



CONSULAR DEPARTMENT - MINISTRY OF FOREIGN AFFAIRS OF VIET NAM

REVIEW

# OF VIETNAMESE MIGRATION ABROAD



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**REVIEW**

**OF VIETNAMESE  
MIGRATION ABROAD**

*Ha Noi, May 2012*



## FOREWORD

In the context of contemporary globalization and integration, international migration has become a major issue. Never before in mankind's history has migration occurred on such a large scale. According to the International Organization for Migration (IOM), there are now almost 215 million migrants working and living abroad, accounting for 3.3 per cent of the global population. International migration contributes significantly to the economic growth and sustainable development of many countries. Migrants continue to contribute to the world economy despite the global financial downturn. Acknowledging the role of migrants, States are paying increasing attention to their legal rights and interests, including their right to work and to social security, both for themselves and their families.

The demand for labour and services, coupled with disparities in living standards, incomes and social security conditions, continues to drive overseas Vietnamese migration. The development of the country as a result of 25 years of Doi Moi, together with the country's open-door policy and international integration, has provided Vietnamese nationals opportunities to go abroad to work, study, visit or reside. Millions of Vietnamese nationals are currently working, studying and residing abroad. Migration categories are becoming increasingly diversified - and difficult to profile and quantify - as the scale of migration increases.

Against this backdrop, Viet Nam's migration policy needs to keep pace with the reality of the situation. The report "A Review of Vietnamese Migration Abroad" can be seen as one initial step in responding to the urgent need for research, planning and an improved national legislative framework with respect to migration. It was developed by the Consular Department of the Ministry of Foreign Affairs of Viet Nam, with support from an advisory panel of officials and experts from different ministries and related agencies, in cooperation with the IOM Mission in Viet Nam and in consultation with a group of experts from the Viet Nam Academy of Social Sciences.

The Review examines the different characteristics of Vietnamese nationals migrating abroad within the context of international integration and national development since Doi Moi was introduced in 1986. It

highlights a number of issues related to different migration categories and specific features of international migration flows, and evaluates recommendations for migration management in Viet Nam.

In publishing this Review, the Consular Department of the Ministry of Foreign Affairs hopes that it will serve as a useful reference on migration trends and international migration policy in Viet Nam. Despite great efforts to apply the highest editorial standards in preparing this Review, shortcomings are inevitable. The editing team welcomes comments from readers with a view to producing the best possible follow-up reports on this key topic in the future.

The Consular Department would like to take this opportunity to express its sincere gratitude to the ministries, agencies, project advisory panel, experts, scholars, institutes and research centres in Viet Nam and abroad for their cooperation, enthusiasm, effective support and valuable comments that made the development and finalization of this Review possible.

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Finally, the Consular Department expresses its sincere appreciation for the efforts of its staff and of experts from ministries, agencies and members of the Project Management Board, all of whom worked very hard to make the project a success.

**CONSULAR DEPARTMENT  
MINISTRY OF FOREIGN AFFAIRS OF VIET NAM**



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## LIST OF ACRONYMS

ASEAN	Association of South-East Asian Nations
ASEM	Asia-Europe Meeting
CPA	Comprehensive Plan of Action
DOLAB	Department of Overseas Labour Management
EPS	Employment Permit System
EU	European Union
FDI	Foreign Direct Investment
ILO	International Labour Organization
IOM	International Organization for Migration
JITCO	Japan International Training Cooperation Organization
MOD	Ministry of Defence
MOET	Ministry of Education and Training
MOFA	Ministry of Foreign Affairs
MOJ	Ministry of Justice
MOLISA	Ministry of Labour, Invalids and Social Affairs
MPS	Ministry of Public Security
ODA	Official Development Assistance
ODP	Orderly Departure Programme
PROGRAMME 130/CP	Programme addressing trafficking in women and children
UAE	United Arab Emirates
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNODC	United Nations Office on Drugs and Crime
USD	United States Dollars
VJEPA	Viet Nam-Japan Economic Partnership Agreement
VND	Vietnamese Dong
WB	World Bank
WTO	World Trade Organization



## SUMMARY

In the context of complex developments occurring around the world and socio-economic developments within Viet Nam, new opportunities have been generated that encourage a number of Vietnamese nationals to migrate abroad. In recent years, migration flows have diversified significantly. This study endeavours to fill a current gap in research by accurately profiling Vietnamese migrants.

A comprehensive understanding of migration trends in Viet Nam is a pre-requisite for the implementation of safe, appropriate and effective migration policies and laws in the country. To this end, the Consular Department of the Vietnamese Foreign Ministry, in cooperation with IOM Viet Nam and with European Union (EU) funding, carried out a study on the "National Migration Profile: A Review of Vietnamese Migration Abroad". Conducted from July to November 2011 by the Consular Department together with a consultant team from the Viet Nam Academy of Social Sciences, the study is based on data of Vietnamese migration abroad since the enactment of the 1986 Doi Moi policy, with a particular focus on the period 2006-2011. The National Migration Profile has led to several recommendations for promoting international migration, limiting its potential negative impacts and protecting the legal rights and interests of Vietnamese nationals who migrate and reside abroad.

The first section of the review describes the difficulties involved in collecting credible data from existing sources, due to inconsistent content, structure and collection processes. Most data are not disaggregated, and do not give a clear indication of why Vietnamese nationals migrate abroad. To address these issues, and to facilitate further analysis of data for future migration

planning purposes, it is recommended that a standardized process for the collection and management of migration data be developed. In addition, a focal agency responsible for managing an archive and updating a database on international migration needs to be identified. This agency should be tasked with developing appropriate mechanisms for cooperation among relevant agencies responsible for the formulation of migration policies and laws.

Subsequent sections focus on issues related to irregular migration, Vietnamese migrants working in cooperation programmes, Vietnamese women marrying foreigners, mixed-ethnicity children born of Vietnamese brides, international adoption, study abroad, brain drain and human trafficking, return and reintegration. Some challenges identified in migration management are the limits in sending workers to work overseas, managing marriage with foreigners, international adoption, brain drain, and the spread of human trafficking. These challenges are characterized by cultural conflicts and complex legal regulations in destination countries where Vietnamese nationals are studying, living and working. An underlying issue is the promotion of the protection of rights and legal interests of Vietnamese nationals abroad notwithstanding the unique characteristics of migrant categories.

Furthermore, as a priority, international cooperation on migration issues needs to be reinforced alongside the development of a comprehensive migration policy and legal framework. The importance of enhancing the effectiveness of migration law enforcement and State management of migration processes cannot be overstated. For the promotion of legal and safe migration and prevention of irregular migration, human trafficking and transnational organized crime, the main recommendations for managing Vietnamese migration are as follows:

- Review migration-related legal documents to remove potentially outdated, overlapping or irrelevant regulations and/or to add regulations that may be lacking. Promptly establish plans to develop a consistent migration-related legal and policy framework to manage all types of Vietnamese migration. Develop a comprehensive, consistent and transparent national strategy on international migration.
- Establish a valid and effective monitoring and law enforcement mechanism on migration to strengthen State and stakeholders' responsibilities for protecting the rights and legal interests of Vietnamese migrants abroad. Promote efforts to share data on migration among relevant agencies. Identify a suitable focal agency to manage, archive and update a database on international migration.
- Promote communication and awareness raising within Viet Nam on (a) the roles and contributions of migration towards Viet Nam 's development; (b) compliance with the laws of Viet Nam and of migrant destination countries; (c) socio-economic integration of migrants in host societies; (d) responsibilities of the State and stakeholders to protect the legal rights and interests of Vietnamese citizens abroad; and (e) policy initiatives to encourage Vietnamese students and professionals overseas to return to work in Viet Nam.

- In compliance with the laws of Viet Nam and of host countries, it is necessary to (a) facilitate the integration of migrants and enhance the responsibilities of the State and stakeholders in protecting Vietnamese citizens abroad; (b) continue to negotiate and sign bilateral agreements on migration, especially labour migration, to create a framework for protecting the rights and legitimate interests of Vietnamese citizens abroad; (c) promote the exchange and sharing of information among governments, relevant agencies and international organizations; and (d) attract the participation of community organizations and migrants in the development, implementation, assessment and monitoring of policies, laws and international conventions on international migration.

In addition to providing data for use during the development and implementation of migration policies and laws, another output of this study has been the development and launch of an informative website on migration. The website [www.dicu.gov.vn](http://www.dicu.gov.vn) aims to better inform potential Vietnamese migrants, migration practitioners and policy makers on migration issues. It is the first public database dealing with Vietnamese migration abroad, and provides users with access to disaggregated data, legal documents and other resources aimed at promoting safe and legal migration.

## I. BACKGROUND

Migration has become a common concern for almost all countries in the world. The movement of people within a country or across its borders is an important policy issue, particularly in the framework of globalization and integration. The flow of capital, commodities and information across national borders is currently unavoidable. Along with this flow, the movement of people and workers from their places of origin in search of better economic opportunities elsewhere is increasing.

The International Organization for Migration (IOM) estimates that there were approximately 214 million international migrants in mid-2010, compared to approximately 195 million five years earlier<sup>1</sup>. This naturally excludes internal migration, which represents a higher figure. According to IOM, there will be approximately 405 million international migrants by the year 2050 (IOM, 2010). Political unrest, socio-economic instability, wars, natural disasters and economic factors (such as low income, poverty, and the lack of employment opportunities and livelihood options) are the major motivating factors in making migration decisions. Inherent disparities in living standards, opportunities for well-paid employment and income within the country and inequalities between rich and poor countries have motivated migrants to look for new, even temporary, opportunities abroad. Migration for economic reasons is particularly prevalent, partly due to globalization.

Due to aging populations and low birth rates in many host countries throughout the world and a need to fill "inferior," hard and harmful jobs shunned by their local workforces, the demand for labour and services provided by foreign migrant workers is very high. Many host countries such as France, Germany, Japan, Russia, Singapore, South Korea, Chinese Taipei, the United Kingdom and the United States have a shortfall of workers entering and remaining in the workforce. Consequently, they need to attract migrant workers from other countries. Significant and widening gaps between the rich and the poor in many countries and regions due to globalization have created increased demand for migration. More and more Asian migrants are working under fixed-term contracts, ranging from several months to several years in duration. Their main destinations are

the Persian Gulf and Eastern Asia (China, Hong Kong Special Administrative Region of China, Japan, South Korea and Chinese Taipei). In South-East Asia, Batam Island in Indonesia, Brunei, the western coast of Malaysia, Singapore and Thailand attract large numbers of migrant workers from surrounding countries. There are now tens of millions of migrants from Asian countries such as Bangladesh, India, Indonesia, Myanmar and the Philippines working in these areas. Many are undocumented migrants, and most are unskilled workers with unstable employment records. Labour brokerage companies, agents and other individuals also play a significant role in pushing both regular and irregular migration. Given increasing international economic integration and globalization, international migration is becoming a core universal issue.

Viet Nam is a developing country with a population of about 86 million people (2009). It is the thirteenth most populous country in the world, and the third most populous in South-East Asia (GSO, 2010). At present, almost 75 per cent of the workforce is living in rural areas. Most of them are low-skilled, poorly paid. Nearly 1.7 million people enter the workplace every year, and the National Employment Generation Programme cannot meet the demand. With a young population, Viet Nam has no shortage of manpower, but still faces major challenges in providing employment and a stable income for its people.

Over the past two decades, after overcoming many difficulties and challenges - particularly those linked to the two regional and global economic and financial crises - Viet Nam has evolved from an underdeveloped to a middle-income country. Its position and stature have been strengthened, while its growing presence on the

<sup>1</sup>IOM World Migration Report (2011)

international stage has helped speed up its industrialization, modernization and the improvement of living standards. These developments, after 25 years of Doi Moi reforms, alongside Viet Nam's increased openness and international integration, have fostered and facilitated outbound migration for work, study or residence purposes. This trend has gathered momentum since Viet Nam became a member of the World Trade Organization (WTO) five years ago, with more and more Vietnamese nationals choosing to go overseas for business, study, employment or medical reasons, or simply as tourists. Although no precise statistics are available, it is widely acknowledged that millions of Vietnamese nationals are currently working, studying and living abroad.

Overseas demand for labour and services, coupled with income and living standard disparities between Viet Nam and other countries in the region, has spurred Vietnamese nationals to migrate abroad. This trend has been reinforced by developments in information and communication technologies, as well as cheaper and more available international travel services, all of which allow people to contact each other, change jobs and travel more easily than ever before. The outward migration flow from Viet Nam over the past 25 years has involved increasingly diverse categories of migrants, both in terms of their profiles and their reasons for migrating. In particular, the number of women and children who migrate has increased; they often migrate for reasons of marriage, family reunion or economic well-being, or simply out of a desire to seek a better life elsewhere.

Although various efforts have been made to improve the management of Vietnamese migration abroad, challenges remain. New modes of migration have emerged in recent years, requiring detailed research and fresh policy approaches, but relevant data is difficult to collect and not often analysed. Vietnamese migration flows have been affected by events beyond Viet Nam's borders, over which no single actor has control: global economic instability, natural disasters, political unrest and conflict in prospective destination countries, for example. Meanwhile, efforts to attract highly-skilled migrants to Viet Nam, including skilled members of the Vietnamese diaspora, have not been successful in addressing the complex relationships between social and economic factors that drive migration decisions. These challenges - and others besides - must be addressed for Viet Nam to continue on a positive development path.

To facilitate the development of policies and laws that limit the negative impact of migration and promote its positive aspects in boosting Viet Nam's development, the

Ministry of Foreign Affairs (Consular Department), with EU funding and IOM technical assistance, has implemented a project for the "Development of migration profiles and a database of Vietnamese nationals migrating abroad". The project aims to collect, analyse and assess data on overseas Vietnamese migration. It is also designed to standardize the criteria, collection process, management, utilization and development of a mechanism enabling relevant ministries and agencies to share data on migration, as a basis for developing government policies and laws on migration.

Migrant profiling is one aspect of the project. It aims to assess the situation of Vietnamese migrants within the context of Viet Nam's wider international integration and national development. In terms of its scope, the report is limited to reviewing outward migration from Viet Nam since the Doi Moi policy was introduced in 1986. It focuses on categories of international migrants observed over the past five to ten years, migration management by the relevant agencies, the development of migration policies and laws and Viet Nam's integration into regional and international migration frameworks. The report does not review the immigration or residence of foreigners in Viet Nam, even though these emerging issues currently pose many obstacles and challenges for migration management. It lays out specific recommendations for improving national migration policy and legislation, including the development of a coordination mechanism for the effective sharing of migrant-related information among ministries and agencies, the enhancement of comprehensive international and regional cooperation - particularly on migration issues - and capacity building for staff and officials working in international migration management.

The Review consists of five main sections. Section I is the introduction. Section II explains the current migration data sources available in the country. Section III analyses the overview of Vietnamese nationals migrating abroad with summarized content from various sources. Section IV reviews issues of concern relating to obstacles and shortcomings in migration management. Section V analyses and evaluates legislative policy and the status of Viet Nam's compliance with international norms governing migration, both from a regional and international perspective. The Review concludes by offering some policy recommendations and suggestions to better manage outward migration by Vietnamese nationals. As a first step, it proposes to develop a migration profile database as a basis for the research and planning of a sustainable migration policy.

## II. MIGRATION DATA SOURCES

### 2.1 STATISTICS ON VIETNAMESE NATIONALS MIGRATING ABROAD

The process of conducting research, assessments and making policy decisions necessitates a structured framework where in the collection of statistical data and information on migration are important elements. In Viet Nam, data on Vietnamese nationals migrating abroad is collected, compiled and managed by the relevant ministries and agencies. However, there is no detailed breakdown and disaggregation of available statistics on Vietnamese nationals migrating abroad.

Moreover, access to this data is very limited. Regulations on the release and use of this data are unclear and inconsistent. These limitations severely hamper the development of a database of Vietnamese nationals migrating abroad. Existing data sources can be listed as follows:

*Exit-Entry registration:* In Viet Nam, the Immigration Department of the Ministry of Public Security (MPS) is responsible for identifying and recording travellers who pass through its international airports, including Vietnamese nationals and non-nationals. The Department of Border Check Points, Border Guard Command, is responsible for identifying and recording travellers who pass through international checkpoints over land and sea. Detailed information on both cross-border departures and arrivals is recorded and preserved. These records can provide diverse data sources if collected and used effectively, and are based on information obtained from immigration forms available at border gates and from passports. Naturally, it is difficult to record individuals who cross borders without travel documents or without registering at certain checkpoints in official immigration data.

*Passport issuance:* As stipulated by law, all Vietnamese citizens may apply for a standard passport. Diplomatic, official and seaman passports and travel documents are also used for exit and entry purposes. These documents can serve as a useful data source complementary to information collected through exit-entry registration. However, information collected from the passport issuance process does not reflect the reality of migration accurately because not all passport holders exit the country. On the contrary, people often apply for a passport but do not exit the country, and some applications are only made to extend expired passports. Furthermore, children under the age of 14 can leave the country on the same passport as their parents. As a result, the number of passports issued and managed by the Ministry of Public Security and Ministry of Foreign Affairs does not completely and accurately reflect the scope and magnitude of migration abroad by Vietnamese nationals, and is therefore primarily used for reference purposes only.

*Contract-based workers working overseas:* Figures showing the number of Vietnamese contract-based workers working abroad are obtained through reports



from labour export enterprises. These enterprises periodically report on the situation and number of migrant workers they are dealing with to the Department of Overseas Labour (DOLAB). This data is only compiled and classified by destination, date and occupation, and is organized to show how it matches up with the targets set by these enterprises. The inherent weakness of this data source is that it does not cover migrants who manage to get work abroad by their own means or via individual channels. According to an unofficial estimate, this category represents about three to five per cent of overseas labours. In principle, MOLISA only deals with data on overseas labour managed by the Government. In actual fact, it mainly manages data and information on workers who are sent abroad by service companies and public affairs organizations. However, it lacks comprehensive data on other categories of overseas migrant workers hired through bid winners, contractors, overseas investment undertakings, or under trainee programmes and individual contracts.

*International marriage and child adoption:* This is a data source related to two typical target groups: Vietnamese women who marry foreigners and Vietnamese children adopted by foreigners. The Ministry of Justice is responsible for managing processes regarding international marriage and child adoption. Current legal requirements specify that couples must register their marriage with the Department of Justice, which keeps appropriate records on such marriages. These records are divided into seven main groups: women marrying Koreans, women marrying Chinese, women marrying citizens of Chinese Taipei, women marrying Americans, women marrying Canadians, women

marrying French and women marrying men from other countries. Similarly, data on internationally adopted Vietnamese children are reported by local judicial administrations to the Department of Adoption (Ministry of Justice), which is responsible for State management of child adoption, including international foster child cases. In addition to the data reported by judicial administrations, information on international foster children is also compiled by international adoption agencies located in Viet Nam. So far, 10 countries have signed agreements on international adoption with Viet Nam, although some agreements have expired; relevant agencies usually compile these statistics based on destination countries.

*Vietnamese nationals studying abroad:* This source provides data on Vietnamese nationals studying or being trained abroad under official scholarships financed by the State budget, localities or State-owned enterprises, or under cooperation agreements between the Vietnamese government and foreign governments or international organizations, NGOs or individuals. These groups are monitored and managed by the Ministry of Education and Training. However, ministry data is incomplete because it does not include Vietnamese nationals who travel overseas for study or training purposes by their own means or through direct financing by foreign organizations or non-State enterprises. In recent years, the number of Vietnamese nationals travelling abroad for study and training purposes has increased to more than one hundred thousand, but they are not accurately recorded. This poses a challenge to the organization and management of Vietnamese students overseas.

*Border Control:* In Viet Nam, the Border Guard Command (Ministry of Defence) controls and protects national borders. Travel through border posts and checkpoints is recorded and managed by the border guard force. Data on travellers, including times/dates of arrival and departure, are fully recorded according to regulation requirements. Some travellers can use their passports or travel documents to cross the border for a short period. In this Review, information provided by the Border Guard Command covers smuggling cases, including the cross-border trafficking of women and children. However, in many cases, information on trafficked victims can only be fully obtained after they are rescued, or returned to their home countries.



*Human trafficking data:* The Standing Office for Criminal and Drug Prevention and Control, Police General Department (Ministry of Public Security), is tasked with compiling data and information on various types of crime, including human trafficking. It provides comprehensive information on victims of human trafficking, exposed criminal gangs, cases that are investigated, prosecuted and brought to court, and rescued victims of trafficking. Data from the Standing Office is combined with data from Border Guard operations to compile a picture of cross-border human trafficking, particularly of women and children.

*Population and housing censuses and household surveys:* These activities generate key information on population processes, such as births, deaths and migration. General population censuses are carried out once every 10 years and aim to provide fully comprehensive data on the scope, structure and allocation of the population nationwide, including details of the population profile of each province, district and commune. In relation to international migration, data collected from general population censuses and housing surveys reveal the number of Vietnamese who returned five years before the latest census and survey were carried out. This reference data partially reflects the scope of the returnee situation and profiles the characteristics of Vietnamese nationals who return from abroad during the census interval period. Census data, once effectively incorporated into data from sample surveys, provide key information on the situations and characteristics of families of migrants or those who have returned after working and living abroad for several years.

*Sample surveys:* A number of sample surveys on international migration and related issues were carried out during the past five to ten years, mostly within the framework of research projects financed by foreign funds. Research institutes, NGOs and some universities have conducted several surveys relating to international migration. The targets of these surveys are very diverse, comprising households, migrant women, children of workers working abroad under labour export programmes, returnee skilled workers, expatriate Vietnamese nationals, and remittances from international migration. The findings of these sample

surveys clearly indicate key characteristics of international migration, but are not comprehensive enough to measure the full scope of migration from Viet Nam. Nonetheless, combined with other information sources, the findings constitute important complementary data on the nature and scope of international migration from the country.

*Other sources:* Coupled with the rapid development of information technology, the Internet has become an abundant source of secondary information. The capacity for storing archived and accessible information on the Internet is now very large, providing relevant data and information on the situation of migration and residence of Vietnamese nationals overseas. Electronic newspapers collect and release news together with other illustrated data on issues related to Vietnamese nationals overseas. Websites of international organizations, the electronic gateways of government, ministries and agencies, research institutes and universities, both in Viet Nam and around the world, publish articles or data on Vietnamese migration and the Vietnamese diaspora. Certainly, accessing and studying relevant data and information via the Internet requires a lot of time, effort and caution due to the fact that concepts, definitions, criteria and content on migration are not always consistent.



## 2.2 GENERAL ASSESSMENT OF DATA SOURCES

The assessment showed that the data on Vietnamese nationals migrating abroad is scattered among the various ministries and agencies. This information relates to various categories of migrants but is lacking in accuracy, consistency and comprehensiveness. Data compiled by different ministries and agencies are inconsistent in terms of definitions, content, structure and collection processes. Therefore, data must be harmonized based on standard criteria and collection processes, in order to ensure objectivity, continuity and compatibility with other international data.

Most current data sets are summarized and archived over time and are not disaggregated. The reasons for migration are not recorded by authorities. Although the current data on exit-entry registration are wide in scope, it is still difficult to assess what motivates overseas migration by Vietnamese nationals. In recent years, in the framework of the government's administrative reform programme, the Ministry of Public Security's Immigration Department has simplified the procedures that now allow Vietnamese nationals to travel through border posts without having to fill out registration forms. Travellers' passport details and travel information are recorded in the nationwide network of computer systems. Information on exit purposes and other relevant data are no longer recorded on immigration department forms as before. Since this procedure was introduced, the sharing of data on Vietnamese nationals migrating abroad has become more difficult. This hampers the coordination of migration management among the relevant ministries and agencies.

As these data sets are mainly collected by the ministries and agencies in migrants' places of origin, events occurring in the countries of destination where they are working and residing are not reflected. The full picture of Vietnamese migration abroad is incomplete without this information. To date, no ministries and agencies have been designated as a focal point responsible for collecting and compiling data on Vietnamese migratory flows abroad. As an example, the General Statistics Office (GSO) of Viet Nam, unlike its counterparts in Korea and Chinese Taipei, does not keep statistics on Vietnamese women who marry foreigners, divorce cases among these couples, or the number of

women and children who return to Viet Nam following marriage breakups. This makes it difficult to assess the situation accurately and to shape policy accordingly. While many agencies have their own information on migration and use it for various purposes, these data sets are inconsistent, as they are based on different concepts, definitions and sources on international migration. Information and figures on a number of migration forms related, for instance, to self-financed overseas study and illegal migration and residence are not reflected in the data.

There are currently major obstacles in accessing, using and sharing data on Vietnamese nationals who migrate abroad. This is firstly due to the lack of specific regulations on the use and publication of data on migration, remittances and certain migrant categories. In fact, although many information and data sources on migration that can be used already exist, the lack of information-sharing undermines the effectiveness of migration management. Consequently, very few migration regulations and policies are based on evidence, data analysis.

Despite these obstacles, there is still a possibility that available domestic and international data may be complementary. These two sets of data could initially be drawn on to develop a database on Vietnamese nationals migrating abroad, at a minimum detailing their places of origin. In the long term, data and data collection criteria should be standardized, and data collection needs to be extended to destination countries where Vietnamese nationals are living and working.





## III. PERSPECTIVES ON VIETNAMESE NATIONALS MIGRATING ABROAD

### 3.1 MAJOR CATEGORIES OF MIGRATION ABROAD

#### 3.1.1 Labour - employment

Sending Vietnamese to work abroad is a major policy of the Government of Viet Nam. This policy contributes to international integration and promotes Viet Nam 's relationships and cultural exchanges with other countries worldwide. It is based on the principles of equality and mutual benefit.

The 'export' of Vietnamese labour is increasingly expanding to many countries and territories, creating better income and employment opportunities for Vietnamese workers, improving the livelihoods of the population, reducing poverty, stabilizing society and building a highly skilled and professional workforce.

According to a report by MOLISA, there are currently about 500,000 Vietnamese nationals in more than 40 countries and territories, working in about 30 different types of occupations and ranging from low to highly skilled labourers and professionals. On average, more than 80,000 Vietnamese workers leave Viet Nam every year to work abroad, representing more than five per cent of the total number of employment placements registered annually. In 2010, more than 85,000 workers were sent abroad by labour export employment companies operating countrywide - a 16.4 per cent increase over the 2009 figure. Of the total number of contract-based workers working abroad, female workers accounted for 30 per cent during the period 2007-2010, compared with only 10-15 per cent throughout 1992-1996 (MOLISA, 2010).

Vietnamese workers are being sent abroad for work or training purposes through: (i) employment agencies; (ii) public affairs organizations; (iii) contractors and overseas investment enterprises; (iv) skills training programmes; and (v) individual employment contracts. The majority are sent to work overseas through employment agencies and public affairs organizations

(hereafter referred to as 'sending companies'), which are formally mandated to fulfil this role.

Viet Nam 's participation in the international labour market began later than in other South-East Asian countries such as Indonesia, the Philippines and Thailand. Viet Nam began to supply labourers to Eastern Europe in the 1980s. Since 2000, the number of Vietnamese workers sent to work overseas has risen sharply, mainly to China, Japan, Lao People's Democratic Republic, Malaysia, the Middle East, North Africa, South Korea and Chinese Taipei. Viet Nam has also sent its workers to parts of Europe, including Cyprus, the Czech Republic, Finland, France, Italy, Malta, Poland, Portugal, Romania, Slovakia and the United Kingdom. However, these countries have been pilot markets compared to destinations in Eastern Asia, which host far greater numbers of Vietnamese migrant workers.

According to the Department of Overseas Labour, the breakdown of contract-based migrant workers sent abroad by sending companies is as follows: Malaysia (90,000); Japan (20,000); South Korea (45,000); Chinese Taipei (80,000); and the remaining number divided among Africa, Australia, Europe, the Middle East, and North and South America (MOLISA, 2010). Tens of thousands of migrants are also working for construction contractors, on overseas investment projects or as individual contract holders. They are mainly concentrated in Lao People's Democratic Republic (15,000); Cyprus (9,200); Macau, China (2,500); Angola

Table 1: Number of Vietnamese workers under contract-based employment in some major markets: 2000-2010

(Unit: People)

Year	Total	Destinations					
		Chinese Taipei	Japan	South Korea	Malaysia	Africa Middle East	Others
2000	31,500	8,099	1,497	7,316	239	34	14,315
2001	36,168	7,782	3,249	3,910	23	1,094	20,110
2002	46,122	13,191	2,202	1,190	19,965	408	9,166
2003	75,000	29,069	2,256	4,336	38,227	750	362
2004	67,447	37,144	2,752	4,779	14,567	938	7,267
2005	70,594	22,784	2,955	12,102	24,605	1,276	6,872
2006	78,855	14,127	5,360	10,577	37,941	5,246	5,604
2007	85,020	23,640	5,517	12,187	26,704	6,184	10,788
2008	86,990	31,631	6,142	18,141	7,810	11,113	12,153
2009	73,028	21,677	5,456	7,578	2,792	16,083	19,442
2010	85,546	28,499	4,913	8,628	11,741	10,888	20,877
Total	736,270	237,643	42,299	90,744	184,614	54,014	126,956

Note: From 2000 to June 2010.

Source: Department of Overseas Labour.

(6,000); Russia and the Czech Republic (5,000); Cambodia (1,700); China (3,000); and Mongolia (200). In addition, hundreds of migrants are working on foreign ships in the territorial waters of Costa Rica, Cote d'Ivoire, Indonesia, Mexico and Panama.

Host markets of Vietnamese labourers have continued to expand recently, both in terms of locations and occupations. Viet Nam has signed labour cooperation conventions and agreements with Bahrain, Bulgaria, Canada, Chinese Taipei, the Czech Republic, Japan, Kazakhstan, Lao People's Democratic Republic, Malaysia, Qatar, Russia, Slovakia, South Korea and the United Arab Emirates (UAE). These accords set the conditions for Vietnamese nationals to work in these countries and establish the legal protection framework for them while they are there. Several relevant ministries and agencies have signed bilateral cooperation agreements with a number of African countries to send them specialists/professionals to work in

the fields of education, health and agriculture - top priority areas for authorities there. However, proper statistics and reports on the number of people involved do not exist, making it difficult to measure the size of this emigrant flow - notwithstanding the thousands of Vietnamese workers who arbitrarily terminate their employment contracts for the purpose of illegally entering or staying in host countries and territories by different means. This makes it difficult to organize and manage these workers, resulting in difficulties in providing them legal protection overseas, and undermining Viet Nam's labour export policy and its relationships with the countries concerned.

Generally speaking, the majority of Vietnamese workers are accepted in overseas labour markets and are respected by their employers for their creativity, productivity and work ethic. The income of Vietnamese workers overseas is relatively stable and is about two to three times higher than domestic income in the same

occupations. The average income of Vietnamese workers, after deducting all personal expenses, ranges from VND 2-3 million per month in Malaysia, where unskilled labourers are in demand, to VND 7-10 million per month in middle income markets, such as the United Arab Emirates. Workers in South Korean and Japanese markets earn a higher income on average (VND 15-20 million per month) (Dang, 2008). Vietnamese migrants work in a variety of fields, such as industry, construction, textiles, and electronics, and as domestic helpers, hospital orderlies and ship crew members. The occupations of these workers differ according to the host

country. For example, domestic helpers and textile workers make up the majority of Vietnamese workers in Chinese Taipei, while their compatriots work mainly in the agriculture sector in Malaysia, in industry in Japan, and on construction sites in Africa. A number of new labour markets need foreign workers with specific skills and languages, requirements that most Vietnamese workers do not meet.

### 3.1.2. Study - training and research

Vietnamese students are currently present in 50 countries and territories and number over 100,000 (MOET, 2009). Approximately 90 per cent of them are self-funded and only 10 per cent have obtained scholarships from various financial sources, such as governmental and local budgets or full or partially-funded scholarships from international organizations, foreign governments, companies or educational agencies (MOET, 2009).

Foreign embassies in Viet Nam and Vietnamese diplomatic representative offices overseas estimate that as of the end of 2010, the countries hosting the most Vietnamese students were: Australia (25,000); China (13,500); France (5,500); Japan (3,500); Russia (5,000); Singapore (7,000); the United Kingdom (6,000); and the United States (12,800). (Dang Anh et al. 2010)



State-sponsored overseas study, training and research plays an important role in human resource development in Viet Nam, and responds to a demand for improving the professional qualifications of government officials and civil servants in the country. In fact, most of these students become highly qualified and efficient officials. However, the number of State-sponsored students remains limited owing to budget constraints. Scholarships financed by the government of Viet Nam are mainly awarded under Project 322, Project 165, the

Debt Treatment Agreement with the Russian Federation and under agreements signed with other governments or under local budgets (MOET, 2007). The main destination countries of these students - who mainly focus in scientific, technological and management fields - are Australia, France, Germany, Japan and Russia.

Self-funded study has become more common and attracted a great number of Vietnamese students. Fields of study and destination countries are diverse, although students focus primarily on financial, economic and accounting studies. Self-funded overseas students are very dedicated to their studies, as they are well aware of the developmental demands of the market in Viet Nam and have clear objectives in this regard. Their ambition is to find well-paid jobs, to acquire knowledge and independent thinking and to work in a competitive environment.

Despite the relatively high cost of studying in Australia, it is a favoured destination among Vietnamese students, who currently number around 25,000 in the country, and where they are pursuing studies ranging from general to post-graduate levels. Australia's high quality education system, multicultural society and natural environment attract many foreign students. China is the second most popular destination country for Vietnamese students, attracting some 13,000 fully or partially self-funded students each year (MOET, 2009). Many Vietnamese families send their children to study in China because it is not far away and tuition fees there are comparatively low, often only a third of those in some other countries. Furthermore, recognizing the

prospect of developing economic cooperation, trade and business opportunities between China and Viet Nam, many parents hope that by studying in China, their children stand a better chance of finding good jobs afterwards.

Many Vietnamese students wish to study in the United States of America, a country offering optimal education in science and technology, amongst many other fields. The United States used to be the second most popular option for Vietnamese students, but has fallen to third place, with around 13,000 students now studying there (Dang Anh et al. 2010). This can be attributed to the big geographical divide between the two countries and the extremely high study costs in the United States, amongst other factors. United States educational fees are the highest of any country, with university students paying from USD 15,000 to 30,000 per year, and English language course students paying about USD 6,500 per year, excluding living and accommodation expenses. Viet Nam currently ranks ninth among countries with students in the United States (MOET, 2009).

Singapore now hosts more than 7,000 self-funded Vietnamese students, who are attracted by tuition fees that are much lower than in the United States and Australia (USD 15,000 to 20,000 for a master's course) and by the less complicated school admission procedures and requirements (MOET, 2009). The remaining overseas students are concentrated in countries such as Canada, England, France, Japan, the Netherlands, New Zealand, Russia and Switzerland, where living costs are also very high. Most overseas students have to find employment to cover their tuition fees, accommodation and other basic expenses.

Apart from tuition fee levels, education quality and the geographical distances involved, some other factors are also taken into account by Vietnamese students when selecting an overseas study destination. These include the location of the school or university and personal preferences and traditions. For example, while China is a competitive option for students because of its offer of traditional medicine and low study and living costs, many students prefer Switzerland because it has many prestigious hotel and tourist management schools. Although some convergence of choice between them exists, anecdotal evidence suggests that students from Ho Chi Minh City prefer studying in Australia, Singapore or the United States, while those from Ha Noi tend to opt for Australia, China, England, Switzerland or the United States.

According to a recent research report (IIE, 2010), 60-70 per cent of self-funded Vietnamese students abroad manage to remain in their host country to pursue higher education or to find a job after completing their studies. For those who return home to take up jobs after completing their studies abroad at considerable personal expense, the salaries they receive are lower than those paid for equivalent employment in foreign countries. Moreover, their capacities and qualifications are not always put to the best use in their home country, while highly skilled students are invariably encouraged and helped to stay and work in developed countries. For example, the Australian government grants permits to highly skilled post-graduates to enable them to stay and work in the country. Singapore also permits foreign students to stay if they are employed by a company after graduation. Recently, the United Kingdom implemented a policy permitting post graduates (MA and PhD degree holders) to stay and work to further develop their skills after completing their academic studies. These developments have accelerated the "brain-drain" observed in many countries, including Viet Nam.

Establishing a functional data management system for Vietnamese students who study overseas remains a challenge for various reasons. Statistics on individuals who receive government scholarships to study abroad are incomplete, while data on individuals who study abroad at their own expense are even more unreliable. In order to create a viable human resources and training management system in Viet Nam, a mechanism must be put in place to collect information on the destinations, universities, study areas and study periods of these students. At present, however, there is no relevant information-sharing between the Ministry of Education and Training and local authorities, organizations, agencies or individuals who provide scholarships, or any contact with families of overseas students. To improve the training of highly qualified human resources for the development of the country, an appropriate system and policies must be developed to contact Vietnamese students abroad to obtain this data and, whenever necessary, to ensure that their legal rights are respected.



### 3.1.3 Marriage - family migration

Transnational marriage is today no longer a particular phenomenon but a general migration trend, affecting not only Viet Nam but Asia as a whole. In the current context of globalization, growing economic and cultural exchanges between countries and their nationals have also fostered social interaction, including cross-border family relations and transnational marriages.



In Viet Nam, international and foreign marriages are subjects that have been covered extensively in mass media. Newspapers frequently publish stories on Vietnamese women who marry Chinese, Korean, Singaporean and Taiwanese men, a trend which generates a significant outward migratory flow from Viet Nam. According to the Ministry of Justice (MOJ, 2011), 133,289 Vietnamese either married or registered for marriage with foreigners (91,210 married, 42,079 registered for marriage) between 2005 and 2010. Although Vietnamese women have married foreigners from some 50 different countries and territories, the majority have wed South Korean and Taiwanese men. After getting married, Vietnamese brides accompany their husbands to live abroad. The percentage of such marriages contracted through brokerage services is very high. Marriage for economic reasons remains the choice of many women and their parents, due to difficult economic conditions, especially in rural areas.

The number of Vietnamese-Korean marriages has greatly increased and is expected to increase further in future years. The rapid rise in the number of such marriages is reflected in the following statistics: 560 before 2004; 1,500 by 2005; 20,000 by 2006; 25,000 by 2007; and 35,000 by the end of 2009 (MOJ, 2011). To date, around 40,000 Vietnamese women have gone to live in South Korea after marrying nationals from that country, accounting for approximately 20 per cent of Vietnamese marriage migration. The number of Vietnamese brides who had renounced Vietnamese citizenship to enable them to take on the nationality of

their Korean husbands was 273 in 2007 and 543 in 2008; however, more recent data on changes of Vietnamese citizenship is incomplete. Some Vietnamese women who married South Koreans have become stateless because, after renouncing Vietnamese in favour of Korean nationality they did not receive Korean nationality. These women therefore lack legal protection.

Chinese Taipei also has many Vietnamese brides. More than 80,000 Vietnamese women had married Taiwanese men as of June 2010 (MOJ, 2011). Foreign marriage brokers operate legally in Chinese Taipei, charge high service fees and contribute to the commercialization of Vietnamese-Taiwanese marriages. As in South Korea, the incidence of violence against Vietnamese brides in Chinese Taipei is increasing (Nguyen and Hugo, 2005). In response, the authorities there have established 19 victim-protection centres in 25 provinces and cities throughout the territory to provide legal, health and psychological support to these victims. These centres also familiarize them with Taiwanese culture, and provide vocational training, including culinary arts, to facilitate their rapid integration into society.

Vietnamese children are adopted by citizens of many countries around the world, especially in the 10 countries that have signed agreements on child adoption with Viet Nam (Belgium, Canada, Denmark, France, Ireland, Italy, Spain, Sweden, Switzerland and the United States). These agreements have created a fairly comprehensive legal cooperation framework for the international adoption of Vietnamese children (MOJ, 2009). Government decree No. 19/2011/ND-CP, which details regulations for the implementation of certain articles of Viet Nam's Adoption Law, was promulgated on 21 March 2011 at the Seventh Session of the Twelfth National Assembly. Subsequently, Viet Nam ratified the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention), which entered into force in Viet Nam on 1 February, 2012. Some of the aforementioned bilateral agreements have expired, while others, such as those concluded with Ireland, Sweden and the United States, have been renewed; however, since all of these countries have ratified the Hague Adoption Convention, cooperation between them and Viet Nam on international adoption issues is covered by that legal instrument.

Table 2: The number of Vietnamese adopted children by receiving country: 2005-2010

No.	Adoptive Countries	2005	2006	2007	2008	2009	2010
1	France	794	650	275	284	307	373
2	Italy	152	232	234	288	208	179
3	Canada	0	26	86	122	133	111
4	Spain	0	0	0	0	79	239
5	Denmark	62	42	46	32	32	18
6	Switzerland	2	3	2	4	7	4
Total		1010	953	643	730	766	924

Remarks: Data on adopted children in six countries having effective cooperation agreements with Viet Nam, excluding those not provided for under these agreements.

Source: Child Adoption Department, Ministry of Justice, 2010.

According to the Ministry of Justice, the number of Vietnamese children adopted internationally has increased since the late 1990s and early 2000s. In 2003, 800 children were adopted, the number falling to 550 in 2004, whereas the figures for 2005, 2006, 2007, 2008 and 2009 were 1,250, 1,550, 2,000, 1,200 and 1,064 respectively. In the first seven months of 2010, 674 adoptions were recorded (MOJ, 2010).

The main receiving countries for these adoptions are Canada, France, Italy, Spain and the United States. Most of these countries have representative offices in Viet Nam dealing with child adoption. However, the number of adoptions of Vietnamese children declined significantly after cooperation agreements on child adoption between Viet Nam and Ireland, Sweden and the United States expired.

During the past five years, more than 5,000 Vietnamese children, almost 60 per cent of whom were girls, were adopted by residents of six countries with whom Viet Nam had signed valid bilateral agreements (MOJ, 2010). It should be noted that these figures do not include children adopted outside these agreements, for whom no complete numbers are available.

Many foreign families want to go to Viet Nam to adopt Vietnamese children because they believe that adoption procedures there are not as time-consuming as those in other countries. Vietnamese Government agencies assure the well-being and safety of these adopted

children. The passport issuance process for them has improved, and it now takes only five days to get a passport, compared to 20 days previously. Additionally, foreign adoptive parents have been issued visas upon arrival in some specific cases.

According to incomplete data, there were about 69 international child adoption offices operating in Viet Nam from 2003 to June 2008, mainly through humanitarian assistance (cash and in-kind contributions) provided to child care centres. Currently, about 100 out of 400 child care centres are tasked with introducing children for adoption throughout the country (MOJ, 2009). These international adoption offices actively support foster care centres and urge adoptive parents to assume their responsibility to provide progress reports on the development of their adopted children.

However, audit reports on humanitarian assistance funds are still limited and incomplete, hampering oversight and management of child adoption activities. Existing regulations in Viet Nam stipulate that during the first three years following the adoption of a child, the parents must submit progress reports on the child's development to the relevant Vietnamese authorities every six months. However, implementation of this obligation depends on their personal circumstances and willingness to report. Inadequate and irregular information on these young adopted children makes it difficult to know how they are faring in their host countries.

### 3.1.4 Human trafficking, especially of women and children

Viet Nam is a country where human trafficking, especially of women and children, is increasing and has become more complex (MPS, 2010). Networks of human traffickers have taken advantage of policies of openness in Viet Nam and economic and social exchanges between Viet Nam and other countries in the region to sell women and children domestically and internationally. Domestic and international trafficking in women and children is becoming increasingly sophisticated and diversified. Many transnational human trafficking gangs in Viet Nam have close contacts with international crime groups, who are able to send victims on to second and third destination countries.

According to the report on implementation of the National Plan of Action to Combat Trafficking in Women and Children for 2004-2010, the number of trafficked victims during that period was 4,793. A prior report recorded 6,680 trafficked victims during the period 1998-2007 (MPS, 2010). On average around 500 women and children are reportedly trafficked abroad from Viet Nam each year; however, the real figures are believed to be far higher, because human trafficking has now expanded to other target groups, particularly schoolchildren and students.

Trafficking in women and children is concentrated around certain hotspots, such as the Viet Nam-China border provinces, which account for 65 per cent of total cases. The Viet Nam-Cambodia border areas make up an additional 10 per cent of total cases (MOJ, 2010). Women and children are mainly sold to prostitution establishments in Cambodia; some are sold in Macau (China), Malaysia, Singapore and Thailand before being

transferred to other destination countries. The most common approach of traffickers is to trick poorly educated and unemployed women and children in poor, rural areas into believing they can find them good jobs in cities and towns. They then find ways to transport the victims across the border and sell them to buyers and criminal organizations abroad. Alternatively, after establishing relationships and building trust with the victims, the criminals sell them to pre-arranged customers instead of helping them travel abroad as promised. Trafficked children are usually kidnapped and taken across the border where they are sold. Other groups of victims include sex workers or unemployed women seeking well-paid jobs to pay off crippling debts and improve their lives. In these cases, traffickers commonly resort to the use of force or other forms of coercion as well as fraud to trap their victims.

### 3.1.5. Other pathways

In addition to the aforementioned migration categories, Viet Nam cooperates closely with countries and international organizations in assisting hundreds of thousands of Vietnamese migrants to go abroad, mainly to Northern America, western and northern Europe and Australia, and to claim permanent residence based on the family reunion principles of the Orderly Departure Programme (ODP) and Comprehensive Plan of Action (CPA). Up to 15 May 2008, 490,371 Vietnamese nationals who were officials and officers of the former regime or were employed by American private companies and their family members have received assistance in permanent residence procedures.

According to the Vietnamese agencies' statistics, there are thousands of migrants going abroad as permanent residents every year and this number is considerably increasing. On average, over 2,000 Vietnamese nationals receive IOM technical assistance annually, including assistance with application, flight and health screening to go abroad under this category of migration.

## 3.2 SITUATION OF VIETNAMESE NATIONALS ABROAD

### 3.2.1 Situation in main regions and countries of destination

This section reviews and assesses the situation of Vietnamese migrant workers and nationals in some main destination countries in East Asia, the Middle East and Africa, as follows.

#### *East Asia*

##### *Japan*

At present, there are more than 2.2 million foreigners living in Japan, 42,000 of whom are Vietnamese nationals, mostly undertaking technical training. Japan refuses entry to unskilled foreign workers and mainly relies on the recruitment of overseas labour through internships and trainee programmes (MOLISA, 2010). The labour cooperation agreement between Viet Nam and Japan focuses mainly on sending Vietnamese trainees to Japan to learn technical skills. It has been officially implemented since 1992 under a Memorandum of Understanding signed by the Ministry of Labour, Invalids and Social Affairs and the Japan International Training Cooperation Organization (JITCO), which supports the transfer of Japanese skills to developing countries through a technical intern training programme.

The main purpose of this programme is to train foreign specialists in certain professional areas, including machine-tool production, and to provide a cheap labour source from developing countries for Japanese companies suffering from severe manpower shortages attributed to Japan's fast aging population. Under the programme, participants first complete a training period of nine months to one year before undertaking a practical one- to two-year technical internship in a Japanese company, earning a monthly income in line with Japan's minimum wage (applicable from July 2010).

More than 100 Vietnamese labour-exporting companies have been introduced by the Ministry of

Labour, Invalids and Social Affairs to JITCO for the purpose of sending Vietnamese nationals to Japan for technical training. Besides working with JITCO since early 2006, MOLISA has also signed an agreement with International Manpower Development of Medium and Small Enterprises (IMM Japan) to send Vietnamese trainees to Japan. Vietnamese workers in Japan are less numerous than those from certain other countries.

To date, approximately 40,000 Vietnamese nationals have been sent to Japan for training and professional internships (MOLISA, 2010). There are currently around 18,000 Vietnamese nationals training, undertaking professional internships and working in Japan. About 12,000 of them are trainees working in the garment industry, electronic fitting factories, machine-tool production and construction throughout Japan. In addition, dozens of Japanese subsidiary companies, joint ventures and investment capital companies in Viet Nam have sent their employees directly to Japan for training and technical internships for periods ranging from six to nine months. The Viet Nam-Japan Economic Partnership Agreement (VJEPA) signed by the two governments officially came into force in October 2009. This agreement regulates labour movements and promotes labour exchanges between the two countries.

Vietnamese migrant workers in Japan receive a relatively high wage, although they have to work harder and master complex technologies in order to meet their



workplace obligations. Their average income is about USD 1,000 per month (Dang, 2008). Vietnamese trainees are highly rated by Japanese employers in terms of skills, quick learning ability and industriousness. They rarely have problems while working in Japanese companies. While the rate at which Vietnamese workers in Japan illegally terminate their contracts is low (at approximately two per cent of all Vietnamese workers in Japan), this rate remains higher than workers in similar circumstances from other countries.

Many Vietnamese nationals also migrate to Japan for study purposes. There were 141,774 foreign students studying in Japan in 2010, an increase of 6.8 per cent (around 9,000 students) over 2009, of whom approximately 4,000 were Vietnamese (MOET, 2009). Viet Nam has become one of the top five countries in terms of the number of overseas students in Japan (China tops the list). In general, the quality of education in Japan meets international standards. There are many schools and colleges for prospective students to choose from, and schools are generally equipped with modern learning tools. Study costs in Japan are rather high (around USD 25,000 per year). However, one advantage for students studying in Japan is that they can easily find a job to cover their living and education costs if their Japanese language skills are sufficient. Students are allowed to work up to 28 hours per week, with salaries ranging from USD 1,000-1,200 per month (IIE, 2010). After graduating from college or university, students may be allowed to stay in Japan to work, and they may also have opportunities to work for Japanese companies in Viet Nam upon return.

### South Korea

Similar to Japan, South Korea has a fairly high salary market (ranging from USD 1,000 to 1,200 per month), which is attractive to Vietnamese migrant workers (Dang, 2008). Before 2004, Vietnamese migrant workers were sent to South Korea under trainee programmes through a number of service companies. Following the introduction of the Employment Permit System (EPS) in 2004, South Korea and Viet Nam signed an agreement providing for Vietnamese workers to be sent to South Korea under non-profit and reduced pre-departure cost programmes. Under this agreement, pre-departure costs were significantly reduced (no more than USD 700 was paid by employees before their departure), and the situation of Vietnamese employees breaking their contracts in South Korea was brought under control. Eighty-five per cent of Vietnamese applications to

work in South Korea are granted, the highest rate among the 15 sending countries.

As of May 2010, 43,326 Vietnamese migrant workers had entered South Korea under the EPS programme, raising the total number of Vietnamese working in this country to 51,785 of whom 50,526 were unskilled workers holding E-9 visas, and 1,259 were illegal residents (MPS, 2010). In spite of the low pre-departure costs and low-skilled requirement, not everyone can benefit from EPS. Under this programme, workers must pass the Korean language test before being listed online for recruitment by employers.

Most Vietnamese migrant workers in South Korea work in industrial factories (about 87 per cent); the remainder work in agriculture, construction, aquaculture and fishing areas. According to a recent assessment, some newly arrived workers to South Korea and some of those who had spent a short period in South Korea wanted to change their workplace. According to Dang (2008), Vietnamese workers in South Korea have the highest percentage of job changing (35%) among overseas workers; this percentage is much lower for workers from other countries such as Indonesia (11.7%), the Philippines (10.1%) and Thailand (8%). Requests to change jobs often stem from personal needs or high expectation of benefits leading to dissatisfaction among South Korean employers and prompting them to look for labour from other countries.

Reports of the Labour Management Board of Viet Nam and the National Police Agency of Korea have shown an increase in law violation by Vietnamese in South Korea recently, which has had a negative impact on the image of Vietnamese workers abroad. Therefore, South Korea has requested that Viet Nam refuse the selection of groups of people who have committed crimes related to drugs, gambling, prostitution and who are wanted by the authorities.

In recent years, the number of Korean men looking for foreign wives who come mainly from South-East Asia has increased. Currently, one out of every ten South Korean men is married to a foreign woman. This rate is even higher in rural areas. In 2009, statistics showed that 47 per cent of foreign wives in South Korea were Vietnamese; 26 per cent were Chinese; 10 per cent were Cambodian; and 17 per cent were from other countries (Ngo, 2009). Since most marriages are arranged through brokerage firms, very few women involved are given adequate information about their future husbands, and violence often results within these partnerships. In this context, the challenges that Vietnamese women who marry South Korean men have to face are emerging issues in South Korea.

Many Vietnamese wives struggle to adapt to life in Korea. Vietnamese brides face a language barrier, lack knowledge of Korean culture, have nowhere else in South Korea to go and are often kept in isolation by their husband's families to prevent them from fleeing to Viet Nam. According to a report from the Korean Ministry of Family and Women, more than 30 per cent of Vietnamese and Korean couples state that they are leading a happy life, 40 per cent have normal relationships and nearly 30 per cent are unhappy (MPS, 2010).

As mentioned earlier, approximately 40,000 Vietnamese women are currently married to Korean men. Quite a few Vietnamese brides are subjected to serious domestic violence, and some have even committed suicide (Ngo, 2009). In July 2010, a young Vietnamese wife was beaten to death by her mentally ill Korean husband, which resulted in several measures being taken by the South Korean government, including: tightening regulations surrounding international marriage brokerage activities; stepping up investigations of illegal marriage brokerage rings in South Korea; enhancing measures to improve respect and understanding of multicultural families; initiating courses on Vietnamese culture for Korean men wishing to marry Vietnamese women; and providing information to Vietnamese women planning to marry Korean men and settle in South Korea. To support and provide counseling for these families, more than 170 counselling centres have been established in 19 provinces and cities in South Korea. South Korea is also developing laws related to marriage between nationals of South Korea and Viet Nam aimed at stabilizing inter-family relations.

### Chinese Taipei

Chinese Taipei hosts a large number of migrant workers and foreigners. By the end of May 2009, there were 341,943 foreign labourers from various countries working in Chinese Taipei. The highest number were from Indonesia (134,147), who were mainly domestic workers; followed by Viet Nam (77,289), including factory workers, domestic workers and elderly care workers; the Philippines (67,659), mostly factory and domestic workers; and Thailand (62,835), mostly construction and factory workers.

Since the end of 1999, when Chinese Taipei began accepting Vietnamese workers, the number of Vietnamese workers there has continued to increase. In 1999, there were only 131 Vietnamese workers in the territory. This number then increased drastically,

reaching its peak of 90,241 workers at the end of 2004, some 80 per cent of whom were domestic workers (Nguyen and Hugo, 2005). At the end of 2005, Chinese Taipei stopped receiving domestic workers from abroad, resulting in a decrease in the number of Vietnamese workers to 84,185. By the end of May 2009, the number had dropped further to 77,289, representing 22.6 per cent of the total number of 341,943 foreign workers in the territory. Viet Nam ranks second among the top six countries in terms of the number of workers it sends to the territory.

In terms of professions, among the total 77,289 Vietnamese workers in Chinese Taipei, there are 31,706 people (41%) engaged as domestic and patient care work; 44,594 (57.7%) working in factories; 435 seafarers (0.56%); and 554 construction workers (0.72%). At present, MOLISA has requested sending companies to look for opportunities for Vietnamese labourers to work in manufacturing industries.

The average wage for migrant workers in the territory is around USD 700 per month; however, the amount of money that most workers are able to save is still not enough to pay their debts or support their families in their home country. This is primarily due to the high fees that must be paid to brokerage companies in the host country. As a result, many Vietnamese labourers break their contracts and work illegally. Among the 12,448 Vietnamese who have broken contracts in the territory, 8,195 are women (about 66%). It is notable that this group accounts for 45 per cent of the 27,619 foreign workers living illegally in Chinese Taipei (Wang, 2007).

Similar to South Korea, a majority of Vietnamese women go to Chinese Taipei with their Taiwanese husbands expecting to acquire Taiwanese citizenship (Wang, 2007). Therefore, many Vietnamese living in the territory renounce their Vietnamese citizenship. For example, there were 9,200 in 2005; 6,000 in 2006; 11,398 in 2007; and 4,200 in 2008. In principle, these people are granted Taiwanese citizenship after renouncing their Vietnamese citizenship (Wang, 2007). However, there have been some cases in which Vietnamese nationals have renounced their Vietnamese nationality but have not been granted Taiwanese citizenship due to divorce (resulting from family conflicts), the death of the husbands or the expiration of their residence permits. As a result, these individuals become stateless and face many difficulties in residing and living in the territory. To address this situation, the government of Viet Nam has introduced various policies and measures aimed simplifying the procedures for such people to regain their Vietnamese citizenship so as to facilitate their integration in the territory.

Chinese Taipei has a challenging labour market, making labour management complicated, especially because of organized crime involvement in three key areas: drug smuggling, human trafficking and other crimes. To date, there have been no serious criminal cases reported involving Vietnamese nationals. However, there has been a reported increase in the number of Vietnamese people holding tourist or language study visas working as unlawful workers (MPS, 2010). As with Vietnamese women from broken marriages and runaway workers, members of this group violate Taiwanese laws because of the pressure they are under to earn as much money and quickly as they possibly can. Consequently, they can be arrested and deported at any time by local authorities.

### Malaysia

Malaysia is a receiving country with a large number of mainly low-skilled foreign workers. A bilateral agreement on labour cooperation was signed by the governments of Malaysia and Viet Nam on 1 December 2003, establishing a legal basis for Malaysia to receive more Vietnamese workers, with income ranging from VND 3.5 to 5 million per month. Malaysia is considered an "easy market" as it does not require highly skilled and qualified workers. In addition, there are low pre-departure costs, which are affordable for labourers from rural areas of Viet Nam.

According to Department of Overseas Labour statistics, a total of 200,000 migrant workers have been sent to Malaysia since April 2004 (MOLISA, 2010). However, the labour market in Malaysia has fluctuated, especially during the period 2004-2005, due to national policy changes regarding the transfer of investments in infrastructure construction from urban to rural areas. Many large construction projects have been cut back, reducing demand for foreign workers, including those from Viet Nam. Since 2007, part of the Vietnamese workforce in Malaysia has had to return home before the completion of their employment contract due to the global economic crisis. Between 2008 and 2009, the number of migrant labourers working in Malaysia decreased sharply from the tens of thousands of workers in previous years. However, since the latter half of 2009, the Malaysian market has recovered. At present, there are about 88,000 Vietnamese workers working in 11-13 states in Malaysia, including those workers who have broken their contracts to work as unlawful workers and are lacking personal papers and passports (often kept on by their former employers).

The demand for labour in Malaysia has recently increased. To respond to the requirements of small and medium enterprises (SMEs), the government of Malaysia has loosened regulations on the recruitment of foreign workers. All enterprises can accordingly recruit a number of new overseas workers equal to the number of overseas workers whose contracts have been fulfilled. According to the Labour Management Board of Viet Nam in Malaysia, the number of Vietnamese workers working in Malaysia was 11,741 in 2010, an increase of 320.5 per cent compared to the 2,792 workers there in 2009, who worked mainly in the electricity, electronics, textiles, plastic, chemical, carpentry, agriculture and construction industries. Vietnamese governmental agencies are currently considering sending workers that have returned from Libya to Malaysia to work in construction and agricultural areas, such as farming, grass cutting, palm planting and harvesting, which have a year-round demand. Malaysian companies prefer to recruit Vietnamese female workers over male workers.

In Malaysia, Vietnamese migrant workers often face difficulties and problems in the workplace such as delayed (or no) payment and harsh working conditions; therefore, many disputes and conflicts between employees and employers arise, leading employees to quit their jobs to work as unlawful workers. In this situation, these workers become illegal workers and may be pursued by Malaysian police. Malaysian laws for foreign workers are very strict. According to regulations, foreign workers must have work permits, are not allowed to bring their families or relatives along, must not be pregnant and are prohibited from joining unions or associations. Periodically, local authorities carry out crack-down campaigns and deport illegal and non-work permit migrant workers to their countries of origin.

A report from the government of Viet Nam showed that from the period 2003-2008, the number of



labourers violating labour contracts who had to return home before the contract terminated accounted for 12.12 per cent of the total labourers sent abroad during the same period. This figure was led by workers in Malaysia (15.71%), followed by Chinese Taipei (15.38%) and Japan (5.37%). The early return of migrant workers creates a number of difficulties for workers, their families, the sending agencies and society in general, possibly leading to this group of workers falling into unemployment again and suffering from poverty.

### *Africa and the Middle East*

After Eastern Asia, Africa and the Middle East have recently become attractive markets for Vietnamese migrant workers, particularly the United Arab Emirates, Qatar, Saudi Arabia and Libya. Before the evacuation of Vietnamese workers from Libya, there were about 50,000 Vietnamese workers working in this region (Dang, 2008). However, since late 2010, many countries that used to be major markets, such as UAE, have reduced their demands for recruiting foreign workers to offer more places for domestic labourers. In spite of having stable jobs with fair salaries, Vietnamese workers in this market also face many difficulties due to the harsh climate and differences in language and Islamic culture, which place unfamiliar controls on clothing, working styles, communication, food and measures of employee management. Below is the situation of Vietnamese workers in some key areas in the region:

#### *The United Arab Emirates (UAE)*

The United Arab Emirates consist of seven emirates with a population of 4.8 million people, more than three quarters of whom are foreigners. UAE is an open and highly competitive labour market. Foreign workers account for 90 per cent of the workforce in UAE and participate in all economic sectors. Since Vietnamese employees were first contracted to work in UAE in 2004, Viet Nam has sent over 10,000 workers (including individual contract holders), who are primarily gathered in Dubai, Sharjah and Abu Dhabi (Labour Management Board, 2009b). They mainly work on construction sites (65%), in plants (20%), restaurants, hotels and

supermarkets (5%) and the remaining workers are unlawful workers. Recently, a number of enterprises have expanded to new sectors, such as security, cleaning and packaging services.

Low - skilled workers in UAE earn around USD 300 per month, while skilled workers are paid from USD 500 to 900 per month. In general, given stable economic conditions, the majority of migrant workers have stable jobs that give them greater income from their overtime work and secure living conditions, including food provision. However, foreign workers wishing to work in UAE are contracted by their employers and are not allowed to change employers. If a person wants to change his or her job, he or she must have the consent from their previous employer. This guarantee law has created a lot of power for employers in the labour relationship, with employees often disadvantaged in labour disputes, as employers may decide to cancel the visas of employees. Some cases resulting in violence, theft, slowdowns or strikes (usually because wage payments were delayed or not paid as agreed upon) have arisen among Vietnamese employees in UAE, and these have led a number of Vietnamese workers to break their contracts and find work illegally (Labour Management Board, 2009b).

Unlike some other countries, UAE authorities do not regulate a minimum wage rate. Wages paid to foreign workers depend on their skills, type of work and citizenship. This easily leads employers to abuse and exploit migrant workers. However, UAE has very active policies in securing the rights of workers. Wages, health insurance and improved living conditions are three pillars of UAE 's current labour policy.

#### *Qatar*

Qatar has signed treaties and agreements committing to receiving a large number of migrant workers from many countries, but in fact, the receiving process is carried out slowly due to visa, work and residence permit processing procedures. Since September 2009, Qatar has stipulated and implemented a new visa guarantee law in which foreign workers whose contracts are terminated are only allowed to work again in Qatar after a gap of two years (or four years for people who violate the local laws).

Vietnamese migrant workers in Qatar face more difficulties than those from other countries due to cultural differences (such as adapting to Islamic



culture), which involve restrictions on working styles, food, language, dress, gestures and labour management measures. Working conditions in Qatar are difficult, particularly given the harsh weather and high temperatures that can impact on construction work. Currently more than 95 per cent of Vietnamese labourers work outdoors at construction sites. The minimum wage in this country is around USD 190 per month for low skilled workers and USD 250 per month for skilled workers. Due to overtime requirements, the monthly income for low skilled workers reaches around USD 250, while it is around USD 400 for skilled workers (Labour Management Board, 2009c). Nevertheless, none of the sending companies have had representatives for labour management and support in Qatar except for AIRSECO, whose office closed at the end of February 2009.

During the period of labour cooperation, Qatar ceased issuing visas for Vietnamese migrant workers three times as a direct consequence of the number of breaches of Qatari law by Vietnamese migrant workers (report from the Qatar Director General of Immigration and Border Issues). Currently, the number of Vietnamese labourers being granted work permits in Qatar is negligible, while the work permits of the majority of these workers have expired, leading to a prompt decrease in the number of migrant workers in this market. By the end of June 2009, the number of Vietnamese workers was approximately 1,500; then 300 in November 2011, compared to 8,000 in March 2008, when the Vietnamese Embassy first opened in Qatar (Labour Management Board, 2009c).



## Libya

There were more than 10,000 Vietnamese labourers working in Libya before the outbreak of civil war, working mainly at construction sites, and they were sent by 21 labour export companies (MOLISA 2011). In February, 2010, the internal political conflict in Libya developed

into a civil war, and attracting the attention of the international community. According to IOM (2010), more than 2.5 million foreign workers and hundreds of thousands of Libyans have tried to leave Libya as a result of the crisis; the largest number of evacuees is Egyptian (about 1 million), followed by Pakistani (80,000), Bangladeshi (70,000), Sudanese (59,000), Chinese (33,000), Filipino (26,000), Thai (25,000) and Vietnamese (over 10,000).

After receiving information on the protests in Libya, the government of Viet Nam quickly established the Steering Committee of Viet Nam to evacuate its migrant workers from Libya. Five inter-agency working groups (MOFA, MOLISA, MPS, MOD and Viet Nam Aviation Corporation) were sent to neighbouring countries and coordinated with Vietnamese representative offices, local authorities and relevant international organizations (IOM, UNHCR) to evacuate workers from Libya urgently.

By March 2011, thanks to the efforts of the government and the support of the international community, 10,082 Vietnamese migrant workers were returned to Viet Nam safely, quickly and efficiently (MOLISA, 2011). This historic evacuation has demonstrated the value of the efforts of the government of Viet Nam in relation to the protection of its citizens. However, employment for workers who have returned early from Libya (referred to as the “post-Libya labour issue”) has placed some pressure on labour management agencies in Viet Nam.

### 3.2.2. Management and protection of Vietnamese nationals abroad

In recent years, the management of labour abroad has achieved a great deal, but still faces obstacles and challenges. Most Vietnamese missions abroad are not provided with lists of personal details or passport numbers of arriving workers by sending companies. This creates greater challenges to citizens' protection abroad. Eight Labour Management Boards have been established in countries where there are great numbers of Vietnamese workers. These countries are: Malaysia, Japan, Korea, Chinese Taipei, China, UAE, Qatar, Libya, and the Czech Republic.

In the countries where the Labour Management Boards are established, the management and protection of legal rights and interests of workers are facilitated. Many cases have been detected and addressed quickly to avoid possible negative consequences. However, due to the fact that there are Vietnamese workers in many countries and both the budget and the number of staff of Labour Management Boards are limited, there are still cases that are not assisted immediately and effectively.

According to Vietnamese regulations, enterprises are responsible for appointing representatives to manage and protect the interests of Vietnamese workers working abroad. A current issue is that sending enterprises do not strictly follow the reporting requirements to state administration agencies at all levels. The reports, if any, are periodic and often incomplete, which leads to incomplete and inaccurate collection of data relating to labourers, causing difficulties for managing and dealing

with cases that may arise. In general, legal labour documents for each labourer are often incomplete and do not provide a strong basis for liquidation of employment contracts and settlement of workers' disputes, which affects the benefits of these workers.

Meanwhile, the prescribed sanctions applicable to enterprises' violations are generally not strict enough, the result typically being a warning or a fine ranging from VND 500 thousand to 40 million. These fines are extremely low in comparison to the profits earned by these enterprises, and they do not provide sufficient disincentive for enterprises. On the other hand, discrimination against migrant labourers in receiving countries also contributes to the increase in the number of contract-breaking workers, leading to increases in illegal work.

Given the aforementioned situation, it is important to implement the existing signed agreements to protect the interests of overseas workers; negotiate with countries where Viet Nam has a large number of its workers to sign new bilateral treaties and agreements on labour cooperation, consular agreements and mutual legal agreements; and enhance guidance, control, oversight and stricter sanctions applied to enterprises that have made violations in concluding labour framework contracts with foreign partners to protect the rights and interests of migrant workers.

## 3.3 VIETNAMESE DIASPORA

Currently, there are about 4 million people of Vietnamese descent living, working and studying in nearly 103 countries and territories around the world. They are concentrated mainly in 21 countries in North America, North-West Europe, Russia and Eastern Europe, South-East Asia, North-East Asia and Australia. Vietnamese people are also living in other regions, such as South and West Asia, the Middle East, Africa and South America.

### 3.3.1 Situation of Vietnamese diaspora

According to statistics of the State Committee of Vietnamese Overseas, about 80 per cent of Vietnamese are living in developed countries, of which there are 1.5 million in the United States, 300,000 in France, 250,000 in Canada and 245,000 in Australia. In Eastern Europe and some Asian countries, such as Lao People's Democratic Republic, Cambodia and Thailand, there are approximately 100,000 Vietnamese people living in each country.

The majority of these Vietnamese have stable lives and have integrated successfully into their host societies and communities. Some of them have significant economic powers and social positions in their host countries. In comparison to other communities, Vietnamese communities overseas are young, active, adaptive and tend to be permanent residents in their host countries, especially in North America, Australia and Western Europe. In these regions, approximately 80 per cent of the Vietnamese are naturalized in their host countries, but almost none of them abandon their Vietnamese citizenship. Meanwhile, most of the Vietnamese living in Russia and Eastern Europe consider their residence in their host countries to be temporary, and they intend to return to their home country when the opportunity arises.

Generally, overseas Vietnamese communities have significant economic potential; however, they still have to compete with the natives of the host countries for jobs. There are many successful and prestigious Vietnamese business people. In fact, many Vietnamese people have achieved important positions in institutes, universities, hospitals, companies and international organizations. Although considered to be integrated and part of successful communities in North America and Western Europe, overseas Vietnamese people's economic potential still remains limited, with a below average income level, as compared to the level of the native community.

Today, there are a number of Vietnamese nationals living abroad who have Bachelors and post-graduate degrees, and some are highly skilled experts. The number of Vietnamese people residing overseas who have attained a high level of education has helped increase the overseas Vietnamese intellectual workforce, particularly among the third and fourth generations. Despite incomplete statistics, it is estimated that 300,000 to 400,000 Vietnamese living abroad have university and post-graduate education degrees, in addition to up-to-date scientific, technological and

economics management knowledge. A new intellectual generation of Vietnamese people has taken shape and developed mainly in North America, Western Europe and Australia in key scientific and economic fields, such as information and communication technologies, electronics, new materials, machinery manufacture, cybernetics, biology, economic management and securities, all of which are necessary for the domestic economy.

It is difficult to preserve and promote the Vietnamese language and national identity within younger generations and to promote effective methods of preservation and promotion of good cultural traditions. The need for cultural exchange between Vietnamese communities overseas and their home country is growing and becoming vital.

### 3.3.2 The roles of overseas Vietnamese towards the motherland

Vietnamese communities living abroad are increasingly actively looking towards the motherland, and they make valuable, practical, comprehensive and diverse contributions to Viet Nam 's industrialization, modernization, socio-economic development, solidarity consolidation and improvement. Many of them have made great spiritual and physical contributions to the country's development.

The guidance and policies of Viet Nam stipulate clearly that overseas Vietnamese communities are an integral part of the resources of the Vietnamese national community. They form an important contribution to the improvement of international cooperation and relations between Viet Nam and the international community. Article 7 of the Law on Nationality stipulates: "The State of the Socialist Republic of Viet Nam has a policy of encouraging and facilitating people of Vietnamese origin living overseas to keep a close connection to their families and homeland, and to help the construction of the homeland and the country."

The connection of overseas Vietnamese to their homeland has further developed in recent years, due to their increasing participation in domestic social events. The number of overseas Vietnamese returning to visit their families and homeland is increasing. There were about 8,000 returnee visits to Viet Nam in 1987; 97,000 visits in 1992; 350,000 from 2000-2003; and a record 430,000 visits in 2004 (Dang et al. 2010). According to a report from the State Committee on Vietnamese Overseas, during the past five years (from 2005 to present), there has been an average of 500,000 overseas Vietnamese returning annually for family visits and investments. These returnees have brought a large amount of remittances, not only for their relatives but also in the form of investment project funding.

Through investment projects of overseas Vietnamese in Viet Nam, many domestic resources, such as the labour force, land and other resources, are effectively used and promoted. The contributions of overseas Vietnamese help expand the market, promote services and connect domestic export enterprises with the global market, as well as help the transfer of modern management and business methods. These are factors that promote domestic enterprises to improve technology and promote quality and competitiveness, which provides the domestic labour force with more opportunities for improvement of skills, technology and processes. Investments of overseas Vietnamese communities in Viet Nam have helped to complement domestic capital resources and create new positions and power for the development of the country, following its accession to the World Trade Organization (WTO).

According to the National Committee for Overseas Vietnamese, overseas Vietnamese have invested US \$5.7 billion in over 3200 projects in Viet Nam. Sixty per cent of these projects are in effective operation. These investments have been mainly focused in the manufacturing, tourism and service sectors. The establishment of the Association of Entrepreneurs of Vietnamese overseas in August 2009 was a landmark in gathering and uniting Vietnamese entrepreneurs around the world for the greater contribution for the development of Viet Nam.



There are indications that some diaspora communities, especially in areas of North America, Western Europe, Russia and Eastern Europe, have great potential to contribute to national development. The force of overseas Vietnamese intellectuals, particularly in technology sciences and business communities, is growing. Activities of associations and groups have been enhanced to contribute to building support, friendship and relationships between Viet Nam and other countries. Many associations, groups and professional organizations of overseas Vietnamese, especially in developed countries, come to Viet Nam to implement activities in scientific areas, technology cooperation and humanitarian projects.

However, their contribution to the country's development, especially in the field of knowledge, has not fully reflected the potential of the Vietnamese Diaspora. Their role in knowledge transfer and technology has not been adequately used. In 1990, the knowledge transfer programme of the overseas Vietnamese community began and was slowly implemented. In 2002, a list was drafted of 150 overseas Vietnamese experts working in many fields, including information technology, industrial areas, technology, healthcare, finance and management. However, the activities of these overseas Vietnamese experts, in forming collaborations, exchanging experiences and participating in workshops with universities and research institutions, remain uncertain. To date, it is too early to assess the effectiveness of this programme.

Overseas Vietnamese do not have the same rights as resident citizens in terms of investment and business procedures in Viet Nam. The fact that enterprises that are established by overseas Vietnamese are considered to be foreign-invested enterprises creates unfavourable conditions compared to the conditions provided for domestic investors. While it takes in-country investors only five to seven days to complete business registration procedures, it can take months or even a year for foreign investors to complete complicated procedures for obtaining an investment license or securing land and house rental. Foreign-invested enterprises also need to have an annual audit report, whereas domestic enterprises are not required to have this kind of report.

Aiming to promote the potential of the Vietnamese diaspora community, Viet Nam needs to further develop its overseas migrant policies, in order to attract more remittances which can be used towards the development of the country. In the short term, it is necessary to focus on the development of "Ordinance on Overseas Vietnamese," strictly and effectively implementing the Resolution No.36/NQ-TW as well as guidelines and

policies of the Government's laws on overseas Vietnamese. At the same time, the implementation of the project "Policies and Measures of Attracting Vietnamese Experts and Intellectuals Living overseas in the Processes of the Country's Construction" is also crucial, with a focus on strategic content such as the establishment of a national steering committee; development of policies to attract experts, intellectuals and high-skilled workers to work for the country; and setting up expert groups.

Viet Nam must continuously study and improve policy mechanisms to ensure the legitimate rights and interests of overseas business persons are protected, and to facilitate the ability of Vietnamese living overseas to participate in the development of the country. This could be done by, for example, creating favourable mechanisms for overseas Vietnamese to participate in trade fairs and exhibitions organized abroad; setting up Vietnamese export and product centres abroad; and encouraging and rewarding Vietnamese enterprises and business people overseas who have contributed to trade and technology exchanges between Viet Nam and host countries. In addition, it is necessary to further promote information exchange and communication on the State's policies promoting overseas Vietnamese through online business fora, coordinate with overseas Vietnamese business associations to create such online fora and provide answers to questions raised by Vietnamese living overseas.



## 3.4 REMITTANCES

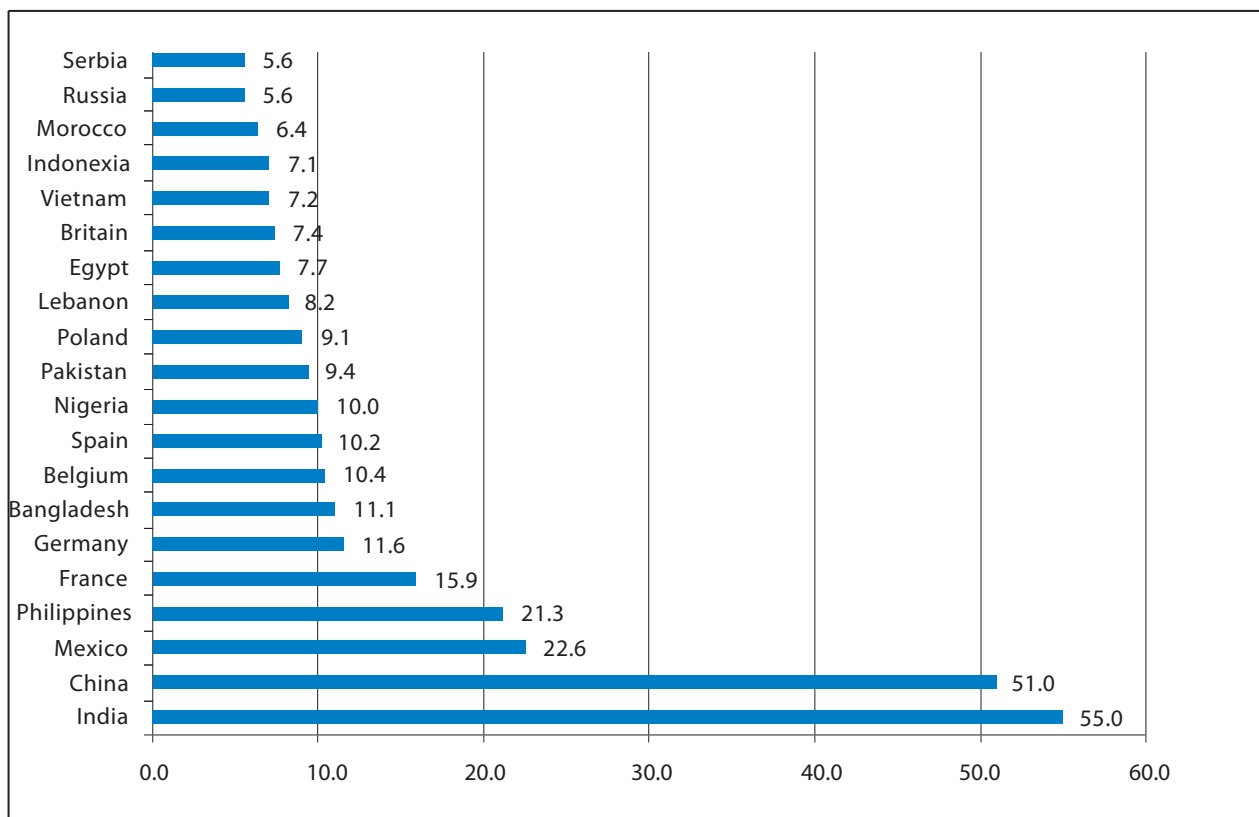
A recently published report by the World Bank (WB) ranked Viet Nam sixteenth out of the top 20 remittance receiving countries in 2010 (World Bank, 2010). Remittances sent by overseas Vietnamese communities in 2010 reached USD 7.2 billion, an increase of USD 600 million from the previous year, and equivalent to 2008 figure. The WB assessed that remittances sent to Viet Nam in 2010 were significant in comparison to other capital flows, such as Foreign Direct Investment (USD 9.6 billion) or Official Development Assistance (USD 2.6 billion).

### 3.4.1 Scope and role of remittances

Viet Nam is ranked second among South-East Asian remittance receiving countries, behind the Philippines (approximately USD 21.3 billion). The WB's forecast

shows that this figure will continue to increase in the coming years if the global economy maintains its recovery momentum (World Bank, 2010).

Figure 1: Top remittance receiving countries in 2010 (in billions of USD)



Source: World Bank (2010)

Overseas Vietnamese are increasingly recognized as an inadequately used source for the development of Viet Nam. Money and investment capital flows are transferred steadily to Viet Nam by overseas Vietnamese communities (on an average of USD 1,000 per person per year). This figure does not include cash and in-kind contributions carried directly to relatives of overseas Vietnamese, not through formal credit and banking systems. The cash amount brought home by overseas Vietnamese during their visits is typically very large, contributing to domestic investments.

According to the 2010 statistical data (World Bank, 2010), the total remittances sent to Viet Nam exceeded USD 8 billion in 2010, an increase of 27.3 per cent when compared with 2009 (USD 6.283 billion). Experts believe that remittances increased due to the partial recovery of the world economy; therefore, overseas Vietnamese communities and migrant workers had more favorable conditions for sending money to their relatives in-country. Year-on-year growth of remittance flows demonstrate that there is a strong connection between Vietnamese communities living overseas and in Viet Nam.

The most positive factors that have had an impact on Vietnamese communities overseas are economic, cultural and social achievements in their country of settlement, the increasingly improved position of Viet Nam in the world and its close cooperation with other countries

where overseas Vietnamese communities are living. From their visits to the homeland, overseas Vietnamese can witness the achievements of the country's renovation (Doi Moi) and the changes to living circumstances of families, which provides convincing evidence of continuing development.

Another factor that contributes to the increase of remittances through banking systems is the improved quality of remittance service providers. Commercial banks and other remittance service providers have ensured that they provide convenient, fast and safe services to their clients. In addition to at-the-counter services, service providers also offer door-to-door and credit card account services as alternatives for their clients. Together with the country's renovation (Doi Moi), openness and integration, the State is also more open in its policies in attracting remittances, which include not limiting the quantity, receipt and payments in original currency, and open policies for homeland visits, house purchases and domestic investments for Vietnamese Diaspora

Figure 2: Remittances to Viet Nam through formal channels over the past 20 years

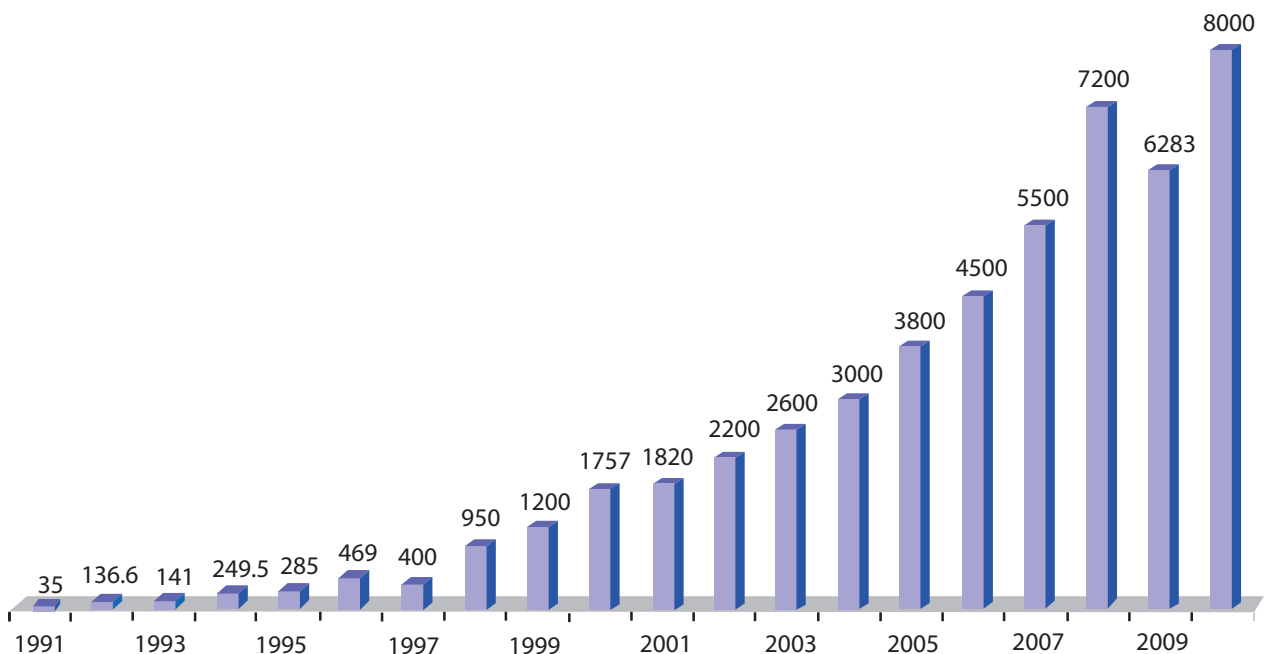
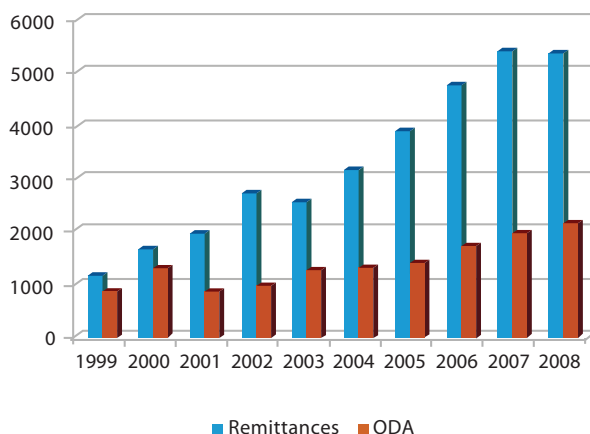
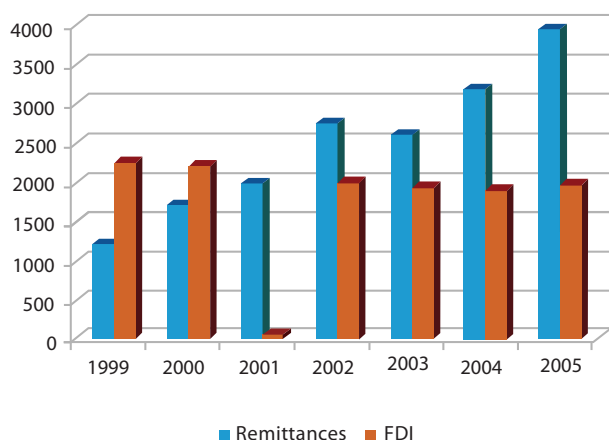


Figure 2 shows that remittances sent to Viet Nam from abroad have increased rapidly over the years. From 1991 to present, remittances sent home by overseas Vietnamese communities and labour migrants working abroad have continually increased, reaching USD 135 million in 1991; USD 285 million in 1995; USD 1.757

billion in 2000; USD 3.8 billion in 2005; and USD 7.2 billion in 2008. Remittances in 2009 decreased slightly due to the global economic recession but still reached USD 6.283 billion, and exceeded USD 8 billion in 2010 (World Bank 2010).

Figure 3: Remittances exceeding FDI and ODA



Remittance flow is one of the largest sources of external financing in Viet Nam, almost equivalent to the actual amount of foreign currencies coming from the Foreign Direct Investment (FDI) inflows. It is 2.5 times higher than the disbursement of Official Development Assistance, almost 2 times greater than the amount of foreign currency spent by international visitors in Viet Nam and more than ten times higher than Foreign Indirect Invested (FI) capital flows.

The remittance to GDP ratio (in US dollars) has increased yearly in Viet Nam and reached a significant rate, with respect to real exchange rates, specifically

0.44 per cent in 1991; 1.37 per cent in 1995; 7.18 per cent in 2005; and 6.86 per cent in 2009 (this slight decrease was due to the global economic recession). It is estimated to be around 7.97 per cent (more than USD 8 billion) in 2010. From 1991 to present, the annual average remittance to GDP ratio has increased by 5.85 per cent nationwide and by 7.62 per cent in the period from 2006 to present. The ratio of 2010 was the second highest ratio in the past 20 years (World Bank, 2010).

Table 3: Remittances and their importance to the economies of South East Asian sending countries

Sending country	Estimated remittances in 2008 (in millions of USD)	The increase rate of remittances (%) (2001 - 2008)	The increase rate of consumption expenditures (%) (2001 - 2008)	Share of remittances in GDP (%) in 2007
Viet Nam	5,500	15.5	13	7.90
Thailand	1,800	5.3	13	0.70
Malaysia	1,810	12.5	14.6	1
Indonesia	6,500	29.8	18.1	1.50
Philippines	18,669	17.2	14.7	11.6
Cambodia	353	14.9	11.8	4.20

Source: World Bank (WB, 2010).

Remittances sent to Viet Nam by labour migrants working abroad reach approximately USD 2 billion yearly (GOV, 2010) through various channels, such as commercial banking systems, brokerage agencies, sending companies, relatives, friends, migrant workers themselves or other individuals. In some provinces where there are a large number of migrant labourers

working abroad, remittances are approximately equal to the provincial general income<sup>2</sup>. Currently, there have been no macro-statistics on the percentage of households receiving money from labour migrants working abroad, but most families whose relatives are working abroad confirm that their income is increased by this source.

### 3.4.2 Domestic use of remittances

As previously stated, remittance flow is one of the largest sources of external financing in Viet Nam, and it has continuously increased in recent years. Increases in remittances have had positive and direct impacts on domestic families and relatives in overcoming financial difficulties to improve their lives, invest in home building, in production and in business ventures. This positive trend shows the contribution of migration towards the socio-economic development of the country.

At the macro-economic level, the volume of remittances has contributed to reducing payment imbalances; to improving foreign currency reservation; and to reducing the pressure of exchange rate appreciation. It is estimated that approximately USD 1 billion has been invested in small businesses. Another portion of remittances has significantly improved the budgets of immigrants' families in rural areas,

particularly regarding expenses, such as housing, healthcare and education costs. A large proportion of remittances has been invested in securities and real estate. These investments have not been recorded because they were given in the names of immigrant's relatives in the country. This helps overseas Vietnamese make use of grey areas of the law and avoid Viet Nam's complicated administrative procedures, which are applicable to foreigners who want to buy houses and land in Viet Nam. A small portion of remittances was invested in other sectors, such as tourism, business, services and labour-intensive industries; these investments have not shown a positive impact on the economy. However, it can clearly be seen that the current policies are not effective in exploiting remittance inflows, or in using and developing investments from this source.

<sup>2</sup>According to a report from the Phu Tho People's Committee, the remittances sent by local migrant workers from 2007 to June 2010 through the provincial banking systems were about USD 98 million, VND 500-600 billion per year on average, equal to the provincial general income (COSA, 2009).

### 3.4.3 Remittance prospects and related policies

To attract external financing flows and facilitate and encourage overseas Vietnamese to send money to their homeland, in recent years the government of Viet Nam has issued a number of legal documents, such as Decision No. 170/1999/QĐ-TTg, dated 19 August 1999, and its Amendment No. 78/2002/QĐ-TTg, dated 17 June 2002. The main purposes of these documents are to facilitate remittances from overseas Vietnamese, ensure the interests of the senders and the receivers and expand forms of money transfer.

From a broader perspective, the increase of remittances has resulted from the obvious recent improvement of the State's remittance policy through a range of new, open and flexible mechanisms, which have allowed recipients to receive foreign currencies, deposit foreign currencies in their saving accounts, withdraw both principals and interests in foreign currencies, transfer foreign currencies abroad upon immigration approval and sell foreign currencies at banks at close-to-market exchange rates.

In the past, remittances to Viet Nam were mainly used to support families and relatives and meet year-end spending needs, but they are now commonly used for other purposes. The development of high profit-making economic activities, such as stock markets and real estate, is one attraction for overseas Vietnamese to invest remittances in domestic investments. The promotion of labour export has also contributed to the increase of remittance inflows. However, since early

2011, remittances sent by migrant workers have been significantly reduced by the severe civil war in Libya, which has caused the repatriation of more than 10,000 Vietnamese employees (MOLISA, 2011).

The policy on foreign exchange and foreign currency management issued by the State in early March 2011 may affect the remittance inflows this year and in coming years. This regulation has been successful in addressing the dollarization problem in Viet Nam, managing foreign exchange, obliging people to use the national currency and curbing black market currency trading. However, this regulation has made many reluctant to send, receive and use remittances from abroad. From an economic perspective, the speculation or deposit of U.S. dollars in foreign banks will depreciate asset values and not serve domestic investments.

The regulations are designed to stabilize the macro economy, control inflation and address other issues, such as budget and commercial deficit and price instability. Only when the economy maintains its stability, and the domestic business environment improves, will there be sufficient incentive for foreign currency remittances to be invested in the national currency, creating capital for businesses to invest. It is necessary to have more long term, sustainable and effective solutions for the foreign exchange policy and its associated remittance policy, so that Viet Nam might receive the greatest benefit from the development impacts of migration and the Vietnamese diaspora.



## IV. SOME ISSUES OF CONCERN

### 4.1 ILLEGAL MIGRATION AND MIGRANT SMUGGLING

Despite the increase in illegal migration and human trafficking in Viet Nam in recent years, preventive information on the unscrupulous and fraudulent methods used by perpetrators of these crimes and on the harm they cause has not been communicated widely enough. Moreover, the persistently high demand to migrate abroad for work, study, medical care, travel, marriage or family reunion offers opportunities for organized criminal networks to trick people into becoming victims of their illegal activities.

These networks have been making huge profits from illegal migration for several years, putting the migrants concerned in danger; not only do these criminal groups send Vietnamese nationals abroad illegally in unsafe and inhumane conditions, but they also exploit their vulnerable illegal status in the host country, forcing many of them into prostitution or the black labour market.

Irregular Vietnamese migration is an issue that has continued to feature high on the agenda of discussions between Viet Nam and host countries, especially the United Kingdom, in recent years; with approximately 30,000 illegal resident nationals, Viet Nam is among the top five countries with illegal migrants currently in the United Kingdom. British police have determined that many of them have engaged in and profited from illegal activities such as cannabis plantation, human trafficking and prostitution.

Similarly, human smuggling is run by sophisticated criminal organizations with branches in the Czech Republic, France, Germany, Poland, the United Kingdom and Viet Nam. In July 2010, 31 Vietnamese suspects, together with 66 illegal migrants, were arrested in France, Germany, Hungary and the United Kingdom. Two human smuggling methods were used in these cases. In one, migrants were given false travel documents, flown from Viet Nam to Moscow and then transported by train,

car or truck into European Union countries. Those seeking transport to the United Kingdom each paid a fee of 2,000 to 3,000 Euros to a Kurdish criminal gang, which hid them in secret compartments or beneath the cargo of trucks travelling from Belgium and France through the English Channel tunnel. In the other method, would-be migrants opted for a more expensive but more secure method, paying their criminal intermediaries between 10,000 and 15,000 Euros for false travel documents and Schengen business visa application papers, and a direct flight to Paris, where they were kept in safe houses before travelling to the United Kingdom. Most of these people fell into serious debt, as they had to pay further, significant amounts to criminal entities to enter countries in which even the lowest-paid jobs were hard to come by, and where they ran a high risk of being detected and deported.

Addressing irregular migration is a priority for many countries. Many people lack information and knowledge about national and international laws on migration. In particular, communities in Viet Nam have only very limited awareness of the fraudulent methods used by transnational organized criminal gangs engaged in human smuggling, as well as of the dangers and risks faced by illegal migrants. This hampers efforts to put in place effective measures to address this serious crime.

## 4.2 VIETNAMESE WORKERS ABROAD

Given the type of work they engage in and the nature of labour migration, Vietnamese labourers abroad invariably work together with migrant counterparts from other countries. Their pre-departure costs are high, unclear and often unreasonable, placing further burdens on them.

In addition, economic developments worldwide and the recent financial crisis have forced a number of enterprises to cut back on staff and wages, despite cost of living increases. As a result, many workers break their contracts by quitting their jobs and then find other higher-paid work illegally to pay off their debts. In doing so, they endanger their health and sometimes even their lives, and are in breach of the laws of the host country.

Most migrant workers come from rural areas, possess limited skills and foreign language abilities that have made them reluctant to participate in social activities in their host countries. Many migrant workers have only a limited understanding of the laws, culture, practices and customs of their host countries because they were not given the necessary pre-departure information and training. Furthermore, their skills often do not meet the requirements of their employers, while some are not familiar with working in an industrial setting in accordance with strict labour regulations. The illusion of a high income abroad, combined with the frustration of the reality of their employment situation in host countries, results in many migrants adopting a negative attitude towards their jobs, and in some cases prompts them to violate their employment contracts.

Vietnamese international labour migration in recent years has contributed significantly to poverty reduction, construction and development in Viet Nam. However, insufficient attention has been paid to giving migrants pre-departure vocational and language training, to informing them about the cultures, practices, customs

and laws of host countries, and to enhancing their awareness and understanding of labour migration laws. The management of Vietnamese overseas labourers still faces many challenges, in part owing to Viet Nam's lack of qualified labour attachés and other official representatives based in host countries, as well as high turnover of embassy staff. As a result, local coordination with employers and follow-up of issues linked to Vietnamese labour migrants in host countries is often limited, passive and slow. Vietnamese officials in these countries are not always prepared to handle cases of Vietnamese migrants who get involved with thieves, robbers, violence, gambling, substance abuse or illegal trading. This may compromise efforts to improve the effectiveness of labour management and the protection of the legal rights and interests of Vietnamese workers abroad.

These shortcomings are barriers to sending labourers to work overseas. As a priority, comprehensive solutions to these issues must be devised and implemented in order to further improve the quality and effectiveness of overseas labour migration.

## 4.3 VIETNAMESE WOMEN MARRYING FOREIGNERS

Over the past decade, factors such as international integration and Viet Nam's strong economic development – among several others – have led to an increase in the number of international marriages between Vietnamese nationals (mostly women) and foreigners. Driven primarily by economic considerations, the number of international marriages arranged through brokerage services has increased dramatically in recent years.

This situation is, in part, a result of aging populations, gender ratio imbalances, and the pressures of modern society. Many Korean and Taiwanese women do not want to abandon their jobs and careers to marry and stay at home to take care of husbands and children. A Taiwanese man must pay between 100,000 and 200,000 USD to marry a local woman, compared to between 10,000 and 18,000 USD for a foreign bride. However, in an effort to circumvent certain administrative and legal constraints, some unscrupulous brokerage agencies have engaged in human trafficking of women and young girls who are pushed into marriages with foreign men abroad.

Vietnamese Ministry of Justice statistics show that increasing numbers of Vietnamese women are marrying foreigners. From 2007 to 2010, around 32,000 Vietnamese women married foreigners, mostly Korean and Taiwanese men. The majority believed that by marrying a foreigner they would have a more comfortable and easy life and would even be able to send money home to help their families. In reality, international marriages are often strained or broken by issues linked to differences in culture, laws, customs, language and lifestyle. In addition, cases of Vietnamese wives being abused in various ways by their foreign husband or their husband's family continue to be reported. In Chinese Taipei, for example, Vietnamese migrant brides account for approximately 6-10 per cent of reported cases of wife abuse. This percentage may be even higher given that many cases are not reported. These problems are the cause of many broken marriages, and often result in wives returning home with their children to their maternal families

In Korea, approximately 40,000 Vietnamese migrant brides are living in rural families where they are confronted with a language barrier and economic difficulties. Moreover, the closed and patriarchal nature of Korean society can be hostile towards foreign brides. Contrary to their initial expectations, most migrant brides in Korea are made to stay at home to take care of the children and are not allowed to work, even if their husbands' families are poor. Furthermore, Vietnamese wives in Korea have difficulty accessing social welfare services due to the lack of relevant information they receive or have access to, the language barrier and complicated registration procedures. These problems have led to an increasing number of divorces in Korea; the percentage of divorce cases among Vietnamese-Korean couples in South Korea's Kyongnam Province is 30.6 per cent, ranking second behind Chinese-Korean couples (45%). The main reasons for these divorces are: family conflicts (20.2%), the language barrier (19.2%) and mistreatment (7.35%). The fact that most Vietnamese women marry Korean men for economic reasons through profit-oriented marriage broker services that do not always provide accurate information about their future Korean husbands and life in South Korea are also factors that lead to divorce.

Migrant Vietnamese brides who want to work, reside in and apply for the nationality of the host country - because naturalization offers multiple benefits - must follow strict and sometimes complex procedures. These include: obtaining the husband's formal approval of their intentions; a minimum number of years of residence in the host country (e.g. three years in Korea and five years in Chinese Taipei); meeting local language skill

requirements; providing proof of financial capacity; and providing proof of having renounced their original nationality. However, some Vietnamese brides want to retain their original nationality in case they have to return to Viet Nam. Many fall into illegal residence status in Korea after their marriages break up.

State management of international marriages has recently shown signs of gradual improvement. This is reflected in improved cooperation among ministries and agencies at both central and local levels, and enhanced efforts to raise awareness about the legal implications, procedures and potential pitfalls of international marriages. For example, international marriage registrations and certifications are being conducted in a more careful and professional manner, and it is a legal requirement that both future marriage partners be interviewed directly to confirm their voluntary and mutual desire to wed. In addition, issues related to the citizenship of Vietnamese wives and the protection and assistance provided to them abroad are now being dealt with in a more orderly fashion. All these factors have helped ensure the principles of voluntary marriage, as well as the protection of the legitimate rights and interests of Vietnamese citizens married to foreigners abroad. The first step towards preparing Vietnamese women for international marriage lies in the establishment and operation of marriage counselling centres, run by the Viet Nam Women's Union.

Notwithstanding these achievements, various problematic issues and practices still stand in the way of voluntary and happy marriages between Vietnamese women and foreigners. In some provinces and cities, for example, a number of marriages between Vietnamese women and foreigners, particularly Taiwanese or South Korean men, have been arranged hastily through illegal brokers, without the voluntary agreement of the bride. Many marriages between Vietnamese women in border provinces and foreigners are not registered with the relevant authorities.

The majority of Vietnamese brides lack the necessary information and knowledge about the host country's laws, language, culture and traditional customs, making it difficult for them to integrate into their new home community. Most of the support received by Vietnamese women marrying foreigners is provided by pre-departure consultancy services. No formal provisions exist to provide assistance and protection to these women should they be subjected to violence or other forms of abuse while residing abroad. Furthermore, the marriage counselling centres operated by the Viet Nam Women's Union are weak, unsustainable and dependent on project funds. As such, they are not in a position to meet the pressing demands of migrant brides for information about the culture, habits and customs of host countries, or to provide basic language and communication skills training to facilitate the integration of these women in their future home communities abroad.

In order to resolve these issues, State management and law enforcement must improve, and legislation regulating international marriages should be further developed. Firstly, Instruction No. 03/2005/CT-TTg, issued by the Office of the Prime Minister, needs to be strictly implemented. Relevant stakeholders and society at large need to deepen their awareness and understanding of issues related to international marriages in an effort to uphold the legal rights and interests of migrant brides and their children - both prior to and after departure - and to combat illegal activities of unscrupulous marriage brokerage agencies to avoid trafficking of women and children.



## 4.4 MIXED ETHNICITY CHILDREN OF VIETNAMESE MOTHERS

As mentioned before, there are over 80,000 Vietnamese wives living in Chinese Taipei, and this number is expected to increase to 100,000 in the next two years. If each family has two children, the result will be a minimum of 200,000 mixed ethnicity children. This could confront both countries with various challenges in future years related to the integration, employment and social development of offspring of dual ethnicity marriages.

Both countries should be prepared to tackle these problems should they materialize. In parallel, it is important for this generation of children to have an understanding of Vietnamese culture to help them avoid possible family and social conflicts and ensure their harmonious integration into Vietnamese communities.

Many Vietnamese women from certain areas of Dong Thap, Hai Duong, Hau Giang and Vinh Long provinces are married to Taiwanese men, and a number of their children holding Taiwanese citizenship are now live in Viet Nam with their maternal grandparents, either because their parents are too occupied with work to take care of them, or because their parents are divorced. Vietnamese mothers sometimes unilaterally decide to return to Viet Nam with their children in order to escape from unhappy marriages and to avoid contact with their husbands and their husbands' families.

While some dual-ethnicity children were born in Viet Nam, others were born in Chinese Taipei and automatically acquired Taiwanese citizenship at birth. These children do not have Vietnamese citizenship and are often not declared to Vietnamese authorities. The result is that these individuals face difficulties in accessing healthcare, education services and other standard entitlements granted to Vietnamese citizens. What will their future be like when their parents are gone? What rights and obligations will they have in their maternal country when they grow up? The answers to these questions remain unknown.

Similarly, in Korea, children with a Korean father and a Vietnamese mother are also confronted with

difficulties stemming from differences in culture, language and education, exacerbated by the fact that their parents often come from the lower income bracket of the population. As a result, school results for this cohort are below average. In a country with a strong leaning toward ethnic homogeneity like South Korea, so-called "half-blood" Korean children often suffer from isolation and may even be refused entry into some schools. These and other issues may result in marriage dissolution, prompting some mothers to return to Viet Nam with their children. According to an unofficial Korean source, from September 2008 to September 2009, around 1,700 dual-ethnicity children under three years of age left Korea to visit Viet Nam and never returned. These children are known as the "mixed ethnicity Korean generation" in Viet Nam. Despite being born in Korea and having Korean nationality, they do not know the Korean language and culture but are still legally regarded as foreigners in Viet Nam.

Korean laws strictly regulate birth registration. A Vietnamese woman who has a child out of wedlock is not entitled to obtain a birth certificate for that child. Despite this regulation, it is commonplace for female Vietnamese immigrants to live and have children with Korean men without getting married. This situation is often exploited by illegal individual "brokers" in the host country, who demand a fee that may surpass USD 6,300 for a fake birth certificate and Korean citizenship for a child. The legal status of these mothers and children is unstable, their legitimate rights and interests are not respected, and they risk arrest, prosecution and deportation at any time. This situation has not been taken into consideration seriously by the two countries.

## 4.5 INTERNATIONAL CHILD ADOPTION

In Viet Nam, child adoption is a humanitarian issue that receives considerable attention from the government. The purpose of child adoption is to find a safe and caring home for a child, where the child can develop normally without risk of being abused or exploited, and not simply to find a child for a couple.

Together with the child adoption legislation promulgated on 28 June 2010, Decree 19/2011/ND-CP, dated 21 March 2011, regulates in detail the implementation of the Adoption Law. In addition, the ratification of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption in July 2011 has created a relatively comprehensive legal framework for international child adoption. Notwithstanding these positive changes, some obstacles and challenges still exist in dealing with international child adoption. Firstly, understanding and awareness of child adoption issues are inadequate. A children's rights-based approach is needed in the framework of international child adoption. In principle, international child adoption can only be approved if an in-country alternative home for the child cannot be found, and on condition that the child's legal rights are ensured in line with applicable laws and internationally accepted standards, regardless of the child's sex.

Some child care centres/orphanages sponsored by foreign funds have the dual function of taking in orphans and introducing children for international adoption, which can lead to abuse. Corruption in the child adoption process occurs when the origin of the adoptive child is distorted and in-country adoption is not prioritized. Furthermore, administrative sanctions applied in cases of false adoption registrations, as provided for under Article 32 of Decree 76, are not always strictly implemented. Although some serious cases have been prosecuted and brought to public attention, action to detect and address violations of adoption laws has so far been limited and ineffective.

The process for receiving and allocating funds donated by foreign organizations and individuals for humanitarian purposes is not clearly defined and is sometimes subject to corruption by local officials. In such cases, the basic rights and interests of children are sometimes violated, resulting in serious consequences for the children involved and society at large. The corruption leads to poor management of foster centres, unfulfilled humanitarian objectives and the prioritization of financial gain over the well-being of children. In particular, some collaborative links have been identified between certain orphanage personnel in Viet Nam and external organizations for the inhumane purpose of stealing children who are sold for adoption by unsuspecting foreign couples.

To overcome these obstacles, Viet Nam must develop and implement legislation on child adoption that fully complies with the objectives and basic principles of applicable international laws and norms. In parallel, measures to raise public awareness of domestic and international laws on child adoption must be strengthened through concerted communication, dissemination and education campaigns. According to these laws, children are to be cared for and nurtured in a family environment that ensures their intellectual and physical development, so as to prepare them for the future in full respect of their rights and interests. International child adoption must always be a last resort option to be considered only when no appropriate home can be found for the child in-country.



## 4.6. COUNTERING HUMAN TRAFFICKING

The increasing demand to migrate has contributed to the development of transnational organized criminal networks engaged in human trafficking. The lure of huge financial gain generated by human trafficking is a factor that makes it all the more difficult to counter the spread of this scourge.

Nonetheless, in recent years, the Vietnamese government and its law enforcement agencies, aware of the growing sophistication, inherent dangers and damaging effects of human trafficking, have stepped up their efforts to prevent and combat this crime. The government has strengthened the national legal framework, as well as cooperation and information-sharing among its ministries and agencies, to fight human trafficking. In addition to enhancing its already close cooperation with other countries and international organizations such as IOM, UNIAP, UNICEF and UNODC, Viet Nam has negotiated and signed agreements on addressing the issues of trafficking in women and children and the protection of trafficked victims with Cambodia and Thailand. It has also reached agreements on combating human trafficking with Laos and China.

Viet Nam has furthermore put in place national programmes aimed at boosting prevention and victim protection through capacity building, information campaigns about the fraudulent plots devised by human trafficking networks to lure their victims, repatriation and reintegration programmes to help returnees, and vocational training for teenage girls in communities considered vulnerable to human trafficking.

However, human trafficking operations, especially those targeting women and children, are becoming increasingly complex. According to the 2010 report from the Standing Office of the National Programme on Human Trafficking (Office 130/CP against human trafficking), there are 255 hotspots and 89 main routes for human trafficking nationwide. Human trafficking is

conducted by land, sea and air routes. Cases of kidnapping are also reported in the Viet Nam-China border provinces. Generally, victims are trafficked for prostitution, forced marriage or labour exploitation purposes. Many Vietnamese children are sent to Thailand illegally and forced to work as street vendors. There have even been cases of people being trafficked for organ removal or to be surrogate mothers. Some victims are transported by air through Ha Noi 's Noi Bai and Ho Chi Minh City 's Tan Son Nhat international airports to various countries and regions, such as Hong Kong Special Administrative Region of China, Macau (China), Malaysia and some European and North American countries. They travel under various guises, including as tourists or for marriage, labour export or international child adoption purposes.

The Law on preventing and combating human trafficking, passed by the National Assembly in March 2011, outlines concrete and clear provisions for: preventing, detecting and dealing with cases that violate this law; the reception, identification, protection and assistance of trafficked victims; international cooperation to combat human trafficking; and the responsibilities of the government, ministries, agencies and provinces in addressing this issue.

In compliance with legislation on human trafficking, the government instructed its ministries, relevant agencies and provincial authorities to implement its National Plan of Action against the Crime of Trafficking in Children and Women during the period of 2004-2010 (Programme 130/CP). This plan focused on awareness-raising among

relevant agencies, organizations and society at large, as well as reinforcing action to prevent and combat this crime. Notably, it sought to significantly reduce such trafficking cases by 2010. Although it achieved some positive results, the plan fell far short of its objectives to reduce and eliminate human trafficking crimes by 2010. Indicators for preventing and reducing these crimes have not yet been established. The number of vulnerable groups at risk remains high, in contrast to the low number of cases that are investigated and prosecuted.

The failure to attain the objectives set out in the Plan of Action for 2004-2010 can be attributed to the following causes: (1) Some ministries, agencies and provinces lacked sufficient awareness and understanding of the plan, with the result that its implementation - particularly at the provincial level - was not properly planned and supervised. (Current programmes to prevent and combat this crime have not attracted the involvement of relevant stakeholders and individuals at all levels). (2) Communications and advocacy on legislation and risk-education was weak, and efforts to raise awareness of the fraudulent methods used by traffickers and the dangers they pose to their victims were irregular, temporary, not comprehensive and inappropriate in many areas and among many target groups. (3) Interdisciplinary cooperation among agencies in victim identification, reception and assistance provision was ineffective, and international cooperation in countering human trafficking was limited. (4) The slow development of legislation to combat human trafficking, especially the lack of relevant bilateral and multilateral agreements and conventions on legal assistance, made it difficult for agencies and provinces to cooperate, exchange information, support victim identification, pursue criminals, and rescue and assist trafficked victims.

In order to implement Programme 130/CP effectively, the ministries, agencies and local authorities at all levels need to identify the fight against human trafficking as an important political task and launch an anti-trafficking awareness-raising outreach campaign (first among civil servants and officials), as well as action involving society as a whole to build a healthy environment for communities. Following Viet Nam's adoption of a new law on preventing and combating human trafficking, effective January 1, 2012, the National Assembly intends to ratify the United Nations Convention against Transnational Organized Crimes and its protocols on anti-human trafficking. As a priority, it will

focus on implementing the current National Plan of Action on Human Trafficking (2011 - 2015) through the following five projects:

- Implementation by the Ministry of Information and Communication of a campaign to communicate with and educate all sectors of society on anti-trafficking laws and ways to prevent and combat human trafficking. The project aims to ensure that all legal documents pertaining to the prevention and combat of human trafficking are printed and distributed to communes and wards countrywide by 2015.
- Implementation by the Ministry of Public Security of the project, "Enhancing the Effectiveness of Addressing Human Trafficking," targeting smugglers along the main human trafficking hotspot routes, located mostly in border areas.
- Implementation by the Ministry of Labour, Invalids and Social Affairs of the project, "Reception, Identification, Protection and Support of Trafficked Returnees", aiming to ensure all returned trafficking victims who are identified receive support as regulated, including free legal aid if required.
- Implementation by the MPS of measures to develop an improved legal framework and law enforcement monitoring mechanism as part of efforts to prevent and combat human trafficking. In 2012, the MPS will review all legal documents on human trafficking and make recommendations to revise or supplement them, as required.
- Implementation by the MPS, together with relevant agencies, of measures to boost anti-trafficking cooperation between Viet Nam and other countries and international organizations, through the initiative "Enhancing International Cooperation in the Prevention and Combat of Human Trafficking". The MPS will also share and exchange information with relevant domestic and external entities, deal with cases of human trafficking, rescue and repatriate trafficked victims, and build its capacity to suppress human trafficking.

Successful implementation of this comprehensive package of measures will require close cooperation among ministries, agencies and provinces at the highest levels.

## 4.7 BRAIN DRAIN

Like many other low- and middle-income countries, Viet Nam is experiencing a brain drain. This is not always regarded as a negative development, since not only does it help to ease unemployment, but it also brings source countries foreign currency remittances from their nationals working abroad.

However, given that Viet Nam requires skilled human resources to drive the ongoing industrialization and modernization of its economy and infrastructure, the brain drain has become a growing concern for policy makers. A holistic rather than a purely administrative approach to mitigating the negative effects of Viet Nam's brain drain is recommended.

A majority of Vietnamese students who study overseas do not return home after graduating. Most students, when asked, say they plan to stay overseas to work and gain more experience in higher paid jobs before returning home to work for a foreign enterprise in Viet Nam, or in other countries, such as Malaysia or Singapore. Some overseas students from wealthy and highly-placed families also prefer not to return home after completing their studies, because they can find better job opportunities and gain more experience in their host countries than in Viet Nam.

Many provinces have introduced measures to attract the best and most intelligent students from overseas, as well as other Vietnamese who hold foreign citizenship and who wish to return to Viet Nam. Despite attractive offers of high remuneration and housing allowances, Viet Nam lacks the conditions to provide suitable jobs and an advantageous environment for these highly skilled workers and academic staff. This is another factor fuelling Viet Nam's brain drain.

In order to attract qualified human resources, Viet Nam is developing appropriate policies to facilitate the return of skilled workers, academic staff and overseas students. It is hoped that these policies will accelerate their integration into the domestic labour market and make the best use of their skills, knowledge and experience.

## 4.8 RETURN AND REINTEGRATION OF VIETNAMESE CITIZENS

The return and reintegration of Vietnamese labour migrants is an integral part of the policy of sending Vietnamese nationals to work abroad. In recent years, in addition to facilitating the return and reintegration of contract-based workers from overseas, the government and relevant authorities of Viet Nam have cooperated closely with other governmental and international organizations (IOM, UNHCR) to ensure the safe return of tens of thousands of Vietnamese workers on humanitarian grounds.

With the support of IOM, Viet Nam rescued and safely repatriated 17,000 Vietnamese workers when the Gulf War (1990-1991) broke out; 77 workers during the Lebanon crises (2006); and 100 female workers facing deportation from Jordan after participating in a mass strike there (February 2008). In 2011, Viet Nam successfully facilitated the safe return of more than 10,000 Vietnamese workers from war-racked Libya, providing emergency medicines, food, facilities and human resources to ensure the welfare and safety of these Vietnamese citizens. The international community greatly appreciated these efforts.

In addition to cooperating with relevant countries and international organizations in addressing issues related to the legitimate rights and interests of overseas workers, the government has taken many positive steps to tackle difficulties linked to employment and financial hardship faced by returning migrant workers, especially those repatriated before their contracts had expired. Relevant ministries, agencies and local authorities are providing information on job openings, organizing job placement centres and promoting counselling services and vocational training to help these returnees find suitable employment quickly. The government has also put in place mechanisms and policies to encourage returnees to start their own businesses. In parallel, companies and organizations are being requested to offer sustainable employment opportunities to returnees.

For Vietnamese citizens who are not granted permanent residence in foreign countries, the government of Viet Nam stands ready to cooperate with the relevant authorities there to negotiate their return to Viet Nam. As of 31 December 2010, Viet Nam had signed 16 agreements on the readmission of citizens with other countries. Currently, Viet Nam is in negotiations with several countries - including Belgium, France, Japan and Russia - on similar agreements. These agreements regulate the conditions of readmission, as well as the

procedures to identify the nationality and personal records of individuals in order to confirm their eligibility for readmission. Since 1989, Viet Nam has welcomed thousands of its citizens from abroad under such readmission agreements. It has also facilitated their integration into society.

Almost all victims of trafficking face difficult living conditions, and the government and relevant agencies have paid particular attention to promoting their wellbeing. Decision No. 17/2007/QĐ-TTg issued by the office of the Prime Minister regulates the reception and reintegration assistance provided to trafficked women and children who return from abroad. Inter-agency Circular No. 03/2008/TTLT-BCA-BQP-BBNG-BLDTBXH, dated 8 May 2008, from the Ministries of Public Security, Defence, Foreign Affairs, and Labour, Invalids and Social Affairs outlines the procedures for identifying and receiving trafficked women and children who return from abroad. The law, on preventing and combating human trafficking passed by the National Assembly in March 2011, regulates, in detail, the reception, identification and protection of and support for Vietnamese victims of trafficking who return to their homeland.

Ensuring full implementation of these regulations, as well as the further development and implementation of anti-trafficking legislation, will largely depend on the effectiveness of the government's National Plan of Action on Anti-human Trafficking (2011-2015). As already mentioned, this plan is based on five main projects. The core project deals with the reception, identification and protection of and support for returned victims of trafficking. The Ministry of Labour, Invalids and Social Affairs is the focal point of the project, which aims to ensure that all identified victims of trafficking are given support, as specified by law, including free legal aid if needed. The project also seeks to ensure that all hotspot provinces and cities have functioning facilities to receive and assist victims of trafficking by 2015

## V. POLICIES AND LEGISLATION ON INTERNATIONAL MIGRATION

International migration is an integral part of national development, which offers both opportunities and challenges for countries around the world, especially countries of origin and destination. Due to political conflicts and unsafe living conditions in many regions and economic disparities among continents and countries, migration flows have broken out region-wide and worldwide. Migrants tend to find ways, even illegal ones, to migrate and stay in foreign countries where they have better opportunities.

Receiving countries often tighten regulations on migration to deter increased irregular migration. This has become a profitable opportunity for human smuggling

and rings as the pressure for migration remains high. Meanwhile, the lack of information and transparency in policies of relevant countries has pushed migrants into vulnerable situations where they can easily become irregular immigrants. As they are often marginalized and vulnerable, they can become ideal targets for exploitation and abuse by criminal gangs. Although migration and labour migrants have created significant profits, a poorly managed migration process may result in increased irregular migration, compromised rights of labour migrants and a growth in human smuggling and trafficking.

### 5.1 PROMOTION OF LEGAL MIGRATION, ADDRESSING IRREGULAR MIGRATION AND ASSURANCE OF SAFE MIGRATION

The view on promotion of legal migration, and preventing and addressing irregular migration, has been consistently expressed in various legal instruments of the State of Viet Nam. The State in principle facilitates internal and international migration that is in line with the regulations and laws of Viet Nam and the countries of destination. Policy instruments on international migration in Viet Nam are developed with reference to international laws and laws of countries in the various regions.

The State of Viet Nam, in keeping with articles and provisions specified in the 1992 Constitution, has promulgated legal documents on the outward migration of Vietnamese nationals abroad, aimed at promoting legal and safe migration and addressing irregular migration. There is no clear definition of human smuggling in the current laws of Viet Nam yet. However, crimes of human smuggling and trafficking are inserted into the Penal Code of Viet Nam, which include: coercing

people to migrate illegally or stay in foreign countries; illegal emigration and immigration; and illegal stay in Viet Nam or foreign countries.

The 1999 Penal Code of Viet Nam (No.15/1999/QH10), its amendment and supplementation law (No. 37/2009/QH12), effective from 1 January 2010, specifically and clearly regulate crimes relating to irregular emigrants and immigrants. Decree No. 136/2007/ND-CP, dated 17

August 2007, from the government, controls the entry and exit of Vietnamese nationals. Circular No. 02/2008/TT-BNG, dated 14 February 2008, from the Ministry of Foreign Affairs (MOFA), guides the issuance, extension, amendment and supplementation of diplomatic and official passports. Circular No. 27/2007/TT-BCA(A11), dated 29 November 2007, from the Ministry of Public Security, guides the issuance and revision of ordinary passports in the country. Inter-agency Circular No. 08/2009/TTLT-BCA-BNG, dated 6 October 2009, from MPS and MOFA, guides the issuance of ordinary passports and travel documents abroad. Collectively, these instruments create a system of procedures covering migration. These documents also define certain target groups of Vietnamese nationals who are allowed or not allowed to exit Viet Nam in accordance with the law.

There are a range of legal instruments governing labour migration from Viet Nam. The Law regarding Vietnamese nationals working abroad under contract (No. 72/2006/QH11) was passed by the XI National Assembly during the tenth session, on 29 November 2006, effective from 1 July 2007. Decree No. 126/2007/ND-CP, dated 1 August 2007, from the government, regulates and guides the implementation of the law for Vietnamese workers working abroad under contracts. Along with various other legal documents and regulations related to labour migration, these instruments have created a comprehensive legal framework aimed at facilitating sending contract - based Vietnamese workers to work abroad. These documents clearly regulate the rights and interests of Vietnamese migrant workers abroad and the rights and obligations of

sending companies, organizations and individuals. Circular No. 09/2006/TTLT/BLDTBXH-BCA-VKSNDTC-TANDTC, dated 4 August 2006, guides the investigation of criminal responsibilities of people who violate laws in sending workers abroad.

In the areas of international marriage and family: The Law on Marriage and Family, dated 9 June 2000; Decree No. 68/2002/ND-CP, dated 10 July 2002; and Decree No. 69/2006/ND0CP, dated 21 July 2006, amending and supplementing some articles from Decree No. 68, each form part of the legal framework covering this issue. The Law on Adoption and Decree No. 19/2011/ND-CP, dated 21 March 2011, provides detailed regulations and guidelines on implementation of some articles of the Law on Adoption. Decision No. 1103/2011/QD-CTN, dated 18 July 2011, from Viet Nam 's State President, on the ratification of The Hague Convention No. 33, relates to the protection of children and cooperation in international child adoption. Along with a range of other relevant legal documents, these instruments have created a comprehensive system of legal documents regulating international marriage and family issues, including marriages, adoption of Vietnamese nationals by foreigners and between resident foreigners themselves; and recognition of marriage, divorce and child adoption between Vietnamese nationals and foreigners, which are conducted by competent authorities of foreign countries. The inter-agency Circular No. 01/2001/TTLT-BTP-BCA-TANDTC-VKSNDTC, dated 25 September 2001, guides the application of provisions of Chapter XV "crimes related to the violation of marriage-family status" of the 2009 Penal Code and regulates, in detail, violations and crimes that are investigated according to the law.





In recent years, the State of Viet Nam has made great efforts in preventing and addressing human trafficking, especially of women and children. In addition to developing and implementing plans of actions on anti-human trafficking, the State has promulgated many legal documents aimed at protecting human rights, especially the rights of women and children. These legal documents include: the Constitution, the Law on Marriage and Family, the Penal Code, the Law on Criminal Procedure, the Law on Gender Equality, the Law on Fighting Against Family Violence, ordinances on fighting against prostitution and ordinances on immigration. These legal documents have had an important impact on preventing, addressing and punishing human trafficking crimes.

However, the situation of human trafficking, particularly of women and children, is still very complicated. The number of trafficked victims and people at risk is still high. The activities of traffickers,

who resort to highly sophisticated, manipulative techniques have been increasing. There are many reasons for this situation, the most notable of which is the lack of adequate legal regulations on preventing and combating human trafficking. These documents are inconsistent and not comprehensive and they do not clearly identify the functions, duties and rights of administrative agencies of the State and political, social and mass organizations in effectively developing and organizing coordination to fight human trafficking. The XII National Assembly, during its ninth session, passed a law on preventing and combating human trafficking on 29 March 2011, to overcome these limitations and to contribute to enhancing effective prevention and combating human trafficking. This law also aims to provide assistance to trafficked victims to reintegrate them into the community quickly, while at the same time facilitating international cooperation in preventing and combating human trafficking.

Along with the improvement of the national legal framework, Viet Nam emphasizes international cooperation in combating illegal immigration. The international community greatly appreciates Viet Nam's active participation in the regional and international processes and its full commitment in the fight against human trafficking. In particular, Viet Nam participated in the Asia - Europe Meeting (ASEM) on migration, a process enhanced by annual meetings of Heads of States; the Berne Initiative - a state-owned consultative process on managing international migration at national, regional, and global levels; the Partnership and Cooperation Agreement (PCA) between Viet Nam and EU including migration cooperation (Article 19); the Global Forum on Migration and Development (GFMD), the Bali Process on human trafficking and transnational organized crime; the Inter-governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC); then ASEAN Forum on the protection and promotion of the rights of migrant workers; and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). In addition, the Vietnamese Government also closely cooperates with the International Organization for Migration (IOM), International Labour Organization (ILO), International Programme on the Elimination of Child Labour (IPEC), the United Nations Children's Fund (UNICEF), United Nations Office on Drugs and Crime (UNODC) and the United Nations Inter-Agency Project on Human Trafficking (UNIAP) in the implementation of projects on human trafficking, especially in women and children, and reintegration assistance for trafficked persons. Bilateral agreements have been signed between Viet Nam and 16 countries on readmission. These agreements describe collaboration in verification, reception and reintegration procedures of nationals who were not accepted as residents in destination countries.

Viet Nam has become a destination country for migration and faces a risk of illegal immigration flows. The number of foreigners travelling to Viet Nam has increased in recent years. To prevent illegal migration

and address trans-national crimes, Viet Nam needs to improve its current legal, legislative and policy framework on international migration. Viet Nam also needs to form an appropriate and firm legislative framework to ensure the legitimate rights and interests of immigrants, to harmonize the socio-economic interests of Viet Nam and other concerned States and to take full advantage of positive impacts of migration in its development.



## 5.2 PROTECTION OF LEGAL RIGHTS AND LEGITIMATE INTERESTS OF VIETNAMESE NATIONALS ABROAD

The protection of the lives of Vietnamese workers working abroad is one of the top objectives in migration management. The recent evacuation of Vietnamese workers from Libya (in March 2011), due to political unrest, demonstrates the determination of the Vietnamese government and relevant agencies to evacuate tens of thousand of migrant workers working abroad quickly, safely and effectively.

Article 75 of the 1992 Constitution of Viet Nam stipulates: "The State shall protect the legitimate interests of Vietnamese nationals residing abroad." According to this provision, Vietnamese nationals who reside abroad (including for reasons of employment) shall be protected by the State with respect to their rights to health, life, honor, dignity and other legitimate interests when living, working and studying abroad. Under such guidelines, Viet Nam has been cooperating with other countries and relevant international organizations to encourage legal migration and fight irregular migration and human trafficking, especially of women and children.

With regard to the importance of protecting nationals in the new situation, Resolution 36-NQ-TW from Politburo on overseas Vietnamese stipulates that "protection of legal rights and interests of overseas Vietnamese nationals and legal entities is necessary, reveals the State's responsibilities for its nationals, contributes to enhancing the political position and prestige of the State in the world and in the eyes of overseas Vietnamese, and encourages overseas Vietnamese to contribute to the construction and protection of the country."

The State's responsibility for implementing necessary measures, in accordance with local, international and Vietnamese laws and practices for the protection of rights and interests of Vietnamese nationals abroad, is regulated by several Vietnamese legal documents, including: the 1992 Constitution, amended in 2005 (Article 75); the 2008 Vietnamese Law on Nationality

(Article 5); the Law on Representative Offices in Foreign Countries No. 33/2009/QH12, dated 18 June 2009, (Articles 8 and 9); and Decision No. 119/QD-TTg, dated 25 July 2007, from the Prime Minister, on the foundation of the Fund for assisting overseas Vietnamese Nationals and Legal Entities with initial amount of VND 20 billion. According to this document, the State, through its representative diplomatic and consulate missions abroad, will carry out every measure possible to ensure that Vietnamese nationals can fully enjoy their rights and interests in accordance with the laws of host countries, international treaties that Viet Nam and these countries have signed or taken part in and in accordance with international customs, in the event that Vietnamese nationals' legitimate rights and interests are transgressed. Representative missions have a duty to execute every measure possible to recover these rights and interests.

On 20 September 2010, the Prime Minister promulgated Instruction No. 1737/CT-TTg, which enhances the protection of the legitimate rights and interests of Vietnamese nationals migrating abroad. This Instruction provides, inter alia, specific tasks to be undertaken by relevant ministries, agencies and local People's Committees to protect Vietnamese nationals' legitimate rights and interests throughout the entire process of their migration to foreign countries-including pre-departure, residence, time spent working in foreign countries, return and reintegration. Pre-departure preparation for migrant workers going abroad is considered as the most important step within this process.

In emphasizing the responsibility of the Ministry of Foreign Affairs in protecting nationals abroad, it is important to guide Vietnamese representative missions in foreign countries to carry out this business in a serious manner by considering it a crucial, regular political task of the organization; by coordinating with concerned ministries and agencies to propose negotiations for signing international bilateral and multilateral treaties on migration; by taking part in international organizations and forums on migration to enhance Viet Nam 's position; by intensifying international migration cooperation; by creating an environment of safety for migration, with respect for human dignity; and by protecting migrants' rights and interests, in accordance with international law and practices.

It is essential to require related ministries and agencies to be responsible for working in coordination with the Ministry of Foreign Affairs to carry out protection activities by providing the ministry and representative missions abroad with information on: contract-based labourers and those who have broken their contracts (MOLISA); overseas students and post-graduates studying and doing research under government scholarships or other cooperative agreements (MOET); and international marriages and adoption (MOJ). It is also necessary to improve information, orientation, education, counselling and warnings so that migrants receive sufficient pre - departure information about the culture, habits, customs and laws of their destination countries. Annually reporting the situation of implementing to MOFA, which will, in turn, give a general report to the Prime Minister, is also extremely important.

MOFA, in realizing that protecting nationals is a crucial and regular political task of Vietnamese representative missions abroad, has been implementing constitutional and law regulations for a long time. It has also been coordinating and guiding the ministries, agencies and local authorities and leading, supervising, promoting and inspecting Vietnamese representative missions abroad to improve the management of migration and residence of Vietnamese nationals abroad. MOFA has done this to help Vietnamese nationals stabilize their lives and to help them integrate into local social life and maintain their national cultural identity.

By settling consular issues on civil status, nationality, notary work, legalization, inheritance, issuing consular papers, passports and visas, MOFA can help Vietnamese nationals become aware of the rights and interests they can enjoy, and of the duties they are required to perform in host countries, as well as help and protect Vietnamese communities abroad. MOFA can also, if necessary, draw the attention of competent authorities in host countries to the rights and interests of Vietnamese nationals, so that they can live according to the laws of host countries.

It is necessary to continue to develop and improve the mechanism of coordination between concerned ministries, agencies and Vietnamese representative missions abroad for the protection of nationals. The purpose of this mechanism is to better protect the legitimate rights and interests of Vietnamese nationals migrating abroad under the new international conditions, as well as help officials working in this area to enhance their awareness and knowledge. It is necessary to improve laws and policies progressively, to improve the mechanism of inter-agency coordination and to intensify international cooperation to better protect Vietnamese contract-based labourers working abroad. Sending labourers to work abroad has led to some important achievements. However, in the future, priority must be given to dealing with the following problems: expanding labour markets by improving labour quality; incorporating improvements in labour quality into labour export strategy and policy; improving the quality and effectiveness of forecasting business, market and labour supply needs; developing mechanisms and measures for actively addressing risks in times of socio-economic unrest, wars and natural disasters; being proactive when attempting to put forward solutions; intensifying inspections and supervision of sending companies; developing and improving policies; and organizing the effective return and reintegration of migrant workers.

## 5.3 SOME ISSUES OF VIETNAMESE LEGISLATION AND POLICIES ON INTERNATIONAL MIGRATION

In principle, the State of Viet Nam facilitates favourable conditions for domestic and international migration in accordance with the laws of Viet Nam and of countries to which Vietnamese nationals migrate. Viet Nam's policies on international migration have been drafted based on reference to current international and regional legal instruments.

### 5.3.1 Policies and the legislative system on migration

The contents of current legal documents mainly cover regulations on immigration, visas, passports, overseas labour, international marriage and child adoption. In recent years, Viet Nam has issued various legislation and policy systems to address international migration and human trafficking, as well as several regulations on births, deaths, marriage registration and consular issues.

However, policy regulations on securing the legal rights and interests of Vietnamese nationals during the migration process (including pre-departure, overseas residence, return and reintegration) are still inadequate. Regulations on protecting and supervising types of outward migration have not been legalized, while effective measures have not been put in place to secure the lives, rights, and interests of Vietnamese women marrying foreigners, nor to protect children adopted by foreigners. There have also been cases where Vietnamese students have been terrorized or killed in host countries.

There are still gaps in the legal and policy systems, which render many migration processes unsafe and also put Vietnamese nationals at risk while they work, study or reside abroad. Although the feminization of Vietnamese migration is increasing, the legal rights and interests of female migrants are often violated. Gender issues are often not taken into account in migration policies.

The major types of Vietnamese nationals migrating abroad need to be considered in migration policies. Specifically, it is necessary to strengthen the management and protection of Vietnamese workers overseas; to promote negotiations and the signing of agreements with other countries that protect the interests of migrant labourers; and to examine and supervise enterprises in signing contracts with foreign partners so that workers' interests are protected.

Viet Nam also needs to ensure that it cooperates with other governments to develop appropriate measures to solve differences in procedures on issuing marital certificates. Regarding Vietnamese women getting married to Taiwanese and Korean men, Viet Nam currently has no official documentation requiring certain groups to learn the language, culture, and customs of the concerned countries. For example, Vietnamese wives are not required to take a Korean language exam; however, this is a requirement for exported labourers. This is an existing gap.

As Viet Nam does not have strict measures of control in place for marriage brokerage organizations, profit-making brokerage networks from Korea and Chinese Taipei have expanded to Viet Nam, and they conduct their operations through local networks. It is difficult for government agencies to control the operation of these brokerage networks, which have greatly increased the number of international marriages. Viet Nam and Chinese Taipei





need to work together to prevent illegal and fraudulent marriage brokerage organizations from operating for the purpose of making profits. Viet Nam and Chinese Taipei need to take prompt action to sign agreements on mutual legal assistance for Vietnamese-Taiwanese marriages, and to establish a legal basis to protect the interests of multicultural families.

It is necessary to strengthen inspection and case investigation and promptly identify and suppress networks which engage in illegal brokering activities and human trafficking or smuggling. Furthermore, it is important to tackle fraudulent organizations and individuals, while at the same time enhancing control at checkpoints to detect illegal activities of smuggling.

It is time for Viet Nam to develop a comprehensive legal system on international migration to regulate all Vietnamese nationals who migrate abroad under legal and safe forms and to fight irregular migration. Migration should be considered a continuous and united process, covering all stages (pre-departure, exit and transit, entry, return and reintegration). In the short term, the government needs to develop guidelines and a legal framework that creates a consistent approach to the outward migration of Vietnamese nationals. One of the key tasks of the government's focal point agency on international migration is to lead the development and management of a database on international migration, to facilitate a more consistent and united approach to State management.

The development of a database system on Vietnamese nationals migrating abroad is an essential task to be shared among the management agencies to manage incidents which may require intervention in the protection, relief and evacuation of its nationals more quickly and effectively. On this basis, it is necessary to have an information coordination mechanism in place among domestic agencies, representative offices and local authorities of the host countries.



### 5.3.2 Coordination and implementation

To create positive impacts and reduce negative impacts on the outward migration of Vietnamese nationals, in addition to the development and improvement of a legal system on migration, it is necessary to strengthen and improve management mechanisms. Moreover, it is necessary to develop long-term strategies and a vision for the outward migration of Vietnamese nationals in the context of integration and development. The first purpose of this is to reduce unsafe migration and prevent illegal migration. The second purpose is to enhance the responsibilities of - and implement an effective and flexible cooperation mechanism between - domestic agencies, organizations and Vietnamese diplomatic and consular missions abroad, so as to protect the legitimate rights and interests of migrants through the various stages of migration (pre-departure, residence, work, return and reintegration). In particular, the cooperation mechanism should pay attention to equipping immigrants with language, skills and knowledge of laws, culture, habits and customs of their destination countries before departure to help them quickly integrate into their host society. These are the most effective measures to improve the quality and competitiveness of Vietnamese labour migrants.

“Improvement of Quality and Effectiveness of Labour Export” is a target objective of Viet Nam’s national Socio-Economic Development Strategy for the 2011-2020 period. There are a number of challenges in implementing this task. The labour export management of local authorities is not as

strict as it should be in many provinces. Cases of labour deception have not been detected and prevented in a timely manner, and many unsolved and unaddressed cases have been found in foreign countries. Despite the State’s regulation of sending companies that directly recruit labourers, many sending companies do not strictly follow this regulation. In reality, recruitment is often conducted through brokerage individuals and organizations, causing extra costs and risks to labourers. Hence, strictly implementing regulations on the management of companies working on sending labourers abroad is a pressing issue. It is important to challenge violations and exploitation of the labour force, while ensuring cooperation and diplomatic relations with other countries, which will help in avoiding prejudicing the image of Vietnamese nationals abroad.

The reporting system for enterprises (involving the number of migrant workers going to work abroad, their situation in each receiving country, and the labour market in receiving countries) is not strictly followed. Reports are limited, or information is not up to date. Many enterprises shirk their responsibilities, are slow to address issues that arise and totally depend on Vietnamese representative offices or officials who are in charge of labour management, regardless of officials’ high work volume and lack of human resources. Due to the aforementioned limitations, the protection of rights and legal interests of migrant workers is still lacking, raising the concern of migrants.

Similarly, the State's management of marriage-family issues with foreign persons, overseas students and preventing and addressing human trafficking remains ineffective. This reality is revealed in the implementation and coordination of State management responsibilities among relevant ministries and agencies, both in-country and foreign-based, in the performance, education, communication of laws, inspection, examination, detection, investigation, prosecution and handling of violations.

In the area of marriage-family issues: There is a lack of resolve, strictness and timely response in handling illegal marriage brokerage. The support and protection of rights and interests of Vietnamese brides remains limited, and public awareness of the issues remains limited. The operation of marriage consultation centres does not meet expectations in terms of raising the awareness of the society.

There is a lack of effective management measures for overseas students, especially regarding self-funded students. The choice of Vietnamese students to remain overseas following the completion of their international education has consequences for the speed and nature of Viet Nam's development.

Programme 130/CP on preventing and combating trafficking of women and children for the 2004-2010 period is undertaken with the involvement of the Ministries of Public Security; Justice; Foreign Affairs; Labour, Invalids and Social Affairs; Planning and Investment; Finance; and mass organizations of Population-Family-Children, Women's Union and provinces. Notwithstanding this extensive involvement, the project has not fully met its targets, as the situation of trafficking in women and children is complicated. Many women and children are still falling victim to trafficking. Criminals are becoming more sophisticated, bold and spontaneous. Awareness of communities to the dangers of trafficking is still limited, as are the coordination mechanisms between the ministries and agencies implementing the programme. All of these obstacles have hindered the programme's success in meeting its targets.

To improve the effectiveness of the State in managing the sending of labourers abroad, marriage migration, overseas study and trafficking in women and children, and in order to improve legislation, promote education and raise public awareness, there is an urgent need to clarify and strengthen the mechanisms of supervision and coordination and the roles and responsibilities of all concerned ministries, agencies and local authorities. This is particularly the case with regards to the coordination



mechanism between in-country bodies and representative missions abroad, especially in relation to information sharing, so that relevant agencies might better carry out preventive measures that address violations and wrongdoings in migration activities.

In the face of the recent feminization of international migration flows from Viet Nam to other regions, it is also necessary to integrate gender issues into migration policies and to ensure the legal rights and interests of these vulnerable groups.

### 5.3.3 International legal cooperation

Protection of the rights and interests of Vietnamese nationals is a basic and central principle in the Vietnamese legal system. However, the implementation of this principle will be ineffective without the cooperation and supplementation of international laws. This means that Viet Nam is required to enhance international cooperation by signing and implementing bilateral and multilateral agreements that create a legal basis for the protection of legal rights and interests of Vietnamese nationals overseas, to assure the best legitimate physical and spiritual interests of migrants.

Viet Nam has joined many multilateral treaties, including: the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, The United Nations Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention concerning the Abolition of Forced Labour. In addition, Viet Nam has signed several bilateral agreements, such as preventing and combating trafficking of women and children with Cambodia (2005) and Thailand (2008); anti-human trafficking with Laos (2010) and China (2010); anti-smuggling with Russia (2010); 21 agreements on criminal and civil assistance; and 16 agreements on the readmission of Vietnamese nationals. Signing and participating in the aforementioned international treaties has created a legal basis for close cooperation between Viet Nam and other countries to facilitate legal migration and fight against irregular migration, especially human trafficking.

Cooperative relations (bilateral and multilateral) and international coordination in solving emerging issues related to Vietnamese nationals migrating abroad have been gradually put into law. Viet Nam needs to negotiate and sign mutual assistance and legal assistance agreements with relevant countries to support its nationals who face difficult circumstances abroad. These relations and agreements are also the basis for countries to agree on and apply the best measures to support and protect their nationals. It is necessary to

consider further participation in multilateral international treaties to manage different migratory flows, especially labour migration, so as to better train and develop the human resource for the country. Specifically, Convention No. 97 on Migration for Employment, dated 8 June 1949, and Convention No. 143, dated 4 June 1975, concerning Migration in Abusive Conditions and Promotion of Equality of Opportunity and Treatment of Migrant Workers, apply to this situation. These are two basic conventions of the International Labour Organization (ILO).

One international legal instrument that Viet Nam has not signed and participated in is the International Convention on the Protection of the Rights of All Migrant Workers and their Families, ratified by the general assembly of the United Nations on 18 December 1990. As of 3 March 2011, there have been only 47 state parties to the Convention, and another 47 state parties which have signed but not yet ratified the Convention (see Annex V). The content of the Convention is significant in the improvement of a legal basis for labour migration and the protection of the rights and interests of migrant workers and their families. Generally speaking, almost all of the countries which signed and participated in the Convention send workers to work abroad. So far, none of the North American and European receiving countries have signed or participated in this Convention, due to their hesitation to take responsibility for migrant workers. This limits the effectiveness of the Convention's implementation.

To prevent irregular migration, encourage legal and safe migration and to fully take advantage of the positive impacts of migration on development, greater efforts must be made in international cooperation to build capacity in migration management. At the same time, systemic issues such as poverty, income disparities, a lack of job opportunities and a need for investment in developing countries, need to be dealt with, in order to stabilize and improve people's living standards and address irregular migration.

## VI. CONCLUSION

It is important for every country to manage migration effectively and to protect the legal rights of migrants. To achieve this objective, there must be an improvement in the relevant policies, legal framework and cooperative arrangements among countries at different levels for management of international migration to be effective.

Increasing migratory flows, especially of international migrant labourers, are a result of many factors, of which the most significant are: (1) economic and income disparities between countries and regions; (2) demand for cheap labour and services in developed countries whose workforces are inadequate because of low birth rates and aging populations; (3) the fast development of information technology and advances in transportation; (4) globalization and free trade; and (5) the emergence and development of migration networks connecting migrant communities. Migrant labourers are often willing to accept low-paid and dangerous jobs in difficult and inferior sectors or unofficial economic sectors. As such, migrants have promoted international integration and development.

While the vast majority of migrants are working, studying, residing and living legally in their host countries, some fall into an irregular status. Typically, migrants living and working far from their place of origin face difficulties and risks, and are frequently targets of discrimination in the workplace and in their daily lives. Even tourists or temporary residents abroad face similar challenges. Nevertheless, migrants make important contributions to the development of their countries of destination and origin. Migrants are indispensable for the economic growth of host countries. Similarly, remittances from migrants make up a significant portion of the gross national income of their countries of origin.

It is important for every country to manage migration effectively and to protect the legal rights of migrants. To achieve this objective, there must be an improvement in the relevant policies, legal framework and cooperative arrangements among countries at different levels for management of international migration to be effective. In the aftermath of the global financial and economic crisis in the 2008-2009 period, the world is entering a new period of development, in which economies and global financial regimes are being restructured, and internationalization of production and labour allocation are more widespread and expansive. Changes in the balance of power among nations, great progress in science and technology (particularly information technology), recent international political and economic developments and natural disasters, such as the European debt crisis, earthquakes, tsunamis and the nuclear crisis in Japan, all significantly affect international relations relevant to international migration, particularly migration for employment purposes.

In the face of unpredictable developments on the global stage, Viet Nam is entering a new strategic period, increasingly integrating into international life. As a result, Vietnamese outward migration flows and types have become increasingly diversified, reflecting the determination of the Vietnamese people and their families to seek a better life. Improving the management

of overseas Vietnamese labour migration, international marriage and adoption, projects to enhance the skills of Viet Nam's workforce and to avert a "brain-drain", as well as measures to address the complex issue of human trafficking, especially of women and children, are challenges facing the government and relevant agencies.

Historical achievements brought about by over 25 years of Doi Moi have improved the lives of the Vietnamese population, helped lift Viet Nam out of poverty and become a lower middle-income developing country, and enhanced its influence and status on the world stage. These achievements have created a momentum for the ongoing development of the country in the framework of its 2011-2020 Socio-Economic Development Strategy. This Strategy aims to ensure that by 2020, Viet Nam will have an industrialized and modern economy, be "socially and politically stable, democratic, disciplinary, independent, sovereign and united." If these goals are achieved, Viet Nam, in addition to being a source of migrant labour, will also become an attractive destination for many categories of migrants, especially labour migrants. Moreover, Viet Nam's position will be greatly strengthened on the international stage.

In view of the above, every opportunity must be exploited to take full advantage of the positive impact of migration on development, to promote legal and safe migration, and to protect the legal rights and interests of Vietnamese nationals who migrate abroad. To achieve these goals, it is crucial to develop a coherent legal and policy framework, to reinforce the effectiveness of law enforcement and migration management by the State, and to strengthen international cooperation on migration issues.

In recent years, Vietnamese legal and policy systems related to international migration have progressively improved. However, the current laws related to human trafficking, child adoption and labour exports are still inadequate and inconsistent. To manage international migration – especially outbound migration by Vietnamese nationals – effectively in the framework of the new development strategy, the following concrete steps must be taken :

1. Review the current national legal framework for migration and remove outdated, overlapping and/or inappropriate regulations; develop a coherent legal and policy framework on migration as soon as possible; regulate all categories of migration and processes of outward migration of Vietnamese nationals; encourage overseas students to return to Viet Nam by offering

them important functions; and effectively use talented people to develop qualified human resources for the country.

2. Establish a valid and effective supervision and law enforcement mechanism to strengthen the responsibilities of the State and stakeholders for protecting the legal rights and interests of Vietnamese nationals during all phases of their migration process; to enhance the capacities of relevant ministries and agencies engaged in migration processes through the development of competent, responsible and dedicated staff; and to identify the roles and responsibilities of specialized agencies working in the migration sector.

3. Promote the dissemination of information through appropriate and effective means to raise the awareness of society at large of the contributions by migrants to development; to encourage and facilitate the integration of migrants into the socio-economic life of their host countries; to enhance the responsibilities of the State and stakeholders for protecting the legal rights and interests of Vietnamese nationals abroad; and to promulgate and implement policy initiatives that encourage overseas students to return home to jobs where they can apply their knowledge and thus contribute to the development of qualified human resources in the country.

4. Continue to study, promote negotiations and sign bilateral agreements on labour, legal assistance, marriage and family; study, ratify and implement international legal instruments on migration, especially labour migration, to create a legal basis for protecting the legitimate rights and interests of Vietnamese nationals in all processes of migration, including the 1949 Convention No. 97 on Migration for Employment (amendment); the 1975 Convention No. 143 on Migrant Workers (supplementation); the 1962 Convention No. 118 on Equality of Treatment (social security); the 1990 Convention on Rights of Migrant Workers and their Family Members; and a range of other conventions and recommendations related to migrant labourers, to create a legal framework that: (a) promotes bilateral and multilateral cooperation in implementing international standards on migration; (b) promotes the exchange and sharing of information among governments, relevant agencies and international organizations; and (c) attracts the participation of civil society and migrant organizations in the development, implementation and supervision of policies, laws and international conventions on migration.

To achieve these goals, a national strategy and comprehensive legal framework on international migration and a transparent, coherent policy among relevant agencies for effective migration management must be developed. It is important to pay attention to: (1) providing migrants with pre-departure training, orientation and education to help them integrate quickly and effectively and to enhance their legal status in the host countries concerned; (2) developing a legal framework for bilateral and multilateral cooperative mechanisms to protect the legal rights and interests of Vietnamese migrants while they are abroad and after they return, especially for women and children; and (3) reinforcing measures to combat smuggling and human trafficking, especially of women and children, and to apply strict punishment for the perpetrators.

Migration policies and laws will only be effective if they are based on practical and scientific foundations. A reliable, comprehensive and accessible database on migration needs to be established to improve the quality of research on migration to enable appropriate related policy development. The viability of all these processes depends on the accuracy and comprehensiveness of the information collected on migration and migrants' contributions to development. Given this fact, the Ministry of Foreign Affairs, in cooperation with IOM Viet Nam, is implementing a project titled "Development of a migration profile and database on Vietnamese citizens migrating abroad". This project aims to provide a comprehensive perspective, analysis and assessment of the situation and data on Vietnamese overseas migration, based on some major categories of migrants, and the current Vietnamese policy and legal framework applicable to migration.

One important output of the project is the Migration Profile, which has provided some concrete recommendations for: (a) improving the national policy and legal framework on migration; (b) developing a mechanism for effective coordination and information sharing among relevant ministries, agencies and organizations, as well as between domestic agencies, organizations and Vietnamese representative missions in

foreign countries; (c) strengthening comprehensive international and regional cooperation; and (d) enhancing the capacity of staff and officials in charge of international migration management. Another output of the project is a website that shares available information on migration with all stakeholders engaged in migration processes.

The objectives of these outputs are: to support the planning and development of a comprehensive migration policy; to raise public awareness on the positive impact of migration on development while drawing attention to the risks and dangers of irregular migration; to ensure compliance with laws on migration, and to reinforce measures to counter human trafficking, smuggling and other transnational crimes.

As a first priority in developing an effective overall migration strategy and policy, a central database profiling overseas Vietnamese migration, with regularly updated, reliable and easily accessible information compatible with international standards and criteria, must be created; secondly, continuous cooperation on migration issues must be maintained between research institutes, universities, national and international experts; and thirdly, funding and data provided by donors, international organizations and United Nations agencies must be used effectively.

Research and policy development efforts to create a more effective national legislative framework for international migration would not be complete if they did not take into account inflows of foreigners and Vietnamese returnees from abroad. Henceforth, Viet Nam should include questions regarding international migration in national censuses and develop a database to monitor the aforementioned inflows of people. This will complement other data on international migration that will form the basis for developing a comprehensive migration policy that maximizes the positive impacts of migration on Viet Nam's integration, construction and development.



## ANNEX I: OVERVIEW OF VIET NAM'S SOCIO - ECONOMIC SITUATION

- **Full Name:** Socialist Republic of Viet Nam
- **National Slogan:** Freedom - Independence - Happiness
- **Administrative Units:** Viet Nam is divided into 63 provinces and cities under the central government including Ha Noi, Ho Chi Minh City, Hai Phong, Can Tho and Da Nang. These provinces are located in six socio-economic regions : Northern Midland and Mountain Area, Red River Delta, Central North and Central Coastal, Highland, South-East and Mekong River Delta.
- **Area and Population Density:** 331,051 km<sup>2</sup>, 263 people per km<sup>2</sup>
- **Population:** 86 million (2009). In 2010, the sex ratio was 97.8 men per 100 women. Viet Nam is a relatively densely populated country. It is ranked 65th in terms of area, but 13th in population size. Population density of working age represents 68 per cent while of dependent age presents 32 per cent. Viet Nam is currently entering an era called 'Demographic Dividend', meaning that there are two or more persons of working age (15-60) for every person of dependent age (under 15 or 60 & over). This ratio reflects the lowest percentage of population dependency in Viet Nam's history. However, this "Demographic Dividend" era will not have positive effects on Viet Nam without adequate policies.
- **Labour:** The percentage of the labour force aged 15 and above was 77.3 per cent in 2010. This high percentage of working-age people is a manpower supply plus for the economy. The agriculture, forestry and fishery sectors employ 48.2 per cent of the workforce, while industry and construction account for 22.4 per cent and service industries 29.4 per cent of the working population. The unemployment rate is 2.88 per cent, 4.43 per cent of which is registered in urban areas and 2.27 per cent in rural areas in 2010. The underemployment rate among the working population age group is 4.50 per cent, 2.04 per cent of which is registered in urban areas and 5.47 per cent in rural areas.
- **Population Distribution:** Although Viet Nam has a large population, its distribution is uneven. The Red River Delta is the most densely populated socio-economic region, with nearly 20 million inhabitants; North Central and South Central Coast have about 19 million inhabitants while some 17.1 million people live in the Mekong Delta. The Central Highlands has the smallest

population – 5.1 million. In 2010, the urban population was 26.01 million and the rural population was 60.92 million, representing approximately 30 and 70 per cent of the overall population respectively.

- **People:** Currently, there are 54 different ethnic groups in Viet Nam. The Kinh group in the delta and coastal provinces makes up nearly 86 per cent of the entire population; the 53 other ethnic groups represent almost 14 per cent of the population. Most ethnic groups excluding Chinese, Cham, Khmer tribes live in the midland and mountain areas. Of the various ethnic groups, the Tay, Thai, Muong, Khmer and Nung tribes have relatively large populations, each totaling approximately one million people. Others, such as Brau, Ro Mam and O'Du, number in the hundreds.

- **Language and Religion:** Over 80 per cent of Kinh speak Vietnamese (Kinh). Despite the fact that ethnic people speak their own languages, Kinh is the official language spoken nationwide. The main religions in Viet Nam are Buddhism, Catholicism, Confucianism, Caodaism and other local religions (such as the traditional worship of mothers and ancestors).

- **Economy:** Before 1986, Viet Nam had a centrally - planned economy (similar to those of the socialist countries of Eastern Europe). The "Doi Moi" policy of developing a "Socialist Oriented Market Economy" in which all non-State sectors are to be expanded, was introduced in 1986. Since then, Viet Nam 's economy has grown significantly, averaging an annual growth rate of nine per cent between 1993 and 1997. GDP grew by 8.5 per cent in 1997, decreased by four per cent in 1998 due to the economic crisis in Asia in 1997, and increased again by between six and seven per cent in the 2000-2002 period. Currently, Viet Nam is striving to open doors, implement reform policies, build necessary infrastructure and make export industries more competitive so as to boost economic development and to improve competitiveness. On 7 November 2006, Viet Nam joined the World Trade Organization (WTO), officially becoming its 150th member on 11 January 2007.

## ANNEX II: SOME RELEVANT POLICIES AND LEGAL INSTRUMENTS ON OVERSEAS VIETNAMESE MIGRATION

### A. Policies and legal documents of Viet Nam

#### *a. Exit, Entry and Residence*

1. The 1992 Constitution of Viet Nam as amended in 2001 stipulates that: "The citizen shall enjoy freedom of ... freely travel abroad and return home from abroad in accordance with the provisions of the law" (Article 68);
2. Penal Code No.15/1999/QH10 dated 1999; Law No.37/2009/QH12 supplementing and amending some provisions of Penal Code 1999; Penal Code of the Socialist Republic of Viet Nam No.15/1999/QH10 supplemented and amended according to the Law No.37/2009/QH12 supplementing and amending some provisions of Penal Code 1999 dated 01 January 2010 clearly and specifically regulating crimes related to irregular migration (Article 274); Organizing and/or coercing other persons to flee abroad or to stay abroad illegally (Article 275); Making illicit copies of stamps, documentations of agencies or organizations; Dispossession, trading, removal of stamps and documents of agencies or organizations, etc., to unlawfully transfer persons across borders are acts constituting criminal acts which correspond to Article 266, 267, 268 respectively of Criminal Code;
3. Decree No. 136/2007/ND-CP dated 17 August 2007 of the Government on the exit and entry of Vietnamese citizens;
4. Circular No. 02/2008/TT-BNG dated 4 February 2008 of the Ministry of Foreign Affairs instructing the issuance, renewal, modification, and addition of diplomatic passports, domestic and foreign public affairs passports in accordance with the aforementioned Decree No. 136/2007/ND-CP;
5. Circular No. 27/2007/TT-BCA(A11) dated 29 November 2007 of the Ministry of Public Security instructing the domestic issuance, modification of regular passport and the issuance of travel documents abroad in accordance with the aforementioned Decree no. 136/2007/ND-CP;
6. Joint Circular No. 08/2009/TTLT-BCA-BNG dated 6 October 2009 of the Ministries of Public Security and Foreign Affairs instructing the issuance of regular passports and travel documents abroad in accordance with the aforementioned Decree no. 136/2007/ND-CP.

### *b. Policies and laws on sending Vietnamese workers working abroad*

1. Law No. 72/2006/QH11 on contract-based Vietnamese workers working abroad (adopted by the National Assembly of the Socialist Republic of Viet Nam at its 10th Session, Legislature XI);
2. Decree No. 126/2007/ND-CP issued by the government, providing detailed regulations and guidelines on the implementation of a number of articles of the law on contract-based Vietnamese workers employed abroad;
3. Degree No.144/2007/ND-CP, dated 10 September 2007, passed by the government, on imposing administrative penalties for violations in sending of Vietnamese to work in foreign countries;
4. Decision No. 71/2009/QĐ-TTg, dated 29 April 2009, issued by the Prime Minister's office, ratifying a project to help poor districts boost their labour exports to enhance sustainable poverty reduction for the 2009-2020 period;
5. Decision No. 144/2007/QĐ-TTg, dated 31 August 2007, issued by the Prime Minister's office, on the establishment, management and utilization of the overseas employment assistance fund;
6. Joint Circular No. 08/2007/TTLT-BLĐTBXH-BTP, dated 11 July 2007, of the Ministry of Labour, Invalids and Social Affairs and The Ministry of Justice, providing detailed guidelines on a number of issues related to the Content and the Liquidation of Guarantee Contracts for contract-based workers employed overseas;
7. Joint Circular No. 16/2007/TTLT-BLĐTBXH-BTC, dated 4 September 2007, providing detailed regulations on the brokerage and service fees involved in sending contract-based Vietnamese nationals to work in foreign countries;
8. Joint Circular No. 17/2007/TTLT-BLĐTBXH-NHNNVN, dated 4 September 2007, on the management and utilization of the deposits of enterprises and contract-based Vietnamese workers employed in foreign countries;
9. Circular No. 21/2007/TTLTBLĐTBXH, dated 8 October 2007, of the Minister of MOLISA, providing detailed guidelines on a number of articles of the law on sending contract-based Vietnamese workers to work abroad;
10. Joint Circular No. 31/TTLT-BLĐTBXH-BTC, dated 9 September 2009, guiding the implementation of several provisions of Decision No. 71/2009/QĐ-TTg;
11. Joint Circular No. 01/2010/TTLT-TANDTC-BLĐTBXH-VKSNDTC, dated 18 May 2010, guiding the application of legal regulations by the Supreme People's Court in resolving disputes over guarantee contracts of Vietnamese workers in foreign countries;
12. Decision No. 18/2007/QĐ-BLĐTBXH, dated 18 July 2007, of the minister of MOLISA, promulgating the pre-departure training programme for Vietnamese nationals being sent to work abroad;
13. Decision No. 19/2007/QĐ-BLĐTBXH, dated 18 July 2007, of the Minister of MOLISA, promulgating regulations on the organization of an operational system for sending workers to foreign countries and the specialized system of providing pre-departure training for Vietnamese nationals contracted to work abroad;
14. Decision No. 20/2007/QĐ-BLĐTBXH, dated 2 August 2007, of the Minister of MOLISA, on the issuance of certificates to Vietnamese nationals contracted to work abroad after having completed a pre-departure training.

### *c. Marriage and family relations involving foreigners*

1. Viet Nam's 2000 Marriage and Family Law (Chapter XI);
2. Resolution No.02/2000/NQ-HĐTP dated 23 December 2000, issued by the Judges' Chambers of the Supreme People's Court, guiding the application of some regulations in the Viet Nam's 2000 Marriage and Family Law
3. Resolution No.35/2000/QH10, dated 9 June 2000, passed by the National Assembly on the implementation of the Viet Nam's Marriage and Family Law;
4. Decree No.87/2001/NĐ-CP, dated 21 November 2001, passed by the government on the punishment for administrative offences in regards to marriage and family issue;
5. Resolution No. 68/2002/NĐ-CP, dated 10 July 2002, passed by the government, regulating, in detail, the implementation of several provisions of the Marriage and Family Law related to marriage and family relations involving foreigners;
6. Decree No.69/2006/NĐ-CP, dated 21 July 2006, passed by the government, supplementing and amending some articles of the Decree No.68/2002/NĐ-CP, regulating, in detail, the implementation of some provisions of the Viet Nam's Marriage and Family Law and marriages and family relations involving foreigners;
7. Decree No.158/2005/NĐ-CP dated 27 December 2005, passed by the government on the registration and administration of civil status (Articles 17, 18 regulating the jurisdiction and procedures of marital registration);
8. Circular No.07/2002/TT-BTP dated 16 December 2002 of the Ministry of Justice guiding the implementation of several provisions of Decree No. 68/2002/NĐ-CP dated 10 July 2002 of the Government regulating, in detail, the implementation of several provisions of the Marriage and Family Law relating to marriage and family relations involving foreigners;
9. Directive No.03/2005/CT-TTg of the Prime Minister, dated 25 May 2005 on enhancing State administration of marital and family relations involving foreigners;
10. Law on adoption;
11. Decree No.19/2011/NĐ-CP dated 21 March 2011 regulating, in details, the implementation of some provisions of the Law on adoption;
12. Decision No.1103/2011/QĐ-CTN of the President, dated 18 July 2011 on the ratification of the The Hague Convention No. 33 on the Protection of Children and Co-operation in Respect of Intercountry Adoption.

### *d. Regulations relating to Vietnamese nationals studying and being trained in foreign countries*

Regulations for Vietnamese nationals being trained in foreign countries, issued under Decision No. 23/2001/QĐ-BGD&ĐT, dated 28 June 2001, from the Minister of Education and Training.

### *e. Prevention of human trafficking*

1. Law on the Preventing and Addressing Human Trafficking, adopted by the XII Session of the National Assembly on 29 March 2011;
2. The National Action Plan Combating Trafficking in Women and Children for the period of 2004 - 2010 passed by the Prime Minister's Office under Decision No.130/QĐ-TTg dated 14 July 2004 (the 130/CP Programme);
3. The National Action Plan Combating Human Trafficking for the period of 2011 - 2015 passed by the Prime Minister's Office under Decision No.1427/QĐ-TTg dated 18 August 2011.

### *f. Protection of migrant legal rights and interests*

1. The 1992 Constitution amended and supplemented in 2001 (Article 75);
2. The 2008 Law on Citizenship (Article 5);
3. The Law on Overseas Representative Offices of the Socialist Republic of Viet Nam No. 33/2009/QH12 dated 18 June 2009 (Articles 8 and 9);
4. Resolution No. 36/NQ-TW dated 26 March 2004 of the Politbureau on Overseas Vietnamese Affairs;
5. Decision No. 119/QĐ-TTg dated 25 July 2007 of the Prime Minister's Office on the establishment of the Fund for the Protection of Overseas Vietnamese Citizens and Legal Persons;
6. Decision No. 135/2007/QĐ-TTg dated 17 August 2007 of the Prime Minister's Office on the Regulations on the exemption of visa for Vietnamese permanent resident abroad.

## **B. International Conventions and Agreements in Migration**

### *a. Exit, Entry and Residence*

1. Agreement, dated 9 June 1994, between the Government of the Socialist Republic of Viet Nam and the Government of the Kingdom of the Netherlands on Vietnamese nationals who have departed from the Czech Republic and the Republic of Slovakia to the Netherlands;
2. Agreement, dated 21 July 1995, between the Government of the Socialist Republic of Viet Nam and the Government of the Federal Republic of Germany on receiving returned Vietnamese nationals (attached the Protocol implementing the Agreement);
3. Memorandum of Understanding, dated 4 October 1995, between the Government of the Socialist Republic of Viet Nam and the Government of Canada on receiving returned nationals of the two States;
4. Memorandum of Understanding, dated 15 June 2001, between the Government of the Socialist Republic of Viet Nam and the Government of Australia on receiving returned nationals of the two States;
5. Agreement, dated 22 April 2004, between the Government of the Socialist Republic of Viet Nam and the Government of the Republic of Poland on the transfer and return of the nationals of the two States (attached the Protocol implementing the Agreement);
6. Memorandum of Understanding, dated 28 October 2004, between the Government of the Socialist Republic of Viet Nam and the Government of the United Kingdom of Great Britain and North Ireland on migration;
7. Agreement, dated 20 January 2006, between the Government of the Socialist Republic of Viet Nam and the Government of the Republic of Slovakia on receiving returned nationals of the two States;
8. Agreement, dated 12 September 2006, between the Government of the Socialist Republic of Viet Nam and the Government of Switzerland on receiving returned nationals of the two States;
9. Agreement, dated 4 July 2007, between the Government of the Socialist Republic of Viet Nam and the Government of Norway on receiving returned nationals of the two States;
10. Agreement, dated 12 September 2007, between the Government of the Socialist Republic of Viet Nam and the Government of the Czech Republic on receiving returned nationals of the two States (attached the Protocol implementing the Agreement);
11. Agreement, dated 25 September 2007, between the Government of the Socialist Republic of Viet Nam and the Government of Ukrain on receiving returned nationals of the two States;



12. Agreement, dated 22 January 2008, between the Government of the Socialist Republic of Viet Nam and the Government of the United States of America on receiving returned Vietnamese nationals;

13. Agreement between the Government of the Socialist Republic of Viet Nam and the Government of the Kingdom of Sweden on receiving returned nationals;

14. Agreement, dated 27 October 2008, between the Government of the Socialist Republic of Viet Nam and the Government of the Russian Federation on receiving returned nationals (attached the Protocol implementing the Agreement);

15. Memorandum of Understanding, dated 19 January 2009, between the Government of the Socialist Republic of Viet Nam and the Government of the Kingdom of Belgium on migration issues;

16. Memorandum of Understanding, dated 8 July 2011, between the Ministry of Public Security of the Socialist Republic of Viet Nam and the Ministry of Home, Overseas, Local and Immigration Affairs of the Republic of France on the return of illegal residents.

## ***b. Labour Migration***

### **\* Multilateral Agreements**

1. Bangkok Declaration on Irregular Migration in Asia Pacific Region, 23 April 1999;
2. CEDAW General Recommendation No. 26 on women migrant workers, 2005;
3. ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, adopted at ASEAN Summit, 19 February 2007;
4. Cooperative agreement, dated 20 March 2007, on the promotion of labour cooperation between the ASEAN Secretariat and the Office of the International Labour Organization (ILO);
5. ASEAN Charter, 2008;
6. ASEAN Declaration, dated 13 January 2007, on the protection and promotion of the rights of migrant workers in Cebu, Philippines.

### **\* Bilateral Agreements**

1. Agreement on sending and receiving Vietnamese nationals to work in factories in the Russian Federation;
2. Agreement between the government of the Socialist Republic of Viet Nam and the government of the Lao People's Democratic Republic on sending and receiving Vietnamese experts to work in the Lao People's Democratic Republic;
3. Agreement between the government of the Socialist Republic of Viet Nam and the government of the Czech Republic on the reciprocal employment of Vietnamese nationals and Czech nationals;

4. Agreement on labour cooperation between the government of the Socialist Republic of Viet Nam and the government of the Lao People's Democratic Republic;

5. Agreement between the government of the Socialist Republic of Viet Nam and the government of Ukraine on the reciprocal employment and social security of the nationals of the two States;

6. Protocol amending and supplementing the Labour Cooperation Agreement between the government of the Socialist Republic of Viet Nam and the government of the Lao People's Democratic Republic;

7. Agreement between the Taipei Economic and Cultural Office in Ha Noi and the Viet Nam Economic and Cultural Office in Taipei on sending and receiving Vietnamese labourers to work under employment contracts;

8. Memorandum of Understanding on the recruitment of Vietnamese Workers between the governments of Viet Nam and Malaysia;

9. Agreement between the Socialist Republic of Viet Nam and the government of Qatar on regulating the recruitment of Vietnamese Workers to work in Qatar

10. Memorandum of Understanding between the Ministry of Labour, Invalids and Social Affairs of Viet Nam (MOLISA) and the Korean Industrial Technology Organization on sending Vietnamese engineers to work in Korea;

11. Memorandum of Understanding between the MOLISA of Viet Nam and the Ministry of Labour of the Republic of Korea on sending Vietnamese workers to South Korea (effective for 2 years);

12. Memorandum of Understanding between the MOLISA of Viet Nam and the Ministry of Labour and Social Policy of the Republic of Bulgaria on the promotion of labour and social cooperation;

13. Memorandum of Understanding between the MOLISA of Viet Nam and the Ministry of Labour, Social and Family Affairs of the Republic of Slovakia on the promotion of labour, employment and social cooperation;

14. Memorandum of Understanding between the MOLISA of Viet Nam and the Ministry of Human Resources of the Sultanate of Oman on cooperation in human resources;

15. Agreement between the government of the Socialist Republic of Viet Nam and the government of the Russian Federation on Vietnamese fixed-term contract-based workers in Russia and vice versa;

16. Memorandum of Understanding between the government of the Socialist Republic of Viet Nam and the United Arab Emirates (UAE) on human resources;

17. Agreement between the government of the Socialist Republic of Viet Nam and the government of the Lao People's Democratic Republic on sending and receiving Vietnamese experts to work in the Lao People's Democratic Republic;

18. Agreement between the government of the Socialist Republic of Viet Nam and the government of the Republic of Kazakhstan on Vietnamese fixed-term contract-based nationals to work in Kazakhstan and vice versa;

19. Memorandum of Understanding between the Ministry of Development, Education and Employment of the Saskatchewan State of Canada and the MOLISA of Viet Nam on labour, employment and human resources cooperation;

20. Memorandum of Understanding between the MOLISA of Viet Nam and the Ministry of Labour of South Korea on sending Vietnamese workers to work in South Korea (renewal).

### *c. Marriage and Family Relations Involving Foreigners*

1. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the Republic of France;

2. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the Kingdom of Denmark;

3. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the Republic of Italy;

4. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and Republic of Ireland;

5. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the Kingdom of Sweden;

6. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the French community of the Kingdom of Belgium;

7. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the German community of the Kingdom of Belgium;

8. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the Dutch community of the Kingdom of Belgium;

9. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the United States of America;

10. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and Canada;

11. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the government of Quebec (Canada);

12. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the government of Ontario (Canada);

13. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the government of British Columbia(Canada);

14. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the government of Alberta (Canada);

15. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the Swiss Federation;

16. The cooperative agreement on adoption between the Socialist Republic of Viet Nam and the Kingdom of Spain;

17. The Hague Convention No. 33 on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

#### *d. Prevention of Human Trafficking*

1. Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Organized Transnational Crime, 2000;

2. The ASEAN Declaration on the prevention of human trafficking, especially women and children, adopted on 29 November 2004 in Vientian, Lao People's Democratic Republic;

3. Agreement, dated 10 October 2005, between the Government of the Socialist Republic of Viet Nam and the Government of the Kingdom of Cambodia on the bilateral cooperation of elimination trafficking of women and children, and assistance to victims of trafficking;

4. Agreement, dated 24 March 2008, between the Government of the Socialist Republic of Viet Nam and the Government of the Kingdom of Thailand on the bilateral cooperation of prevention human trafficking, especially women and children, and assistance to victims of trafficking;

5. Agreement, dated 3 November 2010, between the Government of the Socialist Republic of Viet Nam and the Government of the Lao People's Democratic Republic on the cooperation of prevention against human trafficking and protection of victims of trafficking;

6. Agreement, dated 15 September 2010, between the Government of the Socialist Republic of Viet Nam and the Government of the People's Republic of China on the enhanced prevention against human trafficking;

7. Cooperation Agreement, dated 3 December 2009, between the Government of the Socialist Republic of Viet Nam and the Government of the Kingdom of Cambodia on the Standard Operation Procedures in the identification and return of victims of trafficking.

**ANNEX III:****LIST OF CONSULAR AGREEMENTS BETWEEN VIET NAM AND OTHER COUNTRIES (UP TO END OF 2010)**

No.	Name of agreement	Date of signature	Entry into force
1	Viet Nam - Afganistan Consular Agreement	28/12/1987	Effective
2	Viet Nam - Poland Consular Agreement	27/09/1979	31/7/1980
3	Viet Nam - Bulgaria Consular Agreement	01/10/1979	21/6/1980
4	Viet Nam - Cuba Consular Agreement	31/08/1971	Effective
5	Viet Nam - Hungary Consular Agreement	11/10/1979	Effective
6	Viet Nam - Iraq Consular Agreement	26/11/1990	3/12/1992
7	Viet Nam - Laos Consular Agreement	20/11/1985	11/7/1986
8	Viet Nam - Former Soviet Union <sup>14</sup> Consular Agreement	29/09/1978	11/08/1979
9	Viet Nam - Mongolia Consular Agreement	03/12/1979	20/4/1980
10	Viet Nam - Nicaragua Consular Agreement	06/09/1983	13/9/1985
11	Viet Nam - France Consular Agreement	21/12/1981	01/11/1983
12	Viet Nam - Former Czech & Slovakia <sup>15</sup>	14/02/1980	Effective
13	Viet Nam - Ukraine Consular Agreement	08/06/1994	Effective
14	Viet Nam - Romania Consular Agreement	08/07/1995	Effective
15	Viet Nam - Cambodia Consular Agreement	27/02/1997	Effective
16	Viet Nam - Cambodia Consular Agreement	19/10/1998	Effective
17	Viet Nam - Australia Consular Agreement	29/07/2003	Effective
18	Viet Nam – Belarus Consular Agreement	07/04/2008	Effective

**ANNEX IV:****LIST OF MUTUAL LEGAL ASSISTANCES AGREEMENTS ON CRIMINAL, CIVIL, TRADE, AND MARRIAGE AND FAMILY COOPERATION BETWEEN VIET NAM AND OTHER COUNTRIES (UP TO 2010)****Agreements On The Transfer Of Sentenced/Extradited Persons  
(Up To August 2010)**

No.	Country	Agreement	Date of signature	Entry into force
1	Algeria	Agreement on extradition	14/04/2010	Pending
2	Korea	Agreement on extradition	15/09/2003	19/04/2005
3	Korea	Agreement on the transfer of sentenced persons	29/05/2009	30/08/2010
4	Australia	Agreement on the transfer of sentenced persons	13/10/2008	11/12/2009
5	Thailand	Agreement on the transfer of convicted persons and cooperation in the implementation of criminal sentences	03/03/2010	19/07/2010

## List Of Agreements Of Mutual Legal Assistance (11 March 1996)

No.	Country	Agreement	Date of signature	Effective Date
1	India	Agreement on mutual legal assistance in criminal law	08/10/2007	17/11/2008
2	Algeria	Agreement on mutual legal assistance in criminal law	14/04/2010	Pending
3	Algeria	Agreement on mutual legal assistance in civil and trade affairs	14/04/2010	Pending
4	England	Agreement on mutual legal assistance in criminal law	13/01/2009	30/09/2009
5	Poland	Agreement on mutual legal assistance in civil, familial and criminal affairs	22/03/1993	18/01/1995
6	Belarus	Agreement on mutual legal assistance and judicial assistance in civil, familial, labour and criminal affairs	14/09/2000	18/10/2001
7	Bulgaria	Agreement on mutual legal assistance in civil, familial and criminal affairs	03/10/1986	Effective
8	Cuba	Agreement on mutual legal assistance in civil, familial, labour and criminal affairs	30/11/1984	Effective
9	Chinese Taipei China	Agreement on mutual legal assistance in civil and trade affairs	12/04/2010	
10	Korea	Agreement on mutual legal assistance in criminal law	15/09/2003	19/04/2005
11	Hungary	Agreement on mutual legal assistance in civil, familial and criminal affairs	18/01/1985	Effective
12	Laos	Agreement on mutual legal assistance in civil and criminal law	06/07/1998	19/02/2000
13	Soviet Union (succeeded by Russia)	Agreement on mutual legal assistance and judicial assistance in civil, familial and criminal affairs	10/12/1981	10/10/1982
14	Mongolia	Agreement on mutual legal assistance in civil, familial and criminal affairs	17/04/2000	10/10/1982
15	Russia	Agreement on mutual legal assistance and judicial assistance in civil and criminal affairs	25/08/1998	Ratified
16	Russia	Protocol amending the Agreement on mutual legal assistance and judicial assistance in civil and criminal affairs	23/04/2003	Unratified
17	France	Agreement on mutual legal assistance in civil affairs	24/02/1999	01/05/2001
18	Czechoslovakia (succeeded by Czech and Slovakia)	Agreement on mutual legal assistance and judicial assistance in civil and criminal affairs	12/10/1982	16/04/1984
19	North Korea	Agreement on mutual legal assistance in civil and criminal affairs	04/05/2002	24/02/2004
20	China	Agreement on mutual legal assistance in civil and criminal affairs	19/10/1998	25/12/1999
21	Ukraine	Agreement on mutual legal assistance in civil and criminal affairs	06/04/2000	19/08/2002
22	ASEAN	Framework agreement among ASEAN members on mutual legal assistances in criminal affairs *	29/11/2004	

(\*): This framework agreement is considered as standard when ASEAN member states enter into bilateral agreements on mutual legal assistance in criminal affairs



## ANNEX V:

## LIST OF STATES THAT HAVE SIGNED THE UNITED NATIONS INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Country	Signed Date	Ratification or Accession	Country	Signed Date	Ratification or Accession
Albania		5 Jan 2007	Kyrgyzstan		29 Sep 2003
Algeria		21 Apr 2005	Lesotho	24 Sep 2004	16 Sep 2005
Argentina	10 Aug 2004	23 Feb 2007	Liberia	22 Sep 2004	
Azerbaijan		11 Jan 1999	Libyan Arab Jamahiriya		18 Jun 2004
Bangladesh	7 Oct 1998		Mali		5 Jun 2003
Belize		14 Nov 2001	Mauritania		22 Jan 2007
Benin	15 Sep 2005		Mexico	22 May 1991	8 Mar 1999
Bolivia		16 Oct 2000	Montenegro	23 Oct 2006	
Bosnia and Herzegovina		13 Dec 1996	Morocco	15 Aug 1991	21 Jun 1993
Burkina Faso	16 Nov 2001	26 Nov 2003	Nicaragua		26 Oct 2005
Cambodia	27 Sep 2004		Niger		18 Mar 2009
Cameroon	15 Dec 2009		Nigeria		27 Jul 2009
Cape Verde		16 Sep 1997	Paraguay	13 Sep 2000	23 Sep 2008
Chile	24 Sep 1993	21 Mar 2005	Peru	22 Sep 2004	14 Sep 2005
Colombia		24 May 1995	Philippines	15 Nov 1993	5 Jul 1995
Comoros	22 Sep 2000		Rwanda		15 Dec 2008
Congo	29 Sep 2008		Sao Tome and Principe	6 Sep 2000	
Ecuador		5 Feb 2002	Senegal		9 Jun 1999
Egypt		19 Feb 1993	Serbia	11 Nov 2004	
El Salvador	13 Sep 2002	14 Mar 2003	Seychelles		15 Dec 1994
Gabon	15 Dec 2004		Sri Lanka		11 Mar 1996
Ghana	7 Sep 2000	7 Sep 2000	Syrian Arab Republic		2 Jun 2005
Guatemala	7 Sep 2000	14 Mar 2003	Tajikistan	7 Sep 2000	8 Jan 2002
Guinea		7 Sep 2000	Timor-Leste		30 Jan 2004
Guinea-Bissau	12 Sep 2000		Togo	15 Nov 2001	
Guyana	15 Sep 2005	7 Jul 2010	Turkey	13 Jan 1999	27 Sep 2004
Honduras		9 Aug 2005	Uganda		14 Nov 1995
Indonesia	22 Sep 2004		Uruguay		15 Feb 2001
Jamaica	25 Sep 2008	25 Sep 2008			

Source: <http://www2.ohchr.org/english/bodies/ratification>

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