1. Background and Purposes of the Study

Amid increased international trade, trans-border labor migration has become more vigorous. This rapid international movement of workforce is well illustrated by the fact that the number of international migrants—those people living and working outside their country of birth or citizenship for 12 months and more—reached 175 million in 2000. If the world’s migrant nation were in one place, “Migrant Nation” would be the fifth most populous country in the world after China, India, the United States and Indonesia (Martin, 2003). Moreover, when the WTO negotiations on trade in the service sector are settled, the cross-border movement of labor is expected to further accelerate.

In the international movement of labor in most of the developed world there is an overall rising trend of migration for employment purposes, especially in such areas as education, health care and computer technology. This trend is not just limited to areas requiring professional and skilled labor. There has been a significant rise in the number of programs to facilitate temporary labor migration.

Although international labor migration is now one of the primary concerns for most governments, each nation has developed highly individualized and different labor migration policy due to extremely
diverse features of international migration flow in terms of scale and characteristics. Yet, one common denominator is that host countries try to selectively introduce highly skilled workforce to maximize their economic and social effects. At the same time, they introduce unskilled foreign workforce on the minimum scale and on a temporary and transparent basis, so as not to undermine the domestic labor market and endeavour to minimize social costs by effectively managing them and ensuring that unskilled foreign workers return to their home countries without fail after a certain period of time. In this sense, labor migration policies of different countries may offer insightful implications to other countries.

Until the 1970s the Republic of Korea was one of the sending countries that benefit from sending their workforce overseas to earn foreign currency and yet from the late 1980s it became one of the host countries that supplement their domestic labor markets with foreign labor. Korea, which has preserved its tradition as a homogeneous country for a long time, introduced the Industrial Trainee Program where foreign labor is introduced as trainees, not as workers. However, under the industrial trainee system, foreign trainees were in reality engaged in labor, yet protection of labor rights and human rights of foreign workers faced a number of problems because they were formally recognized as “trainees” rather than “workers.” Moreover, as it was difficult to meet the entire demand for foreign labor only by utilizing the expedient industrial trainee system, the Korean government has been making efforts to improve its labor migration policy for a long time. However, it has not been able to achieve its objectives due to opposition from businesses that wanted to utilize industrial trainees with low wages. In the process, the proportion of undocumented migrants among all foreigners residing in Korea reached 80 per cent as of late 2002. As the issue of undocumented migrants emerged as a social problem, a national consensus was formed on the need for fundamental institutional improvement where foreigners are treated as workers, rather than as
industrial trainees, and are offered legitimate protection and undocumented migrants are minimized. This national consensus led to the enactment of the Act on the Employment of Foreign Workers in 2003 and, as a result, a guest worker system for foreign workers will be implemented from August 2004 in Korea.

Although the guest worker system where foreign workers are legitimately employed will be implemented in Korea, in order to ensure the successful establishment of the guest worker system, issues such as irregularities in the process of introducing foreign labor, excessive number of undocumented migrants and protection of human rights of foreign workers need to be resolved at an early date. In order to address these problems, henceforth, the guest worker system should be developed in a sophisticated manner based on the accumulated experiences of developed countries. In this context, through comparison and analysis of labor migration policies in advanced countries, this study is aimed at providing basic data necessary for the effective development of labor migration policies and systems to countries like Korea that utilize foreign labor, yet are faced with a number of problems.

The experience gained by major countries covered in this study will provide valuable lessons to developing countries, which, like Korea, will be transformed from sending countries into host countries. In addition to developing countries, labor migration policies and experiences of other countries will also provide valuable lessons to developed countries.

In this context, major issues that this report attempts to address are:

- What are the recent trends in labor migration in advanced countries?
- How is the introduction scale of foreign labor determined?
- What are the administrative structures of organizations in charge of labor migration policy and its enforcement?
- How have the mechanisms to utilize necessary foreign workforce been developed and what programs are currently used?
- What are the methods to select and manage foreign labor?
- What are the impacts of the introduction foreign labor on the domestic labor market?
- What are the institutional devices to prevent illegal labor migration and overstay?

2. Types of LABOR Migration Policies

Although considerable differences exist among countries, labor migration policies in general can be divided into supply-driven systems and demand-driven systems.

Under the supply-driven systems, foreign workers who are workforce providers lead the process of introducing foreign workforce. If foreigners wish to migrate, the host countries’ screening processes are followed to select best quality foreign workforce from the pool of potential immigrants. For instance, in Canada, Australia and New Zealand, a points system is adopted where highly skilled immigrants seeking permanent migration to the countries are given points based on various requirements - including education, professional knowledge and skills necessary for relevant occupations, language proficiency, age, and assets which may affect successful adjustment after migration. Only foreigners with more than a certain level of points are allowed to migrate and get employed. This points system is considered to have certain advantages in enhancing transparency, consistency and efficiency of immigrant screening in that objective criteria deemed to bring long-term benefits to host countries are announced in advance and skilled immigrants meeting those requirements are selectively approved. However, the points system still does not accurately determine whether an immigrant who has migrated with high scores is the very person with the capabilities that an employer really requires. Furthermore, there is controversy over whether the criteria applied for determining points are the best criteria for selecting immigrants who could really contribute to the national economy.
The supply-driven system is mainly adopted in countries whose labor migration policy places importance on utilizing highly skilled immigrants on a long-term basis. However, even in the countries which have adopted a supply-driven system where highly skilled immigrants are selected on the basis of the points system and granted permanent residence, the points system is not applied to unskilled foreign labor. Unskilled foreign workers wishing to be employed in host countries that implement a supply-driven system may get employed for a certain period on a temporary basis if they directly apply for employment permits to the relevant government authorities of host countries and are granted permission.

On the other hand, under the demand-driven system, the process of introducing foreign workers begins when employers in host countries, who are the party demanding foreign labor, requests the government authorities for permission to employ foreign workers. The governments of host countries allow employment of foreigners on condition that employment of foreign workers does not undermine employment of local workers and does not have any negative impact on wages or working conditions of local workers. After being granted an employment permit, employers select and employ foreigners under the employers' responsibility within the scope of permitted numbers and in permitted areas. Such demand-driven systems are adopted in the United States, Germany, the United Kingdom, France, Korea, Taiwan and Singapore.

The demand-driven system is based on the logic that employers are in the ideal position to make the best decisions on the economic contribution of foreign labor and that it is the most desirable way for employers requiring foreign workforce to select and employ the necessary foreign workers. Thus, the demand-driven system has an advantage in that it is efficient in satisfying the needs of employers, the demanding party. On the other hand, the system has disadvantages in that the interests of employers may conflict with the interests of the overall national economy and if employers hire unskilled foreign workers
at low wages, it might lead to delays in corporate restructuring, possibly undermining national competitiveness in the long term. In addition, an excessive inflow of unskilled foreign workers may generate undesirable social costs.

In most of the countries that have adopted demand-driven systems, foreign workers are employed for a certain period of time on a temporary basis and job categories open to foreign workers are limited to specific areas. However, even in countries implementing demand-driven systems, restrictions on highly skilled foreign workers are drastically eased or there are no restrictions at all. Some countries even allow permanent residency of foreigners who have renewed their stay permits several times and have stayed in the country for more than a certain period of time. Furthermore, in the case of traditional ‘immigration countries’ such as the United States and Canada, a system exists whereby permanent residency is granted to skilled foreign workers at the initial entry point.

Although there are considerable differences in labor migration policies implemented by various countries, there is a common phenomenon that countries make an effort to select and utilize foreign workers who greatly contribute to the economic and social development of host countries. While countries actively attract professional technology-related and highly skilled foreign workers by offering incentives such as long stay status, they utilize unskilled foreign workers on a minimum scale and on a temporary basis through strict regulations, as unskilled foreign workers may put a burden on host countries in the long term and delay industrial restructuring. This is attributable to the fact that there is a high possibility that unskilled migrant workers may have negative impacts on employment, wages and working conditions of local workers.

3. Basic Principles of LABOR Migration Policies

Despite significant diversity in their labor migration policies, there
are certain common principles observed by countries and they are listed as follows:

The first principle is the principle of supplementing the domestic labor market. This is the principle of “employing nationals first” where foreign labor is introduced and utilized on a supplementary basis at a minimum level only in areas where there are no national workers available. Moreover, following this principle, the employment of foreign workers should not undermine employment opportunities, wages and working conditions of local workers. This principle is fairly universally adopted in most countries utilizing foreign workers. More specifically, by observing the labor market test where permits for foreign worker employment are granted only to employers who failed to employ national workers despite efforts to recruit them, the employment of foreign workers, instead of undermining or replacing jobs of national workers, resolves difficulties of domestic enterprises suffering from labor shortages, thereby preventing overseas relocation of domestic companies or decline in competitiveness.

The second is the principle of prevention of irregularities in sending foreign workers and transparency in procedures of selecting and introducing foreign workers. Irregular migration has become one of the major causes of illegal stay and illegal employment as foreign workers who have entered a country after paying excessive brokerage fees in the process of foreign labor introduction tend to overstay to compensate for the fees. In order to prevent irregularities in labor-exporting processes and to maintain transparency in procedures of selecting and introducing foreign workers, many host countries sign bilateral agreements with sending countries and ensure that the public sector is in charge of the selection and introduction of foreign workers, thereby eliminating any possibility of intervention and irregularities by private employment agencies. In Germany, France, the U.K. and Korea, public organizations are in charge of activities involving selection and introduction of foreign labor, while in Taiwan and Singapore, private employment agencies are in charge of those
activities.

The third principle is the principle of preventing permanent settlement of foreigners who enter a country for temporary employment purposes. If foreigners who enter a country for temporary employment purposes overstay, it is inevitable that the country will permit family accompaniment and permanent residency status in the long run. Moreover, permanent settlement of unskilled foreign workers generates huge social costs. In order to prevent these problems from arising, it is common to restrict domestic employment duration of foreign workers to a certain period of time. In the case of Germany, legal migrant workers who return to their home countries upon completion of their employment period are not allowed to reenter the country for employment purposes, while under the guest worker program in Korea foreigners are allowed to reenter the country and be employed again one year after returning to their home countries.

The fourth principle is the principle of equal treatment between national and foreign workers. This principle of equal treatment is stipulated in international conventions and generally adopted in all countries. Under the principle, foreign workers are entitled to equal protection as national workers in social insurance and application of labor-related laws. There is some misunderstanding that because of the principle of equal treatment between national and foreign workers employers should pay equal wages as national workers to foreign workers. However, as wages vary depending on productivity and work experience among national workers, differentiation of wages for legitimate reasons among foreign workers is also possible. However, unjust discrimination against foreign workers only because they are foreign workers is not allowed.

The fifth principle is the principle of prevention of undermining industrial restructuring. This signifies that the introduction of foreign workers should not have negative impacts on restructuring of domestic industries and enterprises. If foreign labor is utilized at low wages, businesses may become complacent, merely counting on
cheap foreign labor, and this may delay corporate restructuring, undermining competitiveness of the country and businesses in the long term. At present, amid the rapidly changing economic and social environment at home and abroad, countries and enterprises are continuously pushing for reforms and restructuring to enhance national and corporate competitiveness. Thus, the employment of foreign workers should not undermine revamping of industrial structures aimed at promoting a high value-added economy and advancement of industrial structures by merely sustaining uncompetitive declining industries in host countries. In the case of Taiwan, employers wishing to hire foreign workers are required to submit restructuring plans encompassing production facilities and working environment improvement plans when they apply for employment permits, and foreigner employment permits are granted only to employers who have significantly contributed to the national economy. In most countries, the principle of prevention of undermining industrial restructuring is not explicitly expressed in laws, yet it is a basic principle where consensus has been implicitly formed in implementing labor migration policies.

4. International Comparison Study on LABOR Migration Policies

4.1 Overview

Free movement of labor is guaranteed among European Union (EU) member states; thus workers of EU member states have a right to seek employment in other EU member states, a right to move to other EU member states for the purpose of employment, a right to reside in other member states for the purpose of employment, and a right to remain in other EU countries after the termination of employment if the household is financially self-supporting. Therefore,
all EU citizens are equally treated as nationals within the European Community in terms of employment, wages, working conditions, and dismissal. Despite the guarantee of free movement of labor among EU member states, however, due to cultural and language differences, the proportion of EU nationals who are either residing or employed in other EU member states is very low, amounting to only 1.5 per cent of all EU nationals.

The labor migration policy of EU member states is applicable to non-EU nationals. Employers are granted temporary work permits to employ foreign workers only for jobs that are not filled by nationals of each member state, EU nationals, or non-EU nationals whose stay in EU member states are already permitted. Employment of seasonal foreign workers and border commuters is also strictly controlled. Detailed labor migration policies vary from country to country within the EU.

The United States and Canada, North America’s traditional host countries, have both similarities and differences in their labor migration policies. The most distinctive difference is that the United States adopts a demand-driven system where employers take the lead in introducing necessary foreign workers, whereas Canada adopts a supply-driven system where foreigners who have more than certain points based on a points system requirements apply for immigration themselves to Canada and the Canadian government selects and accepts promising immigrants.

In Asia, Japan, Korea, Singapore and Taiwan are the most representative labor-importing states. Among the states, Singapore and Taiwan have already implemented the guest worker system for foreigners, while in Korea the guest worker system will be implemented from August 2004. In Japan, discussions on the introduction of the guest worker system have been under way for a long time, yet the system has still not been introduced. The guest worker system adopted by Singapore, Taiwan and Korea is one of the representative models of demand-driven systems.
4.2 Organizations in Charge

Labor migration policy involves a wide range of activities including the government’s policymaking on foreigners; entry visa-related work; selection of labor-exporting states and decision on the quota of foreign workers; signing of bilateral agreements with sending countries; confirmation of the obligation to employ national workers first and issuance of work permits; recruitment of foreign workers and education and training before their arrival; health check-ups; adjustment education and physical examination after entry; management and protection of foreign workers during their stay; social integration and complaint settlement; labor supervision and inspection on enterprises hiring foreign workers; crackdown on undocumented migrant workers and illegal employment and their repatriation to their home countries. These activities are dispersed among various ministries and organizations, thus close coordination and cooperation among related ministries and organizations is vitally important.

Regarding organizations in charge of labor migration policies in selected countries, it is a general practice that ministries in charge of visa-related work also take charge of policy on immigration of foreigners, while labor-related ministries take charge of policy on utilizing foreigners as workers. In some countries a committee is set up to comprehensively coordinate related policies as works related to labor migration policy require close cooperation among various ministries.

In general, public employment service organizations are in charge of such enforcement activities as confirmation of the employers’ efforts to seek national workers, work permits for employers, recommendation of jobs for foreign workers, processing of foreign worker-related civil petitions and guidance and supervision of enterprises hiring foreign workers. Meanwhile, employment stabilization organizations and labor-related ministries take charge of
signing of bilateral agreements with labor-exporting states, and the establishment and management of computerized databases on foreign workers.

4.3 Mechanisms to Determine the Quota of Foreign Workers

In introducing foreign labor it is a very important and difficult issue how to measure the scale of labor shortages in the domestic labor market and the demand for foreign workers, and to determine what the appropriate level of introducing foreign workers is. Even in the case of countries that do not explicitly announce annual quotas of foreign workers it is a common practice that the government unofficially has an internal quota ceiling for foreign workers so as not to disrupt employment of local workers due to excessive inflow of foreign labor. However, the problem is what criteria should be used to determine the quotas for foreign workers.

The decision on how many foreign workers should be introduced in what sectors is made in consideration of the labor market situation for each sector. In other words, as foreign labor is introduced when there are shortages of labor in the domestic labor market, discussions on the scale of foreign labor introduction begin with the estimation of the scale of labor shortages in each sector. Even when demand for foreign labor is estimated by utilizing econometric methods, the estimation result is not directly used as the scale of foreign labor introduction. It is a common practice that the scale of foreign labor introduction is ultimately determined only after the political process in which the opinions of political circles, relevant government ministries and organizations, labor-management groups, academia and NGOs are reflected.

In terms of foreign labor quotas, countries are divided into two groups: namely, countries which have an explicit quota system for foreign labor and implement such a system; and countries which have not set any quotas or have only unofficial quotas. Most of the
countries with demand-driven systems such as Korea, the United States, Germany, Italy and France have set a total quota of foreign labor or quotas by sectors, as it is highly probable that demand for foreign labor may exceed an appropriate level if quotas are not set. Some countries have a dependency ceiling for foreign workers by sectors and additionally impose levies on employers to curb demand for foreign labor. On the other hand, in countries with supply-driven systems such as Canada, Australia and New Zealand there is no quota for foreign labor, as they can adjust the scale of foreign labor introduction with their points system.

Germany and Italy have ceilings for foreigner labor introduction by sending countries and by foreign labor introduction programs through bilateral agreements with sending countries. The United Kingdom does not have any total quota, yet has set a sectors-based quota for seasonal agricultural workers (in 2003 the quota was 25,000 persons) and sectors-based programs introduced from 2003 to resolve labor shortages in the food manufacturing industry and hotels and restaurants. In the United States the Federal Congress sets annual quotas for foreign labor, including immigrants and refugees and the Department of Labor sets quotas for each program. Yet, in some foreign labor introduction programs there is no quota. Taiwan and Singapore do not have any officially set total quota of foreign workers, yet have dependency ceilings by sectors and impose levies on employers to control the demand for foreign labor. In Korea the introduction of the levy system was discussed not only in academia (Yoo and Lee, 2002) but also in the process of legislating the guest worker system, yet the levy system was not reflected in the legislation.

In Canada which has adopted the supply-driven system foreign workers are introduced on the basis of a points system, and thus there is no quota. Yet, the country controls the scale of foreign labor by setting a ceiling on accepting immigrants of up to only 1 per cent of the entire population (approximately 310 thousand) annually. In addition, Canada announces every year the expected scale of
immigrants to be migrated the following year, making an indirect announcement on the scale of foreign labor to be introduced.

### 4.4 Selection of Sending Countries

As for methods of selecting sending countries, countries with supply-driven systems have a strong tendency to introduce foreign workers with more than certain points, irrespective of their nationalities, whereas countries with demand-driven systems tend to limit sending countries to a few states in consideration of cultural homogeneity with host countries.

In the case of Germany, the country makes it a principle to introduce migrant workers from Eastern European countries by signing agreements with 13 Eastern European countries including Turkey. Taiwan imports foreign workers from five countries friendly to Taiwan including the Philippines, Thailand, Myanmar, Indonesia and Malaysia, yet quota by countries is not set and employers, the demanding party of foreign labor, are allowed to choose sending countries. Singapore classifies sending countries into non-traditional sources and North Asian sources, placing differences in allowable sectors, and places a priority on employment of Malaysian nationals due to its historical background of having been liberated from Malaysia and geographical location. Only foreign workers whose nationalities are Malaysia, Hong Kong, Macau, Korea and Taiwan are eligible for jobs in the manufacturing sector, while construction jobs are open to all foreign workers from Malaysia, non-traditional sources and North Asian sources. Employment of foreign workers in the service sector is only allowed to foreign workers from Malaysia and North Asian sources.

In the case of Korea, as of March 2004 there are 17 countries that send industrial trainees to Korea. Under the new guest worker system, Korea is expected to limit the number of sending countries to a
manageable few states, not including all 17 existing countries.

4.5 Mechanisms to Control the Demand for Foreign LABOR

In most cases, wages and working conditions in host countries, which are developed countries, are much better than those in labor-exporting developing countries. Under the circumstances, if mechanisms to curb the demand for foreign workers are in place, domestic employers would wish to employ a greater number of cheap foreign labor for unskilled jobs, while the inflow of foreign workers to host countries will increase to a great degree. Inevitably, jobs of local workers may be undermined by foreign workers. Therefore, host countries observe at least the following two principles to prevent local workers' jobs from being undermined by foreign workers. Firstly, discrimination in wages and working conditions between national and foreign workers is prohibited, thereby preventing employment of foreign workers on low wages. Secondly, employers wishing to hire foreign workers are given permission only after they make an effort to find national workers for a specified period through labor market tests at employment stabilization organizations and fail to find eligible national workers. In many countries, however, the labor market test, which examines employers' efforts to first employ national workers, is either operated just in formality, with little effect, placing more burdens on employers, or it is operated in too rigid a manner, causing civil petitions. Thus, in order to operate the labor market test in a flexible manner and in accordance with initial purposes, it is important to improve professionalism of employees at employment stabilization organizations.

However, there are many cases where the principle of banning discrimination in treatment between national and foreign workers, upon its application, produces ambiguous situations. For this reason, Taiwan and Singapore collect foreign worker levies, which amount to the difference between the wages of national and foreign workers,
from employers hiring foreign workers to curb the demand for foreign labor. Singapore implements a differentiated levy system where different levies are imposed depending on sectors and level of skills. For instance, more levies are imposed on unskilled foreign workers and jobs with a high possibility of being replaced by national workers. Meanwhile, Taiwan operates a levy system where only different levies are imposed by sectors.

5. Structure of the Report

This report is largely divided into two parts. In Part One, labor migration policies in major countries are comparatively analyzed centering on key issues, while in Part Two labor migration policies in selected countries are introduced by country.

Comparative analysis by key issues in Part One include: History of labor migration policy (Chapter 1); current trends of labor migration (Chapter 2); labor migration systems (Chapter 3); economic impacts of foreign labor introduction and protection of local workers (Chapter 4); measures to reduce illegal migration and overstay (Chapter 5).

Part Two introduces in sequence labor migration policy of France (Chapter 6); Italy (Chapter 7); the United Kingdom (Chapter 8); Germany (Chapter 9); Canada (Chapter 10); the United States (Chapter 11); the Republic of Korea (Chapter 12); Taiwan (Chapter 13); Singapore (Chapter 14); and Japan (Chapter 15).

Appendixes include international comparison of administrative structures in charge of labor migration policy and a summary table for labor migration policy in major countries.