



HR CHALLENGES IN IMPLEMENTING LABOR LOCAL CONTENT RULES



Yangon | Myanmar
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1. VINARCO Presentation & Speaker Background

PROJECT MANAGEMENT & TURNKEY SERVICES | MANPOWER CONTRACTING TECHNICAL SERVICES | RECRUITMENT & HR SOLUTIONS

TURNKEY SERVICES:

- Engineering & Workshop Design Support
- O&G/Onshore Rigs & Assets Management
- Operations & Maintenance/Inspection, Shutdown, Major Overhauling
- Logistics & Material Management/Supply Chain/Procurement Services
- Construction Supervision (civil works/mechanical/Electrical /HVAC /HSE /QAQC)
- Fabrication Yard/Construction Works Supervision
- Commissioning & Installation Start-up
- Decommissioning & Assets Retirement

HR INTEGRATED SOLUTIONS & RECRUITMENT:

- Employment Services
- Visa, Work Permits
- International & Local Mobility Management
- Local Content, Logistics & Administration Support
- Payroll & Personal Taxation Management
- Life & Repatriation (MEDEVAC)



Oil & Gas



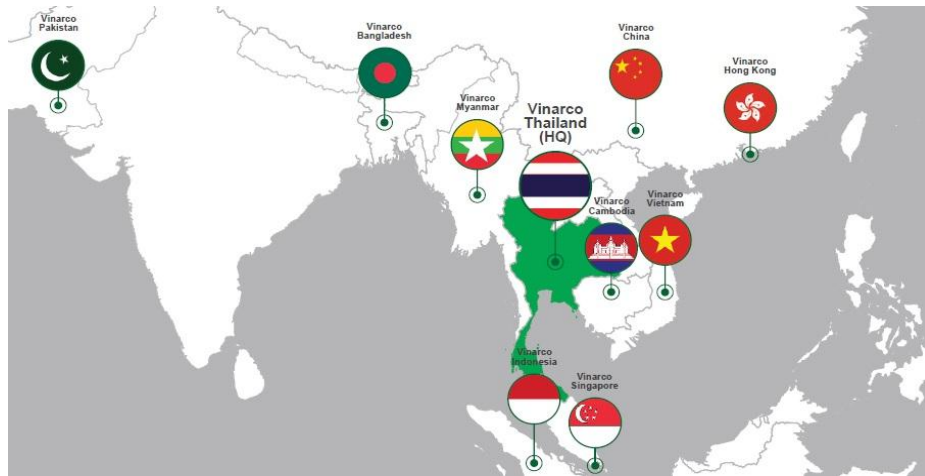
Power



ICT &
Telecom

1. VINARCO presentation and speaker background

A STRONG REGIONAL FOOTPRINT



Professional with extensive experience in the fields of Manpower Contracting Services for Oil & Gas, Power Generation and ICT/Telecom sectors in South East Asia and Middle East. For nearly 15 years, he has managed multi-cultural organizations in Thailand, Myanmar, UAE and Saudi Arabia on behalf of International Manpower companies (IOTA / OGAS Solutions / Vinarco International). Delivery challenging projects for his clients, his approach in planning & delivering manpower services was always based on successful HR strategies.

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2. What is the meaning of Labour local content?

Generally accepted definition:

(World Bank – IBRD – IDA – 2013 - Local Content Policies in the Oil, Gas, and Mining Sector)

- Mostly concerns developing countries rich in natural resources such oil, gas and mining resources
- To achieve sustained and inclusive growth by increasing domestic content for economic diversification
- Local content policies (LCPs) intend to achieve opportunities for regional or international integration
- To generate trade and reduce countries' dependence on external aid

So what are the main drivers of governments in setting up local content labor obligations?

- Protection of the national interest
- Enact and enforce laws promoting human development
- Be seen as open and transparent
- Ensure the economic and social prosperity of the people
- Maximise and optimise the benefits of their resource endowment
- Protect localised social, environmental and economic interests
- In some cases oversee their own national resource company

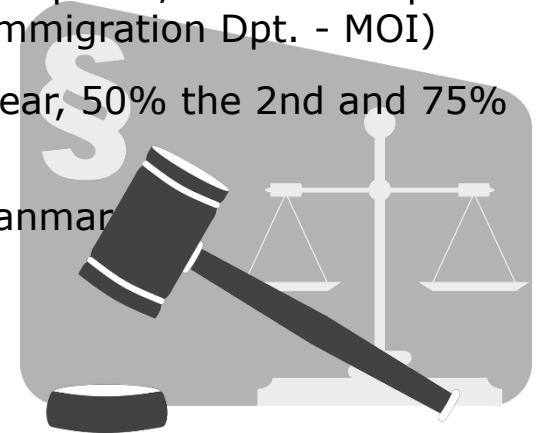


3. What are Myanmar current legal prescriptions?

Local content rules set to prioritize Myanmar (“...workforce...”) and its growth and development

Source (DICA - Myanmar Act 1914 & Myanmar Investment Law 2016) (DICA / Myanmar Investment Guide 2014)

- investment promotion objectives is to "prioritize Myanmar and its growth and development"
- Employers must ensure equal rights for local workers and avoid salary or treatment bias, provide equivalent rights and benefits
- Foreign employers must employ Myanmar citizens for 100% of unskilled labour.
- Under investment promotion laws (MIL / SEZ) employment of foreign experts or technicians will comply with specific rules whenever it is not possible give preference to Myanmar citizen (employer must disclose numbers of experts / obtain MIC permit before applying for stay-permit at the Director of Labor (MOL) and obtain stay-permit / visa from Immigration Dpt. - MOI)
- Businesses are required to employ national skilled workforce and technicians at least 25% the 1st year, 50% the 2nd and 75% the 3rd year
- In general comply with all employment and wages protection rules and regulations applicable in Myanmar



3. What are Myanmar current legal prescriptions?

➤ Myanmar employment regulatory framework

As of today, more than 25 sets of Law, rules and regulations are applicable!

Workman's Compensation Act (1923) as amended 2005 / Leave and Holidays Act (1951) as amended 2014 / Factories Act (1951) – as amended 2016 / Oilfields (Labour and Welfare) Act (1951) / Employment Restriction Act (1959) / Income Tax Law (1974) as amended by Union Tax Law 2016 / Law Relating to Overseas Employment (1999) / Labour Organization Law (2011) / Social Security Law (2012) / Settlement of Labour Dispute Law (2012) as amended 2014 / Employment and Skill Development Law (2013) / Minimum Wage Law (2013) / Payment of Wages Law (2016) / Shops and Establishment Law (2016) / Various sector-specific laws which contain labour regulations / Settlement of Labour Dispute Rules / Minimum Wage Rules as amended 2016 / Labour Organization Rules / Instructions of the Factories and General Labour Law Inspection Department / Ministry of Labour Notification No. 84/2015 on Severance Payments / National Minimum Wage Committee Notification No. 2/2015 / Ministry of Labour Notification No. 1/2015 on Labour Contracts / Ministry of Labour – Template Employment Contract / Ministry of Labour – Template Work Rules Ministry of Labour – Template Pay Slip

➤ National and International guidance statements & reports / UN / ILO

- Local content in the Oil and Gas Sector, World Bank Studies, 2013
- IFC Guide to Getting Started in Local Procurement
- IPIECA Local content strategy: a guidance document for the oil and gas industry (2011)
- IFC Guide to Strategic Community Investment
- ILO/Myanmar Government - National Labor Force Survey
- Myanmar Oil & Gas Sector Wide Impact Assessment 2014
- The Labor Organization Law (The Pyidaungsu Hluttaw Law No. 7/2011)
- The 14th Waxing day of Thadinkyut 1373. ME. (11th October, 2011)



4. Possible challenges affecting your HR strategy?

LOCAL LABOR RULES ALWAYS AFFECT HR MANAGEMENT CYCLE

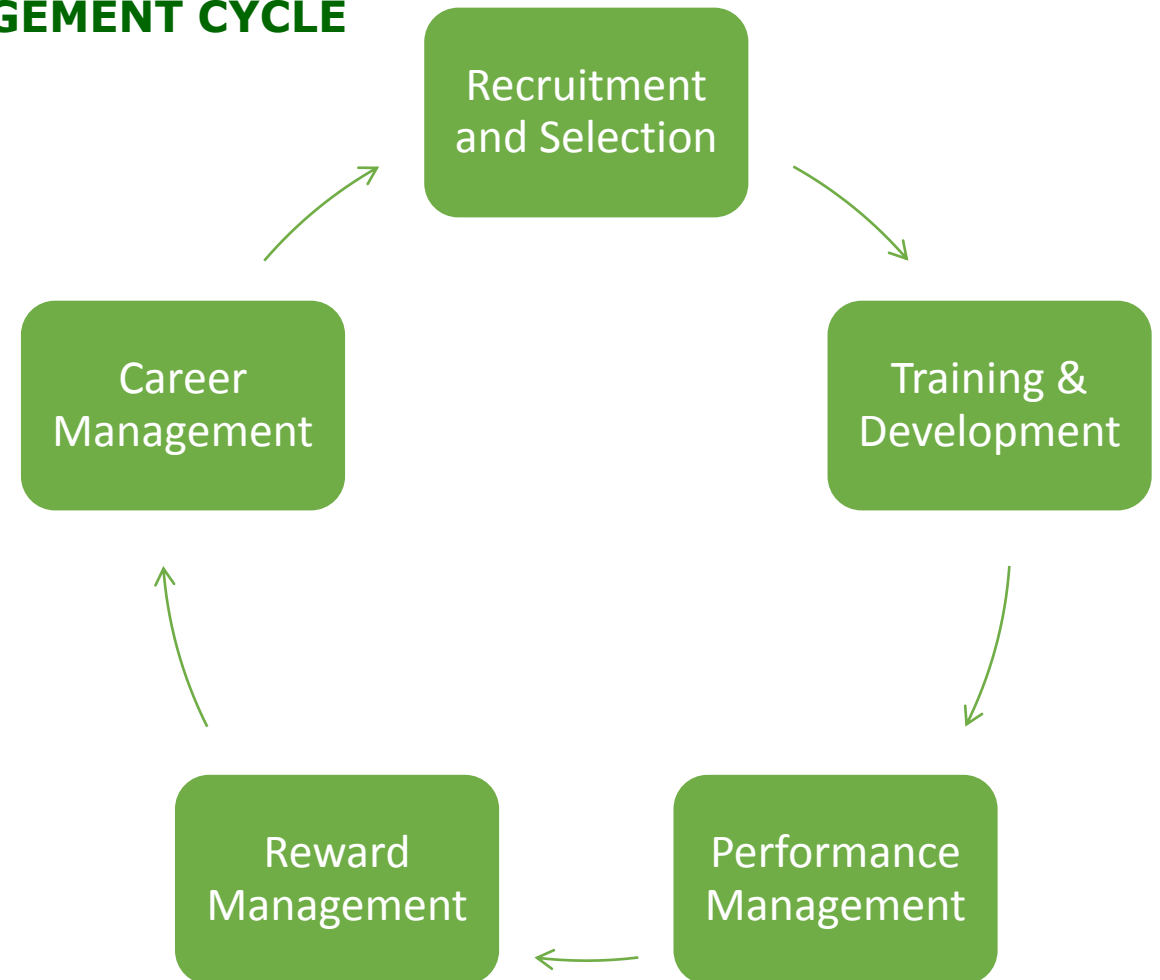
Workforce Planning = resources & budget?

Compensation = sector wages vs budget?

Talent Retention = effective?

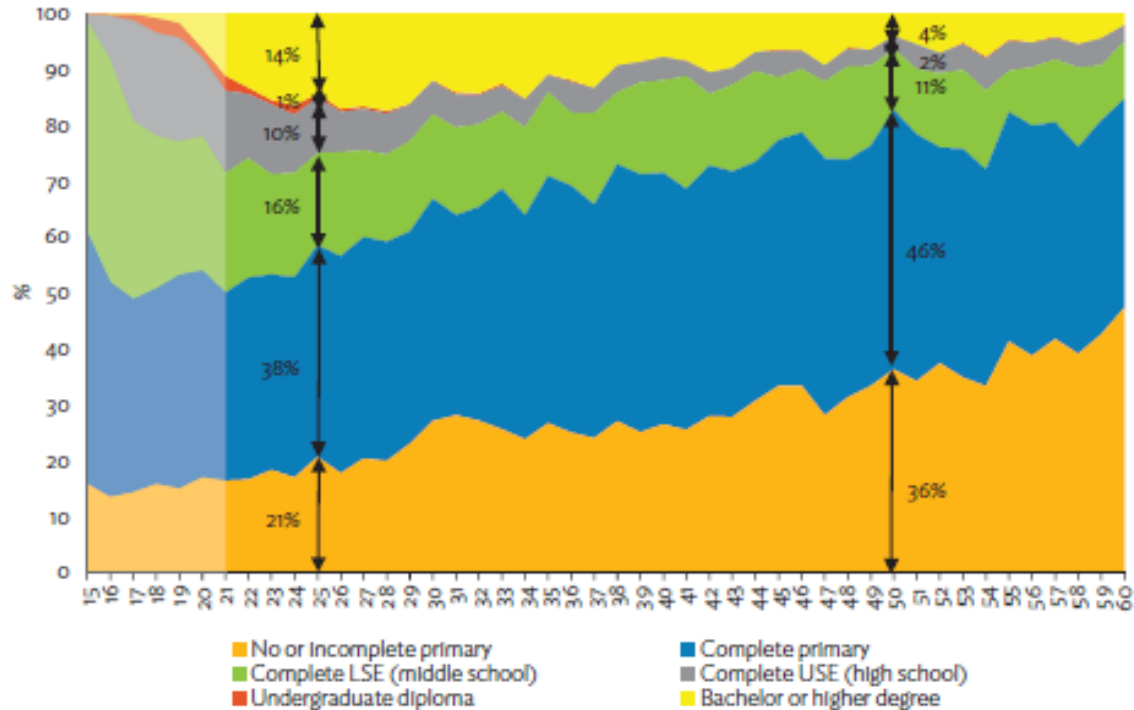
Skills Development = available standards?

Employee Loyalty = volatility?



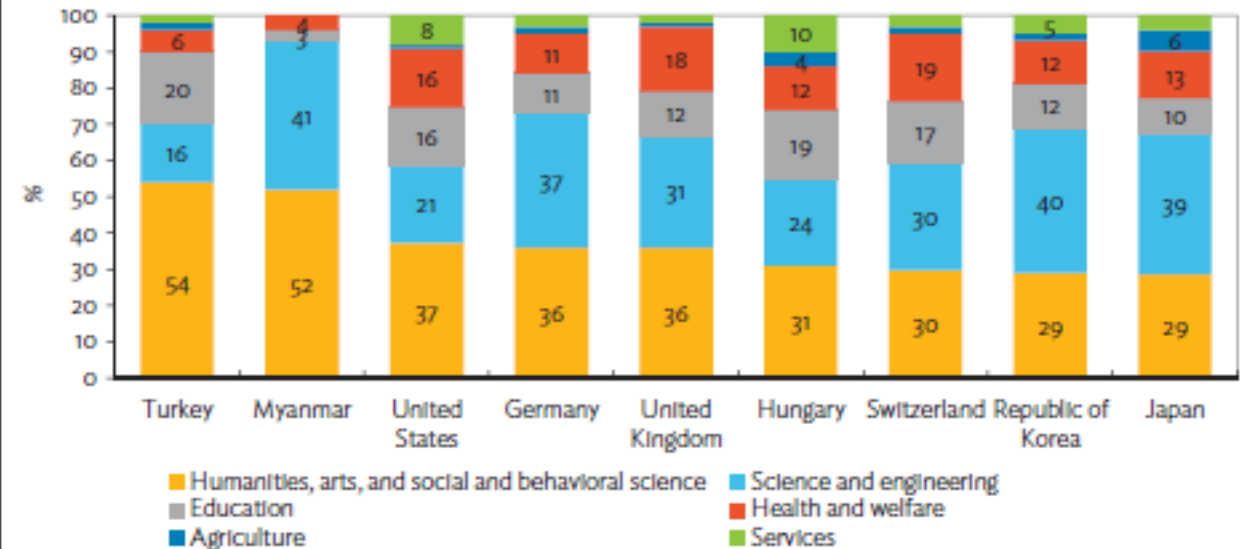
4. Possible challenges affecting your HR strategy?

Figure 14: Highest Educational Attainment by Cohort, Aged 15–60



LSE = lower-secondary education, USE = upper-secondary education.
 Notes: It is unlikely that adults aged 15–21 (lighter shade in the chart) would have indicated that they had attained higher education. The normative age for entry into higher education is 16; however later entry is very common (see also detailed analysis appended to the CESR Phase 1 Technical Annex on Secondary Education). Therefore, low rates of higher education attainment for this age group should not be interpreted as a recent trend.
 Source: ADB staff estimates using Integrated Household Living Conditions Survey data 2009–2010 (MNPED et al. 2011).

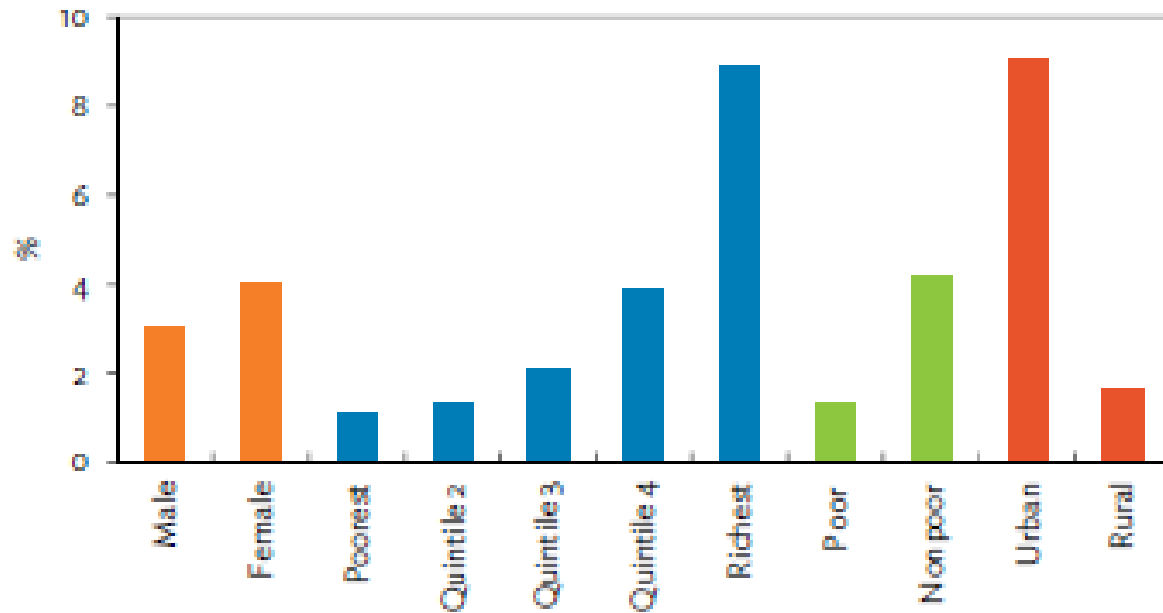
Figure 23: Higher Education Courses by Popularity, Myanmar and Selected Countries



Source: OECD 2013.

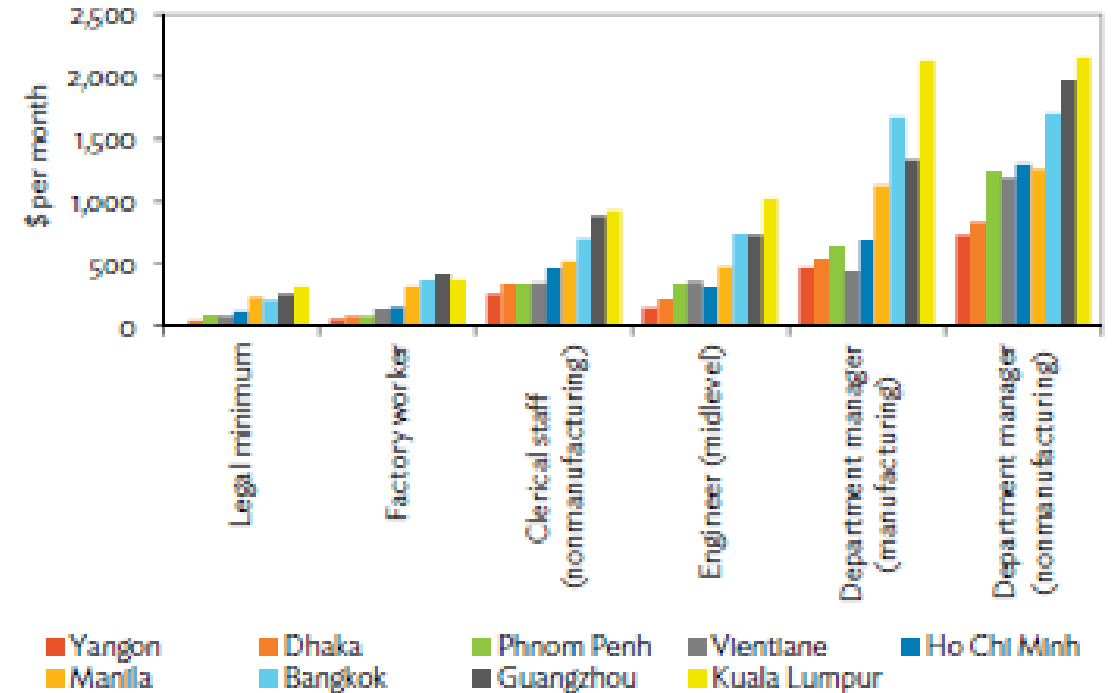
4. Possible challenges affecting your HR strategy?

Figure 17: Share of 15- to 64-Year Olds Having Participated in Training



Source: ADB staff estimates using Integrated Household Living Conditions Survey data 2009–2010 (MNPED et al. 2011).

Figure 26: Wage Comparisons among Japanese Companies across Asia

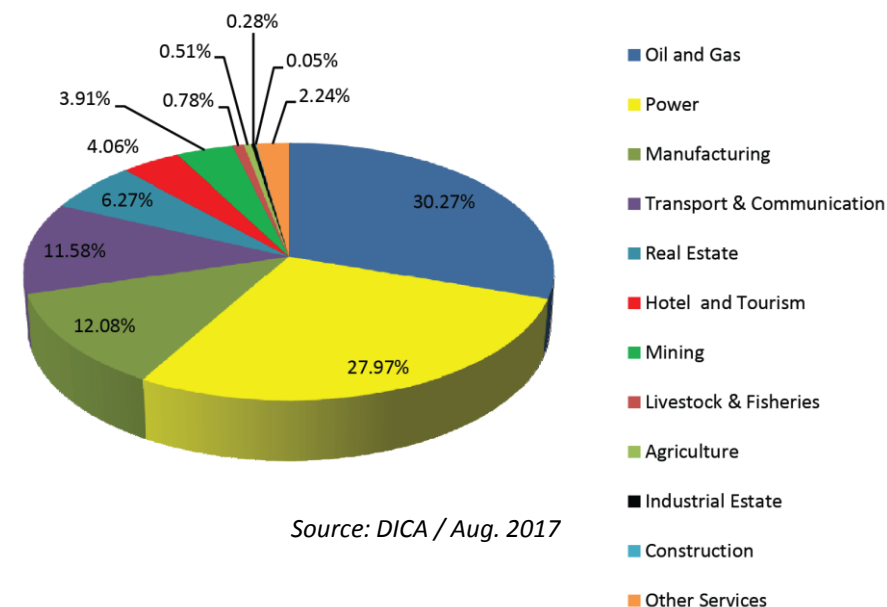


Source: Japan External Trade Organization 2013.

5. Practical Case Study: Labor local content in Oil & Gas sector

The O&G sector is strategic to Myanmar as 1st source of FDI in the country

- 2013 bidding round / PSCs (Production Sharing Contract) include specific obligation to employ and train Myanmar citizens selected by MOGE (industrial & academic training) / i.e. based on 2013 onshore model PSCs / training fund - US\$25,000 per year during exploration; US\$50,000 per year during production
- Investors may also use foreign labour for part of its workforce under certain conditions / MIL registered must use domestic skilled workforce: **1st y = 25%** / **2nd y = 50%** / **3rd y = 75%**
- Myanmar citizens must undertake all unskilled work (MIL do not require minimum)
- As of today, there are no anti-discrimination requirements. However, additional labour laws are in the pipeline that may include such provisions



How those requirements translate into service contractors agreement in Myanmar?

5. Practical Case Study: Labor local content in Oil & Gas sector

ENI Myanmar - Provision of "Manpower Services" on call-off basis onshore

"CONTRACTOR shall comply with and shall ensure its SUBCONTRACTORS comply with APPLICABLE LAW, including but not limited to that relating to social security, national insurance, remuneration provisions and the terms and conditions contained in the national and territorial collective labour agreements in force in the sector and in the area where the activities are performed..."

BASHNEFT INTERNATIONAL - Contract for supervision of field seismic acquisition onshore

"Personnel..."

The Contractor shall maintain at all times the minimum personnel necessary to perform the Work... If requested by the Company, or proposed by the Contractor and approved by the Company, the Contractor shall assign to the Work the optional personnel. In obtaining additional personnel to supplement its permanent staff in the performance of the Work, the Contractor shall give preference to Myanmar nationals..."

TOTAL E&P Myanmar - General conditions for petroleum and / or general services

"Local Employment, training and recruitment...Such plan shall be designed in a manner ensuring that the hiring of local workforce will comply with APPLICABLE LAWS:

- a) Develop the employment of local workers, in particular those pertaining to the LOCAL COMMUNITY in accordance with the appropriate employment policy approved by the public authorities;*
- e) Develop training actions to enhance skills of local workers, particularly regarding HSE matters."*

DAEWOO E&P - Shwe Project – Provision of General Services

"Myanmar Content..."

It is a Daewoo policy requirement that all suppliers and contractors to the Work will, wherever possible and practicable, utilize and/or incorporate the use of Myanmar produced goods and services required for the Work. Tenderer shall identify the intended Myanmar Content of the Work under the Contract and provide a statement on how Tenderer proposes to meet Daewoo's objectives in relation to Myanmar content."

5. Practical Case Study: Labor local content in Oil & Gas sector

Training to achieve competencies required

**Zaw,
Painter**



**Painting Foreman
on the local rig**



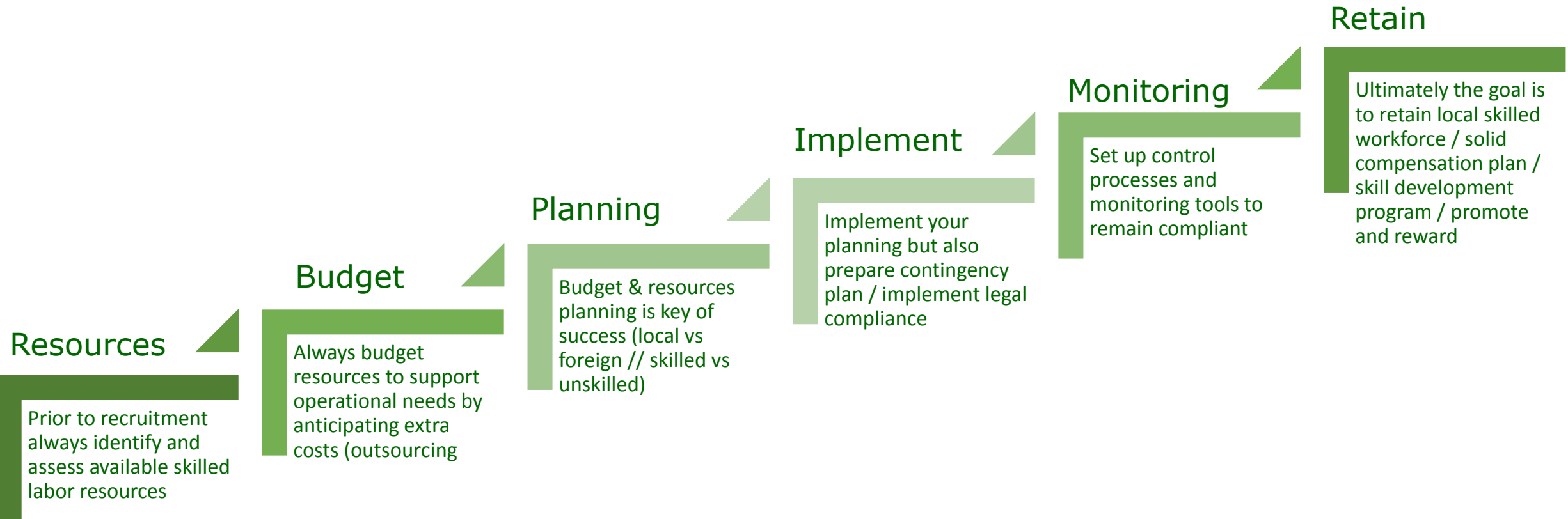
**Introduction to Oil & Gas
Fire Awareness
Emergency First Aid
Risk Assessment
Manual Handling
Permit/Control to Work
Working at Heights
Confined Space/Vessel entry
COSHH awareness**

5. Practical Case Study: Labor local content in Oil & Gas sector

Unskilled to skilled workforce!



Recommendations



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