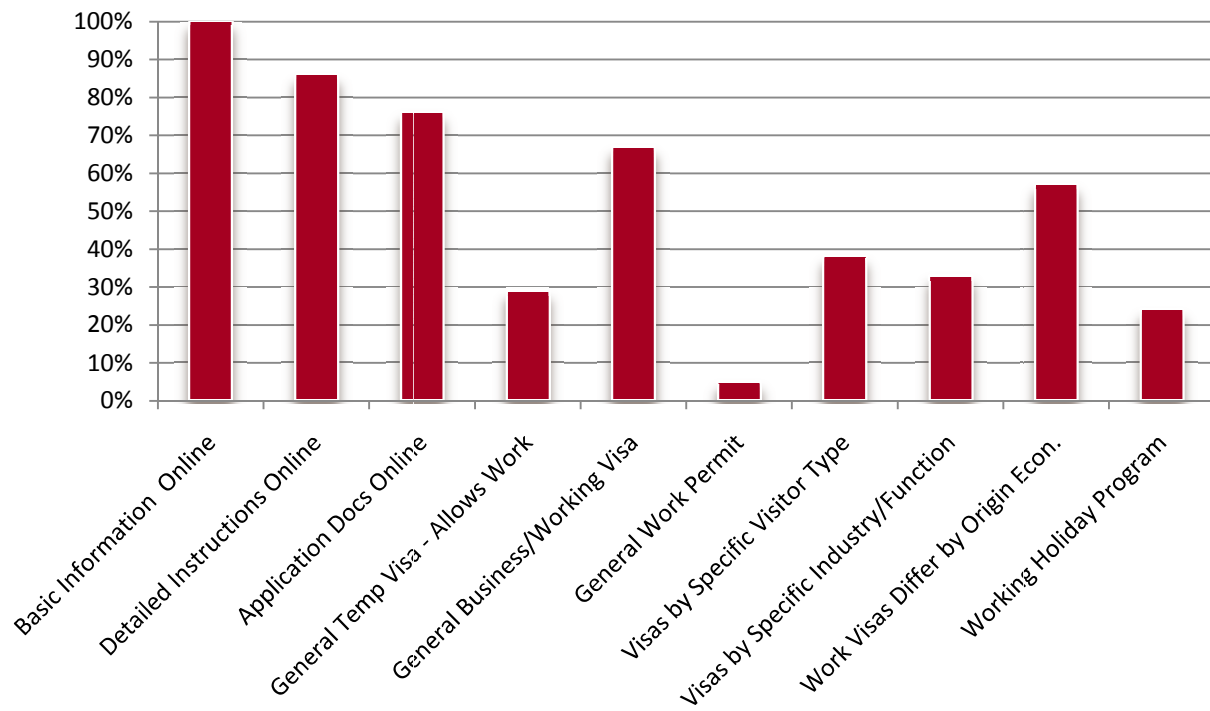


Figure 46 above indicates:

- Most economies have done a good job of making basic visa information publicly available online.
- Inconsistency in options and policies across economies further increase barriers to temporary worker movement.

Types of Labor Agreements and Provisions

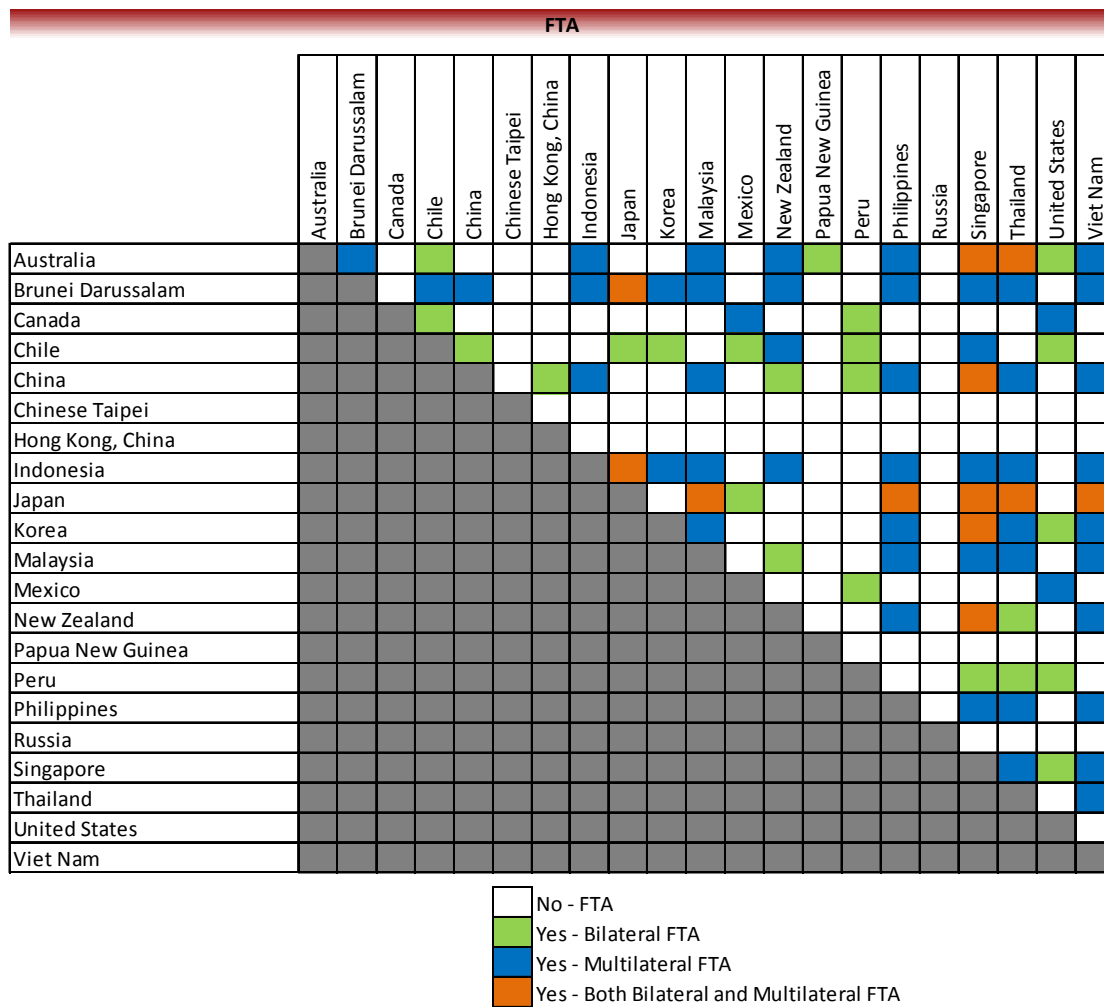
Most FTAs are Entered into on a Bilateral Basis

There are 42 unique FTA/RTA agreements within the APEC region, of which 35 are bilateral, and 7 are multilateral.

- Most FTAs are entered into on a bilateral basis. However, a limited number of multilateral FTAs have been signed within specific regions. These multilateral FTAs demonstrate a more standardized, coordinated approach to addressing labor mobility issues and represent a potential best practice.
- Five distinct multilateral agreements exist in conjunction with the Association of Southeast Asian Nations (ASEAN), while the two other multilateral FTA/RTAs are: the North American Free Trade Agreement (NAFTA) and the Trans-Pacific Strategic Economic Partnership Agreement (Pacific 4).

The matrix below graphically depicts all ratified FTA/RTAs analyzed in this research project.

Figure 47. FTA/RTA Usage Between Economies

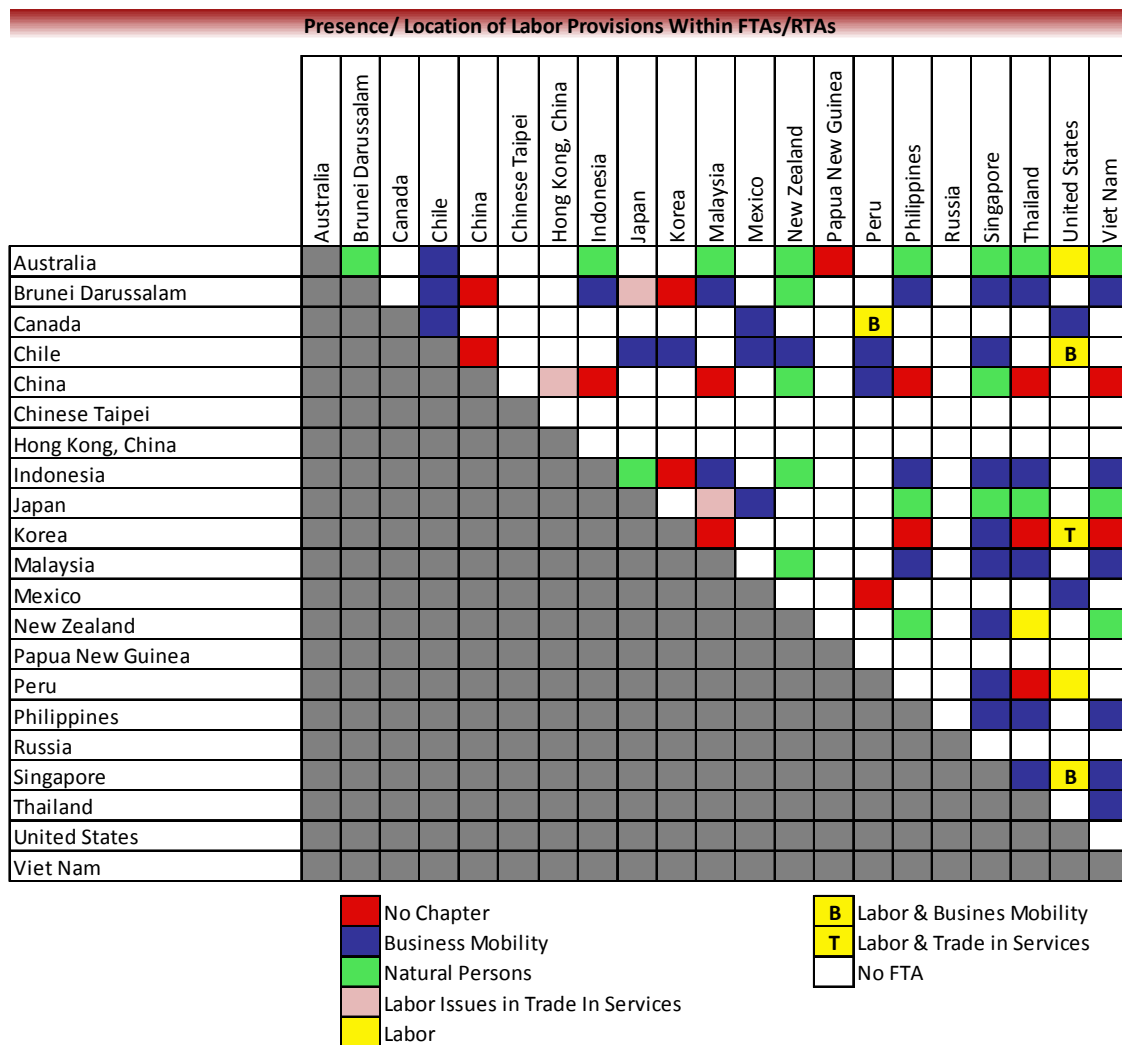


Labor Provisions are Discussed in Various Chapters Throughout the FTAs

- 10 FTAs do not include a chapter on labor mobility. Of these 10 agreements, 7 FTAs have no reference to labor mobility issues
- 10 FTAs include only a Movement of Natural Persons chapter
- 15 FTAs include only a Movement of Business Persons chapter
- 7 FTAs include a Labor chapter. Of these, 3 also include a Movement of Business Person chapter and 1 also includes labor mobility issues in the Trade in Services chapter.

The table below visually presents the way in which each FTA/RTA addresses labor-related issues.

Figure 48. Matrix of Usage of FTA/RTA Across Economies



The FTA/RTAs differ significantly in the method and comprehensiveness of how the movement of workers is addressed.

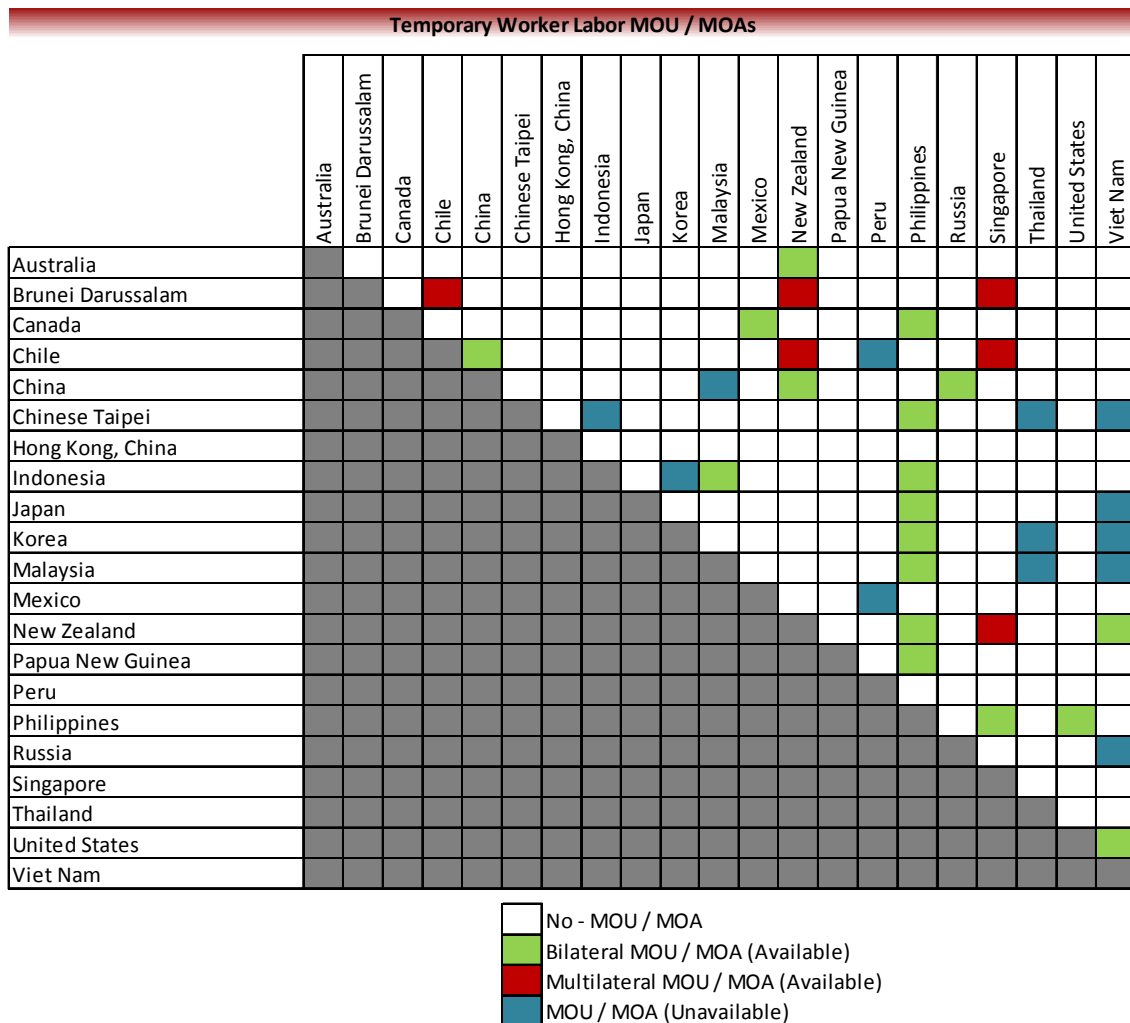
MOU/MOAs Differ in Scope, Comprehensiveness and Transparency from FTA/RTAs

In addition to FTA/RTAs, many economies have negotiated bilateral and/or multilateral MOU/MOAs. MOU/MOAs differ in scope, comprehensiveness and transparency from FTA/RTAs.

- Despite the best efforts of our research team, we have been unable to locate 14 MOU/MOAs that we found to exist.
- These 14 “unavailable” MOU/MOAs are comprised of 13 different counterparties, with Chinese Taipei, Thailand, and Viet Nam each involved with multiple “unavailable” agreements.

The table below graphically depicts the presence of bilateral and multilateral MOU/MOAs.

Figure 49. Matrix of Occurrence of MOU/MOA Across Economies

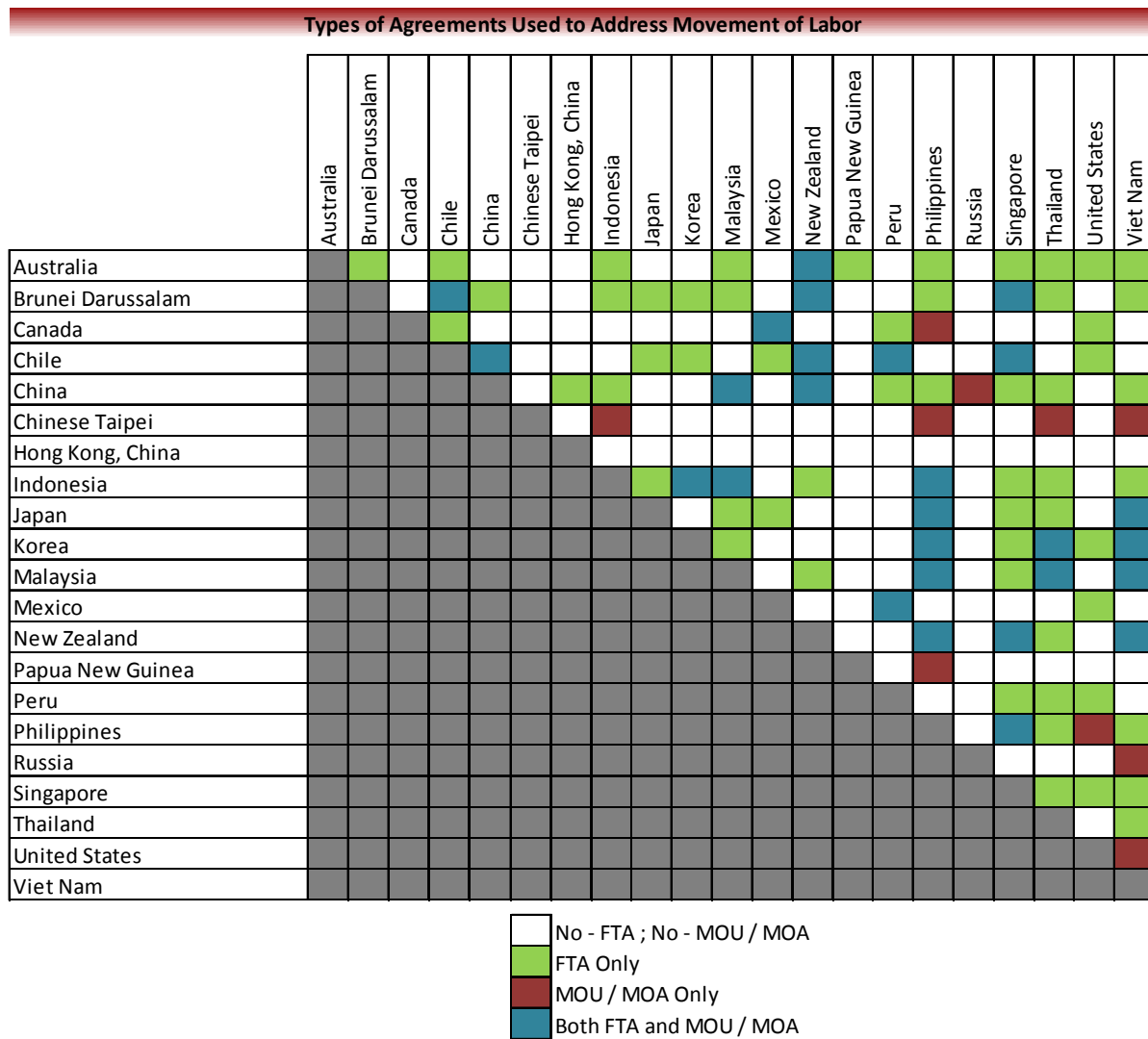


Many APEC Member Economies Do not Have Explicit Labor Agreements with Others

- For countries with signed FTAs, most also entered into at least one MOU/MOA. For countries without any FTAs, only a few of them have MOUs.
 - For example, Chinese Taipei has four MOUs, but no existing FTAs in place.
- The considerable number of white boxes shown in the chart below indicates that many APEC member economies do not have explicate labor agreements with many others.

The grid below summarizes the labor agreements signed between all APEC economies.

Figure 50. Matrix of Signed Labor Agreements Between APEC Member Economies



Preliminary Analysis of Labor Agreements and Provisions

Step 1: Examined International Labor Organization (ILO) standards, current academic literature, and the agreements and identified 91 commonly used labor-related provisions, which were split into the three broad categories shown below:

Figure 51. Overarching Categories of Labor Provisions

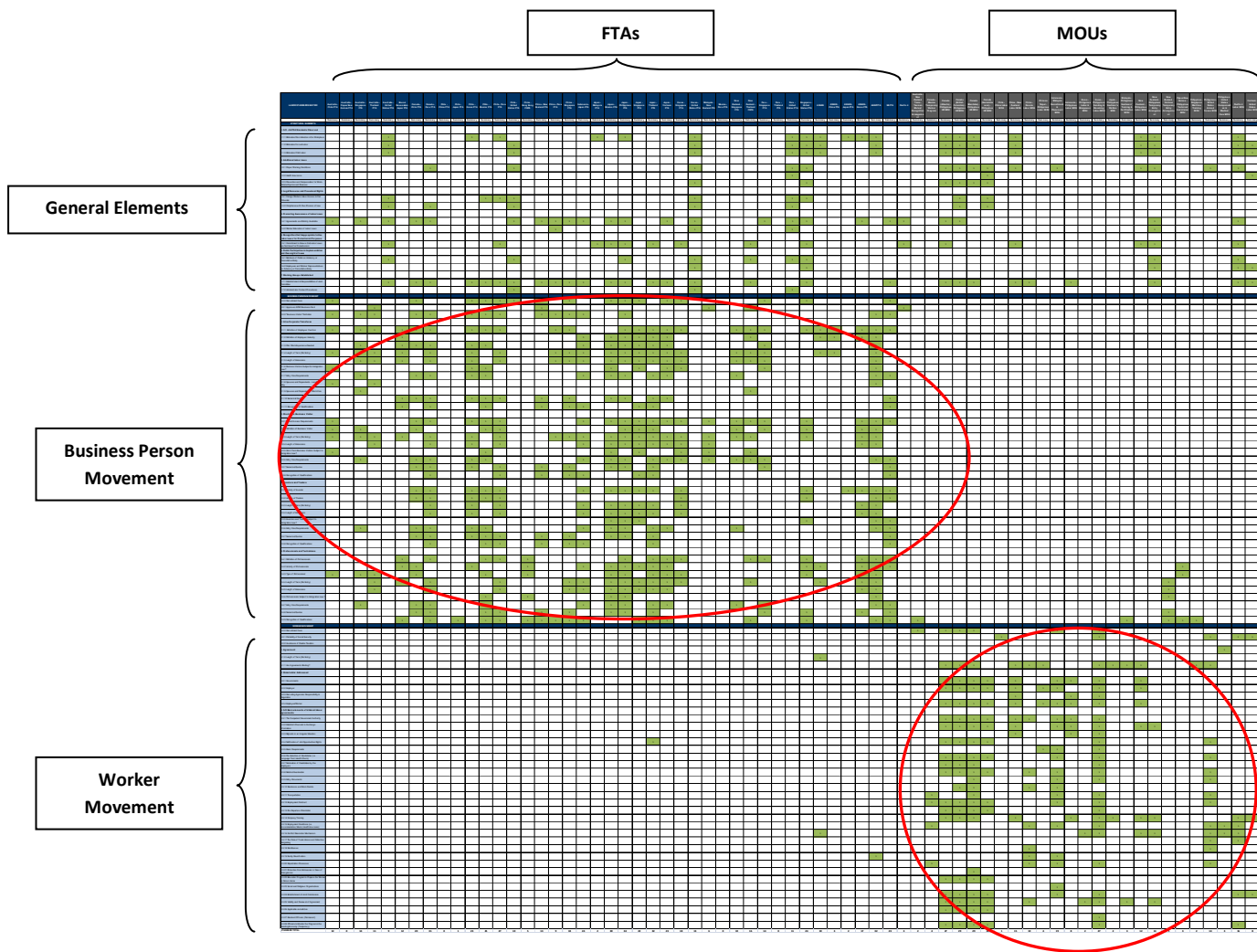


Preliminary Analysis of Labor Agreements and Provisions (Continued)

Step 2: Analyzed each agreement to identify occurrences of each of the 91 provisions

As a representative example, the following screen shot⁴⁷ demonstrates a type of output from our analysis of the provisions in each agreement. Each column represents one labor agreement; each row represents each of the 91 provisions identified. A cell is highlighted in green when the agreement contains the provisions.

Figure 52. Screen Shot of Initial Analysis of Labor Provisions Present in Each Agreement

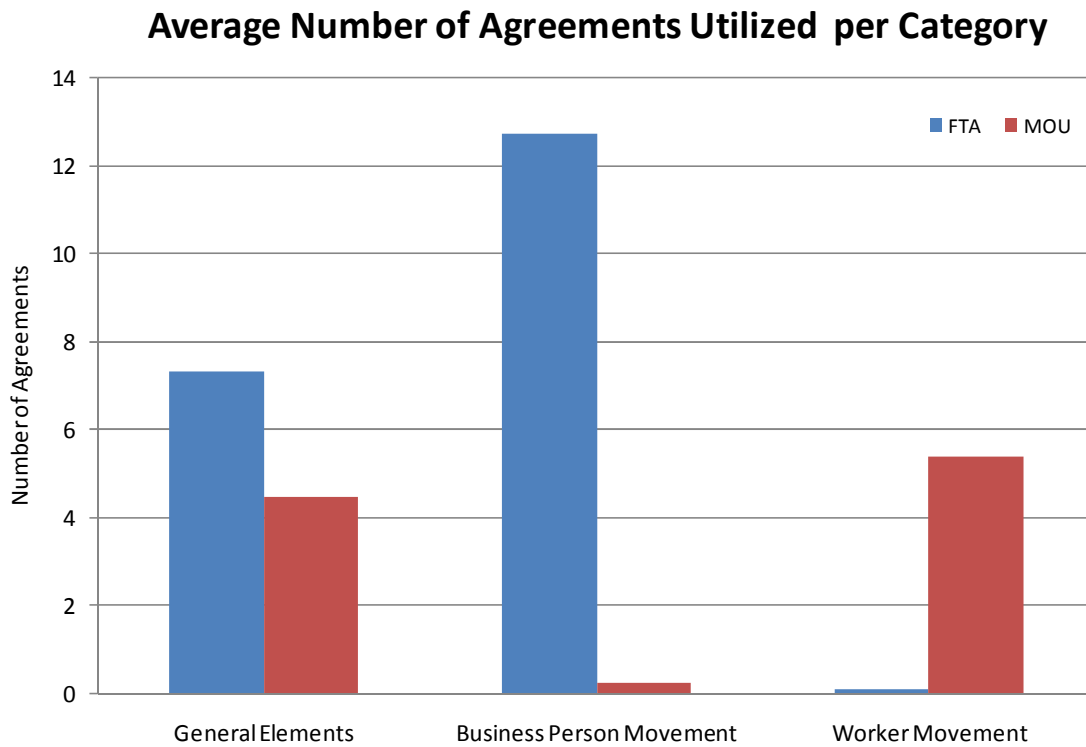


⁴⁷ The digital copy of this matrix is available on the accompanying CD.

FTAs Primarily Focus on the Movement of Business People; while MOUs Focus on Worker Movement Provisions

The table below shows the magnitude of the divergence of content addressed in FTAs and MOUs.

Table 10. Divergence of Content in FTAs vs. MOUs



- The provisions in the structural elements are discussed in both FTAs and MOUs. Each provision is utilized on an average of 8 FTAs and 5 MOUs in this category.
- However, it is apparent that FTAs primarily focus on the movement of business people while MOUs primarily address worker movement provisions.

The Emphasis of Existing Labor Agreements is Placed on Business Person Mobility Instead of Worker Mobility

The bar charts below show the level of utilization by economy for the business person movement and Worker Movement categories.⁴⁸

Figure 53. Level of Utilization for the Business Person Movement by Economy

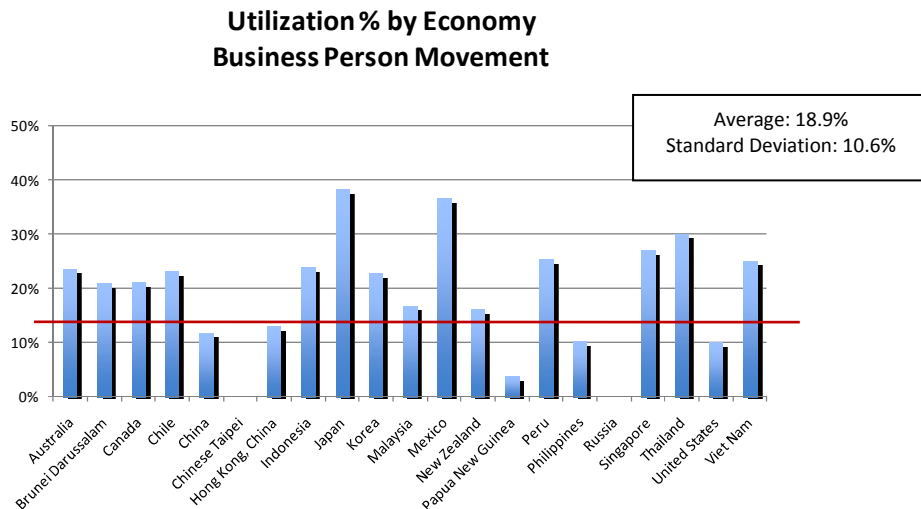
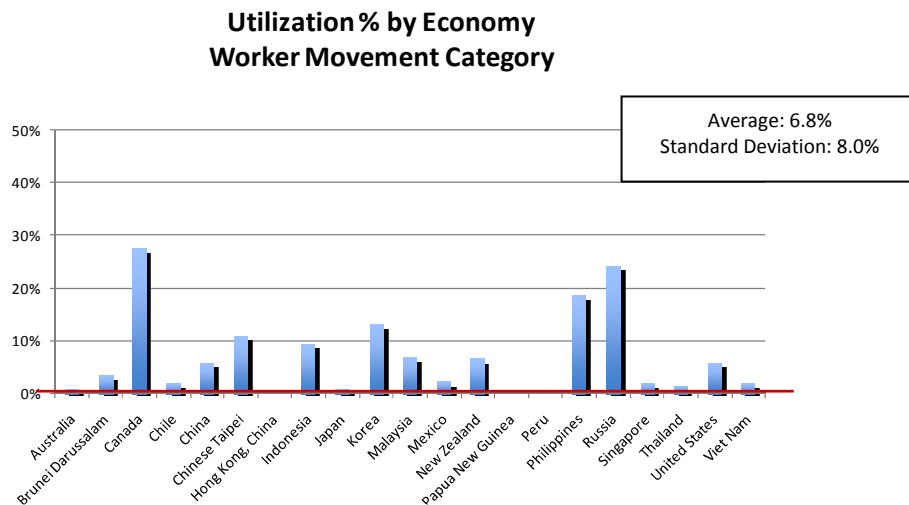


Figure 54. Level of Utilization by Economy for the Worker Movement



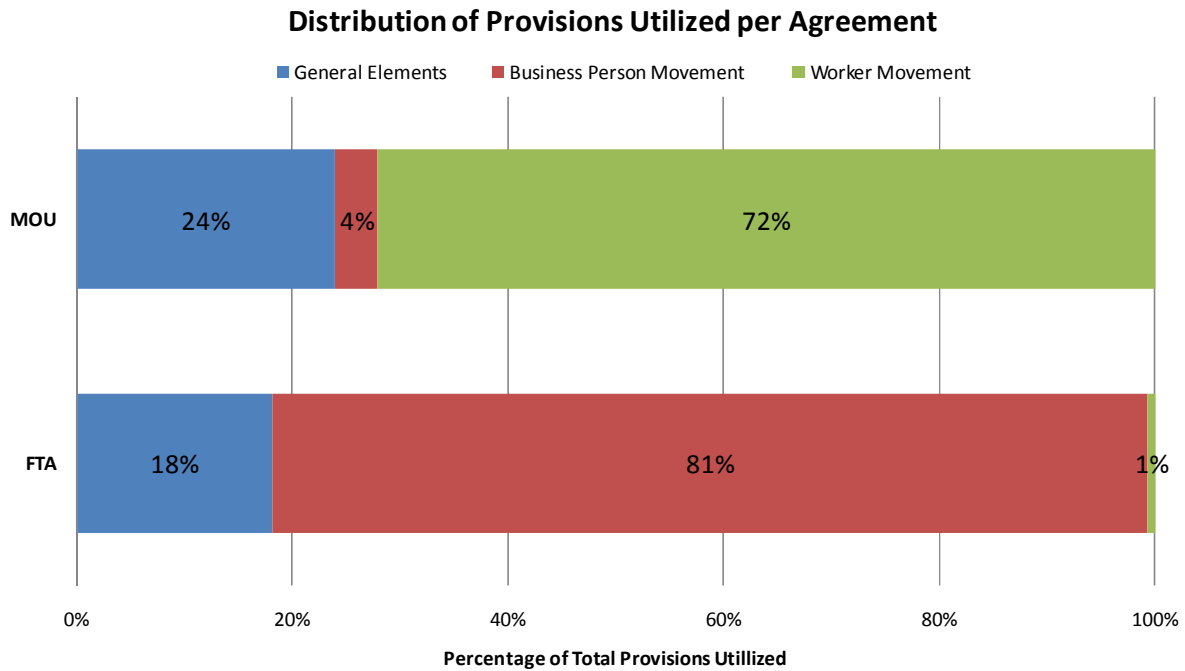
- The emphasis of existing labor agreements is placed on business person mobility instead of worker mobility.
- Although all utilization percentages are low for all economies, Canada, Philippines, and Russia outperformed other economies relative to the inclusion of worker movement provisions.

⁴⁸ Note: Utilization % = number of provisions utilized in category / number of provisions possible in each category.

FTAs Use More Standards Compared to the Number Used in MOUs

The table below shows the distribution of the average number of standards used in FTAs and MOUs.

Figure 55: Distribution of Provisions Utilized Per Agreement

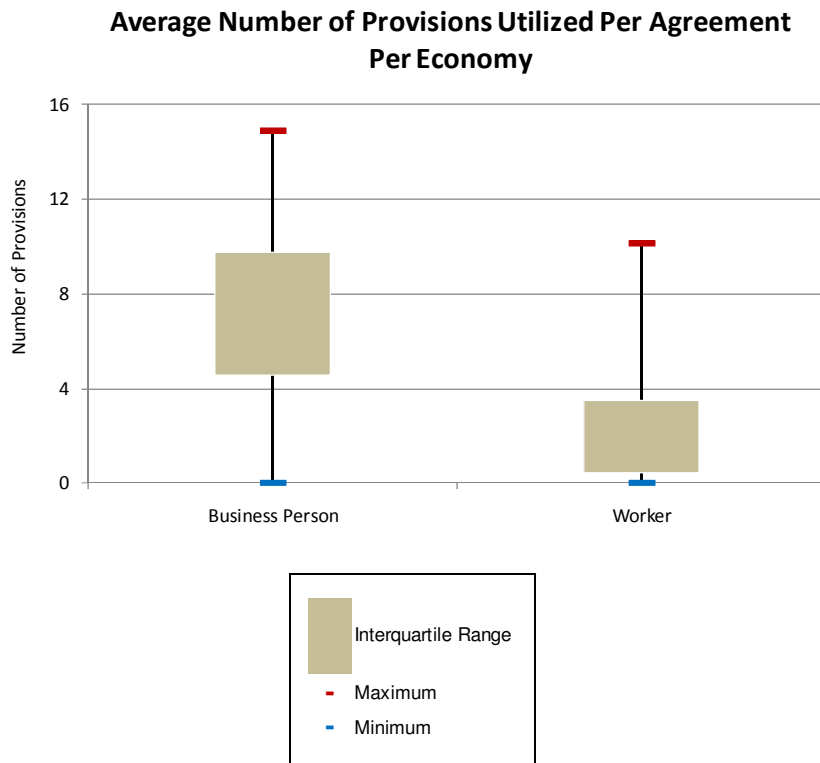


- FTAs use more standards compared to the number used in MOUs.
- Significant portions of the provisions used in FTAs are related to business person movement. Conversely, most of the provisions used in MOUs are related to worker movement.

At an Economy Level, Utilization of Business Person Provisions has a Wider Range than that of Worker Movement

The box-plot below shows the average number of provisions utilized in each labor agreement per economy.

Figure 56: Average Number of Provisions Utilized Per Agreement Per Economy



- It is apparent that business person movement has a wider range of utilization than Worker Movement.
- The inter-quartile range for business person movement is also higher, suggesting at economy level, these provisions are utilized more often. On the other hand, the inter-quartile range for Worker Movement is significantly lower, showing the economies, on average, only address less than 4 provisions addressing Worker Movement issues.

Analysis of 30 Essential Temporary Worker Labor Provisions

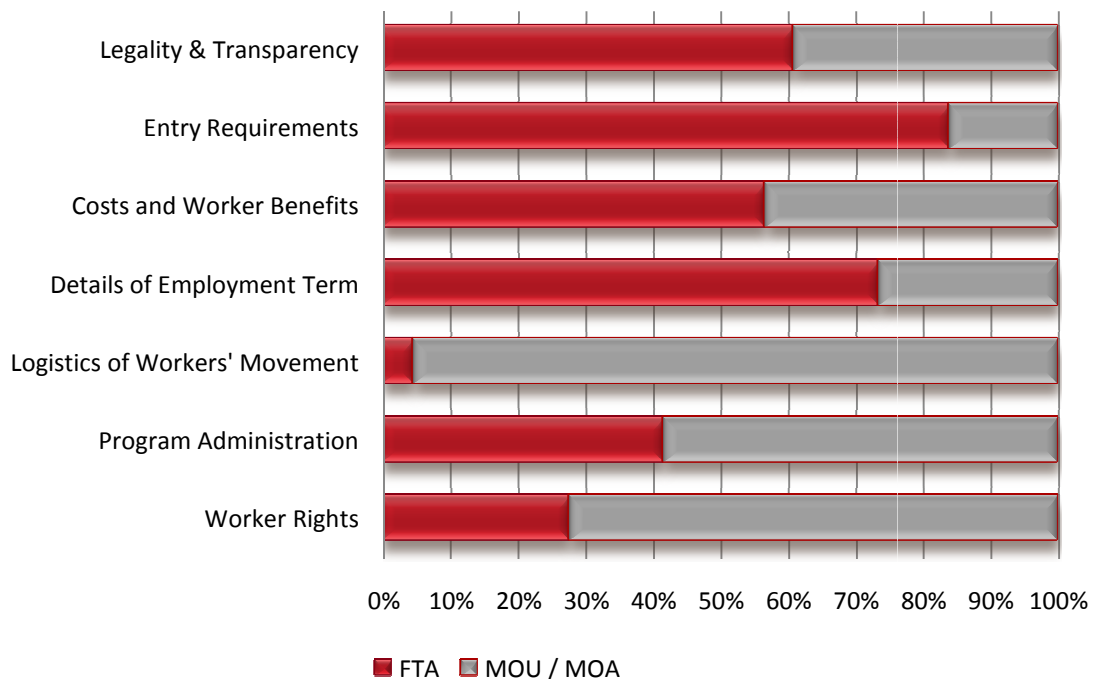
There is Significant Variation in Use of Provisions Across FTAs and MOUs

As illustrated in the chart below, FTAs and MOU/MOAs differ significantly in their use of the Essential Labor Provisions.

- Provisions related to employment term, costs and worker benefits, entry requirements, and legality and transparency are more heavily incorporated within FTAs.
- Worker rights, program administration, and logistics of workers' movement play a larger role in the MOU/MOAs between economies.

This phenomenon can be explained in part by the use of MOUs to address a specific industry or program, such as agriculture or hospitality, which allows these agreements to provide more specific information on logistics and program management than the broader free trade agreements.

Figure 57: Utilization Percentages of Various Labor Provision

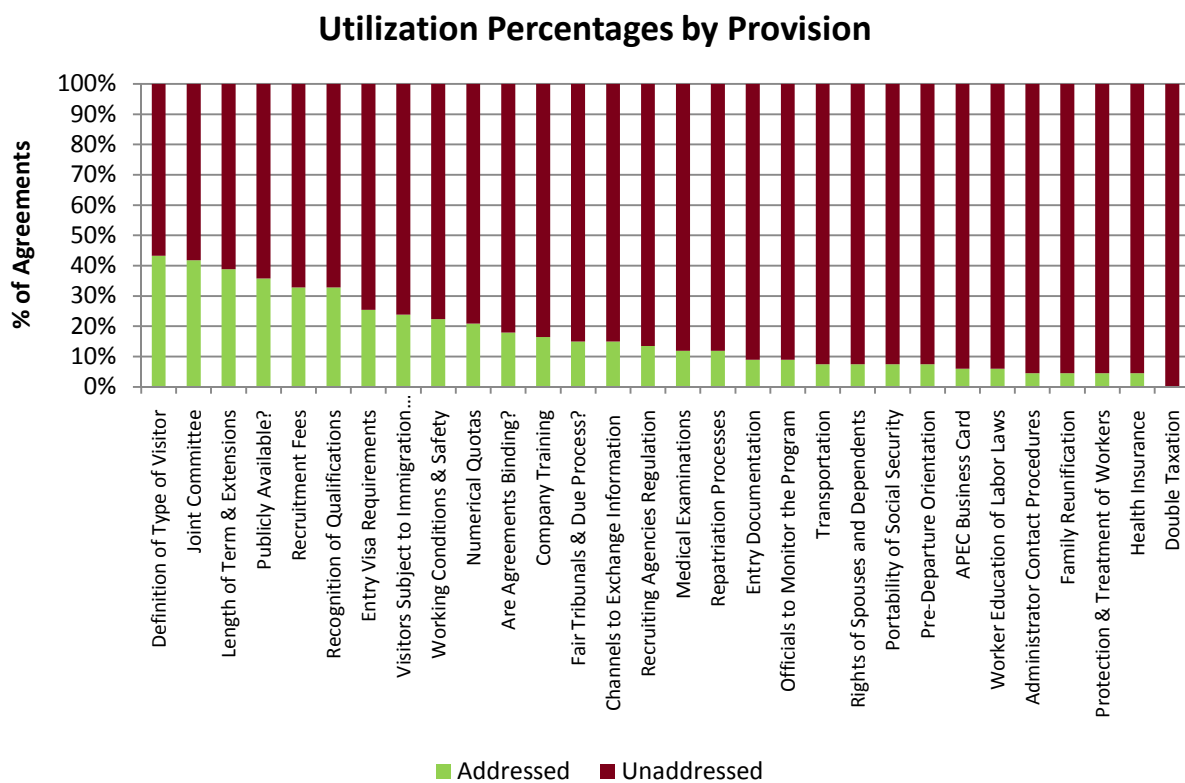


- FTAs primarily focus on static aspects of temporary movement of workers, such as transaction costs and terms.
- MOUs and MOAs often focus on the logistics of a particular set of temporary workers.
- Neither FTAs nor MOUs are effective in incorporating all of the 30 essential temporary worker labor provisions

The 30 Essential Provisions are Vastly Underutilized

No single agreement encompasses even 50 percent of all 30 provisions deemed necessary for effective temporary worker movement. Utilization of a provision is defined as the percentage of all agreements incorporating language on a specific provision. The utilizations of actual provisions are anything but cohesive, with provisions like *Definition of Type of Visitor* addressed in 29 different agreements but *Avoidance of Double Taxation*⁴⁹ not mentioned in any of the agreements we covered. Coincidentally, issues related to transferability of benefits and double taxation have been continuously emphasized during our interviews as costly problems for businesses hiring temporary employees from abroad.

Figure 58: Utilization Percentages of the 30 Essential Provisions



- Based on the proposed set of Essential Labor Provisions, agreements among APEC member economies fail to adequately address temporary worker movement in a comprehensive fashion.
- This lack of information and clarity within agreements increases costs for businesses seeking to fill a labor or skill gap with temporary foreign workers.

⁴⁹ A number of stand-alone Double Taxation agreements exist for certain economies. Although the issue is being addressed in some situations, it is important to note that such language does not occur within labor provisions in FTAs and MOUs

Certain Provisions are More Critical than Others

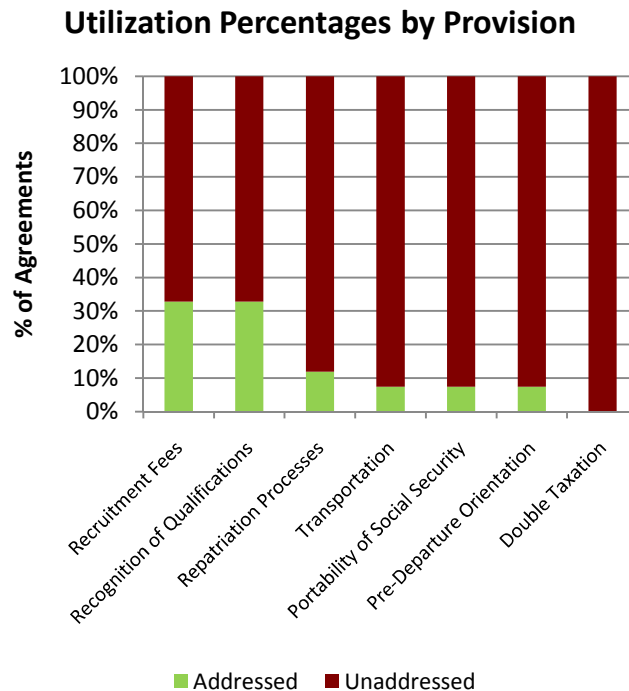
Within the 30 Essential Labor Provisions, some provisions are more important than others. The critical problems regarding the movement of temporary workers are encompassed within certain provisions. Of the proposed labor provisions, the following have been identified in our interviews and analysis to be the most critical:

Table 11: Most Critical Provisions to Temporary Labor Movement

Provisions Most Critical to Temporary Labor Movement
Recognition of Qualifications
Recruitment Fees
Repatriation Processes
Portability of Social Security
Avoidance of Double Taxation
Pre-Departure Orientation
Transportation

The critical provisions are not utilized in a uniform manner, as can be seen in the chart below.

Figure 59: Utilization Percentages of Most Critical Temporary Labor Movement

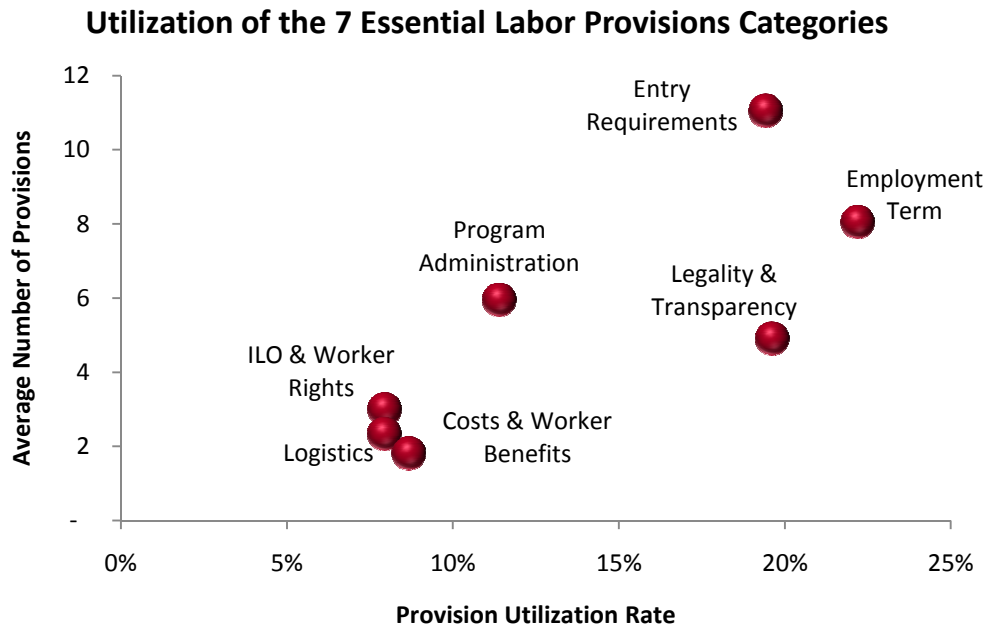


The low utilization of these critical provisions highlights the need for model measures to ensure that agreements are addressing vital issues.

There is a Wide Difference in the Utilization of Labor Categories

The chart below represents the utilization of the 7 categories of provisions in labor agreements. There is a wide difference between the utilization of the different categories.

Figure 60: Utilization of the 7 Categories of Provisions



Categories such as *Entry Requirements* and *Employment Term* have drastically higher levels of utilization and frequency of use than *Costs & Worker Benefits* and *Worker Movement Logistics*. This chart clearly shows the level of attention of policy makers across economies on the issues governing the movement of workers. All the attention and focus is on defining and controlling the entry of people, rather than on the facilitating the temporary movement of workers by reducing costs and simplifying logistics of movement.

Certain Agreements Stand Out as the Most Comprehensive

Emphasizing this need for model measures, of the available 67 agreements analyzed not a single agreement reached 50 percent utilization; Only three agreements, all of which were MOUs, surpassed the 40 percent utilization mark. The ten agreements with the highest utilization are displayed below:

Table 12: Top Ten Agreements in Utilization

Top Ten Agreements in Utilization	
<u>Agreement</u>	<u>Util.</u>
Canada (British Columbia) - Philippines HR MOU	46.7%
Canada (Manitoba) - Philippines HR MOU	43.3%
Korea - Philippines Sending & Receiving Labor MOU	43.3%
Canada (Alberta) - Philippines HR MOU	40.0%
Indonesia - Malaysia Recruitment & Placement MOU	30.0%
Canada - Peru FTA	30.0%
Singapore - United States FTA	30.0%
Japan - Vietnam FTA	30.0%
Canada (Saskatchewan) - Philippines HR MOU	30.0%
Japan - Philippines FTA	26.7%

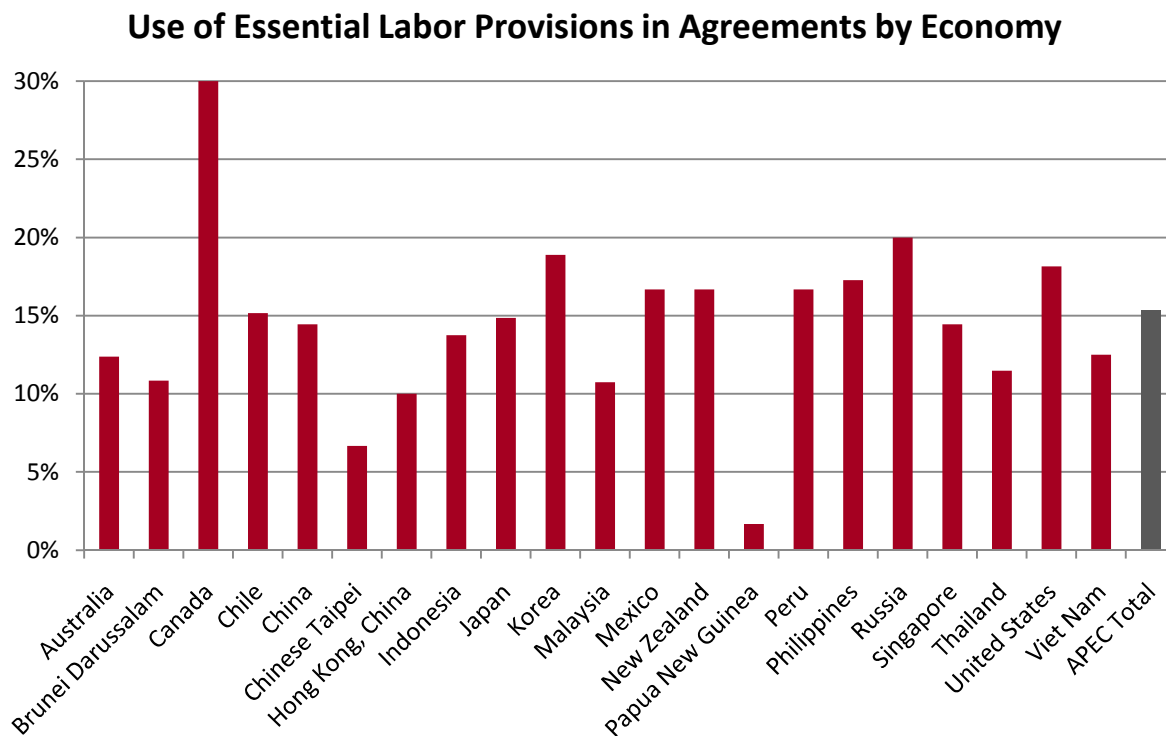
The creation of model measures for temporary worker movement will allow economies to better gauge the comprehensiveness of their agreements and will provide a target for higher utilization in agreements.

Use of the 30 Essential Provisions Varies Across Economies

This section of the report discusses the overall utilization of agreements by economy and of each Essential Labor Provision category by economy. Utilization is defined as the percentage of total number of agreement-provision matches possible. For example, Australia has 7 agreements and the legality and transparency category has 3 provisions, allowing for 21 potential agreement-provision matches. Because Australia has 4 such matches in this category, its utilization is calculated by dividing 21 into 4, resulting in utilization of 19.0 percent.

APEC member economies have not developed agreements that sufficiently support businesses in their need for foreign temporary workers. It is important to note that economies develop agreements for different and often economy-specific reasons, thereby not necessarily focusing on the issue of temporary movement of workers. The lack of Essential Labor Provisions within current agreements is noteworthy however, with utilization for the APEC region at an average of about 15.4 percent. The graph below provides utilization percentages for each of the APEC member economies and highlights the deficient overall use of the Essential Labor Provisions. In failing to address some of these vital provisions, existing labor policy contributes to an environment where businesses must spend time and valuable capital sifting through economy-specific immigration policies or often hiring an intermediary firm to handle the intricate processes.

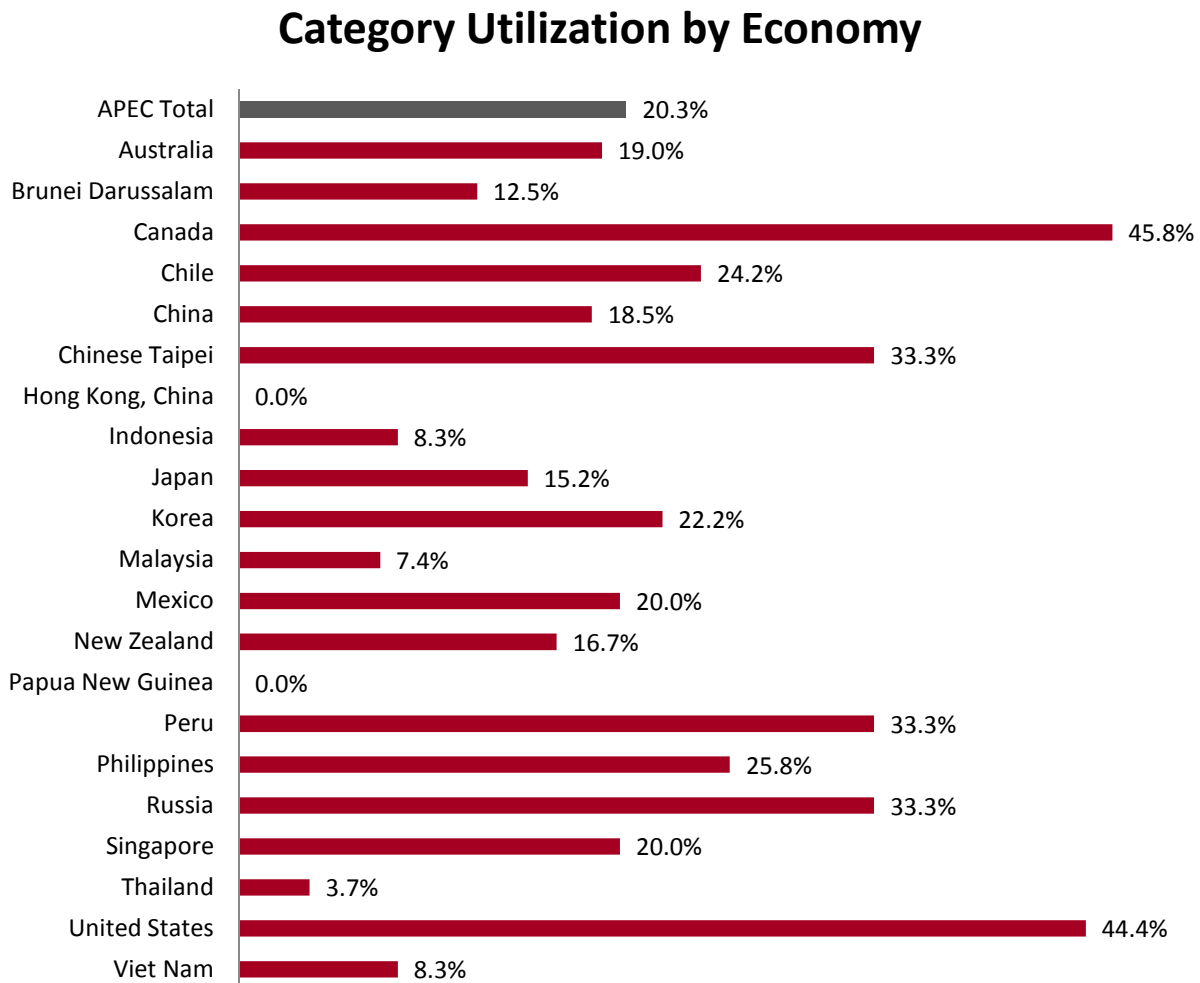
Figure 61: Use of Essential Labor Provisions in Agreements by Economy



Category 1: Legality and Transparency

The *Legality and Transparency* category refers to whether agreements are publicly available, legally binding, and whether workers are ensured access to fair tribunals and due process. Evidenced in the chart below, more than half of all APEC economies fall below 30 percent utilization in this category and the economies vary widely in their use of this category in the agreements.

Figure 62: Category Utilization by Economy – Legality and Transparency



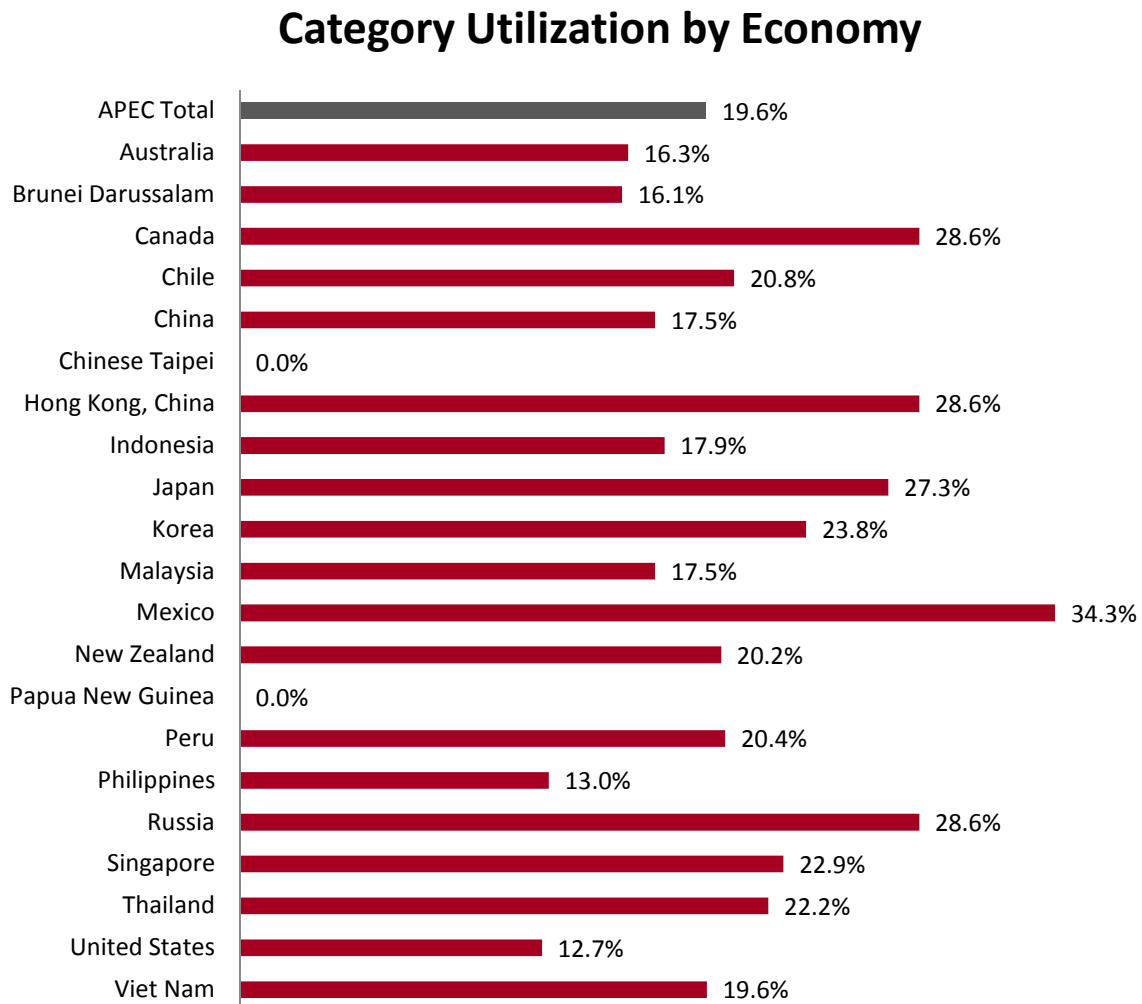
Summary:

- The APEC-wide average for this category is 20.3 percent, which represents fairly good utilization relative to most of the other categories.
- Only Canada and United States come close to reaching the 50 percent mark, at 45.8 percent and 44.4 percent respectively.

Category 2: Entry Requirements

The *Entry Requirements* category refers to whether agreements provide entry quotas for specific types of workers, specify the requirements and other documentation needed by entrants, provide definitions for each type of visitor, etc. Coverage by economy in this category is relatively uniform when compared to legality and transparency; 16 of the economies fall between utilization of 15 percent and 30 percent.

Figure 63: Category Utilization by Economy - Entry Requirements



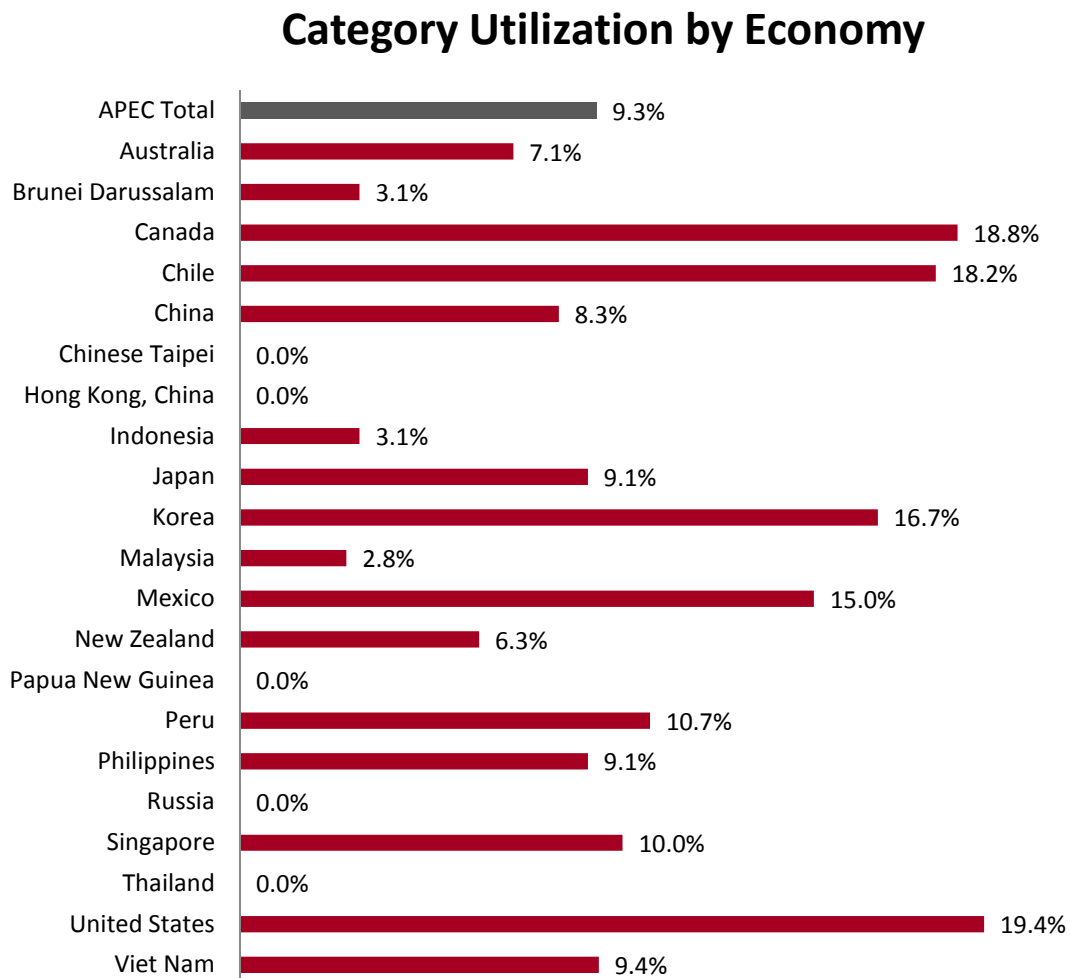
Summary:

- Overall APEC average utilization is 19.6 percent, which is just less than the utilization percentage for Legality and Transparency.
- Mexico leads the pack in this category at 34.3 percent utilization, followed by Canada, Hong Kong, and Russia all at 28.6 percent.

Category 3: Costs and Worker Benefits

The *Costs and Worker Benefits* category evaluates each agreement based on the inclusion of language on the following topics: health insurance, recruitment fees, transferability of social security, and double taxation. Social security and double taxation were identified in numerous interviews as being one of the most important issues from the business perspective, with the lack of clarity increasing the cost and payback period of hiring foreign temporary workers.

Figure 64: Category Utilization by Economy - Costs & Worker Benefits



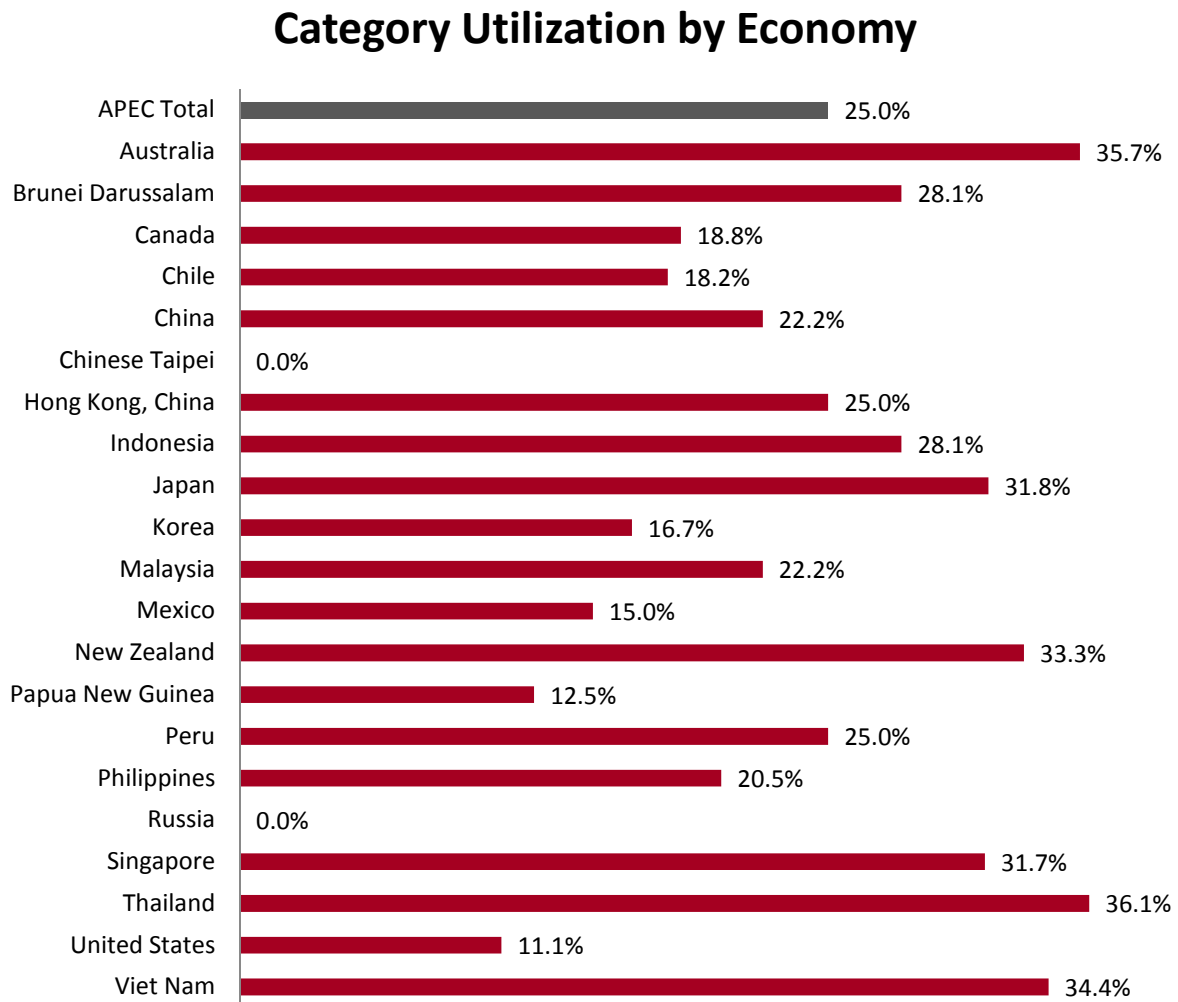
Summary:

- Overall APEC average utilization is 9.3 percent, which falls at the lower end of the performance scale, relative to other categories.
- With the US at 19.4 percent representing the highest point for any economy, it is clear that the agreements fail to address this critical issue.

Category 4: Details of Employment Term

The *Employment Term* category tracks the inclusion of language on terms of stay for a temporary worker, extensions of stay, entry of spouse and/or dependants, recognition of qualifications, and company training. While utilization percentages are higher for most economies than the previous categories, they are still disappointing in light of the basic and qualitative nature of the metrics tracked.

Figure 65: Category Utilization by Economy - Employment Term



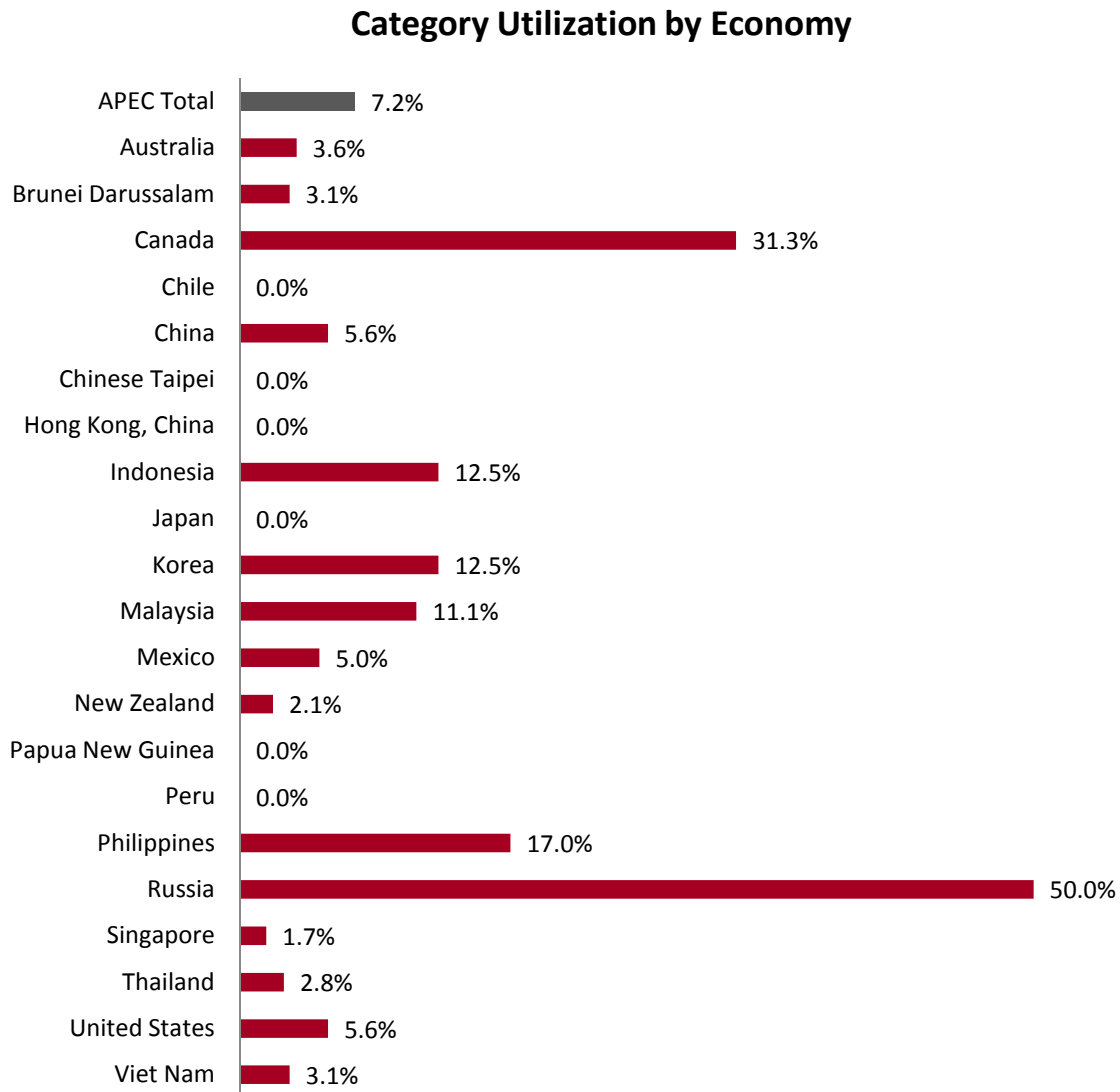
Summary:

- APEC average utilization is 25.0 percent, which represents the highest utilization percentage of any of the seven categories.
- Thailand has the highest percentage with 36.1 percent average utilization across its 9 agreements
- Eight economies are below the 20 percent mark in average utilization for this category

Category 5: Logistics of Workers' Movement

Transportation, pre-departure orientation, family reunification, and repatriation are encompassed by the *Logistics of Workers' Movement* category. Evidenced by the data below, these factors are addressed to a very limited extent by the agreements; only three economies – Canada, Russia, and Philippines – exceed 10 percent utilization with the rest falling exceedingly short in this category.

Figure 66: Category Utilization by Economy - Logistics of Workers' Movement



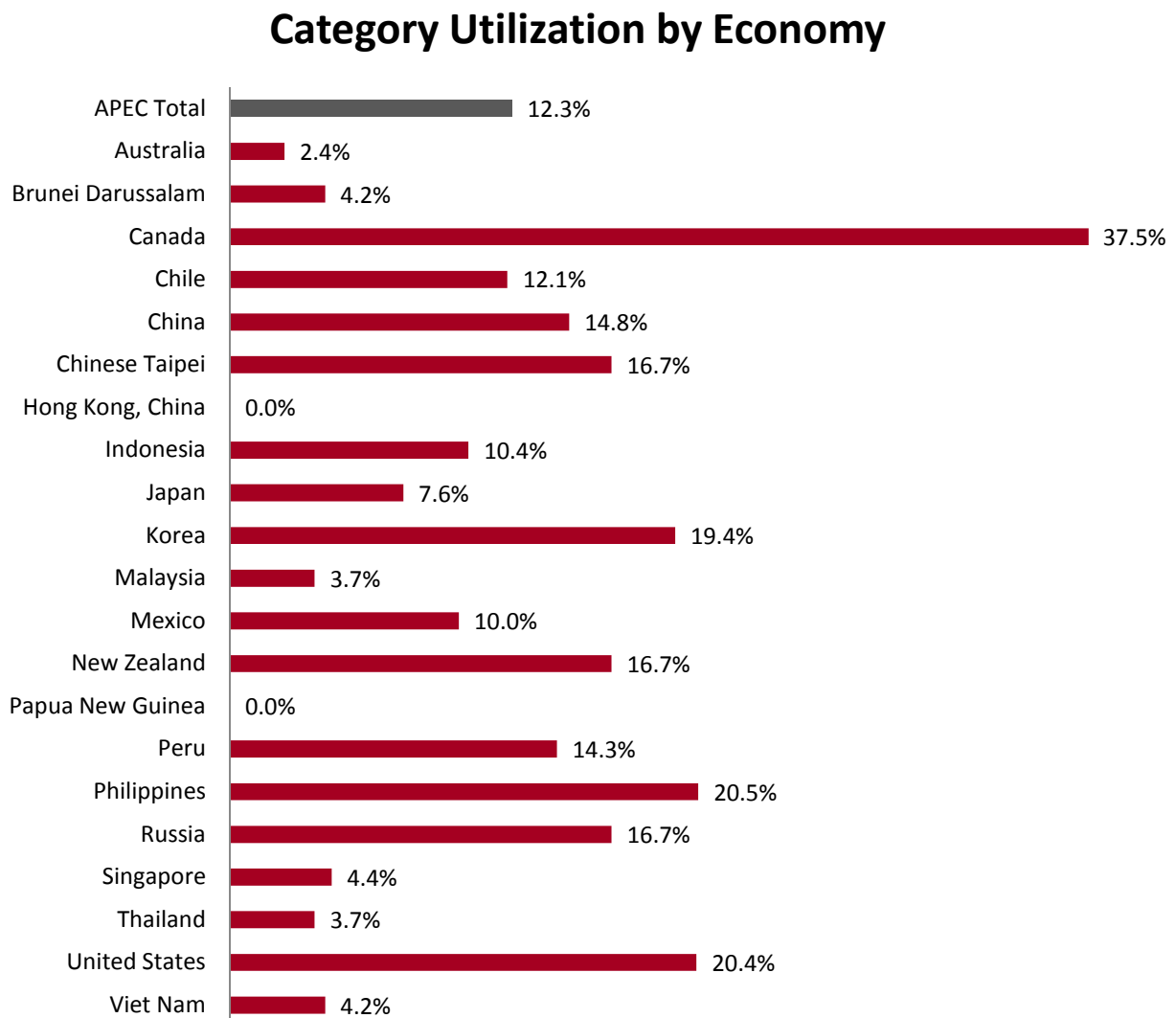
Summary:

- The total APEC average utilization is 7.2 percent, which represents the lowest utilization percentage of any of the seven categories.
- Russia is the leader in this category with a 50.0 percent utilization average.
- 15 of 21 economies fail to surpass even the 10 percent mark in this part of the analysis framework.

Category 6: Program Administration

The *Program Administration* category addresses worker education, joint committees and information exchange, recruiting agency responsibilities, and monitoring of the programs. Overall utilization for the category is once again low with 17 economies below the 20 percent level.

Figure 67: Category Utilization by Economy - Program Administration



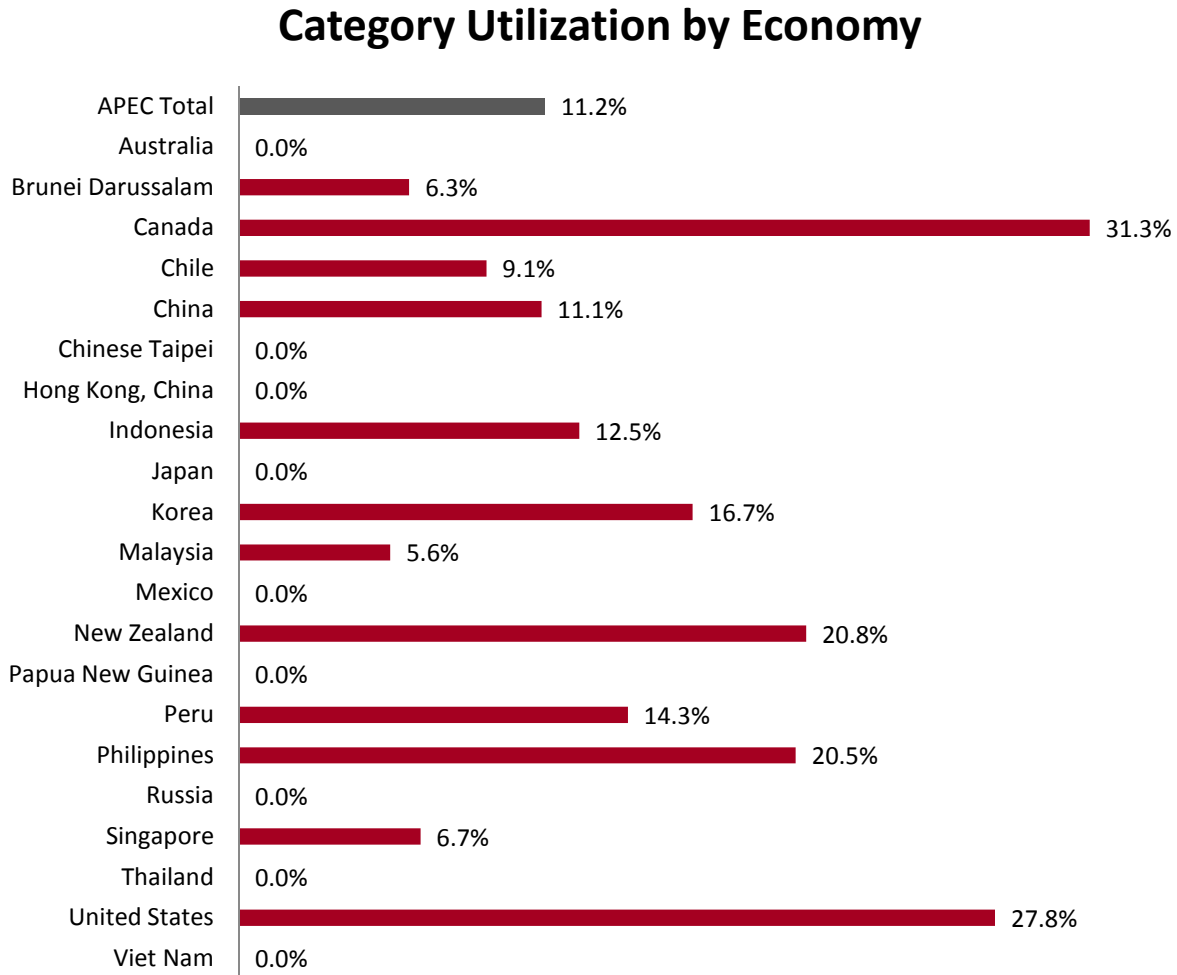
Summary:

- APEC-wide utilization is only 12.3 percent for the category.
- Canada is the only economy to surpass the 30 percent average utilization level.
- Honk Kong and Papua New Guinea are lacking any inclusion in their agreements on this specific category of analysis.

Category 7: Worker Rights

The *Worker Rights* category tracks the inclusion of language on working conditions and treatment of workers. 16 economies fail to reach even 15 percent average utilization level and the remaining five economies range between 16.7 percent and the still low figure of 31.3 percent.

Figure 68: Category Utilization by Economy - Worker Rights



Summary:

- The APEC average is driven down to 11.2 percent by the nine economies that fail to address these factors in their agreements at all.
- Canada, United States, New Zealand, and Philippines lead the 21 economies in this category with Canada at the top with 31.3 percent.

Different Economies Focus on Different Categories

The following pages detail more in-depth analysis for each specific category of provisions. Little cohesiveness exists from economy to economy in each specific category and the same is true when comparing across the seven categories for each specific economy.

The table below highlights the three economies with the highest and lowest utilization for each of the seven categories. It is evident for example that Canada, when compared to other APEC member economies, has achieved greater level of utilization within its agreements.

Table 13: Highest & Lowest Utilization of Essential Provisions by Economy

	Highest Utilization	Lowest Utilization
Legality & Transparency	Canada United States Russia	Hong Kong, China Papua New Guinea Thailand
Entry Requirements	Mexico Canada Russia	Papua New Guinea Chinese Taipei United States
Costs & Worker Benefits	Chile Canada United States	Papua New Guinea Chinese Taipei Thailand
Employment Term	Thailand Australia Viet Nam	United States Chinese Taipei Russia
Logistics	Russia Canada Philippines	Chile Papua New Guinea Chinese Taipei
Program Administration	United States Philippines Canada	Hong Kong, China Papua New Guinea Australia
Worker Rights	New Zealand United States Canada	Hong Kong, China Papua New Guinea Australia

Certain economies show that they are clearly at the forefront of policy creation. Canada clearly stands as being in the top 3 for utilization in 6 of the 7 categories.

Points worth noting are:

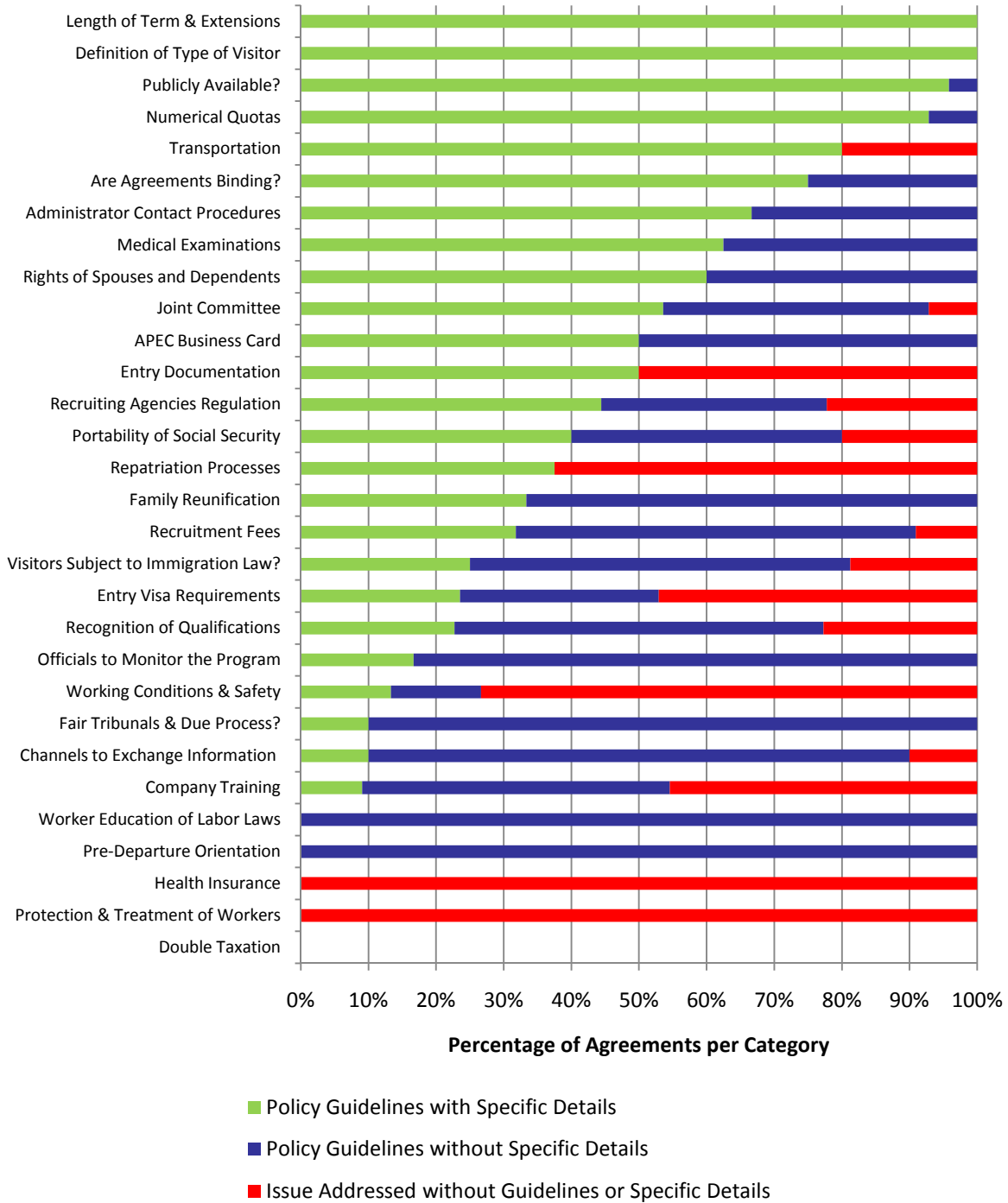
- FTAs are much more detailed with specific comprehensive language. MOUs provisions are written with much less specific detail.
- *Legality & Transparency, Entry Requirements, and Details of Employment Term Provisions* have much greater detail, especially in FTAs.
- Conversely, provisions addressing *Costs & Worker Benefits, Logistics of Worker's Movement* and *Program Administration* have far less specific detail.
- Provisions on *Logistics of Worker's Movement* are addressed in MOUs, but rarely in FTAs.

We have already established that the main focus of FTAs is on facilitating the movement of business persons. This analysis of the level of detail shows that great efforts are being taken to write specific policy addressing their movement while expending significantly less effort addressing the movement of lower-skilled workers.

A-1 – Comparing Level of Policy Detail across Labor Provisions

This chart shows that the level of detail varies greatly across provisions. The colors of the bar represent the percentage of agreements that fit into each of the three level of policy detail categories defined previously.

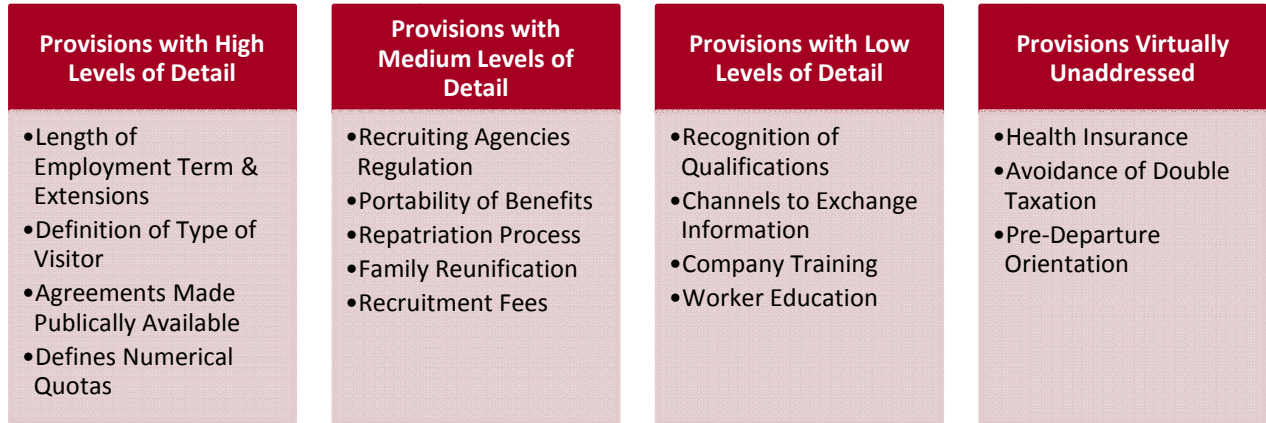
Figure 70: Level of Policy Detail by Provision



A-2 – Which Issues are Policy Makers Focused On?

The level of detail shown in provisions analysis on the previous page provides insights into some of the issues policy makers are focusing on.

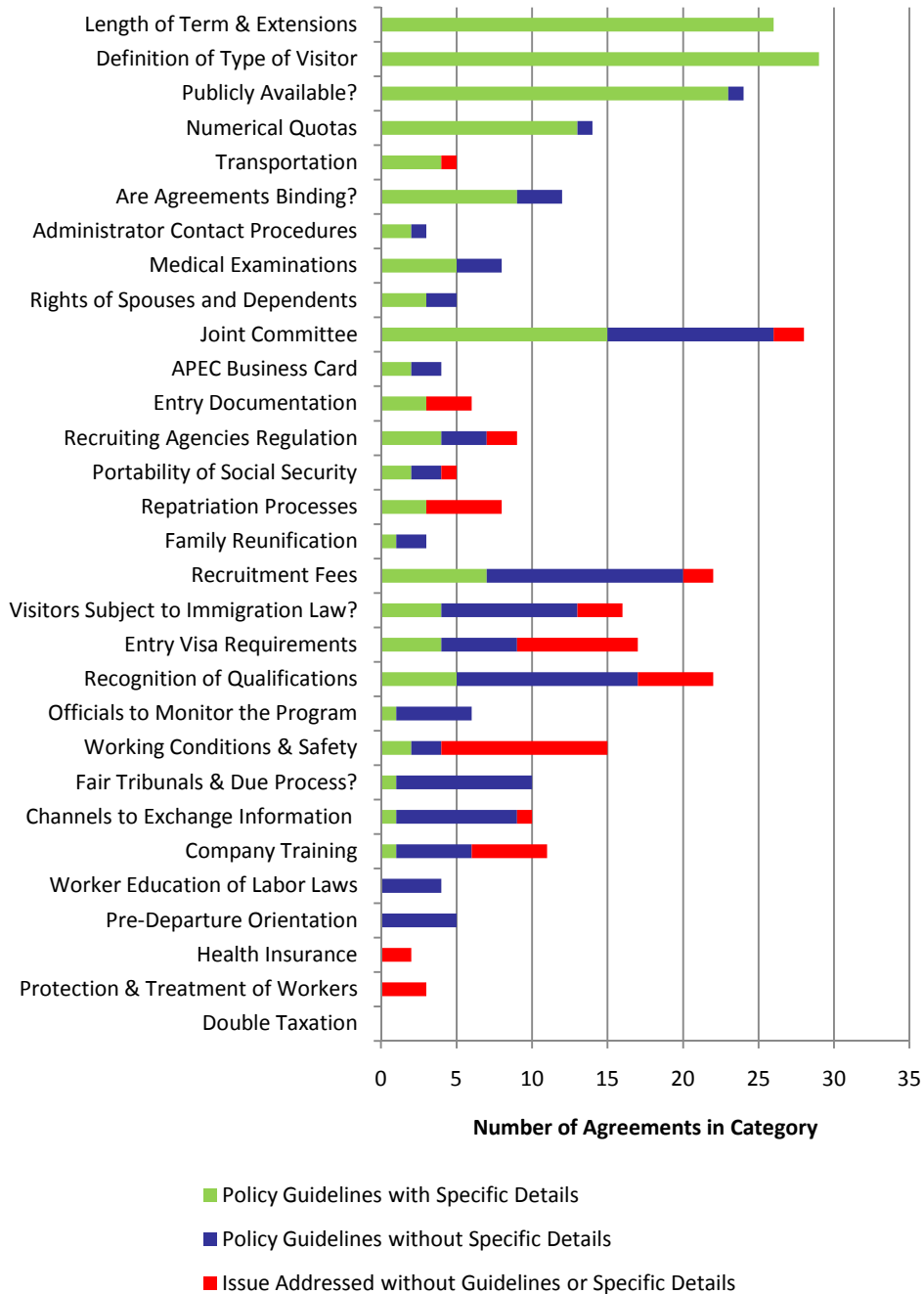
Figure 71: Provisions Organized by Level of Detail



A-3 – Provisions Addressed with Low Levels of Policy Detail Are Also Addressed Least Often

This chart below presents the number of FTA and MOU agreements and the level of policy detail for each of the 30 Essential Labor Provisions. The length of the bar represents the number of FTAs and MOUs that address that specific labor provision. The color of the bar represents the level of policy detail.

Figure 72: Level of Policy Detail Ratings by Provision



Key findings from the chart above are:

- *Definition of Type of Visitor* is mentioned in 29 agreements, and all of them are addressed with specific details.
- *Pre-Departure Orientation* is not addressed only in 5 agreements, it is addressed without specific details.

Policy makers are making a significant effort to write detailed policy addressing legality and entry requirements for business persons. This highly detailed policy is being written primarily in FTAs and replicated across many agreements. However, provisions that affect the true costs of worker movement are being largely ignored by agreements. Where written, they are being noted but not addressed in any substantive detail.

B. Category-Specific Analysis – Seven Provision Categories Vary on Level of Policy Detail and Rating

The table below presents a ranking of labor provisions by their level of policy detail. A simple weighted average method was used to summarize the level of policy detail for each labor provision within each FTA or MOU. (Please see Equation 1: Level of Policy Detail Rating Computation)

- A score of 3.00 would represent that all FTA and MOU agreements were written with the highest level of policy detail.
- A score of 1.00 would represent that the issue was addressed in FTAs and MOUs but without specific detail.

Note:

The categories with the lowest Level of Detail ratings illustrate the issues left unaddressed by worker movement policy. While *Worker Rights* shows up as the clearly lowest detailed category, the commitment to human rights is a separate topic outside the scope of this project. We have included it in our framework of the *30 Essential Provisions*, because it remains a critical issue in the trade in labor. However, our analysis will only focus on categories that address the business and economic implications of worker movement.

Figure 73: Level of Policy Detail for Each Labor Provision within Each FTA or MOU

Provision Category Rankings	
Essential Labor Provision Category	Rating
Legality & Transparency of Agreement & Proceedings	2.72
Defines Entry Requirements	2.49
Addresses Details of Employment Term	2.39
Addresses Program Administration	2.30
Costs and Worker Benefits	2.14
Addresses Logistics of Workers' Movement	2.10
Worker Rights	1.33

The high detail ratings for *Legality* and *Entry Requirements* category clearly show where policy makers have been concentrating their greatest efforts. Categories with lower detail – *Costs* and *Logistics* – are the categories that most greatly affect the movement of temporary workers. The lower level of policy detail has caused businesses many problems and inefficiencies that drive up the barriers and costs to the hiring of temporary workers.

The following section will show the detailed provision ratings under each of the seven categories listed above.




B-1 – Specificity Category Ratings Reveal Areas Needing Labor Policy Detail Improvements

This section will show the level of policy detail ratings for all six categories, excluding *Worker Rights*.

The tables below provide the Level of Policy Detail Ratings for the 30 Essential Provisions by category.

- The colored columns include the number of agreements that fall under the 3 levels of policy detail categories defined in the legend below.
- The total column represents the total number of agreements that address each essential provision.
- The ratings are calculated using a basic weighted average scheme. (Please see Equation 1: Level of Policy Detail Rating Computation).
- The total category Ratings is an average of the provision's ratings.

Figure 74: Category Ratings for Level of Policy Detail




Legend:	
	Policy Guidelines with Specific Details
	Policy Guidelines without Specific Details
	Issue is Addressed without Policy Guidelines or Specific Detail

There will be an in-depth analysis of the following categories as they have less policy detail: *Addresses Program Administration, Costs and Worker Benefits, and Addresses Logistics of Workers' Movement*. Data for other categories is also provided, but the emphasis will be placed on the categories listed above.

B-1a – Legality & Transparency of Agreement & Proceedings

The table below provides the detailed analysis of the provisions within the Legality & Transparency of Agreement & Proceedings.

Equation 3: Computation for Level of Detail in "Legality & Transparency of Agreement & Proceedings"

				Total	Level of Policy Detail Rating
Foreign Workers Have Access to Fair Tribunals & Due Process	1	9	0	10	2.10
Agreements are Publicly Available	23	1	0	24	2.96
Are Agreements Binding?	9	3	0	12	2.75
Total					2.72

B-1b – Defines Entry Requirements Category

The table below provides the detailed analysis of the provisions within the Defines Entry Requirements Category.

Equation 4: Computation for Level of Policy Detail in "Defines Entry Requirements" Category

				Total	Level of Policy Detail Rating
Approves APEC Business Card	2	2	0	4	2.50
Definition of Type of Visitor	29	0	0	29	3.00
Business Visitors Subject to Immigration Law?	4	9	3	16	2.06
Numerical Quotas	13	1	0	14	2.93
Entry Visa Requirements	4	5	8	17	1.76
Medical Examination, Health Checks & Pre-Selection Criteria	5	3	0	8	2.63
Entry Documentation & Permits	3	0	3	6	2.00
Total					2.49

B-1c – Addresses Details of Employment Term Category

The table below provides the detailed analysis of the provisions within the "Addresses Details of Employment Term" category.

Equation 5: Computation for Level of Detail in "Addresses Details of Employment Term" Category

				Total	Level of Policy Detail Rating
Length of Term & Extensions	26	0	0	26	3.00
Legal Rights of Workers' Spouses and Dependents	3	2	0	5	2.60
Recognition of Qualifications	5	12	5	22	2.00
Company Training	1	5	5	11	1.64
Total					2.39

B-1d – Addresses Program Administration Category

The table below provides the detailed analysis of the provisions within the Program Administration category.

Equation 6: Computation for Level of Detail in "Addresses Program Administration" Category

				Total	Level of Policy Detail Rating
Worker Education of Labor Laws	0	4	0	4	2.00
Establishment of Joint Committee	15	11	2	28	2.46
Administrator Contact Procedures	2	1	0	3	2.67
Recruiting Agencies Responsibility & Regulation	4	3	2	9	2.22
Establish channels to exchange information	1	8	1	10	2.00
Officials to monitor the program in the sending economy (temporary)	1	5	0	6	2.17
Total					2.30

Recruiting agencies are a central player in the movement of temporary workers and require the highest level of transparency and detail in the labor policies. Their transparency and regulation is a critical factor in creating a smooth process for worker movement. However, the *Recruiting Agencies Responsibility & Regulation* provision is addressed in only 9 agreements and is written at varying level of policy detail. By improving this aspect of labor policy, there could be a significant improvement in the process of temporary worker movement at the business and economy level.

The interview analysis revealed that workers are often unaware of labor laws that govern their movement to a foreign economy. The agreement analysis supports this concern, as there are only 4 agreements that address *Worker Education of Labor Laws* with an average level of detail.

B-1e – Costs & Worker Benefits Category

The table below provides the detailed analysis of the provisions within the Costs and Worker Benefits category.

Equation 7: Computation for Level of Detail in "Cost & Worker Benefits" Category

				Total	Level of Policy Detail Rating
Health Insurance	0	0	2	2	1.00
Recruitment Fees	7	13	2	22	2.23
Portability of Social Security	2	2	1	5	2.20
Avoidance of Double Taxation	0	0	0	0	0.00
Total					2.14

The three provisions below are important because they identify areas that have low levels of policy detail and that were commonly addressed as points of pain from our interview analysis.

- *Health Insurance* is addressed in only 2 agreements, and has the lowest level of detail, leading to a Rank of 1.00.
- *Recruitment fees* were addressed in 22 agreements but majority of the detail level was average. This clearly shows that this is an area that needs improvement in labor provisions.
- *Avoidance of Double Taxation* was not addressed in any agreements and therefore did not have a ranking.

Note:

There are separate agreements throughout the APEC region dedicated to the *Avoidance of Double Taxation*. Because of the specificity of these side agreements, they have been excluded from our comparative analysis. While this issue has been addressed by certain economies, it is important to note that reference to these separate agreements is not included in any FTAs or labor MOUs. For a topic that is important enough to write a full agreement, its reference should be included in the main trade agreements.

B-1f – Addresses Logistics of Workers’ Movement Category

The table below provides the detailed analysis of the provisions within the Logistics of Workers’ Movement category.

Equation 8: Computation for Level of Detail in "Addresses Logistics of Workers' Rights Movement" Category

				Total	Level of Policy Detail Rating
Transportation	4	0	1	5	2.60
Pre-Departure Orientation	0	5	0	5	2.00
Family Reunification	1	2	0	3	2.33
Repatriation Processes	3	0	5	8	1.75
Total					2.10

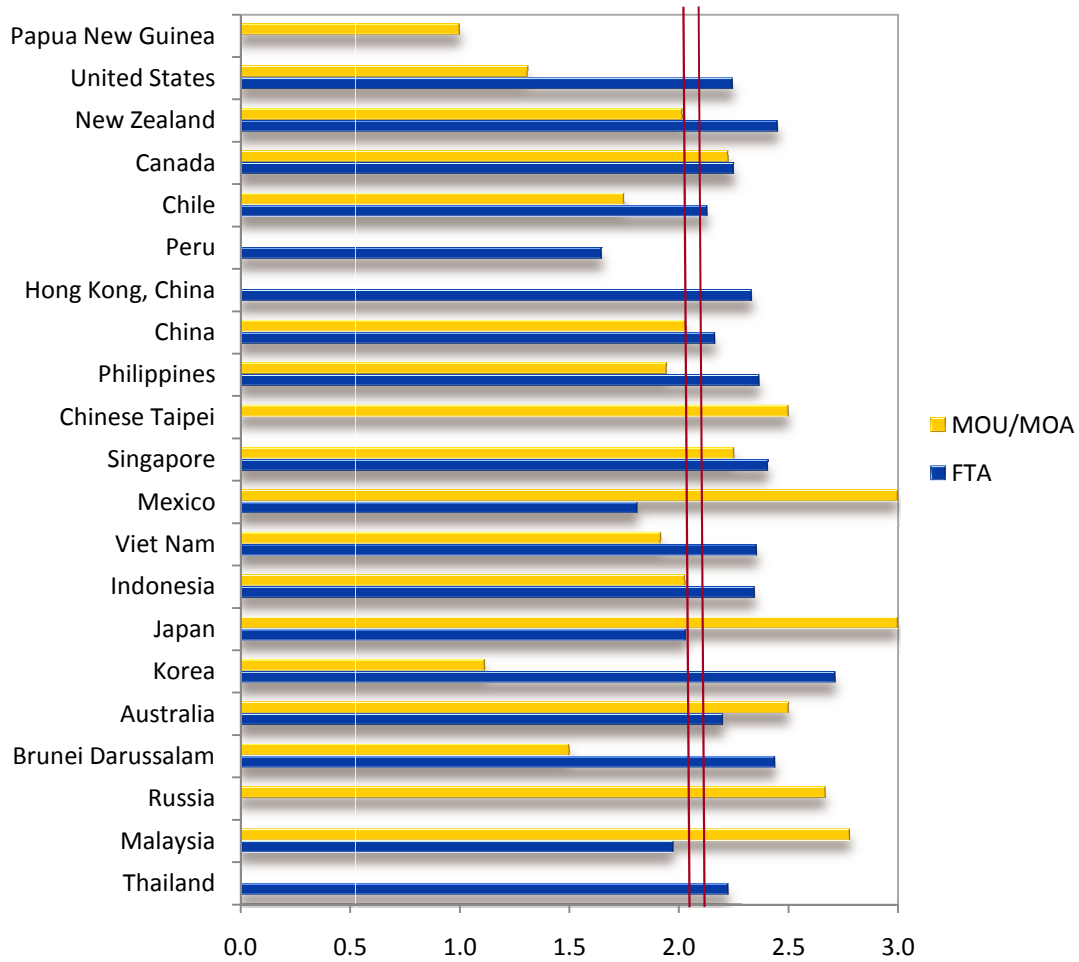
This table reports, perhaps, the single most important finding of our entire analysis of all temporary worker labor provisions. Repatriation of temporary workers is reported as a major issue in effective temporary worker labor programs by all executives and government officials across sending and receiving economies. However, *Repatriation Process* is addressed in just 8 agreements, with 5 using the lowest level of detail. *Pre-Departure Orientation* is another area that is often quoted as a concern for temporary worker movement, yet was only addressed in 5 agreements with a mediocre level of policy detail.

C. Economy-Specific Analysis – Many MOUs Fall Short of APEC Average for Level of Policy Detail

The Chart below shows the level of policy detail ratings for economies separated by type of agreement: FTA vs. MOU/MOA. The ratings are an average of each economies total level of policy detail ratings, with ratings split between FTAs and MOUs.

Equation 9: Economy Specific Level of Policy Detail Ratings

Economy-Specific Level of Policy Detail Ratings



FTA Average: 2.11
MOU Average: 2.09

Economies that have high level of detail in both FTAs & MOU/MOAs are the closest to model economies we have found in our research.

By examining the ratings from an economy perspective, it is worth noting:

- Thailand has the highest Level of Detail Rating in the FTAs; however, all of Thailand's agreements are FTAs and FTAs tend to have more detail than MOUs.
- Brunei Darussalam shows less detail in its MOU/MOA agreements than in the FTAs.
- Japan has a rating of 3 in its MOU/MOAs, showing the highest level of details across all its MOUs.
- Malaysia and Australia show up as examples of economies that have high level of detail among all agreements.

The FTA average is 2.11, just slightly higher than the MOU average of 2.09.

- 18 APEC economies have FTAs with labor provisions; 4 of those 18 have below average level of policy detail. (Chinese Taipei and Russia have no FTA agreements and therefore are excluded from this analysis.)
- 18 APEC economies have MOU/MOAs with labor provisions; 10 of those 18 have are below average in level of policy detail. (Hong Kong, Peru, and Thailand have no MOU agreements and are excluded from this analysis.)

Korea has a very high FTA detail rating (2.71), while Japan and Mexico's MOU ratings are the highest possible (3.00). But no economy has high ratings in both FTAs and MOUs.

In conclusion, the policy detail ratings in this section show where policy makers have been concentrating their efforts in writing agreements. FTAs have a higher level of policy detail than MOUs. Policy makers have made great progress through detailed policy regarding business persons, which has made their movement across economies more efficient. The true costs of facilitating the worker movement between economies are difficult to identify. While very few economies have a consistent level of policy detail for both FTAs and MOUs, some only utilize either FTAs or MOUs to address labor issues.

II. Similarity

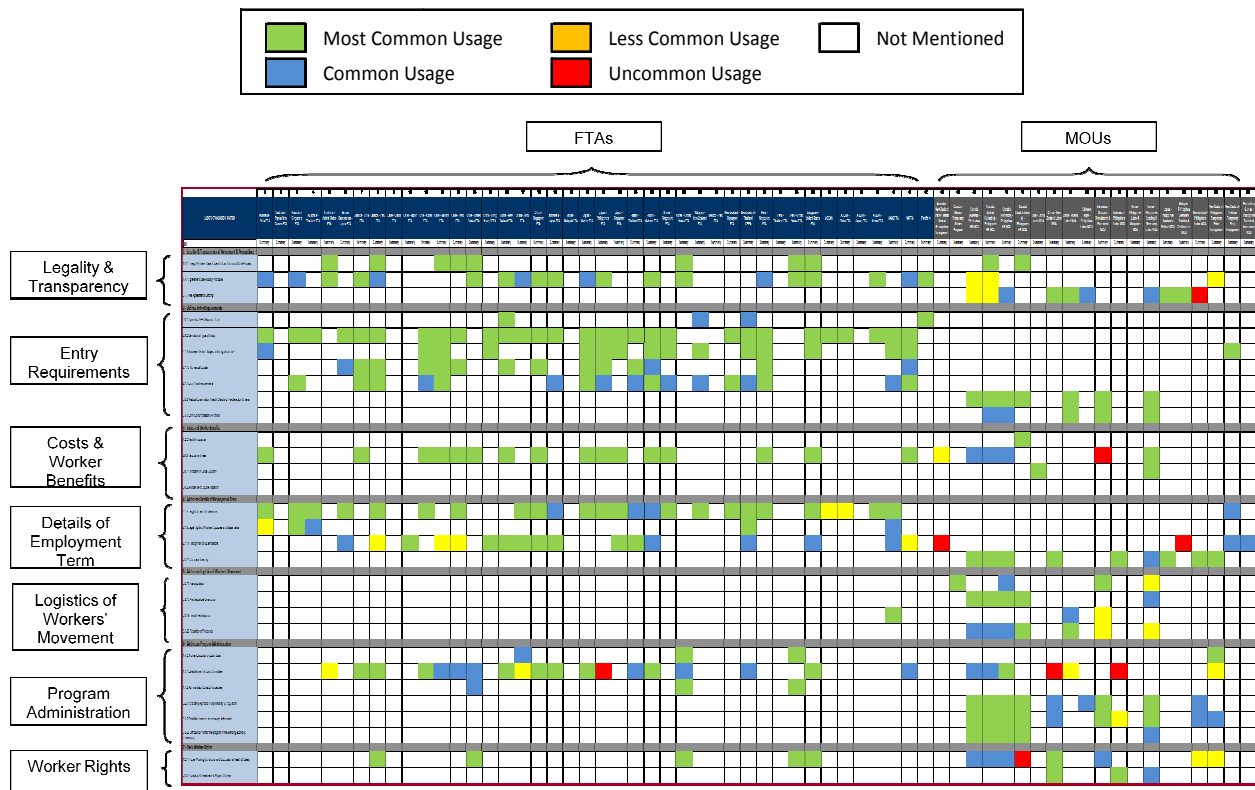
The Similarity analysis will be in the following format:

- A. Provision-Specific Analysis
- B. Category-Specific Analysis
- C. Economy-Specific Analysis

A. Provision-Specific Analysis Shows Varying Level of Similarity

The table below presents the level of similarity of the labor provision text across all FTAs and MOUs. The columns represent each of the agreements analyzed; each row represents the 30 Essential labor Provisions split into the seven sub-sections labeled below.

Figure 75: Screen Shot of FTA/MOU Matrix Showing Level of Similarity



The color-coded catalog allows us to see the varying level of similarity in FTAs vs. MOUs and within the seven sub-categories. Some initial findings are:

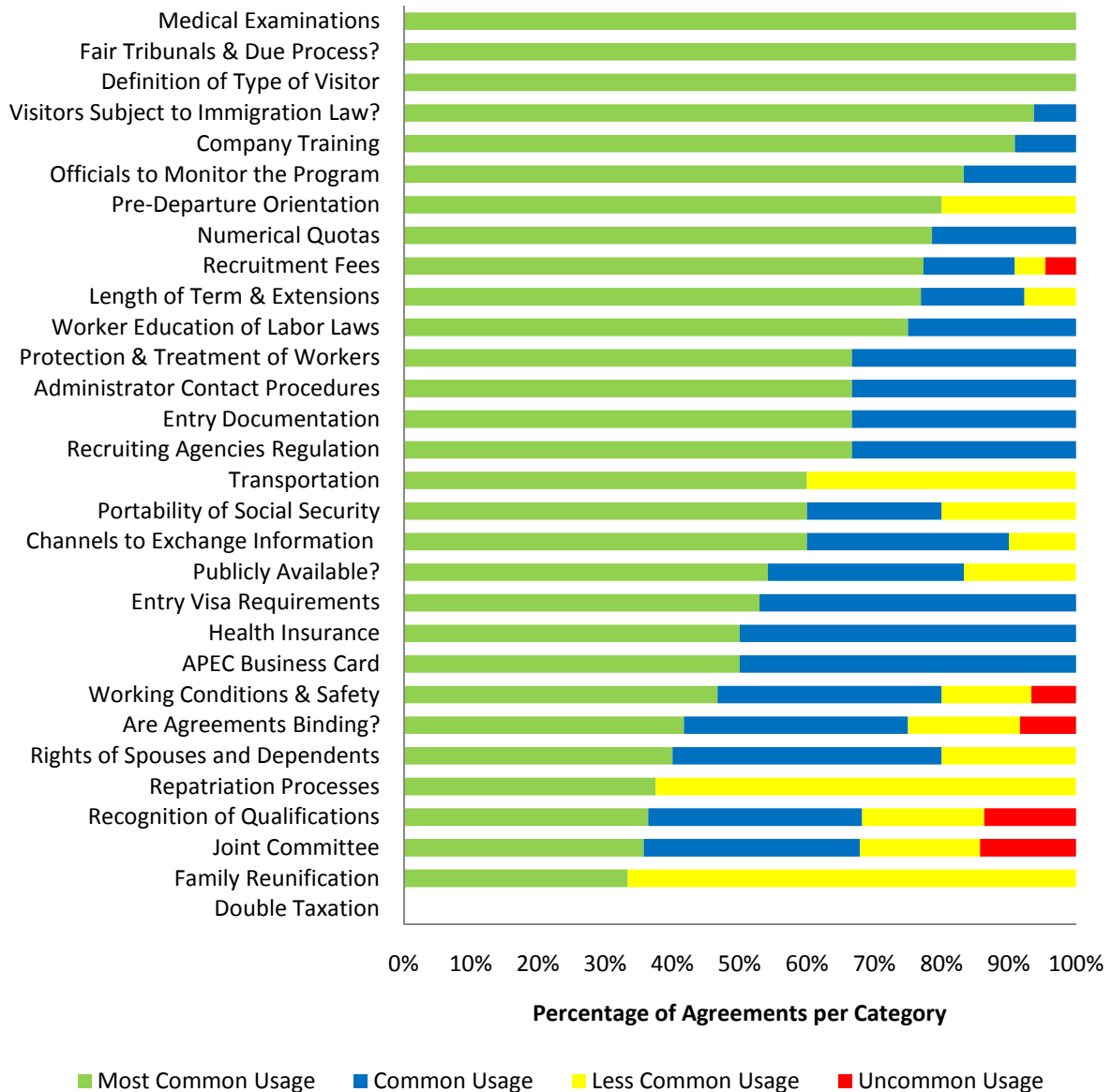
- The FTAs have the highest level of convergence; whereas the MOUs are idiosyncratic.
- *Legality & Transparency*, *Entry Requirements*, and *Details of Employment Term* provisions have much greater convergence, especially in FTAs.
- Provisions addressing *Logistics of Worker's Movement* and *Program Administration* are much more divergent.

A-1 – Movement Toward Similarity for Some Provisions

This chart shows that while provisions are moving towards convergence, certain key provisions are still highly divergent. The colors of the bar represent the percentage of agreements that fit into each of the four convergence categories defined previously.

Figure 76: Level of Similarity Across Labor Provisions

Similarity Percentages By Provision



A-2 – Critical Provisions Still Remain Different

The table below separates some of the Essential Labor Provisions into 3 categories based on level of similarity.

High similarity provisions are addressed with similar language in all agreements that address that particular labor provision. Conversely, the low similarity provisions are addressed in up to 4 different ways across agreements, while medium similarity provisions fall somewhere in between the other two categories.

Figure 77: Categorizing the Level of Provisions into 3 Levels of Similarity

High Similarity	Medium Similarity	Low Similarity
<ul style="list-style-type: none"> • Medical Examination • Fair Tribunals & Due Process • Definition of Type of Visitor • Company Training 	<ul style="list-style-type: none"> • Protection & Treatment of Workers • Administrator Contact Procedures • Entry Documentation • Recruitment Agencies Regulations • Transportation 	<ul style="list-style-type: none"> • Recruitment fees • Are Agreements Binding? • Recognition of Qualifications • Joint Committee

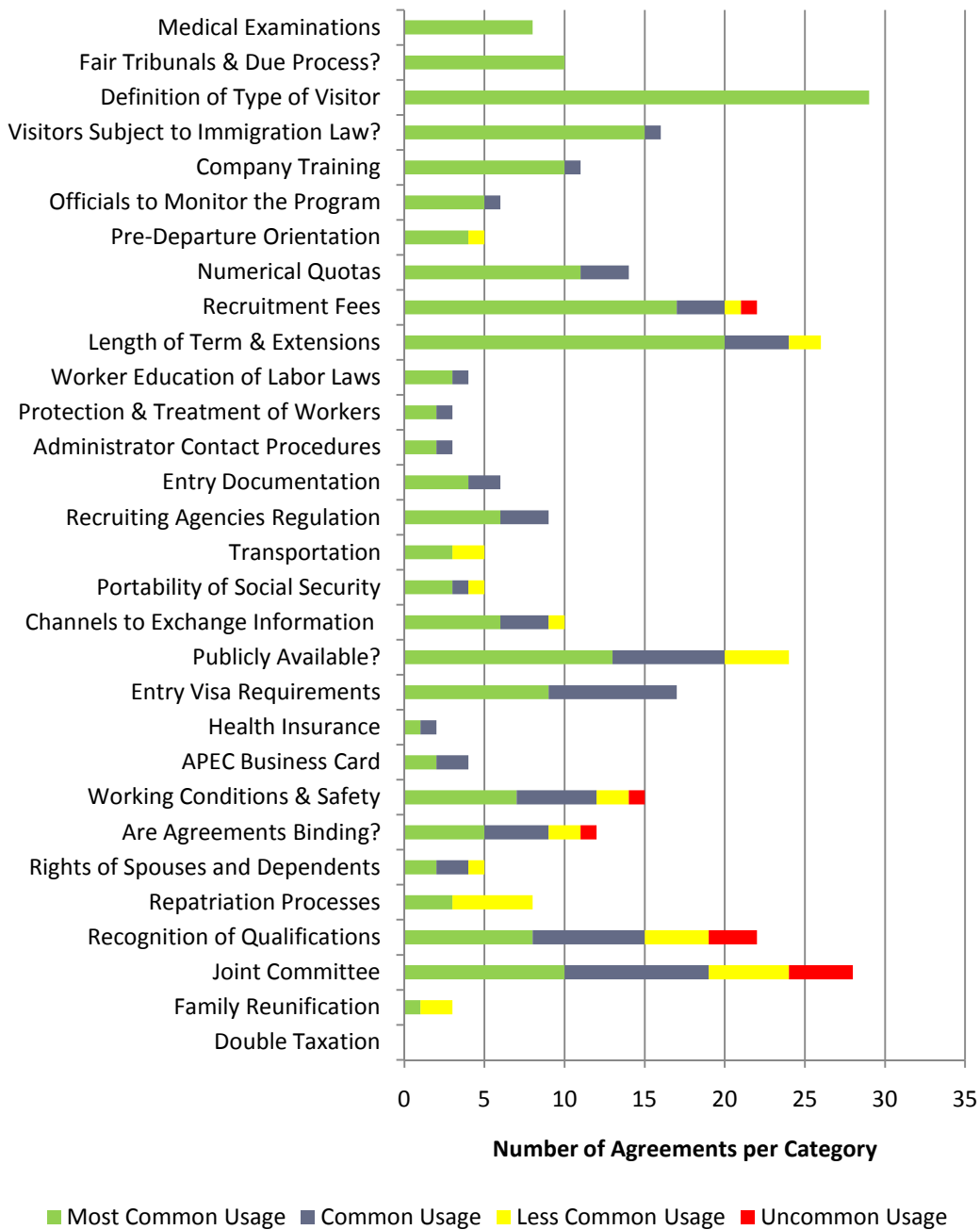
Provisions such as *Definition of Type of Visitor* contain similar language and method across APEC. However, critical provisions such as *Recognition of Qualifications* and *Recruitment Fees* are addressed in different ways across all agreements.

The differences in the language used in provisions tell the real story that is driving up costs and barriers to worker movement. When policy is written inconsistently across economies, businesses and individuals are forced to create different processes for trade with different economies. These added process costs are creating significant inefficiencies and barriers to trade.

A-3 - Differences in Labor Provision Language Is Creating Trade Barriers and Driving Up Costs

This chart shows the number of FTA and MOU agreements and the differing language of policy in the 30 Essential Labor Provisions. The length of the bar represents the number of FTAs and MOUs that address that specific labor provision. The color of the bar represents the level of similarity of the policies across agreements.

Figure 78: Similarity of Language Ratings by Provision



Provisions that are addressed by just a few agreements are usually similar in content and consistent in language. However, provisions that are addressed in high numbers of agreements are done so with increasingly divergent content and language.

- *Recognition of Qualifications and Recruitment Fees* are addressed in 22 agreements. However, there is significant divergence in how qualifications and fees are addressed within these agreements.
- *Establishment of a Joint Committee* is addressed in 28 agreements, but there are 4 divergent methods of addressing its authority and responsibilities.

The different approaches and motivators for negotiating FTAs and MOUs have led to divergent content and language across the *30 Essential Provisions*. The move towards convergence seen in provisions affecting business persons is a step in the right direction to harmonize policy in the APEC region. Economies need to be encouraged to streamline policy to lower the complexity and divergence across the APEC region. Divergence is creating barriers and driving up costs to both individuals and businesses.

B. Category-Specific Analysis – Seven Provision Categories Vary on Similarity and Ratings

The table below presents a ranking of the labor provisions by the level of convergence. A simple weighted average method was used to summarize the similarity rating for each labor provision within each FTA and MOU. (Please see Equation 2: Convergence Rating Computation)

- A score of 4 would represent greater similarity in the labor provisions language across all FTAs and MOUs.
- Conversely, a score of 1 would denote differing language in the labor provisions. Each FTA and MOU takes an entirely different approach to that labor provision.

Note:

While *Worker Rights* show up as a low similarity rating category, the commitment to human rights is a separate topic outside the scope of this project. We have included it in our framework of the 30 *Essential Provisions*, because it remains a critical issue in the trade in labor. However, our analysis will only focus on categories that address the business and economic implications of worker movement.

Figure 79: Ranking of Provision Category Ratings

Provision Category Rankings	
Essential Labor Provision Category	Rating
Defines Entry Requirements	3.83
Costs and Worker Benefits	3.59
Legality & Transparency of Agreement & Proceedings	3.43
Addresses Details of Employment Term	3.42
Addresses Program Administration	3.30
Worker Rights	3.28
Addresses Logistics of Workers' Movement	3.05

The high similarity ratings for *Entry Requirements* show that policy decisions are most common in this area. This similarity allows for greater standardization for businesses that operate in multiple economies. However, the category with the lowest ratings – *Logistics of Worker Movement* – is a category that most greatly affects the movement of temporary workers. Here are many of the issues that have caused business problems and inefficiencies that drive up the barriers and costs to hiring temporary workers.





The following section will show the detailed provision ratings under each of the six categories listed above.

B-1 – Similarity Category Ratings Identify Labor Provisions with Differing Language

This section will show the similarity ratings for all six categories, excluding *Worker Rights*.

The tables below will provide the Similarity Ratings for the 30 Essential Provision separated by category.

- The colored columns include the number of agreements that fall under the 4 similarity categories defined in the legend below.
- The total column represents the total number of agreements that address each essential provision.
- The ratings are calculated using a basic weighted average scheme. (Please refer to Equation 2: Convergence Rating Computation).
- The Total Category Ratings is an average of the provision’s ratings.

Legend:			
	Most Common Usage		Less Common Usage
	Common Usage		Uncommon Usage

There will be an in-depth analysis of the following categories as they have lower similarity across agreements: “*Addresses Detail of Employment Term*”, “*Addresses Program Administration*”, and “*Addresses Logistics of Workers’ Movement*”. Data for other categories is also provided, but the emphasis will be placed on the categories listed above.

B-1a - Defines Entry Requirements Category

The table below provides the detailed analysis of the provisions within the Entry Requirements category.

Equation 10: Computation of Level of Similarity in "Defines Entry Requirements" Category

					Total	Similarity Rating
2.0.1 Approves APEC Business Card	2	2	0	0	4	3.50
2.0.2 Definition of Type of Visitor	29	0	0	0	29	4.00
2.1.6 Business Visitors Subject to Immigration Law?	15	1	0	0	16	3.90
2.1.10 Numerical Quotas	11	3	0	0	14	3.80
2.1.7 Entry Visa Requirements	9	8	0	0	17	3.50
3.3.8 Medical Examination, Health Checks & Pre-Selection Criteria	8	0	0	0	8	4.00
3.3.9 Entry Documentation & Permits	4	2	0	0	6	3.70
Total						3.83

The Entry Requirements section has the highest level of convergence rating among the 7 Labor Provision categories.

- *Definition of Type of Visitor* was addressed in 29 agreements; the text of all 29 agreements was similar and consistent. Often the defined visitors are business persons and high-skilled professionals, rarely addressing other workers.
- *Numerical Quotas* limit the number of temporary workers movement to and from an economy and generally show convergence among agreements.
- *APEC Business Card*, although not addressed often, is convergent and focuses on the movement of business persons.
- *Business Visitors Subject to Immigration Law* makes reference to the economies overlap of their unilateral laws with labor provisions addressing temporary worker movement.

Labor provisions which define entry requirements have the highest level of similarity across agreements. The labor provisions above, however, have a strong focus on the entry requirements for business persons rather than on temporary worker movement.

B-1b – Costs and Worker Benefits Category

The table below provides the detailed analysis of the provisions within the Costs and Worker Benefits category.

Equation 11: Computation of Level of Similarity in "Costs and Worker Benefits" Category

					Total	Similarity Rating
1.2.2 Health Insurance	1	1	0	0	2	3.50
2.0.0 Recruitment Fees	17	3	1	1	22	3.60
3.0.1 Portability of Social Security	3	1	1	0	5	3.40
3.0.2 Avoidance of Double Taxation	0	0	0	0	0	0.00
Total						3.59

B-1c – Legality & Transparency of Agreement & Proceedings

The table below provides the detailed analysis of the provisions within the Legality & Transparency of Agreement & Proceedings.

Equation 12: Computation of Level of Similarity in "Legality & Transparency of Agreements & Proceedings" Category

					Total	Similarity Rating
1.3.1 Foreign Workers Have Access to Fair Tribunals & Due Process	10	0	0	0	10	4.00
1.4.1 Agreements are Publicly Available	13	7	4	0	24	3.40
3.1.1 Are Agreements Binding?	5	4	2	1	12	3.10
Total						3.43

B-1d – Details of Employment Term Category

The table below provides the detailed analysis of the provisions within the Details of Employment Term category.

Equation 13: Computation of Level of Similarity in "Details of Employment Term" Category

					Total	Similarity Rating
Length of Term & Extensions	20	4	2	0	26	3.80
Legal Rights of Workers' Spouses and Dependents	2	2	1	0	5	3.20
Recognition of Qualifications	8	7	4	3	22	2.90
Company Training	10	1	0	0	11	3.90
Total						3.42

- *Recognition of Qualifications* is a major point of divergence across all agreements and economies. A lack of mutual recognition represents a significant barrier to temporary worker movement. To facilitate cyclical movement of workers, businesses and workers need clear multilateral definitions of worker credentials that will be accepted in other economies. If the similar credentials are not accepted across economies, workers are limited to particular economies and significant barriers to circular flow are perpetuated.

B-1e – Logistics of Workers' Movement Category

The table below provides the detailed analysis of the provisions within the Logistics of Workers' Movement category.

Equation 14: Computation of Level of Similarity in "Logistics of Workers' Movement" Category

					Total	Similarity Rating
Transportation	3	0	2	0	5	3.80
Pre-Departure Orientation	4	0	1	0	5	3.60
Family Reunification	1	0	2	0	3	2.70
Repatriation Processes	3	0	5	0	8	2.80
Total						3.05

- *Repatriation Process* and *Family Reunification* both show high level of divergence implying that the agreements address these issues differently. When receiving and sending economies do not have a repatriations process in place, there is a higher likelihood that the worker will remain illegally in the receiving economy once his or her job is complete. This then breaks down the circular nature of temporary worker movement. There needs to be a consistent manner in which to address these labor provisions to avoid the issue of overstaying.

B-1f – Addresses Program Administration Category

The table below provides the detailed analysis of the provisions within the Program Administration category.

Equation 15: Computation of Level of Similarity in "Addresses Program Administrative" Category

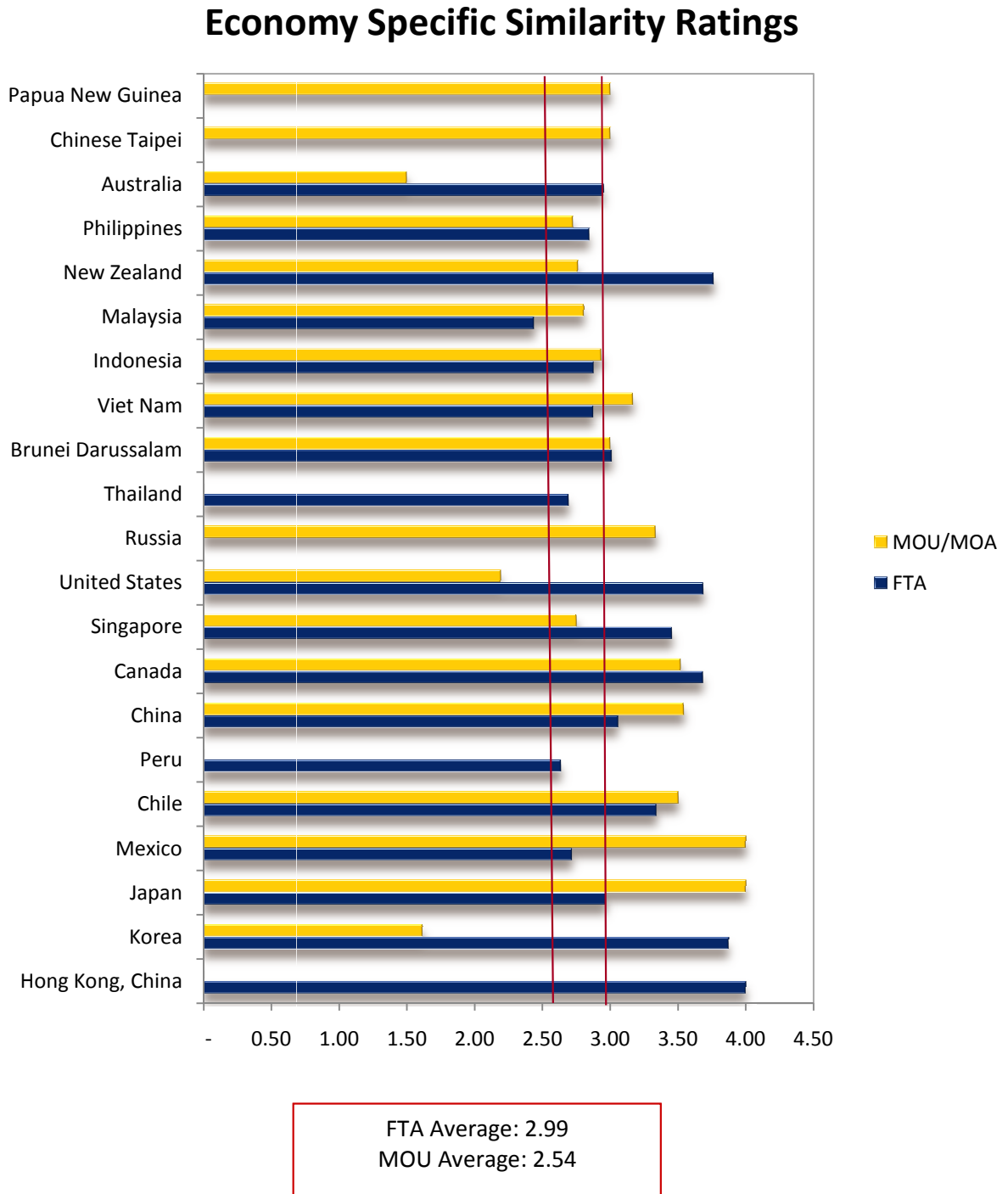
					Total	Similarity Rating
Worker Education of Labor Laws	3	1	0	0	4	3.80
Establishment of Joint Committee	10	9	5	4	28	2.90
Administrator Contact Procedures	2	1	0	0	3	3.70
Recruiting Agencies Responsibility & Regulation	6	3	0	0	9	3.70
Establish channels to exchange information	6	3	1	0	10	3.50
Officials to monitor the program in the sending economy (temporary)	5	1	0	0	6	3.80
Total						3.30

- *Establishment of Joint Committee* is heavily addressed in agreements, however, many of the agreements are divergent. Creating an APEC-wide multilateral Joint Commission would effectively spell out how the commission's authority and responsibilities contribute to the level of oversight.

Economy-Specific Analysis – Similarity Ratings Show that FTAs are More Similar in Language than MOUs

The chart below shows the convergence ratings separated by type of agreement: FTA vs. MOU/MOA. The ratings were calculated by averaging the total convergence score for the economies FTAs and MOUs separately.

Figure 80: Level of Similarity in FTAs & MOUs for Each Economy



On average, FTAs have a higher convergence level than that in the MOUs.

- Specifically, provisions created by Hong Kong in its FTAs have the highest level of similarity across FTAs. Although the economy only has one FTA in place with China, its provisions are similar in language with the provisions entered by other economies in general.
- Japan and Mexico show the highest level of similarity in their MOU/MOAs.
- In sum, the level of similarity varies in rating between 3 and 4, showing relatively similar language across agreements.

The FTA average is 2.99, which is higher than the MOU/MOA average of 2.54.

- 18 APEC economies have FTA agreements with labor provisions; 10 of those 18 have below average similarity across agreements. (Chinese Taipei, Papua New Guinea, and Russia have no FTA agreements and therefore are excluded from this analysis.)
- 18 APEC economies have MOU/MOA with labor provisions; 3 of those 18 are below average in level of policy detail. (Hong Kong, Peru, and Thailand have no MOU agreements and are excluded from this analysis.)

Similarity ratings are calculated based on the similarity of the content of the labor provisions. It is important to note that the ratings are skewed towards those economies that have fewer agreements. For example, Hong Kong has only one labor agreement and therefore has the highest similarity rating of 4.00, because there is no comparison.

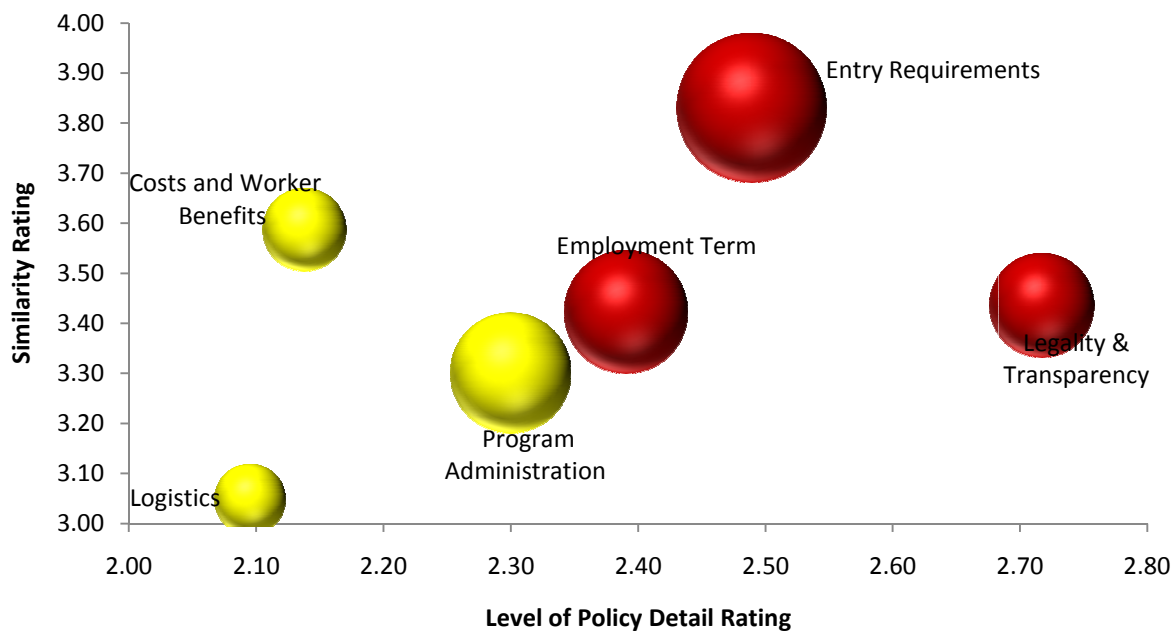
However, the similarity ratings in this section show that the content of the labor provisions varies across economies by the type of agreement. FTAs generally have higher similarity ratings than MOUs. Economies are able to harmonize the language of labor provisions in FTAs, but, there are no economies or provisions that have a consistent level of similarity across FTAs and MOUs.

III. Qualitative Evaluation of Specificity and Similarity

A. Progress Must be Made on the Issues that Affect Worker Movement

The chart below plots the *Level of Policy Detail* against the *Similarity Ratings* for the seven categories of labor provisions.⁵⁰ Each bubble is weighted for total quantity of provisions in each category in the agreements. The red bubbles represent the provision categories that are addressed with a high level of detail and similarity across all FTA and MOU agreements. The yellow bubbles identify the categories that have less detail and similarity across the labor provisions and therefore are the focus for improving temporary worker movement.

Figure 81: Matrix of Detail and Similarity Ratings for Each Provision Category



The size and positioning of the bubbles for *Entry Requirements* and *Legality & Transparency* show that much work has been done in setting up the process for the movement of labor, especially for business persons.

However, the small size and low positions of *Costs & Worker Benefits*, *Program Administration* and *Logistics of Worker Movement* show that there is much room for progress in policy to address these neglected issues of worker movement.

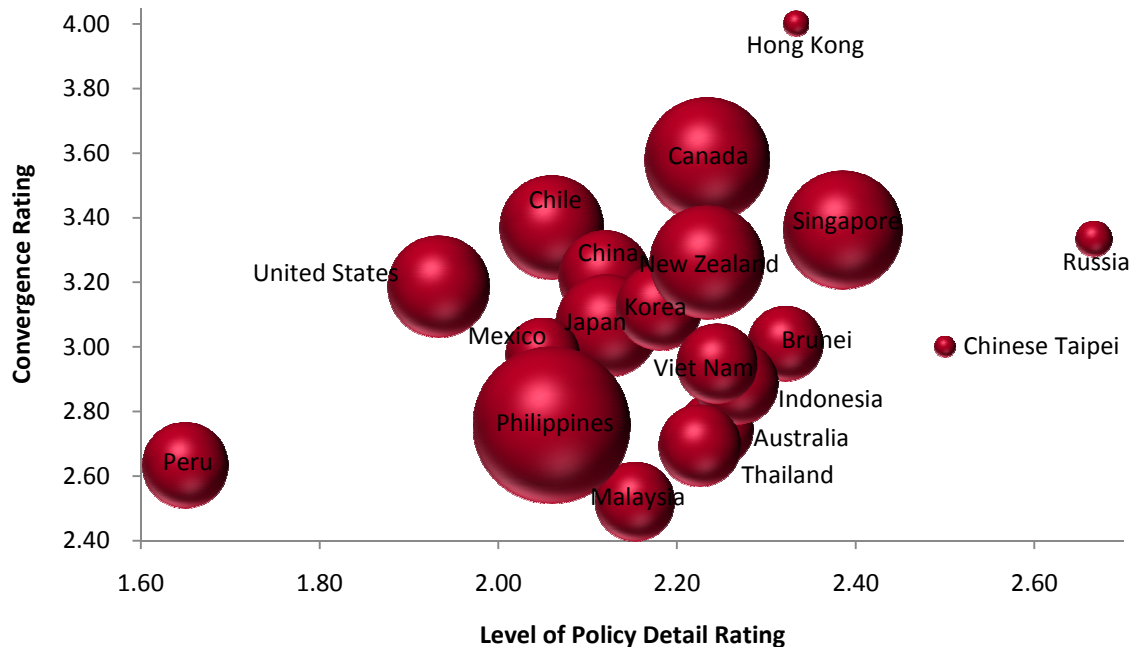
These neglected issues are perpetuating significant, unintended barriers to the flow of temporary workers and are driving up the costs of movement for both individuals and businesses. These barriers are real. Effective multilateral policy is needed in these key areas to reduce barriers, facilitate greater flow of workers and progress towards a more inclusive APEC Region.

⁵⁰ *Commitment to ILO & Basic Worker Rights* is not shown in this graph because it addresses the commitment to human rights which is a separate topic outside the scope of this project.

Economies Vary Greatly in their Commitment to Writing Effective Policy

The chart below shows a cross-section of the *Level of Detail* and *Convergence Rating* by economy.

Figure 82: Matrix of the Level of Detail & Similarity Rating for Each Economy



The provisions category bubbles are merged around the center, meaning economies are addressing the issue of worker movement in very similar ways.^{51, 52} Most are writing policy with an average level of detail and very few economies are writing highly convergent policy. Region-wide, there is a trend towards convergence; however, there are still major points of pain surrounding temporary worker movement.

This convergence shows that although economies are addressing temporary worker movement in similar ways, the focus may be in the wrong place. This is why it is critical that APEC take the lead in addressing the movement of workers. While recognizing the right of individual economies to pursue their own agendas, APEC's role of facilitating *Progress through Inclusive Growth* dictates it must set the direction for effective policy that is workable for economies, businesses and individuals.

Progress can only come through multilateral cooperation. APEC must take the lead in creating the standards to harmonize the creation of comprehensive policy.

⁵¹ Papua New Guinea represents a significant outlier (*Level of Detail Rating* of 3, *Convergence Rating* of 2), and was excluded from this graph to better illustrate the relationship of other APEC economies.

⁵² The size of the bubble reflects the number of agreements each economy is involved in.

Catalog Conclusion

The progress that has been made in liberalizing the movement of business workers is commendable. But as economies compete over the same business visitors, the workers that are needed to fill labor shortages are being neglected. The solitary focus in FTAs on business persons is leading to a proliferation of MOUs that, while contributing solutions for workers, is also add complexity and confusion. Certain MOUs, such as the *Canada – Mexico Temporary Agriculture Worker Program* and the *Canada (Manitoba) – Philippines Caregivers MOU* stand out as having taken the necessary proactive steps to address specific industry shortages. Economies with FTAs regarding business persons must go back and include provisions on workers. Economies without agreements must begin the long process.

Policymakers must find ways to fill in the labor-related gaps that appear in existing agreements. The University of Southern California has created a CD containing a comprehensive catalog of labor provisions and proposed the *30 Essential Provisions* to initiate action. While we would like to report that policy gaps are limited to here and there, the there in fact are more gaps than there is content. The *30 Essential Labor Provisions* are highly under-utilized, leading to agreements that are more symbolic than substantive. *Model Measures* are critical to developing comprehensive policy that guides markets with a coordinated effort and reduces frictions and barriers to trade. Significant progress has been made defining *Entry Requirements* and establishing *Legality*, yet critical provisions regarding *Recognition of Qualifications*, *Repatriation*, *Pre-departure Orientation*, *Portability of Social Security & Benefits* and *Regulation of Recruitment Agencies* are severely lacking in content and specificity in agreements.

Real shortages of skilled and low/medium skilled workers exist, and are predicted to increase with time. Yet, this critical need is not reflected in the current state of policy. The instinctive tendency in the face of a recessionary environment is to guard against external influences and to erect protectionist barriers intended to control and manipulate the flow of labor. Labor agreements in the APEC region indicate that protectionist tendencies still persist. Current policies focus on controlling and limiting worker movement rather than facilitating it. Collective policies and programs that facilitate temporary worker movement stand to produce real economic benefits and must be reflected in labor agreements. Much is lost if protectionist tendencies prevail and international labor mobility continues to be neglected.

Courage and political will is needed to create effective new policies that will facilitate labor movement and produce inclusive growth. The inherent fear hindering the liberalization of trade in labor is the perception that facilitating temporary workers is a front for informal immigration. However, both sending and receiving economies share the essential concern that temporary workers return home after their jobs are completed. To address this and other vital concerns, official, explicit, temporary worker programs must be written directly into policy. The extra-territorial component of temporary worker programs necessitates multilateral cooperation on all sides of the hiring transaction and the invisible hand of the market is incapable of bringing this level of coordination. The goal of vibrant labor markets can only be achieved through intelligent, workable, flexible policy. Progress toward truly integrated labor markets will take time, perhaps requiring decades of collective effort. How progress is made depends critically on the economic and labor market policies put in place now by individual economies, the international community, and businesses.

Conclusions & Recommendations

Conclusions

If there is one single conclusion we want drawn from this report, it is the urgency with which real attention needs to be focused on the issue of temporary worker mobility. Continuing and growing needs for skilled, semi-skilled, and low skilled workers, across economies and industrial sectors, demand that this issue be addressed. The alternative is sobering to contemplate. Progress toward truly integrated global labor markets will take time, perhaps requiring decades of collective effort. Whether progress is smooth, awkward, or an utter failure depends critically on the economic and labor market policies put in place now by individual economies, the international community, and businesses.

Motivated by acute labor shortages or abundant supplies of labor, some economies are actively seeking solutions. Others, with different and more pressing economic development issues, have set the issue to the side. The net result is an uneven, patchy, and complex web of differing national entry regimes and labor agreements in FTAs and MOUs across APEC. Current policies tend to focus on controlling and limiting worker movement rather than facilitating it. However, the extra-territorial and cyclical nature of temporary worker movement requires a coordinated multilateral approach.

Those who prefer the alternative, more of the status quo, should consider the long-term consequences. Critical labor shortages and skill gaps will continue to inhibit the competitiveness of businesses, impact the quality of life, and stunt the economic growth of economies, despite supplies of qualified and willing workers in labor rich economies. Businesses will seek their own solutions to ensure their own survival. Those economies that develop and facilitate effective temporary worker programs, all things being equal, will outperform those that do not, further expanding the development divide. Furthermore, Labor policy agreements will continue to be negotiated bilaterally, leading to suboptimal regional growth, and creating unnecessary inertia against future more cooperative multilateral approaches. As a result of the differing interests of the multiple parties involved, and the complexities inherent in the temporary labor movement process, the invisible hand of the market is likely not to produce efficient solutions.

This report, unfortunately, makes it easy to understand why labor mobility is a neglected topic in discussions of globalization as well as trade and investment. Issues surrounding temporary worker movement are a full magnitude more difficult and complex than those of liberalizing and facilitating trade in goods and services. Public opinion has been conditioned, a priori, to be against labor mobility. Fears of job losses, the lowering of local wages, and unwelcomed burdens on social services, make it extremely difficult to get politician and policy makers to engage in reasoned discussions. Further, the extra-territorial and cyclical nature of temporary worker movement requires cooperation and coordination across economies. However, differences in motivation, in economic development agendas, and in where governmental responsibility for temporary worker mobility resides in different economies make it very difficult to initiate and sustain meaningful dialogs among governments. It is easy see how protectionist sentiments and the sheer complexity of the temporary worker mobility issue have led to its neglect.

The opportunities for inclusive economic growth from facilitating temporary worker movement are real. But so are the dangers of continued neglect. Current and projected labor shortages are real, and their projected impact on economic growth and quality of life, particularly in developed economies, are sobering to contemplate. Where work is location-specific, jobs cannot be outsourced to labor rich economies. Workers must be brought to the jobs because there is no other real alternative. Temporary worker mobility is *not* a zero-sum game. Benefits are shared, and it does lead to inclusive growth. The self-interest of developed economies, where labor shortages are the greatest, ought to make them as interested, if not more interested, in working out effective solutions than labor rich economies.

Businesses are impatient. They want action. They want improvements. For them this topic has been neglected for too long. They directly feel the economic impact of inefficient and ineffective temporary worker programs. That pain is passed on to society in the form of lost investments, slower growth, lost competitiveness, on lower standards of living. Across our interviews, the voice shared by business was one of opening up existing channels or creating new ones so that more workers can move. This can lead to lowering transaction costs of temporary worker movement, finding solutions that benefit both receiving and sending economies, ensuring the fair treatment of workers, developing governmental capabilities to manage and coordinate the flow of workers with other economies, improving and expanding current labor agreements, or negotiating new ones in multilateral rather than bilateral ways, and including temporary worker movement as a part of the ongoing discussions of trade liberalization and facilitation.

Collective courage and political will is needed to create effective new multilateral policies that will facilitate labor movement, reduce costs to individuals and businesses, and produce inclusive growth. This report suggests APEC has an important role to play in setting the agenda for the needed discussion and debate on temporary worker movement, and in encouraging regional rather than unilateral or bilateral approaches. Unilateral and bilateral approaches are suboptimal. They introduce unnecessary complexity which increase costs to individuals and businesses. Currently economies differ widely in approaches taken to establishing temporary worker entry requirements, and in temporary worker labor provisions included in FTAs and MOUs. In our view, the extra-territorial dimension of temporary worker movement necessitates regional cooperation. Approaches must be found that address the interests of both sending and receiving economies. Regional approaches to facilitating temporary labor movement will ensure that economic growth is more inclusive and the benefits are widely-shared.

Action Items

1. **Make international labor mobility an APEC priority.**

Labor mobility must be moved to the top of the APEC agenda. The sheer magnitude of negative public opinion that immediately surfaces when the topic of migration and temporary workers is raised, quickly drives reasoned discussions of the economic benefits of temporary workers from the public agenda. In our opinion, nothing short of a joint statement by APEC leaders on the importance of temporary worker programs to all economies is needed to change minds, make it a priority, and bring the needed attention and resources to the topic to make a difference. Without such a joint statement, domestic political realities will keep it off of domestic agendas.

The economic and social impacts of labor shortages are well understood. Calls for further study of the need for temporary worker programs are essentially calls for further delay. Discussions and debate must move forward to focus on how to create and facilitate effective temporary worker programs which benefit both sending and receiving economies. For this to happen, policy makers and government officials across all economies must be given clear deadlines and a mandate to devote time, energy, and resources, to formulating improved labor policies and developing the management capabilities to support temporary worker movement. Developing efficient and effective temporary worker policies and programs will take time and will involve some very difficult multilateral negotiations. Not all economies are equally ready for the debate, but, labor mobility needs to have a priority in ongoing discussions of trade liberalization and facilitation within APEC.

We urge APEC Leaders to make a joint statement prioritizing labor mobility.

2. **Coordinate the development of governmental capabilities to manage temporary worker flows across economies.**

A key deficiency inhibiting the efficient flow of workers and their repatriation to their home economies is the absence of coordinated governmental management and administrative systems to cope with such labor flows. Individual economies have in place differing administrative systems in places which are managed with differing levels of capability. The extra-territorial and cyclical nature of temporary worker movement requires that governments cooperate and coordinate. Administrative infrastructures (i.e. IT systems, informational and educational websites, communication channels between governments and with workers in foreign economies, registration and repatriation procedures, transfers of social security, etc.) must be developed within a regionally agreed upon architecture. National approaches, or even bilateral approaches, will introduce unnecessary complexity into the process.

We urge APEC to establish an APEC taskforce to study current systems and capabilities across economies and to offer recommendations for establishing a region-wide architecture for developing governmental management systems and capabilities.

3. **Improve governance and oversight of recruiting agencies across sending and receiving .**

Recruitment agencies, both public and private, play a crucial role in the efficient flow of temporary workers. They also create opportunities for unethical business persons and government officials to perpetrate some of the most heinous crimes against defenseless and unsuspecting workers, and employers. Good governance of recruitment agencies is critical for the efficient flow of workers and for their protection. Region-wide standards should be established. Recruitment agencies should be registered, credentialed and subjected to regular monitoring and evaluation. Given the cross-border nature of the recruitment agency activities oversight should be established at the regional as well as at the national level. We recommend that APEC create an APEC-wide certification process. Those labor agencies that meet established standards would be certified by APEC which would improve the level of confidence of employers and employees in the entire process. Additionally certified labor agencies could be empowered to take on much of the administrative work that is needed to facilitate temporary worker flows. This might include verification of worker qualifications, verification of employers, processing worker benefits during and post employment, and managing the sending and repatriation process for workers.

We urge APEC to establish a taskforce to establish governance protocols for labor agencies, to make recommendations on how to create and implement an APEC-wide certification process, and to offer proposals for creating an APEC-wide entity to monitor and evaluate recruitment agencies.

4. **Develop APEC-wide model measures for effective labor policy.**

The absence of globally agreed upon frameworks for negotiating labor agreements has led to significant differences in the approaches taken, and the language used, within existing labor mobility policy contained in APEC FTAs and MOUs. Individually, each negotiated agreement is an effective solution. However, a complex web of differing agreements with different levels of coverage and specificity increases transaction costs for businesses and individuals. Model measures are needed to provide structure for all further labor agreements. In this study, we have identified 30 labor provisions which we argue are essential for a labor agreement to be minimally complete. Our research suggests that a set of labor model measures should include the logistics and costs of worker movement and worker benefits. Specific model measures should be developed to deal with issues in transportation, pre-departure orientation, repatriation, mutual recognition of qualifications, recruitment agency regulation, recruitment fees, portability of social security benefits, and double taxation. These may be a starting point for a more detailed discussion with APEC on model measures for labor agreements.

We urge APEC to establish a taskforce to create a set of model measure for labor chapters within FTAs, and for negotiating labor-specific MOUs.

5. **Foster and improve public-private cooperation within and across economies.**

The misalignment between government policies promoting temporary workers and the needs of business needs to be fixed through improved cooperation and communication between government agencies responsible for temporary programs and businesses. More importantly, the projected increases in labor shortages require even closer cooperation of business with government agencies both within and across economies. Cooperation cannot be limited to intra-economy partnerships. Governments must allow for increased coordination between economies and business counterparts in other economies to ensure the proper process flow on both sides of the worker movement transaction. Partnerships between region-wide industry associations and government agencies are essential. Forums for voicing the needs of businesses, sharing ideas and best practices on temporary worker movement, and enhancing public-private cooperation, should be established. Including the voice of SMEs in this dialog is essential. They are the forgotten players.

We urge APEC to take the lead in convening across economy public-private forums for voicing business concerns, and for the sharing of ideas and business practices on temporary labor mobility.

6. **Centralize responsibility and accountability for temporary worker labor policy formulation, implementation, and management within a single government agency.**

For differing reasons, many governments within APEC have given responsibility for managing issues of labor to different governmental agencies. Furthermore, governments often give responsibility for different aspects of labor to different agencies. We found that in many economies responsibility for temporary worker policy was given to agencies responsible for foreign affairs or trade. In others, it was a part of the Ministry of Labor. The Ministry of Labor typically assigned the handling of bilateral and multilateral discussions on temporary worker labor agreements to the government agency responsible trade negotiations. This greatly complicates the coordination of temporary worker flows between economies. To improve the formulation and implementation of temporary worker labor policy, we recommend that governments centralize responsibility and accountability in a single government agency.

We urge APEC to recommend to member governments that responsibility and accountability for temporary worker labor mobility be centralized in a single government agency.

7. **Focus creative energy on approaches that facilitate mutual recognition and verification of professional credentials and qualifications.**

Recognition and verification of worker credentials and qualifications is one of the most intractable challenges in temporary worker mobility. There are no easy solutions. Differences in national approaches, problems of legacy and inertia, and the lack of appropriate international forums to work out solutions compound the problem. Legitimate national qualification standards must be acknowledged, and unnecessary and unintentional requirements should be eliminated. Cross-economy forums or summits should be convened to developing the equivalency of credentials and qualifications across APEC economies. The natural self-interest of employers, industry associations and educational and training institutions across economies should be leveraged to bring parties together to find workable solutions. Creative approaches must be found or created. Industry-specific differences in training and credentialing make broad recommendations inappropriate. However, for some industrial sectors, establishing regional wide qualifying examinations might be feasible. For some industrial sectors workers could be encouraged to take multiple exams from different economies during the same time period. Creating an APEC workers card, similar to the APEC travel card, accepted for entry and work, may be an option worth exploring for some classifications of workers in some industries.

We urge APEC to use its influence to encourage government agencies, industry associations, employers, and educational and training institutions across economies to begin seriously addressing the issue of mutual recognition and verification of worker qualifications and credentials.

Appendix

Appendix A: ABAC Interview Template

ABAC Interview Report: Labor Mobility

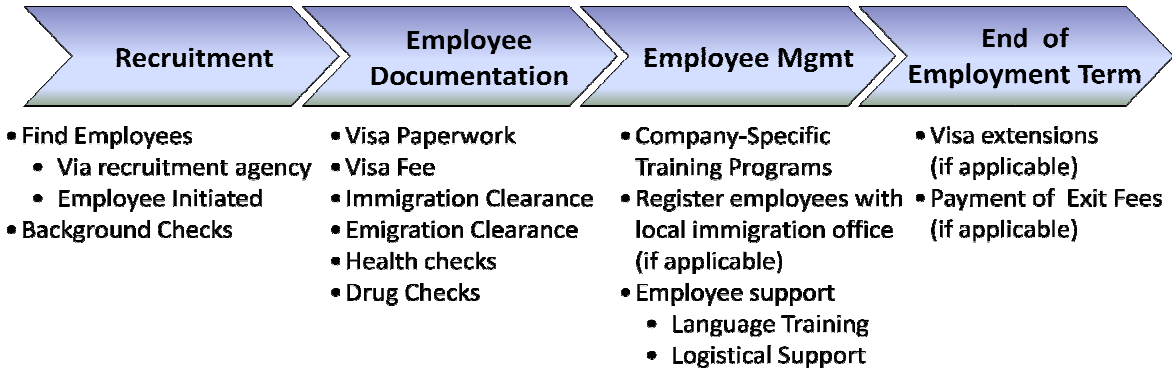
Perspective: *Sending Economy*

INTERVIEW DETAILS
<p>Company Name:</p> <p>Company Focus:</p> <p>Company Address:</p> <p>Name of Interviewee:</p> <p>Designation/Title:</p> <p>Contact Telephone:</p> <p>Contact Email:</p> <p>Interviewer:</p> <p>Date of Interview:</p> <p>Location of Interview:</p>
INTERVIEW POLICIES & INTRODUCTION
<p><u>CONFIDENTIALITY POLICY</u></p> <p>“Your personal identity will be held confidential. Data and quotes will not be directly attributed to you or your firm. We would like to include your firm’s name in the final report to demonstrate the breadth of perspectives captured in our research. May we list your firm?”</p> <p><u>WHO WE ARE</u></p> <p>“We are simply researchers, agnostic to the topic and do not represent any economy”</p> <p><u>PROJECT OVERVIEW</u></p> <p>The University of Southern California Marshall School of Business is conducting primary research on behalf of the ABAC (APEC Business Advisory Council) on the topic of labor mobility in the APEC region. A key objective of this study is to capture the key concerns and sought-after improvements of businesses within APEC. We are interviewing executives from businesses and governments in as many APEC economies as possible to understand the current barriers faced by businesses in the economy as well as best practices within APEC. The study will also include a review of labor mobility clauses from the various bilateral and multilateral Free Trade Agreements between the APEC economies and the regulations defined by WTO, UN organizations and the economies’ immigration laws. Our findings will be presented at the APEC CEO Summit, November 12-14 in Singapore.</p>

SECTION 1 – PROCESS FLOW CHART

This is an overview of the process of a worker leaving an economy and entering another. Talk to me about how this process works for your company. The overarching points for our conversation are:

Cross-Border Labor Life Cycle



- Looking at this process, where does this process work effectively?
- Where has your firm (or employees within your economy) faced problems?
- What processes are missing from this chart?
- Do you know of best practices that could be adopted for this process?

SECTION 2 – POINTS OF PAIN HYPOTHESES

These are issues that we have identified for businesses in your economy. As you are thinking about these, consider not only the experience of your company but also the perspective of your overall economy.

Points of Pain Hypotheses (Sending Economy)				
Pain Points	Detailed Description	Rating: 1 (least) - 10 (most)	Quantification of Costs	Recommendations
Labour Policy				
Receiving Economy Policy	Restrictive, Quotas			
Sending Economy Labour Policies	Restrictive, Quotas			
Time/Quota/Qualifications Restrictions	Flexible, Accurate			
Transparency	Publicly Accessible/Available			
Ease of Compliance	Uniform, Reasonable, Bureaucracy			
Managing Labour				
Health/Benefits/Retirement	Medical Care/Insurance, Retirement Contributions, Workers Compensation/Disability			
Socio/Economic Impact				
Brain Drain	No Transfer of Knowledge, Labor Depletion			
Broken Communities / Families	Crime, Poverty, Neglect			
Worker Protection	Abandonment, Abuse, Trafficking, Exploitation			
Worker Development	Training, Career Development			
Process Mgmt				
Recruitment	Locating/Matching of Workers, Transfer of Qualifications, Recognition of Certifications, Relocation, Logistics Coordination			
Intermediary Institutions Involvement	Access, Credibility/Reliability, Effectiveness			
Documentation Process (Foreign/Domestic)				
Retention/Registration	Red Tape, Visas, Registration, Health Checks, Process Ease			
Fees/Remittances	Extensions, Terminations Visa Fees, Exit Fees, Remittances, Taxation			

Based on their rankings, ask follow-up questions about their experiences.

- Are there issues that you would include that we have not listed?
- Are there issues listed here that you think are not applicable?
- Can you rank these issues based on what causes the most pain for your business?
- For your company, can you quantify the costs that you incur because of this issue?
- What recommendations do you have to fix these issues?

In summary, what do you think would be the best working policies across economies?

SECTION 3 – CONVERSATIONAL QUESTIONS

Note: You do not need to ask each of these questions. This section is intended to provide additional questions, which can be used to supplement areas not covered above. Use your best judgment, but be aware that you will likely need 10-15 minutes to complete the rest of the interview (sections 4-5).

1. What are the concerns about these current standards from the perspective of the business community? (ie: what problems does this cause for your business/your international competitiveness?)
2. Do the present regulations have unintended or hindering by-products which limit access to necessary labor?
3. Do you know if there are particular economies/sectors that facilitate movement of labor?
4. What are the best practices from these economies/sectors that could be copied?
5. Do these best practices address the overlaying concerns of government, labor advocates and other stakeholders?
6. Within existing labor mobility policies: What are the biggest challenges? What aspects are most problematic?
7. Comparatively, which economies have the best/worst labor mobility policies?
8. What types of labor gaps do you experience in your business due to the exporting of labor in your economy? And how do you fill those gaps?
9. What aspects of labor mobility policy need to be improved? What must be added? What aspects are most bureaucratic?
10. Do you have suggestions for other business executives (or academics, government officials, labor leaders, or other stakeholders) that I can contact for interviews?
11. I know I'm going to have additional questions later. Can I follow up with you later by phone or email?

SECTION 4 – COMPANY INFORMATION

This section will consist of basic questions to gather comparable data across businesses in the 21 APEC economies. A suggested introduction (which should not be read verbatim) for your interviewee would be:

“We wanted to spend the beginning of the interview getting your firm’s perspective on labor mobility issues. At this point we would like to switch our focus on gathering some basic information to help make our research data comparable across businesses in the APEC 21 economies. Given everything we have already discussed, this section should be brief.”

1. Industry/Sector(s): (circle all that apply)

Agriculture Construction Healthcare Professional Services Information Technology Other: _____

2. Annual sales revenue :

3. Size of labor force:

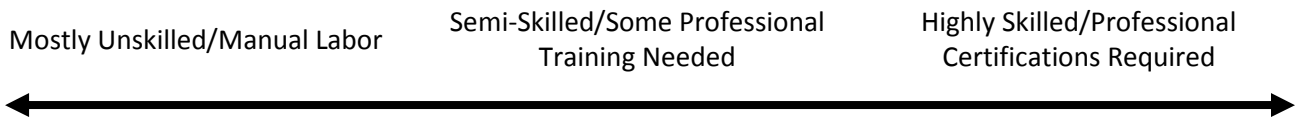
4. Percentage of labor force that are foreign (i.e. not citizens)?
5. Are your foreign workers from other APEC economies? (Circle all that apply and for the top three economies, indicate the estimated % of your foreign workers from this economy.)

Australia	Brunei Darussalam	Canada
Chile	China	Hong Kong
Indonesia	Japan	Korea
Malaysia	Mexico	New Zealand
Papua New Guinea	Peru	Philippines
Russia	Singapore	Taiwan
Thailand	United States	Vietnam

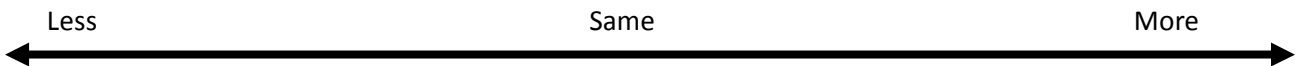
6. Why are workers from your economy hired by firms in foreign economies? Please rank/check all that apply.
 - Lower Cost
 - Effectiveness
 - Accessibility
 - Domestic shortages
 - Other

[Directions: Circle the most appropriate area of the spectrum for each question]

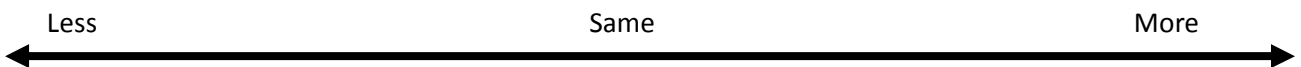
7. How would you classify the level of skill of employees sent from your economy?



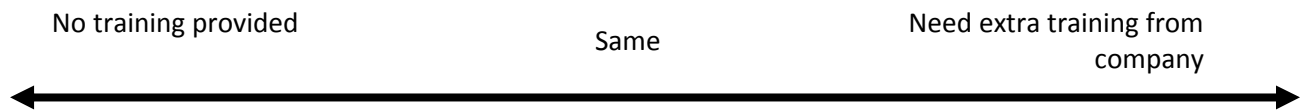
8. Compared to local employees, how much salary do workers from your economy receive while working abroad?



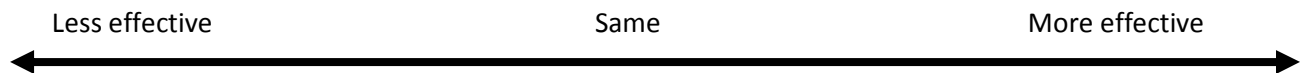
9. Compared to local employees, what benefits do workers from your economy receive while working abroad?



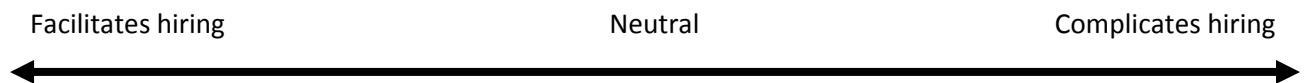
10. What training is required for these employees?



11. Compared to local employees, what is the relative effectiveness of workers from your economy while working abroad?



12. How would you classify the role of domestic government policy?



13. How do employees from your economy identify job opportunities abroad? (check all that apply)

- Job postings
- Hiring agency
- Intra-company transfers
- Schools/training programs
- Other: (please describe below)

SECTION 5 – FTAS, IMMIGRATION LAW AND WORKER PROGRAMS

- | | | | |
|----|---|----------|----------|
| 1. | Are you aware of the [PROGAM NAME] program? | YES | NO |
| 2. | Have you ever heard of workers in your economy/industry who have utilized this program? | YES | NO |
| 3. | If YES, do you know of any problems with the program? If NO, why? | | |
| 4. | Are you familiar with your national immigration law? | YES | NO |
| 5. | Who pays relocation expenses/fees for workers? | WORKER | EMPLOYER |
| 6. | How long are contracts with workers? | 0-12 MOS | 1-2 YRS |
| | | | 2+ YRS |
| 7. | What happens when the contracts end? | | |
| 8. | Overall, what problems does your business sector have with this program? | | |

SECTION 6 – QUESTIONS FOR INDIVIDUALS WHO ARE WORKING ABROAD

Note: This section may not apply to all interviewees and is intended to gather data from individuals who have experienced the process of cross-border mobility first-hand during their careers. If time is limited, please skip this section and complete it at the end of the interview.

14. Annual salary
15. How much would an overseas job pay you over and above present pay
 - i. Give percentage ranges for premium
16. Where would/did you consider foreign employment
17. How would you go about finding overseas work
 - i. Referrals from friends/relatives
 - ii. Third party agencies
 - iii. Self-query
 - iv. Government agencies
 - v. Intra-company transfer
 - vi. Worker program _____
18. What are your reasons for seeking employment in a foreign country in general
 - i. Financial
 - ii. Career Advancement
 - iii. Global Experience
 - iv. Political Stability
 - v. Future Business Development
 - vi. Others:
19. Are you interested in temporary or permanent worker programs abroad?
20. If temporary, what is your time horizon?
 - i. 1-3 years
 - ii. 3-5 years
 - iii. 5-10 years
21. How much of your salary do you keep? How much do you remit? How much does it cost to remit?
22. Was there an immigration option in the worker program?
23. Was there a time limit on the worker program?
24. Where the following provisions included in the worker programs?
 - i. Time Limit
 - ii. Skill Requirements
 - iii. Health Screening
 - iv. Nationality exclusions
 - v. Corporate sponsorship
 - vi. License requirements
 - vii. Limit on volume of workers

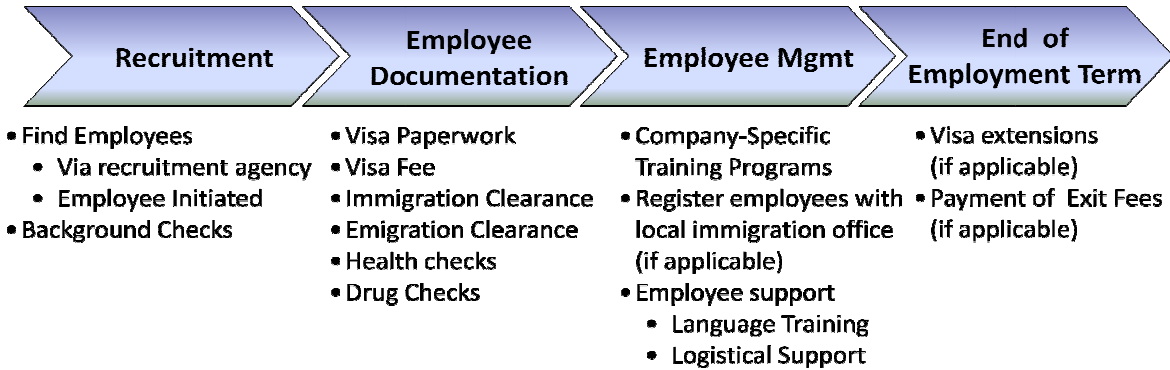
ABAC Interview Report: Labor Mobility**Perspective:** *Receiving Economy*

INTERVIEW DETAILS
Company Name: Company Focus: Company Address: Name of Interviewee: Designation/Title: Contact Telephone: Contact Email: Interviewer: Date of Interview: Location of Interview:
INTERVIEW POLICIES & INTRODUCTION
<p><u>CONFIDENTIALITY POLICY</u> “Your personal identity will be held confidential. Data and quotes will not be directly attributed to you or your firm. We would like to include your firm’s name in the final report to demonstrate the breadth of perspectives captured in our research. May we list your firm?”</p> <p><u>WHO WE ARE</u> “We are simply researchers, agnostic to the topic and do not represent any economy”</p> <p><u>PROJECT OVERVIEW</u> The University of Southern California Marshall School of Business is conducting primary research on behalf of the ABAC (APEC Business Advisory Council) on the topic of labor mobility in the APEC region. A key objective of this study is to capture the key concerns and sought-after improvements of businesses within APEC. We are interviewing executives from businesses and governments in as many APEC economies as possible to understand the current barriers faced by businesses in the economy as well as best practices within APEC. The study will also include a review of labor mobility clauses from the various bilateral and multilateral Free Trade Agreements between the APEC economies and the regulations defined by WTO, UN organizations and the economies’ immigration laws. Our findings will be presented at the APEC CEO Summit, November 12-14 in Singapore.</p>

SECTION 1 – PROCESS FLOW CHART

This is an overview of the process of a worker leaving an economy and entering another. Talk to me about how this process works for your company. The overarching points for our conversation are:

Cross-Border Labor Life Cycle



- Looking at this process, where does this process work effectively?
- Where has your firm faced problems?
- What processes are missing from this chart?
- Do you know of best practices that could be adopted for this process?

SECTION 2 – POINTS OF PAIN HYPOTHESES

These are issues that we have identified for businesses in your economy. As you are thinking about these, consider not only the experience of your own company but also the perspective of your overall economy.

Points of Pain Hypotheses				
Pain Points	Detailed Description	Ratings: 1 (least) - 10 (most)	Quantification of Costs	Recommendations
<i>Labor Policy</i>				
Time/Quota/Qualifications Restrictions	Flexible, Accurate			
Transparency	Publically Accessible/Available			
Ease of Compliance	Uniform, Reasonable			
<i>Managing Labor "Citizenship"</i>				
Worker Protection	Housing, Exploitation, Security			
Health/Benefits/Retirement	Medical Care/Insurance, Retirement Contributions, Workers			
Training/Development	Language/Skill Training, Career			
<i>Process Mgmt</i>				
Recruitment	Locating/Matching of Workers, Transfer of Qualifications, Recognition of Certifications, Relocation, Logistics			
Intermediary Institutions Involvement	Access, Credibility/Reliability,			
Documentation Process (Foreign/Domestic)	Time, Visas, Registration, Health Checks, Process Ease			
Retention/Repatriation	Extensions, Terminations			
Fees	Visa Fees, Exit Fees			

Based on their rankings, identify the top five issues and ask follow-up questions about their experiences.

- Are there issues that you would include that we have not listed?
- Are there issues listed here that you think are not applicable?
- Can you rank these issues based on what causes the most pain for your business?
- For your company, can you quantify the costs that you incur because of this issue?
- What recommendations do you have to fix these issues?

In summary, what do you think would be the best working policies across economies?

SECTION 3 – CONVERSATIONAL QUESTIONS

Note: You do not need to ask each of these questions. This section is intended to provide additional questions, which can be used to supplement areas not covered above. Use your best judgment, but be aware that you will likely need 10-15 minutes to complete the rest of the interview (sections 4-5).

12. What are the concerns about these current standards from the perspective of the business community? (ie: what problems does this cause for your business/your international competitiveness?)
13. Do the present regulations have unintended or hindering by-products which limit access to necessary labor?
14. Do you know if there are particular economies/sectors that facilitate movement of labor?
15. What are the best practices from these economies/sectors that could be copied?
16. Do these best practices address the overlaying concerns of government, labor advocates and other stakeholders?
17. Within existing labor mobility policies: What are the biggest challenges? What aspects are most problematic?
18. Comparatively, which economies have the best/worst labor mobility policies?
19. What types of labor gaps in your business cause you to import labor into your economy?
20. What aspects of labor mobility policy need to be improved? What must be added? What aspects are most bureaucratic?
21. Do you have suggestions for other business executives (or academics, government officials, labor leaders, or other stakeholders) that I can contact for interviews?
22. I know I'm going to have additional questions later. Can I follow up with you later by phone or email?

SECTION 4 – COMPANY INFORMATION

This section will consist of basic questions to gather comparable data across businesses in the 21 APEC economies. A suggested introduction (which should not be read verbatim) for your interviewee would be:

“We wanted to spend the beginning of the interview getting your firm’s perspective on labor mobility issues. At this point we would like to switch our focus on gathering some basic information to help make our research data comparable across businesses in the APEC 21 economies. Given everything we have already discussed, this section should be brief.”

25. Industry/Sector(s): (circle all that apply)

Agriculture

Construction

Healthcare

Professional
Services

Information
Technology

Other: _____

26. Annual sales revenue :

27. Size of labor force:

28. Percentage of labor force that are foreign (i.e. not citizens)?

29. Are your foreign workers from other APEC economies? (Circle all that apply and for the top three economies, indicate the estimated % of your foreign workers from this economy.)

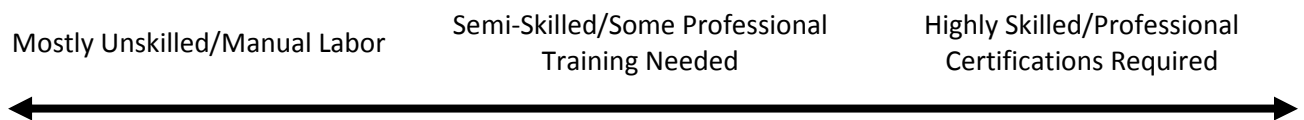
- | | | |
|------------------|-------------------|-------------|
| Australia | Brunei Darussalam | Canada |
| Chile | China | Hong Kong |
| Indonesia | Japan | Korea |
| Malaysia | Mexico | New Zealand |
| Papua New Guinea | Peru | Philippines |
| Russia | Singapore | Taiwan |
| Thailand | United States | Vietnam |

30. Why do you hire foreign workers from these particular economies? Please rank/check all that apply.

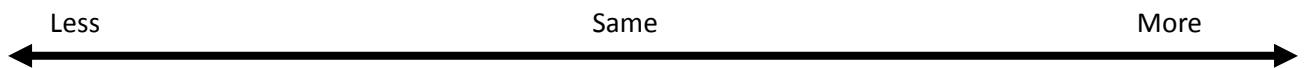
- Lower Cost
- Effectiveness
- Accessibility
- Domestic shortages
- Other

[Directions: Circle the most appropriate area of the spectrum for each question]

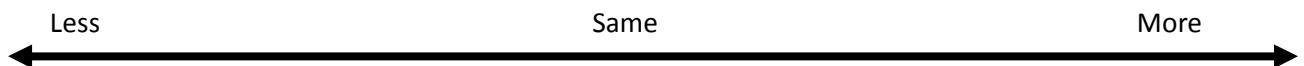
31. How would you classify the level of skill of these employees?



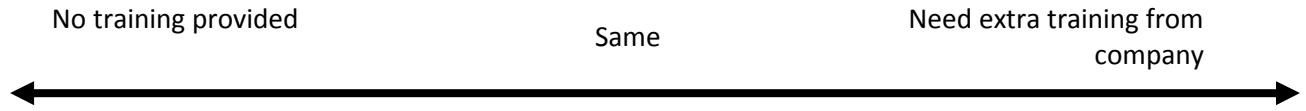
32. How much salary do you offer these workers compared to your other employees?



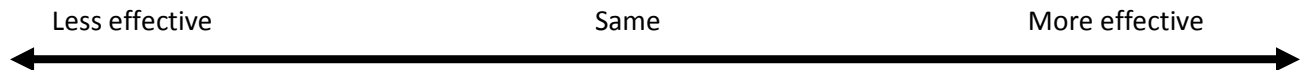
33. How much in benefits do you offer these workers compared to your other employees?



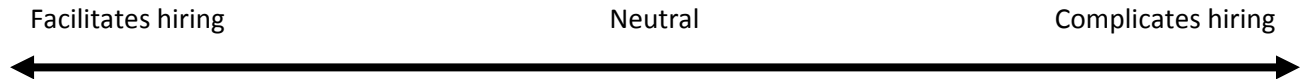
34. What training is required for these employees?



35. What is their relative effectiveness vs. domestic workers?



36. How would you classify the role of domestic government policy?



37. How do you find these foreign employees? (check all that apply)

- Job postings
- Hiring agency
- Intra-company transfers
- Schools/training programs
- Other: (please describe below)

SECTION 5 – FTAS, IMMIGRATION LAW AND WORKER PROGRAMS

- | | | |
|--|----------|----------|
| 9. Are you aware of the [PROGAM NAME] program? | YES | NO |
| 10. Have you ever hired workers through this program? | YES | NO |
| 11. If YES, do you have any problems with the program? If NO, why have you not used the program? | | |
| 12. Are you familiar with your national immigration law? | YES | NO |
| 13. Who pays relocation expenses/fees for workers? | WORKER | EMPLOYER |
| 14. How long are contracts with workers? | 0-12 MOS | 1-2 YRS |
| 15. What happens when the contracts end? | | 2+ YRS |
| 16. Overall, what problems does your business sector have with this program? | | |

- Bureaucracy is too complicated
- Cannot hire enough workers
- Workers are too expensive
- Too many special precautions when hiring foreign workers
- Other: (please describe)

Appendix B: Survey on Temporary Worker Mobility in the APEC Region

Survey on Temporary Worker Mobility in the APEC Region Conducted on behalf of the APEC Business Advisory Committee

<p>Project Overview</p> <p>The APEC Business Advisory Committee (ABAC) has asked The University of Southern California Marshall School of Business to conduct research on the movement of temporary foreign labor within the APEC region. ABAC members work with APEC in order to promote regional economic cooperation and sustainable economic development for all member economies. They have requested this research in order to understand business' key concerns and sought-after improvements related to the movement of temporary foreign workers. The findings and recommendations from this research will be presented to ABAC and the APEC Leaders Meeting, November 12-14 in Singapore.</p>
<p>Survey Introduction</p> <p>The University of Southern California research team traveled to 15 economies and conducted interviews. In addition, we have conducted phone interviews in 6 economies for a total of 151 interviews with thought leaders from business, government and academic research. The data gathered in these interviews has been summarized into a list of the "points of pain" or current barriers to smooth movement of temporary foreign workers in the region as well as proposed recommendations to address them within APEC. We request your assistance in providing us with your perspective on many of the issues we have identified in our preliminary interviews. From this survey, we will better understand which problems and solutions to prioritize in our final report to members of ABAC and the APEC Leaders.</p> <p>Please return the survey to Lucy Melvin by email to lucy.melvin.2010@marshall.usc.edu or by fax to 213-740-7701 by Friday, 25 September 2009.</p>
<p>Participant Information</p> <p><i>Your personal identity will be held confidential. Data and survey responses will not be directly attributed to you or your organization.</i></p> <p>NAME: ORGANIZATION: ECONOMY:</p>
<p>Clarification of Terminology</p> <p><i>Temporary Foreign Workers:</i> defined as workers who are entering an economy to work for a defined period of time (usually between 3 months and 5 years) and then returning to their home economy. This is distinct from immigrants who are permanently settling in another economy. Types of workers include professional, semi-skilled and low-skilled workers.</p> <p><i>Sending Economy:</i> an economy with a net outflow of workers. With regard to the APEC region, the following economies are classified as sending: Brunei, China, Indonesia, Malaysia, Mexico, Peru, Philippines, Taipei, Thailand, and Vietnam.</p>

Receiving Economy: an economy with a net inflow of workers. With regard to the APEC region, the following economies are classified as receiving: Australia, Canada, Chile, Hong Kong, Japan, Korea, New Zealand, Papua New Guinea, Russia, Singapore, and United States.

Part 1: Potential “Points of Pain” or Current Barriers						
<p>The following list includes “points of pain” or barriers that inhibit temporary labor mobility. For each item, please indicate how much of a problem it is from the perspective of your economy, with a scale from 1 = this is not a problem at all to 5=this is a very severe problem. You can also mark NR = no response or opinion on this topic.</p> <p>1 = This is not a problem at all 2 = This is somewhat of a problem 3 = This is a problem 4 = This is a serious problem 5 = This is a very severe problem NR = No response or opinion on this topic</p> <p>Please complete two of the three sections below. Everyone should complete Section 1, which applies to both Sending and Receiving economies. Complete Section 2 if you are from a Receiving Economy, and complete Section 3 if you are from a Sending Economy.</p>						
“Point of Pain” or Current Barrier	1	2	3	4	5	NR
Section 1: Sending and Receiving Economies						
Temporary foreign workers overstay on visas or work permits (they enter the economy legally and then stay beyond the allowed period) and do not return to their home economy.						
Workers and/or employers face corruption and have to pay "fees" to facilitate the immigration or work permit processing.						
There is inadequate regulation of private recruitment agencies.						
Adequate regulation exists, however there are failures to implement or enforce the regulations that govern private recruitment agencies.						
Labor policy that defines how a foreign worker can enter or leave the economy is not publicly available.						
Workers or employers have to pay exorbitant fees/costs to obtain temporary worker documents.						
Social security benefits/retirement benefits are not portable (so workers or businesses pay twice or workers are not able to access these benefits).						
Lack of any defined labor agreement between two economies creates difficulty sending or hiring workers from particular economies.						
Country-specific quotas in labor agreements or visa programs create difficulty sending or hiring workers from particular economies.						
Section 2: Receiving Economies						
Businesses are unable to locate or recruit foreign workers with the necessary skills.						
Economy does not have enough workers to fill employers’ hiring needs.						
Economy faces shortages of workers with particular skill sets needed to meet labor market demand.						
Businesses have difficulty recruiting and hiring workers with the necessary language skills.						
Undocumented workers enter into the economy to find job opportunities.						
Government policy regarding the number/type/skill level of foreign workers that are able to enter the economy does not consider business needs and labor market demand.						
Temporary foreign workers are not able to formally extend their stay and work longer in the economy.						
In the absence of mutually recognized professional certifications or job skills standards, businesses cannot verify that foreign workers have the necessary skills to fill job openings.						

Delays in processing workers' visas/work permits/other migration documents cause problems for businesses hiring temporary foreign workers.						
Employers incur high costs to provide health and social benefits to temporary foreign workers.						
Country-specific cultural norms or biases make it difficult for employers to seek, find and obtain temporary foreign workers to meet labor market needs.						
Employers in the economy incur significant costs when recruiting and hiring foreign workers because of "tax equalization" policies.						
Section 3: Sending Economies						
Sending economies cannot resolve disputes or address worker issues because of an absence of MOUs or agreements with receiving economies.						
Workers do not receive any pre-departure training to inform them of their rights.						
Workers' professional certifications or training and education are not accepted by employers abroad.						
A lack of foreign language skills make it difficult for workers to find opportunities abroad.						
Workers cannot apply for extensions to stay longer in overseas employment assignments.						
Workers who go abroad are not covered by the same labor laws/protections as other workers in the destination economy.						
Workers who go abroad have trouble accessing healthcare and social benefits.						
Delays in processing workers' visas/work permits/other migration documents cause problems for workers seeking jobs abroad.						
Workers leave the economy during their most productive years.						
Trained/high-skill workers leave for better job opportunities and do not return home from assignments abroad.						
Sending economies/workers cannot locate credible employers in foreign economies or certify that job opportunities abroad are real.						
Sending economy governments do not ensure that workers have been processed to exit the economy.						
If there are additional problems or "points of pain" in your economy that are not included in the list above, please indicate them here:						

Part 2: Recommendations to Facilitate Temporary Worker Mobility

In looking across the information and best practices that we gathered in our interviews, we generated the following recommendations to address the problems and “points of pain” identified above. For each item below, please indicate how effective you think the recommendation would be from the perspective of your economy, where 1 = not at all effective and 5 = extremely effective.

1 = Not at all effective

2 = Somewhat effective

3 = Effective

4 = Very effective

5 = Extremely effective

NR = No response or opinion on the effectiveness of this recommendation

Obviously we have not captured all of the best practices and recommendations to address temporary worker mobility. Please indicate below each recommendation if you have additional comments or ideas.

Recommendation and Implementation Strategy	1	2	3	4	5	NR
<p>Recognize and prioritize Labor Mobility policy. APEC leaders should issue a joint statement solidifying their commitment to build a framework or set of policies to facilitate temporary worker mobility and ensure sustainable economic development for all economies.</p> <p>Additional Comments:</p>						
<p>Create an APEC Task Force to address Labor Mobility. APEC should extend the mandate of the Business Mobility Task Force to address the movement of skilled workers (or create a new task force) by conducting research on the issue and developing strategies and policies in the area of temporary labor movement within the region.</p> <p>Additional Comments:</p>						
<p>Address overstay of visas that create patterns of irregular migration. APEC leaders should develop and implement policies to help ensure that temporary foreign workers return to their home economy when their employment period ends.</p> <p>Additional Comments:</p>						
If you have suggestions for recommendations or policies to address the overstay of workers please indicate them here:						
<p>Improve Government-to-Government interaction and FTA agreements to facilitate smoother temporary labor movement. Governments should insert labor clauses into bi-lateral and multi-lateral FTAs to create a framework for labor mobility between economies.</p> <p>Additional Comments:</p>						

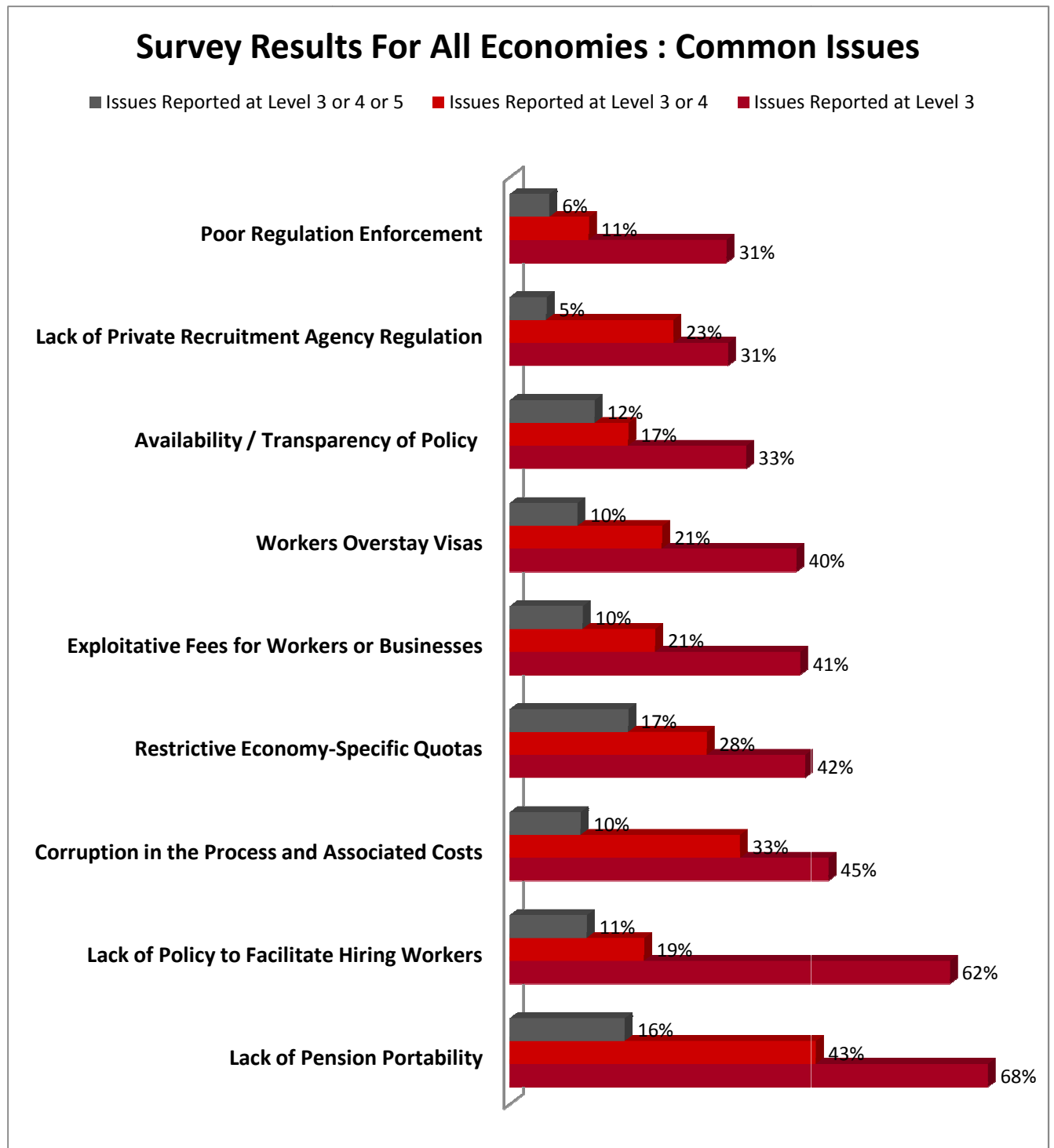
<p>Improve Government-to-Government interaction and MOU agreements to facilitate smoother temporary labor movement. Where FTAs do not exist or do not cover movement of temporary workers, governments should develop bi-lateral/ multi-lateral labor MOUs.</p>						
Additional Comments:						
<p>Initiate a new APEC-wide data collection project to aid in future policy development. The APEC Labor Mobility Task Force should consolidate and arrange data on skill set shortages, movement of temporary workers, and the demographics of temporary workers within APEC economies in order to provide meaningful information for policymakers.</p>						
Additional Comments:						
<p>Regulate private entities involved in the labor mobility process through government regulation and oversight. APEC economies should establish government regulation and provide oversight of private entities (recruiting agencies and private employers) involved in the temporary labor movement process.</p>						
Additional Comments:						
<p>Regulate private entities involved in the labor mobility process through non-governmental entities. Industry associations and other non-governmental organizations should be authorized to oversee regulations within and across APEC economies. (Such as the self-regulation in the global shipping industry by the International Maritime organization).</p>						
Additional Comments:						
<p>Develop a framework of accepted and recognized training and skill sets standards for various job sectors within APEC. Working through the APEC Human Resources Development Working Group (HRDWG) or another global, non-governmental organization, APEC economies should collaborate to develop agreed upon training and skill set standards to prepare workers for jobs that will be used and accepted across economies.</p>						
Additional Comments:						
<p>Develop job skill certifications for the various job sectors within APEC. Working through the APEC Human Resources Development Working Group (HRDWG) or another global, non-governmental organization, APEC economies should collaborate to develop job skill certifications that are recognized across APEC economies.</p>						
Additional Comments:						
<p>Economies should provide language and other pre-departure training for foreign workers. These trainings ensure that temporary foreign workers are prepared for their foreign assignment and can be more productive. Training can be provided in the sending economy or after workers arrive in the receiving economy.</p>						

Additional Comments:

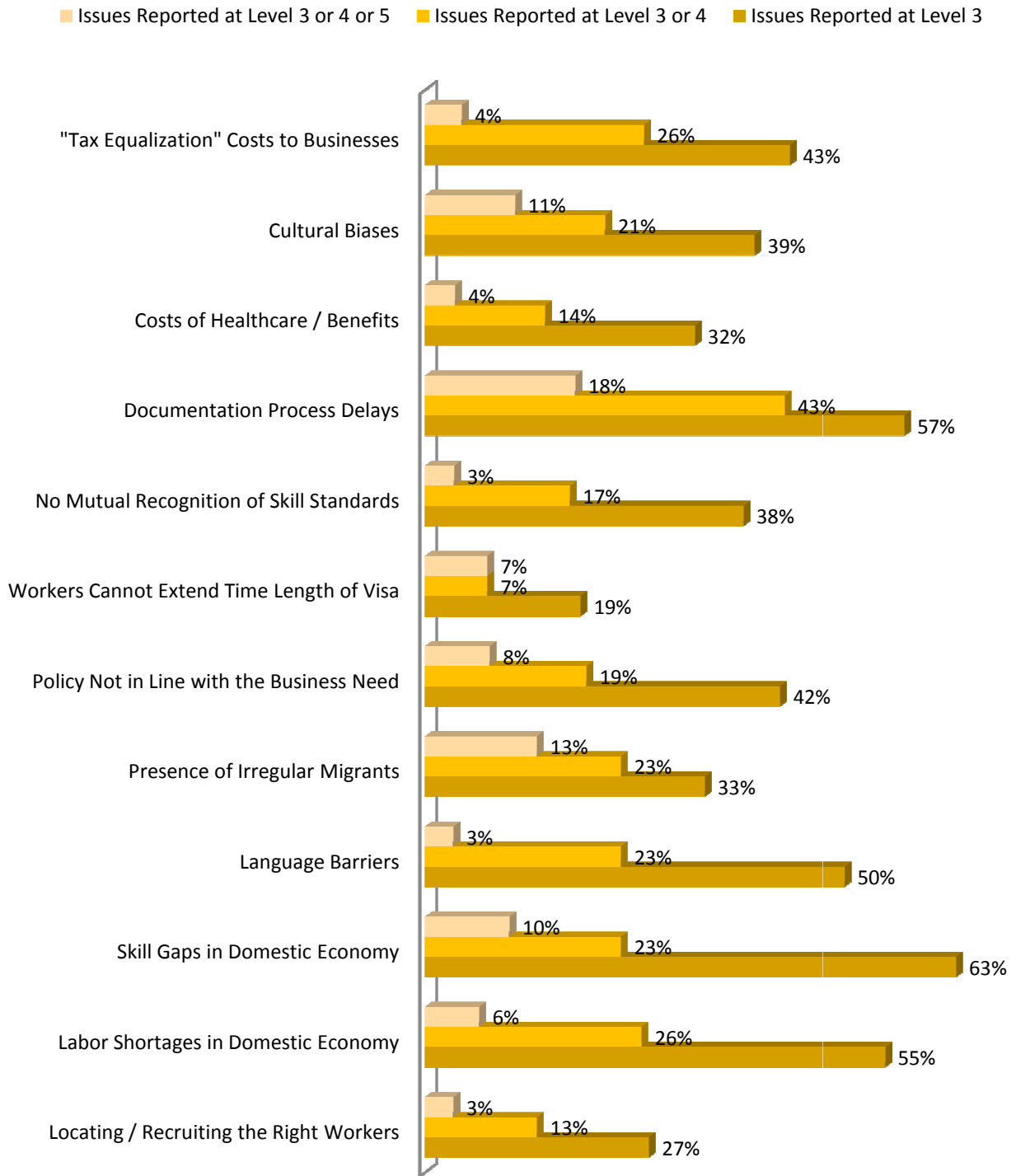
From the perspective of your economy, please indicate any suggestions for additional recommendations or best practice policies to address the current barriers to the movement of temporary foreign workers within APEC:

Thank you for your participation.

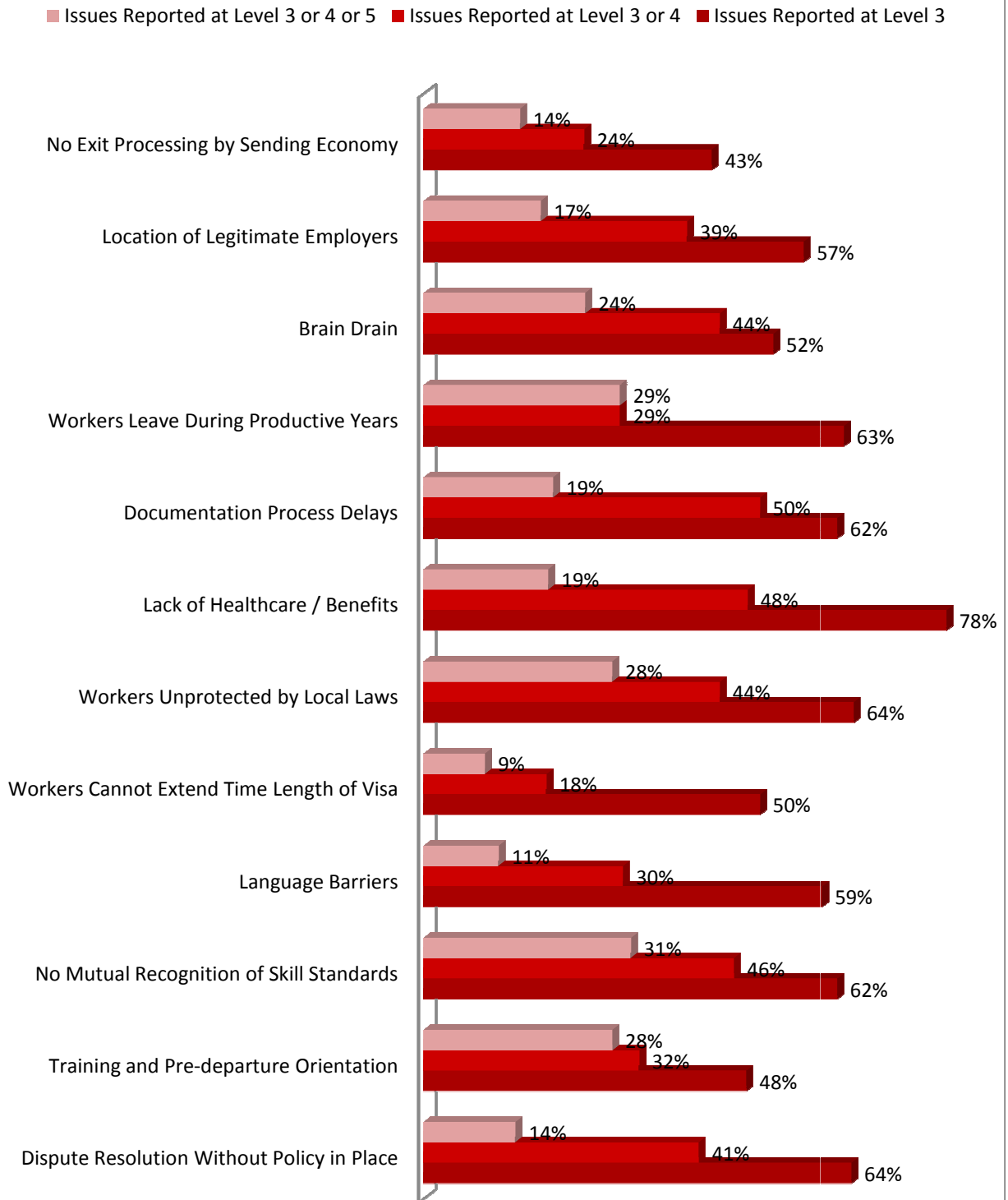
Appendix C: Interviewee Survey Results



Survey Results For All Economies : Receiving Economy Specific Issues

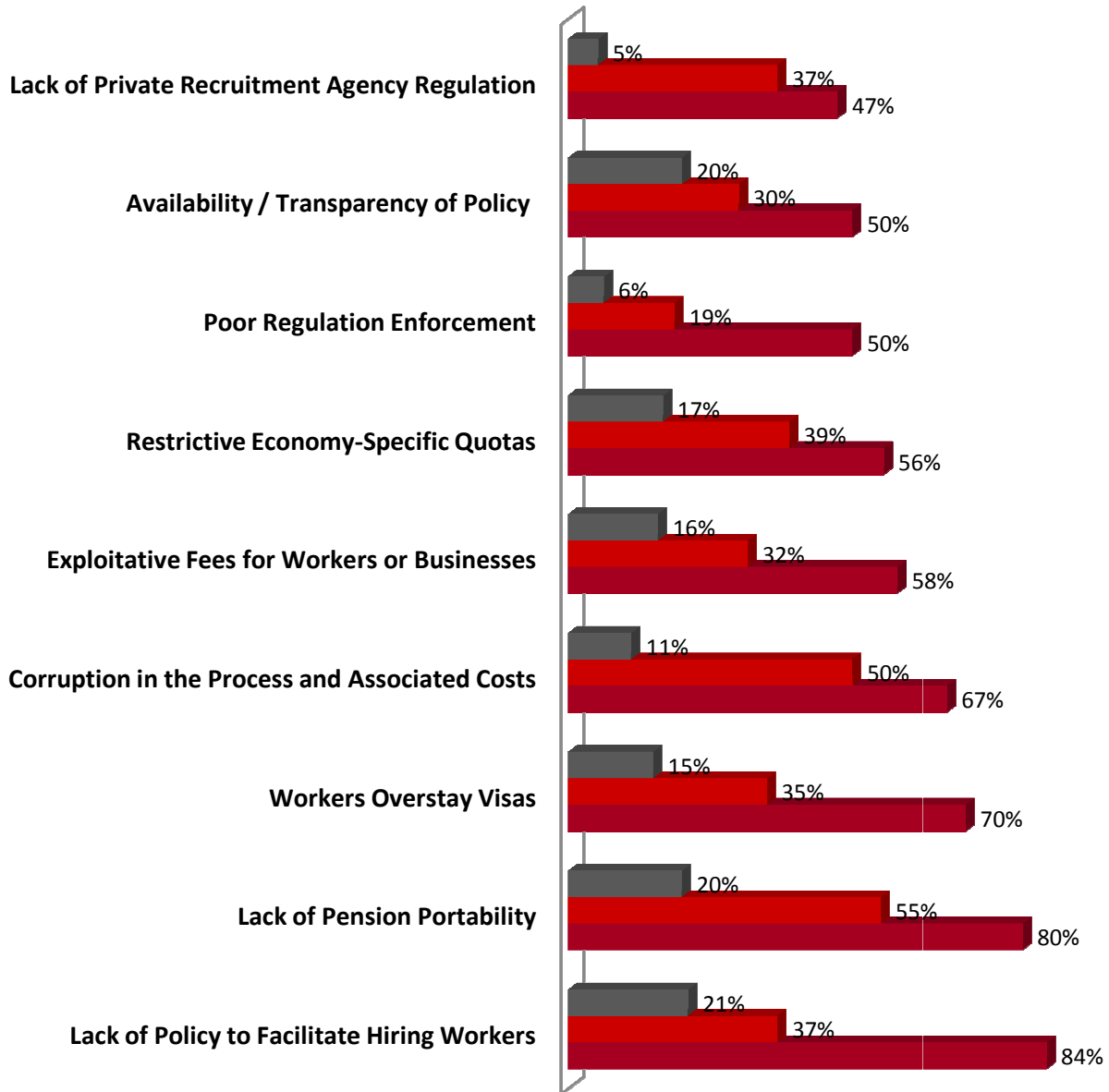


Survey Results For All Economies : Sending Economy Specific Issues

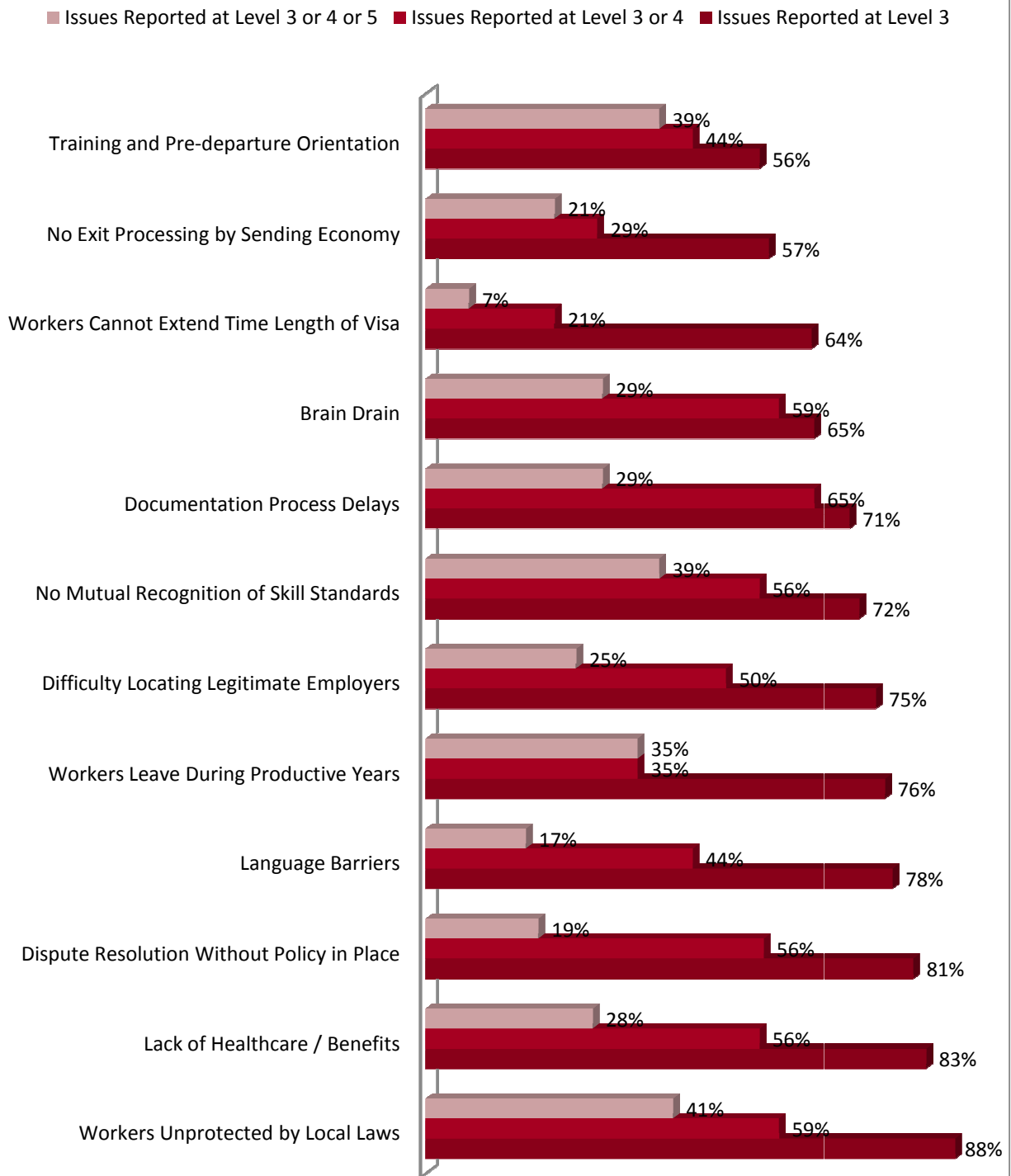


Survey Results For Sending Economies : Common Issues

■ Issues Reported at Level 3 or 4 or 5
 ■ Issues Reported at Level 3 or 4
 ■ Issues Reported at Level 3

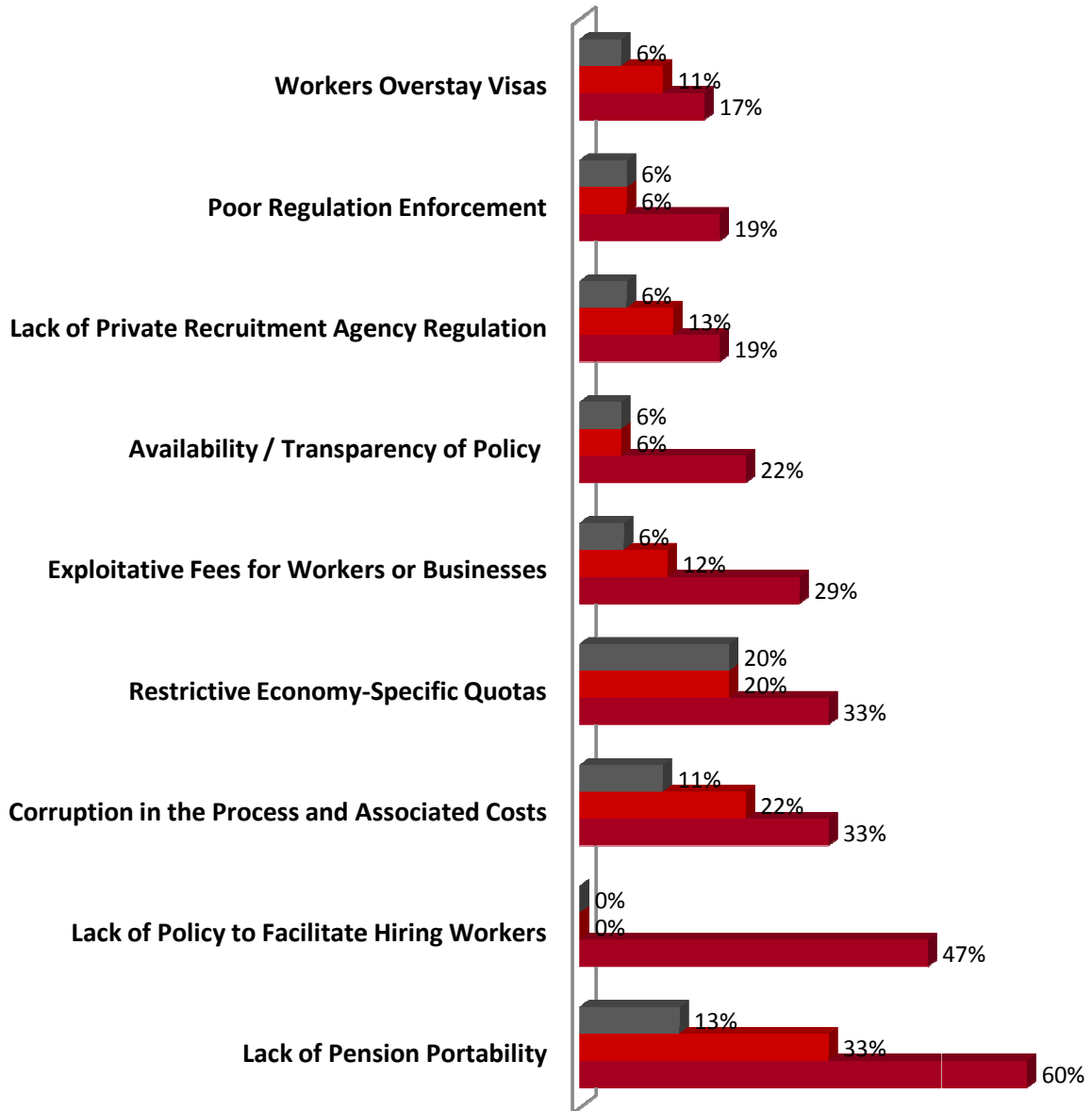


Survey Results For Sending Economies : Sending Economy Specific Issues



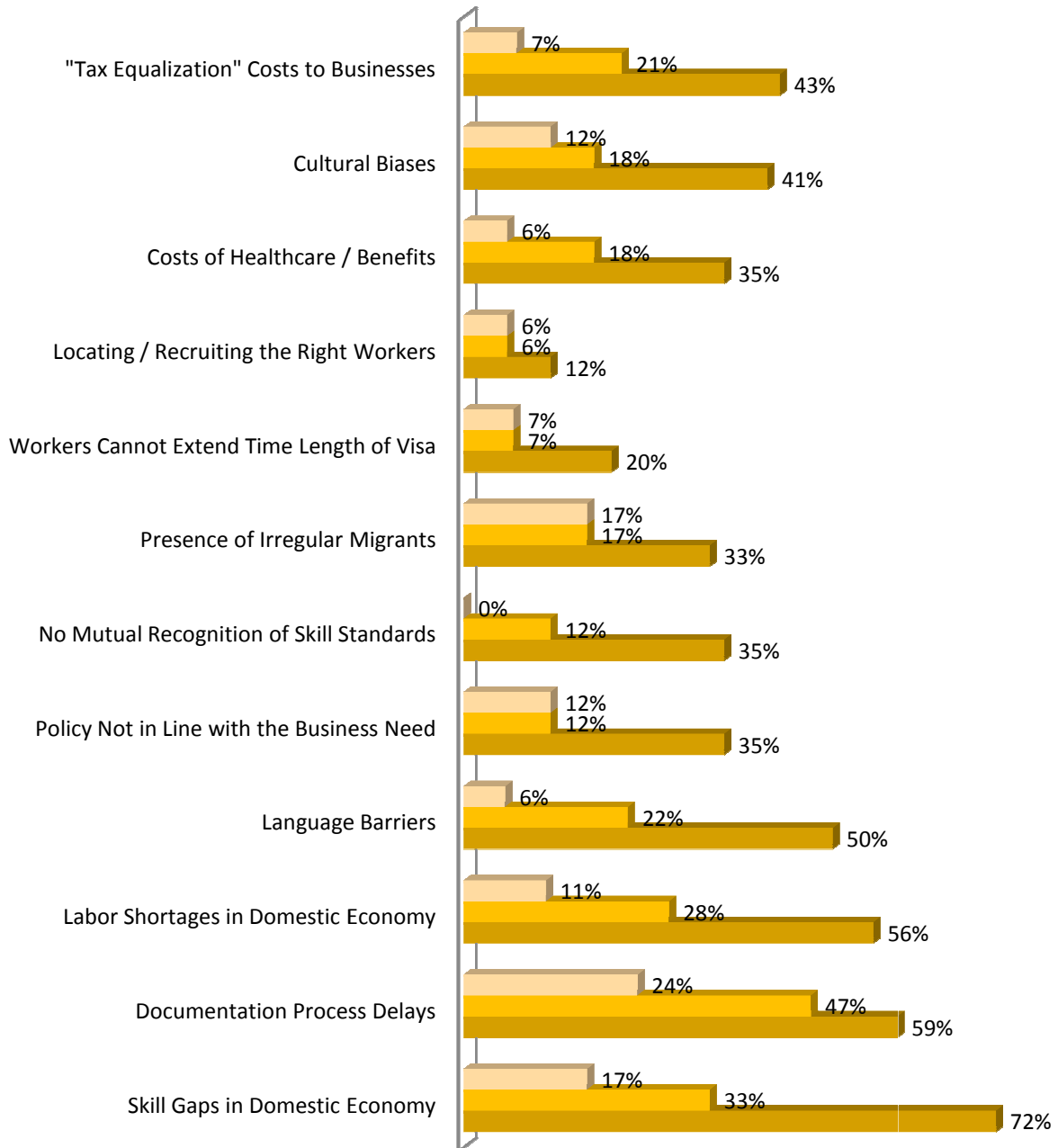
Survey Results For Receiving Economies : Common Issues

■ Issues Reported at Level 3 or 4 or 5 ■ Issues Reported at Level 3 or 4 ■ Issues Reported at Level 3



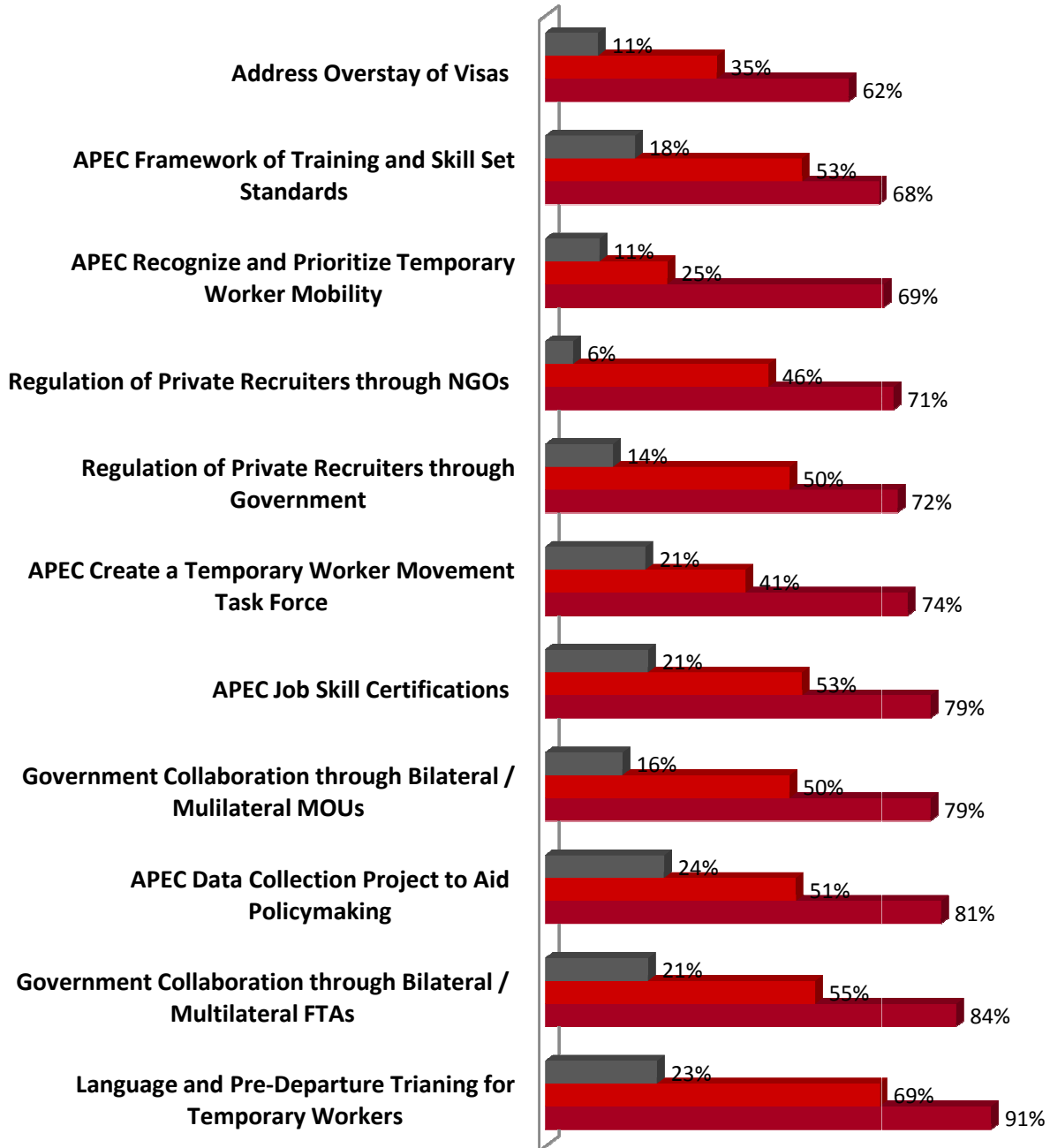
Survey Results For Receiving Economies : Receiving Economy Specific Issues

■ Issues Reported at Level 3 or 4 or 5
 ■ Issues Reported at Level 3 or 4
 ■ Issues Reported at Level 3



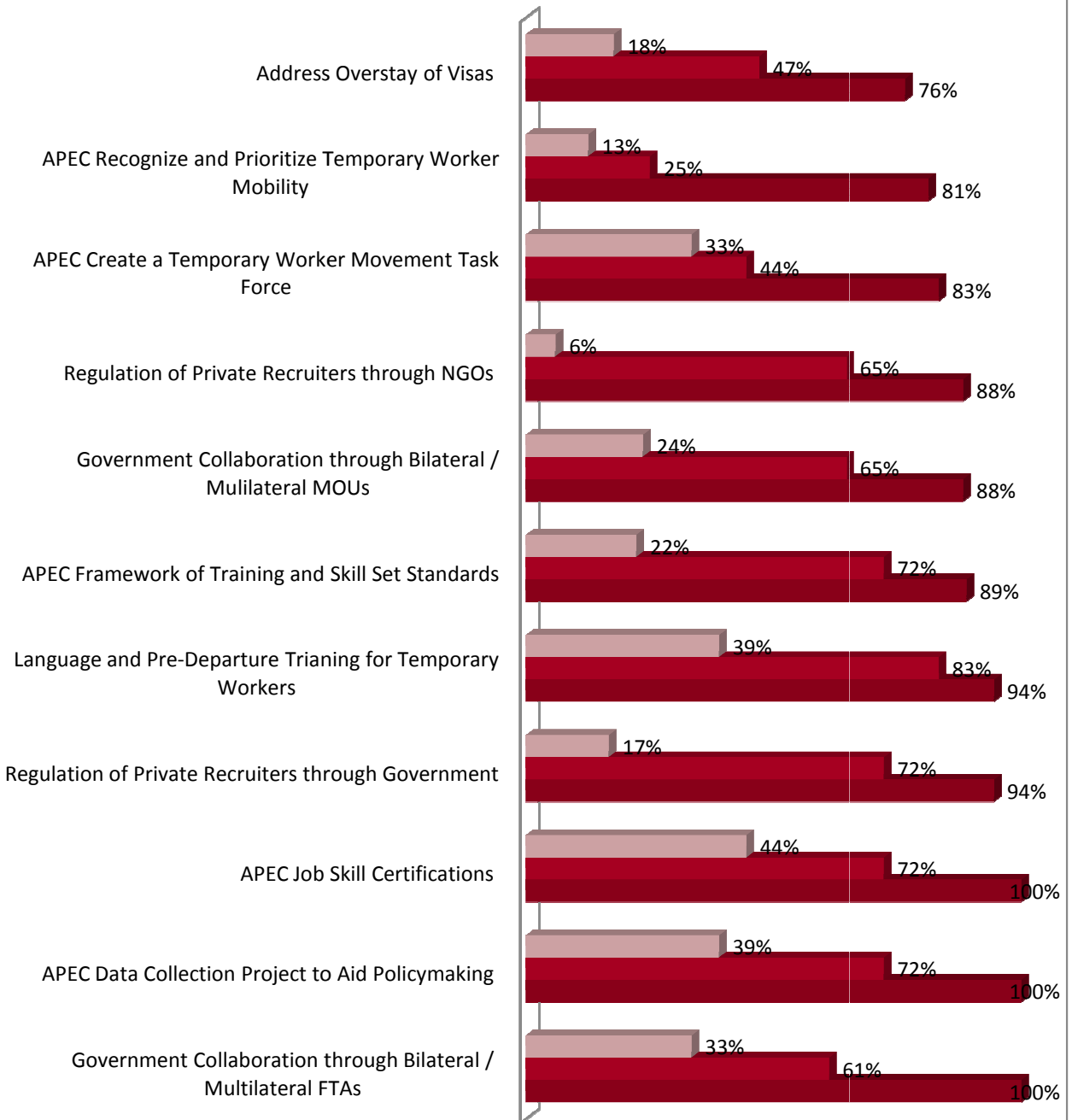
Survey Results For All Economies : Recommendations

■ Issues Reported at Level 3 or 4 or 5 ■ Issues Reported at Level 3 or 4 ■ Issues Reported at Level 3



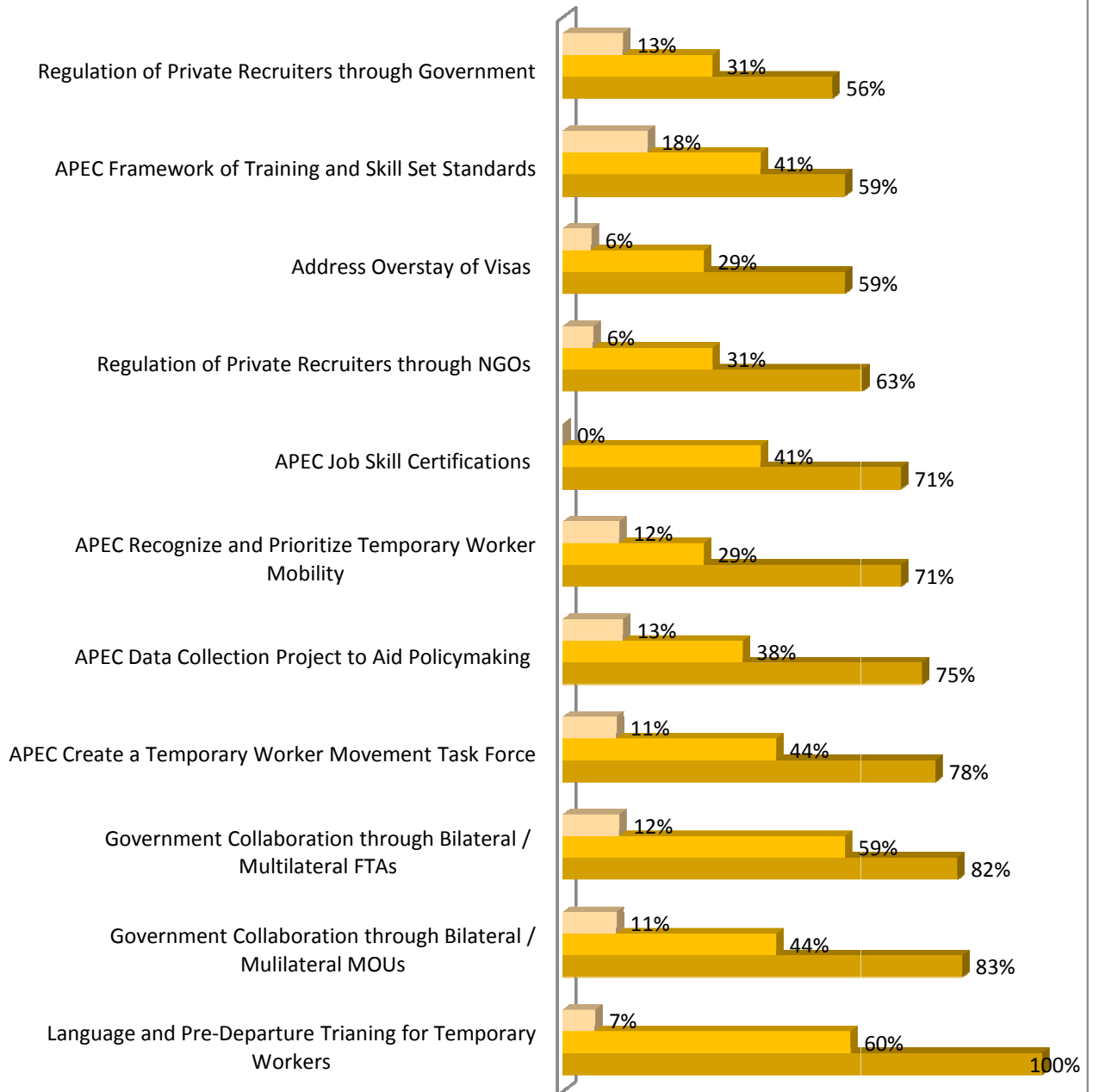
Survey Results For Sending Economies : Recommendations

■ Issues Reported at Level 3 or 4 or 5
 ■ Issues Reported at Level 3 or 4
 ■ Issues Reported at Level 3



Survey Results For Receiving Economies : Recommendations

■ Issues Reported at Level 3 or 4 or 5
 ■ Issues Reported at Level 3 or 4
 ■ Issues Reported at Level 3



Appendix D: Economy Specific Grievances

AUSTRALIA – Receiving Economy

Business Points of Pain

- Few policies to manage low skilled worker movement.
- Stringent, inflexible language requirements for workers to meet before they can enter the economy.

Best Practice

- Australia is very receptive to business needs. There are no quota restrictions on the number of workers etc. As long as a business can prove need they can bring workers into Australia. Additionally, Australia has revamped its skilled worker policy to ensure wage equalization and worker protections.

Summary

Australia is believed to have one of the most efficient skilled labor policies among the APEC nations. They perceive the ability to bring in the required skilled labor from around the globe as an important factor in establishing a competitive advantage over other economies.

BRUNEI DARUSSALAM – Receiving Economy

Business Points of Pain

- Smaller firms have harder time getting labor needs
- Government provides quotas for businesses limiting workers

Best Practice

- Have clearly written labor policies that are implemented well. Overall, their system works.

Summary

Brunei is primarily a receiving economy that has clear process for temporary workers to enter the economy. Overall, the system is transparent and the implementation facilitates temporary worker movement. As seen in other economies, obtaining workers is easier for larger multinational firms.

CANADA – Receiving Economy

Business Points of Pain

- Complex and inefficient process for approving temporary foreign workers through the Labor Market Opinion.
- Ineffective communications between organizations involved in bringing foreign workers into the economy.
- Recruitment agencies that take advantage of foreign workers.

Best Practice

- Temporary Foreign Worker Program that places an emphasis on engaging businesses in the recruitment process and providing foreign workers with the information and knowledge they will need to be successful.

Summary

Foreign workers are needed because of domestic labor shortages. They have a pre-departure orientation where they learn about what they are entitled to as a foreign worker and what they need to be prepared for prior to coming to Canada. Businesses are highly involved in the Temporary Foreign Worker Program, and they are given best practices to help them work with recruiters. The government's involvement has been effective in limiting recruiters' deception, improving the quality of life for foreign workers, and improving the facilitation of foreign workers into Canada.

CHILE – Receiving Economy

Business Points of Pain

- The costly nature of dealing with double taxation issues for multinational firms that relocate workers to Chile or hire new employees from abroad.
- The costly issue of transferability of pension benefits, which are only addressed in specific agreements between a selected set of economies.
- Irregular migration that is occurring from Peru due to the absence of an efficient scheme of temporary low/medium skilled worker movement.

Best Practice

- While many firms still face the costly problem of using legal council to sort out taxation issues in their temporary employment from abroad, Chilean policy makers have made significant efforts to address the issue of double taxation for foreign workers by entering bilateral agreements specifically detailing the treatment of taxation in both the sending and receiving economy. At the time of this report, Chile was known to have entered into such agreements with Canada, Malaysia, Russia, Korea, Mexico, and Peru.

Summary

Temporary movement of workers is not a priority issue for Chile and is rarely seen as a significant issue in both government and business circles. Firms rarely hire employees from abroad, but when they do,

they encounter problems in addressing taxation and pension issues that arise. These problems result in the necessity of legal counsel which in turn significantly increases the cost of hiring or transferring temporary workers from another economy.

CHINA – Sending Economy

Business Points of Pain

- Locating and registering legitimate receiving employers.
- Lack of agreements and information channels makes dispute resolution difficult.
- Entry restrictions on Chinese employers bringing workers.

Best Practice

- Comprehensive registration system of legitimate, receiving employers protects workers.

Summary

Workers move primarily through government state-controlled or state-regulated agencies. State oversight in the logistics details is high, reducing costs and risks for workers.

CHINESE TAIPEI – Receiving Economy

Business Points of Pain

- Excessive fees and high worker indenture.
- Labor shortages in family businesses and factories. Restrictive policies on temporary workers.

Best Practice

- MOUs with 4 APEC economies speed documentation and avoid process obstacles.

Summary

Chinese Taipei has critical shortages across industries, but restrictive policy and cultural protectionism makes it difficult to bring in workers where there are no MOUs.

HONG KONG – Receiving Economy

Business Points of Pain

- Difficulty in locating qualified workers. Although the candidates are qualified on paper for the position, there has been an issue that the foreign worker is not suitable for the job after they are hired.
- Additional resources needed to bridge difference in professional standards between China and Hong Kong.
- Overstaying (primarily lower- or semi-skilled).

Best Practice

- While there may be some stringent restrictions for certain economies, there is no quota or industry sector restriction for foreign workers, regardless the skill levels. The China-Hong Kong CEPA also facilitates mutual recognitions for Hong Kong professionals practicing in China.

Summary

As a labor receiving economy with a population of about 7 million, Hong Kong is known for its open-door policy regarding foreign workers. Most of the policies are without quota. Domestic workers form the largest group of foreign workers, with about 250,000 workers in Hong Kong.

JAPAN – Receiving Economy

Business Points of Pain

- Shortage of workers in certain sectors of the economy.
- Lack of transparency of entry policies.
- Cultural perceptions & language barriers.

Best Practice

- Clear, effective national entry regime regarding the movement of business persons.

Summary

Despite critical worker shortages across many sectors of the economy, Japan has a somewhat restrictive entry policy.

INDONESIA – Sending Economy

Business Points of Pain

- Lack of MOU enforcement has Indonesian workers in Malaysia with few rights.
- Difficult for government to gain the trust of workers, especially in remote areas – brokers, who are known in these communities, are more trusted.
- Illegal activity: corruption persists, especially among brokers and private agencies; fraudulent documentation, especially in rural areas.

Best Practice

- New “one-roof” service centers administered by the government and located in many major urban centers have helped streamline exit procedures and reduce illegal activity. These centers provide information on jobs available and the rights and responsibilities of Indonesian workers under the law. They provide an easy place for workers to garner information and ask questions; more such centers are due to open across the archipelago.

Summary

The Indonesian Labor and Migration Ministry, through its operational arm BNP2TKI, has made progress in implementing policies designed to facilitate worker movement, and provide for their protection. New initiatives, such as the “one-roof” centers and programs overseas to encourage the return of foreign workers have increased successful placements and performance, as well as levels of repatriation. However, mistreatment of workers in some economies, along with domestic corruption and misrepresentation of jobs by private agencies and brokers, continue to pose challenges to the current system.

KOREA – Receiving Economy

Business Points of Pain

- Long wait-times to find specialized skills through government system.
- Worker can only renew stay once – disruptive to business.
- Fees and expenses related to processing are expensive for small enterprises.

Best Practice

- New policies stipulate government control of agencies facilitating the movement of workers in sending and receiving economies. Government-to-government agreements (MOUs) have made strides helping business access labor in 15 economies and in eliminating corruption, which previously plagued the private agency system in Korea and abroad.

Summary

With the rapid and significant growth of the Korean economy, Korean society has changed dramatically over the last few decades. Korea has led the way in pioneering policies that allow businesses to access foreign labor to fill jobs that the Korean workforce no longer finds desirable. These reforms have helped Korean businesses in the 3-D sectors remain competitive. The Korean government has made several

rounds of policy reform in recent years, which have helped more foreign workers find employment in Korea, improved worker rights and support systems and reduced illegal activity.

MALAYSIA – Receiving Economy

Business Points of Pain

- Communication across too many government agencies in the mix.
- Policy is inflexibility to adapt to business needs.
- Education system is “teaching the wrong things.”

Best Practice

- Transparency surrounding policies and procedures.

Summary

Malaysia is both a sender of high skilled business people and a receiver of low and semi skilled workers.

MEXICO – Sending Economy

Business Points of Pain

- Government to government agreements are needed to ensure the safety and security of temporary workers. Without agreements there is no way for Mexico to collaborate with the receiving economy.
- Need certification and skills recognition so that temporary workers can demonstrate their skills and training.
- Need more collaboration between sending and receiving economies to ensure circular migration.

Best Practice

- Canada-Mexico MOU on temporary agricultural workers. 35 years of successful relationship. Workers receive fair wages, farmers get trained and experienced agricultural workers.

Summary

Mexican workers face too few opportunities in their home economy and many seek temporary work opportunities in the US and Canada, through formal temporary worker programs as well as irregular migration. Government representatives want to see increased collaboration to provide more formal temporary worker programs that ensure fair treatment and compensation for workers’ skills and experience and enable collaboration with receiving economies to ensure circular migration for workers.

NEW ZEALAND – Receiving Economy

Business Points of Pain

- Inconsistencies in entry policy.
- Significant labor shortages.
- Excessive Recruitment Fees.

Best Practice

- Recognized Seasonal Worker Program.

Summary

Policies and programs seem to be in place, which are attempting to address labor shortages within industries which are critical to the New Zealand's overall economic stability -- especially, agricultural production.

PAPUA NEW GUINEA – Receiving Economy

Business Points of Pain

- Labor policy is not adaptive to business needs.
- Implementation shortfalls.
- Lack of coordination and collaboration among various interest groups.

Best Practice

- Businesses and industry associations are very active in policy discussions.

Summary

Papua New Guinea's growing economy has outpaced the local resources on the island. Skill gaps versus labor shortage are stressing the population and the businesses. Businesses are looking to continuously equip the local population with new and appropriate skills.

PERU – Sending Economy

Business Points of Pain

- Brain drain is a serious problem
- Lack of government capabilities and resources to coordinate labor policy.
- Multiple government departments have a hand in labor issues, complicating the execution.

Best Practice

- Progressive policies and pushing the agenda to move forward.

Summary

Peru is looking for more opportunities for its citizens and wants to ensure that they are protected and will eventually come home. Brain drain is a serious issue.

PHILIPPINES – Sending Economy

Business Points of Pain

- Significant brain drain. Huge numbers of talented workers that never repatriate.
- Exploitative recruitment and processing fees by intermediaries.
- Implementation shortfalls.

Best Practice

- Pre-departure training and regulation of domestic recruitment agencies.

Summary

The Philippines is proactively engaging various receiving economies on policy to provide for smooth and coordinated labor movement. Labor mobility is the critical issue in the Philippines economic development. In the interest of protecting both the sending and receiving economy, an abundance of FTAs and MOUs have been written. However, problems arise in implementation.

RUSSIA – Receiving Economy

Business Points of Pain

- Process for recruiting workers is complex and changes very often
- Numerical quotas are arbitrary and inflexible
- Documentation process delays.

Best Practice

Russian policy makers are receptive to business requirements. The attempt to obtain worker yearly hiring plans from businesses before developing quotas is a good instance of this receptivity.

Summary

Russia has fairly restrictive foreign labor policies. However, the economy recognizes the need for management and other skilled personnel to sustain their businesses and they attempt to cater to these needs when creating policies. Therefore, it is relatively simpler to import high skilled labor. However, complicated procedures, delays in processing, corruption and quotas place unnecessary burden on employers.

SINGAPORE – Receiving Economy

Business Points of Pain

- Labor shortages in the domestic economy.
- Language barriers with temporary workers.

Best Practice

- Highly transparent entry requirements.

Summary

Singapore is comprised of nearly 25 percent foreign nationals, and due to the small size of the economy, has created a very efficient and transparent immigration and temporary worker system.

THAILAND – Receiving Economy

Business Points of Pain

- Large presence of irregular migrants and high costs to document them.
- Corruption and poor regulation and enforcement of policy.
- Exploitative worker fees.

Best Practice

- Have taken steps to address the inflow of irregular migrants by writing MOUs with Laos, Myanmar and Cambodia.

Summary

Thailand faces a significant influx of irregulars through their porous borders with Laos, Myanmar and Cambodia. The high cost to document irregulars and rampant corruption leads to an environment where the problem is ignored.

UNITED STATES – Receiving Economy

Business Points of Pain

- Businesses experience high transaction costs because of the time and effort required to navigate the temporary worker process, or because of the cost of hiring outside firms to do this for you.
- Current policies are not responsive to businesses' labor needs. Quotas for visa programs are not set based on business needs and they change frequently.
- Tax equalization and portability of pension benefits are very important, especially to multinational companies that are based in the US and sending and receiving workers throughout the region.

Best Practice

- For the H1B skilled worker visas that are issued, the process is effective and highly transparent.

Summary

US businesses are operating on a multinational level and face labor shortages, but current temporary worker programs and policies do not meet business needs. Effective policymaking is complicated by border security and patterns of irregular migration of low-skilled workers.

VIET NAM – Sending Economy

Business Points of Pain

- Availability and transparency of MOUs.
- Government transparency and implementation of the clearly written labor policies.
- Regulation of private recruiting agencies.

Best Practice

- Have clearly written labor policies. Government supports labor mobility because they are aware of the job shortages for their population.

Summary

Viet Nam is a sending economy with processes in place to move labor cross borders. However, there is a great deal of corruption in the temporary worker movement process implementation, especially surrounding fees and agencies. There is minimal regulation or oversight of agencies from governments

Appendix E: Evolution of the *30 Essential Provisions*

Preliminary 91 Provisions Found In Agreements

1 - GENERAL ELEMENTS

- 1.1.1 Eliminates Discrimination in the Workplace
- 1.1.2 Eliminates Forced Labor
- 1.1.3 Eliminates Child Labor
- 1.2.1 Proper Working Conditions
- 1.2.2 Health Insurance
- 1.2.3 Prevention and Compensation for Work-Related Injuries and Illnesses
- 1.3.1 Foreign Workers Have Access to Fair Tribunals
- 1.3.2 Compliance with Due Process of Law
- 1.4.1 Agreements are Publically Available
- 1.4.2 Worker Education of Labor Laws
- 1.5.1 Commitment to Ensure that Labor Laws are Not Used for Protectionism
- 1.6.1 Members of Public on Advisory or Consultative Body
- 1.6.2 Employees and Worker Representatives on Advisory or Consultative Body
- 1.7.1 Establishment & Responsibilities of Joint Committee
- 1.7.2 Administrator Contact Procedures

2 - BUSINESS PERSON MOVEMENT

- 2.0.0 Recruitment Fees
- 2.0.1 Approves APEC Business Card
- 2.0.2 "Business Visitor" Definition
- 2.1.1 Definition of Employee: Function
- 2.1.2 Definition of Employee: Industry
- 2.1.3 Prior Work Experience Needed
- 2.1.4 Length of Term (Per Entry)
- 2.1.5 Length of Extensions
- 2.1.6 Business Visitors Subject to Immigration Law?
- 2.1.7 Entry Visa Requirements
- 2.1.8 Spouses and Dependents - Length of Stay
- 2.1.9 Spouses and Dependents - Work Visa
- 2.1.10 Numerical Quotas
- 2.1.11 Recognition of Qualifications
- 2.2.1 Market Access Requirements
- 2.2.2 Definition of Business Visitor
- 2.2.3 Length of Term (Per Entry)
- 2.2.4 Length of Extensions
- 2.2.5 Short-Term Business Visitors Subject to Immigration Law?
- 2.2.6 Entry Visa Requirements
- 2.2.7 Numerical Quotas
- 2.2.8 Recognition of Qualifications
- 2.3.1 Activity of Investor
- 2.3.2 Activity of Traders
- 2.3.3 Length of Term (Per Entry)
- 2.3.4 Length of Extensions
- 2.3.5 Investors and Traders Subject to Immigration Law?
- 2.3.6 Entry Visa Requirements
- 2.3.7 Numerical Quotas
- 2.3.8 Recognition of Qualifications
- 2.4.1 Definition of Professionals
- 2.4.2 Activity of Professionals
- 2.4.3 Type of Professional
- 2.4.4 Length of Term (Per Entry)
- 2.4.5 Length of Extensions
- 2.4.6 Professionals Subject to Immigration Law?
- 2.4.7 Entry Visa Requirements
- 2.4.8 Numerical Quotas
- 2.4.9 Recognition of Qualifications

3 - WORKER MOVEMENT

- 3.0.0 Recruitment Fees
- 3.0.1 Portability of Social Security
- 3.0.2 Avoidance of Double Taxation
- 3.1.0 Length of Term (Per Entry)
- 3.1.1 Are Agreements Binding?
- 3.2.1 Governments
- 3.2.2 Employer
- 3.2.3 Recruiting Agencies Responsibility & Regulation
- 3.2.4 Employee/Worker
- 3.3.1 The Competent Government Authority
- 3.3.2 Establish Channels to Exchange Information
- 3.3.3 Migrants in an irregular situation
- 3.3.4 Notification of Job Opportunities Rights
- 3.3.5 Basic Requirements
- 3.3.6 Pre-Selection of Candidates (i.e. Language Test, Health Check)
- 3.3.7 Nomination of Candidates by the Employers
- 3.3.8 Medical Examination
- 3.3.9 Entry-Documents
- 3.3.10 Residence and Work Permits
- 3.3.11 Transportation
- 3.3.12 Employment Contract
- 3.3.13 Pre-Departure Orientation
- 3.3.14 Company Training
- 3.3.15 Employment Conditions (i.e. Accommodation, Meals, Health Insurance)
- 3.3.16 Conflict Resolution Mechanism
- 3.3.17 The Role of Trade Unions and Collective Bargaining
- 3.3.18 Remittances
- 3.3.19 Family Reunification
- 3.3.20 Repatriation Processes
- 3.3.21 Protection From Embassies in Case of Emergencies
- 3.3.22 Education Program to Prepare the Worker to Return Home
- 3.3.23 Social and Religious Organizations
- 3.3.24 Establishment of Joint Commission
- 3.3.25 Validity and Renewal of Agreement
- 3.3.26 Applicable Jurisdiction
- 3.3.27 Resident Officers (Permanent)
- 3.3.28 Officials to Monitor the Program in the Sending Economy (Temporary)

91 Provisions Reorganized Around 7 Categories

Preliminary Matrix Provisions - Re-Categorized (most important in bold)	
1 - Legality & Transparency of Agreement & Proceedings	4 - Addresses Details of Employment Term
1.3.1 Foreign Workers Have Access to Fair Tribunals	2.1.4 Length of Term (Per Entry)
1.3.2 Compliance with Due Process of Law	2.1.5 Length of Extensions
1.4.1 Agreements are Publicly Available	2.1.8 Spouses and Dependents - Length of Stay
3.1.1 Are Agreements Binding?	2.1.9 Spouses and Dependents - Work Visa
3.3.25 Validity and Renewal of Agreement	2.1.11 Recognition of Qualifications
3.3.26 Applicable Jurisdiction	2.2.3 Length of Term (Per Entry)
2 - Defines Entry Requirements	2.2.4 Length of Extensions
2.0.1 Approves APEC Business Card	2.2.8 Recognition of Qualifications
2.0.2 "Business Visitor" Definition	2.3.3 Length of Term (Per Entry)
2.1.1 Definition of Employee: Function	2.3.4 Length of Extensions
2.1.2 Definition of Employee: Industry	2.3.8 Recognition of Qualifications
2.1.3 Prior Work Experience Needed	2.4.4 Length of Term (Per Entry)
2.1.6 Business Visitors Subject to Immigration Law?	2.4.5 Length of Extensions
2.1.7 Entry Visa Requirements	2.4.7 Entry Visa Requirements
2.1.10 Numerical Quotas	2.4.9 Recognition of Qualifications
2.2.1 Market Access Requirements	3.1.0 Length of Term (Per Entry)
2.2.2 Definition of Business Visitor	3.3.4 Notification of Job Opportunities Rights
2.2.5 Short-Term Business Visitors Subject to Immigration Law?	3.3.7 Nomination of Candidates by the Employers
2.2.6 Entry Visa Requirements	3.3.12 Employment Contract
2.2.7 Numerical Quotas	3.3.14 Company Training
2.3.1 Activity of Investor	3.3.15 Employment Conditions (i.e. Accommodation, Meals, Health Insurance)
2.3.2 Activity of Traders	3.3.16 Conflict Resolution Mechanism
2.3.5 Investors and Traders Subject to Immigration Law?	3.3.17 The Role of Trade Unions and Collective Bargaining
2.3.6 Entry Visa Requirements	3.3.21 Protection From Embassies in Case of Emergencies
2.3.7 Numerical Quotas	5 - Addresses Logistics of Workers' Movement
2.4.1 Definition of Professionals	3.3.11 Transportation
2.4.2 Activity of Professionals	3.3.13 Pre-Departure Orientation
2.4.3 Type of Professional	3.3.19 Family Reunification
2.4.6 Professionals Subject to Immigration Law?	3.3.20 Repatriation Processes
2.4.8 Numerical Quotas	3.3.22 Education Program to Prepare the Worker to Return Home
3.3.5 Basic Requirements	3.3.23 Social and Religious Organizations
3.3.6 Pre-Selection of Candidates (i.e. Language Test, Health Check)	6 - Addresses Program Administration
3.3.8 Medical Examination	1.4.2 Worker Education of Labor Laws
3.3.9 Entry Documents	1.5.1 Commitment to Ensure that Labor Laws are Not Used for Protectionism
3.3.10 Residence and Work Permits	1.6.1 Members of Public on Advisory or Consultative Body
3 - Costs and Worker Benefits	1.6.2 Employees and Worker Representatives on Advisory or Consultative Body
1.2.2 Health Insurance	1.7.1 Establishment & Responsibilities of Joint Committee
1.2.3 Prevention and Compensation for Work-Related Injuries and Illnesses	1.7.2 Administrator Contact Procedures
2.0.0 Recruitment Fees	3.2.1 Governments
3.0.0 Recruitment Fees	3.2.2 Employer
3.0.1 Portability of Social Security	3.2.3 Recruiting Agencies Responsibility & Regulation
3.0.2 Avoidance of Double Taxation	3.2.4 Employee/Worker
3.3.18 Remittances	3.3.1 The Competent Government Authority
	3.3.2 Establish Channels to Exchange Information
	3.3.24 Establishment of Joint Commission
	3.3.27 Resident Officers (Permanent)
	3.3.28 Officials to Monitor the Program in the Sending Economy (Temporary)
	7 - Basic Worker Rights
	1.1.1 Eliminates Discrimination in the Workplace
	1.1.2 Eliminates Forced Labor
	1.1.3 Eliminates Child Labor
	1.2.1 Proper Working Conditions
	3.3.3 Migrants in an Irregular Situation

Consolidated and Qualified into the 30 Essential Provisions

"30 Essential Labor Provisions"

1 - Legality & Transparency of Agreement & Proceedings

1.3.1 Foreign Workers Have Access to Fair Tribunals & Due Process

1.4.1 Agreements are Publicly Available

3.1.1 Are Agreements Binding?

2 - Defines Entry Requirements

2.0.1 Approves APEC Business Card

2.0.2 Definition of Type of Visitor

2.1.6 Business Visitors Subject to Immigration Law?

2.1.10 Numerical Quotas

2.1.7 Entry Visa Requirements

3.3.8 Medical Examination, Health Checks & Pre-Selection Criteria

3.3.9 Entry Documentation & Permits

3 - Costs and Worker Benefits

1.2.2 Health Insurance

2.0.0 Recruitment Fees

3.0.1 Portability of Social Security

3.0.2 Avoidance of Double Taxation

4 - Addresses Details of Employment Term

2.1.4 Length of Term & Extensions

2.1.8 Legal Rights of Workers' Spouses and Dependents

2.1.11 Recognition of Qualifications

3.3.14 Company Training

5 - Addresses Logistics of Workers' Movement

3.3.11 Transportation

3.3.13 Pre-Departure Orientation

3.3.19 Family Reunification

3.3.20 Repatriation Processes

6 - Addresses Program Administration

1.4.2 Worker Education of Labor Laws

1.7.1 Establishment of Joint Committee

1.7.2 Administrator Contact Procedures

3.2.3 Recruiting Agencies Responsibility & Regulation

3.3.2 Establish Channels to Exchange Information

3.3.28 Officials to Monitor the Program in the Sending Economy (Temporary)

7 - Basic Worker Rights

1.2.1 Proper Working Conditions and Occupational Health & Safety

3.3.3 Protection & Treatment of Migrant Workers

30 Essential Provisions Explanation

Provision	Provision Description
Foreign Workers Have Access to Fair Tribunals & Due Process	Each Party shall ensure that persons with a recognized interest under its law have appropriate access to tribunals
Agreements are Publicly Available	The parties shall publish the agreement within a specified period of time
Are Agreements Binding?	Notes whether the agreements are binding or defer to local laws
Approves APEC Business Card	Each party affirms voluntary commitment in the APEC Business Travel Card operating framework
Definition of Type of Visitor	Defines the types of visitor, usually categorized as service seller, investor, manager, or intra-company transferee
Business Visitors Subject to Immigration Law?	Language defers to immigration laws of a particular economy
Numerical Quotas	Specifies whether specific quotas are in place and whether the parties are allowed to enact quotas and certification tests
Entry Visa Requirements	Notes whether a visa is required for certain types of temporary entrants or for entrants from specific economies
Medical Examination, Health Checks & Pre-Selection Criteria	Discusses the process and requirements of preselection, together with health tests and medical exam administration
Entry Documentation & Permits	Describes the handling of documentation by employer or employee and whether work permits are required
Health Insurance	Refers to discussion in agreements, direct or indirect, about cooperation on health and safety standards
Recruitment Fees	Describes regulations on the handling of application processing fees
Portability of Social Security	States whether the parties agree to carry out cooperation activities or describes conditions related to social security
Avoidance of Double Taxation	Details regulations related to tax treatment in sending and receiving economy
Length of Term & Extensions	Details length of term for specific types of visitors, whether extensions are allowed, and the length of extensions
Legal Rights of Workers' Spouses and Dependents	Discusses regulations regarding the temporary movement of spouses of entrants and their rights to employment
Recognition of Qualifications	Details whether certification examinations can be used and whether a committee for mutual recognition of qualifications is established
Company Training	Details the aims of the parties to cooperate on training programs for temporary entrants
Transportation	Discusses the structure of transportation costs and who carries the burden of payment: the employee or the employer/government
Pre-Departure Orientation	Notes whether orientation is provided for the temporary worker and which economy is responsible for its administration
Family Reunification	Discusses whether spouses can stay with the worker in the receiving economy or if the entrant can take a vacation to visit home
Repatriation Processes	Explains who pays for the repatriation process and details any specific rules the parties must adhere to
Worker Education of Labor Laws	Notes whether the parties agree to cooperate in providing reintegration for temporary workers
Establishment of Joint Committee	States whether the parties agree to establish a joint committee for worker mobility and how long they have to do so
Administrator Contact Procedures	Either details the contacts to be used or notes the agreement among parties to define such contacts
Recruiting Agencies Responsibility & Regulation	Defines the role of government agencies or discusses recruiting agency responsibilities
Establish Channels to Exchange Information	Discuss options for information exchange or note specific channels and processes
Officials to Monitor the Program in the Sending Economy	Include language on specific officials that are responsible for monitoring the program or the agreement to determine such officials
Proper Working Conditions and Health & Safety	The parties agree to cooperate on the issue or defer to the parties' laws and regulations
Protection & Treatment of Migrant Workers	Note that the parties agree to cooperate on developing policies to protect the temporary worker

Appendix F: Ratings Summaries

Provision Specific Ratings

Provision-Specific Ratings		
<u>30 Essential Labor Provisions</u>	<u>Policy Detail Rating</u>	<u>Convergence Rating</u>
1.3.1 Foreign Workers Have Access to Fair Tribunals & Due Process	2.10	4.00
1.4.1 Agreements are Publicly Available	2.96	3.38
3.1.1 Are Agreements Binding?	2.75	3.08
2.0.1 Approves APEC Business Card	2.50	3.50
2.0.2 Definition of Type of Visitor	3.00	4.00
2.1.6 Business Visitors Subject to Immigration Law?	2.06	3.94
2.1.10 Numerical Quotas	2.93	3.79
2.1.7 Entry Visa Requirements	1.76	3.53
3.3.8 Medical Examination, Health Checks & Pre-Selection Criteria	2.63	4.00
3.3.9 Entry Documentation & Permits	2.00	3.67
1.2.2 Health Insurance	1.00	3.50
2.0.0 Recruitment Fees	2.23	3.64
3.0.1 Portability of Social Security	2.20	3.40
3.0.2 Avoidance of Double Taxation	-	-
2.1.4 Length of Term & Extensions	3.00	3.69
2.1.8 Legal Rights of Workers' Spouses and Dependents	2.60	3.20
2.1.11 Recognition of Qualifications	2.00	2.91
3.3.14 Company Training	1.64	3.91
3.3.11 Transportation	2.60	3.20
3.3.13 Pre-Departure Orientation	2.00	3.60
3.3.19 Family Reunification	2.33	2.67
3.3.20 Repatriation Processes	1.75	2.75
1.4.2 Worker Education of Labor Laws	2.00	3.75
1.7.1 Establishment of Joint Committee	2.46	2.89
1.7.2 Administrator Contact Procedures	2.67	3.67
3.2.3 Recruiting Agencies Responsibility & Regulation	2.22	3.67
3.3.2 Establish Channels to Exchange Information	2.00	3.50
3.3.28 Officials to Monitor the Program in the Sending Economy (Temporary)	2.17	3.83
1.2.1 Proper Working Conditions and Occupational Health & Safety	1.40	3.20
3.3.3 Protection & Treatment of Migrant Workers	1.00	3.67

Agreement Specific Ratings

Agreement-Specific Ratings		
Agreement Name	Policy Detail Rating	Convergence Rating
AANZFTA	2.57	3.57
ASEAN	3.00	3.00
ASEAN - China FTA	3.00	3.00
ASEAN - Korea FTA	3.00	4.00
Australia - Chile FTA	2.50	3.33
Australia - New Zealand Trans-Tasman Mutual Recognition Arrangement	2.50	1.50
Australia - Singapore FTA	2.80	3.80
Australia - Thailand FTA	3.00	3.67
Australia - United States FTA	2.33	3.33
Brunei Darussalam - Japan FTA	3.00	3.50
Canada - Chile FTA	2.17	4.00
Canada - Mexico Temporary Worker Program	3.00	4.00
Canada - Peru FTA	2.33	3.67
Canada (Alberta) - Philippines HR MOU	2.17	3.25
Canada (British Columbia) - Philippines HR MOU	2.14	3.29
Canada (Manitoba) - Philippines HR MOU	1.92	3.38
Canada (Saskatchewan) - Philippines HR MOU	1.89	3.67
Chile - China Labor MOA	2.00	4.00
Chile - Japan FTA	2.00	4.00
Chile - Korea FTA	2.71	3.86
Chile - Mexico FTA	2.38	3.63
Chile - Peru FTA	2.57	3.57
Chile - United States FTA	2.33	3.67
China - Hong Kong CEPA	2.33	4.00
China - New Zealand FTA	2.43	4.00
China - New Zealand Labor MOA	1.43	3.29
China - Peru FTA	2.50	3.33
China - Russia Labor MOA	2.67	3.33
China - Singapore FTA	2.71	4.00
Chinese Taipei - Philippines Labor MOU	2.50	3.00
Indonesia - Japan FTA	2.50	3.67
Indonesia - Malaysia Recruitment & Placement MOU	2.56	3.11
Indonesia - Philippines Labor MOU	1.50	2.75
Japan - Mexico FTA	2.63	3.88
Japan - Philippines FTA	2.63	3.50
Japan - Philippines Seafarer's Welfare MOU	3.00	4.00
Japan - Singapore FTA	2.20	4.00
Japan - Thailand FTA	2.83	3.50
Japan - Vietnam FTA	2.56	3.67
Korea - Philippines Sending & Receiving Labor MOU	2.23	3.23
Korea - Singapore FTA	2.80	3.80
Korea - United States FTA	2.33	3.83
Malaysia - New Zealand FTA	2.25	3.50
Malaysia - Philippines Seafarers' Training & Certification MOU	3.00	2.50
NAFTA	2.25	3.38
New Zealand - Philippines Labor MOA	2.00	2.60
New Zealand - Philippines Temporary Entry Arrangement	2.33	2.83
New Zealand - Singapore FTA	2.33	4.00
New Zealand - Thailand CEPA	2.63	3.50
New Zealand - Vietnam Temporary Entry Arrangement	2.33	3.33
Pacific 4	2.50	4.00
Pacific 4 Labor MOU	1.50	3.00
Papua New Guinea - Philippines Technical Assistance MOU	1.00	3.00
Peru - Singapore FTA	2.14	3.86
Peru - United States FTA	2.00	4.00
Philippines - Singapore Maritime Training MOU	3.00	2.50
Philippines - United States Armed Forces MOU	2.43	3.57
Singapore - United States FTA	2.22	3.89
Vietnam - United States Labor MOU	1.50	3.00

Provision Characteristic Ratings

Provision Characteristic Ratings		
<u>Provision Characteristics</u>	<u>Policy Detail Rating</u>	<u>Convergence Rating</u>
1 - Legality & Transparency of Agreement & Proceedings	2.72	3.43
2 - Defines Entry Requirements	2.49	3.83
3 - Costs and Worker Benefits	2.14	3.59
4 - Addresses Details of Employment Term	2.39	3.42
5 - Addresses Logistics of Workers' Movement	2.10	3.05
6 - Addresses Program Administration	2.30	3.30
7 - Commitment to ILO & Basic Worker Rights	1.33	3.28

Economy Specific Ratings

Economy-Specific Ratings (Detail)				Economy-Specific Ratings (Convergence)			
<u>Economy</u>	<u>FTA</u>	<u>MOU / MOA</u>	<u>Total</u>	<u>Economy</u>	<u>FTA</u>	<u>MOU/MOA</u>	<u>Total</u>
Australia	2.20	2.50	2.24	Australia	2.95	1.50	2.74
Brunei Darussalam	2.44	1.50	2.32	Brunei Darussalam	3.01	3.00	3.01
Canada	2.25	2.22	2.23	Canada	3.68	3.52	3.58
Chile	2.13	1.75	2.06	Chile	3.34	3.50	3.37
China	2.16	2.03	2.12	China	3.06	3.54	3.22
Chinese Taipei	-	2.50	2.50	Chinese Taipei	-	3.00	3.00
Hong Kong, China	2.33	-	2.33	Hong Kong, China	4.00	-	4.00
Indonesia	2.35	2.03	2.27	Indonesia	2.87	2.93	2.89
Japan	2.03	3.00	2.12	Japan	2.97	4.00	3.06
Korea	2.71	1.12	2.18	Korea	3.87	1.62	3.12
Malaysia	1.97	2.78	2.15	Malaysia	2.44	2.81	2.52
Mexico	1.81	3.00	2.05	Mexico	2.72	4.00	2.98
New Zealand	2.45	2.02	2.23	New Zealand	3.76	2.76	3.26
Papua New Guinea	-	1.00	0.50	Papua New Guinea	-	3.00	1.50
Peru	1.65	-	1.65	Peru	2.63	-	2.63
Philippines	2.37	1.94	2.06	Philippines	2.85	2.72	2.76
Russia	-	2.67	2.67	Russia	-	3.33	3.33
Singapore	2.41	2.25	2.39	Singapore	3.46	2.75	3.36
Thailand	2.23	-	2.23	Thailand	2.69	-	2.69
United States	2.25	1.31	1.93	United States	3.68	2.19	3.19
Viet Nam	2.35	1.92	2.25	Viet Nam	2.87	3.17	2.95

MBA Research Team

Mark Wilson, Team Lead, joins the ABAC Research Team with a Bachelor's degree in Economics from Trinity College. Prior to coming to the University of Southern California, he spent four years in the financial services industry, trading fixed income securities for the founder of the mutual fund industry, MFS Investment Management. He also brings a heavy international focus, consulting with a tourism company in Western China and a solar energy social enterprise in India. Mark has spent extensive time in Asia and speaks fluent Mandarin Chinese.

Margo Flores joins the ABAC research team with three years of banking and three years of real estate experience. In the banking sector, her work focused on corporate planning and negotiation. She transitioned this finance experience into a role as Chief Operating Officer of Marajo Land Corporation, where she managed the daily operations and oversaw the legal and labor concerns. Originally from the Philippines, where she was a nationally ranked tennis player in 2002, Margo earned her Bachelor of Science in Management Communication and Technology from the Ateneo de Manila University.

Alexander Jochai completed his Bachelor of Science degree in Management Science with honors at the University of California at San Diego. He began his career in the commercial real estate industry. After five years in the real estate industry, spanning the gamut from multifamily acquisitions to retail development, he entered the full time MBA program at the USC Marshall School of Business. Alexander was born in Tskhinvali, in the South Ossetian region of the Republic of Georgia, and immigrated to the United States in 1993.

Pavitra Krishnaswamy joins the ABAC research team with 11 years of experience in the telecom and data communication industry. Prior to attending the University of Southern California, she worked as a Project and Program Manager at Continuous Computing, a technology startup in San Diego. In this role she was instrumental in developing her company's new offices in India and China. Her current focus areas at the University of Southern California are Business/Global Strategy & Marketing. Pavitra holds a Bachelor's degree in engineering and Master's Degrees in Computer Engineering and Biomedical Engineering from the University of Southern California. Originally from India, Pavitra has worked in North America, Europe and Asia and is fluent in five languages.

Man-Ting "Kitty" Law joins the ABAC research team with six years of work experience in M&A research and economic consulting for high-profile financial lawsuits. Most recently, Kitty worked at Toyota as a Corporate Finance intern. She earned her Bachelor of Arts in Business Economics at the University of California Los Angeles, with a minor in Accounting. She is also fluent in Chinese.

Chris Masefield joins the ABAC research team with experience in event planning and sales management with a leading Korean contemporary art gallery. He worked in South Korea supporting the gallery's international team, and ultimately helped launch a new 7,600 sq. foot gallery space in New York's Chelsea arts district. Prior to employment with the gallery, Chris received a diploma from Yonsei

University's Korean Language Institute. Chris earned his Bachelor of Arts degree in Government from Cornell University, with minors in International Relations and in Southeast Asia. Chris originally hails from Toronto, Canada, where he attended Upper Canada College, and is proficient in Korean and French.

Lucy Melvin joins the ABAC research team with five years of experience in the public policy sector in Washington, DC, where she lobbied the US Congress and worked with federal agencies. She worked for two non-profit organizations where she advocated on issues including protections and services for domestic violence victims and girls' access to education. Most recently, she interned as a human capital consultant with Deloitte where she worked on communications and change management for a global project. Lucy earned her Bachelor of Arts in English at the University of North Carolina at Chapel Hill. She has lived in Argentina and traveled widely in South America.

Tiffany Sanberg joins the ABAC Research Team with a Bachelor's degree in Psychology and Social Behavior from the University of California, Irvine. Prior to coming to Marshall, she conducted three academic research studies involving stress management, in addition to spending five years consulting for business executives. She brings a broad business background and an in-depth knowledge of qualitative and quantitative research. Tiffany is interested in human capital issues and how they impact business competitiveness.

Anshu Sawhney, Pharm.D., joins the ABAC team with five years experience in the healthcare industry. Prior to the University of Southern California, Anshu worked as a hospital pharmacist focusing primarily in oncology and investigational pharmacy. Most recently, she gained strong commercial experience in a global strategic marketing role for a large pharmaceutical firm. She received her Doctorate of Pharmacy from the University of Texas at Austin. Originally from India, Anshu is fluent in Hindi.

Jacob J. Schutz joins the ABAC research team with nine years experience in project management and finance. He is specializing in strategy during his MBA studies and interned in the global strategy division of a large biotechnology firm over the summer. Prior to business school, Jacob worked in the financial services sector in various functions, including analytics, project management, and client service. Jacob holds a Bachelor's degree in finance, investment and banking from the University of Wisconsin, Madison.

Stephen Smoot joins the ABAC research team with five years of experience in the financial services industry. Prior to returning to business school, he worked in private equity and in a variety of other finance and accounting roles. Most recently, Stephen worked as an analyst for BB&T Capital Partners, a lower middle-market private equity firm, with responsibilities for the diligence and execution of direct equity and mezzanine debt investments. Prior to joining BB&T, he began his career at General Electric as part of the Financial Management Program, a two year rotational program which provided exposure to a broad range of industries including: energy, healthcare, commercial leasing, private equity, and real estate. Stephen earned his Bachelor's degree in finance at Brigham Young University.

