

Meeting Minutes

Stakeholder Engagement with SBF

Title	:	Engagement Session to Manage Regulatory Constraints for Recruitment of Foreign Workers in Sarawak.
Date	:	25 July 2023, Tuesday
Time	:	2:30 PM to 4:30 PM
Venue	:	Malaysia Productivity Corporation MPC, 894, Lorong Demak Laut 3a, Demak Laut Industrial Park, 93050 Kuching, Sarawak.
Attendance	:	Sarawak Business Federation- Anne Kung Soo Ching, MPC SKO: Dr Mazlina Binti Shaf'i'l, Liyana Othman, Hafiza Atha Ahmad, Nurfazila Zulaihi, Zuraini Subki, MPC Associate: Lawrence Kong.

1. Introduction

MPC has conducted an engagement session with the Sarawak Business Federation (SBF) to understand the regulatory constraints in the approval process of hiring foreign workers in Sarawak.

SBF acts as an umbrella body that represents key organizations and industries in Sarawak with the main objectives to promote business, to protect the interest of the business community in Sarawak and to speak with a united voice on all matters that affect the business community.

With private investment as the main engine of economic growth in the State, SBF champions the interests of the business community and serves to be an active link between the private and public sectors.

Madam Anne Kung, the Deputy Treasurer of Sarawak Business Federation is present at the engagement session to share with the MPC team the voices of the local industries.

2. Meeting Minutes

The current foreign workers hiring, and approval issue differ between the West Malaysia and Sarawak. Due to the specific requirements from the State, such as that imposed by the Jabatan Tenaga Kerja Sarawak (JTK) and Jabatan Imigresen Malaysia Sarawak (JIM), the challenges faced by the local employers in Sarawak are not identical to that faced in the West Malaysia. The typical waiting time of local employers in obtaining the Labour License and Visa with Reference (VDR) before any foreign worker can enter Sarawak is between six to nine months (based on engagement outcome with iMetal). The direction of one-month cycle time of obtaining the Letter of Approval in Principle (AP), as set by the Deputy Minister in the Premier's Department (Labour, Immigration and Project Monitoring), YB Datuk Gerawat Gala, is

still not realised. Several local industry representatives have already brought this issue to his attention. According to Madam Kung, the source of the issue “lies with the State, and not the Federal.” These challenges in foreign workers’ hiring faced by employers are common across sectors.

The locals do not want 3D jobs, the impact of long approval time for foreign worker’s labour license is severe to the local businesses. Because of the long waiting time to obtain Labour Licenses, businesses from various sectors have experienced losses. For example, in the Plantation sector, oil palm fruits have spoiled from not being harvested on time, due to lack of workers. Unfortunately, businesses still need to rely on foreign workers to do 3D jobs because the locals do not prefer to do them. The local people from ‘kampung’ also avoid such jobs. Given the choice, employers would hire local people. It is not a cost saving for employers to hire foreign workers, as other compensation for Plantation workers such as housing is needed. Other fees in levy, recruitment, agent, and runner are also required for the application of Labour License. Further, hiring of local workers would have lesser issues relating to local culture, language, or structural areas.

Technology cannot totally replace foreign workers yet. Madam Kung cited that even though technology can be introduced in certain sectors, such as harvesting methods and technologies have been used and developed in the Plantation sector to increase the harvesting productivity; and prefabricated concretes used in the Construction sector to reduce the construction time; technology cannot fully replace the need for foreign workers because of various factors. Employers will need to invest in expensive machinery and equipment in such technology adoption. The early cost of setting up is high. While it may be a challenge for the industry to adapt to new technology, Madam Kung cites that the long approval process from the government agencies in new technology introduction can be a hindrance. This is because currently multiple Agencies are still playing a role in the approval process, as each has a unique area of interest such as material, location, safety, to name a few.

Pushing the bugs symptom. Madam Kung informs that Datuk Gerawat had already called for meetings with all the relevant stakeholders responsible for the approval of foreign workers. The need for some of the existing processes such as mandatory advertisement at PERKESO/MyFutureJobs a month prior was questioned. Despite the need to put Sarawakians first, the locals do not venture into 3D jobs. It is said that Agencies ‘micromanage’ to also screen for requirements imposed by other Agency, resulting in repeated assessment of the same information submitted for more than one instance. Agencies also ‘depend’ on the approval of the other Agency before giving approval to the applications of employers.

No ILMIA equivalent in Sarawak. From the sharing session, it is known that Dayak Chamber of Commerce & Industry, Sarawak (DCCI). DCCI has claimed “a lot of their members do not have any job.” The President of SBF, Datuk Sri Abang Haji Abdul Karim bin Tun Datuk Abang Haji Openg already indicates the need for data to back up such claim. Madam Kung has contrasted that Sarawak at present does not have any institution such as the Institute of Labour Market Information and Analysis (ILMIA), Department of Statistics (DOSM) in the West Malaysia. Therefore, it is extremely

difficult to get access to data to understand the severity of such worker shortage or unemployment of locals. Agencies, such as the MINTRED, and EPU each has their own departments controlling the data but not making them available to the public. There is an immediate need to share such data with the private sector on an online portal. This information will be critical for decision-making for the potential investors.

Bureaucracy is a problem in government agencies. Madam Kung has highlighted that bureaucracy in the administrative, processing and approval processes within the government agencies still exists and poses serious challenges to the businesses. She has described through her own experience, difficulty in obtaining seemingly public information about free industrial zones in Sarawak without a good connection with the relevant ministry. Such issue is not unique in all public agencies. She further points out the need of such information for potential investors to consider Sarawak as a location, without which, Sarawak will fail to win in competition.

Sarawak needs to be hungrier for opportunity. Madam Kung contrasts several past inward investment anecdotes in Malaysia and those that happened in the neighbouring countries; because of the lack in diligence, earnest attitude in seizing potential investment opportunities, Sarawak had failed several times in securing investment opportunities and at the same time, prehension made by its competing neighbours. “In business sector, time is money,” means that government and business efficiency coupled with good welcoming for business attitude, attract investors. Madam Kung highlights that countries such as Vietnam and Thailand that were behind Malaysia in business efficiency competitiveness, have now overtaken Malaysia in many aspects, because of their display of correct attitude toward businesses. To make matter worse, the local’s attitude in continuously elevating skills is lacking. The mindset amongst the local still relies on financial aids from the government. She also points out that local programs, such as The Program Graduates Enhancement Training Sarawak (GETS) 4.0 program to help graduates looking for employment is good, but it does not provide skills enhancement.

3. Recommendations

SBF is agreeable to collaborate with MPC in tapping the voices of its members. The need for the voice of local employers is important in knowing the magnitude of the issue of foreign worker hiring in Sarawak. SBF agrees to collaborate with MPC should the need arise. There are currently 21 association members of SBF according to the website. SBF can facilitate a survey to all its association members to find out the baseline of foreign workers need data.

No need to reinvent the wheel. Madam Kung suggests to directly work with the Agencies in Labour, Immigration and Project Monitoring, to obtain data needed to state the baseline issue, such as the number of foreign worker request from local employers, and the approval rate. Agencies such as the JTK should have these data available. She also highlights that these Agencies already know the existing issue from various townhall sessions between the public and private sectors. Even though there was no Minister put in-charge of labour matters, Datuk Gerawat is now responsible of all labour matters.

Propose process improvement of foreign workers' hiring. Madam Kung suggests proposing the process improvement of foreign workers' hiring to Datuk Gerawat who is in the Deputy Premier's Department (Labour, Immigration and Project Monitoring), to improve the efficiency and productivity of the State. Currently, she informs that the approval of every foreign worker application comes from the State Secretary Office. If the process is not streamlined, the inefficiency not only will continue to prolong the waiting time causing losses to employers, but productivity losses to the State. To begin, the reform should at least reinstate the one-month commitment on the approval of the Letter of Approval in Principle (AP) as stated by Datuk Gerawat. This will ensure alignment of this proposal.

Consider a clear and transparent quota by sector to hire foreign workers. Madam Kung informs that the Sarawak Housing and Real Estate Developers' Association (SHEDA) has brought a solution to the JTK to obtain foreign workers based on a fixed quota (i.e., ratio of number of foreign workers based on either the value of projects, or the population of employed locals). Similar quota concept can be considered by various sectors making it clear and transparent so application and approval can be made automatic and timely.

Relax the fixing of country of origin after the Letter of Approval in Principle is given. Currently employers must strictly adhere to hiring foreign workers from country as stated in the application submission once the Letter of Approval in Principle (AP) is granted. Madam Kung emphasises that employers should be given the flexibility in sourcing for foreign workers from more than one country other than that stated in the application. Once the approval is given by the JTK, sourcing workers from elsewhere does not change the number of foreign workers required and already approved by the JTK. After all, with the long waiting time, by the time the AP is obtained, the foreign workers from the country of interest as stated in the application may not be available anymore.

Introduce a central portal to make available data critical to private sector and investors. Madam Kung has shared that a centralised portal for private sector and potential investors to access critical data about Sarawak is critical. Such data can emulate the types of data as collected by the ILMIA, which will enable potential investors to analyse and make decisions better. The Sarawak Chamber of Commerce & Industry (SCCI) has been trying to promote such data availability and transparency to the local agencies, but without any success yet.

Eliminate the need for middleman in the approval of foreign workers hiring process. Madam Kung suggests introducing an online system for employers to obtain approval timely without the need for any intermediaries. The example of using quota system as suggested by the SHEDA can allow employers to directly submit all necessary requirements. With clear and published requirements, approval can be granted almost immediately without prolonged delay.

4. Suggested Next Steps

Solicit SBF's leverage in understanding the effect of issue:

1. Solicit SBF's leverage to conduct survey or members engagement
 - The objective is to understand the effect of the foreign worker issue to employers' businesses, losses, and potential harms to the economy. The data needed are used as input to present the severity in financial impact to Sarawak's economy and government revenue, in addition to the sample members' statistics on application and approval of foreign workers requested.
2. Scope reform by sector if necessary.
 - To avoid requirement creep, consider defining the scope of improvement to certain sector(s) – dependant on the outcome of SBF members' survey or engagement.

For example, team can focus on the Construction sector first, thus involving mainly the Sarawak Housing and Real Estate Developers' Association (SHEDA). The contact as suggested by Madam Kung is Angie Kueh (Secretary-General of SHEDA, also the Chairman of the SHEADA Liaison Committee).

The successful reform based on the Construction sector can be replicated to the other sectors.

Gain commitment from the EPU:

3. Communicate with EPU Sarawak and TWG of PEMUDAH or SAMUDAH to gain support and commitment from the State's stakeholder, to administer reform from the approach of the top-down.

Propose reform in foreign worker approval process:

4. Request existing statistics of foreign worker application and approval for analysis to reveal the baseline situation of the State.
5. Publish analysis findings to relevant stakeholders for validation and buy-in.
6. Propose process reform in alignment to the direction of Datuk Gerewat, reducing the approval of AP to one month, and/or drastically reducing the overall waiting from 6-9 months to more than half the duration.
7. Involve multiple stakeholders such as PERKESO Sarawak, JTK Sarawak, JIM Sarawak, to holistically reform foreign worker application to VDR issuance process amongst all these agencies. The goal is to optimize the efficiency, transparency, and accountability of the current system, ensuring that it supports the national workforce demands while maintaining a fair and secure process for foreign workers seeking employment.

Suggested Objectives:

- Streamlining the Application Process: Introduce a digital platform that simplifies and centralizes the application procedure, reducing redundant paperwork and manual processing.

- Enhancing Transparency: Establish a transparent and accessible system that provides real-time updates on the status of applications, ensuring applicants and employers are aware of the progress and any potential delays.
- Improving Data Security: Strengthen data protection measures to safeguard sensitive information, both for applicants and the national workforce.
- Evaluating Labor Market Demands: Develop a dynamic mechanism to regularly assess labour market needs, allowing for a responsive and adaptive foreign worker quota allocation.
- Boosting Efficiency: Set clear timelines for application reviews and approvals, minimizing processing delays and facilitating faster workforce mobilization.
- Promoting Fairness and Compliance: Implement a robust auditing and monitoring system to ensure employers adhere to labour laws and regulations, preventing exploitation and abuse of foreign workers.

Suggested Milestones:

1. Digital Application Platform
 - Develop a user-friendly online portal accessible to both employers and foreign workers, allowing them to submit applications and required documents electronically.
 - Enable real-time tracking of application status, providing updates through email or SMS notifications at key stages of the process.
 - Implement secure authentication measures to protect sensitive information and prevent unauthorized access.
2. Labor Market Needs Assessment
 - Create a dedicated task force composed of representatives from the public agencies, industry experts from the private sector, and relevant stakeholders to gather and evaluate foreign labour market demands to-date.
 - Conduct surveys, data analysis, and industry members consultations with businesses to identify sectors facing workforce shortages and areas where foreign workers are required. These can be achieved through the leverage of SBF and the Labour Department.
 - Determine foreign worker quotas based on the assessments or analysis to ensure the system remains agile and responsive to changing labour market dynamics.
3. Timelines and Service Standards
 - Define clear and reasonable timelines for each step of the application process, including the initial submission, review, and approval stages by the stakeholders and Committee.
 - Establish service standards, setting expectations for the maximum processing time for each category of application. Make the timeline competitive using digitalisation.
 - Institute a mechanism for expedited processing in cases of urgent foreign labour needs, such as natural disasters (weather conditions or pandemic situations) or unforeseen spikes in industry demand.
4. Compliance and Monitoring

- Conduct regular audits of employers employing foreign workers to ensure compliance with labour laws, wages, and working conditions.
- Create a reporting channel for foreign workers to anonymously report any workplace abuses or violations, protecting them from potential repercussions.
- Collaborate with law enforcement agencies such as JIM Sarawak or PDRM to strengthen efforts against human trafficking and illegal employment practices.

Suggested Implementation

- Establish a cross-agency task force responsible for overseeing the reform process, comprising representatives from the PERKESO Sarawak, JTK Sarawak, KIM Sarawak, IT experts, and other relevant stakeholders.
- Develop and test the digital application platform in collaboration with experienced software developers and user interface designers.
- Conduct a comprehensive public awareness campaign to inform employers, foreign workers, relevant foreign agencies, and the general public about the upcoming changes and benefits of the new system after reform.
- Provide training sessions for staff members in the relevant agencies, involved in the application, processing, and approval process to familiarize them with the new process involving digital platform and the revised procedures.
- Conduct pilot on the reform in selected sectors or Divisions in Sarawak to assess its effectiveness and gather feedback for further improvements.
- Make necessary adjustments based on the pilot results and user feedback before implementing the reform State-wide.

Thank you.

Lawrence Kong.

Malaysia Productivity Corporation (MPC) Associate.

Date: 27 July 2023, Thursday