

MEMORANDUM OF COOPERATION
ON
THE TECHNICAL INTERN TRAINING PROGRAM
BETWEEN
THE MINISTRY OF JUSTICE, THE MINISTRY OF FOREIGN AFFAIRS AND THE
MINISTRY OF HEALTH, LABOUR AND WELFARE OF JAPAN
AND
THE MINISTRY OF LABOUR, IMMIGRATION AND POPULATION OF
MYANMAR

The Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Health, Labour and Welfare of Japan (hereinafter referred to collectively as “the Ministry of Japan”) and the Ministry of Labour, Immigration and Population of Myanmar (hereinafter referred to as “the Ministry of Myanmar”) shared the view that the purpose of the Technical Intern Training Program is to transfer technical skills, techniques and knowledge (hereinafter referred to as “technical skills, etc.”) to Myanmar, to contribute to the human resource development by which the development of the economy of Myanmar would be led and thus to promote international cooperation. Based on this view, the Ministry of Japan and the Ministry of Myanmar (hereinafter referred to collectively as “both Ministries”) have decided as follows in order to adequately advance the Technical Intern Training Program:

(Purpose)

1 The purpose of this Memorandum of Cooperation is to transfer technical skills, etc. from Japan to Myanmar appropriately and smoothly through the Technical Intern Training Program by setting out the commitments between the Ministry of Japan and the Ministry of Myanmar to send and accept technical intern trainees and thus to promote international cooperation.

(Commitments of the Ministry of Japan)

2 The Ministry of Japan, in cooperation with the Embassy of Japan in Myanmar, if considered appropriate, will carry out the following commitments related to the acceptance of technical intern trainees from Myanmar in accordance with the relevant laws and regulations of Japan:

(1) When the Ministry of Japan receives the information from the Ministry of Myanmar on a sending organization that intends to send technical intern trainees to Japan (hereinafter referred to as “Sending Organization”) and has been approved by the Ministry of Myanmar to meet Sending Organization’s Approving Standards

- described in Attachment 1 (hereinafter respectively referred to as “Approved Sending Organization” and “Approving Standards”), to make such information publicly available in Japan;
- (2) To accept only those technical intern trainees of Myanmar who are sent by Approved Sending Organizations after the commencement of cooperation under this Memorandum of Cooperation. However, the Ministry of Japan may not accept technical intern trainees of Myanmar in case that a technical intern training plan related to the technical intern trainee is not approved and so forth, even if they are sent from Approved Sending Organizations;
 - (3) To substitute an approval to a Sending Organization by the Ministry of Myanmar for the letter of recommendation for the Sending Organization by a public authority of Myanmar after the commencement of cooperation under this Memorandum of Cooperation, provided that the Ministry of Myanmar completes procedures for the approval of Sending Organizations and provides the Ministry of Japan with a full list of Approved Sending Organizations;
 - (4) Not to require the letter of recommendation for technical intern trainees by public authorities after receiving a full list of Approved Sending Organizations, on the condition that the Ministry of Japan receives the Certificate described in Attachment 3 after the commencement of cooperation under this Memorandum of Cooperation;
 - (5) When the Ministry of Japan receives from the Ministry of Myanmar the information on the revocation of an approval of Approved Sending Organizations, to make such information publicly available in Japan;
 - (6) In accordance with the Criteria for the License for Supervising Organizations described in Attachment 4 and with the Criteria for Accreditation of Technical Intern Training Plan described in Attachment 5, to conduct business relating to the license and the accreditation in an appropriate manner;
 - (7) To take appropriate measures including revocation of the license when a supervising organization commits an act which falls under any of the items described in Attachment 6;
 - (8) To take appropriate measures including revocation of accreditation of a technical intern training plan when a case which falls under any of the items described in Attachment 7 arises;
 - (9) To require submission of necessary documents regarding the Standards of Treatment of Technical Intern Trainees described in Attachment 8 and to take appropriate measures including revocation of accreditation of the technical intern training plan in the event that the actual treatment is found to differ from the statements in the submitted documents;

- (10) To notify the results to the Ministry of Myanmar, when the Ministry of Japan takes administrative measures against a supervising organization by revoking the license, issuing an order for suspension of operation or issuing an order for improvement in accordance with the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (hereinafter referred to as “the Act”), or administrative measures against an implementing organization by revoking accreditation of a technical intern training plan or issuing an order for improvement in accordance with the Act; and
- (11) To provide necessary information when the Ministry of Japan receives inquiries from the Ministry of Myanmar pertaining to issues such as the status of implementation of the Technical Intern Training Program, any revisions of the Program, or any additions of the occupations covered by the Program.

(Commitments of the Ministry of Myanmar)

3 The Ministry of Myanmar, in accordance with the relevant laws and regulations of Myanmar, will carry out the following commitments with regard to sending technical intern trainees:

- (1) To ensure that the recommendation, which is made by a public authority, on a Sending Organization that is considered to have the ability to properly coordinate the applications of the technical intern trainees for the supervising-organization-type of the Technical Intern Training Program to supervising organizations in Japan (the recommendation stipulated in paragraph 1, Article 25 of the Ordinance for Enforcement of the Act) may not be made by any public authorities other than the Ministry of Myanmar;
- (2) To examine whether or not Sending Organizations meet Approving Standards, and to give approvals when Sending Organizations are considered to meet Approving Standards;
- (3) To make the names and other information of Approved Sending Organizations in Myanmar publicly available when the approvals set out in the previous paragraph are given. To provide the Ministry of Japan with the information on Approved Sending Organizations in the form specified in Attachment 2, and to continue issuing the letter of recommendation for Sending Organizations which the Ministry of Myanmar considers appropriate to send technical intern trainees to Japan until the Ministry of Myanmar provides the Ministry of Japan with a full list of Approved Sending Organizations;
- (4) When the Ministry of Myanmar is informed by the Ministry of Japan that an Approved Sending Organization seems to have exercised activities inconsistent with

Approving Standards or other improper activities, to conduct investigations over the Approved Sending Organization in question, to provide necessary guidance and supervision, and then to report the results to the Ministry of Japan;

- (5) To provide guidance to Approved Sending Organizations in Myanmar in order to select and send technical intern trainees in an appropriate manner, to revoke an approval when the Ministry of Myanmar considers that an Approved Sending Organization no longer meets Approving Standards, and to notify the results to the Ministry of Japan;
- (6) To cooperate on follow-up surveys conducted by the Ministry of Japan concerning the situation of utilization of acquired technical skills, etc. after the technical intern trainees return to Myanmar, by, in particular, providing guidance to Approved Sending Organizations in order to obtain accurate feedbacks as many as possible from those former technical intern trainees; and
- (7) To provide the Ministry of Japan with information required, when the Ministry of Myanmar receives inquiries from the Ministry of Japan pertaining to guidance and supervision records exercised over Approved Sending Organizations, records related to approval of Sending Organizations, matters related to the types of job categories in demand for technical transfer in Myanmar and so forth.

(Designation of Contact Points)

4 Both Ministries will designate respectively the following contact points related to communications and coordination between both countries in order to effectively implement the activities under this Memorandum of Cooperation.

- (1) For Japan, the International Affairs Department of Organization for Technical Intern Training. For modification and supplementation of this Memorandum of Cooperation and desire to terminate the cooperation under this Memorandum of Cooperation, the Entry and Status Division of the Immigration Bureau, the Ministry of Justice and the Office of Counselor for Overseas Human Resources Development, the Ministry of Health, Labour and Welfare.
- (2) For Myanmar, the Department of Labour, the Ministry of Labour, Immigration and Population. The Ministry may delegate a part of the work related to this Memorandum of Cooperation to the Embassy of Myanmar in Japan.

(Settlement of Issues)

5 Both Ministries will consult with respect to the implementation of activities under this Memorandum of Cooperation or issues arising in relation to the implementation, including occurrences of technical intern trainees' disappearances and

deportations of illegally staying technical intern trainees, and will settle such issues amicably and in close cooperation, through diplomatic channels as deemed appropriate, with each country's relevant ministries and agencies.

(Implementation within the scope of laws and regulations)

6 Cooperation under this Memorandum of Cooperation will be conducted within the scope of the laws and regulations in force in each country. Either of Ministries will not disclose confidential information obtained from the other Ministry through cooperation and exchange of information within the framework of this Memorandum of Cooperation without the written consent from the other Ministry.

(Information Sharing and Consultation)

7 Both Ministries will hold periodic meetings for sharing information on the Technical Intern Training Program under this Memorandum of Cooperation and will consult from time to time, as necessary. Both Ministries will consult through diplomatic channels as deemed appropriate.

(Others)

8 This Memorandum of cooperation was signed in duplicate at Tokyo, on 19 March in 2018, and at Nay Pyi Taw on April 19 in 2018. The Cooperation under this Memorandum of Cooperation will commence on April 19 in 2018. With the commencement of this Memorandum of Cooperation, cooperation between both Ministries on the Technical Intern Training Program will be conducted under this Memorandum of Cooperation.

The cooperation under this Memorandum of Cooperation will continue for a period of five years from April 19 in 2018 and will be extended automatically for additional five years unless there is a written notice by either Ministry not to desire to extend it sixty days in advance of the termination date. In case that either Ministry wishes to terminate the cooperation based on this Memorandum of Cooperation before the end of the five-year period mentioned above, the cooperation may be terminated by a written notice to the other Ministry indicating such intent, not later than ninety days before the desired termination date.

The contents of this Memorandum of Cooperation will be modified or supplemented as necessary with written consent from both Ministries.

This Memorandum of Cooperation is made in English.

For the Ministry of Justice of Japan

**For the Ministry of Labour,
Immigration and Population of
Myanmar**

**For the Ministry of Foreign Affairs of
Japan**

**For the Ministry of Health, Labour
and Welfare of Japan**

Approving Standards for Sending Organizations

- 1 A Sending Organization must meet all of the following standards.
 - (1) To appropriately select and send to Japan only those who are motivated to engage in technical intern training with the understanding of the objectives of the Technical Intern Training Program and to contribute to the economic development of Myanmar by making use of the achievement through the technical intern training after returning to Myanmar.
 - (2) To clearly specify the calculating criteria of commissions and any other fees to be collected from ‘technical intern trainees and/or technical intern trainee candidates’ (hereinafter referred to as “trainees and candidates”) and make the criteria publicly available, and to explain the details of such commissions and other fees to trainees and candidates in order to obtain their understanding sufficiently.
 - (3) To provide the technical intern trainees who returned to Myanmar after completing the technical intern training with necessary support, such as finding occupations in order for them to appropriately utilize the acquired technical skills, etc.
 - (4) With respect to the appropriate implementation of the Technical Intern Training Program as well as the protection of technical intern trainees, to respond the requests from the Minister of Justice of Japan, the Minister of Health, Labour and Welfare of Japan or the Organization for Technical Intern Training. Such requests include cooperation on follow-up surveys on the technical intern trainees who returned to Myanmar after completing the technical intern training.
 - (5) As for Sending Organization and its board members, if they had been sentenced to imprisonment or more severe penalty in Japan or in Myanmar, at least five years have elapsed after the penalty had been completed or the penalty had been exempted from the execution.
 - (6) To carry out any projects in accordance with the laws and regulations of Myanmar.
 - (7) As for Sending Organization and its board members, to have never conducted any of the following acts within the preceding five years:
 - (a) In connection with technical intern training, managing money or other properties of trainees and candidates, their relatives or other persons concerned, regardless of any reasons such as collecting deposits or any

- other purposes;
- (b) Concluding any contracts that impose monetary penalties or that expect undue transfer of money or other properties, for the violation of the contracts in relation to technical intern training;
 - (c) Human rights infringements against trainees and candidates such as assaults, intimidations, and restrictions of freedom; and
 - (d) With regards to the procedures of the Technical Intern Training Program as well as the immigration program in Japan, to use or provide forged, altered or false documents, pictures or drawings with the intention of obtaining permissions fraudulently.
- (8) In coordinating applications for technical intern training to Japanese supervising organizations, to confirm that trainees and candidates, their relatives or other persons concerned have never been involved in the acts set out in (a) and (b) of (7).
- (9) Acknowledging the importance of addressing disappearance of technical intern trainees, to cooperate with Japanese supervising organizations and to make efforts in order to prevent technical intern trainees from disappearing.
- (10) To have other necessary capacities to appropriately coordinate applications for technical intern training to Japanese supervising organizations.
- 2 In terms of approving Sending Organization in Myanmar, the Ministry of Myanmar will commence the procedure from April 19 in 2018 and provide a full list of Approved Sending Organizations for the Ministry of Japan by 1 June, 2018. The Ministry of Japan will accept only those trainees who are sent by Myanmar's Approved Sending Organizations on the list from 1 November, 2018.

Date : _____

Outline of Approved Sending Organization

Name of Organization : _____

Name of Representative : _____

Address : _____

TEL : _____ FAX : _____

Email : _____

URL: _____

Date of establishment : _____

Date of approval (Duration) : _____ (Valid until : _____)

Type of industry and main business : _____

Capital : _____

Yearly sales figure (the most recent year) : _____

Number of full-time employees (the number of employees involved in sending work) :

_____ ()

Name of person in charge of training : _____

(position) _____

(Address) _____

(TEL) _____ (FAX) _____

(Email) _____

Contact point in Japan

(Name) : _____

(Name of representative (In the case of a company/organization)) : _____

(Address) _____

(TEL) _____ (FAX) _____

(Email) _____

Date : _____

Certificate

The Ministry of Labour, Immigration and Population of Myanmar (hereinafter referred to as “the Ministry”) hereby recognizes that the technical intern trainees who will be sent to Japan by Approved Sending Organizations* are appropriate to engage in technical intern training, excluding those recognized inappropriate by the Ministry, and so notifies the Japanese contact point designated in (1) of 4 of the Memorandum of Cooperation on the Technical Intern Training Program separately.

* The term Approved Sending Organization means the sending organization which is approved by the Ministry.

Ministry of Labour, Immigration and Population of Myanmar
(Signature)

Criteria for the License of Supervising Organizations

Pursuant to the provisions provided for in Article 25 of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Act No.89 of 2016), an organization must conform to all of the following items in order to obtain the license of supervising organization:

- (1) To be a Japanese nonprofit juridical person as provided for in Article 29 of the Ordinance for Enforcement of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Ordinance of the Ministry of Justice and the Ministry of Health, Labour and Welfare No.3 of 2016) (hereinafter referred to as “the Ordinance”);
- (2) To have sufficient capability to conduct the supervision business appropriately in accordance with the criteria as provided for in Article 52 of the Ordinance;
- (3) To possess a sufficient financial basis to soundly conduct the supervision business;
- (4) To have taken the necessary measures to properly manage personal information (information about an individual which can identify the specific individual) and to maintain the confidentiality of the implementing organization of the supervising-organization-type technical intern training, etc. and the supervising-organization-type technical intern trainees, etc.;
- (5) To have taken any of the following measures for the purpose of appropriate management of the supervision business;
 - (a) Not to compose its officers entirely of persons with a close relationship with the implementing organization of supervising-organization-type technical intern training as provided for in Article 30 of the Ordinance, and to make the composition of the other officers not likely to impede the securing of appropriate operation of the supervision business;
 - (b) In addition to auditing by inspectors and persons responsible for auditing the business of the juridical person, to have an audit by a person, who satisfies the requirements as provided for in Article 30 of the Ordinance and does not have a close relationship with the implementing organization of supervising-organization-type technical intern training as provided for in Article 30 of the Ordinance, which audit the performance of duties pertaining to the supervision business by the officers, pursuant to Article 30 of the Ordinance;

- (6) In cases where it intends to receive job applications for supervising-organization-type technical intern training from a person applying to become a supervising-organization-type technical intern trainee through the mediation of a sending organization in a foreign country, to have a contract with the sending organization in a foreign country pertaining to such mediation; and
- (7) In addition to the matters provided for in the items (1) to (6) above, to possess the capability to perform the supervision business appropriately.

Criteria for Accreditation of Technical Intern Training Plan

Pursuant to the provisions provided for in Article 9 of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Act No.89 of 2016), a technical intern training plan must conform to all of the following items in order to have it accredited:

- (1) The skills to be acquired, etc. shall be the ones that would be difficult to acquire in the technical intern trainee's home country;
- (2) The goal and content of the technical intern training shall conform to the criteria provided for in Article 10 of the Ordinance for Enforcement of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Ordinance of the Ministry of Justice and the Ministry of Health, Labour and Welfare No.3 of 2016) (hereinafter referred to as "the Ordinance") in accordance with the category of technical intern training;
- (3) The period of the technical intern training shall be a maximum of one year in cases of individual-enterprise-type technical intern training (i) or supervising-organization-type technical intern training (i), or a maximum of two years in cases of individual-enterprise-type technical intern training (ii), individual-enterprise-type technical intern training (iii), supervising organization-type technical intern training (ii) or supervising-organization-type technical intern training (iii);
- (4) The goal has been achieved about the passing of the trade skills test or technical intern training evaluation examination as prescribed in the technical intern training plan for individual-enterprise-type technical intern training (i) or supervising-organization-type technical intern training (i) pertaining to the skills, etc. in each respective technical intern training plan in cases of individual-enterprise-type technical intern training (ii) or supervising-organization-type technical intern training (ii) or the technical intern training plan for individual-enterprise-type technical intern training (ii) or supervising-organization-type technical intern training (ii) pertaining to the skills, etc. in each respective technical intern training plan in cases of individual-enterprise-type technical intern training (iii) or supervising-organization-type technical intern training (iii) have been achieved;
- (5) The evaluation of the skills, etc. which the technical intern trainee has acquired shall be conducted through a trade skills test or technical intern training evaluation

examination as provided for in Article 11 of the Ordinance before the completion of the technical intern training;

- (6) The structure and the equipment of the place of business based on which the technical intern training is to be conducted shall conform to the criteria provided for in Article 12 of the Ordinance;
- (7) A person has been appointed at each place of business as provided for in Article 13 of the Ordinance, responsible for implementation of the technical intern training;
- (8) In cases of supervising-organization-type technical intern training, the applicant shall be subject to supervision of training by a supervising organization (limited to the one which has obtained a license to supervise (limited to that pertaining to general supervising business as prescribed in item (i) of paragraph (1) of Article 23 of the Act) in cases where the technical intern training plan is for supervising-organization-type technical intern training (iii)), from which it received guidance on preparation of the technical intern training plan;
- (9) Treatment of the technical intern trainees shall conform to the criteria provided for in Article 14 of the Ordinance;
- (10) In cases of individual-enterprise-type technical intern training (iii) or supervising-organization-type technical intern training (iii), the applicant shall conform to the criteria provided for in Article 15 of the Ordinance as an entity with a high standard of capabilities to ensure the acquisition, etc., of the skills, etc.; and
- (11) In cases where the applicant is to conduct technical intern training for multiple technical intern trainees at the same time during the technical intern training period, such number of trainees shall not exceed the number provided for in Article 16 of the Ordinance.

Revocation of the License for Supervising Organizations

Pursuant to the provisions provided for in Article 37 of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Act No.89 of 2016) (hereinafter referred to as “the Act”), the competent ministers of Japan may revoke the license to supervise if a supervising organization falls under any of the following items:

- (1) It is deemed that the supervising organization no longer conforms to any of the items of paragraph (1), Article 25 of the Act;
- (2) The supervising organization falls under one of the items of Article 26 of the Act (excluding item (ii), item (iii), and (c) and (d) of item (v));
- (3) The supervising organization has violated the conditions attached to the license to supervise pursuant to the provisions of paragraph (1), Article 30 of the Act;
- (4) The supervising organization has violated the provisions of the Act or the provisions of laws relating to immigration or labor which are provided for by a Cabinet Order, or an order or disposition based on these provisions; and
- (5) The supervising organization has committed a wrongful or significantly unjust act with regard to the laws or regulations related to immigration or labor.

* When a supervising organization is found to have received any money which is not regarded as fees for supervision from any relevant person in relation to technical intern training including sending organizations, the license to supervise will be revoked. Further, pursuant to the provisions provide for in Article 111 of the Act, such act will be subject to imprisonment with work for not more than 6 months or a fine of not more than 300,000 yen.

Revocation of Accreditation of the Technical Intern Training Plan

Pursuant to the provisions provided for in Article 16 of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Act No.89 of 2016) (hereinafter referred to as “the Act”), the competent ministers of Japan may revoke the accreditation of the technical intern training plan in cases falling under any of the following items:

- (1) The competent ministers deem that the implementing organization is deemed to have not conducted the technical intern training in accordance with the accredited plan;
- (2) The competent ministers deem that the accredited plan is not to conform to any of the items of Article 9 of the Act;
- (3) The implementing organization has come to fall under any one of the items of Article 10 of the Act;
- (4) The implementing organization has omitted to give a report or to submit or present books or records pursuant to the provisions of paragraph (1) of Article 13 of the Act, has given a false report or submitted or presented false books or records, or has not given an answer or has given a false answer to questions pursuant to the provisions of the same paragraph, or refused, interfered with or evaded an inspection pursuant to the provisions of the same paragraph;
- (5) The implementing organization has made a false report or submitted or presented false books or records in response to a request from OTIT to make the report or submit or present books or records pursuant to the provisions of paragraph (1) of Article 14 of the Act, or has given a false answer to questions asked by OTIT’s staff pursuant to the provisions of the same paragraph;
- (6) The implementing organization has violated the order prescribed under the provisions paragraph (1) of Article 15 of the Act;
- (7) The implementing organization has committed a wrongful or significantly unjust act with regard to laws or regulations related to immigration or labor; and
- (8) The applicant or preparatory organization in Myanmar (in cases pertaining to supervising-organization-type technical intern training, the applicant, supervising organization, intermediating sending organization or foreign preparatory organization), in connection with the technical intern training which the technical intern trainee, etc. is to engage in while in Japan, has entered into a contract that stipulates penalties with regard to non-performance of a contract pertaining to the technical intern training or a contract which otherwise expects the transfer of undue money or other property with any other people.

Standards of Treatment of Technical Intern Trainees

The applicant of individual-enterprise-type technical intern training, or the applicant or the supervising organization of supervising-organization-type technical intern training must conform to the following standards of treatment of technical intern trainees:

- (1) To secure appropriate accommodation for the technical intern trainee;
- (2) To take measures to enable the technical intern trainee (i) to concentrate on their post-entry lectures through the payment of an allowance or some other method;
- (3) In cases of supervising-organization-type technical intern training, to ensure that such trainee will not be made to directly or indirectly pay for the expenses collected as supervision fees pursuant to the provisions of paragraph (2), Article 28 of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (Act No.89 of 2016) (applicable only to the applicant or the supervising organization of supervising-organization-type technical intern training);
- (4) With regard to the expenses to be paid regularly by the technical intern trainee regardless of whether they are food expenses, accommodation expenses or other expenses, to have the technical intern trainee sufficiently understand the contents of the meals, accommodation facilities and other benefits to be provided in exchange for the expenses, to reach an agreement with the trainee about such conditions and to ensure that the amount of the expenses is equivalent to the actual expenses or is otherwise an appropriate amount; and
- (5) To pay the travel expenses required for the trainee's return to home country after the conclusion of the technical intern training (applicable only to the applicant of individual-enterprise-type technical intern training or the supervising organization of supervising-organization-type technical intern training). In case an application for technical intern training (iii) of a technical intern trainee (ii) is submitted during the period of his/her technical intern training (ii), to pay the travel expenses required for his/her travel to Japan prior to the technical intern training (iii) (applicable only to the applicant of individual-enterprise-type technical intern training or the supervising organization of supervising-organization-type technical intern training which makes the technical intern trainee (iii) engage in the technical intern training (iii)).