

AN ASSESSMENT OF PROTECTION ACCORDED TO FILIPINO OVERSEAS WORKERS

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I. Introduction

For a three-year period ending 1977, the Philippines ranked as number seven among the twelve biggest labor exporters in terms of dollars earned. This means about \$474 millions in foreign exchange earnings from about 167,000 Filipino contract workers scattered all over the continent.¹ Labor export now ranks number three among the top dollar earners for the country. By 1982, it is projected that overseas employment would cut down the level of domestic unemployment by as much as 30.3%.² It is claimed that this means a saving of about ₱2 billion in capital investment that would have been necessary to employ 167,000 Filipino workers based on a conservative estimate made 10 years ago that ₱10,000 is required to create a new job.³

On the other side of the overseas employment equation the following quantifiable loss to the Philippine economy are noted: some ₱85 million in output not rendered; ₱85 million in the cost of training replacements; and ₱25.5 million in recruitment expenses to replace migrants. In addition to these are unquantifiable results as the permanent loss in knowledge, educational skill and capital.⁴

The net result, it is claimed, is that manpower export has resulted in tremendous benefits to the Filipino worker and to the whole Philippine economy. In the words of the IMF Survey, "the foreign exchange earnings from emigrants is the largest most rapidly growing credit item in the Balance of Payment pie and therefore the best hope for Philippine economic development."

This paper does not attempt to prove or disprove this general hypothesis as such would require a thorough economic study. What this paper hopes to accomplish is to arrive at an assessment of the overseas employment program in terms of the protection accorded to the Filipino worker. Hand

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¹ Based on the results of an IMF survey (Times Journal, September 24, 1978, p. 6). By December 1978 there are already about 400,000 Filipino contract workers in some 104 countries.

² Based on the National Manpower Plan prepared by the National Manpower and Youth Council.

³ *Ibid.*

⁴ *Ibid.*

in hand with the phenomenal growth of dollar earnings by Filipino overseas workers is the proliferation of complaints filed by Filipinos which to date number about 749. Thus, this study shall have the following specific objectives:

- a. to analyze the overall policy of the Philippines regarding overseas employment of Filipino workers;
- b. to identify and analyze the specific and actual problems encountered by the Filipino workers;
- c. to analyze the particular policies adopted by the Philippine Government to solve such problems; and
- d. to make suggestions, where possible, as to probable solutions to the problems identified.

II. *Framework Of Analysis*

Labor is a factor of production. In its general sense it is the exertion by human beings of physical or mental effort, or both, towards the production of goods or services. In a special or technical sense, labor means the working class in society, or that sector or group in society which derives its livelihood chiefly or solely from rendition of work or services in exchange for compensation under managerial direction. In that sense, labor refers to the work force in mass under the wage system.⁵

Under Philippine law as in the law in all predominantly capitalist societies, labor is conceived strictly as "the workers hired under the wage system; it denotes those rendering services under the master and servant relationship or employment relationship. The convergence in law of the concept of labor as a commodity, a right or a property and as the person possessed by such commodity, right or property has its basis in the theory of capitalism. Among the factors of production, i.e., labor, capital and technology, labor is the only factor identical with the person who contributes to the production process: the laborer exerts the physical or mental efforts which produce the good. In classical economic theory, the worker is the creator of value. However, he partakes only a small part of such value in the form of wages; the surplus goes to the capitalist in the form of profits. As been held in one case, "Employees are those who are compensated for their labor or services by wages rather than by profits."⁶

In law, "labor" is comprehended in the concept of fundamental rights of individuals which may not be taken away or unduly restricted. Under the Declaration of Principles and State Policies of the 1979 Constitution there is an unequivocal exhortation for the State "to afford protection to

⁵ WEBER, *THEORY OF SOCIAL AND ECONOMICS ORGANIZATION* 88-89.

⁶ *People v. Distributors Division, Smoked Fish Workers Union, Local No. 20377*, 7 N.Y.S. 2d 185, 187 (1938).

labor xxx." This constitutional mandate is sought to be effectuated through the Labor Code of the Philippines (Presidential Decree No. 442).

The same basic concepts and problems in labor relations apply in the case of overseas workers. However, a new variable is present which is not present in the case of domestic labor relations, namely: that, the main incidents of labor relations transpire mainly in a foreign country. This means that the employer is a foreigner entity and/or the contract is to be performed in a foreign country. It is this added feature which this writer believes necessitates a closer look at the adequacy of protection afforded by Philippine laws to the Filipino overseas worker.

The first part of this paper shall outline the policy and program of the government on overseas employment.

Overseas employment covers three phases, namely: pre-employment, employment and post-employment. The pre-employment phase actually consists of two distinct aspects which are significant in overseas employment, viz.: recruitment and placement.

The subject matter includes all Filipino workers/employees. For the purpose of this analysis, they shall be categorized into two, viz.: *one*, those whose placement is processed through the Overseas Employment Development Board (hereinafter referred to as the OEDB); and *two*, those whose placement is affected by private entities which include those Filipino construction workers employed by duly authorized Filipino contractors and those whose placement is processed through the private fee charging employment agencies and other private recruitment entities authorized by the Ministry of Labor. The Filipino seamen which constitute another group of overseas Filipino workers are not covered in this study.

For each of the abovementioned category, the nature of the problems that confront the Filipino expatriate workers shall be identified. The corresponding regulatory and protection mechanism shall be discussed. Wherever possible reference to actual cases shall be made.

The Overseas Employment Program

Upon the adoption of the New Labor Code in November, 1974 the Philippines formally adopted "a systematic program for overseas employment of Filipino workers." Under Article 17 an Overseas Employment Development Board is created to undertake said program. As originally conceived, the OEDB shall eventually become the sole placement agency for overseas workers. Before the passage of Presidential Decree No. 1412 in June 1978 the policy was to phase out in four years all private fee charging agencies (hereinafter referred to as PFCAs). Under the new

amendment, said phaseout policy is totally abandoned and private sector participation in the recruitment and placement of workers is now encouraged.⁷

The basic rationale for the formal adoption of "systematic labor export policy is twofold: to solve the persistent manpower surplus problem and to promote the country's foreign exchange earnings via dollar remittances of Filipino expatriate workers. This policy conforms with the overall development strategy adopted by the Philippine Government since 1972 which is to attain industrialization basically through export promotion, foreign investment and so-called "development loans." As such the labor export program is supposed to be temporary designed to absorb the country's "surplus" manpower. As to how long is 'temporary', Minister Ople of the Ministry of Labor has once intimated in a speech before Central Luzon students that labor export shall continue "for another twenty years."⁸ According to the Philippine Five-Year Development Plan, 1978-1982, "the manpower export shall be rationalized, i.e., manpower export will be increasingly restrained as more employment opportunities are created."⁹

Such contemplated restraint in the export of Filipino worker will definitely take some time considering the past, current and projected program of the government. As shown in the Table below overseas placement by the OEDB, the National Seamen's Board (NSB) and the private sector for the past four (4) years beginning 1975-1978, number 229,309. Of this total 167,000 are contract workers.

TABLE 1

<i>Year</i>	<i>OEDB</i>	<i>NSB</i>	<i>Private Sector</i> ^a	<i>Total</i>
1975	6,054	23,534	6,447	36,035
1976	5,269	28,614	13,952	47,835
1977	10,114	33,699	26,563	70,376
1978	13,516 ^b	30,941 ^c	30,606	75,073
Total	34,953	116,788	77,568	229,309

^a Refers to private fee-charging agencies registered construction contractors and authority holders.

^b Data covers period from January-November, 1978

^c Data covers period from January-October, 1978.

By 1982 it is projected that Filipino contract workers will increase to 229,400. As estimated by the National Manpower and Youth Council in its study entitled "Export of Filipino Manpower", this targeted volume of overseas placement will cut down the level of domestic unemployment by as much as 30.3%.

⁷ Art. 25, as amended by Pres. Decree No. 1412.

⁸ Business Day, March 31, 1978, p. 2.

⁹ Philippine Five-Year Development Plan, 1978-1982, p. 206.

In order to appreciate the impact and implications of the overall overseas employment program, a profile of OEDB placed workers, by major occupational groupings is hereunder presented:

TABLE 2
OEDB PLACED WORKERS BY MAJOR OCCUPATIONAL GROUPINGS
1975-1978

Professional, Technical and Redated Workers	8,025
Managerial, Executive, Administrative Workers	162
Clerical Workers	1,105
Sales Workers	62
Service Workers	5,312
Agricultural, Husbandry, Forestry Workers	159
Production Process Workers	16,696
T O T A L	31,521

These are precisely the types of workers which the current industrialization strategy of the government hopes to absorb. This strategy calls for the development of labor-intensive industries and preferably export oriented ones. Some observers however have rated some inherent contradictions in this approach. On the one hand export promotion policy requires competitiveness in the world market in terms of lower labor cost. On the other hand it is precisely the low wages in the country which motivate our skilled and semi-skilled manpower to seek overseas employment. This criticism has been answered by the argument that the overseas employment program is merely a 'temporary measure' aimed to solve both our unemployment problem in the short run and balance of payments problem too. The estimated foreign exchange earnings from the overseas employment program are indeed impressive, as can be gleaned from the Table below, viz:

TABLE 3
DIRECT AND INDIRECT FOREIGN EXCHANGE GENERATION
THROUGH OEDB OPERATIONS, 1975-1978 ^a
(In million US \$)

	1975	1976	1977	1978	Total
Direct Foreign Exchange Generation					
1. Cumulative Salary Remittance					
Pledge Estimates from OEDB					
Placed Workers	5.35	8.87	3.42	30.51	48.15
2. Contribution to the Workers' Fund		.05	.45	.45	.95
3. Documentation/Processing Fees		.33	1.17	1.12	2.62
4. Earnings from Ticketing and Travel					
Documentation Services handled					

directly by the Board	.18	.30	.04	.19	.71
SUB-TOTAL	5.53	9.55	5.08	32.27	52.34
Indirect Foreign Exchange Generation					
1. Estimation of Ticket — Cost of OEDB Placed Workers whose ticketing and traveling documentation were not done by OEDB	2.97	1.37	6.17	2.96	13.47
2. Estimated In-country Expenditures of Foreign Employers during Recruitment Process	.50	.66	1.88	.58	3.62
3. Estimated Remittance from OEDB Emigrants	3.99	9.17	16.08	14.23	43.47
SUB-TOTAL	7.46	11.20	24.13	17.77	60.56
GRAND TOTAL	12.99	20.75	29.21	50.04	112.99

While the foregoing are indeed excellent indicators of the economic contribution on the program such will have to be weighed against the cost involved in implementing the same. In other words a truly comprehensive cost-benefit analysis of the program will be a better index of the impact thereof. This paper, limited as it is in scope, hopes to contribute to such effort by focusing on the protection scheme afforded to our Filipino expatriate workers. This effort might very well indicate both some of the quantifiable and unquantifiable costs (and benefits) of the program in terms of the risks and losses to which our workers are exposed.

Pre-Employment Stage

The travails of a prospective Filipino expatriate worker starts from falling in a queue of applicants either before the government public employment offices or private placement agencies. Many lucky ones manage to land up in overseas jobs but not a few become victims of the most prevalent problem besetting the overseas employment program which is "illegal recruitment". In 1974-1975 alone, according to the records of the Bureau of Employment Services, spurious recruiting agencies have victimized no less than 2,840 Filipino workers to the tune of ₱12,080,000. According to the study made by the Overseas Placement Association of the Philippines (OPAP) there are at least thirty (30) existing illegal recruiters today.¹⁰

"Recruitment and placement" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not. Any person or entity which, in any

¹⁰ Based on a press statement released through the Bulletin Today, April 15, 1979, p. 1.

manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.¹¹

A focal point of controversy in the whole overseas employment program is whether to centralize recruitment and placement operations in one government placement agency or to leave this function completely in the hands of the private sector. In a span of less than six (6) years since the effectivity of the Labor Code in 1974 official government policy on the matter has gone full circle. A major innovation introduced by the Labor Code is precisely the creation of a government placement agency, the Overseas Employment Development Board (OEDB). Prior to the creation of the OEDB, recruitment for overseas placement was carried out solely by private employment agencies as created under Act No. 2486 entitled "Recruitment for Overseas Employment Act" and Act No. 3957 entitled "Private Employment Agency".¹² As originally envisioned under the Labor Code, the OEDB shall take over all recruitment functions from private agencies which were scheduled to be phased out within a four-year period from 1975-1978. However, before the arrival of the target date i.e., November, 1978, President Marcos issued Presidential Decree No. 1412 on June 9, 1978 amending the Labor Code by allowing the continued participation of private fee charging agencies. Finally, on April 4, 1970 it was reported in *Bulletin Today* that President Marcos has approved a recommendation of Rodolfo M. Cuenca, president of the Construction Development Corporation of the Philippines (CDCP) and president of the Filipino Contractors International Corporation (FCIC) to curtail the recruitment function of the OEDB and leave this operation solely in the hands of private recruiters. As of the date of writing this paper, no presidential decree has been issued to effectuate such recommendation. Hence the following discussion shall all be based in existing provisions of the Labor Code as amended by Presidential Decree No. 1412 dated June 0, 1978.

Before proceeding to a detailed discussion of the problem of illegal recruitment, the issues involved on the phase-out of OEDB's recruitment function needs to be noted. The controversy touches on two major issues central to the whole overseas employment program under the Labor Code. The first relates to the efficiency and effectiveness of the OEDB as a placement agency as compared with private employment agencies and the second, albeit the more important issue, relates to the issue of protection and welfare of the Filipino worker.

¹¹ LABOR CODE, art. 13, par. b.

¹² Act No. 2486 which was enacted on February 5, 1915, fixed a tax of ₱500.00 upon every person or entity engaged in recruiting or contracting laborers in the Philippines.

Act No. 3957 became effective on December 2, 1932. Please see Annex "A" for list of current laws/rules on Overseas Employment.

As regards the first issue, the main argument raised principally by the Overseas Placement Association of the Philippines, an association of the country's twenty (20) leading labor exporters, is that recruitment and placement is better kept in the hands of experienced private recruiters who have pioneered in the overseas placement industry; that OEDB instead of competing with them should complement their operations by limiting itself (OEDB) to market development.¹³ On the other hand, OEDB claims that it has been proven efficient and effective even during the first few years of its existence. It is claimed that the average cost per placement by OEDB has dropped from ₱856.08 in 1974-1976 to only ₱530.54 for the first six months of 1977.¹⁴ OEDB's effectiveness, it is claimed, is shown by the growth in overseas placement of OEDB workers.¹⁵

The strongest argument for the creation of the OEDB is its capacity to afford maximum protection and welfare services to the Filipino overseas workers because it has the support of the government. Unlike the private agencies, the OEDB can negotiate employment contracts on a government to government basis. Thus both the foreign and Philippine government become directly bound to respect the terms of such contracts. These agreements are embodied in what are known as Memoranda of Agreement which spell out the scope of recruitment, fees and terms of playment, travel arrangements, terms and conditions of employment, remittance, responsibilities of the employer and settlement of disputes and termination. The terms spelled out in the Memoranda of Agreement are the ones incorporated in the employment contracts between the Filipino worker and his foreign employer.

It is this writer's humble opinion that while coursing overseas employment through agencies may not completely eradicate the problems of illegal recruitment and other related problems, the phase-out of OEDB's role as placement agency will aggravate the problems.

Illegal Recruitment

Whether recruitment is a joint government and private function or not, "illegal recruitment" remains the single biggest problem victimizing the Filipino workers.

Under existing provisions of the Labor Code, there are two modes of recruitment for overseas employment, *one*, through the OEDB and *two*, through private agencies. Article 17 of the Code mandates the OEDB to promote "a sustematic program for overseas employment of Filipino workers, other than seamen, in excess of domestic needs, to promote their rights to fair and equitable employment practice, and to promote the wel-

¹³ Bulletin Today, April 15, 1979, p. 1.

¹⁴ "White Paper on the Phase-Out Policy" prepared by the OEDB.

¹⁵ Please refer to Table 1, p. 439.

fare of Filipino emigrants." Private recruiters are of two types, *one*, the "private fee charging agencies" (hereinafter referred to as PRCAs) which refer to "any person or entity engaged in the recruitment and placement of workers, locally or overseas, without charging directly or indirectly any fee from the workers or employees or both."¹⁶ *Two*, other "private recruitment entities" which refer to "any person/s or association/s engaged in the recruitment and placement of workers, locally or overseas, without charging directly or indirectly any fee from the workers or employees."¹⁷ The former are issued "licenses" while the latter are issued "authority" to recruit. To this latter category belong the Filipino contractors. To date there are about twenty (20) licensed recruitment agencies, fifteen (15) authority holders, and about twenty-eight (28) construction companies registered under Policy Instruction No. 22.

"Illegal recruitment" is defined by Article 38 as "any recruitment activities undertaken by non-licensees or non-holders of authority." Article 39 thereof broadens the concept of 'illegal recruitment' to include "any violation of Title 1 of the Labor Code committed by any licensee or holder of authority. Under this broadened concept, a PFCA who charges more than the prescribed fees as well as the authority holder who charges any fees is guilty of illegal recruitment. The corresponding penalties imposed for violators are: for a non-licensee or non-authority holder who is engaged in illegal recruitment, imprisonment of not less than four (4) years nor more than eight (8) years or a fine of not less than ₱20,000 nor more than ₱100,000 or both at the discretion of the court; in the case of any licensee or holder of authority who violates or causes to violate Title 1 and its implementing rules and regulations, the penalty is lighter, consisting of imprisonment of not less than two (2) years nor more than five (5) years or a fine of not less than ₱10,000 nor more than ₱50,000. In the latter case, conviction shall cause and carry the automatic revocation of the license or authority and all permits and privileges granted to such person or entity and the forfeiture of bonds in favor of the OEDB or the NSB. Article 39 further provides that in all cases where the officer of the corporation, partnership, association or entity convicted of the aforementioned illegal acts is an alien he shall, in addition to the penalties prescribed, be deported without further proceedings. Over and above these, Article 35 provides that the Minister of Labor shall have the power to suspend or cancel any license or authority to recruit employees for overseas employment for violation of the rules issued by the Minister of Labor, the OEDB, the NSB, or violations of Title 1 and other presidential decrees, the Revised Penal Code, the Anti-Dummy Law, General Orders and Letters

¹⁶ LABOR CODE, art. 3, par. c.

¹⁷ LABOR CODE, art. 13, par. c.

of instructions. To give more teeth to the powers of the Minister of Labor, Presidential Decree No. 1412 amending the New Labor Code vested him with the authority "to recommend the arrest and detention of any non-licensee or non-holder of authority if after proper investigation it is determined that his activities constitute a danger to national security and public order or will lead to further exploitation of job seekers." It will be noted that under the old Article 38 any violation of Title 1 or its implementing rules and regulations fall within the concurrent jurisdiction of the military tribunals and the regular courts..." In line with the President's General Order No. 59 transferring jurisdiction over most crimes to civilian courts, Presidential Decree No. 1412 vested jurisdiction over illegal recruitment to the civilian courts upon prior investigation by the Minister of Labor.

In order to effectively implement these sanctions the National Council for Illegal Recruitment was formed. It is composed of representatives from the Ministries of Labor, Justice, Foreign Affairs, National Defense and Education and Culture. The Secretariat holds office at the Ministry of Labor. Task with investigating and filing of information in courts is a task force composed of special prosecutors, five (5) of whom come from the Ministry of Justice and three (3) from the Ministry of Labor.

To date about 400 complaints of illegal recruitment are being investigated by this task force. Considering the number of such complaints, the adequacy of present machinery is doubtful. As noted by Attorney Vicente Jariol of the OEDB Legal Department the special prosecutors have to attend to their regular duties with their respective ministries in addition to their tasks of special prosecutors.

Another problem regarding the implementation of the drive against illegal recruitment is the absence of power of the MOL or any agency for that matter to close or padlock entities found to be involved in illegal recruitment. What happens therefore is that these illegal recruiters go scot free again after they have been found guilty of illegal recruitment. There was the case of a recruitment agency in Quezon City which had been found guilty of illegal recruitment by the Ministry of Labor but which continued to operate despite such finding. It took the city government of Quezon City to padlock said office. It is in view of this problem that Minister Ople is reported to be preparing a proposed parliamentary bill at the Batasang Pambansa which seeks to amend the Labor Code by authorizing the Labor Minister or his authorized representative to suspend operations or padlock any office of any establishment involved in illegal recruitment pending investigation. The said bill also seeks to impose a heavier fine and penalty for illegal recruitment. Finally, the bill seeks to integrate activities of all government agencies engaged in the campaign against illegal recruitment under a national council to be headed by the Minister of Labor. As regards the latter it will be interesting to find out just how the new body will differ from the existing Council referred to

earlier. The new bill will hopefully minimize if not solve the menace of illegal recruitment. Noteworthy is Minister Ople's reference to illegal recruitment as constituting "economic sabotage, not too far removed from hoarding of basic necessities in times of scarcity, tax evasion, and plain sumgling. It is massive fraud committed against the national government in terms of uncollected revenues in the form of unpaid fees for licensing, processing of applicants, deposits for the worker's welfare fund and taxes running into millions of pesos."

But first and foremost illegal recruitment saps the moral and financial resources of *the* Filipino worker. So familiar is the tale of Mr. Juan de la Cruz, spending his lifetime savings, leaving his job with the hope of getting an overseas job. Of course, the gullible victims themselves are partly to be blamed for the prevalence of illegal recruiters. Not a few voluntarily allow themselves to be duped by known fake recruiters. This tribe, however, consists of the exception rather than the rule. The fact remains that the prospect of higher wages is irresistible to Filipinos.

In order to obviate illegal recruitment the government adopted the so-called "corporate export strategy" in the construction business originally enunciated in Policy Instruction No. 22 dated June, 1977 and later embodied in Policy Instruction No. 34 dated April, 1978 (also known as the "Omnibus Instruction on Overseas Placement of Labor"). The basic concept is that Filipino construction contractors shall export services on a package-deal basis, i.e., to carry out projects under joint venture, sub-contract or service contract arrangements with foreign nationals. This is supplemented by a policy banning direct hiring of Filipino workers by foreign contractors except in special cases where they are allowed to recruit Filipino workers from depressed areas. Under Article 27 as amended by Presidential Decree No. 1412, only Filipino citizens or corporations, partnerships or entities at least 75% of the authorized and voting capital of which is owned and controlled by Filipino citizens shall be permitted to participate in the recruitment and placement of workers locally or overseas." The avowed purpose is to prevent the exploitation of domestic cheap labor by foreign contractors. Parenthetically, it may be said that the new policy does not preclude exploitation by Filipino contractors of their Filipino workers. In relation to the problem of illegal recruitment, the corporate export strategy hopes to ensure that only stable construction companies can recruit Filipino workers. This is sought to be implemented by strict requirements prior to grant authority by the Ministry of Labor.

In relation to this, a new government agency has been created under Presidential Decree No. 1167 called the Overseas Construction Board (hereinafter referred to as OCB). This Board, however, is primarily charged with monitoring performance of Filipino contractors abroad as regard their construction projects. It is noted that OCB also requires local construction companies to register with them and registration with the BES is not a

prerequisite. The OCB is also involved in marketing studies for construction projects abroad and seeks to promote competitiveness of Filipino contractors.

"Standby Pay"

As interpreted by the OEDB Legal Department, an overseas employment contract between the Filipino workers and the foreign employer is perfected upon the signing of the employment contract here in the Philippines before the workers depart for the worksite abroad. What happens then to the Filipino worker who is not brought to the worksite by the foreign employer?

Among the mandatory requirements for an employment contract is a provision for "free passage to the site of employment and return to the point of hire including expenses for passport and other travel documents." There are cases, however, when departure of the workers are delayed. In view of these the OEDB requires that a provision for standby pay be included in the Memorandum of Agreement between the OEDB and the foreign employer. The Memorandum is a preliminary understanding between the OEDB and the foreign employer or the foreign government prior to the execution of the final employment contract. The Memorandum sets forth the terms under which the recruitment of Filipino workers shall be undertaken. The provision for stand-by pay binds the foreign employer to make standby payment amounting to 50% of agreed monthly salary if the latter fails to bring the workers to the worksite within 30 days from date the workers' travel documents, excluding visa are completed. In 1978 sixty-two (62) Filipino workers received standby pay amounting to ₱100,000.00.¹⁸

It is noted that the payment of standby pay is not a mandatory requirements for all foreign employment contracts or memoranda of understanding. This commendable provision should be made mandatory too for memorandum of non-OEDB processed contracts.

Problems Related to Employment

Before going into a discussion of the problems relating to actual employment, the peculiar features of the employer-employee relationship obtaining in overseas employment is in order. As indicated in the foregoing discussion regarding pre-employment a distinction should be made between those workers hired through the OEDB and other private entities on the one hand and those hired by Filipino contractors on the other hand. As regards the former an employer-employee relationship exists between the foreign employer and the Filipino worker; as regards the other, an employer-

¹⁸ Please see Exhibit II.

employee relationship exists between the Filipino contractor and the Filipino worker. As between the Filipino contractor and the foreign partner no employer-employee relationship obtains and therefore there is neither employer-employee relationship between the Filipino worker and said foreign partner.

The principal consideration in determining whether a workman is an employee or an independent contractor is the right to control the manner of doing the work.¹⁹

The employer-employee relationship exists where the person for whom the services are performed reserves the right to control not only the end to be achieved but also the means to be used in reaching such end.²⁰

Based on this principle there exists an employer-employee relationship between the Filipino worker and the foreign employer, notwithstanding the fact that hiring was effected through a placement agency. "Workers whose services are provided to a company through the intervention of an agency or labor organization with which the company has a recruitment contract are employees of the company inasmuch as the agencies involved therein merely performed the role of a representative or agent of the employer in the recruitment of men needed for the operation of the latter's business."²¹ The import of the fact that one of the recruitment agencies involved in overseas employment is a government agency shall be spelled out later.

On the other hand, an independent contractor is one who, in rendering services, exercises an independent occupation and represents the will of his employer only as to the results of his work and not as to the means whereby it is accomplished. This is the case of the Filipino contractor in relation to his foreign partner either in a subcontract, service contract, prime contract or joint venture arrangement. As explicitly defined in Policy Instructions No. 4 otherwise known as "Omnibus Instructions Governing the Deployment of Construction Workers Overseas", a "service contract (also known as labor subcontract) shall mean the provision by a construction contractor of manpower and supervision to service the projects overseas of its accredited foreign partners. *In providing such manpower and supervision the contractor shall be deemed an independent employer-principal and not just an agent of the foreign principal.*" A "sub-contract" (also known as project sub-contract) shall mean the "undertaking by a construction contractor of a certain portion of an awarded overseas construction project as if it were the main contractor for that portion." A "prime contract" simply means the "undertaking of a complete construction work from planning, building,

¹⁹ *Amalgamated Roofing Co. v. Traveller's Insurance Co.*, 133 N.E. 259, 261 (1921), as cited in *Feati University v. Bautista*, G.R. No. L-212278, December 27, 1966, 18 SCRA 1191, 1217 (1966).

²⁰ *Alabama Highway Express, Inc. v. Local 612*, 108 S. 2d. 350 (1959), as cited in *LVN Pictures, Inc. v. Philippine Musicians Guild*, G.R. No. L-12582, January 28, 1961, 1 SCRA 132 (1961).

²¹ *Visayan Stevedore Trans. Co. v. CIR*, G.R. No. L-21696, February 25, 1967, 10 SCRA 426, 429 (1961).

supervision and control of the project to the end by a construction contractor, within the prescribed period in an efficient and economical manner." And finally, a "joint venture" means the "undertaking of a construction work overseas jointly by a registered construction contractor and an accredited foreign partner through equity sharing in a new corporation which will bid on and do the work or through sharing of full responsibility in the undertaking of construction work on a project to project basis." In all these three other arrangements, i.e., sub-contract, prime contract, and joint venture, the Filipino contractor is likewise deemed an independent employer-principal and not mere agent of the foreign principal. In the case of joint venture arrangement, the above definition seems to restrict the meaning of joint venture into a case where a new corporation is formed by two entities, in which case it is submitted that the Filipino workers hired by the Filipino partner becomes employees of the new corporation thus formed.

SPECIFIC PROBLEMS/ISSUES

The particular problems/issues affecting overseas employment are:

1. Standardization of employment terms of the OEDB and the Bureau of Employment Services (BES). This problem area includes the matter of discrimination against Filipino expatriate worker and the incidence of one-sided contracts.
2. Breach of employment contract, i.e., substituted contracts, cancellation of contracts, illegal termination, unpaid wages, non-payment of overtime pay.

Standardization of Employment Terms

Under the existing rules an overseas employment contract is passed upon either by the OEDB or the BES. The former approves contracts entered into by the foreign employer/government and the workers hired through the OEDB; the latter approves projector service contracts entered into by private entities such as the Filipino contractors with the foreign contractor or partner.²²

In order to protect the interests of Filipino overseas workers the Labor Code provides for mandatory requirements for every employment contracts. Under Section 17 of Rule VI implementing the Labor Code, "No overseas employment contract shall be approved by the BES which shall provide for terms of employment below the basic requirements of the Philippine labor and social legislation or practices." These mandatory requirements are:

²² Section 6 of Policy Instructions No. 34, March 31, 1978.

1. Free passage to the site of employment and return to the point of hire including expenses for passport and other travel documents;
2. Guaranteed wage at the site prevailing at the site of employment; for the same type of work, or rates prevailing in the Philippines, whichever is higher;
3. Overtime pay for services performed in excess of the regular working hours at the prevailing rate at the site of employment or those prevailing in the Philippines, whichever is higher;
4. Free emergency medical and dental treatment and facilities;
5. Just causes for the termination of the contract or of the services of the workers;
6. Workmen's compensation benefits and war hazards protection whenever applicable;
7. Transportation of the workers' remains and properties in case of death to the point of hire at the expense of the employer; or, if not possible under the circumstances, proper disposition thereof, upon previous arrangement with the workers' kin; and
8. Remittance of not less than 30% of workers' salaries to dependents in the Philippines through the PNB or any private bank authorized by the Central Bank.²³

As it happened there were disparities noted between the terms of employment contract prescribed by the OEDB and the BES specifically on the wage rates and other benefits. BES wage scales were reported to be lower by as much as 20%. In response to this a Memorandum of Agreement was signed by Mr. Salvador Bigay, Executive Director of the OEDB and Mr. Jonathan de la Cruz, Director of the Bureau of Employment Services in the early part of 1978. The agreement specified that the OEDB and the BES shall uniformly establish and implement wage standards and employment conditions for Filipino land-based workers for overseas employment and shall form an inter-agency committee to monitor and establish standard on wages and employment terms to promote the best interest of Filipino workers being hired or processed through these agencies.²⁴

At this point it can be noted that the Filipino contractors are not in a position to grant the same high wages which the foreign employer can give. However, it must be remembered that the Filipino contractor enters into a package deal contract with the foreign counterpart and hence there is no reason why the former could not give their Filipino workers their due share in the price of the contract. Moreover, the "corporate export strategy" is adopted presumably to prevent the exploitation of "cheap" Filipino labor by foreign contractors. Certainly the same policy applies as against the Filipino contractor.

An initial inventory made by Ms. Pinky Apolinario, wage analyst of the OEDB shows that OEDB contracted foreign employer generally grants

²³ Please see Exhibit III for a Model Contract.

²⁴ The inter-agency committee is headed by Mr. Manuel Impson, head of the Employment Development Division of the OEDB. According to him, the Committee expects to finish the study by February, 1979.

more benefits over and above the minimum requirements under the Labor Code and the possibility therefore of increasing the minimum requirements should be considered.

Discrimination Against Filipino Workers

Not only are there reported disparity between employment terms of Filipino contract workers processed through the OEDB and those processed through the BES but there are reported cases of discrimination against Filipino overseas workers vis-a-vis other foreign workers abroad. In 1976 there were such reports regarding workers in Papua New Guinea, Bahrain and Nauru. In the PNG the Filipinos were reported to be the lowest paid workers in relation to other workers from Australia, United Kingdom, and New Zealand. In cases like these, OEDB suspends recruitment pending negotiation with concerned governments/employers. In all the reported cases the IEDB sent missions abroad to investigate alleged discrimination and successful renegotiation of wage rates were effected.²⁵

In view of these problems the Ministry of Labor commissioned the same inter-agency committee mentioned above to study existing wage rates in labor-importing countries with the end in view of upgrading wage rates granted to Filipino workers.

One-sided Contracts

Despite the mandatory requirements in employment contract prescribed by the Labor Code there are cases of one-sided contracts which apparently bore stamps of the BES. A free-lance Filipino journalist who visited the Middle East countries in early 1978, reported the case of an international construction firm which sent Filipino workers to Saudi Arabia but laid them off in April for "lack of work" after staying for two months. He reported that the contracts signed were one-sided in while they stipulated effectivity date they did not show an expectation date. Instead they provided that "termination of employment upon thirty-day prior notice or in lieu thereof a 30-day pay."

This particular problem requires closer scrutiny by the Bureau of Employment Services which approves the contracts.

Substituted Contracts

A fact-finding mission headed by the BES Chief Mr. Jonathan de la Cruz who went to the Middle East in May 1977 reported cases of contract substitution involving Filipino workers. Substituted contracts gave Filipino workers lower salaries than agreed, withdraw the free travel provision for workers' dependents and or provide inadequate accommodation; overtime

²⁵ OEDB News and Features, July, 1978, p. 1.

pay is either short or delayed; some are made to pay for work permits not provided for in the contracts and unnecessary fees are levied such as tax or housing allowance.

Efficacy of Present Monitoring and Adjudicatory Mechanism

The monitoring of actual conditions in the worksite is at once the most important and most difficult task according to OEDB Executive Director Salvador Bigay. It is most important since only by actually making on-the-spot investigation of the conditions in the worksite can the government check whether the terms of the contract it approved are actually implemented.

That the Government should actively monitor the working conditions is made imperative by the fact that the Filipino worker may not voluntarily report any violation for fear of reprisal from his foreign employer.

This task of monitoring falls on the Philippine foreign service personnel assigned abroad as well as the Labor attache's and the OEDB overseas officers. Under Article 21 of the New Labor Code, these officials "shall, even without prior consultation or advice from the home office, exercise the power and duty:

- (a) To provide to all Filipino workers within their jurisdiction assistance in all matters arising out of employment;
- (b) To insure that Filipino workers are not exploited or discriminated against;
- (c) To verify and to certify as requisite to authentication that the terms and conditions of employment in contracts involving Filipino workers are in accordance with the Labor Code and rules and regulations of the OEDB and National Seamen Board;
- (d) To make continuing studies or researches and recommendations on the various aspects of the employment market within their jurisdiction;
- (e) To gather and analyze information on the employment situation and its probable trends, and to make such information available; and
- (f) To perform such other duties as may be required of them from time to time.

To date, we have only twelve (12) Labor Attachés and three (3) OEDB Overseas Development Officers although we are now exporting labor to almost a hundred countries. The three OEDB officers are fielded in Jeddah, Saudi Arabia, Teheran, Iran and New York, U.S.A. for embassies or consultants where there are no labor attaches, the Minister of Labor through the Ministry of Foreign Affairs shall designate Labor Reporting Officers. In addition to this corp of officers, the OEDB deploy marketing missions and legal labor missions invariably to survey existing conditions in the worksite and/or check in the complaints lodged by Filipino workers against their employer.

The importance of a vigilant and efficient "watchdogs" in the work-sites cannot be overemphasized. In view of the essentially weak position of the Filipino worker being an expatriate, the Government through its agents needs to take the cudgels for him in negotiating with the foreign employer.

In case of actual problems Article 15 of the New Labor Code as amended by Presidential Decree No. 1412 provides that the Bureau of Employment Service (BES) shall have —

* * * the original and exclusive jurisdiction over all matters or cases involving employer-employee relations including many claims arising out of or by virtue of any law or contracts involving Filipino workers for overseas employment, except seamen. The decisions of the Bureau shall be final and executory subject to the appeal to the Ministry of Labor whose decisions shall be final and inappealable.

This provision only applies to the fullest extent to Filipino workers and Filipino contractors with overseas projects. Judgments against the Filipino contractor can always be satisfied by his assets and the bond he puts up with the BES.

The same is not so in the case of a foreign employer. Any claim allowed by local courts can be satisfied only if the foreign employer voluntarily pays. As indicated earlier, foreign employers are not required to have local agents who can be sued before Philippine courts. They are not even required to post bonds. Without a local representative or property in the Philippines no judgment can be enforced here against such foreign employer.

But with efficient mediation and arbitration either the BES or the OEDB Legal Department, the foreign employer and local contractors alike are made to sit on the conference table to settle complaints raised by the Filipino expatriate worker. What happens in actuality is that most complaints are filed with the OEDB Legal Department. The latter processes these complaints and then take appropriate action therein either by prosecuting the cases at OEDB or by inducing them to proper agencies. In 1978, OEDB endorsed 61 complaints to the BES, 12 to the Ministry of Foreign Affairs, 13 to the Labor Attaches, 8 to the Philippine Embassies and 118 to respondent companies. Most of OEDB processed complaints are settled amicably either with or without consideration.²⁶

Filing suit against the foreign employer in the courts of the country where Filipino worker works is certainly an alternative course of action but it undoubtedly is a very cumbersome procedure for the Filipino worker considering the expenses, time and effort it entails.

²⁶ Please see Exhibit II-b.

It is clear therefore that the Filipino expatriate worker just like his domestic worker if not more than the latter extremely needs the constitutionally guaranteed protection by the government. It appears that at present the diplomatic channels are the most useful media to extend such protection to Filipino overseas workers. In this regard the possibility of entering into bilateral treaties with governments concerned regarding protection of Filipino migrant workers might prove to be very effective.

The Overseas Workers Welfare Fund (May 1, 1977)

To afford greater protection to the welfare of all Filipino expatriate workers, an Overseas Workers Welfare Fund was established under LOI No. 537 dated May 1, 1977. The Fund shall be constituted out of contributions to be made by all employers according to the following rates:

Foreign employees	\$ 50 per worker
Foreign employees hiring Filipino seamen, domestics and entertainers	25 per worker
Filipino employers	100 per worker
Workers hired for employment in the U.S. and United Kingdom	25 per worker
Foreign governments hiring for the public service	25 per worker
Members of the diplomatic corps, the UN, and its instrumentalities and other internationally accredited civic and religious organizations	25 per worker

In addition, an initial endowment of P1 million from the general appropriation budget was estimated to organize and maintain the fund.

The Fund is supposed to support the following objectives:

1. To facilitate the implementation of the Labor Code provisions concerning the government's responsibility to promote the welfare of Filipino workers abroad;
2. To provide social and welfare services for Filipino workers abroad and their replacements to insure adequate manpower supply for domestic employment as well as to export; and
3. To finance studies and researches.

The Fund will be administered by a board composed of the Ministry of Labor and the Deputy Minister, director of the BES, OEDB, and the NSB and the NMYC. The BES, OEDB and NESB were each directed to establish a welfare services unit to monitor the living conditions of the workers at their worksites and recommend services needed from the Fund.

In 1977, the OEDB created its Welfare Services Unit covering overseas workers' problem concerning death, sickness and hospitalization. In addition it offers assistance in the form of free insurance coverage of P5000

for one year underwritten by the Cooperative Insurance System of the Philippines free tickets back and forth to the families of disabled workers and facilitation of delayed remittances. As of 1977 the OEDB has negotiated 5 death benefit claim worker P178,680 and compensation for work-connected injuries totalling P14,512 and back wages of \$4,745.

Concluding Remarks

The object of this paper is to discuss the efficacy of protection scheme afforded to Filipino overseas workers during all stages of the employment process from pre-employment, employment and post-employment. We have noted that the most significant step in this direction is the creation of the OEDB as the sole government placement agency. While some of the problems relating to overseas employment specifically illegal recruitment remain unabated during the years of existence of the OEDB, it is obvious that it has extended greater protection to Filipino overseas workers. With the projected phase-out of its recruitment function, a great portion of OEDB's protective umbrella shall be cut off. Our policy makers then will have to have an alternative scheme to fill the gap. The burden falls on the Bureau of Employment Services which under Presidential Decree No. 1412 is charged with the duty of "regulating and supervising private sector participation in the recruitment and placement of workers." We have noted the rather weak "stick" being wielded by this agency under its present powers and we have noted the current efforts of the authorities concerned to give it more teeth.

ANNEX "A"

**LABOR POLICIES RE: RECRUITMENT AND PLACEMENT OF
FILIPINO EXPATRIATE WORKERS**

1. DOL/National Seamen Board Issuance
Rules and Regulations on Recruitment of Filipino Seamen. (November 1, 1974).
2. Letter of Instruction No. 322, S. 1975
Relative to the recruitment of Filipino Workers Abroad (October 6, 1975).
3. Letter of Instruction No. 324
Directing the Secretaries of Labor, Justice, National Defense, Foreign Affairs, Public Information and Tourism to launch a massive and coordinated effort to eradicate illegal recruiters and for other purposes.
4. Memorandum Order No. 1
Concerning direct hire provisions of the Labor Code. (January 6, 1976).
5. Rules and Regulations Implementing Article 18 of the Labor Code as amended, or direct hire ban by the Overseas Employment Board (January 30, 1976).
6. Letter of Instruction No. 537 (May 1, 1967)
Creating the Overseas Workers Welfare Fund
7. Policy Instruction No. 22.
8. Policy Instruction No. 34.
9. Presidential Decree No. 1412
Amending Sections 12(f), 13, 14, 15, 16, 17, 28, 19(a), 23, 25, 27, 28, 30, 31, 32 and 38 of Book 1 of the Labor Code.

EXHIBIT "T"

LIST OF LICENSED AGENCIES

1. ELIGARDI ENTERPRISES
976 Pres. Quirino Avenue
cor. Modesto Street
Malate, Metro Manila
2. FOREIGN MANPOWER SERVICE
1240 A. Maceda Street
Sampaloc, Manila
and
1769 Dapitan Street
Sampaloc, Manila
3. FINDSTAFF PLACEMENT
SERVICES
432 United Nations Avenue
Ermita, Metro Manila
4. ORIENT EXPRESS PLACEMENT
PHILIPPINES, INC.
Rm. 306 VIP Bldg.,
Roxas Blvd. corner Plaza Ferguson
Ermita, Manila
5. ORIENTAL PLACEMENT
CENTER
848-858 Banawe Street
Quezon City
6. ANGLO-EUROPEAN SERVICES
4716 Solchuaga Street
Pasong Tamo, Makati
Metro-Manila
7. PAYUMO'S OVERSEAS
RECRUITING SERVICES, INC.
1129 M. H. del Pilar St.
Ermita, Metro Manila
and
RSA Building
1490 Metropolitan Street
Metro Manila
8. PAN PACIFIC OVERSEAS
RECRUITING SERVICES
Bayanihan Paseo Shopping Arcade
PWU Quadrangle, Taft Avenue
Manila
9. NORTHWEST PLACEMENT, INC.
429 Plaza Ferguson
Ermita, Metro Manila
10. PRUDENTIAL EMPLOYMENT
AGENCY
8953 Aranza Street
San Antonio Village
Makati, Metro Manila
11. MANUELA S. CATAN
1774 M. Adriatico Street
Malate, Metro Manila
and
930 Nazareno Street
Angeles City
12. ARIES PROMOTIONS &
ENTERTAINMENT AGENCY
593 San Andres, Malate, aMnila
13. SANGLE BERNABE
ENTERTAINMENT
1149 Anacleto Street
Sta. Cruz, Manila
14. SOUTHEAST ASIAN PLACEMENT
CENTER, INC.
1623 Jorge Bocobo Street
Ermita, Metro Manila
15. PHILIPPINE PLACEMENT
CENTER
1950 Ma. Orosa Street
Malate, Metro Manila
16. J. H. IMPERIAL PROPRIETY
1160 Alhambra Street
Malate, Metro Manila
17. T. J. ESMORES ENTERPRISES
Goiti Building
Plaza Goiti, Manila
18. MANILA EDUCATIONAL
EXCHANGE & PLACEMENT
SERVICES
37 Dr. Lozano Street
Quezon City
19. DAC GENERAL SERVICES
& SHIPPING AGENCY
8th Floor, Plywood Industries Bldg.
T. M. Kalaw & Mabini Sts.
Ermita, Metro Manila
20. ARJIE PLACEMENT SERVICES
563 Ayala Boulevard
Ermita, Metro Manila

LIST OF AUTHORITY HOLDERS ^a

1. VALGOSON, INC.
2151 Pasong Tamo
Makati, Metro Manila
2. PAGE COMMUNICATION
ENGINEERS, INC.
Rm. 503 L. & S Building
1414 Roxas Blvd., Metro Manila
3. GONZALO PUYAT & SONS, INC.
190 Rodriguez Arias Street
San Miguel, Manila
4. SHELL PHILIPPINES
1330 Roxas Boulevard
Manila
5. P. T. YAYANG INDONESIA
210 Fresno Road
Pasay City
6. ROYAL PROMOTIONS, LTD.
4th Floor Guillerma Building
1119-1121 A. Mabini Street
Ermita, Metro Manila
7. F. E. BLACK LTD.
69 Industria Street
Bagumbayan, Quezon City
8. WALLEN MARITIME SERVICES,
INC.
1668-B. Pasong Tamo
Makati, Metro Manila
9. KAYAN RIVER TIMBER
PRODUCTS P. T.
8th Floor A. Soriano Bldg.
Ayala Avenue, Makati, Metro Manila
10. LIANGA BAY LOGGING
8th Floor
Filipinas Life Building
Ayala Avenue, Makati, Metro Manila
11. TOMMY PROMOTIONS
Suite 314 L & S Building
1414 Roxas Boulevard, Metro Manila
12. FAR EAST MANAGERS
INVESTORS, INC.
FEMII Bldg., Aduana Street
Intramuros, Metro Manila
13. RJG DEVELOPMENT
CORPORATION
Rm. 402, Plywood Industries Bldg.
T. M. Kalaw Street
Ermita, Metro Manila
14. PHIL. HOSPITALS & HEALTH
SERVICES INC.
2nd Floor Zaragoza Building
Gambao Street, Legaspi Village
Makati, Metro Manila
15. CONDEX REALTY DEVELOP-
MENT & MARKETING
CORPORATION
8th Floor China Bank Building
Paseo de Roxas, Makati,
Metro Manila

^aBy December 1978, thirty-four (34) construction companies have been issued authority by the MOC.

CONSTRUCTION COMPANIES REGISTERED UNDER P.I. 22
(THESE CONTRACTORS ARE ALLOWED TO RECRUIT CONSTRUCTION
WORKERS FOR THEIR OVERSEAS PROJECTS)

1. **CONST. DEV'T. CORP. OF THE PHIL.**
 Rodolfo Cuenca—President
 355 Buendia Avenue Extension
 Makati, Metro Manila
 Tel. No. 87-60-61
2. **ATLANTIC, GULF & PACIFIC CO.**
 Atty. Ismael G. Khan—President
 131-133 Oledan Building
 Ayala Avenue, Makati, Metro Mla.
 Tel. No. 98-10-61
3. **ENGINEERING EQUIPMENT INC.**
 Ven Ducut—President
 391 J. Rial, Namayan
 Mandaluyong, Metro Manila
 Tel. 72-26-51/78-80-11
4. **ENGINEERING & CONST. CORP OF ASIA (ECCO-ASIA)**
 Atty. Cherry-Lynn Ricafrente—
 Exec. Vice-Pres. for Adm.
 Mandaluyong, Metro Manila
 Tel. 77-19-27
5. **P.O. VALDEZ INC.**
 Pedro O. Valdez—President
 Suite 204-205 Cattleya Condominium
 Bldg., Legaspi Village
 Makati, Manila
 Tel. 88-63-81/86-85-83
6. **ALLTECH CONTRACTORS**
 Severino Abala—President
 59 D. Tuazon Street
 Quezon City
 Tel. 60-18-34/50-23-59
7. **D. P. FLORES CONSTRUCTION**
 Dimasalang P. Flores—President
 62 Tangali Street, San Jose
 Quezon City Tel. 34-40-86/
 36-68-29/35-68-70
8. **CONST. RESOURCES OF ASIA INC.**
 Manfred Jose—President
 Demol Building, 192 V. G. Cruz St.
 Sampaloc, Manila
9. **PHIL. SINGAPORE PORTS (PHILSINPORTS)**
 Jose de Venecia—President
 2nd Flr. Zaragoza Bldg., Gamboa
 St., Makati, Metro Manila
 Tel. 8955-51 to 55
10. **ERECISA INC.**
 Col. Juanito Ferrer—resident
 7th DAO Bldg., Salcedo St.
 Legaspi Village, Makati
 Metro Manila
 Tel.: 89-44-11 to 19
11. **ERECTORS, INC.**
 Leocadio Dominguez—President
 2nd Flr. Mantrade Bldg.
 Makati, Metro Manila
 Tel.: 892766/887060 loc. 8 & 16
12. **EASTERN CONST. CO. INC.**
 Magin F. San Juan—Exec. Vice-
 Pres. & Gen. Mgr.
 Crrregidor Life Bldg.
 352 Quezon Boulevard
 Quezon City
 Tel.: 61-15-34
13. **PHIL INFRASTRUCTURES, INC.**
 Tomas Aguirre—President
 Marcos Alvarez Avenue
 Bo. Talon, Las Piñas
 Metro Manila
 Tel.: 83-75-31 to 35
14. **OTIS ELEVATOR CO.**
 Clodoveo Ofrecio, Jr.—
 General Manager
 808 Romualdez St.
 Ermita, Metro Manila
 Tel.: 48-16-86 to 89
15. **FILIPINO CONTRACTORS INT'L. CORP (FCIC)**
 Col. Gregorio Vigilar—
 Exec. Vice-President
 Yupangco Bldg.
 339 Buendia Ave. Ext.
 Makati, Metro Manila
 Tel.: 88-53-36

16. LYV CONST. CORP.
William R. Cu Unjieng—President
W & W Building, Aguirre
Legaspi Village, Makati
Metro Manila
Tel.: 87-32-91/87-36-53
17. FIL-EAST CONSTRUCTION
Atty. Ernesto Delfin—President
2044 Pres. Quirino Ave.
Pandacan, Metro Manila
Tel.: 57-25-87/50-05-40
18. INDUSTRIAL TECHNOLOGISTS
INC.
Teodoro A. Labrador—President
Rm. 617 Rufino Bldg.
Ayala Avenue, Makati
Metro Manila
Tel.: 89-81-47/87-22-50
19. UNITED PRIMOVER
ENTERPRISES
Federico Mendoza—President
176 Salcedo Street
Legaspi Village, Makati, MM
Tel.: 89-81-47/88-22-50
20. BETTER BUILDERS INC.
Rolando Bayot—Exec. Vice-Pres.
104 Scout Ramirez Street
Quezon City
Tel.: 60-19-26/57-25-87
21. MASTER BUILDERS INC.
Icasiano Tan—General Manager
4645 Valenzuela Street
Sta. Mesa, Metro Manila
Tel.: 61-27-16
22. ROBLETT INDUSTRIAL CONST.
CORP.
Antonio Tolod, Sr.—Vice-Pres.
& General Manager
5th Flr. San Martin Building
1564-A Mabini St., Ermita
Metro Manila
Tel.: 58-24-60/58-94-40/
58-01-08
23. RADIUM CONSTRUCTION
Octavio Manlegro—President
52 Sikap Street
Mandaluyong, Metro Manila
Tel.: 79-53-37
24. CUENCA CONST. CORPORATION
Rodolfo Cuenca, Jr.—President
1244 Estrada Street
Singalong, Manila
Tel.: 59-36-73/58-72-12
25. HYDRO RESOURCES CONTRAC-
TORS CORPORATION
Enrique Inciong—Vice-Pres.
for Operations
100 E. Rodriguez Jr. Ave.
Ugong Norte, Quezon City
Tel.: 70-06-61 to 64
26. ASIAN DESIGN CONST. CORP.
Atty. Arnaldo Dizon—President
11 Fulgencio Street
San Francisco del Monte
Quezon City
Tel.: 97-39-96
27. PROGRESSIVE CONST. INC.
Jacinto R. Ignacio—President
& General Manager
295 E. Rodriguez Sr. Ave.
Quezon City, Metro Manila
Tel.: 61-35-21/82-34-31
28. PHIL. CONST. & TRADING CO.,
INC.
Francisco del Rosario—President
Ground Floor, CMT Building
6799 Ayala Avenue, Makati
Metro Manila
Tel.: 89-79-20/85-12-70/86-11-31

WITH PROVISIONAL AUTHORITY

1. ASIA INTERNATIONAL BUILDERS CORPORATION
2. A. CONSTEEL CONST. CO., INC.
3. SYQ ENTERPRISES
4. CC CASTRO CONST. CO.
5. SEACON INCORPORATED
6. GUIMBA INTERNATIONAL CONSTRUCTION
7. PILAR DEVELOPMENT CORPORATION
8. FEAGLE CONSTRUCTION
9. INTERNATIONAL REPRESENTATIVES CORP.
10. NAOKIYA PHILIPPINES CORPORATION
11. J.M. JAVIER CONSTRUCTION
12. SYSTEMS & STRUCTURES, INC.
13. ARFLO CONSTRUCTION
14. MANILA INTERNATIONAL CONSTRUCTION COMPANY

LIST OF PRE-QUALIFIED CONTRACTORS

(AUTHORIZED TO NEGOTIATE AND FINALIZE OVERSEAS
CONTRACTS)

1. PHILROCK PRODUCTS INC.
2. H.R. LOPEZ CO., INC.
3. V. ESGUERRA CONSTRUCTION COMPANY
4. D.M. CONSUNJI CONST.
5. FRANCISCO CACHO & CO., INC.
6. PACIFIC EQUIPMENT CORPORATION
7. SUMMA KUMAGAI INC.
8. FF CRUZ & COMPANY
9. J.C. DE ASIS CONSTRUCTION CO., INC.
10. PHILECTROMECH ENGINEERING INC.
11. ACK CONSTRUCTION COMPANY
12. FAR EAST (INT'L) BUILDERS CORP.
13. PI CONSTRUCTION
14. ADBEN CONSTRUCTION
15. C. B. LOTILLA ENGINEERING
16. ARMCO STRUCTURES
17. PHIL. IRON CONST. & MARINE WORKS INC.
18. REMIGIO R. RIGOR CONSTRUCTION INC.
19. LAND HOUSING & DEVELOPMENT CORP.
20. MAKATI DEVELOPMENT CORPORATION
21. L.M. CAMUS CONSTRUCTION
22. V.P. EUSEBIO CONSTRUCTION CORP.
23. T.S. PIZARRO CONSTRUCTION
24. TRANS-ORIENT
25. DAWESONS CONST.
26. H.L. CARLOS CONSTRUCTION
27. D.P. MALLARI CONST.
28. FISCHER ENGINEERING & MAINTENANCE CORP.
29. MOHAWK CONSTRUCTION
30. C.M. SALAZAR CONSTRUCTION

EXHIBIT "II"

**LEGAL DEPARTMENT
VERIFICATION & INVESTIGATION UNIT
ANNUAL REPORT FOR 1978**

<i>Cases Settled Amicably for a Consideration</i>	<i>Number of Employees</i>	<i>Amount Paid</i>
1. Moran/Brown-Olds, Ltd.		
a. Alejandro Alitin, et al. (Cancellation of Contracts)	27	P 71,981.92
b. Pablo Raciles (Medical Termination)	1	7,045.83
2. J. A. Jones		
a. Victoriano Columa, et al.	3	9,709.00
b. Francisco Rodriguez (Claim for Unpaid Wages)	1	3,892.25
3. IPCO		
a. Eliseo Soley, et al. (Stand-by Pay)	20	77,185.55
4. Saudi Catering & Contracting Company		
a. Arturo Novilunio, et al. (Stand-bye Pay)	33	20,742.20
b. Marcelino Lobrio (Medical Termination)	1	2,500.00
5. Tradco-Vulcan, Ltd.		
a. Arturo Lozano, et al. (Cancellation of Contracts)	11	26,132.00
b. Ismael Gulane, et al. (Cancellation of Contracts)	20	65,305.80
c. Gregorio Roque & Ernesto Ramirez (Cancellation of Contracts)	2	14,885.50
d. Isagani Alba, et al. (Surplus Employees)	49	126,910.00
6. LYON Associates		
a. Emilio Batol (Cancellation of Employment Contract)	1	3,848.00
b. Bienvenido Mejia, et al. (Cancellation of Employment Contract)	3	17,772.95
<i>Cases Settled Amicably for a Consideration</i>	<i>Number of Employees</i>	<i>Amount Paid</i>
7. Monteney Gulf Company		
a. Rodolfo Gonzales, et al. (Termination of Contract)	8	12,819.00
8. Fluor Continental. Ltd.		
a. Raul Rapada (Termination of Employment)	1	4,600.00
b. Camilo F. de Guzman (Termination of Employment)	1	6,988.78

9.	Saudi General Transport		
	a. Luciano Diaz, et al.	29	55,000.00
	(Stand-by Pay)		
10.	Fortress-Icas		
	a. Lirio Gonzales, et al.	13	81,214.02
	(Cancellation of Memo of Agreements)		
11.	Global Associates		
	a. Marina Nebreja	1	40,000.00
	(Death Claim)		
12.	Al-mojil Establishment		
	a. Julio Marcelo	1	7,117.00
	(Medical Termination)		
13.	Hornibrook Construction		
	a. Luis Maturán	1	4,956.22
	(Medical Termination)		
	TOTAL	227	P660,606.02

Cases Settled Amicably Without Consideration

Number of Employees

1.	Moran/Brown-Olds, Ltd.	
a.	Antonio Radam (Illegal Termination)	1
b.	Antonio Suelo, et al. (Cancellation of Contracts)	94
2.	Saudi Catering & Contracting Company	
a.	Francisco Masunsong & Jose Basa (Stand-by Pay)	2
3.	Malayan Towage & Salvage Corporation	
a.	31 Filipino Workers (settled amicably when employer hired them to work abroad)	31
	TOTAL	128

Remittance Problems Amicably Settled Between Beneficiary's Affidavit of Undertaking and Legal Beneficiary

Amount Paid

1. Candida Ranoa vs. Juanito P. Villarino	P 3,600.00
2. Epifania Gallicia vs. Engracio Gallicia	15,978.56
3. Magdalena Sarmiento vs. Modesto Joaquin	4,440.00
4. Vivian Jickain vs. Nelson Dagdag	4,000.00
5. Valentina San Miguel vs. Leonardo Cortez	6,000.00
6. Remedios Cruz vs. Virgilio Cruz	4,800.00
TOTAL	P38,818.00

Total Number of Employees with Cases Amicably Settled for a Consideration	227
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Total Number of Employees with Cases

Amicably Settled without Consideration	128	
Total Number of Persons Benefitted Re: Claim for Support/Remittance	6	
GRAND TOTAL	361	
<hr/>		
Total Amount Awarder for Cases Settled Amicably		P660,606.02
Total Amount Awarded for Cases of Support/Remittance		38,818.56
GRAND TOTAL		P699,424.58

PREPARED BY:
(Sgd.) E. M. MAGAT R. BELUAN

NOTED BY:
(Sgd.) ATTY. VICENTE L. JARIOL
OIC, Legal Department

EXHIBIT "II-a"

14 December 1978

**VERIFICATION & INVESTIGATION UNIT
ACCOMPLISHMENT REPORT FOR THE MONTH
OF NOVEMBER, 1978**

*CASES**ACTION TAKEN**A. Termination of Employment/Contracts*

1. Victoriano Columna, et al.
(3 persons) versus J. A. Jones
2. Camilo de Guzman versus
Fluor Arabia, Ltd.
3. Farida Pacheco, et al.
(3 persons) versus
King Faisal Hospital
4. Renato Casupang versus
Kirby Bldg. System Co.

Series of conferences were held and complainants were paid the amount due them, total of which is P9,709.00.

Series of conferences were held and complainant was paid the amount of P6,988.78.

Letter sent to Labatt Sakkam together with letter-complaint for reply and/or immediate action.

Follow-up letter sent to Labatt Sakkam for immediate reply as to development of the case.

B. Medical Termination

1. Marcelino Lobrio versus
Saudi Catering & Contracting
Company

Series of conferences were held and Mr. Lobrio was paid the amount of P2,500.00.

C. Breach of Contract/Underpay, etc.

1. Ricardo Miguel versus
Saudi Catering & Contracting
Company
2. Cable of Labatt Sakkam
Re: Filipino Workers versus
Hawa Trading Establishment
3. Filipino Workers (3 persons)
versus Arabian Elders, Ltd.
4. Carlito Colinayo, et al. (3 persons)
versus Al-Shaab Office for
General Services
5. Arnulfo S. Sison versus
Aluminum Bahrain
6. 51 Filipino Workers versus
N'zarco Garage

Letter sent to Labatt Sakkam furnishing him with letter-complaint for appropriate action.

Endorsed to Bureau of Employment Services.

OEDB Memo to defer recruitment of Arabian Elders, Ltd. until further orders.

— Letter sent to Labatt Sakkam for appropriate action.

— Letter sent to the President of respondent company for reply and/or immediate action.

Letter sent to Labatt Sakkam together with copy of letter-complaint.

Letter sent to Labatt Sakkam with copy of letter-complaints for immediate action.

D. Claim for Support

1. Magdalena Sarmiento versus Modesto Joaquin
2. Vivian Jickain versus Nelson Dagdag
3. Rosa Linda Frañada versus Jesus Dosdos
4. Josefina Dulay versus Cesario Dulay
5. Lourdes Soriano versus Leopoldo Ariaga

Conferences were held and beneficiary will receive P4,440.00 annually.

Conferences were held and complainant was paid the amount of P4,000.00.

Letter sent to Atty. Regalado for reply and/or immediate action.

Letter sent to Labatt Sakkam with copy of letter-complaint for appropriate action.

Letter sent to Ms. Soriano informing her that request cannot be granted since she is not yet married to the respondent.

E. Claim for Insurance/Death Benefits, Etc.

1. Marina Nebreja versus Global Associates
2. Lito Reyes versus Iranian Port Authority
3. Jose Pelagio versus Nigerian Government

Series of conferences were held and beneficiaries were paid the amount of P40,000.00.

Letter sent to Atty. Nambi & Atty. Regalado with copy of letter-complaint for appropriate action.

Letter sent to the Honorable Ambassador to Nigeria with copy of letter-complaint for assistance and/or appropriate action.

F. Illegal Recruitment

2. Lt. Pascual Barasi versus Northern Cotabato Development Corporation

OEDB Memo to refer to the Legal Department any person/persons recruited under the name of Peace through International Services Corporation for clearance purposes.

Letter sent to Lt. Barasi advising him to go to proper MOL office to file his complaint against the illegal recruiter.

G. Legal Assistance

1. National Factory for Air-Conditioners versus Engr. Alberto Gasmen
2. Artemio Cordero versus Quirico Roquios
3. Narciso Macarandang versus Lante L. Lit
4. Crismel de Pedro versus Nelson Leyson
5. Atty. Teresito Rosales
Re: Whereabouts of Teresita Cosinas

OEDB Memo to refer to the Legal Department any employment papers of the person concerned for clearance purposes. OEDB Memo to hold in abeyance employment papers of person concerned until further notice.

—do—

—do—

Letter sent to Atty. Regalado soliciting his help to locate/trace whereabouts of Ms. Cosinas.

1978]	ASSESSMENT OF PROTECTION	467
Total Number of Cases Acted Upon		20
Total Number of Cases Decided/Settled		6
Pending Cases (for November)		17
TOTAL NO. OF CASES RECEIVED/HANDLED		<hr/> 43
(for November 1978)		<hr/>
Total Amount Awarded for November		<hr/> P67,637.78
Total Number of Workers Benefitted		<hr/> 8

PREPARED BY:

(Sgd.) ERLINDA M. MAGAT

NOTED BY:

(Sgd.) ATTY. VICENTE L. JARIOL
OIC, Legal Department

EXHIBIT "II-b"

**LEGAL DEPARTMENT
VERIFICATION & INVESTIGATION UNIT
TOTAL NO. OF CASES HANDLED FOR 1978***

Complaints indorsed to Bureau of Employment Services (BES)	61
Complaints indorsed to National Council on Illegal Recruitment (NCIR)	22
Complaints indorsed to Ministry of Foreign Affairs	12
Complaints sent to Labor Attaches	13
Complaints sent to Philippine Embassies	8
Memo in Abeyance	43
Complaints sent to respondent companies	118
Cases amicably settled for a consideration	258
Cases amicably settled without consideration	128
Cases for Support/Remittance which were settled amicably	6
TOTAL	669

* from January to November, 1978

PREPARED BY:

(Sgd.) ERLINDA M. MAGAT

NOTED BY:

ATTY. VICENTE L. JARIOL
OIC, Legal Department

EXHIBIT "III"

CONTRACT OF EMPLOYMENT

This Employment Contract executed and entered into by and between

with office address at
hereafter known as the Employer.
and

..... single/married, or legal age,
Filipino and resident of
Philippines hereinafter known as the Employee, provides for the following terms and
conditions of employment:

A. Basic Terms

- 1) Point of Origin :
- 2) Site of Employment :
- 3) Employee's Classification :
Position or Grade :
- 4) Basic Monthly Salary :

Salary shall be paid a month
and shall be automatically adjusted upon
contract renewal.

- 5) Regular working hours :
(Excluding lunch hour)

- 6) Overtime Pay
 - (a) For work over regular work hours :
 - (b) For work in Friday, or designated rest day, or official holiday :

- 7) Leave with full Pay
 - (a) Vacation leave :
 - (b) Sick leave :

Official holidays and the following Philippine holidays shall be granted with pay and shall not be included in the leave period.

June 12	— Independence Day
December 25	— Christmas Day
Holy Thursday	
Good Friday	

- 8) Duration of Contract : One year commencing from Employee's departure from point of origin to site of employment. Contract is renewable at the option of both the Employer and Employee.

- 9) Special Benefits :
.....
.....

B. The Employer shall provide the Employee:

- 1) Free return transportation to the site of employment, and, in the following cases, free return transportation to the point of origin:
 - a) Expiration of this contract;
 - b) Termination of the contract by the Employer without just cause;
 - c) If the employee is unable to continue work due to work-connected or work aggravated injury or illness; and
 - d) In such other cases when contract of employment is terminated through no fault of the employee.
- 2) Free food or compensatory allowance of US\$....., free and suitable housing, and free laundry service.
- 3) Free emergency medical and dental services and facilities including medicines.
- 4) Workmen's compensation benefits for service-connected illness, injuries, or death in accordance with social insurance law and other pertinent laws of and whenever applicable, war hazards protection.
- 5) Assistance in remitting monthly a portion of employee's monthly salary to his designated beneficiary in the Philippines through normal banking channels.
- 6) Company benefits provided to other workers in the same work.

C. In case of death of the Employee, the Employer shall bear the expenses for the repatriation of the remains of the Employee and his personal properties to his relatives in the Philippines, or, if repatriation of the remains is not possible under certain circumstances, the proper disposition thereof upon previous arrangement with the worker's next-of-kin, or in the absence of the latter, the nearest Philippine Labor Attache or Embassy/Consulate.

D. The Employee shall observe Employer's company rules, and abide by the pertinent laws of and respect its customs and traditions.

Neither party may unilaterally cancel the contract except for just cause. The Employment may be terminated by the Employer on grounds of misconduct, mental or bodily infirmity, disobedience, insubordination, drunkenness, engaging in seditious or subversive activity, rioting or inciting a riot, and violation of the laws of

E. Termination of Contract

Neither party may unilaterally cancel the contract except for just cause. The Employment may be terminated by the Employer on grounds of misconduct, mental or bodily infirmity, disobedience, insubordination, drunkenness, engaging in seditious or subversive activity, rioting or inciting a riot, and violation of the laws of

The Employer may terminate the contract on other grounds by giving prior thirty (30) written notice or in lieu thereof, termination pay equivalent to salary for 30 days for every year of service.

Should the contract of employment be terminated for causes not attributed to the Employee, the Employee shall be paid a separation pay equivalent to one (1) month basic pay for every year of services, a fraction of at least six (6) months being considered as one full year.

F. Settlements of Disputes

All disputes arising from this employment contract shall be settled amicably through negotiations with the participation of the OEDB representative, Philippine labor attache or any authorized representative of the Philippine Embassy/Consulate

nearest the site of employment. In case the amicable settlement fails, the matter shall be submitted to the competent or appropriate government body in

G. *Applicable Law*

Others terms and conditions of employment not covered herein shall be governed by the pertinent laws of

IN WITNESS WHEREOF, we hereby signed this contract thisth day of, 19....., at Manila, Philippines.

.....
Employer

.....
Employee