

Viet Nam

Area (slightly larger than Malaysia)	331,210 sq km
Population	91,519,289 ¹
Male population	45,168,885
Female population (2011 est)	45,317,505
Rural population (% of total population) (both 2012 est)	70%
Urban population (% of total population)	30%
Total employment	48.015 million ²
Informal employment	17.736million
Unemployment rate	5%
UI implemented in	2009
Contribution rate	15%
Level of benefits	60% of the average contributory earnings over the last 6 months
Duration of benefits	- 3 months of benefits with 12 to 35 months of insured employment, - 6 months of benefits with 36 to 71 months of insured employment, - 9 months of benefits with 72 to 143 months of insured employment, and - 12 months of benefits with 144 or more months of insured employment.

This case study is a working document produced under the ILO/Japan-Project Promoting and building unemployment insurance in ASEAN (2011-2013). The responsibility for opinions expressed rests solely with their authors, and posting it on the GESS platform does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

¹ http://www.theodora.com/wfbcurrent/Viet_Nam/Viet_Nam_people.html

² Viet Nam employment Trends, 2010, ILO/MoLISA, October 2010. Viet Nam

Case Study of the Unemployment Insurance Scheme

John Carter

Ngo Thi Loan

Viet Nam

Summary:

Target Group: Coverage applies to Viet Nameese employees with permanent or open-ended contracts, for employers with at least 10 employees. Coverage applies to private and state enterprises, public service units and armed forces.

Number of Applicants: From January 1, 2010 to June 30, 2011, Employment Service Centres (ESCs) of the Departments of Labour, Invalids and Social Affairs (DoLISAs) of Viet Nam processed 373,087 applications and made 294,763 decisions to pay benefits to unemployed workers (see also appendix "A" for more recent statistics).

Unemployment Insurance Benefits: Unemployment Benefits are paid to workers who leave their position voluntarily or involuntarily but are actively seeking work and are available for employment. Also, an unemployed worker can receive UI benefits to attend a vocational training course for a maximum of 6 months provided the decision to attend the course was made while in receipt of UI benefits. Viet Nam Social Insurance will also pay the expenses to attend the course.

Delivery Process: Viet Nam Social Services collects UI premiums and issues payment of benefit to workers. Workers collecting UI benefits may, upon request, be supported to learn a trade at a vocational training institution, either private or public, but they cannot receive UI benefits to learn the trade on their own. Vocational training support is equal to the cost for short-term vocational training under the law. ESC staff provides guidance to the unemployed workers during registration and monthly job seeking interviews relating to vocational training courses including which training providers provide quality courses.

Source of Funding: A tri-partite arrangement with 1% paid by employers, workers and the government into the UI fund.

Registration for Employment: Registration is made at the Employment Service Center

Total Premium Collection: 2009/2010: 8.3 trillion dong (2,388.8 trillion dong from State)

Total Expenditure: 2009/2010: 609 billion dong

Introduction:

The government of Viet Nam is to be congratulated for their commitment and initiative in implementing an Unemployment Insurance program for their workers during a time of turbulence in the world economy. Viet Nam is the second of ten countries in the Association for Southeast Asian Nations (ASEAN) to implement UI (Thailand implemented a UI scheme in 2004). The UI program came into force on 1 January 2009 and premium collection commenced from this date forward. UI policy and procedures are outlined in the Social Insurance Law adopted by the National Assembly of the Socialist Republic of Viet Nam on 29 June, 2006 and Decree 127/2008/ND-CP dated 12 December 2008.

The International Labour Organization (ILO) has played a prominent role throughout the various stages of the project from design of the scheme to the eventual implementation and evaluation of the UI program. As well, both the ILO Regional Office for Asia and the Pacific (ILO ROAP) and the Office for Viet Nam (ILO Hanoi) have committed efforts to improve the UI scheme for the future. Since the ILO's inception in 1919, social security has been a core component of the ILO's mandate. UI is one of the nine branches of social security stipulated in the ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102). In addition, enhanced standards are highlighted in the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

Viet Nam Historical Background

Viet Nam is the eastern most country on the Indochina peninsula in Southeast Asia. It is bordered by China in the north, Laos to the northwest, Cambodia to the southwest and the South China Sea. With an estimated population of 91.5 million as of 2012, Viet Nam is the world's 13th-most-populated country and the 8th-most-populated Asian country.

The Socialist Republic of Viet Nam is a single party state. Its current constitution, which replaced the 1975 constitution in April 1992, asserts the central role of the Communist Party of Viet Nam in all phases of government, politics and society. The National Assembly of Viet Nam is the one and only legislature of the state composed of 498 members. It is superior to both the executive and judicial branches.

Since the 1980's, the economy of Viet Nam had been shifting from a centrally managed one towards a socialist-oriented market economy. In doing so, the country enjoyed high growth rates throughout the 1990's. In the period 2000 to 2010, Viet Nameese authorities committed themselves to a more liberal economy. They moved to implement the structural reforms needed to modernize the economy and to produce more competitive export-driven industries. As a result, Viet Nam joined the WTO in 2007 after a decade of negotiations. Agriculture, which was so dominant in earlier years, continues to slip in terms of economic output (25% of share in 2000 – 20% of share in 2010). But industry's share in the same period increased from 36% to 41%. Deep poverty has declined significantly and Viet Nam is working to create jobs to meet the challenge of a labour force that is growing by more than one million people per year. However, the growth-oriented economic policies

have had a negative impact on the inflation rate which reached 18.1%³ in 2011 making it one of the highest in the region.

Also, as with other Asian countries, the informal sector plays a significant role in the economy of a developing country. It is estimated that the informal sector could account for up to 20% of GDP and 23.5% of total employment in Viet Nam. The impact of “informal employment”, a broader term which captures all of those workers with no social insurance regardless of whether they work in the formal or informal sector, is even larger, affecting up to 37 million people in Viet Nam or around 82% of the Vietnamese labour force. Informal workers in Viet Nam tend to have low and irregular incomes, long working hours, no access to social security benefits and little access to opportunities for skills development. As they are not recognized, registered or regulated, and thus not protected by labour market institutions, people in informal employment are exposed to what is known as “working poverty”⁴.

What is remarkable is that Viet Nam has exhibited success in poverty reduction for the period 1993-2004 as illustrated by the four household surveys⁵. Viet Nam’s consumption-based poverty rate has come down from 58.1% in 1993 to only 19.5% in 2004, thus showing a drop of almost 39 percentage points over the 11 years. Besides the pro-poor economic development policies, Viet Nam has initiated poverty-targeting programmes, such as Hunger Eradication and the Poverty Reduction Programme and the area-based Programme 135, which targets mountainous and ethnic minority populated regions.

Institutional Set-up

The two main departments charged with the responsibility of administering the UI regulations are the Ministry of Labour, Invalids and Social Affairs (MoLISA) and Viet Nam Social Security (VSS).

Under the direction of MoLISA, the Bureau of Employment (BoE) is responsible for the administration of UI claims for benefit and the day-to-day operations of the UI program. BoE develops policies and procedures on a national basis and these are provided to Employment Service Centres (ESCs – local offices). As well, BoE provides guidelines relating to employment policies and labour market development. ESCs have the task to assess, calculate and recommend payment of UI benefits to the Director of the Department of Labour, Invalids and Social Affairs (DoLISA – provincial arm of MoLISA). The Director of DoLISA has the authority to finalize the decision on UI payment. This decision is then sent to VSS for actual payment to the unemployed worker.

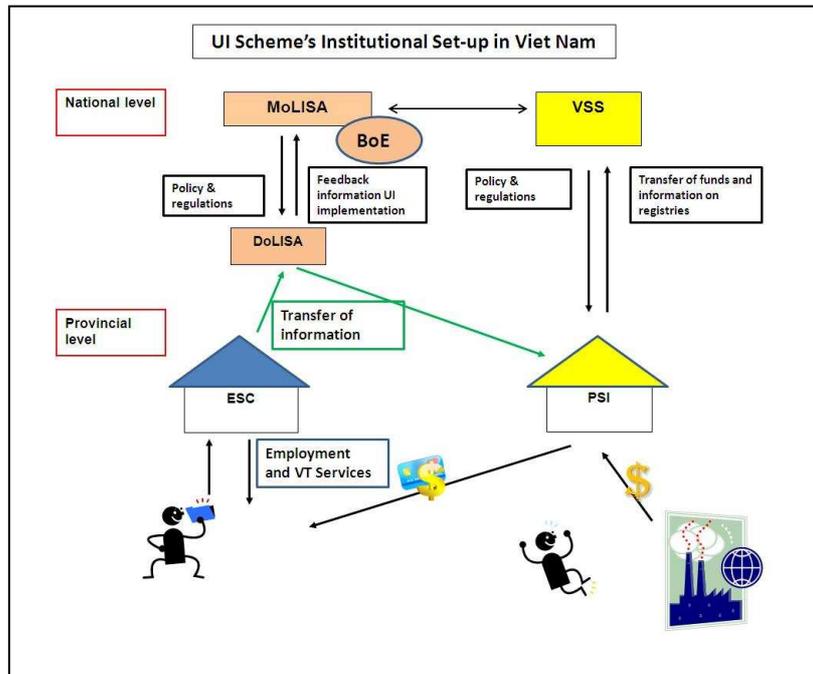
VSS, in addition to paying UI benefits to unemployed workers, have the responsibility to determine UI coverage and to collect UI premiums from employers. In addition, VSS is tasked with the collection of premiums for other types of Social Insurance such as pensions, health and worker injury as well as administering these social programs.

³ <http://www.tradingeconomics.com/Viet-Nam/inflation-cpi>

⁴ Informal Economy – ILO - <http://www.ilo.org/hanoi/Areasofwork/informal-economy/lang--en/index.htm>

⁵ Poverty, Poverty Reduction and Poverty Dynamics in Viet Nam July 2006: http://www.chronicpoverty.org/uploads/publication_files/CPR2_Background_Papers_Nguyen-Le_Dang-Vu_Hoang.pdf

The administration of UI claims under the Viet Nam UI scheme is rather complex in terms of reporting structures. In theory, DoLISA is led by both the Provincial People’s Committee (PPC – on administrative and financial matters) and MoLISA on the technical aspects of UI. But it remains unclear who has more influencing power over DoLISA. As a result, BoE allocates necessary administrative budget to ESCs but BoE’s role is more collaborative when it comes to in provide advice and guidance on the administration of UI claims for benefit.



Design Stage – Historical Legal, National Dialogue and Operational Development

The Asian financial crisis of 1998 triggered a discussion on the merits of implementing an unemployment insurance scheme in Viet Nam. Subsequently, changes were made to the Labour Code in April, 2002 (Law 35/2002/QH10 – “Amendments and Supplements to some Articles of the Labour Code”). Under these changes, UI was introduced for the first time. The changes laid the groundwork for establishing a UI scheme.

Over the next few years, consultations continued and a national consensus emerged comprising of decision makers and stakeholders’ opinions to determine the specifics of the UI program. Several workshops and meetings were conducted involving representatives from MoLISA, BoE, VSS, Viet Nam General Confederation of Labour (VGCL), Viet Nam Chamber of Commerce and Industry (VCCI) and vocational training representatives. The Social Insurance Law was also updated to reflect the new UI scheme.

Viet Nam also had the opportunity to study other UI programs in Asia such as South Korea and Japan. Thailand also implemented a formal UI scheme in 2004 which provided expertise in the development of an adequate UI income protection program.

Viet Nam benefited from VSS experience in the administration of other social security schemes and payment of social benefits and VSS provided valuable assistance in the development of UI coverage, collection of premiums and payment of UI benefit.

The collection of premiums is a tri-partite responsibility of 1% of payroll each for employers, workers and government. The premiums are kept in a special national UI fund and transferred to provincial Social Insurance offices for payment to the unemployed worker by cash (at commune level) or direct deposit. In Ho Chi Minh City, 100% of unemployed workers are paid by direct deposit.

As a result of the consensus building exercise, the Law on Social Insurance was amended on June 26, 2006 with reference to the new UI scheme. In addition, Decree 127 (Decree No. 127/2008/ND-CP) was promulgated by the National Assembly on 12 December 2008 allowing for the commencement of collection of UI premium from enterprises with at least 10 employees, starting 1 January 2009. Decree 127 provides details on UI coverage, managing and administering the UI fund and the roles and responsibilities of workers, employers, labour agencies (MoLISA) and Viet Nam Social Security. Subsequently, MoLISA officially published Circular 04 (Circular No. 04/2009/TT-BLDTBXH) in 22 January 2009 expanding on the policies and procedures of the UI scheme. It provided guidance on entitlement and qualifying conditions for receiving UI benefits as well as processing UI claims for benefit. Circular 32 replaced Circular 04 in October 2010 with a streamlined version of the amended guidance on UI procedures.

It was decided that BoE would be responsible for the processing of UI claims in their 63 provincial sites throughout Viet Nam. Funding was provided for additional staff and upgrading the ESC locations.

In October 2009, BoE conducted a number of workshops with ESC managers and stakeholders to plan for the implementation of the UI scheme and start UI operations. The workshops were designed to assist the managers and stakeholders to better understand the policies of the UI plan and to develop operational plans in processing UI claims for benefit and payment of benefit. A communication strategy was advanced to inform the public and employers of the impending UI implementation. As well, a procedure manual was developed to guide ESC staff in processing UI claims for benefit and other types of allowances (lump sum, vocational training and job seeking). Managers were trained as master trainers in December at various locations throughout Viet Nam. ESC staff was formally trained by the master trainers in the few weeks prior to the implementation date. A “hot line” was established connecting ESC staff to the national BoE officers to rectify any issues not covered by the procedure manual.

Policy gaps

The UI program in Viet Nam was implemented more than two years ago commencing January 1, 2010. Two evaluations were conducted to review the policies and procedures enunciated in the UI laws and regulations and the impact on the UI program. MoLISA officials/stakeholders have had the opportunity to also review any shortcomings of the policies of the UI scheme.

The Viet Nam UI scheme is unique when it is compared to other UI schemes throughout the world in two respects. First, any person (who has sufficient insured employment – 12 months in last 24 months) is allowed to collect UI benefits in Viet Nam irrespective of the reason for termination.

Those who voluntarily quit their position or involuntarily lose their job are entitled to full UI benefits. Secondly and compounding the situation with voluntary quitters, the UI scheme provides that individuals can receive their remaining UI benefits in a lump sum once they find employment or start military service, even if they return to work with the same employer.

Regarding voluntary quitters, ILO Convention 168 states in article 20 that benefits “may be refused, withdrawn, suspended or reduced... (b) when it has been determined by the competent authority that the person concerned had deliberately contributed to his or her own dismissal; (c) when it has been determined by the competent authority that the person concerned has left employment voluntarily without just cause. Therefore, those who voluntarily quit their job without good cause or have been fired for misconduct are subject to reduced benefits. Convention 102 makes similar references. Virtually all countries in the world refuse or reduce the amount or duration of benefits to those who quit their job without just cause. There are some situations where “just cause” for quitting can be proven (such as dangerous working conditions, sexual harassment etc) and full UI benefits should be paid in these situations to the unemployed worker.

Lump sum payments are sometimes made by countries to encourage unemployed workers to return to employment as quickly as possible but are subject to certain restrictions. However, for many, the combination of “quitting” and “lump sum benefits” may become an incentive to cash in their 3 or 6 month entitlement every few years as a type of annual bonus. Many stakeholders have expressed concern that these two provisions (lump sum and “no reduced benefits”) run contrary to the principles of unemployment insurance in its present state.

Another gap in the UI policies concerns unemployed workers who must turn in their health insurance cards when their employment is terminated and the insurance is only reinstated when they qualify for UI and receive their first payment. There is proposal to reinstate health insurance when they receive their notice of approval of UI benefits thereby reducing the breaking time in health insurance coverage. But there will still exist a period where the unemployed worker will not be entitled to health insurance from the date of termination to the date of decision to pay UI benefits.

In order to receive UI benefits, an unemployed worker must register at an ESC within 7 working days from the date of termination. The policy seems unreasonable given that the UI scheme is relatively new and many workers and employers were unaware of the requirements for receiving UI. Due to the inflexibility of the law, many unemployed workers failed to qualify simply because they did not register on time. Complicating the situation was the requirement to submit the Social Insurance (SI) Book (record of insured earnings and period of employment) at the time of applying for UI benefits (15 working days after registering for employment). Workers complained of many undue delays in obtaining the SI book from the employer once it had been certified by VSS. Since then, MoLISA and VSS have worked together to streamline the SI book process, allow for fast flow of premium information and limit delays in submitting it to ESCs to determine if the worker qualifies for UI benefit. Also, there is a proposal to amend the registration provision from 7 working days to 90 calendar days.

UI coverage applies to the employees of virtually all employers, whether private or state enterprises, public service units or armed forces. But there are two exceptions: 1) contracted civil servants are covered but not government officials nor civil servants with indefinite contracts and 2) coverage only applies to employers with 10 or more employees. There is a proposal to clarify the definition of public servants: all public servants, contractual or permanent, would be covered under the UI scheme for insurability purposes (but not government officials). However, the requirement for employers to have 10 or more employees should be eliminated similar to South Korea (commenced with a rule of 20 or more employees, reduced to 10 and subsequently eliminated in later years). After removing these provisions from the Korean EI system, this led to a successful expansion in coverage.

Insurable employment for workers is dependent on employers paying the required UI contributions on time to Viet Nam Social Security. If those remittances are delayed indefinitely or never paid, unemployed workers may have legal recourses against their former employer but the corresponding time worked will not be counted⁶. Therefore, the unemployed worker cannot qualify for UI benefits which amounts to the worker being penalized by the failure of his/her employer to remit the UI contributions which is a legal requirement. In these situations, it has been recommended to enact a provision in the law to protect workers affected by employers failing to remit payments. The employment should be “deemed” as insurable in spite of non-payment of UI premiums. The workers would only need to prove he/she worked for a delinquent employer. VSS (or investigation and control directorates) should then be responsible to initiate action against the employer to recoup the premiums.

Operational and Implementation Issues

The implementation of the UI Viet Nam program went relatively well and staff of ESCs commenced receiving the first UI claims for benefit in January 4, 2010. Only a portion of the ESC staff received training in anticipation of the start date to receive claims. Initially, ESC staff manually processed claims for benefit as there was insufficient time to build and implement a computerized system for processing claims. Of course, a manual system is cumbersome and requires more time and effort to process claims especially for ESCs with significant intake of claims.

In the first 18 months of implementing the UI program, five provincial ESC offices (Hanoi, Ho Chi Minh City, Binh Duong, Dong Nai and Long An) processed 71% of the total registrations received nationally and paid 65% of workers who were approved for payment after processing their UI claim. Since the commencement of the UI scheme, the larger ESCs have been under pressure because of large intakes of registrations and applications for benefits as well as monthly reporting on job seeking activities. Unemployed workers are required to report monthly to discuss their job seeking activities and ensure that they are actively looking for work. Many of the larger ESCs are dealing with substantial numbers of workers reporting monthly and this number is expected to climb with the duration of benefits being extended to 6 months (for those with 36 to 71 months of insurable employment).

⁶ Article 81 of the Social Insurance Law specifies that entitlement to UI benefits depends on having paid UI contributions for the required period.

The absence of a computerized system greatly impacted on the ability of larger ESCs to deal with the unexpected high volume of claims and in-person reporting (in 2011, a computerized system was developed and tested in Ho Chi Minh City and Binh Duong. Further testing and evaluating of the system continued into late 2011). The computer system will require a link with VSS and provide electronic records of insured earnings and employment currently documented on the SI book. As an alternative to the SI book, it is suggested to replace it with a Record of Employment which would be completed by the employer and submitted to the ESC without VSS intervention.

While the communication strategy provided information on the UI program through various media outlets and workshops were conducted with employers and worker groups, many employers and workers were unaware of the requirements to receive UI and the registration process. As a result, many unemployed workers did not qualify to receive UI benefits as they were unaware of the requirement to register within 7 working days of date of termination.

Another issue concerns payment of UI benefits. Problems were identified relating to inconvenience and burdens (e.g. delays and financial cost to travel from one office to the other) for the unemployed to register at the ESC and receive UI benefits from the PSI/district or commune levels. In addition, it has also been reported that many unemployed workers are referred back and forth between ESCs and Provincial Social Insurance offices when payments are delayed. Finally, the common practise of SI schemes to issue payment once a month on a fixed day compounds problems for UI participants. UI is a unique social benefit where qualified unemployed workers require speedy payment during difficult times and have no other financial support.

A critical measure of success for a UI scheme is whether UI claimants actually receive the benefits to which they are entitled, and without delay. But the evaluation report highlighted a problem where one cannot determine how long it actually takes before UI benefits come into the hands of qualified unemployed workers, through the VSS payment system. A study has now been proposed to look at the feasibility of payment of UI benefits by ESCs (BoE) versus continuing payment through VSS.

The Bureau of Employment is the national office providing advice and guidance to ESC staff on matters concerning UI processing. Yet, their role in the institutional set-up is one of a collaborative approach. BoE can only suggest procedures to ESCs without the authority to enforce national policies and procedures. Therefore, ESC offices can deviate from national norms which adversely impacts on national standardization of processes to ensure all unemployed workers receive equal treatment in the processing of their UI claims for benefit.

Lessons Learnt

In the design stage, an actuarial study an actuarial study is a necessity to determine the financial soundness of the planned UI scheme. Many of the policy gaps outlined in this report could have been eliminated by conducting an actuarial assessment prior to the development of legal requirements.

More lead time should be allowed in the pre-implementation period to fully develop a computerized system prior to the implementation date and avoid cumbersome and time consuming manual

processing. There is a need to provide a national identifier for processing UI claims for benefit which would enhance the computer and filing systems.

In addition, there is a need to develop well in advance of the implementation date a procedural manual and formalized training packages to provide participants with effective tools for learning. This includes training on computers for those without the necessary skills to utilize a computer system. The formalized training should be provided as close as possible to the implementation date but all staff members should receive formalized training on the UI program and procedures for processing UI claims for benefit.

Concerning the communications strategy, while a great deal of information was initially disseminated at the time of implementation, most stakeholders agree to the need for an ongoing and sustained effort to improve the knowledge level of the UI scheme for employers and workers. Also, there is a need for a specialist at each office, some type of Public Liaison Officer, who would promote the understanding of the UI program full time prior to and during the implementation of UI. The officer could visit large employer premises to disseminate the UI information along with a representative from VSS (relating to collection of premiums and payment of UI benefits). On a national basis, the officer could attend workshops and employer/worker meetings. Feedback from the worker survey indicates that the majority of workers receive their information on UI from their employer. Therefore, it is imperative to ensure employer groups are well versed on the UI program. BoE could provide workshops to major employers as well as a presentation package for the Public Liaison Officer to utilize during the sessions (would include handouts and brochures for staff). A review of mass media messages and strategy should be undertaken to see if there could be any improvements in this area. We also see the need for the development of a “best practices” list of activities from those employers who are performing an exemplary job of disseminating information to their workers.

Because many employers fail to remit UI premiums, it has been recommended by stakeholders to increase the amount of penalties for those who intentionally fail to remit premiums on time. Within MoLISA (DoLISA) and the PPC, inspection and control inspectorates are responsible for investigating violations of labour laws. However, there seems to be a lack of initiative in dealing with delinquent employers and imposing adequate fines to deter abuse of the law. Follow-up investigations should be conducted on a priority basis by Investigation and Control Inspectorates. If it is not practical, suggest ESC form their own Investigation and Control team to conduct these investigations as well as possible fraud situations against the UI fund involving workers and/or employers.

Relating to the appeal system, BoE has indicated no appeals have been received since the UI scheme was implemented (after 18 months) which may cast doubt on the very existence of an effective appeal system in its present form. The appeal process is intended to provide a general method of recourse for persons dissatisfied with the decisions by ESC/DoLISA on their entitlement to UI benefits. The right of an unemployed worker to appeal decisions made by ESC staff is the cornerstone of an objective and unbiased decision making process also recognized in the ILO Conventions related to UI and Social Security. The appeal system should be effective and easy to use by workers. It should be transparent and fair to ensure workers’ rights are protected. But, it is felt almost all appeal procedures in Viet Nam are not efficient as they are very bureaucratic and people do not believe their appeal can be considered with fairness or transparency. It is recommended that

an independent and objective board of appeal be established to receive and decide on appeals filed by those who disagree with the decisions of BoE and DoLISA. This board should be composed of three people who have no connections to government departments (suggest one representative of labour, one representative of employers and one chairperson who is respected in the community and displays unbiased and objective characteristics).

Most countries have implemented some type of quality control program which, through regular evaluation, monitors all aspects of the UI program for timeliness, accuracy and quality of service. The Viet Nam UI scheme could benefit from the implementation of a national quality program. The results of the quality control monitoring could be used as a key indicator of the efficiency and effectiveness of ESCs to be reported to ministry government officials.

Recent Statistics on Processing Activities at ESCs		Appendix "A"	
	Issue	Month - March 2012	First Quarter 2012*
1.	# of Registrations	53,399	116,620
2.	# of Applications processed	44,412	86,341
3.	# of Applications approved	30,034	61,155
	Men:	<u>12,632</u>	<u>26,586</u>
	Less than 24 years of age	2,082	4,053
	25 to 40 years of age	8,271	16,890
	greater than 40 years of age	2,279	5,643
	Women:	<u>17,402</u>	<u>34,569</u>
	Less than 24 years of age	4,411	8,318
	25 to 40 years of age	11,058	21,805
	greater than 40 years of age	1,933	4,446
4.	Approved for lump sum payment	487	704
5.	# Using Job Counselling and Matching Services	17,195	44,393
6.	# Cases Received Vocational Training	282	585
7.	# Cases UI benefits suspended	774	2,629

*First Quarter 2012: From December 21, 2011 to March 20, 2012.