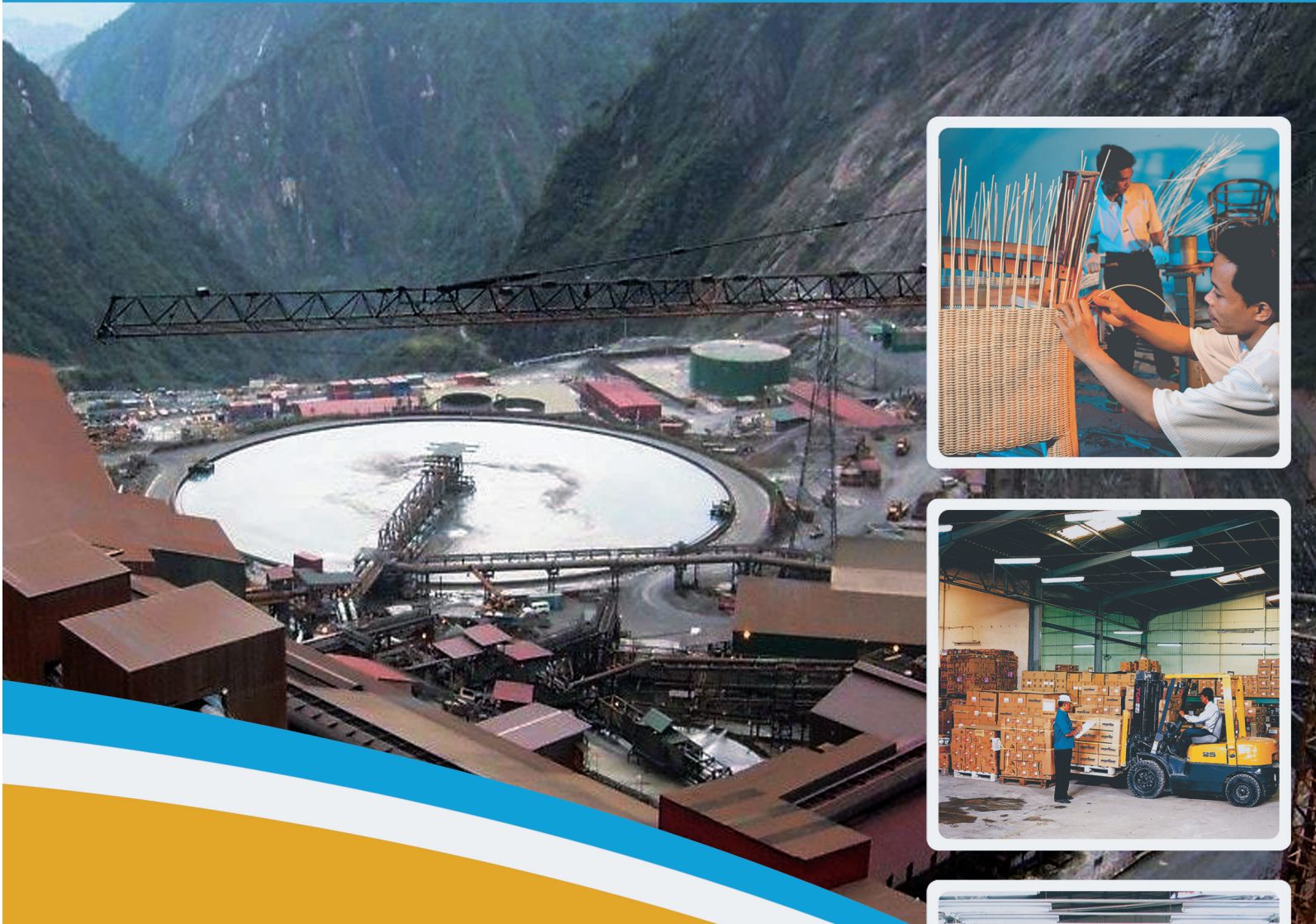


REPORT OF THE FIRST REGIONAL SEMINAR ON INDUSTRIAL RELATIONS IN THE ASEAN REGION



ASEAN-ILO/JAPAN
INDUSTRIAL RELATIONS PROJECT



Report of the First Regional Seminar on Industrial Relations in the ASEAN Region

ASEAN-ILO/Japan Industrial Relations Project

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967. The Member States of the Association are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. The ASEAN Secretariat is based in Jakarta, Indonesia.

For inquiries, contact:

The ASEAN Secretariat

Public Outreach and Civil Society Division

70A Jalan Sisingamangaraja

Jakarta 12110

Indonesia

Phone : (62 21) 724-3372, 726-2991

Fax : (62 21) 739-8234, 724-3504

E-mail : public.div@asean.org

General information on ASEAN appears online at
the ASEAN Website: www.asean.org

Catalogue-in-Publication Data

Report of the First Regional Seminar on Industrial Relations in the ASEAN Region
Jakarta: ASEAN Secretariat, January 2010

331.0959

1. Labour and Employment – ASEAN
2. Industrial Relations
3. Global Financial Crisis

ISBN 978-602-8411-29-5

Copyright ASEAN Secretariat 2010
All rights reserved

FOREWORD

The ASEAN Socio-Cultural Community (ASCC) Blueprint lays out the importance of industrial relations within the ASEAN region. As stipulated in the ASCC Blueprint, ASEAN aims to promote “sound industrial relations, industrial harmony, higher productivity and decent work”. This objective supports ASEAN’s adherence to the principles of rule of law, democracy, respect of fundamental freedom, and the promotion of and protection of human rights as declared in the ASEAN Charter.

The idea of publishing this Report of the First Regional Seminar on Industrial Relations in the ASEAN Region originated from the joint aspirations of the ASEAN Secretariat and the International Labour Office (ILO) in Bangkok to disseminate to a wider audience the good industrial relations practices shared by the tripartite representatives of the ASEAN Member States during the Seminar held on 26 – 27 February 2009 in Bogor, Indonesia.

Carrying the theme “Towards an ASEAN Integration: Promoting Good Practices for Sound and Harmonious Industrial Relations”, the Report provides examples of how ASEAN Member States have sought to maintain and promote good industrial practices in the context of a rapid regional integration and global financial and economic crisis. The Report confirms that social dialogue is crucial in these times of rapid structural adjustments resulting from the growing regional/global integration and the spreading global financial crisis. The experiences shared by the ASEAN Member States, also demonstrate that although the crisis can magnify issues between social partners, it can also be an opportunity to strengthen the ties to produce more favourable outcomes both economically and socially. Workers and employers both need to adapt to changes resulting from the crisis. Hence the adoption of strategies and policies developed from tripartite consultations would be crucial to overcome these challenges.

Being part of the ASEAN-ILO/Japan Industrial Relations Project (AIJPIR), this ASEAN-ILO joint publication is sponsored by the Ministry of Health, Labour and Welfare (MHLW) of Japan. The AIJPIR is the 3rd Phase of the ASEAN Japan Programme on Industrial Relations (AJPIR). Under the ASEAN Labour Ministers Work Programme, AJPIR started in 2002 and concluded its First Phase in early 2004 and Second Phase in early 2008. As a whole, APIR, including the current phase is funded by the MHLW of Japan. With that, on behalf of the ASEAN Secretariat, I would like to express my deep appreciation to the Government of Japan for its generous support. I would also like to thank the ILO for its extensive technical and administrative support for the implementation of AIJPIR.

DR. DONALD TAMBUNAN

HEAD OF SOCIAL WELFARE, WOMEN, LABOUR AND MIGRANT WORKERS DIVISION
ASEAN SECRETARIAT

Table of Contents

Introduction

List of Abbreviations

1. Highlights of the First Regional Seminar on Industrial Relations in the ASEAN Region

2. Annexes

Annex 1: List of Participants and Resource Persons	21
Annex 2: Draft ASEAN Guidelines on Good Industrial Relations Practices (and its Follow-up)	31
Annex 3: Opening Speech of the Secretary-General of the Ministry of Manpower and Transmigration of Indonesia	37
Annex 4: Presentation on Global Perspectives on Industrial Relations	39
Annex 5: ILO Declaration on Fundamental Principles and Rights at Work	51
Annex 6: Country papers and presentations:	
- Cambodia Report (Collective Bargaining in Cambodia) and presentation	57
- Indonesia Report (Dispute Settlement in Indonesia) and presentation	69
- Japan Report (Sound and Harmonious Industrial Relations, Changing Forms of Employment and New Employment Relationships) and presentation.....	79
- Lao PDR Report (Collective Bargaining/Tripartite Dialogue)	111
- Philippines Report (Collective Bargaining and Social Dialogue: The Philippine Experience) and presentation	113
- Singapore presentation (Social Dialogue and Responses to Current Financial Crisis – Singapore Labour Movement)	131
- Vietnam presentation (Labour Dispute and Strike Settlement – Practice in Viet Nam)	149
Annex 7: Press Release – Outcomes of High Level Regional Forum on Responding to the Economic Crisis – Coherent Policies for Growth, Employment and Decent Work in Asia and the Pacific	163
Annex 8: Full Summary – Towards ASEAN Integration: Promoting Good Practices for Sound and Harmonious Industrial Relations	165
Annex 9: ILO Tripartite Declaration on Good IR Practices in the Oil and Power Sector, 2002	173

3. Industrial Relations in ASEAN: Good Practices and Emerging Challenges by Professor Dr Rene E. Ofreneo

Introduction¹

This volume contains the consolidated report of the first regional tripartite seminar on industrial relations organized under phase III of the ASEAN-Japan Programme on Industrial Relations (AJPIR), which is called the ASEAN-ILO/Japan Industrial Relations Project (2008 – 2010). The seminar was held in Bogor, Indonesia on 26 and 27 February 2009.

Two earlier phases of the AJPIR were conducted from 2002 – 2007, during which efforts were made to promote stable industrial relations norms and practices through bipartite cooperation and social dialogue. The basic framework of industrial relations - with freedom of association at its centre - and the need to amend and update labour laws in the context of globalization were addressed in the course of several regional and national seminars. Traditional industrial relations issues concerning wages, productivity, bipartite dispute resolution and social dialogue were also discussed and exhortations were made for building the capacity of the social partners. However, there was no attempt to directly engage with the tripartite constituents and seek their contributions in order to enhance the quality of social dialogue in promoting sound industrial relations. The phenomenal economic growth achieved by many ASEAN countries during this period through open trade, industry and services led to the expansion of employment opportunities and increases in wages and incomes. On the other hand, the migration of under-employed rural workers to urban industrial and commercial centres, the spawning of the informal economy, and the rise of various forms of atypical employment increased income inequalities and wage disparities across the region and challenged the norms of decent work and harmonious industrial relations. It is with a view to redressing the balance that the Asian Regional Meeting of the ILO held in Busan, Korea (2006) declared 2006-2015 as the Asian Decent Work Decade.

In recognition of the need to pursue genuine social dialogue to achieve sound and harmonious industrial relations and decent work, the Government of Japan approached the ILO's Regional Office in Bangkok to help implement the third phase of the ongoing industrial relations programme. The basic objectives of the ASEAN- ILO/Japan Industrial Relations Project [2008-2010] remain the same as in the earlier phases of the AJPIR, which is to promote constructive industrial relations among the ASEAN countries and support the ASEAN Secretariat in building its capacity to disseminate knowledge and information about IR among its members.

The difference, with ILO as the implementing partner, is that for the first time representatives of employers' and workers' organizations in the region have been invited to contribute to the design, implementation and impact assessment of the project and its activities. This is as it should be. Those who are directly affected by the developments that occur in the world of work are the best qualified to 'aid, advise and warn'. The adage that the person that wears the shoe knows best where it pinches is never truer.

¹ By Mr Abhik Ghosh, former Senior Specialist on Labour Relations and Labour Administration at the ILO Sub-regional Office for East Asia.

Implementation of this project is being done in close cooperation with the ASEAN Secretariat. A tripartite Industrial Relations Team (IRT) has been constituted with the following terms of reference:

1. To review and take note of developments in the industrial relations situation in the ASEAN countries;
2. To review the design, implementation strategy and activities proposed under the ASEAN IR project and suggest modifications, if any;
3. To consider and render advice on proposals for organizing regional, sub-regional and national seminars and workshops under the project, including the selection of the lead country, themes and topics for the seminars and workshops, agenda and allocation of tasks; and
4. To review the progress and evaluate the impact of project activities on industrial relations in the ASEAN countries.

The overarching theme of the ASEAN-ILO/Japan Industrial Relations Project is: “Building Better Industrial Relations Towards ASEAN Integration”. Strengthening the capacity of the social partners to engage in social dialogue and improving industrial relations are crucial for investment growth and sustainable enterprises. Especially at a time when the ASEAN is engaged in building an integrated community of sharing and caring nations, the importance of sound and harmonious industrial relations for promoting decent work and business success cannot be overemphasized.

For the first year of project implementation, the following theme was selected for the regional tripartite seminar: “Towards ASEAN Integration: Promoting Good Practices for Sound and Harmonious Industrial Relations”. It is remarkable that the first regional tripartite seminar under the current phase was organized in the wake of two significant developments that may have far-reaching consequences for industrial relations within the ASEAN region and beyond: (a) the adoption of the ASEAN Charter seeking to transform the ASEAN into a rules based regional organization from 2009 and (b) the ongoing economic and financial crisis that exploded in the USA in the last quarter of 2008 and which is fast assuming the proportions of a global meltdown. One of the objectives of the ASEAN Charter is to build a people-centred community through a virtuous circle of sound industrial relations practices, higher productivity, safe and healthy working conditions and decent work. Harmonious industrial relations, tripartism and social dialogue have critical roles to play in mitigating the impact of the global economic and financial crisis, ensuring business survival and promoting sustainable enterprises. This was fully endorsed by the high-level regional forum on “Responding to the Economic Crisis – Coherent Policies for Growth, Employment and Decent Work in Asia and the Pacific” convened by the ILO in Manila, Philippines [18-20 February 2009]. The timing of the first regional tripartite seminar on industrial relations could not have been more appropriate.

The chapter on Highlights of the First Regional Seminar on Industrial Relations in the ASEAN Region, which follows, gives a succinct account of the activity that was organized in Bogor on 26-27 February 2009.

After the initial opening remarks, two keynote presentations were made on (a) the global perspective of industrial relations and (b) regional industrial relations issues and concerns. These were followed by country reports on industrial relations practices, for which the following two specific themes had been selected: 1. Labour Dispute Settlement and 2. Collective Bargaining and Tripartite Dialogue. Viet Nam and Indonesia presented their experiences on the former and Cambodia and the Philippines dwelt on the latter. The participants not only presented what they perceived as good practice, but also discussed specific national issues in order to share knowledge and learn from each other's experiences in their search for better industrial relations practices.

The seminar also deliberated on Social Dialogue and Responses to the Economic and Financial Crisis, with a presentation by the workers' delegate from Singapore. This was followed by presentations from the tripartite delegates from Japan on Changing Forms of Employment and New Employment Relationships, including the increasing use of non-regular workers, low unionization rates and the importance of social dialogue for maintaining industrial peace and harmony in Japan.

The seminar devoted one session to group work to review the draft ASEAN Recommended Guidelines on Good Industrial Relations Practices. This was the first time that the draft was subjected to tripartite review. It is expected that the suggestions that emerged on the basis of tripartite consideration of the draft will make it more comprehensive and further enhance its contents. Hopefully, it will assist the ASEAN working group on Progressive Industrial Relations Practices appointed by the ASEAN Senior Labour Officers Meeting (SLOM) to make quicker advance in finalizing the Guidelines.

Moreover, the Highlights chapter contains a quick overview of the various opening remarks, keynote speeches, country presentations and the outcome of the group work. Complete presentation materials are also available in this consolidated volume for the interested reader.

This seminar was the first in the series of activities under the ASEAN- ILO/Japan Industrial Relations Project spread over a three-year period, from 2008-2010. The project seeks to promote constructive industrial relations among ASEAN countries based on uniformity of basic norms and good practices, social partnership, tripartism and social dialogue. The objective is to transform the region into an attractive investment destination and create a sustainable environment for successful businesses. The tripartite evaluation of project activities at the end of the three-year period will reveal that the promise has been realized substantially and in large measure.

* * * * *

List of Abbreviations

ADB	Asian Development Bank
AFTA	ASEAN Free Trade Area
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
CB	Collective Bargaining
CBA	Collective Bargaining Agreement
ECOP	Employers Confederation of the Philippines
EU	European Union
IFA	International Framework Agreement
ILO	International Labour Organization
IR	Industrial Relations
JSD	Japan Federation of Service and Distributive Workers Unions
JTUC	Japanese Trade Union Confederation
LAC	Labour Advisory Committee
LMC	Labour Management Consultation
MHLW	Ministry of Health, Labour and Welfare
MLVT	Ministry of Labour and Vocational Training
MOLISA	Ministry of Labour, Invalids and Social Affairs
MOMT	Ministry of Manpower and Transmigration
NTUC	National Trade Union Congress
PIP	Priority Integration Project
ROK	Republic of Korea
SLOM	Senior Labour Officials Meeting

ASEAN-ILO/JAPAN INDUSTRIAL RELATIONS PROJECT

HIGHLIGHTS OF THE 1st REGIONAL SEMINAR ON INDUSTRIAL RELATIONS IN THE ASEAN REGION

26-27 February 2009, Bogor, Indonesia

INTRODUCTION

The 1st Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project was held on 26-27 February 2009 in Bogor, Indonesia, with the theme “Towards ASEAN Integration: Promoting Good Practices for Sound and Harmonious Industrial Relations”. The Seminar is the first regional activity under the ASEAN-ILO/Japan Industrial Relations Programme¹, which has the following objectives: (i) To promote constructive industrial relations (IR) among the ASEAN countries; (ii) To support the ASEAN Secretariat in building its capacity to disseminate knowledge and information about IR among its members; and (iii) To strengthen the relationship between the ASEAN and ILO’s Regional Office for Asia and the Pacific.

2. The Seminar was hosted by the Ministry of Manpower and Transmigration (MoMT) of Indonesia. MoMT organised the Seminar together with the ILO Regional Office in Bangkok, ILO Office in Jakarta and the ASEAN Secretariat. The Seminar was supported by the Ministry of Health, Labour, and Welfare (MHLW) of Japan and the International Labour Organization (ILO).

3. The Meeting was attended by tripartite representatives -- from the government, trade unions and employers’ organizations -- from Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Thailand, Viet Nam Japan and the Republic of Korea (ROK). The representatives of the ASEAN Secretariat, the ILO, and the ILO Association of Japan also attended. The list of delegates and invited collaborators appears as **ANNEX 1**.

OPENING MESSAGES

4. ***Building Social ASEAN through sound IR practices.*** All the opening speakers spoke on the importance of sound and stable industrial relations in building a people-centred ASEAN and in mitigating the impact of the global economic crisis.

¹ The ASEAN-ILO/Japan Industrial Relations Project takes off from an earlier “ASEAN-Japan Programme on Industrial Relations” implemented in 2003-2007. The latter focused on skills and human resources development issues in the ASEAN as well as critical regional adjustment measures under globalization.

5. **Dr. Donald Tambunan**, Assistant Director of the Socio-Cultural Cooperation Directorate, ASEAN Secretariat, opened the Seminar by expressing the ASEAN's appreciation of the efforts of the MoMT of Indonesia in organising the Seminar. He also thanked the ILO and the MHLW of Japan for making the Seminar happen under the ASEAN-ILO/Japan Industrial Relations Project.

6. Dr. Tambunan underscored the significance of the Seminar by relating it to a major development in the ASEAN – the adoption by the ten ASEAN countries of the ASEAN Charter, which seeks to transform ASEAN into a rules-based regional organization beginning in 2009. The ASEAN Charter openly declares the organization's adherence to "the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms". In this context, Dr. Tambunan pointed out that ASEAN is keen in building a people-centred community through a virtuous circle of sound IR practices, higher productivity, safe and healthy work conditions and decent work in the ASEAN. Dr. Tambunan also opined that industrial relations plays and should play a critical role in mitigating the impact of the global economic crisis, primarily through social dialogue and tripartism. He then asked the participants to study the "Draft ASEAN Recommended Guidelines on Good Industrial Relations Practices" and to give feedbacks on how this can be further improved before it is again presented to the Senior Labor Officials Meeting (SLOM) for further consideration. He envisioned the Guidelines to serve as an ASEAN "platform" for good IR practices and the basis for follow-up action after the Seminar. The full text of the Draft Guidelines appears as **ANNEX 2.**

7. **Mr. Alan Boulton**, Director of the ILO Office in Jakarta, noted that the Seminar is a confirmation of the deepening relations between the ILO and the ASEAN based on the ASEAN-ILO/Japan IR Project. He also stressed the timeliness of the Seminar in the context of two major developments – one, the ASEAN Charter entering into force, and two, the difficult challenge posed by the global financial meltdown. On the first, he said that the ASEAN Charter's broad support for human rights covers fundamental rights at work and the promotion of decent work. He linked this ASEAN thrust to protect human rights to the international community's renewed commitment for social justice in facing globalization through coherent social and economic policies. On the second, he emphasized the importance of the Seminar in identifying appropriate IR policies and practices countries must adopt in responding to the current financial crisis. On the promotion of good IR practices, he commented on the importance of learning through a sharing of experiences. He also stressed the leadership role of governments in the promotion and teaching of good IR practices, especially in the propagation of sound and cooperative labour-management practices as documented in various ILO and other studies. He quipped that the real measure of the Seminar's success is when the employer and trade union representatives "take back home" their understanding of good IR practices.

8. **Mr. Tomoaki Katsuda**, Assistant Director General, MHLW, expressed the Japanese Ministry's appreciation of the efforts of MoMT-Indonesia for helping organise the Seminar. He informed the participants that the focus of the new phase of the Japanese assistance on industrial relations in the ASEAN is on the more effective promotion of sound industrial relations in support of sustained and stable growth in the ASEAN region. He also noted the rapid and closer economic relationship evolving between the ASEAN and the three non-ASEAN East Asian countries (Japan, China and South Korea), or the ASEAN Plus Three partnership, which is one of the basis of the SLOM + 3 consultations on industrial relations. He stressed the importance of capacity building in harmonious IR practices within

ASEAN and among ASEAN member countries. In this connection, he expressed the hope that an integrated ASEAN shall become an inclusive ASEAN, able to reflect the aspirations and interests of all the people within the region, be it in the regional economy or in the larger society. Likewise, he expressed hopes for the institutionalization of progressive industrial relations practices which help protect workers' rights as well as build up productive and sustainable enterprises.

9. **Mr. Besar Setyoko**, Secretary General of MoMT, welcomed the participants to the Seminar on behalf of the Indonesian government. He stated that the seminar, which was participated by tripartite delegations was "a good start for ASEAN" since the ASEAN Charter mandates the ASEAN to be "people-oriented" and that integration "should be approached through closer communication and cooperation" among stakeholders. He also underscored the importance of sharing good IR practices in labour dispute settlement, collective bargaining and tripartite dialogue. He said ASEAN countries should try to develop positive and proactive IR measures on how to address the consequences of the global economic crisis.

10. Subsequently, Mr. Setyoko shared the IR experiences of Indonesia since 1998, in particular in the overhaul of Indonesia's labor laws in order to conform to the ILO Core Conventions, all of which were ratified by Indonesia by 2000. The core labour rights, reiterated by the ILO in its 1998 Declaration on the Fundamental Principles and Rights at Work, cover freedom of association, collective bargaining, non-discrimination, non-use of forced labour and elimination of extreme forms of child labour. After the ratification, Indonesia issued three enabling laws – Act of Trade Union, Act of Manpower and Act of Industrial Relations Dispute Settlement. Mr. Setyoko ended his talk by underlining the importance of social dialogue in industrial relations. Nevertheless, he also expressed anxieties on the toll the global economic crisis may have on Indonesia's informal economy, which covers 70 per cent of the employed and which is a sector difficult to monitor in terms of labour law coverage. His full speech appears as **ANNEX 3**.

SEMINAR OVERVIEW

11. **Mr. Abhik Ghosh**, Senior Specialist on Labour Administration and Labour Relations, ILO Regional Office for Asia and the Pacific, gave a brief overview of the thrusts and structure of the Seminar. He explained that the Seminar was being held in the context of two major developments affecting ASEAN – first, the rapid integration processes underway in ASEAN, in particular the adoption of the ASEAN Charter, and second, the unfolding global economic crisis, which has serious social and labor implications on the region. He underlined the importance of IR institutions based on the triple roles they play in society – as instruments in the affirmation of the dignity and humanity of the tripartite social partners, as a source of social and labor stability (especially in the management of industrial conflicts), and as a source of economic competitiveness (by building up productivity). He outlined the key component elements in a stable IR system: (i) a national IR legal framework consistent with international norms, (ii) bipartite cooperation developed based on trust and respect, (iii) tripartite partnership and social dialogue, and (iv) a fair and effective dispute settlement machinery.

12. He concluded that the ILO is promoting progressive IR institutions and good IR practices in the ASEAN and in the Asia-Pacific region through the ASEAN-ILO/Japan IR Project, East Asia IR Network and the various IR capacity-building programs.

PLENARY DISCUSSION: GLOBAL AND REGIONAL OVERVIEW OF INDUSTRIAL RELATIONS

13. **Mr. Tayo Fashoyin**, Director for Social Dialogue, Labour law, and Labour Administration Department, ILO Geneva, gave a global overview of industrial relations. He discussed the economic, social, technological, environmental and labour market factors that have affected the relationship between employers and workers such as intensified global competition and rising inequality world-wide. He highlighted the special role of collective bargaining in assisting societies in managing economic adjustments and in helping the social partners forge “compromises, trade-offs and win-win agreements” in dealing with the economic crisis. He also outlined emerging collective bargaining issues such as “flexicurity”, a concept developed in Europe to strike a balance between an industry’s search for competitiveness and workers’ demand for job security. On ILO standards, he singled out Convention 87 (Freedom of Association and Protection of the Right to Organise) and Convention 98 (Right to Organise and Collective Bargaining) as key ILO Conventions. Although these Conventions have a low ratification rate in Asia, he said that all ILO member states are duty-bound to respect and promote the principles contained in these Conventions.

14. In relation to the role of IR in regional integration, Mr. Fashoyin cited the IR experiences and initiatives of the European Union (EU) such as the “Co-legislative power” of the social partners in the formulation of EU’s “social policy”, the “EWC Directive” which provides a system for labour-management consultation in key enterprises operating in more than one EU country, and EU efforts to promote “trans-national social dialogue and agreements”. He concluded his presentation by focusing on the elements of the emerging “global IR” system, which includes regional IR regulations, international framework agreements (IFAs), global IR actors (e.g., global unions and employer organizations), and international codes of conduct. The IFAs are agreements between multinationals and unions operating at the global sectoral level. However, he stressed that at the centre of the global IR system are the core labour standards as summarized in the ILO Fundamental Principles and Rights at Work. Mr. Fashoyin’s presentation appears as **ANNEX 4**. The ILO Fundamental Principles and Rights at Work is shown as **ANNEX 5**.

15. **Mr. Tadashi Nakamura**, President of the ILO Association of Japan and Former Regional Director of the ILO Regional Office for Asia and the Pacific, raised a number of critical IR issues and concerns at the regional level. These include the uneven development occurring across the region, the resulting variety and disparity in socio-economic situations within and among various countries in Asia, and the social insecurities facing many workers, especially the migrant and informal workers. He openly advocated for the following – institutionalisation of IR rules and mechanisms as the best formula to settle industrial conflicts, the development of the domestic market as a “stabilizing factor” in the economy and in the IR system, the more equitable distribution of income in society, the coverage of right-sizing exercises under collective bargaining between employers and trade unions, the institutionalization and strengthening of social safety nets for vulnerable workers, and the promotion

of “constructive IR” as a key to social and economic stability. The last, he explained, entails more capacity building, information networking and social dialogue (e.g., on wages and working conditions) among the tripartite social partners in the region. He also highlighted the importance of social dialogue by stressing that without dialogue and compromise, “nothing can be achieved smoothly”.

SELECTED COUNTRY PRESENTATIONS ON GOOD IR PRACTICES

A. Labour Dispute Settlement

16. **Viet Nam**, represented by **Mr. Nguyen Phuong Lam** from the Viet Nam Chamber of Commerce and Industry shared the IR situation in Vietnam, in particular the phenomenally high rate of strikes occurring in Viet Nam in the last two years (2007 and 2008). Most of these strikes were “illegal strikes” staged by non-unionized workers in the industrial parks. He said these strikes revolved around issues of wages and benefits. He attributed the high rate of strikes to the failure of some enterprises to provide fair working conditions and to fulfil commitments to employees such as salary increases and payment of the benefits for certain work such as overtime. Mr. Lam, however, cited some positive principles in the resolution of labour disputes such as direct negotiation between or among the parties themselves in the place where the dispute has occurred, respect by the conciliator-negotiators of the legal rights of both sides, and the participation of employee and employer representatives in the resolution of conflicts. He also shared information on how a “personal labour dispute” is resolved, which involves several steps, from bipartite consultations to judicial appeal. Mr. Lam also discussed what the employer organization in Viet Nam is doing such as collecting ideas among employers on good employment relationship and monitoring of activities relating to employment regulation. He concluded with remarks on the importance of IR education, positive IR relationship (including progressive IR practices) between employees and employers, and representation by both employees and employers in the IR system.

17. In the ensuing open discussion, Mr. Lam and **Mr. Nguyen Manh Cuong**, the Director General of the Ministry of Labour, Invalids and Social Affairs (MOLISA), explained the difficult task of settling strikes where there are no visible workers’ unions to negotiate with, where there is limited appreciation by the parties (both employees and employers) of the laws and procedures to observe in employment and the settlement of industrial disputes, and where there is a shortage of government personnel to do labour inspection and dispute settlement at the local level. Indeed, all this clearly points to the need for Vietnam to develop appropriate IR institutions which respect the basic rights of both employees and employers and which provide at the same time mechanisms or procedures for the settlement of disputes and a system of recognition of representatives of both sides. There was also some discussion on the settlement of “rights disputes”, which are usually demands of workers for certain benefits based on established rights or laws, and “interest disputes”, which arise in situations where the parties are still negotiating or bargaining for certain entitlements ².

² The distinction between “rights” and “interest” disputes is a crucial guide in the settlement of disputes in many countries. Rights disputes are usually resolved through an interpretation of the law or an agreement, while interest disputes are often settled through a negotiated but reasonable compromise between or among the parties

18. **Indonesia** was represented by **Ms. Myra Hanartani**, Director General of Industrial Relations and Labour Social Security Development, MoMT. She pointed out that majority of the workers (about two-thirds) in Indonesia are in the informal sector. This naturally affects the Indonesian IR practices. She gave an overview of the national IR structure, which consists of tripartite (from the municipal level up to the national) and bipartite (enterprise and industry levels) IR committees. However, the government gives preference to the bipartite approach or consultation in the settlement of labour disputes.

In fact, disputes cannot be settled at the level of the labour court if there is no proof of consultation at the lower or enterprise level involving mediators or conciliators. She also gave a brief historical overview of the IR system and the democratization of the IR system starting in the late 1990s, when Indonesia ratified all the ILO core conventions and enacted a number of enabling laws such as Act No. 21 on Trade Union, Act No. 13 on Manpower and Act No. 2 on Industrial Relations Dispute Settlement.

19. Nevertheless, Indonesia still faces a host of difficult IR issues and concerns such as the multiplicity of unions and the limited understanding by the parties of the judicial processes as applied in labour cases. In the open discussion, Ms. Hanartani expressed the opinion that the most effective way to settle labour disputes is still on a face-to-face basis, which means no third party intervening between the workers and management. However, there are other related issues raised such as how conflict-ridden termination of employee services or layoffs can be avoided and how should conciliators-mediators should conduct themselves in varied conflict situations.

B. Collective Bargaining / Tripartite Dialogue

20. **The Philippines** was represented by **Mr. Rene Soriano**, Former President of the Employers Confederation of the Philippines (ECOP). He presented a brief historical overview of industrial relations in the Philippines and the constructive role of social dialogue and tripartism in stabilizing the IR system in good and bad times. He cited how tripartite consultations and dialogue helped cool the strike fever which hit the Philippines in the mid-1980s, “in the aftermath of the debt crisis and political turmoil” leading to the 1986 EDSA Revolt. In 1998, ECOP initiated the tripartite “Social Accord for Industrial Peace and Harmony” as a way of mitigating the adverse impact of the Asian financial crisis. Among the provisions stipulated in the Accord is the employers’ commitment to exercise utmost restraint in the termination of workers and the workers’ commitment to use the right to strike only as a last resort. This Accord was followed by other tripartite agreements, including the 2004 “Social Covenant for Full Employment” and a 2005 “Tripartite Commitment to Social Accountability”. In this context, Mr. Soriano explained that the ILO’s Decent Work Program promoting freedom, equity, security and dignity at work is being propagated in the Philippines at the national, regional, provincial, municipal and industry levels. Tripartism, he said, is well established in the country. This is manifested in the representation of both employers and trade unions in key policy making, dispute settlement and labour welfare bodies such as the National Wages and Productivity Commission, National Labor Relations Commission and Social Security System. The Tripartite Industrial Peace Council convened by the Secretary of Labor and Employment from time to time to discuss critical IR issues is the leading tripartite body.

21. On the institution of collective bargaining agreement (CBA), Mr. Rene Soriano explained that the CBA practice is generally legalistic and even adversarial in the Philippines. However, he pointed out that this is gradually changing, with new forms of bargaining that are less adversarial and less legalistic emerging. He shared the CBA experiences of two big outstanding companies. The first, Yazaki Torres, has institutionalized regular labour-management consultation and other trust-building practices which have enabled the parties to negotiate without any animosities, without the intervention of any lawyer and without any unnecessary delays. Thus, in one CBA negotiation, the union and management of Yazaki-Torres took a record time of three hours to conclude their CBA. In the other case, that of the Philippine Associated Smelting and Refining Corporation (PASAR), a new management was able to conclude a collective agreement (a memorandum of agreement) with the workers, who were bitterly divided then between two unions which had separate legal cases of representation and CBA pending in the courts. The management talked to the two unions and their members and reassured everyone that it would respect the job security of all whatever the outcome of the pending legal cases is. In the end, the memorandum of agreement helped the new management in turning around an ailing PASAR because productivity and esprit d'corps went up. Eventually, the workers got united under one union, which now enjoys positive relations with management.

22. **Cambodia** was represented by **Mr. Sok Narith** from the Cambodian Tourism and Service Workers Federation (CTWSF), a member of the Cambodian Labour Confederation (CLC). Mr. Narith shared good practices on collective bargaining, a relatively new concept in Cambodia. Several CBAs have been concluded in the garments, tourism, banking and construction industries. As a backgrounder, Cambodia adopted an open market economy only in the mid-1990s; this was accompanied by the Cambodia's enactment of labour laws consistent with international norms or ILO conventions. Accordingly, the main goals of the CBA system are to strengthen workers rights, develop a means of resolving grievances at the work place, and promote good IR practices. Nevertheless, Mr. Narith said that there have been some difficulties in the promotion of CBA as an IR institution due to the different interpretations by the parties of what a CBA should be, of what the attitudes of the parties to the CBA process should be and of how a CBA should be concluded. He concluded that both employers and employees need more education and capacity building in industrial relations, with special focus on collective bargaining and better labour-management relations.

23. Mr. Narith added that Cambodia is confronted with the problem of union multiplicity, meaning an enterprise can have as many trade unions claiming to represent the workers in the enterprise. To clear up the confusion, the Ministry of Labor and Vocational Training (MLVT) tried to institute a system of determining the most representative organization which can represent the workers in the CBA process. The MLVT, with the help of the ILO, has also instituted a system of conciliation-mediation to resolve disputes at the enterprise level which, if unresolved, can be elevated to the tripartite Arbitration Council³. If disputes are not settled at the Council level, these are then passed on to the court system. Cambodia also has a tripartite Labor Advisory Committee (LAC), which makes policy recommendations on minimum wages, collective bargaining and other IR issues.

³ The Arbitration Council was established in 2002. The Council is tripartite in nature, with members selected from the government, employers and unions. However, the Council is considered an independent body, meaning its members must make decisions based on the merits of each case.

C. Social Dialogue and Responses to the Current Financial Crisis

24. The **Singapore's National Trade Union Congress (NTUC)**, represented by **Mr. Tay Teck Guan Patrick**, shared Singapore's proactive and progressive IR measures in downturn periods such as the 1997-98 Asian financial crisis, September 2001 terror attack in the United States, 2003 SARS outbreak and Iraq war, and the present global financial crisis, all of which have resulted in surge in retrenchments and unemployment levels. Mr. Guan Patrick mentioned the positive response of the government to crisis situations such as the announcement of the Singapore Prime Minister in November 2008 that the government is extending "an extra \$2.3 billion worth in loans to help about 124,000 local firms – big and small – ride out the economic slump". Mr. Guan Patrick proceeded to outline concrete examples (cases of Spur, Fair Price, Singapore Power, etc.) of what the NTUC itself is doing to save jobs, specifically by helping companies to cut costs without laying off workers, helping workers "up-skill, re-skill" so that they can easily be redeployed, and arranging flexible work arrangements with both companies and workers to maintain business and jobs.

25. In the open discussion, **Director Rebecca Chato** of the Philippine Bureau of Labor Relations, as presiding officer for the session on social dialogue and financial crisis, asked all the participating tripartite delegations to share their country responses to the global economic crisis. There is a startling uniformity in answers – all countries are promoting tripartite and bipartite social dialogue to discuss positive labour-management adjustments to the crisis, to debate the needed stimulus packages to keep businesses and jobs in place and to formulate measures to minimize business and job dislocations such as varied cost-cutting and labour-management cooperation measures. However, the Singapore's NTUC initiatives as outlined above stand out because these are conceived and implemented by the trade union movement.

D. Changing Forms of Employment and Employment Relationships

26. **Japan's** experience on new forms of employment and employment relationships shared by Japanese government, trade union and employer participants in the Seminar. **Mr. Tomoaki Katsuda** and **Mr. Shojirou Yasui**, representing MHLW, discussed two major IR issues in Japan -- the declining rate of unionization and the low union participation rate by part-timers. Additionally, Japan is facing an employment downturn, that is, there are less job offers than job seekers due to the economic crisis.

27. Also, the increase in the number of part-time workers (14 million in 2007) means a growing mass of untrained and unskilled workers in Japanese society. Thus, to address this particular issue, the government amended the Part-time Workers Act in order to secure fair treatment for part-time workers and to promote the transformation of part-time workers into regular workers. The government also amended the Minimum Wage Act so that the new minimum can function "as a safety net to secure workers' minimum standard of living". The response of some enterprises to these government reform initiatives is positive, to the extent that these enterprises have even erased the distinction between fixed-term (part-timers and contract employees) and non-fixed or regular employees. These reforms, their formulation and their implementation have also been the subject of tripartite deliberations. These reforms are also being promoted to help revitalize the role of labour in policy making in society and in the enterprise.

28. On the other hand, **JTUC Rengo**, represented by **Mr. Shigeru Nakajima**, discussed two types of IR dialogues involving the trade unions and management in Japan -- collective bargaining and labour-management consultation (LMC). He said there are reports that there has been a significant increase in the number of enterprises conducting LMC on various employment and personnel issues, including enterprise production and management plans and policies. He differentiated LMC from collective bargaining, which is focused on the fair distribution of the fruits of production; in contrast, LMC is focused on productivity improvement, which is made possible by the parties cooperating for mutual benefits.

29. At the same time, Mr. Nakajima discussed the changing IR situation in Japan in terms of the decline of the traditional Japanese IR practices, namely: lifetime employment, seniority-based pay and enterprise-based unionism. These are gradually being replaced by management policies favouring performance-based wage system, increased hiring of non-regular workers and management focus on stockholder rights instead of employee welfare. As a result, cooperative or harmonious IR relations in Japan is “collapsing”. He concluded his intervention by re-stating the importance of social dialogue in Japan as well as in the region. In this connection, he cited an outstanding example of union-employer partnership in the case of Takashimaya Co. This firm and the Takashimaya affiliate of the Japan Federation of Service and Distributive Workers’ Unions (JSD) concluded a “global framework agreement” which recognizes the right of non-regular workers to join JSD and the obligation of the company to extend fair treatment to all Takashimaya employees, whether they are in Japan or in overseas branches.

30. **Mr. Hiroyuki Matsui** gave the Japanese employers’ perspective, stating that a stable IR system can only exist if there are good macro economic policies in place. In addition, he emphasised the need to further promote the concept of sustainable enterprises as introduced by the ILO. These are high-productivity, high-cooperation enterprises.

(The various country presentations appear together as **ANNEX 6**.)

WORKSHOP: ASEAN GUIDELINES ON GOOD INDUSTRIAL RELATIONS PRACTICES

31. As suggested by the ILO Office in Bangkok and the ASEAN Secretariat, the Seminar had a workshop session devoted to the recommended “ASEAN Guidelines on Good Industrial Relations Practices”, which were drafted jointly by the ASEAN Secretariat and the ILO Offices in Bangkok and Jakarta, and which involved Indonesia and Thailand as the lead countries. The draft document appears as **ANNEX 2**.

32. ***Salient Features of the draft Guidelines.*** The introductory portion or preamble of the draft document sums up the rationale why ASEAN should have Guidelines on good IR practices, namely: “to enhance the competitiveness of ASEAN and make it a choice destination of global investments and businesses”; to make IR practices in ASEAN compliant with the ASEAN Charter’s provision on “respect for fundamental freedoms” and the “promotion of social justice”, and to help

ASEAN countries align their IR practices with international norms and “maintain the link between social progress and economic growth”. Briefly, the principal guidelines are as follows:

Legal Framework

- Development of a “favourable legal framework” which takes into account “national economic and social conditions”, and protects the rights of both employers (to manage their business) and workers (to just working conditions).
- Recognition of the “fundamental rights” of employers and workers “to form and join free, independent and responsible groups of their own choosing” as well as recognition of the “principles of freedom of association and collective bargaining not only in law but also in practice”.

Bipartite cooperation

- Promotion of “sound bipartite relations based on genuine cooperation and collaboration in work places”, starting at the shop-floor level and covering “subjects of common interest” such as “productivity improvement, gain-sharing, recruitment and dismissal, safety and health and grievance handling”.
- Building “mutual trust and respect” between the parties in order to promote harmonious, cooperative and productive relations.
- Promotion of “workplace democracy” based on respect for the “basic rights of employers and workers to freely organize and pursue their own affairs”.
- Promotion of “good faith behaviour” as the foundation for productive employment relationship, especially in the conduct of collective bargaining.
- Treating workers with respect and dignity and development of “best practices” in all aspects of employment relationship.

Tripartite partnership and dialogue

- Tripartite identification of “shared objectives” leading to the formulation of “shared vision” and adoption of “win-win approaches”, which are necessary in getting the commitment of all the parties to the challenge of working together as a “shared responsibility”.
- Strengthening of tripartism and social dialogue to enhance economic competitiveness and overcome “complex challenges and issues”.

Dispute settlement machinery

- Development of a fair, effective, affordable and accessible system of labour dispute settlement, including mechanisms to minimize and prevent conflicts.

33. The Seminar participants were divided into two groups and were asked to comment on the Guidelines. The participants came up with following recommendations or additions in the draft document:

- Inclusion in the preamble of the commitment (or affirmation of such commitment) of the tripartite parties to the draft Guidelines.
- Recognition of job as having the characteristics of a “property right”, which can not be taken away from the individual worker without due process.
- Further review of the paragraph titled “II. Fundamental rights of employers and workers” because this paragraph mirrors ILO Convention No 87, which a number of ASEAN countries have not yet ratified.
- Securing concurrence of the ASEAN Labour Ministers regarding paragraph 4 of the Preamble, which reads: “The ASEAN Ministers of Labour lay down and adopt the following set of guidelines on sound and good industrial relations practices for the guidance and benefit of all ASEAN members in their continuing quest for harmonious and productive industrial relations based on social justice, as a cornerstone of quality workplaces and economic justice.”
- Inclusion of additional good IR practices, namely:
 - The need for regular and transparent communication,
 - Skills development training,
 - Management of redundancy and retrenchment, and
 - Development in each country of a code of conduct for good IR practices and harmony.

34. The Seminar participants also moved for the adoption of the draft “Supplemental Note” and the “Follow-up” program to the ASEAN Guidelines. In the proposed follow-up program, the following are recommended: a mechanism to monitor progress of member countries in the application of the guidelines, the documentation of best practices for emulation by others, identification of areas where technical assistance (especially from the ILO) is needed, and circulation of a report in conjunction with every ASEAN Labour Ministers’ Meeting of the progress in the implementation or observance of the Guidelines on Good IR Practices.

35. The Seminar participants also agreed that any further inputs on the Guidelines should be conveyed to Indonesia by **20 March 2009**. Indonesia and Thailand will subsequently present the revised document to the SLOM Working Group for further review before it is submitted to SLOM for endorsement.

CLOSING SESSION

36. Dr. Rene E. Ofreneo, who assisted the ILO in the preparation and conduct of the Seminar, came up with a brief summary on the Seminar. He highlighted key “learning points” in positive IR, namely:

- Investing on positive industrial relations requires building appropriate IR institutions, which are usually expressed in the form of laws, rules, procedures and so on.
- Social dialogue is at the heart of positive industrial relations. For dialogue to work, however, there should be open and honest communication between the parties. Social dialogue should be promoted at the firm, industry and national levels.
- Positive IR also requires capacity building in all areas of IR or employment relationship, be it in dispute settlement (e.g., skills in conciliation, mediation, arbitration, etc.) or CB/social dialogue (e.g., building up trust or opening lines of communication), or in the enactment of needed laws (e.g., benchmarking with legal regimes of other countries) and so on. It is in capacity building where ILO can be of greatest help to the tripartite partners in the ASEAN.
- Building a regime of good (or best) IR practices at the firm, industry and national levels requires benchmarking at home and beyond national boundaries. Good IR practices can cover the whole gamut of employment relationship – from recruitment to deployment, from training to compensation, from union recognition to collective bargaining, from grievance handling to litigation of a labour dispute, and so on.

37. Dr. Ofreneo also reiterated the central role of positive IR in the smooth or better management of industry as well as country adjustments (bipartite or tripartite) to the difficult challenges posed by the global economic crisis. In relation to this, he summarized the key recommendations of the recently-concluded Asia-Pacific ILO-ADB-UN seminar on the global economic crisis held in Manila February 18-20, 2009. These are:

- Development of a comprehensive (well-rounded) and coherent (involving all sectors, including the labour and finance ministries) stimulus packages to sustain growth and jobs in a given country.
- Role of social dialogue and collective bargaining in assisting employers and workers in coming to an agreement on difficult issues such as flexible hours, wage and benefit adjustments, temporary lay-offs and separation packages.
- Maximization of efforts by all concerned for the preservation of good quality jobs.
- Launching of quick-job-creating labour-intensive projects in order to help retrenched and distressed workers.
- Strengthening of support measures for the small-and-medium enterprises (SMEs), which account for the bulk of the employed in every country.
- Targeting government social assistance or protection for the most vulnerables.
- Negotiation with international creditor institutions for the relaxation of tight fiscal conditionalities for heavily-indebted countries.

38. In the Seminar, the ILO offices in Bangkok and Jakarta circulated several documents on the crisis. An in-depth document on the crisis and its impact on the region was prepared by the ILO office in Bangkok and is shown here as **ANNEX 7**.

39. Dr. Ofreneo also highlighted some IR issues which need further discussion such as plant-level mechanisms (e.g., labour-management consultation scheme, grievance machinery) to prevent disputes in a proactive way, industrial relations as a line (not a staff) function that must be exercised from the top management to the supervisory level, role of domestic market as a stabilizing factor in the economy and industrial relations system, and social safety net for the weak and vulnerable in the labour market. He also cited the good lessons shared by Singapore (where trade unions play a proactive role in preserving and creating jobs) and Japan (where the tripartite social partners are trying to address the issue of fairness for part-time workers). Dr. Ofreneo also made recommendations on the need for continuous IR capacity building in ASEAN such as capacity building in IR research, training and policy formulation. His full summary appears as **ANNEX 8**. On the definition or illustration of what constitutes good IR practices, he reminded the participants on the document circulated in the Seminar, the ILO Tripartite Declaration on Good IR Practices in the Oil and Power Sector, 2002 (**ANNEX 9**).

40. **Ms. Myra Hanartani** delivered the closing remarks. She pointed out that although there are varied ways by which IR policies (and institutions) are developed and implemented in the different ASEAN countries, there should be unity in one area, that is, serving the cause of social justice should be the overarching goal in the promotion of sound and stable IR system. She thanked the participants for their active participation during the Seminar and conveyed her sincere appreciations to MHLW of Japan for their continued support.

* * * * *

**1st Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project
26-27 February 2009, Bogor, Indonesia**

LIST OF PARTICIPANTS AND RESOURCE PERSONS

BRUNEI DARUSSALAM

1. Ms. Siti Nursalwana Haji Awang

Assistant Commissioner of Labour, Labour Department
Ministry of Home Affairs, Bandar Seri Begawan BB3910
Phone : +673 238 0591
Fax : +673 238 3244

2. Mr. Sri Moammar Redhuan B. Morshidi

Deputy President of Brunei Oilfield Workers Union
BLNG Sendirian Berhad, Lumut, Seria Kc 2935, Kuala Belait
Phone : +673 337 8239
Fax : +673 337 8231

CAMBODIA

3. Ms. Kang Ditine

Deputy Chief of Industrial Relation Office, Labor Dispute Department
Ministry of Labor and Vocational Training
#3 Russian Federation Blvd, Phnom Penh, Cambodia
Phone : +855 23722891
Fax : +855 23 23 211 845

4. Mr. Teh Sing

Vice President
Cambodian Federation of Employers and Business Associations (CAMFEBA)
#44A, St, 320, Sangkat Boeung Keng Kang III, Khan Chamkar Morn, Phnom Penh, Cambodia
Phone : +855 23 222 186
Fax : +855 23 222 185

5. Mr. Sok Narith

Vice President of Tourism Federation
Cambodian Tourism and Service Workers Federation (CTWSF) – a member of the Cambodian
Labour Confederation (CLC)
No.35 CEO Street 488, Sangkat Phsar Doeun Thkao, Khan Chamkarmon,
Phnom Penh, Cambodia

INDONESIA

6. Mrs. Myra M. Hanartani

Director General of Industrial Relations and Labour Social Security Development
Ministry of Manpower & Transmigration
Jl. Jendral Gatot Subroto Kav. 51, 6th Floor, Jakarta 12950, Indonesia
Phone : +62 21 525 5733 ext. 600
Fax : +62 21 527 0946

7. Mr. Thamrin Moosi

President of Confederation of Indonesian Trade Union
Plaza Basmar 2nd Floor, Jl. Mampang Prapatan 106,
Jakarta, Indonesia
Phone : +62 21 798 9005
Fax : +62 21 798 9005

8. Mr. Hasanudin Rachman

Chairman of Indonesia Employers' Association (APINDO)
Plaza Great River, 15th Floor, HR Rasuna Said X-2 Kav.1 Jakarta, 12950
Phone : +62 21 5793 8824
Fax : +62 21 5793 8825

LAO PDR

9. Mr. Onevong Keobounnavong

Director of Labour Protection Division
Labor Management Department
Ministry of Labor & Social Welfare
Pangkham Rd. P.O. Box 347, Vientiane, Lao PDR
Phone : +856 21 222781
Fax : +856 21213287

10. Mr. Khamtanh Sophimmavong

Lao Federation of Trade Unions (LFTU)
87 Lanexang Avenue, P.O. Box 780, Vientiane, Lao P.D.R Phone
Phone : +856 21 212754
Fax : +856 21 212750

MALAYSIA

11. Mr. Mohd Jeffrey Bin Joakim

Deputy Director General
Jabatan Perhubungan Perusahaan Malaysia
Ministry of Human Resources, Level 9, Block D4, Complex D,
62530 Putrajaya, Malaysia
Phone : +60 3 8871 1222
Fax : +60 3 8889 2355

12. Mr. Mustafa bin Maarof

Vice President
Malaysian Trades Union Congress
Wisma MTUC 10-5 Jln US39/ 5T
47620 Subang Jaya, Malaysia
Phone : +60 3 8024 2953
Fax : +60 3 8024 3224

13. Mr. Mohd Akhir Bin Hamzah

Senior Consultant – Industrial Relations
Malaysian Employers Federation
3A06 BLK A, Pusat Dagangan Phileo, Damansara II, No.15 Jln. 16/11
46350 Petaling Jaya, Malaysia

PHILIPPINES

14. Ms. Rebecca C. Chato

Bureau of Labor Relations
6th Floor, BF Condominium
Solano cor. Streets, Intramuros
Manila, Philippines
Phone : +632 527 2551
Fax : +632 527 2459

15. Mr. Rene Soriano

Honorary President
Employers Confederation of the Philippines
3rd Floor, ECC Bldg, Sen. Gil J. Puyat Ave., Makati City, Philippines
Phone : +632 817 9811 to 20
Fax : +632 817 3896

16. Mr. Rafael Mapalo

Director for Education
Trade Union Congress of the Philippines (TUCP)
TUCP-PGEA Compound, Maharlika cor. Masaya St. UP Village
Diliman, Quezon City 1101
Phone : +632 922 0917
Fax : +632 433 2208

SINGAPORE

17. Mr. Ng Chun Pin

Director (Tripartite Programmes & International Labour), Labour Relations and Workplaces Division, Ministry of Manpower
18 Havelock Road #04-02, Singapore 059764
Phone : +65 63171255
Fax : +65 5354811

18. Ms. Cheryl Ng

Assistant International Relations Manager, Workplace Policy and Strategy Division Ministry of Manpower
18 Havelock Road #04-02, Singapore 059764
Phone : +65 63171107
Fax : +65 65340559

19. Mr. Tay Teck Guan Patrick

Assistant Director, Industrial Relations
NTUC Centre, 1 Marina Boulevard, 11-01 Marina Boulevard, Singapore 018989
Phone : +65 9733 8266

THAILAND

20. Ms. Saowalak Apornratananon

Labour Officer, Conciliator, Labour Protection Bureau
Ministry of Labour
Mitmaitree Road,
Din-Daeng , Bangkok 10400 Thailand
Phone : +66 2468455
Fax : +66 468455

21. Mr. Thawatchai Pholcharoen

Secretary General
National Congress Private Industrial of Employees (NCPE)
4 Moo 8 Klongsamwatawantok Klongsanwa Bangkok 10510
Phone : +66 2 932 9870
Fax : +66 2 932 9870

22. Ms. Naratipe Ruttapradid

General Manager
Employers' Confederation of Thailand (ECOT)
Siam Paragon Development Co, Th, 991 Siam Paragon Shopping Center, Rama 1
Pathuwan BKK 10330, Bangkok Thailand
Phone : +662 510 8008
Fax : +662 620 8181

VIET NAM

23. Mr. Nguyen Manh Cuong

Director General for Industrial Relations
Ministry of Labour, Invalids and Social Affairs
12 Ngo Quyen St., Hoan Kiem Dist., Hanoi, Vietnam
Phone : +84 4 3826 9534
Fax : +84 4 3825 4728

24. Mr. Vu Hong Quang

Specialist
Vietnam General Confederation of Labour , 82 Tran Hung Dao Street, Ha Noi, Vietnam
Phone : +84 4 3822 9923
Fax : +84 4 38221701

25. Mr. Nguyen Phuong Lam

Head of Department

Vietnam Chamber of Commerce and Industry – Can Tho Branch

#12 Hoa Binh Street, Can Tho City, Vietnam

Phone : +84 7 103824918/169

JAPAN

26. Mr. Tomoaki Katsuda

Assistant Director-General for International Relations

Ministry of Health, Labour, and Welfare

1-2-2, Kasumigaseki Chiyoda-ku, Tokyo, 100-8916 Japan

Phone : +81 3 3595 2404

Fax : +81 3 3502 6678

27. Mr. Shojiro Yasui

Deputy Director

Ministry of Health, Labour, and Welfare

1-2-2, Kasumigaseki Chiyoda-ku, Tokyo, 100-8916 Japan

Phone : +81 3 3595 2404

Fax : +81 3 3502 6678

28. Ms. Keiko Yasuhara

Section Chief

Ministry of Health, Labour, and Welfare

1-2-2, Kasumigaseki Chiyoda-ku, Tokyo, 100-8916 Japan

Phone : +81 3 3595 2404

Fax : +81 3 3502 6678

29. Mr. Satoshi Doi

First Secretary

Jl. M. H. Thamrin No.24, Jakarta, Indonesia

Phone : +62 21 3192 4308 ext. 739

Fax : +62 21 315 7152

30. Mr. Hiroyuki Matsui

Deputy Managing Labour

Nippon-Keidanren (JBF) International Cooperation Center

No. 2 Muneyasu Building, 1-23 Kanda-Nishikicho, Chiyoda-ku, Tokyo, Japan 100-0054

Phone : +81 3 5283 5222

Fax : +81 3 5280 1051

31. Mr. Shigeru Nakajima

International Representative
Japanese Trade Union Confederation (JTUC Rengo)
3-2-11 Kanda Surugadai, Chiyoda-ku, Tokyo, 101-0062 Japan
Phone : +81 3 5295 0526
Fax : +81 3 5295 0548

REPUBLIC OF KOREA

32. Mr. Na Jae-won

Specialist
Korea Employers Federation
276-1 Daehung-dong, Mapo-gu 121 726 Seoul, Korea
Phone : +82 2 3270 7310
Fax : +84 2 901 2195

ASEAN SECRETARIAT

33. Dr. Donald Tambunan

Acting Head
Human Development Unit, Bureau for Resources Development
ASEAN Secretariat
70 A, Sisingamangaraja, Jakarta 12110, Indonesia
Phone : +62 21 7262991, 724-3372 Ext. 389
Fax : +62 21 7243504, 73982347

34. Ms. Ramadani Sukono

Technical Assistant
Human Development Unit, Bureau for Resources Development
ASEAN Secretariat
70A Sisingamangaraja, Jakarta 12110, Indonesia
Phone : +62 21 7262991, 724-3372 Ext. 424
Fax : +62 21 7243504, 7398234

35. Ms. Rahmi Permatasari

Secretary
Human Development Unit, Bureau for Resources Development
ASEAN Secretariat
70A Sisingamangaraja, Jakarta 12110, Indonesia
Phone : +62 21 7262991, 724-3372 Ext. 374
Fax : +62 21 7243504, 7398234

ILO

36. Mr. Tayo Fashoyin

Director for Social Dialogue, Labour Law, and Labour Administration Department
International Labour Office
Geneva, Route des Morillons 4
CH-1211 Geneva 22
Phone : + 41 22 799 7090
Fax : + 41 22 799 8749

37. Mr. Alan James Boulton

Country Director
ILO Jakarta Office
Menara Thamrin Level 22, Jalan MH. Thamrin Kav. 3, Jakarta 10250, Indonesia
Phone : + 62 21 3155575
Fax : + 62 21 3100766

38. Ms. Lusiani Julia

Programme Officer
ILO Jakarta, Menara Thamrin, Level 22, Jl. Thamrin Kav. 3, Jakarta 10250, Indonesia
Office : +62 21 391 3112
Fax : +62 21 310 0766

39. Mr. Kiyotaka Higuchi

CTA and Overall Coordinator - ILO/Japan Multi-bi Programme ILO Regional Office for Asia and the Pacific
ILO Regional Office for Asia and the Pacific
United Nations Building, Rajadamnern Ave, Bangkok 10200, Thailand
Office : +662 288-1234
Fax : +662 288-3062

40. Mr. Abhik Ghosh

Senior Specialist on Labour Admin. & Labour Relations
ILO Subregional Office for East Asia
ILO Regional Office for Asia and the Pacific
United Nations Building, Rajadamnern Ave, Bangkok 10200, Thailand
Office : +662 288-1234
Fax : +662 288-3062

41. Mr. Dragan Radic

Senior Specialist on Employers' Activities ILO Regional Office for Asia and the Pacific
ILO Regional Office for Asia and the Pacific
United Nations Building, Rajadamnern Ave, Bangkok 10200, Thailand
Office : +662 288-1234
Fax : +662 288-3062

42. Mr. Rene Ofreneo (Technical Consultant)

Director, Center for Labor Justice,
School of Labor and Industrial Relations
University of the Philippines

THE ILO ASSOCIATION OF JAPAN

43. Mr. Tadashi Nakamura

President
The ILO Association of Japan Inc.
3F No2, Muneyasu Bldg. 1-23 Kanda, Nishikicho, Chiyodaku, Tokyo
101-0054, Japan
Phone : +81-2-3294-3341
Fax : +81-3-3294-8220

* * * * *

DRAFT FOR CONSIDERATION**ASEAN Guidelines on Good Industrial Relations Practices
(and its Follow-up)**

Whereas in the time of globalization, growing economic integration, and a rapidly changing and highly competitive business environment, establishing good industrial relations practices is a progressive and essential step to enhance the competitiveness of ASEAN and make it a choice destination of global investments and businesses; Whereas one of the important principles in the ASEAN Charter is respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice; Whereas industrial relations practice in each of the ASEAN countries while requiring constant improvements and adjustments, generally general adheres and is consistent with internationally recognized principles, obligations and standards including the fundamental principles and rights at work and the need to maintain the link between social progress and economic growth; The ASEAN Ministers of Labour, lay down and adopt the following set of guidelines on sound and good industrial relations practices for the guidance and benefit of all ASEAN members in their continuing quest for harmonious and productive industrial relations based on social justice, as a cornerstone of quality workplaces and economic success:

I. Favourable legal framework

A favorable legal framework remains to be an important requirement and basis of good industrial relations practices in ASEAN countries. Such legal framework needs to take into account national economic and social conditions and in particular guarantee and protect the basic rights and requirements of employers to manage their business and to grow and that of the workers to just working conditions, stable employment, minimum standards, a safe and healthy working environment and to express their views as well as participate in decision-making that have significant implications for themselves or their workplace. Labour laws must also be clear, reasonable, practical and effectively and evenly implemented.

II. Fundamental rights of employers and workers

Freedom of association and the effective recognition of the right to collective bargaining is a fundamental principle at work. All workers and employers have the right to form and join free, independent and responsible groups of their own choosing, for the support and advancement of their occupational interest. This basic human right goes together with freedom of expression and is the basis of democratic representation and governance. Collective bargaining is a process through which employers and trade unions or, in their absence, representatives freely chosen by the workers, discuss and negotiate their relations particularly the terms and conditions of work with a view of reaching mutually acceptable collective agreements. Efforts must be taken to realize the principles of freedom of association and collective bargaining not only in law but also in actual practice.

III. Bipartite cooperation and collaboration

It is generally recognized in ASEAN countries that sound bipartite relations based on genuine cooperation and collaboration in workplaces represent the anchor of successful country-wide sound industrial relations. Harmonious, productive and stable industrial relations depend on what happens at the shop-floor. At the shop-floor level, various subjects of common interests to labor and management are discussed in bipartite mechanisms including productivity improvement, gain-sharing, recruitment and dismissal, safety and health and grievance handling. The strengthening and development of effective bipartite collaboration and cooperation including the negotiation skills of workers and employers are important requirements of good industrial relations.

IV. Building mutual trust and respect

Mutual trust and respect are essential and must be fostered to pave the way for frank and productive discussion and exchange of views and genuine consensus between labor and management on the strategic direction and response to common challenges and issues. They also ensure meaningful regular interaction and consultations and confidence in the mutual benefit of working together. The lack of mutual trust and respect leads to hostile, confrontational and unproductive relations

V. Mutuality of purpose and benefits

Government, employers and workers can develop together a meaningful and measurable statement of common goals and purposes. It is important for them to identify and agree on shared objectives, build a shared vision and formulate win-win approaches. There should be a common understanding of industrial relations policies and programmes and the increasingly complex and diverse challenges confronting them. The needs and expectations of all stakeholders should be taken into account and the resulting benefits be clearly seen and understood by employers and workers. Government, employers and workers have an important role to play and responsibility to discharge to bring about sustainable economic and social progress. They need to commit to work together, as a shared responsibility, to reach consensus on various workplace, economic and social issues including competitiveness, productivity and employment stability.

VI. Dignity at work and highlighting best practices

Labor is not a commodity. Workers and employers have the right to pursue both their material well-being and spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. They are entitled to be accorded dignity at work which includes being treated with respect, recognized and valued for the functions they perform and protected from various forms of bullying and harassment. Work ought to be a source of dignity and fulfillment and not of exploitation and frustration. Successful and best practices or procedures employed by workers and employers can be identified, catalogued, reported and widely disseminated for the purpose of replication. This includes the publication of case studies that provide in-depth analysis of important joint action of labor and management on various aspects of the employment relationship.

VII. Workplace democracy

The basic rights of employers and workers to freely organize and pursue their own affairs must be respected and protected. Employers have the right to responsibly and reasonably manage their business. Workers need to be able to exercise their right to influence work-related matters that directly concern them. Their voice needs to be heard and taken into account in good faith.

VIII. Good faith behavior

Productive employment relationships must be built on good faith behavior. Employers and workers must deal with each other honestly, openly and with integrity. The principle extends to collective bargaining which could only function effectively if conducted in good faith by both parties. Every effort must be made to reach an agreement through genuine and constructive negotiations. Unjustified delays in negotiations should be avoided and agreed terms of employment must be performed by every worker and employer in good faith. Industrial relations particularly negotiations must be conducted professionally and competently and the parties should work together to resolve issues fairly and expeditiously.

IX. Effective labour dispute settlement

The effective resolution of labour disputes is an integral component of a successful industrial relations system. Workers and employers have the right and the obligation to participate in good faith in dispute resolution processes especially bilateral efforts of labor and management to resolve a grievance or dispute. The right extends to access to independent and efficient machineries for mediation, conciliation, arbitration and adjudication which should be fair, inexpensive and expeditious.. Such processes and machineries also cover the minimization and prevention of conflicts such as by providing relationship development, training programs in problem-solving techniques to resolve problems on an ongoing basis, and assisting parties to navigate the process of change and jointly agree on a strategy to create or take advantage of new opportunities.

X. Tripartite partnership and social dialogue

Tripartism and social dialogue involving government, employers and workers can be a key competitive advantage underpinning economic competitiveness, harmonious industrial relations and overall national progress. A more structured framework can provide the necessary platform to tackle problems and work together more effectively to overcome even the most complex challenges and issues. Fair terms of employment, decent working conditions and economic and social development are best achieved with the broad-based efforts, collaboration and consent of workers, employers and government. It is therefore imperative to strengthen tripartism and social dialogue and the role of governments, employers' and workers organizations specially their capacity to engage in and promote their effective use.

Supplemental Note

ASEAN Guidelines on Good Industrial Relations Practices (and its Follow-up)

1. Follow-up: To make the ASEAN Guidelines on Good Industrial Relations Practices meaningful and of real and practical benefit to member-countries, a Follow-up is envisioned to encourage efforts to implement and put the principles of the Guidelines in practice. The Follow-up which is strictly promotional in nature, can provide an opportunity to periodically note the progress made in each country in relation to the application of the Guidelines including the highlighting of best practices for possible emulation by others. It will also allow the identification of areas in which any form of assistance may be needed to help them put the Guidelines into practice. The assistance can come from within ASEAN or elsewhere including the technical cooperation activities of the ILO. The Follow-up can be implemented in conjunction with every ASEAN Labour Ministers Meeting during which a general report can be circulated and discussed based on brief reports of member-countries on progress made, best practices and assistance needed in applying the Guidelines.

2. From the ILO's view, collective bargaining, by its very essence, requires the parties, which are well aware of their needs, possibilities and priorities, to adapt to the changing circumstances of the specific contest in which work is carried and to make mutual concessions and identify satisfactory outcomes for each party. Beyond the determination of working and living conditions, it has, in certain cases, been extended to aspects of social and economic policy which have an impact on living and working conditions and has touched on subjects such as employment, inflation, training, social security and the content of labour and social legislation.

3. A sufficient time before the process of collective bargaining, a mediator or conciliator can perform a preventive function by endeavoring to assist the parties in identifying the real problems that may arise, ensures contact and communication between the two sides, and places at their disposal relevant experience, information, studies and statistics and assist the parties in the analysis of all information. Based on the adage that 'the best time to deal with a conflict is before it happens', a mediator or conciliator can work directly with the parties in the enterprise and design with them a program to prevent conflicts and improve relations. The mediator or conciliator can diagnose the problem and following an initial assessment, suggests to the parties which program is most appropriate to the enterprise.

4. In his keynote speech at the 5th Asian Regional Congress of the International Industrial Relations Association (IIRA) held in Seoul, Korea, Thomas A. Kochan, MIT Institute of Work and Employment Relations, indicated that the central challenge facing industrial relations today is how to adapt its policies, institutions, practices, and research to serve the needs of the workforce and society in a global, knowledge-based economy. A new transformation of policies, institutions, and practices is needed now to help workers, families, communities, and societies adapt to the requirements of a knowledge-based global economy. This will require renewed commitment to universal and life-long education and training, broad diffusion of knowledge-based work systems in organizations, more transparency and more direct worker voice in corporate governance structures and processes, flexible labor market policies that support mobility and portability of benefits across jobs and movement in and out of full time work as women and men move through different stages of their careers and family lives, and new institutions for worker voice and representation at work and in society.

5. Mr. Kochan also stated that labor must be conceptualized not just as a cost production but also as a set of knowledge assets to be developed and used as both a source of competitive advantage and value and as a key source of power by which individuals and professional/occupational groups improve their working and living conditions and standards. The workforce must be viewed as diverse and not easily divided into two classes - labor and capital or workers and managers - but instead viewed as a complex and rich cultural mosaic with common and competing interests, norms and roles intertwined in ways that require different modes of cooperation and conflict resolution at work.

6. In "The Global Evolution of Industrial Relations", Bruce E. Kaufman made a concluding statement that "Industrial relations is not anti-capitalist or anti-market; in fact, part of its purpose is to make the market system and capitalism work better. To accomplish this goal, industrial relations seeks to humanize, stabilize, professionalize, democratize and balance the market system through new and expanded institutions. Of course, this worthy agenda may be carried to excess, subverted to serve the vested interests of various producer groups, or used to promote sectarian ideological or political objectives, so balance and pragmatic realism are also required in all phases of industrial relations. But, broadly viewed, we can nonetheless assert that industrial relations must have a future because real-life capitalism cannot survive without it. This lesson has to be learned the hard way in the first age of globalization a century ago; it is hoped that it will not have to be re-learned in the same way during the second age of globalization we are now passing through."

7. Mr. Kaufman is also of the view that labour cannot be treated as a commodity without serious social repercussions; achieving and maintaining economic efficiency is impossible without also maintaining a minimum of social justice and individual economic security; labour markets are inherently imperfect and incapable of selfregulation; and social welfare is advanced not only by providing consumers with plentiful low-priced goods and services but also by providing workers with decent wages and good jobs.

8. The Australian Charter of Employment Rights recognizes that workers and employers have much in common. Together, workers and employers provide the workplaces that sustain our materials needs and provide much of the social cohesion which defines us as a community. Workplaces constitute a foundational unit of our society and provide most of us with sustenance, an identity, a purpose and many of our social connections. They also take so much that is precious, our time, our energy, our opportunities to pursue other endeavours. Through work and their workplaces, humans interact. From the prosperity of the business to the emotional well-being of each worker, the state of workplace relations in the workplace has a crucial role to play. The Singapore Code of Industrial Relations Practice, on the other hand, seeks to foster partnership between management and unions/employees, harnessing the efforts of both to develop a motivated and productive workforce to achieve business excellence, realize employees' full potential to enable them to earn higher incomes and live a better life, and to contribute towards a harmonious workplace environment, strengthen tripartite collaboration and enhance overall competitiveness for economic growth.

9. The ASEAN Social Charter is an instrument and a minimum benchmark that obliges governments and non-state social actors to protect workers' right to decent work and to advance social development. The Charter arose from consultations involving national, regional and global trade union leaders supported by academics, think-tanks and government representatives from the ASEAN region.

A consensus emerged among ASEAN trade unions and civil society leaders that workers in the region were confronted with a social and economic ‘race to the bottom’, a phenomenon that has serious implications for wages, job security, decent work and social protection. The Charter calls on all development oriented governments, socially responsible employers, trade unions and civil society organizations to respect, realize and promote core ILO standards, employment stability, health and safety, wages and salaries for a just living, social security and human resource development.

10. The ILO Declaration on Fundamental Principles and Rights at Work marked a reaffirmation of the commitment by member states and the international community to “respect, to promote, and to realize in good faith” the principles concerning the rights of workers and employers to freedom of association and the effective recognition of the right to collective bargaining, and to work towards the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation. The Declaration underlines that all member countries have an obligation to respect the fundamental principles involved, whether or not they have ratified the relevant Conventions. The ILO Governing Body has identified the core Conventions as fundamental to the rights of human beings at work. These rights are a precondition for all the others in that they provide a necessary framework from which to strive freely for the improvement of individual and collective conditions of work.

* * * * *

Opening Speech

**Secretary-General
Ministry of Manpower and Transmigration
Republic of Indonesia**
at
**“the 1st Regional Seminar of the
ASEAN-ILO/Japan Industrial Relations Project”**

Bogor, 26 February 2009

Mr. Tomoaki Katsuda, representative of the Ministry of Health, Labour, and Welfare of Japan,

Mr. Alan Boulton, representative of the ILO office in Jakarta

Dr. Donald Tambunan, representative of the ASEAN Secretariat,

Distinguished Resource Persons and Speaker from ILO Headquarter Geneva, ILO Association of Japan, participants from ASEAN member countries, and observers from Republic of Korea,

Ladies and Gentlemen,

Assalamu'alaikum Wr. Wb.

Good Morning.

First of all, on behalf of the Government of Indonesia, I would like to warmly welcome you to Bogor, to participate “the First Regional Seminar of ASEAN-ILO/Japan Industrial Relations Project”, under the theme: “Towards ASEAN Integration: Promoting Good Practices for Sound and Harmonious Industrial Relations”. This year theme is under overall theme, which is “Building Better Industrial relations for ASEAN Integration”.

As the host, the Ministry of Manpower and Transmigration also convey sincere gratitude to the Government of Japan, ILO and ASEAN Secretariat for a sound collaboration in organizing this Seminar. I think this is the first ASEAN Seminar on Industrial Relations participated by tripartite delegations of each ASEAN member country. It is a good start for ASEAN since the ASEAN Charter mandates that ASEAN to be people-oriented organization. Besides, the achievement of ASEAN Economic Blue Print, as well as Social-Culture Blue Prints by 2015 should be approached through closer communication and cooperation among members country.

Ladies and Gentlemen,

As we know that even the stages of industrialization, economic growth, the condition of socio-culture, as well as industrial relations system among ASEAN countries are varied each other. It is still relevant to share good practices of industrial relations not only for ASEAN future, but also to respond the current global economic crisis. Industrial relations is just an instrument, which can be used

as a tool for balancing the existing situation, therefore it could be dynamic but it should lead to the achievement of decent work for all.

I am confident that this Seminar would be very useful for industrial relations stakeholders in ASEAN Countries through sharing of best practices, covering labour dispute settlement, collective bargaining, tripartite dialogue, as well the changing forms of employment and new employment relationships and social dialogue as responses to the current financial crisis.

Ladies and Gentlemen,

Allow me to share with you on the development of Industrial Relations in Indonesia. Following up the adoption of ILO Declaration on the Fundamental Principles and Rights at Work and Its Follow up by ILC in 1998, the Government of Indonesia committed to reform the national labour laws.

By the year 2000, all of ILO Core Conventions were ratified. After the ratification, 3 (three) labour instruments were issued, which are Act of Trade Union, Act of Manpower, and Act of Industrial Relations Dispute Settlement.

Nowadays, labour situation in Indonesia is remarked by the growing number of trade unions, promotion of social dialogue that might shock the entrepreneurs, in addition, some companies due to global economic crisis.

Talking about the global crisis, since 70% of our economy is supported by informal sector, we hope that our informal economic can survive during the crisis. However, industrial relations in the informal sector is sometimes difficult to be monitored and covered by the prevailing laws and regulations.

Ladies and gentlemen,

The practices of industrial relations in Indonesia do not distinguish enterprises, whether multinational or national ones. Our laws and regulations apply equally; industrial relation disputes are settled through the existing mechanisms. The government has reduced its interference and been giving lots of opportunities both to employer and worker to play their role in the company level. We are currently promoting Bipartite Cooperation Body, which through this body, every industrial relations issues should be settled harmoniously.

Finally, I hope the Seminar would be a fruitful discussion and bring the benefit to all countries, particularly to deal with global crisis. I also wish that your stay in Bogor would be a memorable one. Once again, I thank you for the opportunity, and may I declare this Seminar “open”.

Wassalamu’alaikum Wr.Wb.

Secretary General,

Besar Setyoko

DIALOGUE

**Global Perspectives on
Industrial Relations****Tayo Fashoyin**

Social Dialogue, Labour Law and Labour
Administration and Sectoral Activities
Department

International Labour Office
Geneva

26 February 2009
1st Regional Seminar of the ASEAN-ILO/Japan
IR Project
Bogor, Indonesia

The global context

- A number of factors profoundly affect national and international labour markets and the relationship between employers and workers:
 - Intensified global competition;
 - Decline in labour's share of national income, accompanied by increased income inequality;
 - Rising income inequality;
 - Technological and demographic change;
 - Changing labour market structures;
 - New forms of employment relationships;
 - A large informal economy;
 - Growing environmental concerns

- Multiplier effect of the current financial/economic crisis

Collective bargaining in the global context

- Spread of democratic values provides opportunities to assert the rights to freedom of association and collective bargaining
- Globalization and a shift in relative market power between labour and capital
- Growing evidence that collective bargaining institutions contribute to equal wage distribution and smoother integration of countries into the global economy
- Evidence also suggests that collective bargaining does not necessarily weaken a country's competitiveness

IR and economic crisis

On the NEGATIVE side

Increase in labour/management tensions

Shift in bargaining power

Erosion of trade union strength

Is there a POSITIVE side?

Encourage cooperation, dialogue and bargaining

Socially responsible restructuring

Emphasis on employment policy

The role of CB in economic crisis

- The current crisis is unprecedented in its global scope and there are already many examples from around the world of concession bargaining between trade unions and companies.
- CB institutions can help countries manage economic adjustment.
- In enterprises, CB can lead to compromises, trade-offs and win-win agreements.
- During the Asian financial crisis in the 1990s:
 - Strong national industrial relations institutions allowed countries to reach bargains and make policy adjustments to restore stability
 - Countries with stronger IR institutions enabled firms to reach agreements on reduced working time and wages.

Emerging bargaining issues

- Collective bargaining is dealing with more dynamic and substantive aspects of employment, such as:
 - **Terms and conditions of employment**
 - Healthy work environment
 - Non-discrimination
 - Balancing work and family responsibilities
 - Investing in education and skills
 - **Regulating relations between labour and management**
 - Dispute resolution procedures
 - Consultation arrangements between workers and managers
 - **Flexicurity**
 - Bargaining outcomes that balance competitiveness and job security.
 - But are such strategies applicable in developing countries?

Elements of today's bargaining agenda

Wages and Benefits

Working Conditions and Work Organization

- New forms of work organization
- Human-friendly technologies
- Health and safety at work

Collective Bargaining Processes

- More flexible multi-level bargaining
- International and regional dialogue

Labour Market and Employment

- Agreements on employment and competitiveness
- Addressing unregistered work
- Relocation of production

Sustainable Development and Green Jobs

Family, Gender and Equal Opportunity

- Different forms of parental and family leave
- Working time arrangements
- Time saving accounts
- Positive action and equal opportunities
- Combating child labour
- Sexual harassment

Social Protection and Social Inclusion

- Supplementary occupational pensions
- Flexible retirement
- Active ageing

Lifelong Learning and Competence Building

- Personal development plans
- Employability agreements
- Sabbatical and training leave
- Savings accounts for training and education

Key ILO standards

- Convention 87 : Freedom of Association and Protection of the Right to Organise (1948)
- Convention 98 : Right to Organise and Collective Bargaining (1949)
- Low ratification of these Conventions in Asia : [Convention 87 (42%), Convention 98 (56%)]
- REMINDER : The 1998 ILO Declaration says that all ILO member States, even if they have not ratified these Conventions, have an obligation, to respect, promote and realize the principles concerning the fundamental rights (including C. 87 and C. 98).

Key ILO standards cont.

- **Convention 144:** Tripartite Consultation
 - 123 countries have ratified C. 144 including 4 in 10 ASEAN countries
- **Convention 154:** Collective Bargaining (1981)
 - Only 38 countries have ratified this Convention (none from ASEAN).

2008 ILO Declaration on Social Justice for a Fair Globalization

- Institutionalizes the Decent Work Agenda
- Reaffirms freedom of association and the effective recognition of the right to collective bargaining
- Promotes social dialogue and tripartism
- Calls for developing new partnerships with non-state entities and economic actors
- Calls on the ILO to strengthen its research capacity including in the area of industrial relations

ASEAN-ILO/Japan IR Project

- The Government of Japan has provided funds for a project to improve industrial relations in ASEAN countries during 2008-2010. The project will be implemented by the ASEAN Secretariat and the ILO.
 - The objectives of the project are to:
 - promote constructive industrial relations
 - support the ASEAN Secretariat in building its capacity to disseminate knowledge and information about IR; and
 - strengthen the relationship between the ASEAN and ILO's Regional Office for Asia and the Pacific.

East Asia IR Network

- An initiative to create a common knowledge base on IR developments in East Asia
 - Part of the ASEAN-ILO/Japan IR Project.
 - The objective is to serve industrial relations actors and other stakeholders in their endeavour to achieve decent work for all in East Asia through informed social dialogue.
 - A tripartite advisory process ensures that common and diverse views of IR actors in East Asia are fully reflected.
 - Its website aims to become the IR portal for East Asia
 - <http://keenhosting.net/ir-asia>

Developments in the European Union

- Co-legislative power of EU-level social partners:
 - EC Treaty sets a procedure to formulate EU social policy combining consultation between the EC and social partners with the option to leave social regulation to bipartite agreement between EU level social partners.
- Open method of coordination (OMC):
 - spread best practices and achieve greater convergence towards the main EU goals (esp. in the area of employment).
 - a three stage process of policymaking which leads to non binding EU legislation (“soft-law”): (1) EU Council sets the objectives; (2) Member states translate them into national policies; and (3) Indicators in order to measure best practice.

European Union cont.

- EWC Directive (1996): information and consultation in companies with more than 1000 employees in Europe and at least 150 employees in more than one EU country
 - Increasing involvement of EWCs in the negotiation of European and Inter national Framework Agreements.
- Revised EWC Directive (proposed 2008): linking national and European levels of information and consultation and ensuring legal certainty regarding the set-up/functioning of EWCs.
- Efforts to institutionalise/formalise the sphere of trans-national social dialogue and agreements (IFAs) through an EC Directive (since 2005).

Cross-border Industrial Relations

- Globalization and the increased activity of trans-national economic actors has
 - displaced the traditional focus on States, towards private actors
 - generated a mismatch between
 - the scope of action of economic actors (e.g., multinational enterprises), which is increasingly cross-border,
 - and the action developed by the social actors (trade unions, NGOs, consumers' organizations), which remains largely embedded at national level.

Cross-border IR cont.

- Voluntary responses to this mismatch:
 - Private-public partnerships (e.g., UN Global Compact, ILO Better Work, MNE Declaration);
 - Enterprise-driven (e.g., voluntary Codes of Conduct)
 - International Framework Agreements between multinationals and unions operating at the global sectoral level (Global Union Federations):

Codes vs. IFAs

- Codes of Conduct: a unilateral promise of an enterprise to promote basic social, environmental, and community-related rights
- International Framework Agreements: a negotiated instrument signed between a MNE and GUF to ensure that the company respects the same labour standards across all its operations
 - Content: related to ILO Conventions (Freedom of association, collective bargaining, child/forced Labour, employment, wages, non discrimination, OSH, training, etc.)
 - Applicability: global (including suppliers and subcontractors)
 - Implementation: Joint (unions and management) follow-up procedures

From CSR to IR agreements?

- Increased pace of IFA signings
 - 71 IFAs signed as of December 2008
 - Most of them of EU-origin but increasingly non-EU.MNEs
 - Since 2007, 10 MNEs headquartered in Russia, Brazil, US, South Africa, Australia, New Zealand, and Japan.
 - Most active Unions/sectors: UNI (services), IMF (metal), ICEM (chemical/energy), BWI(construction)
 - 6 million workers are covered
- Towards a rapprochement between CSR codes and more traditional IR actors and institutions?
 - US-based multinationals are more likely to have a unilateral code but are least likely to negotiate it with workers
 - European firms are more likely to have negotiated a code (IFA) but are among the least likely to have a code in the first place

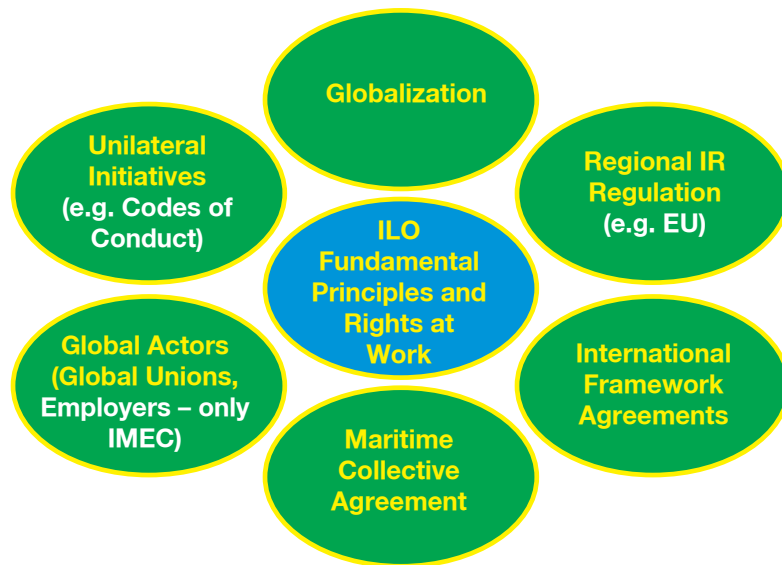
The nature of IFAs

- Are IFAs collective agreements?
 - ILO Recommendation 91 (1955) defines collective agreements
 - Despite resemblances, still many questions (representativeness, dissemination, binding effect, content etc.)
- Are IFAs legally binding instruments?
 - IFAs are not legally binding in the sense that they cannot be relied upon before national courts and lead to enforceable decisions or the adoption of legal sanctions in the case of nonimplementation
 - Gentlemen's agreements (binding nature depends on their effective implementation)
 - Effort of global partners to organise autonomously their own dealings.

Institutionalised cross-border IR

- Maritime sector: The only fully fledged cross-border collective agreement on several aspects of employment
 - the entire maritime sector is covered by a negotiated agreement between the International Transport Workers' Federation (ITF), and the International Maritime Employers' Committee (IMEC)
 - It covers wages and other terms and conditions of work, including maternity protection
 - The ILO has been a forum for tripartite maritime negotiations since the 1970s
 - A "spill over" of the ILO Maritime Conference and the ILO Maritime Labour Convention (2006) which serve as an important background to these developments in that they set, among other things, global standards for the terms and conditions of seafarers' employment as well as procedures for the periodical revision of seafarers' wages

Elements of global IR



DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Adopted in 1998, the ILO Declaration on Fundamental Principles and Rights at Work is an expression of commitment by governments, employers' and workers' organizations to uphold basic human values - values that are vital to our social and economic lives. These principles and rights are:

- freedom of association and the effective recognition of the right to collective bargaining;
- the elimination of all forms of forced or compulsory labour;
- the effective abolition of child labour;
- the elimination of discrimination in respect of employment and occupation.

A further recognition of the importance of these principles and rights has been their incorporation into the Global Compact, an initiative of the United Nations Secretary General. Like the ILO Declaration, the Global Compact is a platform designed to promote learning and good practices of businesses, based on universal principles.

The following information sheets seek to outline each of the four principles and rights. They are neither an interpretation of the Declaration, nor are they a comprehensive list of the many different ways by which organizations and individuals can contribute to their respect, promotion and realization. These information sheets seek to relate the essence of the subject matter and provide a useful point of departure.

The Fundamental Principles and Rights at Work are derived from the ILO Constitution and are expressed in policy decisions of the Organization, such as Conventions and Recommendations.

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING

All workers and all employers have the right to freely form and join groups for the support and advancement of their occupational interests. This basic human right goes together with freedom of expression and is the basis of democratic representation and governance. People need to be able to exercise their right to influence work-related matters that directly concern them. In other words, their voice needs to be heard and taken into account.

Freedom of association means that workers and employers can set up, join and run their own organisations without interference from the State or one another. Along with this right is the responsibility of people to respect the law of the land. However, the law of the land, in turn, must respect the principle of freedom of association. These principles cannot be ignored or prohibited for any sector of activity or

group of workers. The right freely to run their own activities means that workers' and employers' organizations can independently determine how they best wish to promote and defend their occupational interests. This covers both long-term strategies and action in specific circumstances, including recourse to strike and lock out. They can independently affiliate with international organizations and cooperate within them in pursuit of their mutual interests. If the collective bargaining system does not produce an acceptable result and strike action is taken, certain limited categories of workers can be excluded from such action to ensure the basic safety of the population and essential functioning of the State.

Voluntary collective bargaining is a process through which employers - or their organizations - and trade unions or, in their absence, representatives freely designated by the workers discuss and negotiate their relations, in particular terms and conditions of work. Such bargaining in good faith aims at reaching mutually acceptable collective agreements.

The collective bargaining process also covers the phase before actual negotiations - information sharing, consultation, joint assessments - as well as the implementation of collective agreements. Where agreement is not reached, dispute settlement procedures ranging from conciliation through mediation to arbitration may be used.

To realize the principle of freedom of association and the right to collective bargaining in practice requires, among other things:

- a legal basis which guarantees that these rights are enforced;
- an enabling institutional framework, which can be tripartite, between the employers' and workers' organizations, or combinations of both;
- the absence of discrimination against individuals who wish to exercise their rights to have their voice heard, and;
- acceptance by employers' and workers' organizations as partners for solving joint problems and dealing with mutual challenges.

ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR

Forced labour occurs where work or service is exacted by the State or individuals who have the will and power to threaten workers with severe deprivations, such as withholding food or land or wages, physical violence or sexual abuse, restricting peoples' movements or locking them up.

For example, a domestic worker is in a forced labour situation where the head of a household takes away identity papers, forbids the worker to go outside and threatens him or her with, for instance, beatings or non-payment of salary in case of disobedience. The domestic may also work for an unbearably low wage, but that is another matter. If he or she were free to leave, this would not amount to

forced labour but to exploitation. Another example of forced labour arises where villagers, whether they want to or not, have to provide substantial help in the construction of roads, the digging of irrigation channels, etc., and where government administrators, police officers or traditional chiefs brandish a credible menace if the requisitioned men, women or children do not turn up.

Bonding workers through debts is, in fact, a widespread form of forced labour in a number of developing countries. Sometimes it originates with a poor and illiterate peasant pledging labour services to an intermediary or a landowner to work off a debt over a period of time. Sometimes the obligation is passed on from one family member to another, even down to children, and from generation to another. The labour service is rarely defined or limited in duration, and it tends to be manipulated in such a way that it does not pay off the debt. The worker becomes dependent on the intermediary or on the landowner and labours in slave-like conditions. The threat and, indeed, the occurrence of violence or other penalties for failing to work turns an economic relationship -one-sided as it is to start with - into a forced labour situation.

Labour trafficking can give rise to forced labour. One way in which traffickers tend to put themselves into a threatening position is to confiscate the identity papers of the person they move for employment purposes. Another is to trap people through indebtedness by cash advances or loans. Traffickers may also resort to kidnapping, notably of children. At any rate, traffickers, the persons linked to them or the employers at the point of destination, give their victims no choice as to what work to perform and under which conditions. Intimidation can range from revealing the victim's illegal status to the police, to physical assault and sexual abuse.

EFFECTIVE ABOLITION OF CHILD LABOUR

Children enjoy the same human rights accorded to all people. But, lacking the knowledge, experience or physical development of adults and the power to defend their own interests in an adult world, children also have distinct rights to protection by virtue of their age. One of these is protection from economic exploitation and from work that is dangerous to the health and morals of children or hampers the child's development.

The principle of the effective abolition of child labour means ensuring that every girl and boy has the opportunity to develop physically and mentally to her or his full potential. Its aim is to stop all work by children that jeopardizes their education and development. This does not mean stopping all work performed by children. International labour standards allow the distinction to be made between what constitutes acceptable and unacceptable forms of work for children at different ages and stages of development.

The principle extends from formal employment to the informal economy where the bulk of the unacceptable forms of child labour are found. It covers family-based enterprises, agricultural activities, domestic service and unpaid work carried out under various customary arrangements such as children working in return for their keep.

To achieve the effective abolition of child labour, governments should fix and enforce a minimum age or ages at which children can enter into different types of work. Within limits, these ages may vary according to national social and economic circumstances. However, the general minimum age for admission to employment should not be less than the age of completion of compulsory schooling and never be less than 15 years. In some instances, developing countries may make exceptions to this, and a minimum age of 14 years may be applied where the economy and educational facilities are insufficiently developed.

Certain types of work categorized as “the worst forms of child labour” are totally unacceptable for all children under the age of 18 years, and their abolition is a matter for urgent and immediate action. These forms include such inhumane practices as slavery, trafficking, debt bondage and other forms of forced labour; prostitution and pornography; forced recruitment of children for military purposes; and the use of children for illicit activities such as the trafficking of drugs. Dangerous work that can harm the health, safety or morals of children are subject to assessment by governments in consultation with workers’ and employers’ organizations.

A key characteristic of any effective strategy to abolish child labour is the provision of relevant and accessible basic education. However, education must be integral part of a wide range of measures that combat many factors, such as poverty, lack of awareness of children’s rights and inadequate systems of social protection, that give rise to child labour and allow it to persist.

ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION

Discrimination at work can occur in many different settings, from high-rise office buildings to rural villages, and in a variety of forms. It can affect men or women on the basis of their sex, or because their race or skin colour, national extraction or social origin, religion, or political opinions differ from those of others. Often countries decide to ban distinctions or exclusions and forbid discrimination on other grounds as well, such as disability, HIV status or age. Discrimination at work denies opportunities to individuals and deprives society of what those people can and could contribute.

Eliminating discrimination starts with dismantling barriers and ensuring equality in access to training, education as well as the ability to own and use resources such as land and credit. It continues with fixing conditions for setting up and running enterprises of all types and sizes, and the policies and practices related to hiring, assignment of tasks, working conditions, pay, benefits, promotions, layoffs and termination of employment. Merit and the ability to do a job, not irrelevant characteristics, should be the guide.

Discrimination in employment or occupation may be direct or indirect. Direct discrimination exists when laws, rules or practices explicitly cite a particular ground, such as sex, race, etc. to deny equal opportunities. For instance, if a wife, but not a husband, must obtain the spouse’s consent to apply for a loan or a passport to participate in an occupation, this would be direct discrimination on the basis of sex.

Indirect discrimination occurs where rules or practices appear on the surface to be neutral but in practice lead to exclusions. Requiring applicants to be a certain height could disproportionately exclude women and members of some ethnic groups, for example. Unless the specified height is absolutely necessary to perform the particular job, this would illustrate indirect discrimination.

Equality at work means that all individuals should be accorded equal opportunities to develop fully the knowledge, skills and competencies that are relevant to the economic activities they wish to pursue. Measures to promote equality need to bear in mind diversity in culture, language, family circumstances, and the ability to read and to deal with numbers. For peasants and owners of small or family enterprises, especially the women and ethnic groups, equal access to land (including by inheritance), training, technology and capital is key.

In the case of both employees and self-employed or (own-account) workers, non-discrimination at work depends on equal access to quality education prior to entering the labour market. This is of chief importance for girls and disadvantaged groups. A more equal division of work and family responsibilities in the household would also permit more women to improve their work opportunities.

Effective mechanisms are needed to address the obstacles of discrimination when they occur. A common example involves claims for the non-discriminatory payment of wages, which should be set using objective criteria that takes into account the value of the work performed. ILO principles fix minimum thresholds while national laws and practices may well take a broader approach and include more comprehensive means in eliminating discrimination at work.

* * * * *

Collective Bargaining in Cambodia

General Economic Situation

According to the 1998 General Population Census, Cambodia has a population of 11.44 million. About 9.64 million or 84 per cent live in the rural areas and 1.80 million or 16 per cent, in the urban areas. The population grows at a rate of about 2.5 per cent annually, or adding 286,000 people yearly.

The economically active population is about 5 million. The unemployment rate is 5 per cent, affecting 250,000 workers, who are generally concentrated in Phnom Penh, Battambang, Banteay Meanchey, Kampong Thom, Sihanouk Ville and Koh Kong.

On the economy, the open market system ushered in new and big development challenges. At the time of its introduction, Cambodia was not institutionally strong to face the complexities of capitalism, not to mention globalisation. However, the efforts of the Royal Government led to a satisfactory growth in GDP, from about 4 per cent in 1993 to 7.6 per cent in 1995. This later dropped to one (1) per cent for two consecutive years, 1997-1998, due in part to the Asian financial crisis and the general perception of donors and private investors about business uncertainties in the country following the political events in 1997. However, the economy bounced back in 1999, registering a 5 per cent growth rate. This was sustained at a higher level except that a big flood in 2000 caused the GDP growth to drop to 4.5 per cent (from the expected 5.4 per cent). In 2002, growth rate was 6.7 per cent in 2002, a respectable 7 per cent in 2005, and a high of 13.1 per cent in 2006.

ILO Conventions on collective bargaining

The international standards for collective bargaining are ILO Convention No. 87 (Freedom of Association) and ILO Convention No. 98 (Collective bargaining). These two conventions are among the Core Conventions, although there are other ILO Conventions and Recommendations concerning collective bargaining.

Cambodia ratified these two Conventions in 1999. They give protection against acts of discrimination against unions and interference in workers and employers organizations, and promote the development of voluntary collective bargaining. Among the specific anti-union acts of discrimination cited in the Conventions are:

- Employers' refusal to employ workers by reason of trade union membership,
- Employee dismissal on account of trade union membership or participation in trade union activities, and
- Employee transfers, denial of promotion, downgrading, compulsory retirement, blacklisting, restrictions on wages/benefits for participation in legal strike.

The Conventions seek to provide protection to unions related to organizing activity, trade union membership and legitimate activities, union activities and membership, and even while the union is not yet recognized. There are also additional measures of protection for trade union leaders.

On collective bargaining, the Conventions asks ILO Member States to promote voluntary collective bargaining as the means to regulate terms and conditions of employment. Further, the Conventions seek bargaining freedom for employers' and workers' organizations, that is, for them to enjoy conditions that allow them to negotiate freely or in the widest sense among themselves with a view of regulating the terms and conditions of employment.

There are also other standards laid down in the Collective Bargaining Convention (No. 154), 1981, such as:

- full development and utilization of the machinery for voluntary negotiation to regulate conditions of employment by collective agreements,
- minimum standards or measures the State must undertake to promote and implement collective bargaining, including the establishment of a collective bargaining framework depending on economic structure of the country.

National Laws and Regulations

Cambodia has adopted laws and regulations that are directly related to Collective Bargaining. These are:

- Labour Law: Chapter V – Collective Bargaining Agreement (Articles 96-101, Article 277-282),
- Prakas 305: On the Representativeness of Professional Organizations of Workers at the Enterprise/Establishment level and the Rights to Collective Bargaining for the purpose of reaching/concluding agreement at that level, and
- Prakas 287: On Procedures for Registering, Publishing, and Monitoring the Enforcement of Collective Agreements

The National Law on Collective Bargaining (Articles 96 – 101) enshrines the right to bargain. It defines the parties to the agreement: unions and employers, and, on an exceptional basis, shop stewards and employers.

CBAs may be of limited or unlimited duration. For limited duration, the maximum for most CBAs is three (3) years and one (1) year agreements reached by shop stewards. For CBAs of unlimited duration, a CBA may be cancelled by either party. However, it continues to be in effect for one year after cancellation, unless both parties agree to cancel. A CBA's scope of application may be at the enterprise, industry, or national level. Bargaining is focused on conditions and benefits above what the law already provides. It overrides inferior provisions in any individual contracts

The Ministry of Labor and Vocational Training has made efforts to encourage workers to have collective bargaining with their respective employers. The promotion of CBAs is a priority goal of the Ministry. A well-developed CBA provides procedure for labor dispute settlement within the enterprise and ensures working conditions that are superior to what the law requires for they give additional benefits or advantages to the workers.

However, the pace of collective bargaining can be very slow due to the limited capacity of workers and the existence of many unions in an enterprise, which make it difficult for the employer to decide who is their partner in the negotiation process. In relation to this, the Ministry issued Prakas N° 305 dated November 22, 2001 clarifying the representativeness of the professional organization of workers at the enterprise-establishment level and the exercise of the rights to collective bargaining to conclude the collective agreement at the enterprise-establishment level. Recently, the Ministry issued Notification N° 33 dated 22 February 2008 on the procedure of determining the most representative professional organisation of the workers at the enterprise-establishment level.

Freedom to form a trade union and role of shop steward

The freedom of association is fully guaranteed in Cambodia. The relevant law and regulations are as follows:

- Labor Law, Chapter 11 on “trade union freedom and worker representation in the enterprise”,
- Prakas N° 286 Mosalvy dated November 5, 2001 on shop steward at the enterprise and establishment, and
- Prakas N° 021 MLVT dated February 15, 2006 on Professional Union’s registration.

Besides the above national laws and regulations, Cambodia has ratified the two International Conventions (No. 87 and No. 98) on Freedom of Association and Collective Bargaining as mentioned earlier.

The labor law of Cambodia has also provisions on the role of the shop steward, the elected worker representative in the enterprise who is tasked to articulate worker grievances and other concerns. The candidate for the job of a shop steward has to be nominated by the representative union according to the seats available mentioned in labor law chapter 11 section 3 and Prakas N° 286 Mosalvy dated November 5, 2001 (on shop steward at the enterprise and establishment).

Labor dispute settlement

Cambodian labor law provides a system of settling both individual and collective disputes. In addition, the Ministry of Labor issued Prakas N° 438 Mosalvy dated November 29, 2001 on the Procedure of Individual Dispute Settlement and Prakas N° 317 Mosalvy dated November 29, 2001 on the Procedure of Collective Dispute Settlement.

A collective dispute, which is handled by a Conciliator and yet is not settled within 15 days, is referred to the Arbitration Council, which is established in 2002. If not settled by the Council, the collective dispute is eventually referred to the regular Court.

CBA experiences and practices

Collective bargaining in a developing country usually involves the intervention of government due to the limited knowledge and experiences of both parties in the CBA process, especially the worker side. Cambodia is a developing country whose government takes an active role on this issue. The Ministry considers the education of the two parties as a priority task and does everything to make both parties reach an understanding and build up good relationship.

Only a small number of CBAs, a total of 86 at the end of 2008, are officially registered. Most of them are not fully developed. Generally, they mention only what are already provided by the law. In short, there are provisions that do not provide more or extra advantages to the worker outside of what the law gives.

Moreover, many CBAs in Cambodia are drafted or initiated by the employer side and do not provide better advantages to the worker side. Some employers also have negative attitude to union formation. This attitude is due to varied reasons, which include the following:

- Some employers believe that a union is formed against the employer, not as a good partner in negotiation and in sharing the benefits of the enterprise.
- Some unions take unlawful action leading to instability within the production lines or launch strikes without adhering to the procedures, thus frightening employers.
- A small number of union leaders abuse their right to special protection against dismissal and interference in an enterprise's affairs. Sometimes, union leaders spend working time to do union affairs without any agreement from the employer.

In practice, both sides often accuse each other regarding the exercise of the freedom of association. These are difficult to resolve. Still, the number of unions has been increasing. As of January 31, 2008, there were 1557 unions, 37 federations and 8 confederations officially registered.

Conclusion

Collective bargaining as an institution is relatively new in Cambodia. Due to the combined efforts of the three parties, the country has made substantial progress. This success can not be separated from the kind support, material and otherwise, of ILO and friendly countries. Many Cambodian tripartite delegations have visited the ASEAN and other countries in Asia to learn from their experiences. The visit to Japan, which has modern industry and good collective bargaining experiences, is especially enlightening.

The education of the three parties on how to improve their understanding of the CBA process and share good experiences is paramount. If fully enlightened, both the workers and employer will be able to solve any problems by themselves, to their mutual benefits, without any direct intervention from government. This will give the Ministry more time to study other major policies in the labor field.

In the future, Cambodia should:

- Have more laws and other provisions to guarantee a stock sharing scheme for employees. This will lead to peace and harmony in industrial relations because everyone becomes an enterprise owner.
- Make the three parties understand each other better and consider their own sectoral concerns in the broader context of the industrial relations system.
- Establish a labour college/institute, which promotes knowledge in labour law, and other related training centers, especially in the upgrading of labour inspectorate. The point is to enable the three parties to have officials with greater knowledge of the IR and CBA issues.

* * * * *

Presentation of Good Industrial Relations Practices

Collective Bargaining/ Tripartite Dialogue

Presented by

Mr. Sok Narith

Cambodian Labor Confederation

Indonesia:

26,27 February 2009

MAP OF THE KINGDOM OF CAMBODIA



- Cambodia is one of South East Asia countries. She shares border with Thai land at the North and West, Vietnam at the South and East and with Lao at the North East.

Land size is: 181, 035 square kilometers, the population of approximately 14 millions. Comprising of 24 provincials town and the city is Phnom Penh.

- Cambodia is a agricultural country, 80% of its people are farmer.
- Cambodia currency is Riel, but US currency is widely used throughout the country.

Development the Concept of Collective Bargaining Agreement (CBA) in Cambodia

Under the initiative and the assistance of Solidarity Center, Cambodia (ACILS), a number of CBAs have achieved in the following garment factories, tourism and construction industry. But the first CBA was in garment industry in 2003 at Four Seasons (closed Dec 05).

Con't

And after, some CBAs have been gradually achieved in three major sectors, which unions have majority of their members at workplaces. Those are:

Tourism Sector:

- 9 out of the 14 unionized hotels have been achieved CBAs. But approximately 351 hotels both medium and big sizes are not yet unionized.
- 2 CBAs for both international airport management companies in Phnom Penh and Siem Reap
- 2 CBAs achieved in HCC (cleaning company) in both Phnom Penh and Siem Reap airports.

Garment sector:

- There are 11 CBAs in 11 different garment factories.
- Three of them were non-operating factories (Four Seasons, M&G and Y.G.M) and eight others are in process (Top One, Gladpeer, Sabrina, Zheng Yong, Goldfame Enterprises, Great Lancelot International, Hugo International Investment, Wonrex)

Construction sector:

One CBA was achieved in EFEO by CCTUF

Some main issues that majority of enterprises or establishments in Cambodia have no CBA

- Employers don't want to have CBA
- Multiple unions exist in one single enterprise/establishment with different tendencies.
- There are less union working independently for real interest of workers.
- Some companies have tried to prevent unions from achieving MRS.
- More enterprises/establishments yet have unions
- Some union leaders/activists have fired after a union was organized in work place.
- There are a lot of small enterprises/establishment
- Some employers have well connected with high ranking government officers.
- Some senior government officers are owners of business establishments.
- Corruption is widely spread and can't be easily tracked. It is also part of a hindrance preventing the creation of a collective bargaining agreement.

Goal of CBA

- To strengthen their rights as provided by law
- To make strong voice of union in workplace
- To promote better working conditions in workplace
- Seeking higher benefits than law provided
- To promote good industrial relations
- To develop better system of grievances in place.
- To prevent strike and lockout
- To improve productivity and profitability
- To enhance union and company reputation

Various issues encountered once the CBA is in process of negotiation

In general we've met some problems for initial negotiation of CBA

- Employers mostly think that union demand too much.
- Some employers think that trade union is a trouble maker
- Sometimes employers have shown intention of not negotiating with representatives of workers.
- Negotiation process has encountered of postpone frequently.
- Generally, employers always bring along their lawyer to negotiate with union representatives and most benefits could not be gained higher than labor law defined.

The difficulties encountered once CBA is being implemented

In general, there is not much problem on CBA implementation. Some problem could approach on different interpretations of the meaning of the officially adopted CBA.

Tripartite Dialogue

A Labor Advisory Committee (LAC) is tripartite system and shall be formed under the Ministry in Charge of Labor. **It consists of:**

- the Minister in Charge of Labor, or his representative, who is the Chairperson;
- a number of representatives of relevant ministries;
- the equal number of representatives from the workers' unions that are the most representative at the national level, and of representatives from the employers' organizations that are the most representative at the national level. (referred to Chapter 15 of Cambodian Labor Law).

Obligation of LAC

- The Labor Advisory Committee must meet at least twice per year. However, it can be convoked at any time by the Minister in Charge of Labor at his own initiative or at the request of one of the vice-chairpersons.
- The chairperson sets the agenda of each session of the Labor Advisory Committee in consultation with the vice-chairpersons.

The Labor Advisory Committee has the mission primarily to study problems related to labor, the employment of workers, wages, vocational training, the mobility of labor force in the country, migrations, the improvement of the material and moral conditions of workers and the matter of labor health and safety. The Labor Advisory Committee has the following duties:

- formulate recommendations on the guaranteed minimum wage;
- render advice beforehand in order to extend the scope of a collective agreement or, if there is no collective agreement, give advice eventually on any regulation concerning the conditions of employment in a given profession or in a certain sector of activity.

Brief Overview of IR Dispute Settlement in Indonesia

Regulations governing industrial relations disputes settlement in Indonesia mirror the changes in the industrial relations system in the country. The guiding principle in the settlement of industrial relations disputes is the emphasis given on the bipartite approach, or the leading role of the two parties in the settlement of the workers problems, grievances and other work-related disputes.

The regulatory regimes on dispute settlement can be classified based on two eras of development.

1. Pre-Reformation Era

Act Number 22 of 1957 and Act Number 12 of 1964

Act Number 22 of 1957 emphasized that every problem and dispute should be settled peacefully through negotiations at the bipartite level. The agreement reached in the negotiations could be formulated in the form of a mutual agreement. Employers or trade unions which failed to resolve their disputes in a bipartite manner could seek the assistance of a government mediator to help them reach a compromise agreement, or to seek the help of an arbitrator.

If the employer and the trade union did not agree with the recommended solutions, they could raise the disputes for settlement by the Regional Committee for the Industrial Relations Disputes Settlement and/or the Central Committee for Industrial Disputes Settlement.

A termination of employment by the employer would become an industrial dispute if the worker or the trade union refused to agree with the termination.

Act Number 12 of 1964 stipulated that the employer should obtain prior approval from the Regional Committee for the Industrial Relations Disputes Settlement or the Central Committee for Industrial Disputes Settlement before terminating employment.

Challenges

With the enactment of Act Number 5 of 1986, a decision taken by the Committee could be appealed to the Administrative Court. This meant more time needed to get justice in the settlement of labour disputes.

2. Reformation Era

In the era of industrialization, industrial relations disputes have become more complex. This necessitated the establishment of a dispute settlement machinery that ensures fast, appropriate, fair and inexpensive settlement of labour disputes. The former Act No. 22 of 1957 regarding the Settlement of Industrial Relations Disputes and Act No. 12 of 1964 regarding Termination of Employment in Private Company were deemed no longer relevant to the new situation.

The application of Act No. 5 of 1986 regarding the State Administrative Courts, which allowed decisions made by the Central Committee for Settlement of Labour Disputes that were originally designed to be final to be appealed to the higher State Administrative High Court and ultimately to the Supreme Court, was a regressive development. This appeal process takes a relatively long time and is considered inappropriate for labour cases that require speedy settlement as they affect production schedules and work arrangements.

Thus, following the reformation era which began in 1998, Indonesia enacted three (3) major laws related to industrial relations disputes settlement as follows:

- a. Act No. 21 of 2000 on Trade Union
- b. Act No. 13 of 2003 on Manpower
- c. Act No. 2 of 2004 on Industrial Relations Disputes Settlement

This era is characterized by significant changes in the procedure on industrial relations disputes settlement. Act Number 22 of 1957 that had been used as the legal basis for industrial relations disputes settlement is deemed no longer appropriate or applicable for the developments that have occurred, as the rights of the individual workers have not been considered sufficiently important to allow them to be a party in industrial disputes settlement. In addition, this Act specifies that only particular trade union can be a party in the resolution of industrial relations disputes.

Act No. 21 of 2000 on Trade Union specifies that every worker has the opportunity to establish/join any organization that he/she likes.

Legislation governing the resolution of industrial relations disputes has not been able to put into effect a quick, appropriate, just and inexpensive way of settling disputes. In addition, there was no time frame on the duration of settlement.

Act No. 2 of 2004 has fixed a time duration in each phase of settlement. The longest period is 140 working days.

Act No. 2 of 2004 also emphasizes the importance of settlement through bipartite negotiations. The bipartite settlement aims to secure a “win-win solution”. This Act establishes the method to settle the disputes inside and outside the Industrial Court. The types of industrial relations disputes has been classified into four (4) categories, namely: rights disputes, interest disputes, employment termination disputes and disputes among trade unions.

Regulations on Industrial Relations Disputes Settlement

by

Myra M.Hanartani

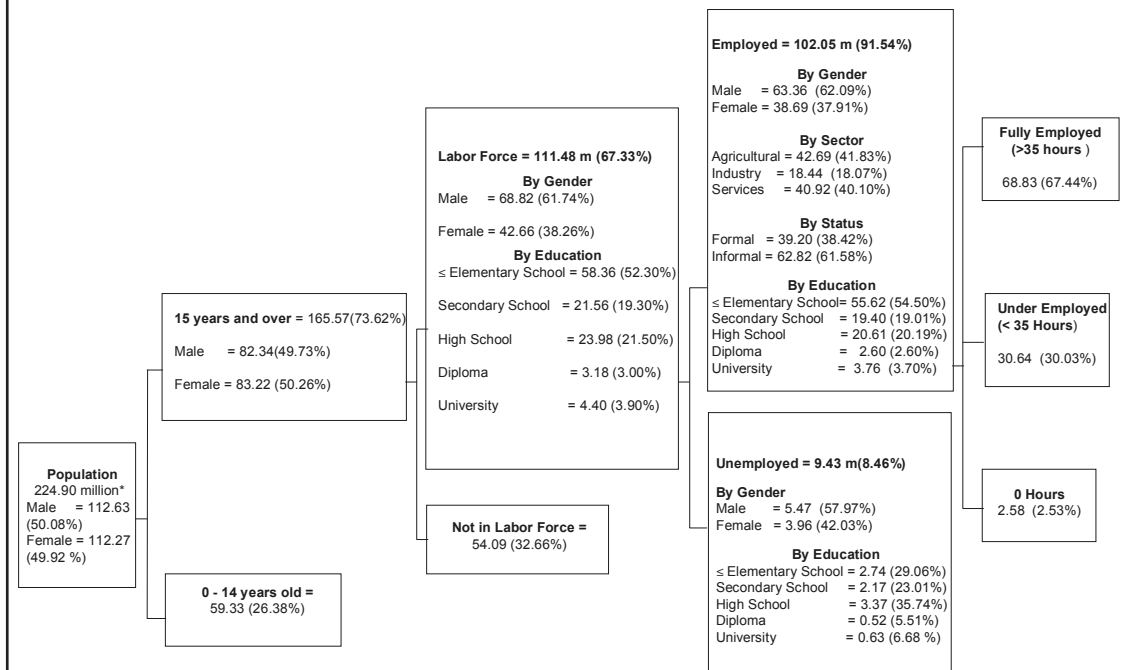
Director General of Industrial Relations
and Workers' Social Security Development

Ministry of Manpower and Transmigration
Republic of Indonesia

Presented to the 1st Regional Seminar on ASEAN/ILO/Japan

Industrial Relations Project
Bogor, 26-27 February 2009

Human Resources Profile Of Indonesian



* Estimation : Februari 2008

Source : The Central Body of Stastics (CBS) – Labour Force Survey 2008

CURRENT SITUATION ON SELECTED DATA ON INDUSTRIAL RELATIONS TOOLS

No.	IR Tools	Total	Remarks
1	Company Regulation	41,032	
2	Collective Labour Agreement	10,484	
2	Tripartite Cooperation Body	11,627	
4	Tripartite Cooperation Body	24 268	Provincial level Municipal/Regency level
5	Trade Union Federation Confederation Company Level Member	91 3 11,467 3,388,597	

Source : Directorate General of IRSSD, MOMT, 2008

Social Security Membership, 2008

No.	Sector	Total (workers)
1	Formal	8,219,154
2	Informal	253,822

Source : Directorate General of IRSSD, MOMT, 2008

Trend on Labour Disputes Settlement, 2008 by Cases and Settlement

Year	No. Cases	Settlement	
		Bipartite / Mediation	Industrial Relations Court
2006	5.897	4.492	1.123
2007	3.127dy	2.384	596
2008	3.082	2.349	587

Source : Directorate General of IRSSD, MOMT, 2008

Main Provision

A. Act No.22 of Year 1957 concerning Industrial Relations Disputes :

1. It applies to disputes between Employers and Trade Unions;
2. Modes of Settlements :
 - Bipartite Agreement
 - Mediation
 - Tripartite Labour Disputtes Setlement Committee (Provincial dan National Level)
3. The Minister of Manpower has the right to veto the Committee's Decision;
4. There is no time limit of settlement process.

B. Act No.12 of Year 1964 concerning Termination of Employment in Private Company

Basic Principle : Avoiding Termination of Employment

Termination is legal based on :

- a. The decision of Provincial Committee (up to 10 workers);
- b. The decision of National Committee (more than 10 workers);
- c. Terminated workers are entitled to compensation.

Challenges encountered in the Process of Industrial Disputes Settlement

1. With the Enactment of Act No.5 of Year 1986 concerning Administrative Court, a decision taken by the Committee could be appealed to the Administrative Court. Therefore, it needs much more time to seek justice in the field of labour disputes.

2. Reformation Era (started in 1998)

- a. Basic principle in the field of labour relations
 - Respect for human rights at the work place
 - Democratization in the work place
- b. The demand for a simple and fair dispute settlement process.
- c. The government should not interfere in the settlement process of a dispute

Response

1. Enactment of
 - a. Act No. 21 of Year 2000 concerning Trade Unions
 - b. Act No. 13 of Year 2003 concerning Manpower
 - c. Act No. 2 of Year 2004 concerning Industrial Relations Disputes Settlement
2. Act No. 2 of Year 2004 concerning Industrial Relations Disputes Settlement
 - a. It applies to employers and workers as individuals or as a group (Trade Unions)
 - b. It encourages bipartite settlement
 - c. Modes of settlement :
 - Litigation process : through "Special Court" in General Court and Supreme Court
 - Adjudication process : through arbitration
 - d. Both the above processes should be preceded by bipartite negotiation or mediation
 - e. Special Court consists of Ad-Hoc Judge from representative of Employers' organization and Trade Unions, as well as a career judge.

Implementation of Act No. 2 of 2004

1. It still needs awareness among both parties, in particular the judicial process in court;
2. Although Act No.2 of Year 2004 concerning Labour Disputes Settlement puts the time limit on the settlement process, i.e. 140 days, however under some circumstances, because of incomplete documents, therefore, most cases need much more than the required time given.

Simplification of the Process

1. There is no appeal at the Higher Court but directly to the Supreme Court;
2. There is no process in the Administrative Court.

The Difference between Industrial Dispute Settlement Act No.12 of Year 1964, Act No.22 of Year 1957, and Act No.22 of Year 2004

No.	Topic	Act No.22 of 1957	Act No.12 of 1964	Act No.2 of 2004
1	Institution	<ul style="list-style-type: none"> • Mediation • Arbitration • P4D • P4P • PTTUN 	It is in accordance with Act No.22 of Year 1957.	<ul style="list-style-type: none"> • Mediation • Conciliation • Arbitration • Special Court for Industrial Relations • MA
2	Type of Dispute	<ul style="list-style-type: none"> • Rights Termination • off Work Interest 	Termination of Work	<ul style="list-style-type: none"> • Rights • Interest • Termination of Work • Between Trade Union/Workers' Organization
2	Parties involved in the Dispute	<ul style="list-style-type: none"> • Employers/Employers' Organization • Trade Union/Workers' Organization or Federation of Union/Workers' Organization 		<ul style="list-style-type: none"> • Workers (individuals) • Trade Union/Workers' Organization • Employers • Employers' Organization
4	Duration of Settlement	Relatively quite long :	Provincial level Municipal/Regency level	Short The latest 140 working days

Japan Country Report and Presentation

International Affairs Division
Japan Ministry of Health, Labour and Welfare

Sound and Harmonious Industrial Relations, Changing Forms of Employment and New Employment Relationships

Analysis of Current Labour Market and Non-regular Employment

Labour market situation

The Japanese labour market is presently facing a downturn, as reflected in the decline of the effective ratio of job offers to applicants (ERJOA), estimated at 0.72 per cent in December 2008. As a result, Japan's unemployment rate had risen, from 3.6 per cent in July 2007 to 4.4 per cent in December 2008.

And yet, Japan is facing the prospect of a declining labour force. The total population in Japan reached a peak of 127.7 million in 2004, and has been going down gradually. According to the "New Population Estimates" from the Ministry of Internal Affairs and Communications released in December 2006, the birth rate in Japanese society will keep falling and that Japan will be entering the phase of a population-declining society. In 2055, the total fertility rate (TFR) is estimated to drop to 1.26 per cent and the total population is estimated to be fewer than 90 million. Consequently, 40 per cent of the total population is expected to be people over 70 years old, and the total number of yearly child birth will be less than half a million.

In the mid-term and in order to compensate the decrease in the labour force caused by the decrease in the national population, Japan will be forced to encourage every youth, woman and elderly to participate in the labour force and work in accordance with each person's capabilities and willingness.

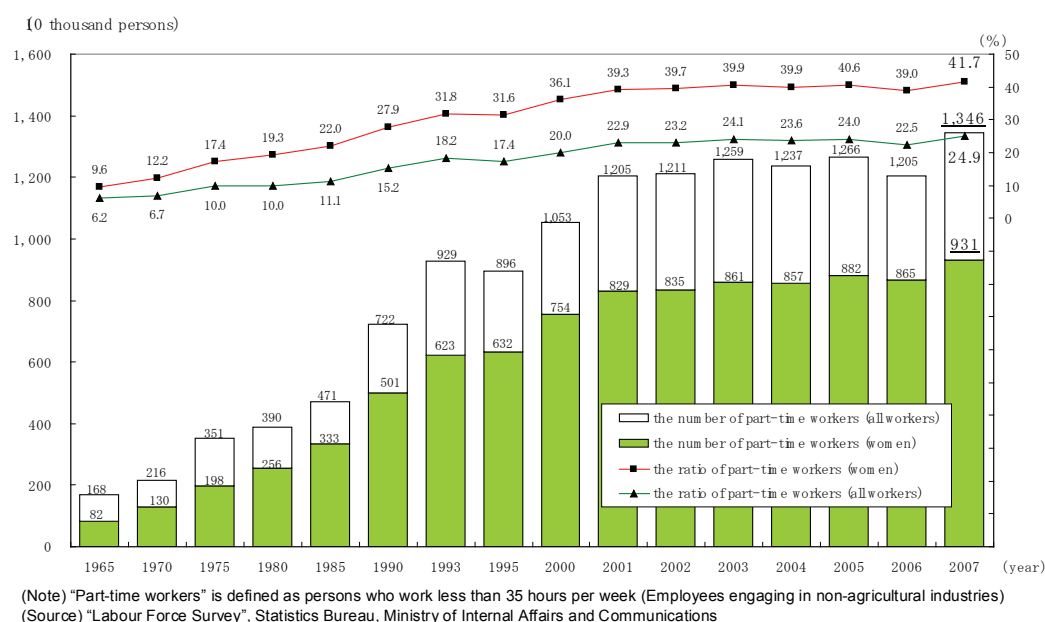
Current Situation of Non-regular Workers

The number of regular employees has been decreasing. On the other hand, the number of part-time, dispatched and contract workers has steadily increased, particularly among the youth. Consequently, the ratio of the regular workers has continuously declined.

The number of part-time workers has dramatically risen, particularly in the tertiary sector of the economy (service sector). The total number of part-time workers reached almost 14 million in 2007, and accounts for a quarter of the total number of employees in Japan. Although female part-timers are predominant (around 70 per cent), there are also increases in the number of male part-timers (see the

figure below).

Figure 1.

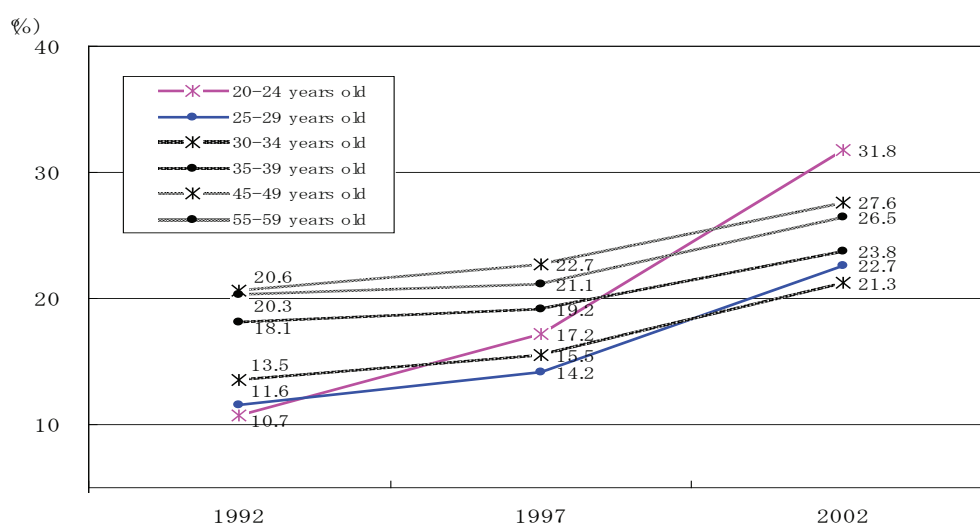


Number of part-time workers, 1965-2007

The food and hotel industries have the highest rates of non-regular workers, about 66 per cent. The wholesale/retail and service industries have a non-regular ratio of 40 per cent, and this keeps increasing. Regarding the dispatched workers, their number is still relatively small compared to the total of non-regular workers. However, it has been rising in recent years. The age-specific rate for part-time, dispatched and contract workers is increasing, particularly for the youth between 20 to 30 years old (see figure 2).

Some of the issues related to the negative social impact of the expanding non-regular work force are:

- The increasing percentage of untrained and unskilled workers. There is a huge gap between the regular and non-regular workers in terms of opportunities for human resource development or skills advancement.
- The rapid depression of the child birthrate stemming from late marriages or decisions not to get married. The data show that the marriage rate among the non-regular workers is lower than those of regular workers.



(Source) Specially compiled by Office of Counselor for Labour Policy Planning, Director-General for Policy Planning and Evaluation, Ministry of Health, Labour and Welfare based on "Employment Status Survey", Statistics Bureau, Ministry of Internal Affairs and Communications
 (Note) 1. "Non-regular employees" are the sum of part-time workers, temporary workers, workers from temporary employment agency, contract employees, entrusted employees and others. Employment categories are based on those defined by employers.
 2. "The ratio of non-regular employees" is the ratio of the number of non-regular employees to total employees (excluding student workers).

Figure 2.

Forward-looking action measures taken by leading employers' and workers' organizations

Since the social partners are concerned about the growing number of non-regular workers, some leading enterprises and trade unions have adopted forward-looking measures. In particular, trade unions which organize industries with a large number of part-time and contract workers have been pushing for the fairer treatment of non-regular workers based on the equality principle, that is, treating them as equal to those of the regular workers, including the enjoyment of the right to unionization in cooperation with the employers. (See Annex 1)

Actions taken by the government: new labour legislations

Even if there are such forward-looking activities taking place, society must also address emerging social structural changes such as the age-ing society, declining birth rate, globalising economy and diversifying values among the people. In response to these changes, various labour issues need to be resolved, such as the settlement of safety nets to cushion the negative impact posed by a shrinking labour work force and diversification of employment amidst the search for economic dynamism in Japan.

Against these challenges and the actions taken by the social partners, the Japanese government has proposed new labour legislations to enable society to fulfill the potentials of all workers who are willing and able to work with their full skills and to choose any type of employment convincingly. These are:

- Amendment of the Part-Time Workers Act: The act has been amended to provide a fair employment environment in which part-time workers are able to utilize their skills more effectively and efficiently. In particular, the amendment aims to promote the fair treatment of non-regular workers and the transfer of part-time workers into regular workers. The amended act was approved in the Diet on 25 May 2007 and enforced on 1 April 2008.
- Amendment of the Minimum Wage Act: The act has been amended to make regional minimum wages function fully as a safety net to secure the workers' minimum standard of living. The amendment established clear decision criteria in minimum wage setting in line with the standards of public livelihood assistance. It also raised the fines or penalty for paying lower than the minimum wages (20 thousand yen increased to 500 thousand yen). (1 USD = 91 YEN as of Feb 9th). The amended act was approved in the Diet on 28 November 2007 and enforced on 1 July 2008.
- Review of the Worker Dispatching Act: Responding to the rapid expansion in the number of dispatched workers, the Diet is now discussing possible amendment of the Act, primarily to strengthen the system of workers' protection by addressing problematic forms of worker dispatching, particularly the system of daily dispatching wherein workers are dispatched to different enterprises day by day.

Actions taken by social partners

Reacting to the above legislative amendments, some enterprises in industries where part-time workers predominate or serve as core workers have taken positive actions to ensure fair treatment of the non-regular workers.

For example and for the sake of securing their human resources, a certain enterprise in the food service industry has integrated and standardized the forms of fixed-term employment and has introduced a promotion system where non-regular workers can be promoted to regular status based on the results of competitive examinations. The system was first implemented in April 2008 and has succeeded in promoting approximately 500 contract workers to regular employees. (See Annex 2-1)

Another example of an affirmative action was that of a certain enterprise in the retail industry, whose workers were categorized before into "regular", "part-time" and "contracted" employees. To improve the retention rate of their young employees, the enterprise has virtually erased the distinction between regular and non-regular workers by integrating 93 per cent of the fixed-term part-time and contract employees under the category of non-fixed term employees. (See Annex 2-2)

Results

Statistics in enterprises which have adopted positive actions have shown a decline in employment turnover rates as well as indications of workers' greater willingness to work.

There are two success factors by which social partners are encouraged to address the issues spontaneously or on their own volition.

[1. Step-by-step strengthening of labour legislation](#)

Generally speaking, Japanese labour legislations go through a step-by-step process in which non-binding governmental guidelines come first, then promotional legislations (not compulsory) follow, and legislations with obligations are passed.

The following are examples of legislations affecting part-time employment:

Phase 1: Non-Binding Guideline

- Notification of Director-General for female and youth, “Promoting measures on female part-time employment.” (January, 1970)
- Notification of Vice-Minister of Labour, “Guidelines for Part-time Labour Policy.” (December, 1984)
- “Guideline on treatment and working conditions to be considered for part-time workers.” (1989, Notification No.39 of the Ministry of Labour)

Phase 2: Legislation of Laws (promotional nature, non-compulsory)

- “Act on improving the employment management for short-time workers” (prescribed in effective use of skills, and promotion of welfare of part-time workers) (Enforced in October, 2003)

Phase 3: Legislation of laws (partially compulsory)

- Amendment of the aforementioned Act (prescribed in prohibition on discriminating treatment between part-time and full-time labour, and settlement of balanced treatment of part-time employer) (Enforced in April 2008)

[2. Tripartism in decision-making process on labour policy](#)

The process of drafting labour legislations is based on the following sequence: the study reports of labour experts are presented first; then tripartite discussions are held in tripartite policy councils; the draft reports are forwarded to the Minister of Health, Labour and Welfare; and then the government submits the proposed amendments of laws to the Diet.

The following is a summary of some arguments given by the social partners in the discussions at the Tripartite Council in December 2006 regarding the latest amendment to the Part-time Workers Act. The worker’s representatives requested agreement on the compulsory rule to protect part-time workers because “part-time workers are often treated as dispensable labour and also treated discriminately”.

They said “this is abuse of basic human rights and rights to have decent work for everyone.”

In response, the employers’ representatives argued that it is best to leave this to negotiations between the workers and employers in each enterprise, saying the “Management of personnel systems such as recruitment, overtime wage setting and welfare systems should be operated based on the agreement between employers and workers of each enterprise.” At the end, the neutral members who represent the public interest proposed an agreement for the establishment of new rules to secure fairer treatment of part-time workers by extending to the former the rights given to regular workers as employers’ duty. This is based on the argument on the societal importance of enhancing the capacity and empowerment of part-time workers. Consequently, members agreed to adopt this proposed settlement as the decision of the Council.

The Council report, however, also attached the statement from the employer representatives, who argued that, in consideration of the prescriptions of the said legislation, the followings options should be considered: the new rules should comfortably fit to all enterprises; they should not constitute an excessive burden, particularly to small and medium enterprises; and the government should publicise the legislative contents by appropriate measures, including giving advanced notices prior to their enforcement; and the government, in its enforcement, should take into consideration the conditions and practices of each enterprise.

Issues to be resolved

In the 1990s, the programme of economic deregulation was adopted as a political agenda, with champions in the Cabinet who favoured this policy direction. As a result, the economic policy regime of Japan has affected the tripartite decision-making on labour issues. Consequently, tripartism has been restricted.

In response to the above situation, Council members who represent the public interest, such as labour economists and labour law specialists, have had to overcome the difficult tasks of not only balancing the interests of the employers’ and workers’ representatives but also of maintaining neutrality from the political pressure of the regime.

Generally speaking, labour policy cannot be divorced from the political perspective of the ruling regime. Therefore, in order to maintain the autonomy of tripartism, the system of reaching tripartite agreements after thorough discussions has become even more essential.

Annex – Specific Social Partners’ Actions

1. Workers Side: Japan Federation of Service and Distributive Workers’ Unions (JSD)

The JSD organizes trade unions in industries such as wholesale/retailing, food, hotel service, transportation and other distributing industries, in which there are many part-time workers and contract workers. The JSD has exerted efforts to unionize non-regular workers and to push for legislation according fair treatment for non-regular workers. The ratio of non-regular workers in the above industries being organized by JSD has been comparatively high given the nature of these industries. In recent years, some of the non-regular workers have even become the core workers of some enterprises. As these workers become more responsible for their work, they tend to accumulate frustrations regarding the gaps in the treatment of the non-regular versus the regular workers. Thus the improvement of working conditions of the non-regular workers has become urgent issues that need to be resolved.

Activities

Responding to the above situation, the JSD established “Guidelines for Unionization”, which incorporates three steps such as:

Step 1: Forging mutual understanding between the workers and employers on the necessity of secure fairer treatment of part-time workers by extending to the former the rights given to regular workers

Step 2: Finding out what is the current situation of treatment of non-regular workers.

Step 3: Drawing up appropriate action plans.

The JSD has requested employers for the revision of personnel systems to secure the fair treatment of all the non-regular workers. In addition to this, the JSD provides opportunities for part-time workers to join the varied activities of trade unions. For example, workplace meetings which have the same purposes are held several times in different schedules to fit the working hours of the non-regular workers.

Results

While workers and employers understand that the fairer treatment of the non-regular workers is mutually beneficial, some enterprises have even gone further. They have established a scheme which provides opportunities for vocational training to part-timers as well as regular workers, and give these workers a chance to be promoted to more responsible positions based on the results of examinations.

An illustration of the remarkable organizing success of JSD is the “global framework agreement: workforce agreement on company’s action model” jointly signed by Takashimaya Co., Takashimaya Trade Union,

the JSD and the Union Network International (UNI). This is the first agreement between an international trade union and a Japanese multinational enterprise!

Success Factors

The retail industry where the JSD belongs has a large percentage of part-time workers who join the unions and take leadership and executive roles compared in the other industries. Accordingly, it is relatively easier to get an understanding on the necessity of establishing a system which secures the fair treatment of part-time workers.

Policy Impact

The successful result of the JSD's action has encouraged the tripartite council of the government to draft legislations to secure the fair treatment of non-regular workers and prohibit discriminative treatment of them, whose items had been prescribed in non-binding administrative guidelines.

The JSD's action had also strengthened the notion of fair treatment for non-regular workers in the nation-wide "Work-Life-Balance Charter", which was concluded in the expert meeting hosted by the Cabinet Office in December 2007.

2. Employers side: Food Service Industry (In-house food provider, restaurant-karaoke, and various dine-out stores)

"A systematic transfer from non-regular workers to regular workers"

For the sake of resolving the shortages of human resources, a certain enterprise in the food service industry has taken action to integrate and standardize the forms of fixed-term contract workers. It has introduced a promotion system in which non-regular workers can be promoted to regular worker status according to the results of competitive examinations. The system was first implemented in April 2008, and has succeeded in promoting approximately 500 contract workers to regular status.

Problem Analysis

Since the 1990s, there has been an increase in the ratio of non-regular workers in the enterprise. However, there is also a high employment turnover rate among the non-regular workers. As a result, the enterprise has experienced low awareness of the company's mission among the employees, a drain of skilled workers (outflow) and increased costs of recruitment. One reason for the high turnover is the absence of standard rules of the employment management for non-regular workers; hence, the enterprise is needed to propose an integrated rule of employment.

In addition, there has been an urgent need to retain skilled workers because of the current “food security” issue in the food service industry. Such need is further accentuated by the amended Part-time Workers Act which enforces the fair treatment of non-regular workers whose working hours and duties are equivalent to those of the regular workers.

Partners, Strategies, Activities

In designing the new system, the enterprise started to discuss and collaborate with the trade unions. They were able to share information on how to work with one another more smoothly. Through a thorough review of job duties, salary systems and job duty classification, the enterprise has accordingly developed a comprehensive examination system which can evaluate workers’ skills and knowledge realistically. According to the system, the conditions of regular workers and contract workers are now defined as follows;

- Regular employee: Indefinite term of employment; 40 working hours per week; compulsory job rotation nationwide or designated area; payment of bonuses and retirement allowance.
- Contract employee: One-year fixed term contract; working hour and salary depend on the contract; working office can be chosen near their residence; payment of bonuses (whose calculation is different from regular employee) but no retirement allowance.

Results

The statistical data shows a decline in employment turnover rates and an increase in employee willingness to work, largely because the career development routes of non-regular employees have been clarified. However, we have to mention that not every worker has selected to become a regular employee. Some have disagreed with the working conditions of regular workers (e.g., job rotation, longer working hours, etc.)

Success Factors

The enterprise believes that the examination system which guarantees objectivity and clarity invites good results.

Issues to be solved

Issues still remain on the kind of assistance that could be provided after the non-regular workers have become regular. Turning them into regular workers is not the goal per se. Continuous support should be provided in the identification of paths to promote them to more responsible positions or higher career paths.

3. Employers side: Distribution and Retails Industry (Miscellaneous goods, Interiors)

In a certain enterprise in the retail industry, workers used to be categorized as “regular”, “part-time” and “contracted” employees. However, to have a higher retention rate of young employees, the enterprise has virtually erased the line between regular and non-regular workers by integrating 93 per cent of the fixed-term part-time and contract employees into the category of non-fixed term employees.

As a backgrounder, in 2004, this enterprise, after experiencing the first profit decline since its establishment, had been forced to critically review the style of management which focuses on the cash flow rather than on asset. Under this system, fixed-term part-time workers were preferred compared to non-fixed term workers. This review of the management system was made more urgent by the fact that the labour market had become a seller’s market at that time. The enterprise had to look for solutions to issues such as high employment turnover rates, loss of management skills and cost of recruitment.

Partners, Strategies, Activities

The enterprise launched a project to change the employment systems in 2007, with the help of trade Unions, college professionals (sociologists), and officials from related public offices. They worked together in designing effective management systems.

As a result of the change management project, the enterprise started an integrated employment system where all fixed-term workers will be assigned, according to the successful results of the examination implemented after six month probation, as hourly-paid indefinite term workers, if they wish to be so. At the same time, the enterprise keeps hourly-paid employees to guarantee a flexible working style, except in managerial positions. Following the initial examination, rating examinations will be held every year or half for everyone to guarantee equal opportunities to be promoted to a certain level. However, if workers want to be promoted to monthly-paid positions, they need vacancies of the posts as prerequisites.

The working conditions of hourly-paid workers and monthly-paid workers are described as follows;

- Hourly-paid workers:20-40 hours per week, encouragement/incentive bonuses (90,000 yen maximum, every half a year)
- Monthly-paid workers:32-40 hours per week, bonuses, management work involved, compulsory rotation of positions including nationwide transfer of offices.

Results

Statistics shows that employment turnover rates have declined by around 14 points (25.4 to 11.3%) and increased the number of full-time workers by almost 30 points. (22.7% to 52.6%). The survey made after the change of employment systems revealed that the satisfaction rates of workers and their willingness for self empowerment have increased.

However, some chose to stay in their current status. Not every worker wishes to be assigned as monthly-paid workers.

Success Factors

The enterprise believes that the identification of career development paths and opportunities to be indefinite workers have encouraged young workers to stay in their work and raise their motivation for work.

Policy Impact

The foregoing integrated employment system is a pioneer in removing the wall segregating the regulars from the non-regulars. It can serve as a model which can encourage other enterprises to accord fair treatment for the non-regular workers. The integrated system is a good practice of industrial relations based on the harmonious collaboration of the social partners, which can be applied to other countries as well.

Issues to be solved

There is concern that if a business is faltering, labour costs can become unmanageable.

* * * * *

Sound and Harmonious Industrial Relationship; In Changing forms of Employment and New Employment Relationships

2009. 2. 27

International Affairs Division
Ministry of Health, Labour and Welfare, Japan

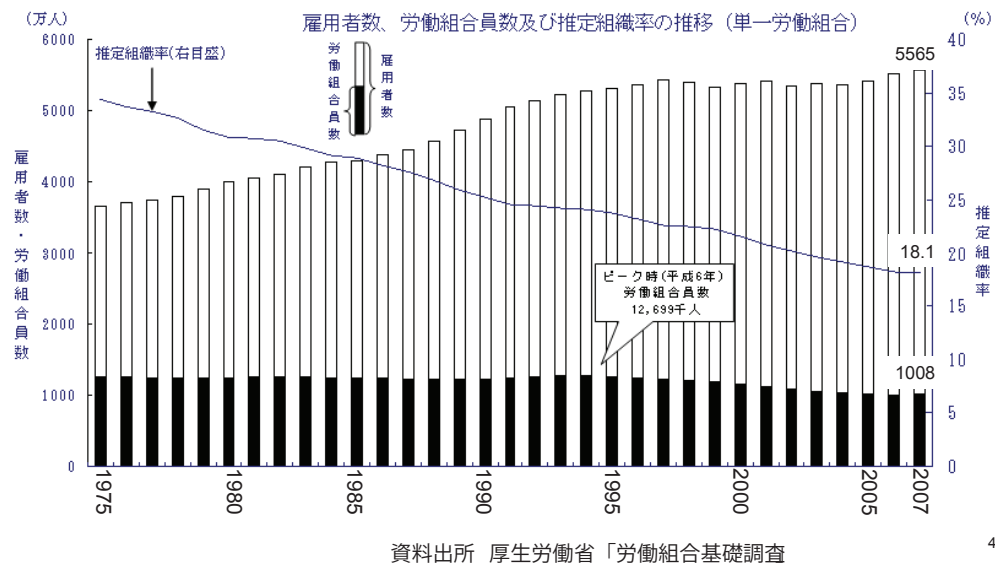
Topics

- General Overview of Industrial Relations in Japan
- Report of Good Practices;
 - Actions for Part-time Workers in Distribution
 - Retail Industry & Food and Service Industry

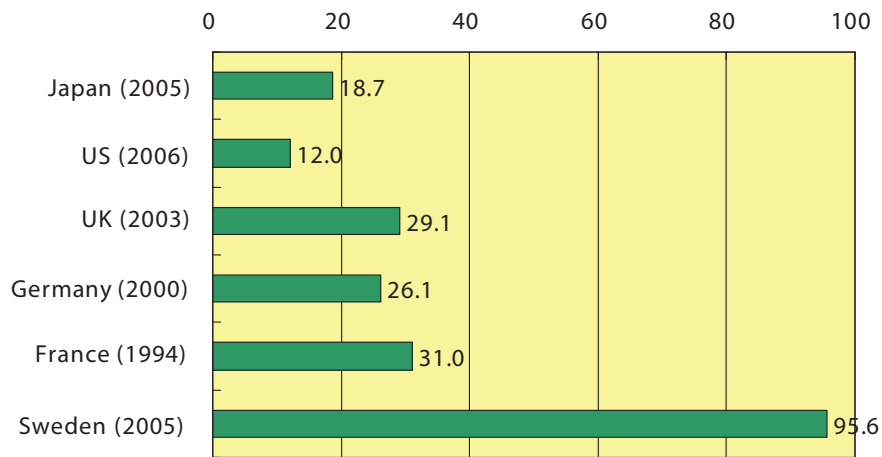
Characteristics of Japanese

- Mainly depends on Enterprise-based Unions
 - Enterprise-based Unions
 - Industry-based Unions
 - National Centers: JTUC “Rengo”
- “Shunto”: Spring Wages Offensive
- Issues
 - Declining unionization rate
 - Low unionization rate in part-time workers

Unionization Rate, the number of Union members



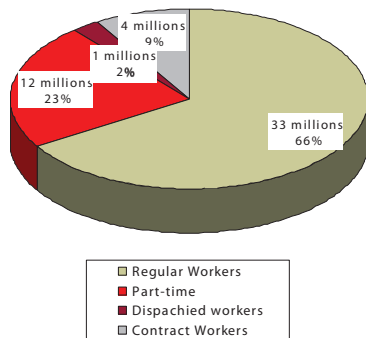
International Comparison of Unionization Rate



source: ILO Bureau of Statistics

Compositions of Japanese Labour Force and Unionization

Employees by the type of Employment



- One third employees are atypical workers
- Low unionization rate of atypical workers
 - 0.59 millions Union member in part-time works (4.8%)
 - Most of Dispatched workers are estimated not unionized
- Low unionization rate in SEM
 - Over 1000 wks: 47.5%
 - 100wks or less: 1.1%

Labour Policy Making and Trade Unions

- **Tripartite participations in decision-making of important labour issues**
 - Labour Policy Councils
- **Political influences of opinions of trade unions**
 - Industry and Labour Round Table Conference (SanRoKon)

Current Topics

- **Re-structure and integration of Unions**
 - Integration has particularly progressed in Industry based unions
- **Unionization of Atypical Workers**
 - Involvement in pre-existing TUs
 - Request for new legislations to protect atypical workers
- **Community-Unions**
 - Community based unions in which individual workers join
 - Success in unionization of atypical workers
 - Act as “last resort” for individual labour disputes of nonunionized workers

Sound and Harmonious Industrial Relationship;

In Changing forms of Employment and New Employment Relationships

Actions for Part-time Workers
in Distribution Retails Industry and Food & Service Industry

What we explain

- **Problem Analysis:**
 - Labour Market Situations
- **Activities:**
 - Forward-thinking Actions taken by Leading Social Partners
 - New Labour Legislation
 - Actions taken by social partners
- **Results:**
 - Success Factors: Step-by-step strengthening of labour legislation
 - Tripartite participation in decision-making process on labour policy
 - Issues to be resolved:
- **Up-scaling:**

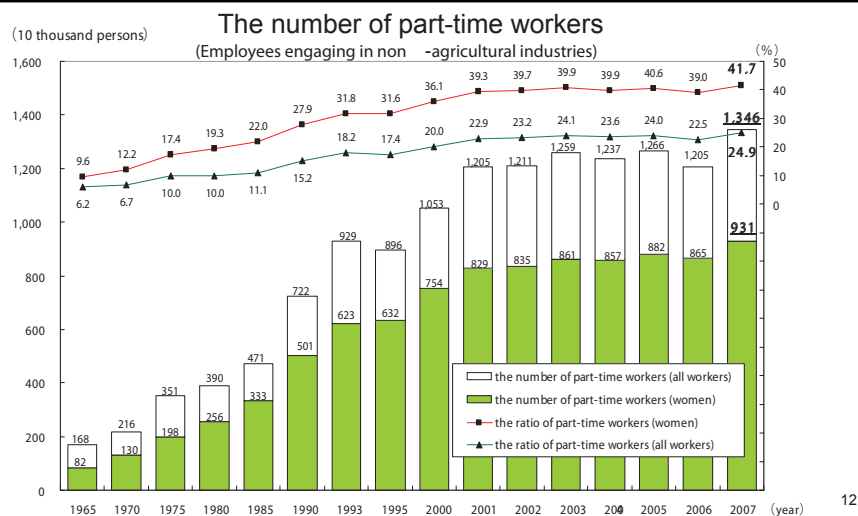
Problem Analysis: Labour Market Situations

- **Japanese labour market is facing a downturn**
 - Job Offer Ratio(ERJOA) : 0.72, in December 2008
 - Unemployment rate: 3.6% in July 2007 to 4.4% in December 2008.
- **The population; peaked at 127.7 millions in 2004**
- **In 2055, it is estimated that;**
 - the total fertility rate (TFR) drops to 1.26
 - the total population becomes fewer than 90 millions,
 - 40% of the total population will be people over 70 years old,
- **Required to realize the labour market in which**
 - every youth, women and older people will be able to work in accordance with their capabilities and willingness.

Current situation in part-time workers

Current situation in part-time workers

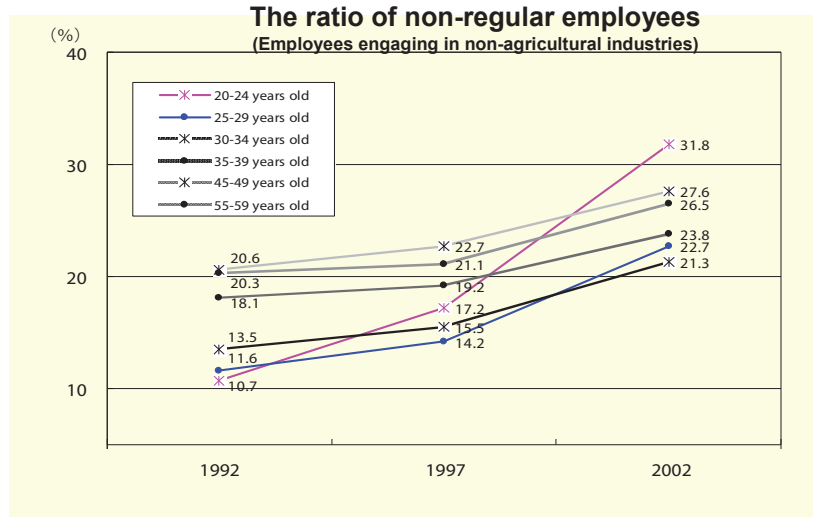
- The number of part-time workers has strikingly risen.
- The total number of part-time workers has reached almost 14 million in 2007, and occupies a quarter of total number of employees in Japan (54 million).
- Although female part-timers are still dominating the main portion of around 70%, we observe some increase in male part-timers as well.
- 40% of youth (between 15-24 years old) work as non-regular workers.



(Note) "Part-time workers" is defined as persons who work less than 35 hours per week (Employees engaging in non-agricultural industries)
(Source) "Labour Force Survey", Statistics Bureau, Ministry of Internal Affairs and Communications

The ratio of non-regulars by age

- Remarkable rise is observed especially in younger ages between 20-30 years old.
(Indicated in pink and blue lines.)



Why we concern?

- **Negative social impacts by the expansion of nonregular worker ;**
 - To grow the portion of untrained and unskilled workers,
 - because there is a huge gap between regular and non-regular workers in the opportunities of human resource development.
- **To accelerate the depression of the child birthrate (stems from late marriage or decide not to get married),**
 - because the data shows that the marriage rate of nonregular workers is lower than those of regular workers.

Activities: Forward-thinking Actions taken by Leading Social Partners

- **Trade unions in Service Sector**
 - In which large portion of workers are parttimers and contract workers
- **Motivated to take actions to;**
 - Realize the fair treatment of non-regular workers equivalent to regular workers,
 - Unionize part-time workers in cooperation with employers.

Actions taken by the Government: New Labour Legislation

- **Social structural changes have emerged such that**
 - society has been aged,
 - birth rate has declined,
 - economy has been globalized and competitive,
 - diversification of values among people has expanded.
- **GoJ has proposed new labour legislations to;**
 - Realize the society in which all workers are willingly able to work with their full skills and
 - choose any type of employment convincingly.

Amended Part-Time Workers Act*

Establishment of the common working rule corresponding to diversification of type of employment

1 Securing the fair treatment.

- 1) Employers shall endeavor to ensure the fair treatment of part-time workers.
- 2) Especially, discriminatory treatment of part-time workers equivalent to regular workers is prohibited.

2 Promoting the transformation to regular worker

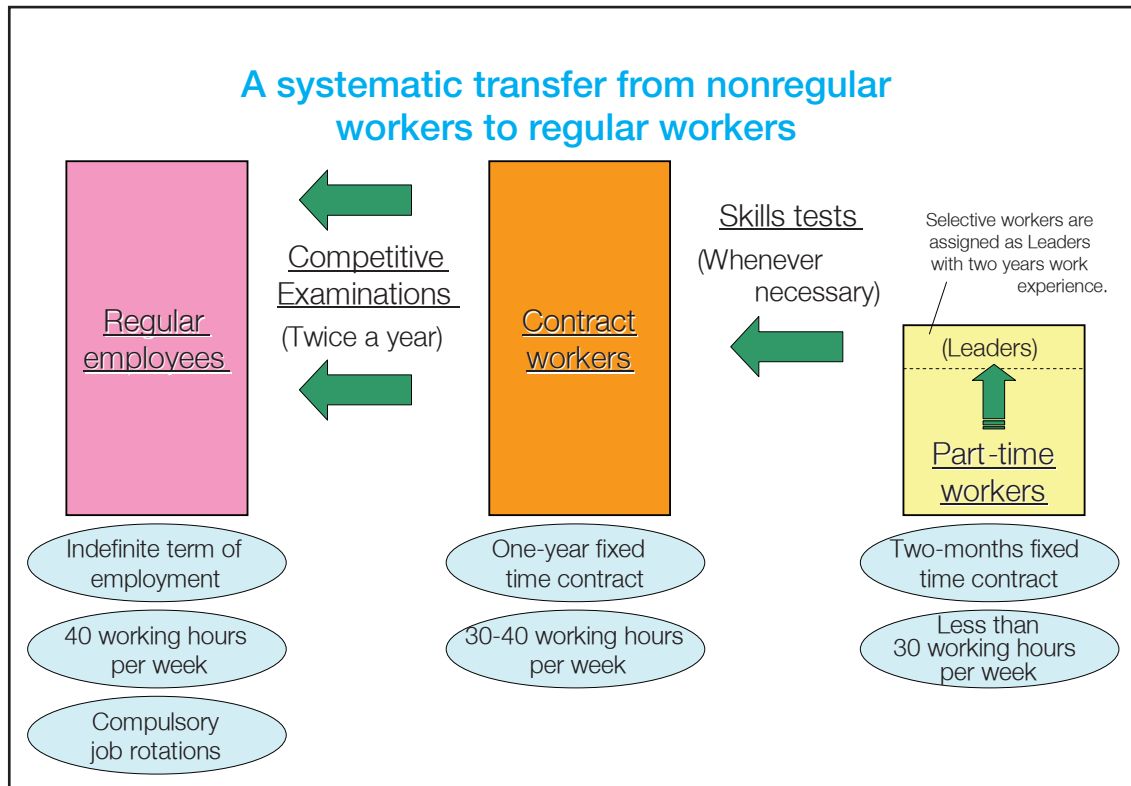
Employers shall take measures to promote part-time workers' transformation to regular workers.

The amended act was enforced on 1st, April 2008 (Item 5 was enforced on 1st July, 2007)

Actions taken by social partners; A systematic transfer from non-regular to regular

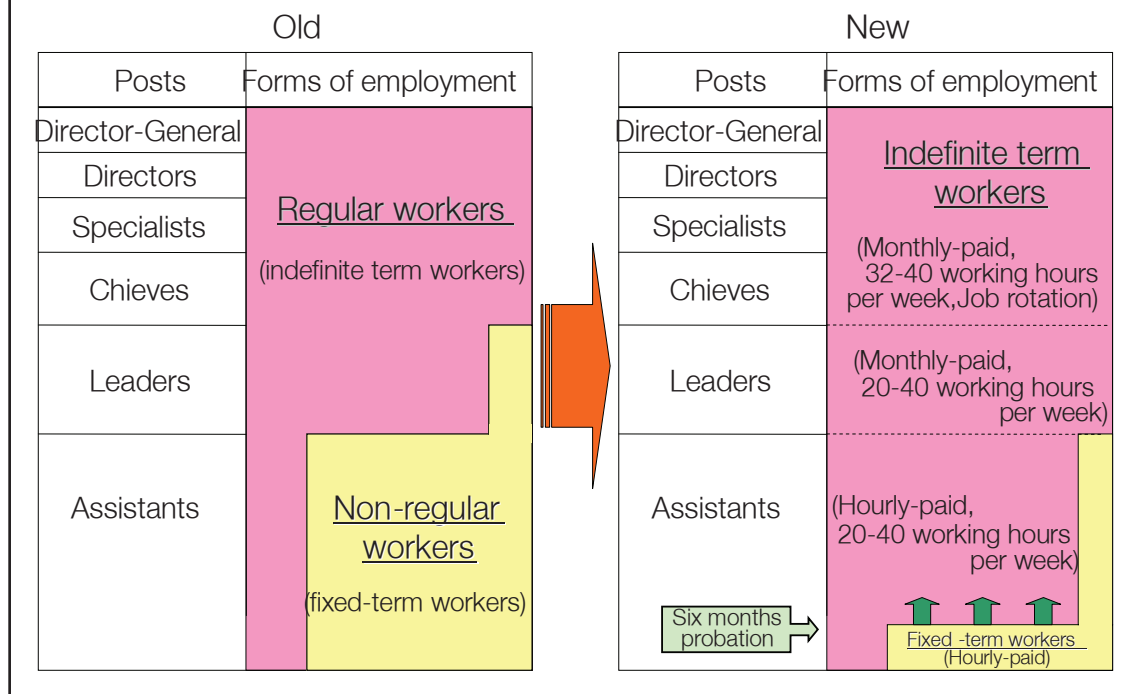
- **A certain enterprise in food service industry**
 - Integrate and standardize the forms of non-regular workers and
 - Introduced a promotion system in which non-regular workers can be promoted to regular workers according to the results of competitive examinations.

- **The system was first implemented in April 2008,**
 - it succeeded to assign approximately 500 contractworkers to regular employees.



- ### Actions taken by social partners; An integrated employment system
- **A certain enterprise in retail industry,**
 - whose workers used to be categorized as “regular”, “part-time” and “contracted” employees.
 - **Erased the line between regular and nonregular workers in principle**
 - by integrating 93% of fixed-term part-time and contract employees into non-fixed term employees.

An integrated employment system of non-regular workers and regular workers



Results:

- **Results in the enterprises which introduced the above actions;**
 - Statistical data revealed that decline of employment turnover rates.
 - Preserve skilled and trained workers
 - Less cost for recruitment and training
 - Questionnaires shows the rise of satisfaction, morale and motivation
 - Raise productivity
 - Note: not all of wokers want to be a regular.

Success Factors: *Step-by-step strengthening of labour legislation*

- **Phase 1: Non-Binding Guideline**
 - Notification of Director-General for female and youth, “Promoting measures on female part-time employment.” (January, 1970)
 - Notification of Vice-Minister of Labour, “Guidelines for Parttime Labour Policy.” (December, 1984)
 - “Guideline on treatment and working conditions to be considered for part-time workers.” (1989, Notification No.39 of the Ministry of Labour)

- **Phase 2: Legislation of Laws (promotional nature, noncompulsory)**
 - “Act on improving the employment management for shorttime workers”
 - (prescribed in effective use of skills, and promotion of welfare of part-time workers) (Enforced in October, 2003)

- **Phase 3: Legislation of laws (partially compulsory)**
 - Amendment of the aforementioned Act (Enforced in April2008)

Tripartite participation in decisionmaking process on labour policy

- **We have the process of decision-making of labour legislations in sequence in which**
 - the **study reports** of labour experts comes first,
 - tripartite discussions is going to be held in **tripartite policy councils** to draft reports to the Minister,
 - the government submits the **amendment** of laws to the Diet.

Discussions in Tripartite Council

- **Argument over social partners at the council**
 - in December 2006 for the latest amendment of Parttime Workers Act.
- **The worker's representatives argued;**
 - "part-time workers are often treated as dispensable labour and also treated discriminately; this is abuse of basic human rights and rights to have decent work for everyone."
- **As response, the employer's representatives insisted**
 - "Management of personnel systems such as recruitments, overtime wage setting and welfare systems should be operated based on the agreement between employers and workers of each enterprise."

Discussions in Tripartite Council(2)

- **Neutral members who represent public interest proposed the settlement**
 - that requests for establishment of new rules to secure the fair treatment of part-time workers who are equivalent to regular workers
 - based on the societal importance of the effective capacity empowerment of part-time workers.
- **Members agreed to adopt the settlement as the decision of the council.**
- **The report, however, attached the statement from employers that requires to,**
 - avoid an excessive burden to particularly in small and medium enterprises,
 - acquire understanding and publicity of its contents by giving a certain period of time prior to its enforcement,
 - enforce it in consideration of actual conditions and practices

Issues to be resolved:

- **After 1990s, de-regulation was set as political agenda, and thereby, the upper offices of the cabinet have tended to decide directions of policy.**
- **As results, the regime of Japan**
 - has affected to the tripartite decision-making, and consequently, the function of tripartism has been restricted.
- **Neutral council members which represents public interest have been required more difficult tasks**
 - not only to coordinate the confrontation between social partners,
 - but also need to maintain their neutrality from the political pressure of the regime.

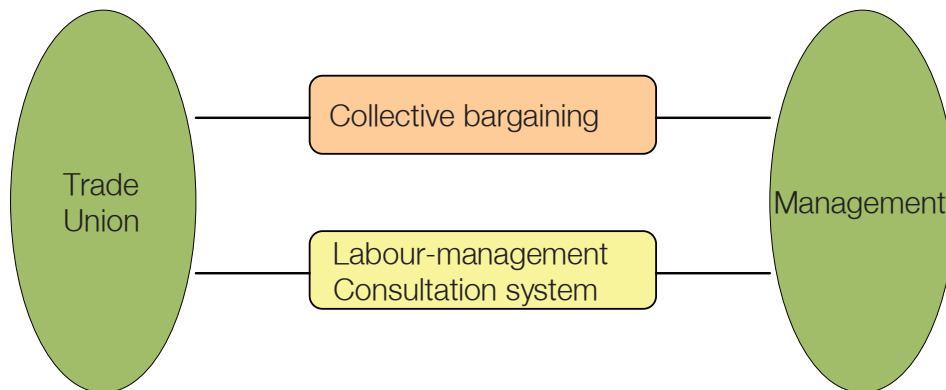
Up-scaling:

- **Labour policy**
 - cannot be separated from the political perspectives of the regime.
- **Maintaining tripartism and reaching agreement over thorough discussion has become more essential.**

Changing Japanese IR System Traditional System → ?

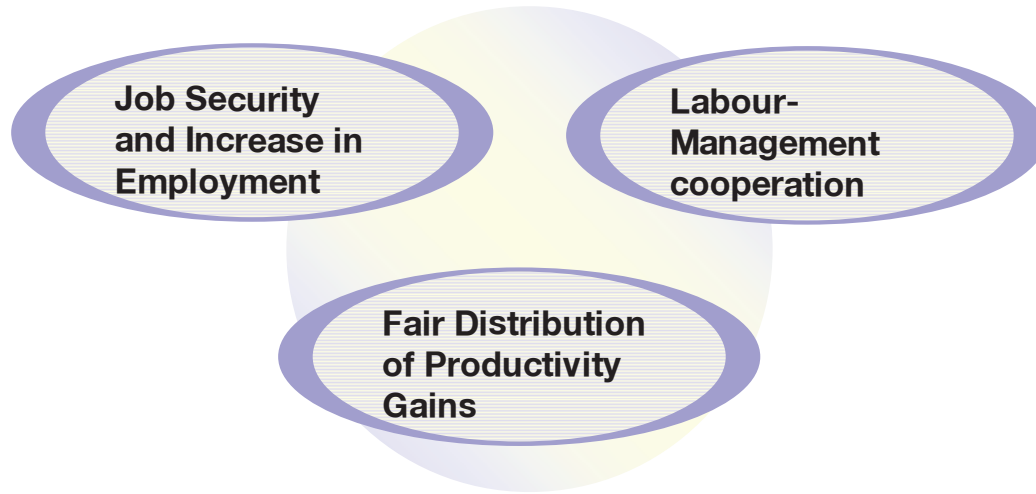
Supplementary explanation
from workers side

Labour-Management Relations in Japan



- Mutually independent, autonomous and equal
- Coexistence of confrontation & cooperation

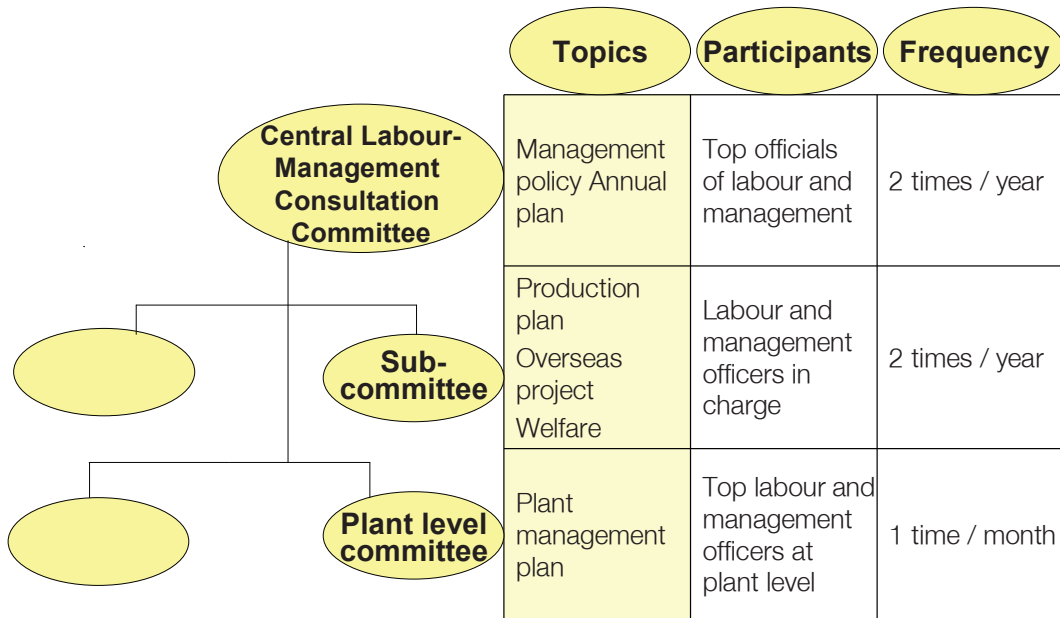
Three Guiding Principles of the Productivity Movement



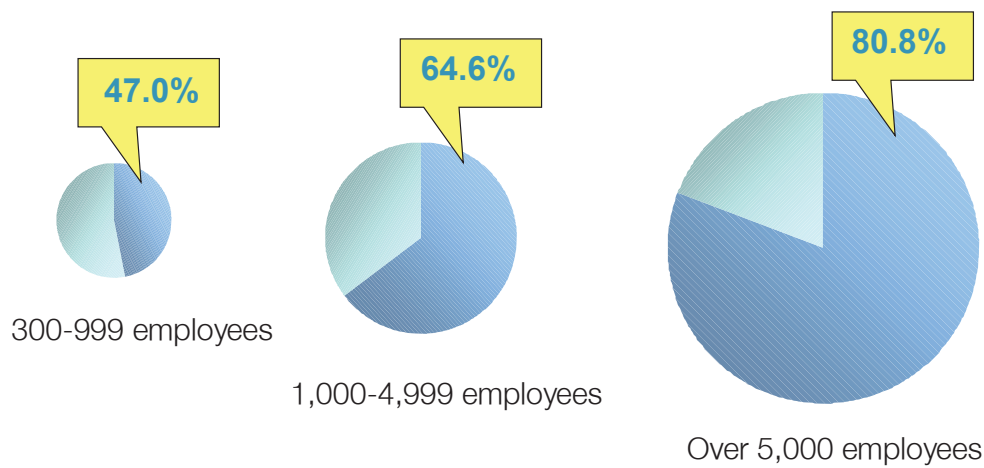
Differences between Collective Bargaining and Labour-Management Consultation

	Collective bargaining	Labour-management consultation
Objective	Fair distribution of results (Improvement of working conditions)	Increase of the results (Improvement of productivity)
Relations between labour-management	Conflict of interests regarding distribution	Cooperation for mutual benefits
Topics	Employment, working conditions	Management policy, management issues
Agreement between labour-management	Must reach a Conclusion	Efforts by both sides to reach agreement are important
Industrial action	Practicable	Impracticable
Basis for establishment and operation	Legislation	Collective agreement

Example of Labour-Management Consultation System

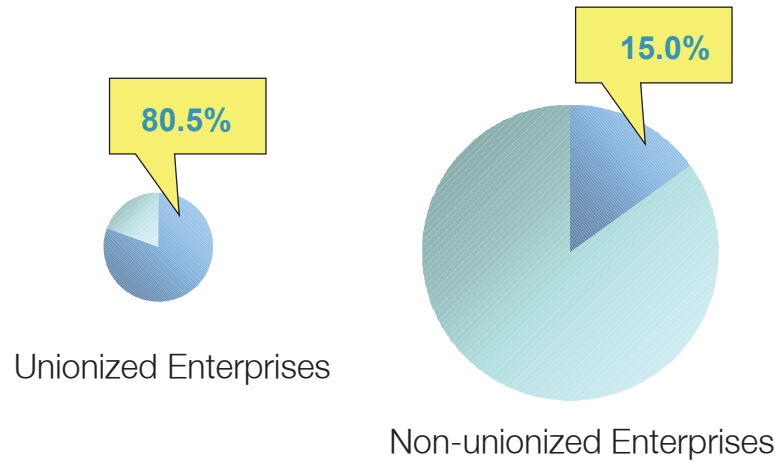


Ratio of Enterprises Having Labour-Management Consultation System (by Size)



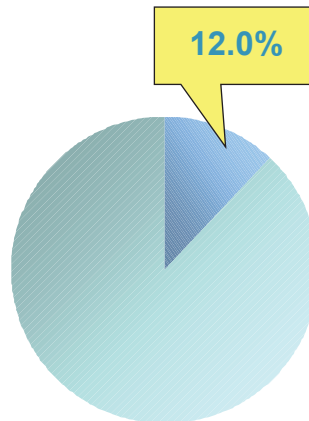
出典:平成16年労使コミュニケーション調査(厚生労働省・2005年10月発表)

Ratio of Enterprises Having Labour- Management Consultation System (Unionized / Non-Unionized)



出典：平成16年労使コミュニケーション調査（厚生労働省・2005年10月発表）

Ratio of Labour-Management Consultation of which Part-time employees are covered



出典：平成16年労使コミュニケーション調査（厚生労働省・2005年10月発表）

Changing situation of Japanese industrial relations

- Japanese industrial relation was based on three factors.
 - 1) lifelong employment
 - 2) seniority based wage system
 - 3) enterprise based union
- These basis are not stable any more, due to management style changing under the developing of globalization.
 - 1) changed employment style
 - 2) introduced performance based wage system
 - 3) increased non-regular workers

Changing situation of Japanese industrial relations (cont.)

under the Changing the Management style ;
emphasizing employee →
emphasizing stockholder

mutual understanding, mutual trust →
weakening,
increasing instability

Changing situation of Japanese industrial relations (cont.)

- Harmonious cooperation among the workers in the same working place is collapsing due to introduction various types of workers.
- Part time workers, short term contract workers, temporary workers dispatched from an agency are not organized by the enterprise based union (almost all of).
- Union does not represent all workers who are working in the same company.

Changing situation of Japanese industrial relations (cont.)

- Under the development of globalization, interdependency among countries especially among neighbor countries is widening and deepening.
- Strengthening competitiveness in the global market is giving great impacts in the negotiation process.
- It is quite difficult to solve any kinds of problems includes labour issues domestically.
- This situation suggests the necessity to create and improve regional and/or sub-regional social dialogue scheme.
- Without the regional social dialogue and such kind of efforts, the protectionism can not be overcome.

Report on Collective Bargaining/Tripartite Dialogue at the 1st Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project 26-27 February 2009, Bogor, Indonesia

*by Khamtanh Sophimmavong
Head of International Relations Division
Lao Federation of Trade Unions*

**Chairperson,
Ladies and Gentlemen,**

On behalf of the Lao Federation of Trade Unions (LFTU), I would like to express our deep gratitude and thanks to the organizing committee of the Regional Seminar for their facility and hospitality.

As we know, industrial relations mean the benefits relating to suitable labour markets, and regulations for employment. It is evident in workplaces through actions such as collective bargaining; decision making for resolving disputes; making amends for social injustice through employment legislation; setting minimum wages; regulations and working conditions. Industrial relations include economic integration and using new technology to assist workers with safety and productivity. Industrial relations are also changing ways of production.

The LFTU is a mass organization of the Lao people's democratic system. It has an organizational network from the central to the grass roots level. The LFTU represents and protects the rights of trade union members, labourers and all working people.

Tripartite system is composed of government, employers and worker organizations. These organizations must link closely to solve problems. In the past, we have been able to effectively solve problems together; however we still have some activities which we must focus on. These include:

- researching and improving the minimum wage of workers;
- following up and inspecting workplaces, as well as working conditions of workers;
- arbitration of labour disputes between employers and workers;
- labour accidents;
- occupational health and safety;
- migration issues and monitoring/protecting the rights and interests of Lao migrant workers in their countries of destination;
- promotion of skill development; and
- social protection.

The above mentioned issues are challenges for all our organizations. We must seek ways to fix and solve them correctly. In addition to that we must always have regard to the ILO and its core conventions, which the Lao Government has ratified. Currently the LFTU, government and employer organization have joined to research the future ratification of more core ILO conventions. These include the convention on the Rights to Organise and Collective Bargaining, 1949 (No. 98); the Convention on the Abolition of Forced Labour, 1957 (No. 105) and Convention 144 – Tripartite Consultation (International Labour Standards) Convention, 1976.

The LFTU Law was promulgated on January 114, 2008. The Lao Labour Law has also recently been amended. The LFTU organizes and monitors the nation's labour force; ensuring workers are protected. The important thing is for an inspection of our tripartite relationship to protect and promote fair working hours, rest times, salaries, wages, to check on the concerns of female and child workers and ensure safety and good health in the workplace, as well as other issues governed by law.

For collective bargaining, it is necessary to review the legal framework, policies and rules to improve industrial relationships and to uphold and respect the freedom of workers in the exercise of their rights and the rights of their trade union.

For human trafficking and illegal migrant workers, we are not just focusing on prevention, but also concentrating on the rehabilitation and resettlement of victims. These activities involve working in education, training and awareness raising; and organizing workshops at the provincial level and in target districts. Many concerned sectors attend and participate in these activities. Through listening and learning from returnees we have discovered that the root cause of these problems is poverty. Therefore we have to tackle them using poverty reduction as a priority strategy. This will ultimately help us to combat trafficking and people smuggling, as well as eliminating illegal migration.

We firmly support the decision that the framework of policies and strategies of the ILO be based on the four pillars of decent work. The ILO is an international organization that brings together the tripartite social partners to engage in meaningful dialogue and cooperation.

We would like to take this opportunity to thank the ILO and international unions for their support and we hope that this support will continue in the future and wish you all a prosperous and successful seminar.

Collective Bargaining and Social Dialogue: The Philippine Experience

Introduction

The Philippines is an open market-oriented economy. It seeks to be competitive in the global market. However, it has a dualistic labor market, with a narrow and shrinking formal sector and a rapidly expanding informal economy.

Over the years, the Philippines has acquired the resiliency to withstand the pressures of economic liberalization and the adverse impact of the present global financial crisis. It tries to maintain this resiliency and sustain its competitiveness by capitalising on the competitive advantage of its human resources, which have a large presence in the overseas labour market. Unquestionably, human resources are the most valuable assets of the country.

The Philippines has a well-structured policy on industrial relations, as reflected in its Labor Code and other special laws. However, even the social partners recognize the need to amend certain features of the Labor Code which may no longer be suitable to the requirements of a rapidly-changing global economic environment.

I. TRIPARTITE DIALOGUE IN A CHANGING ECONOMIC ENVIRONMENT

Through the years, the Philippines has experienced dramatic changes in the economy, which has witnessed cycles of growth, crisis and economic rebound. In good times and in bad, the social partners have used social dialogue as a means of resolving industrial disputes and maintaining sound and harmonious industrial relations. (For an overview of the tripartite structure, see Annex of this paper.)

Strike waves and the return to democracy

The Philippine Labor Code was promulgated in 1974. It codified the various labor laws dealing with manpower development, recruitment, labor standards and labor relations. One of its primary goals is to promote general stability in industrial relations.

A decade after, however, the Philippines industrial relations system was in disarray, hit by waves of debilitating workers' strikes as a result of the politico-economic crisis in the first half of the 1980s. Despite this development, the social partners came up with a principled position reaffirming the employers' respect for the workers' basic rights while cautioning the unions to exercise such rights within the bounds of the law and the established rules of industrial relations engagement.

Eventually, the 1983 debt crisis and the ensuing political turmoil led to the 1986 “EDSA People Power Revolt”, ushering in bold political and economic changes, foremost of which was the restoration of a democratic political order. In turn, these changes generated stormy debates as to what directions the country should take. Against this tumultuous background, the social partners managed to reaffirm the importance of tripartite social dialogue and the need for all industrial relations actors to adhere to the rule of law.

By the end of the 1980s, industrial disputes were on the decline. A newly-established National Conciliation and Mediation Board (NCMB) had taken an active role in settling disputes by providing the parties conciliation-mediation services, promoting new modes of dispute settlement such as voluntary arbitration and encouraging plant-level labor-management cooperation.

Recovery, regional financial crisis and political change

The mid-1990s saw palpable signs of economic recovery and accelerated growth for the Philippines.

However, the Philippines, like the rest of Southeast Asia, was hit by the 1997-98 Asian financial crisis. The economy was once again sputtering and was the fifth most-severely affected in Asia, next to Thailand, Indonesia, South Korea and Malaysia. The challenge to the government and the social partners was how to revive and nurse back the economy to the pre-crisis growth trajectory.

Faced with these difficulties, the social partners again sat down together to discuss solutions to the crisis. Thus, **the Social Accord for Industrial Peace and Harmony** was signed on Feb. 6, 1998. Under the Accord, the employers made the commitment to exercise utmost restraint in the lay-off of workers, while the organized workers groups pledged to observe utmost restraint in the exercise of the right to strike. Subsequently, **a Social Accord to Sustain Employment and Promote Industrial Harmony and Stability** was signed on Nov. 3, 1998, attested by the President and witnessed by the members of the Cabinet. This Accord reaffirmed the terms and conditions of the earlier Social Accord and elicited pledges of support from the business community (based on a series of business forums). The Department of Labor and Employment was tasked to monitor the implementation of the commitments and policy measures contained in the Accord. The overriding objectives were to save jobs and ensure the survival of enterprises.

In 2001, the Philippines witnessed another “EDSA People Power Revolt”. However, there was a peaceful and democratic transfer of power, when President Joseph Estrada elected to resign in office, enabling then Vice President Gloria Macapagal-Arroyo to assume the Presidency. This also prompted the tripartite social partners to seize the opportunity to renew their industrial peace commitments and their unity in support of various economic and political reform measures.

Another period of economic growth And relative industrial peace

The first decade of the new millennium represents another period of recovery and accelerated growth. The economy has posted positive and rising growth figures, although the statistics also reveal

weak employment generation and a large informal sector.

On the industrial relations front, the country has experienced relative industrial peace, with the sharp decline in the number of strikes, strike notices and in actual man-days lost. This has enabled some unions and employers to discuss at the firm level non-traditional topics in industrial relations such as corporate social responsibility, work-life balance and the like. At the national level, employers and workers organizations have raised new development issues such as population management, reproductive health, HIV-AIDS and the environment.

In the mid-2000s, the overriding framework theme in industrial relations is the ILO's Decent Work Agenda. Thus, in 2004, the partners concluded a social accord for the attainment of decent work as well as a **Social Covenant for Full Employment** that embodies a tripartite commitment to encourage employment generation and the preservation of existing jobs. In 2005, the partners inked a **Tripartite Commitment to Social Accountability**, which entails commitments to core labor standards, safety and health, rights of workers, and good corporate governance. In June 2006, a **Tripartite Declaration of Principles** was signed by the social partners in Geneva, Switzerland.

On January 30 this year, in response to the global financial crisis, the social partners agreed on a **Multisectoral Commitment** in support of priority measures to help displaced workers and at the same time ease the burden of affected establishments. This was followed by a much broader **Joint Communiqué** which was submitted to the President by the social partners on February 9, outlining the action points needed to support business growth and support workers' safety nets.

Significantly, the employers and workers organizations are also now more comfortable to engage in bipartite discussions and consultations, as against the structurally focused tripartite consultations in the past, which are usually initiated and spearheaded by the government. Unlike before, when bipartite discussion only happen during CBA negotiations at the firm level, modern bipartite consultations now take place at the industrial or national level, where employers organizations and trade unions can talk rather casually about the issues which affect both of them, further reducing the adversarial nature of industrial relations.

Tripartite Support for the ILO's Decent Work Agenda

The Philippines is a staunch supporter of the Decent Work Agenda, the ILO's flagship program, the main thrust of which is to promote opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Decent Work has four main pillars: rights at work, employment, social protection and social dialogue.

The Philippines is one of the first countries to formulate and launch the Decent Work Country Program in 2002, a blueprint of common goals and strategies agreed by the tripartite partners and to be implemented within a three-year period. Now on its third cycle (2008-2010), the Philippine Decent Work Country Program highlights the needed reform measures to address decent work deficits in identified priority sectors. It also emphasizes the need for synergistic action among the tripartite partners to strike a balance in affording decent and productive work while at the same time promoting wealth and job

creation through policy reforms and the formation of a conducive and enabling labor market environment. The Decent Work Country Program is a major component in the labor and employment section of the 2004-2010 Medium-Term Philippine Development Plan (MTPDP).

The Philippine experience in the formulation and implementation of its Decent Work Country Program is a testament to the constructive role of social dialogue and tripartism. Both have enabled the social partners to participate in the formulation of the country's development objectives and programs.

II. COLLECTIVE BARGAINING IN THE PHILIPPINES

Collective bargaining is fully institutionalized in the Philippines. Laws supporting collective bargaining were enacted way back in the early 1950s or more than half a century ago. These laws are consistent with the core ILO Conventions on Freedom of Association (No. 87) and Collective Bargaining (No. 98), both of which have been duly ratified and observed by the Philippines.

However, some actors in industrial relations have managed to reduce collective bargaining into a legalistic and adversarial process, causing unnecessary delays, expenses and animosities for the parties. This confrontational practice is eroding with a number of bipartite partners embracing bargaining approaches that are more forward-looking based as they are on principles of cooperation, mutuality of interests and recognition of the needs of each side. This cooperative, integrative and needs-based framework in collective bargaining is amply illustrated in the following case studies and shows that the CBA can indeed be the best instrument in fostering industrial peace and higher productivity. collective bargaining is utilized to achieve the common objectives of the parties.

Case of Yazaki-Torres: Building productivity through labour-management cooperation ¹

The Philippines is the wiring harness capital of Southeast Asia, accounting for not less than 12 percent of the regional output of the "electrical nerves" that guide every vehicle on the road. The bulk of the country's wiring harness exports come from the sprawling production complex of Yazaki-Torres Manufacturing in Calamba, Laguna.

Aside from being a bulwark of quality and productivity, Yazaki-Torres is also an oasis of industrial peace. Located in an industrial hotbed in the country, Yazaki-Torres is one of the few firms that have been spared from the debilitating effects of a strike or an industrial dispute since the 1980s.

The reasons are not difficult to find. The management of Yazaki-Torres regularly meets with its workers through their representative union leaders and shop stewards in varied labor-management forums promoted by the company -- at the section, department and firm-wide levels. The management sees its workers and their unions as strategic allies in the productivity program. The company maintains a system of open communication with all employees, from top management down to the lowest rung.

¹ Excerpted from Leogardo et al., ECOP: Its Role in Labor and Social Policy (30th Anniversary coffee table book), pp.79-80, 2005, Manila

On collective bargaining, Yazaki-Torres shares vital information with the unions not only to expedite the negotiations but also to build up trust and confidence. The traditionally hostile and hard-line approach in collective bargaining has no place in Yazaki-Torres. The parties bargain without the presence of lawyers. The bargaining framework is also clear, that is, how the two sides can help one another in the context of the overall need to sustain the growth of the company in a fiercely competitive world. The CBA negotiation process is direct to the point, straightforward and truthful.

Because of the foregoing, CBA negotiations with the two unions (supervisory and rank-and-file) are uncharacteristically brief and harmonious. Thus, in one CBA process, it took the management and the rank-and-file union, which represents close to 5,000 workers, only three (3) hours to conclude the CBA, a record in the industry and in the country.

In one startling development in 2006, the Yazaki-Torres management, after six months of consultation-negotiations with the unions and with the various management and supervisory groups, was able to conclude an agreement for all employees, starting with the company president, to have a uniform wage cut in order to maintain the competitive position of the company in the global market without laying off any worker.

Case of PASAR: Transforming an ailing company through positive industrial relations²

The Philippine Associated Smelting and Refining Corporation or PASAR was part of the original 11 “Major Industrial Projects” conceived by the Marcos administration in the early 1980s to bring the country to a higher level of industrial development. It was initially a joint venture between the government, a consortium of local mining companies, International Finance Corporation (IFC), and a group of Japanese trading companies (Marubeni, Sumitomo, and C. Itoh). When the sprawling smelting and refining facilities of PASAR in a once sleepy village of Isabel, Leyte became operational, there was great expectation that PASAR would play a major role in easing the foreign exchange crisis and help the country catch up with an industrializing East Asian region.

However, the early optimism disappeared when PASAR had difficulties in keeping itself afloat in the first two decades of its existence. First, issues and technical problems in the design and operation of the complex had to be resolved. Second, most of the Philippine mining companies supplying PASAR with copper concentrates closed down one after another due to low mineral prices. Third, PASAR had an uneasy relationship with its employees and the community around the facilities. From the late 1980s up to 1990, the firm averaged almost one strike a year, while the unionized work force were consumed by bitter inter- and intra-union strifes involving two contending federations: the moderate Associated Labor Union of the Trade Union Congress of the Philippines (ALU-TUCP), and the militant National Association of Free Labor Union of the Kilusang Mayo Uno (NAFLU-KMU). PASAR, in debt and consumer by corporate and labour divisions, was temporarily shut down in the late 1990s.

² Excerpted from Leogardo et al., *ECOP: Its Role in Labor and Social Policy (30th Anniversary coffee table book)*, pp. 86-88, 2005, Manila

At the time of its privatization in 1999, most of the employees and others depending on the ailing PASAR were anxious and uncertain about its future. Rehabilitating and turning the company into a viable enterprise supported by the employees and accepted by the community was a daunting challenge for the new owner-buyer.

Fortunately, the buyer, Glencore of Switzerland, turned out to be a dedicated advocate of positive industrial relations. One of the first things it did was to reassure all employees of the continuity of their employment and benefits, including the prompt settlement of all pending representation-CBA disputes. The company also negotiated a separate but identical Memorandum of Agreement with both the ALU-TUCP and NAFLU-KMU for new wage and benefit increases, with the understanding that whichever union would win in the CE (certification election) dispute would accept the MOA terms as part of the new collective bargaining agreement.

The MOA package had a great stabilizing impact on employee relations and paved the way for the implementation of a painstaking program of transforming a culture of confrontation into a culture of cooperation and harmony. A new CBA with the winning union was concluded after the resolution of the CE dispute. The grievance machinery, which was dysfunctional in the pre-privatization period, was made operational; later, a fully functional Labor-Management Cooperation Council was established. Finally in 2003, labor contracting, a source of union-management tension, was formally discontinued when the company regularized 110 contractual workers.

In addition to the above labour transformation program, PASAR invested heavily on pollution abatement, cleaning up and modernizing the old facilities, and transforming the bay around it into a “fish sanctuary”.

Today, PASAR enjoys the support of the union, the host community around it and the clergy and politicians who once used to criticized what was originally seen as an anti-labor polluting firm.

CONCLUSIONS

In the long history of industrial relations in the Philippines, it is safe to conclude that in the majority of cases, critical issues and concerns affecting labor and employment are best resolved and addressed through dialogue and consultation with one another. However, tripartite/bipartite dialogue and collective bargaining are only effective if the partners are open and dedicated to the improvement of the welfare of all sectors in a win-win integrative fashion.

Annex – Overview of tripartism as a state policy and the tripartite structure in the Philippines

Tripartism is a declared state policy enshrined in the Labor Code. In fulfillment of this state policy, laws were enacted to establish tripartite representation in a number of government bodies and agencies which affect both employers and workers. The objective is not only to give the partners the opportunity to be heard but more importantly to give authority to their voices by ensuring that both employers and workers organizations are duly represented in relevant policy and decision making bodies of the government.

The following is the list of some government bodies and agencies with tripartite representation:

1. Social Security Commission
2. National Wages and Productivity Commission
3. Regional Tripartite Wages and Productivity Boards
4. National Labor Relations Commission
5. Philippine Overseas Employment Administration
6. Overseas Workers Welfare Administration
7. Employees Compensation Commission
8. Technical Education and Skills Development Authority
9. Tripartite Voluntary Arbitrators Advisory Council
10. National Tripartite Advisory Council on Decent Work

The tripartite dialogues and consultations which proved effective in addressing socio-economic issues and concerns faced by both employers and workers in the 1970s and 1980s were institutionalized in 1990 with the establishment of the Tripartite Industrial Peace Council (TIPC). Executive Order No. 403 creating the TIPC defined its two-fold function as follows: to be an advisory body to the Secretary of Labor and Employment on major policies affecting labor and employment, and to serve as a consultative body on policies or legislations that may be proposed or submitted to the Congress of the Philippines for approval. Tripartite views on labor and social concerns as well as tripartite position(s) on pending legislative proposals are ventilated and approved at the TIPC.

The Council is chaired by the Secretary of Labor and Employment and consists of twenty representatives each from both employers and workers organizations. Since its establishment, the Council, mainly through its Technical Working Group, has been instrumental in the formulation, review or revision of policies implementing critical provisions of the Labor Code and other measures which affect labor and management relations.

Aside from the TIPC at the national level, there are Industry Tripartite Councils (ITC) as well as local TIPC. ITCs are those which are formed exclusively or specifically for a particular sector or industry. An ITC however may be organized at both the national and local levels. Local TIPC on the other hand are formed based on geographical considerations. A local TIPC may either be at the level of the region, a province, a city or municipality. In most cases, representatives from the local government units, as well as other concerned groups and sectors within the locality, are invited to participate in the local TIPC deliberations. Issues discussed in both the industry and local TIPC are not limited to labor and employment; in some instances, the local TIPC form close working relationship with other local bodies or offices, such as the local development councils, to link their respective programs and activities.

At present, there are 118 local TIPC (12 Regional, 69 Municipal / City, and 37 Provincial) all over the country. On the other hand, there are 6 ITCs covering banking, construction, auto assembly, clothing and textile, hotel and restaurant, and sugar industries at the national level, and 167 ITCs in the various regions of the country³.

3 Lagman, R.C., Social Dialogue Types in Asia – Philippines, Social Dialogue Forum, 15-16 October 2008, Seoul, Korea

ASEAN INTEGRATION:

Promoting Good Practices towards Sound and Harmonious Industrial Relations

Tripartite Dialogue in the Philippines

- In good times and in bad, social partners in the Philippines have resorted to dialogue as a means of resolving issues and maintaining sound and harmonious industrial relations

Tripartite Dialogue

- In the mid 1970s and 1980s, the Philippines was hit by a series of debilitating workers' strikes and various socio-economic and political changes which occurred in the post-Martial Law regime and a series of failed coup attempts in the early years of the Aquino administration.
- The Ramos administration of the 1990s gave a brief preview of economic recovery. Bold plans and economic dynamism was on the horizon, as the Philippines registered 7% GDP growth rates

Tripartite Dialogue

- It was however halted by the advent of the Asian Financial Crisis which began in Thailand in 1997.
- The contagion effect of the crisis spread throughout the rest of East Asia, reaching the shores of Indonesia, South Korea, Malaysia, and the Philippines

Tripartism in Times of Distress

- In response to the economic impact of the Asian Financial Crisis which resulted among other things massive job losses, ECOP initiated discussions with organized labor to forge a **Social Accord for Industrial Peace & Harmony** signed on 6 February 1998 and witnessed by the President of the Philippines.
- The following were among the important provisions of the Social Accord:
 - Employers committed to exercise utmost restraint in the lay-off of workers
 - Workers committed to use the right to strike as a last resort

Tripartism in Times of Distress

- In view of the success of the first social accord, it was agreed by the social partners to extend the agreement through the signing of the **Social Accord to Sustain Employment & Promote Industrial Harmony and Stability** on 3 November 1998 which was attested by the President and witnessed by the Cabinet
- Among other things, the Accord contained the ff:
 - Reaffirmed the terms and conditions of the original accord
 - Recognized of pledges of support from the business community
 - Installed monitoring mechanism in implementing provisions of the accord
 - Espoused the twin objectives of *saving jobs* and *survival of enterprises*

Tripartism in Times of Relative Stability

- Social Dialogue improved labor-management relations, enabling the discussion of wider reaching subject matters in the national or industry level, covering topics which are not normally addressed by the partners in the previous decades

Tripartism in Times of Relative Stability

- In 2001, the Philippines had a peaceful and democratic transfer of power and change in government leadership
- It became an opportunity for the partners to renew and rebuild commitments towards lasting reforms and genuine transformations
- Through the initiative of ECOP, the partners entered into a number of agreements covering a wider subject matter:
 - *Social Covenant for Full Employment (2004)*
 - *Social Accord for Industrial Peace and Stability (2004)*
 - *Tripartite Commitment on Social Accountability (2005)*
 - *Tripartite Declaration of Principles (Geneva 2006)*

Decent Work as a Product of Tripartite Dialogue

- At the dawn of the 21st century, the ILO reoriented its programs by focusing on the four main pillars of Decent Work: (a) Rights at Work, (b) Employment, (c) Social Protection, and (d) Social Dialogue
- The Philippines was one of the first countries to formulate and launch the Decent Work Country Program in 2002 (Currently on its 3rd Cycle).
- The Philippine Decent Work Country Program is a testament to the true spirit of social dialogue and tripartism. It was a product of tripartite consultation and discussion, from the stage of formulation, implementation, up to evaluation.

Formal Tripartite Dialogue Structures

- Tripartism is a declared state policy pursuant to the Labor Code of the Philippines.
- Laws were enacted to establish tripartite representations in a number of policy and decision making government agencies

Tripartite Representations

- Tripartism in government bodies:
 - National Labor Relations Commission
 - Social Security Commission
 - National Wages and Productivity Commission
 - Regional Tripartite Wage and Productivity Board
 - Employees Compensation Commission
 - Overseas Workers Welfare Administration
 - Home Development Mutual Fund
 - Philippine Health Insurance Corporation
 - Tripartite Voluntary Arbitrators Advisory Council
 - National Tripartite Advisory Council on Decent Work

Tripartism in a Formal Structure

- One of the highest tripartite consultative bodies is the TIPC, which was established in 1990
- Tripartite Industrial Peace Council
 - Chaired by the Secretary of Department of Labor and Employment, consists of 20 representatives each from both employers and workers; members appointed by the President
- It serves as an advisory and consultative body to the Secretary of Labor and Employment
- It is also responsible for formulating policies to implement labor laws and other related laws

Tripartite Industrial Peace Council

- National TIPC
- Local TIPC
 - Regional (12)
 - Provincial (37 active)
 - City / Municipal (69 active)
- Industry Tripartite Peace Council
 - National level (6 sectors: bank, construction, automotive, clothing / textile, hotels, sugar)
 - Local level (167 throughout the country)

Collective Bargaining

- Historically, the orientation of industrial relations in the Philippines has been highly legalistic and adversarial
- However, in the course of time and through the efforts of the tripartite partners, there has been more emphasis on the resolution of disputes through social dialogue including conciliation, mediation and voluntary arbitration
- Collective Bargaining remains to be the best modality for ensuring industrial harmony in labor management relations, which has evolved into a more cooperative, coordinated and needs-based approach

Collective Bargaining

- Collective bargaining in the country is implemented at the enterprise level between the employer and the certified collective bargaining agent
- Modern collective bargaining has become a means and vehicle to realize the common goals and objectives of both the employer and the workers

Illustrative Cases of Effective Collective Bargaining

- Case 1: Prosperous Work Community through Productivity and Industrial Peace
- Case 2: How Collective Bargaining Transformed an Ailing and Divided Company

Case 1: Prosperous Work Community through Productivity and Industrial Peace

- Yazaki-Torres is a unionized export manufacturing firm, known as the balliwick of quality and productivity and as an oasis of industrial peace.
- As partners in productivity, the management and workers have conducted collective bargaining in the basis of how the two sides can help one another in the context of the overall growth of the company.
- This resulted in a friendly environment, conducive to an open, straightforward and truthful CBA negotiations, the latest renewal of which took only a record 3 hours.

Case 2: How Collective Bargaining

- Transformed an Ailing and Divided Company The Philippine Associated Smelting and Refining Corp. (PASAR) is a smelting and refining company that had difficulties surviving in its first twenty years: financial and internally
- When it was privatized, efforts were exerted to improve working conditions and employee relations.
- A separate but identical Memorandum of Agreement to the two contending unions was forged:
 - Recognized new wage and benefit increases
 - Whichever union wins in the CE-CBA (certification election) dispute, would accept the MOA as part of the CBA

- The MOA Package stabilized employee relations. A new CBA was concluded after the CE dispute, while the grievance machinery was made operational and later a fully functional Labor Management Council was established.
- In 2003, labor contracting was formally discontinued when the company regularized 110 contractual workers

Lessons Learned

- Harmonious relationships between social partners, whether bipartite or tripartite, can only be made possible through the presence of these principles:
 - continuous and open communication built on the foundation of trust
 - commitment to work together towards a common goal and objective

Social Dialogue & Responses to Current Financial Crisis

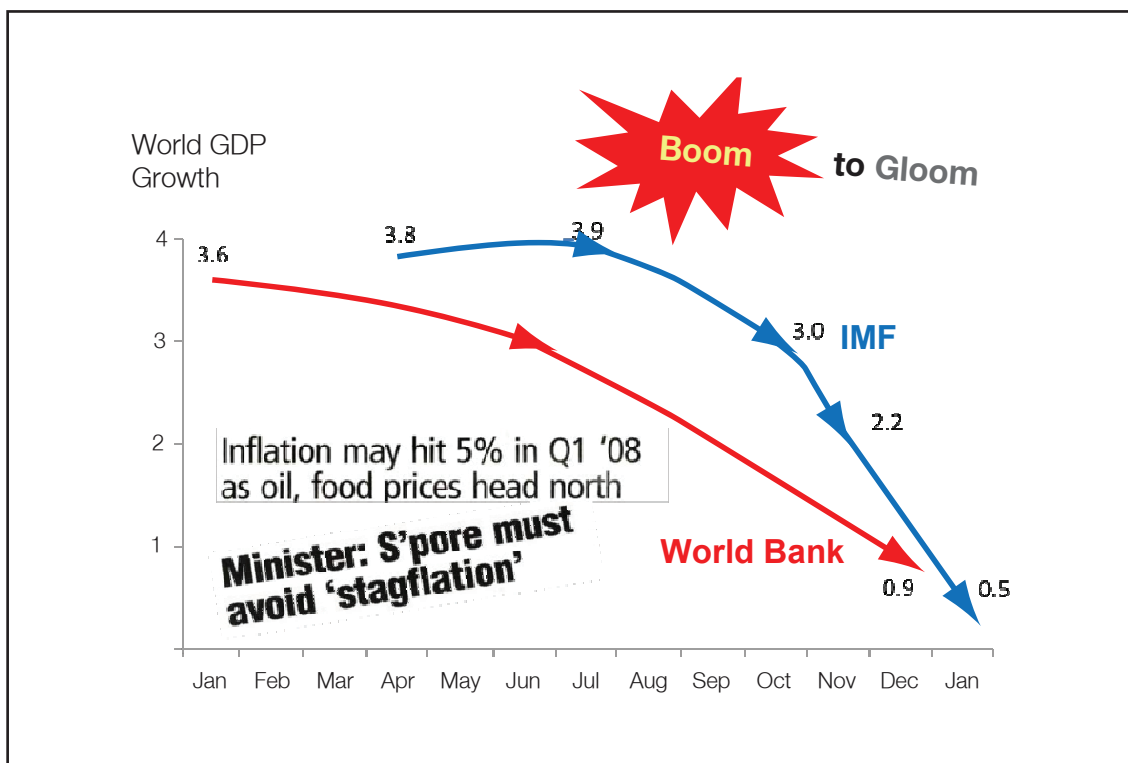
- **Singapore Labour Movement**



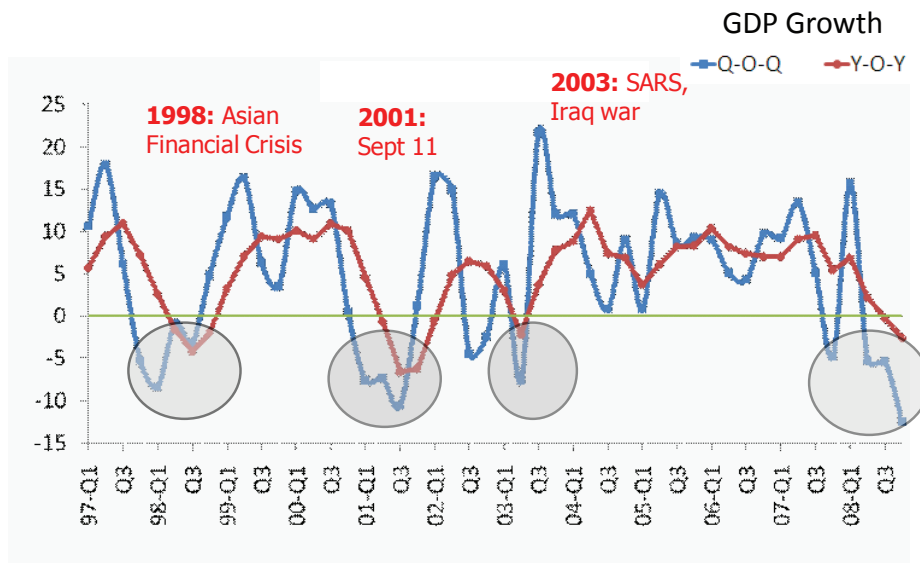
- **Scope of Presentation**

- Background / Current Problems
- Strategies / Partnerships
- Examples / Sharing
- Policy Impacts

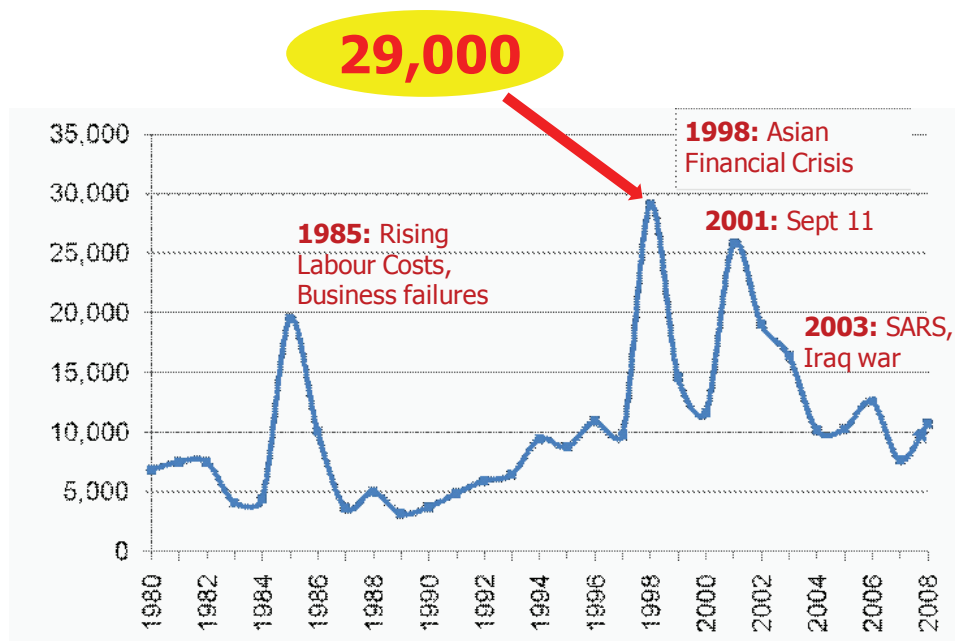
Background / Current Problems



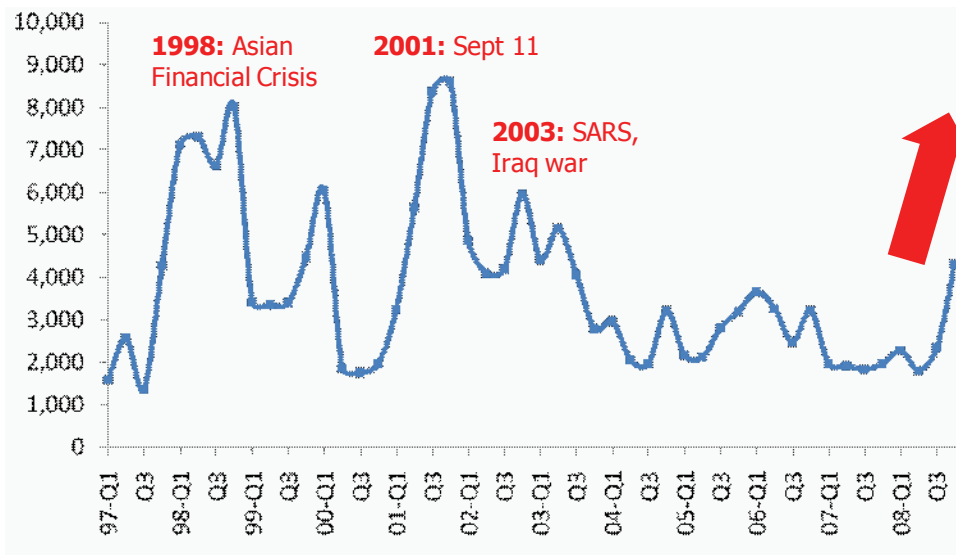
Downturn Deeper and Longer!



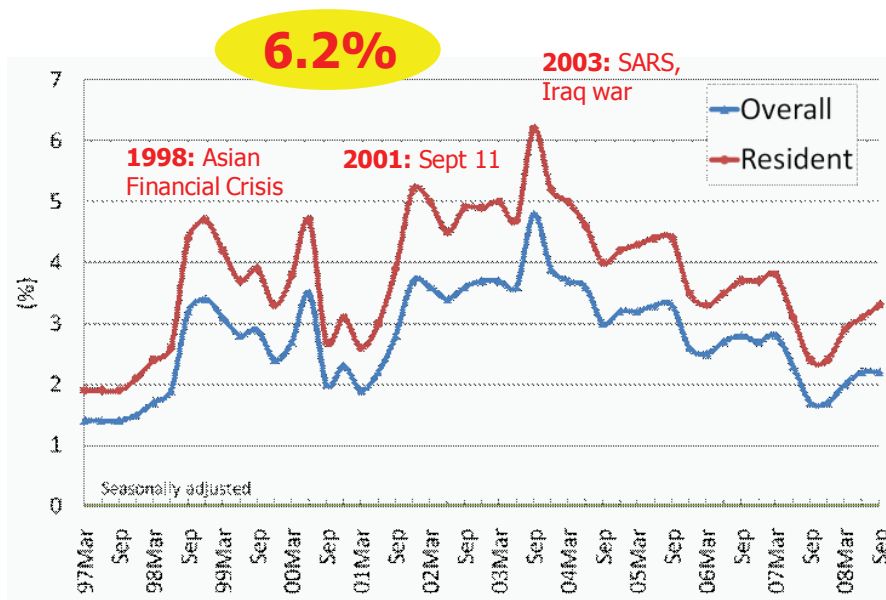
Massive Retrenchment?



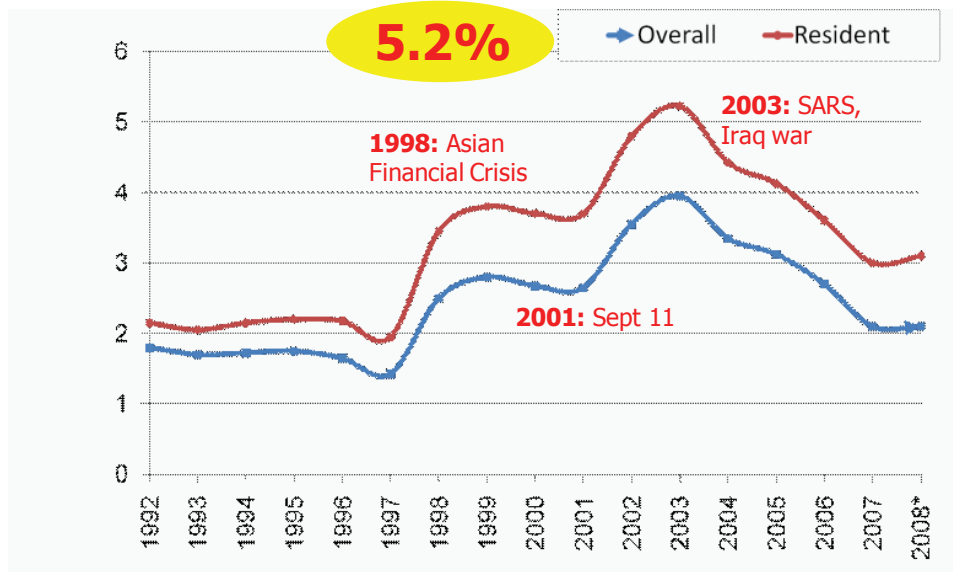
Record High in Retrenchment?



Rapid Rise in Un-Employment?



Record High in Un-Employment?



Strategies / Partnerships



SAVING JOBS
\$600m
for retraining workers

- Employers to get subsidies of up to 90% of course fees
- Number of training places to be increased
- More money to cover pay of workers sent for training

spur
Skills Programme
for Upgrading & Resilience

*Wider variety now
in terms of duration,
occupations,
industry sectors*

**Train workers,
don't retrench them**

**Number of Spur courses
increases 5-fold**

BT Pg 10
7 Jan '09

HELPING COMPANIES

ST Pg A1 and A4
22 Nov '08

\$2.3b

loan and credit facilities

- All Singapore companies, not only SMEs, are eligible
- Quantum of credit available raised
- More Govt backing for loans, so banks will lend

THE Government will help make available an extra \$2.3 billion worth in loans to help about 124,000 local firms - big and small - ride out the economic slump.



BT 1 Jan 09

'We will do more to help viable companies to stay afloat and continue to employ their workers. We will introduce measures to help them with their business costs, including rental and wage bills.'

- PM Lee

Bold measures for tough times

\$20.5 billion

Resilience Package

A Budget first: Govt to draw \$4.9b from past reserves

Helping Companies

\$5.8 billion + \$2.6 billion

Saving Jobs

\$5.1 billion

It has never been done before. Reflecting the seriousness of the crisis and the desire to preserve Singaporeans' jobs, the Government will give all employers money for every worker on their CPF payrolls - 12 per cent on the...

Helping Families

\$2.6 billion

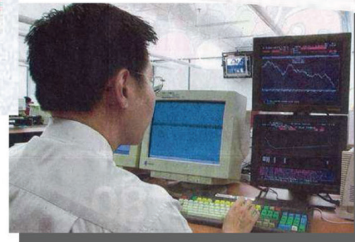
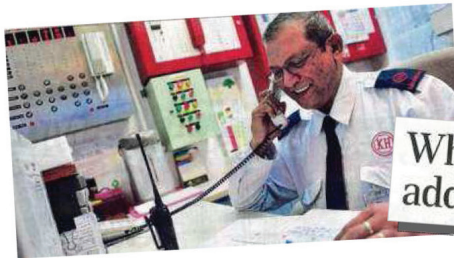
Investing in the Future

\$4.4 billion

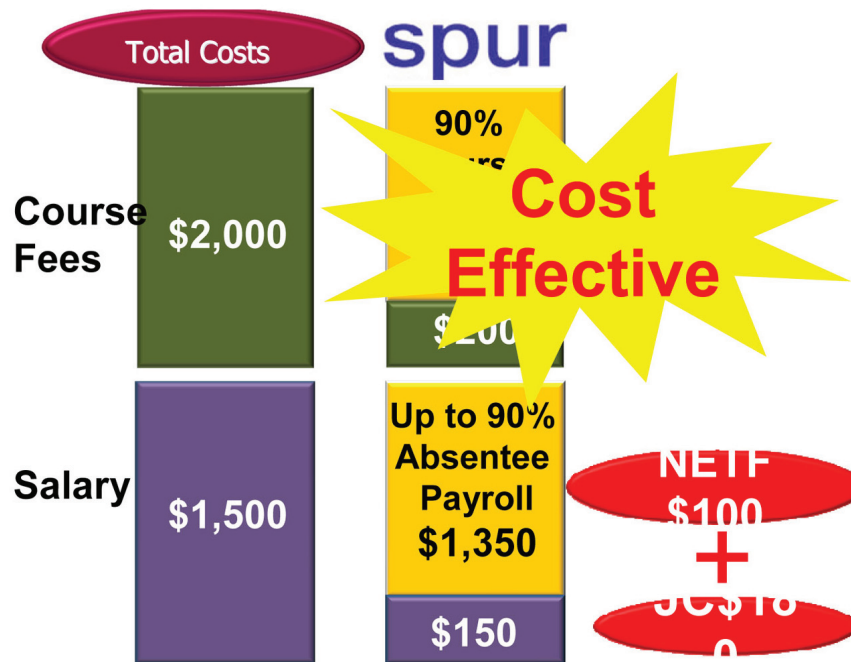
Jobs Credit Scheme
the ace in the pack?

**政府贴钱12万雇主
 保住本地员工饭碗**

Jobs Credit
 brings
 cheer to
 employers



White-collar workers get
 added Spur to upgrade skills



■ **Cut costs to save jobs**

■ **Up-skill, Re-skill**

■ **Stay on course**

ST Pg B2
3 Jan '09

Labour movement's top 3 priorities



BT Pg 16
3 Jan '09

Cut costs to save jobs top priority: NTUC

Upgrade and retrain workers for new and different jobs too, says labour chief

Examples / Sharing

pturn Capability



Never stop thinking



Re-skilling 300 locals, 150 FWs
Re-deployed 30 workers

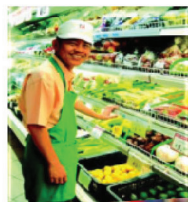


From assembly to testing



Sales ↓ 30%

pturn Service Quality



Up-skill all 5,000 RAs
for better service
200 Service Ambassadors

Save \$500k
with
SPUR


More Discounts on More Items
More Value-added Service

Disposable Income ↓





Mr Subramaniam
s/o C. Chinnayya
 52, GCE N Level
 Yard Crane Operator

"We need to help company during downturn by being flexible in skills & mindset"

Employability

More employable during lull period

Cross-trained to drive Prime Mover

Yard Crane Operator, 1988



Improved Customer Service Experience



All front-line staff to attend CSP by 2009



Forecast ↓ in Core Business



Advancement

Mr Dass s/o Moses David
37, GCE O Level
Operations Assistant



"With skills from CSP, I can now handle difficult situations with ease."

Team Leader, Feb 09



Customer Service Officer, 2008
Attend CSP, Dec 08



Snr Ops Officer, 2005
Ops Asst, 2003



Re-deployment



Multi-skill 40% workforce
with SPUR
Re-deploy 80 staff to avoid
retrenchment

Save
\$21k
with SPUR



Occupancy ↓



Re-employment

**Mr Paranchody
Thambusamy**
66, Bell Hop



*"I'm happy as it keeps me fit
and healthy and provide
income for my family."*

Same Job, Same Pay
Adjusted leave & medical benefits



Re-employed, 2006
Trained as Journey Ambassador



Bell Hop since 1970s

Upturn Flexi-Works!

Mdm Neo Lay Hoon
44, GCE O Level
Housewife



"I am very happy. I can supplement household income & maintain worklife balance."

\$700 - \$1,000
4 to 7 days/week

Found job via WDS
Recruitment Drive

2 grown up children
Back to work after 13 years

Upturn Best-Sourcing

**Ms Normah
A Rahman**
52, GCE O Level
Production Operator



"I thank my company for giving me opportunities & equipping me with new skills."

Promoted to Shift Leader
\$1080 per month

Multi-tasking skills:
PDA, computer & customer service

ISS Porter, \$930 per month



FairPrice extends discounts ST 14 Jan 09

to customers until December

LOWEST PRICE

iNTUC INCOME

\$6m subsidy

First Campus ntuc

Fees, 15-20% below national median

NTUC HEALTHCARE CO-OPERATIVE LIMITED

↑ Affordable basket to 200

Low Wage Workers

Retrenched

Elderly

Children/Family

BACK TO SCHOOL FAIR

Policy Impacts

Upturn
the downturn

- Avoid Record Retrenchment**
- Avoid Record Un-employment**
- Strive for More Up When Up**

ntuc
National Trades Union Congress

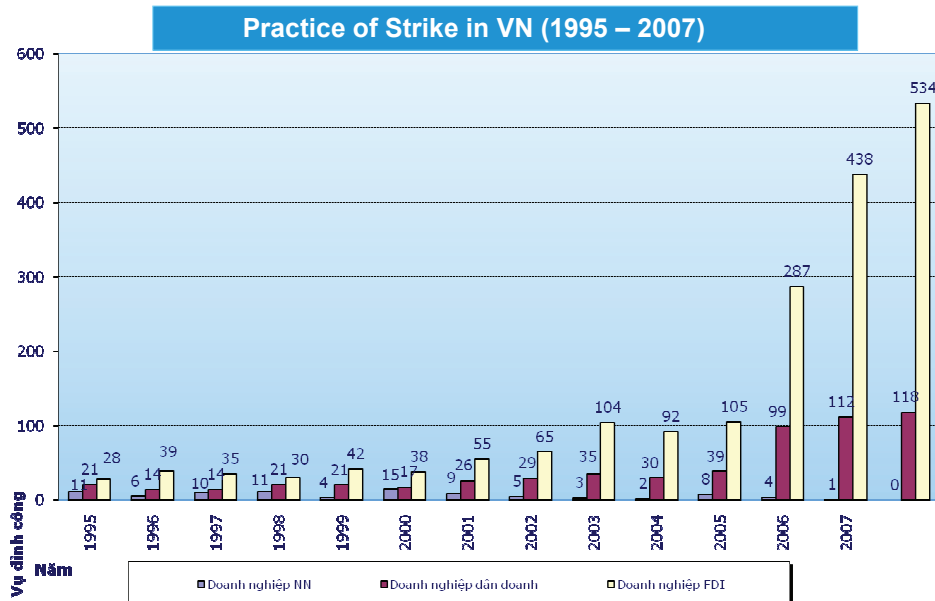


LABOUR DISPUTE AND STRIKE SETTLEMENT

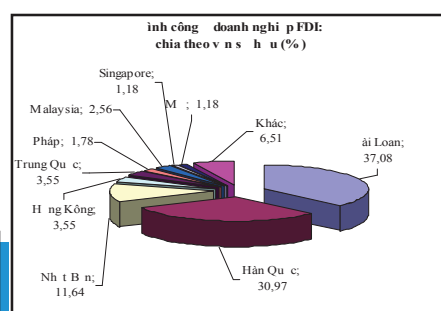
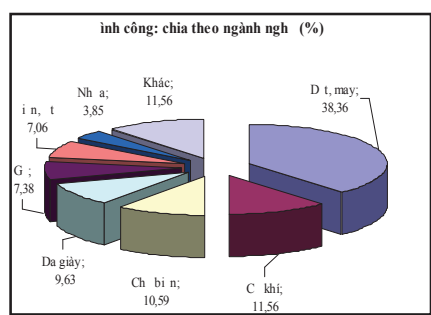
- PRACTICE IN VIETNAM

Nguyen Phuong Lam
 Viet Nam Chamber of Commerce and Industry
 (VCCI)

1. REALITY OF SOLVING STRIKES IN VN



Strikes based on sectors and capital assets



Practice of Strike in Viet Nam

- The number of strikes took place in the first 7 months of 2008 much higher comparing to the whole year of 2007.
- Most of the strikes occurred at FDI enterprises in provinces and cities in the economic hubs of the South.
- All of the strikes were illegal and did not lead by local labor unions.
- Most of the strikes occurred in 2008 arising from the needs for higher salary and better subsidies as well.
- Most of them rouse from benefit conflicts. So, it is really difficult and complicated to solve the issue, last for a long time. Some takes from 3 to 5 days for solution, some lasts for 25 days (Hue Phong Company, HCMC).

Reason that causing Strikes

- Some enterprises do not follow the employment rules and commitments with employees such as: don't raise salary annually or raise not much; working overtime, unfair paid for extra work; don't have pay-roll, don't have legal work contract; don't pay social security; illegal displace, poor working condition;
- Don't pay much attention to daily lives/activities (benefits) of employees.
- Some employers work for investors. They don't have real power concerning to financial resources for solving employment conflicts when strikes happened, only when the headquarter allows to raise salary, they will do.

Governmental Management

Although there are some improvements, it is still disadvantageous for the present needs, for instance:

- The managerial instruction at local level is not frequent, lack of specific plans for solving employment disputes at enterprises, just look for solutions only when strikes occurred, not much focus on prevention ways.
- The inspection and monitoring methods are not practiced frequently; inspections are so widely and not concentrate on specific sectors, enterprises do not follow laws strictly, employment disputes usually take place;
- The workforce for inspection is shortage and lack of professional skills.
- The activities concerning to instruction, law training are not satisfied the needs of local workers.
- Local authorities do not have specific policies stimulating local enterprises investing on houses and other public facilities to serve for local laborers.

*** From the side of employees:**

- Due to the increasing of price for daily products, the real income is decreasing, living conditions are not really good. Meanwhile, the role of representatives for workers is weak in protecting for their legal rights.
- Understanding and conception about laws and employment policies of employees are still limited. So, facing with difficulties in daily life, they themselves have to go on strikes to ask for their legal rights.
- Employees are not stick to the employers, they are ready to quit the job if the employers do not satisfy their requirements.

*** Supply and demand of employments are not suitable each other at industrial parks in the Southern region in recent years. Supply is shortage, together with the thinking of readiness to quit current work for better one (or back to the hometown) of laborers is a real problem not only foreemployers but also for local authorities in Southern region concerning to employment policies for investment and human resources attraction.**

Solving strikes does not follow the legal process

*** To solve the strikes issue, local governments should practice the following methods:**

- To set up a Steering Board in order to solve local strikes that are illegal for protecting their rights and benefits of employees and employers as well. Based on the local conditions, the Steering Board may include members from branches such as: Labor and Invalids, Planning and Investment, Industrial Management Board, Police Station, Labor Union, representatives of workers (if yes).
- To set up Interlink Working Group to solve strikes that are illegal at district level in time.
- To supply telephone numbers (hot line) for local enterprises to be advantageous and to get necessary information whenever strikes occur in districts.

Some legal documents about Employment Conflicts and Strikes

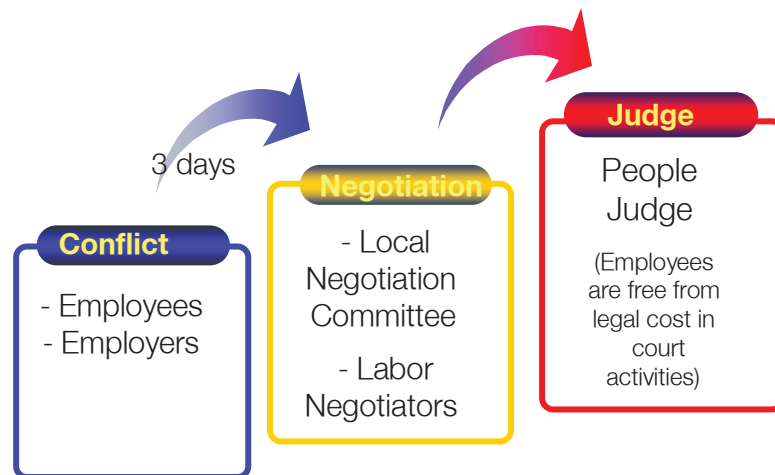
1. Decree No. 122/2007/ND-CP dated on 27/7/2007 issued by Central Government that regulated some fields are not allowed to go on strikes and some methods to solve legal rights for employees at enterprises
2. Decree No. 133/2007/ND-CP dated on 08/8/2007 issued by Central Government that regulated in details and instructions for some regulations concerning to Modified Law of Labor Law.
3. Decree No. 11/2008/ND-CP dated on 30/01/2008 issued by Central Government that regulated compensation for losses that caused by the illegal strikes and harmful to employers.
4. Decree No. 12/2008/ND-CP dated on 30/01/2008 issued by Central Government that regulated in details and instructions for Article 176 of Labor Law concerning to postpone or deny the strikes and solve legal rights for employees.

5. Decree No. 22/2007/TT-BLDTBXH dated on 23/10/2007 issued by Ministry of Labor and Invalids that instructed on how to organize a community to be harmonious among employees and employers.
6. Decree No. 23/2007/TT-BLDTBXH dated on 23/10/2007 issued by Ministry of Labor and Invalids that instructed on how to organize activities of Referee Committee.
7. Decree No. 07/2008/TTLT-BLDTBXH-BTC dated on 30/5/2008 issued by Ministry of Labor and Invalids – Ministry of Finance that instructed the Article 11/2008/ND-CP.
8. Decree No. 53/2008/TT-BTC dated on 20/6/2008 issued by Ministry of Finance that instructed the financial resources for activities of negotiation officials between employees and employers.

1. Principles for solving labour dispute

1. To negotiate directly, arrange themselves and decide based on the place that conflict arise.
2. Via negotiation, referees show respect legal rights and benefits of both sides, common benefits of social community and legal regulations.
3. To solve conflicts publicly, directly, timely, quickly and legally.
4. With the participation of representatives of employees and employers during the time of conflicts.

2. SOLVING PERSONAL LABOUR DISPUTE





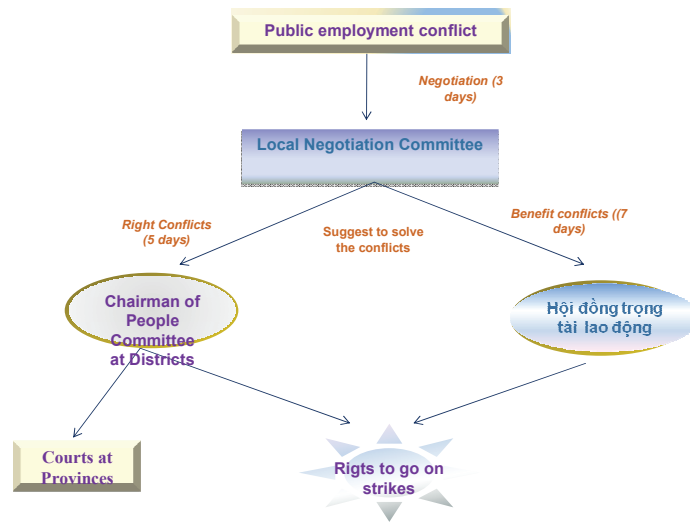
3. SOLVING EMPLOYMENT CONFLICTS PUBLICLY

Classify public employment conflicts

Public employment conflicts about rights means that the conflicts about rights that are legal according to government laws and the employees suppose that the employers break these laws.

Public employment conflicts about benefits means that the conflicts about the public community of employees request to set up new work conditions comparing to the legal regulations that were registered to the central government or other negotiations or contracts at local enterprises in the process of negotiation among employees and employers.

3.1- Solving public employment conflicts as below diagram



4- STRIKES

- Definition: According to Vietnam Labor Law, strike will be considered if there are the following conditions:
 - Stop working in a short time, temporarily, optionally and legally that are organized by publicity in order to solve public employment conflicts.
 - It should be organized and led by Local Labor Unions.

Conditions to go on strikes

Strikes can be seen as a way to solve the employment conflicts between the employees and the employers. However, strikes should be considered as the last way for solving employment conflicts. It can be practised when the other 2 ways are not effective. According to the labor laws, strikes can be done when these two conditions are satisfied:

- 1) **Done other methods for employment conflicts but ineffective.**
- 2) The Committee of Labor Unions at local level should follow the regulations and procedures that are allowed by central government to go on strikes.

Process, procedures to go on strike

1. Selecting ideas to go on strike (by voting or collecting signatures).
2. Deciding to go on strike by issuing a document and writing a request report with the agreement of over 50% of employees (enterprises that have less than 300 workers) or over 75% of the total people who are asked for collecting ideas (enterprise that have more than 300 workers).
3. Choosing representative to grant the decision to go on strike and the copy for the employers at least five days before the day they will go on strike.

Some activities that are not allowed to do before or after going on strike

- To prevent the legal rights of local workers to go on strike or force them to go on strike; hindering localworkers who participated in strikes from working.
- To force; terminate the machines, equipments or other assets of enterprises;
- To harm the social security, and public safety;
- To end the employment contracts or punish the employees, managers who go on strike;
- To revenge the employees who go on strike;
- To stop all the activities of enterprises to prevent the strike;
- To make use of strike for illegal purposes.

Definitions of illegal strike

Only the Court at provincial level can decide whether the strike is legal or illegal.

Any strike that belongs to the following case can be seen as illegal one:

- Do not arise from public employment conflicts;
- Do not carry out by the workers at the same factory;
- When the employment conflicts are being considered by local authorities based on Labor Law.
- Do not collect ideas from employees before going on strike.
- Do not follow the regulations of central government based on Article 172a of Labor Law;
- Go on strike at the enterprises that are not allowed to go on strike regulated by Central Government;
- When there is a decision to postpone or stop going onstrike.

Responsibility to compensate for losses if the strike is illegal

When a strike is illegal, according to the People's Court, and causes some losses to the employers, then the local labor union will be in charge of it. (in case of the strike is organized and led by Labor Union).

5. Real experiences in solving strikes

Strikes that occurred in Vietnam during recently can be seen as illegal strikes because most of them did not allow the rules as regulated, as follows:

Do not need to go on strike: most of the strikes were not negotiated first.

Do not organize or lead by the Committee of Labor Union.

Go on strike without considering the process as ruled at Art. 174a, 174b by Labor Law.

6- NEGOTIATOR AND NEGOTIATOR SKILLS

It is an interrupting way of the third side that is neutral in the process of solving conflicts among employees and employers in order to give acceptable solution for both sides.

FOUR PRINCIPLES OF NEGOTIATION

- Neutral
- Confidential
- Optional
- All sides agree to choose for the negotiator

OBJECTIVES OF NEGOTIATION

- Solving conflicts
- Education
- Building and preserving relationships among employees and employers.

Functions and Tasks of Employers' Office

- To build plan in order to perfect the organizational structure for employers at national level and to set up representative offices at local level.
- To organize meetings among employers in order to collect ideas from employers concerning to legal issues and to suggest them to follow the regulations on employment relationship.
- To cooperate to plan action plans for associations.
- To organize training courses and consult for enterprises and associations on harmonious employment relationship.
- To instruct associations and employers building public employment commitments based on sectors and types of enterprises.
- To research the best practices of harmonious employment relationship and compliment enterprises that build the good models of harmonious relationship.

The role of Employers' Office

- To play the role of representative for Employers.
- To take part in setting up regulations that concerning to employment relationship.
- To cooperate with local authorities to popularize new regulations to employers.
- To monitor the activities of employment regulations.
- To instruct on how to set up representatives for employers.

Thanks for your attention!

Press Release – Outcomes of High Level Regional Forum on Responding to the Economic Crisis – Coherent Policies for Growth, Employment and Decent Work in Asia and the Pacific

“Economic crisis response must support jobs, SMEs, Vulnerable sector, ILO meeting concludes”

MANILA (ILO News) - Delegates representing workers, employers and ministries of finance, planning and labour from Asia and the Pacific suggested policies and measures to be urgently put in place to mitigate the expected severe impact of the global financial and economic crisis on economies in the region, and to stimulate a more rapid, more equitable and sustainable recovery.

Delegates from 11 countries participated in a three-day, high-level regional forum in Manila, called to analyze the global downturn and identify critical policy responses and practical measures. Officials from the Asian Development Bank (ADB), the World Bank, the International Monetary Fund (IMF), other UN agencies, academics and foreign diplomats also attended.

Of concern for countries were sectors dependent on exports and remittances and the knock on effect of decline to other economic sectors and to the most vulnerable and poorest. Potential loss of jobs and threats to decent work affecting many millions in the region was the central preoccupation of forum participants. Capacity to address this through stimulus packages was particularly worrying in countries with limited fiscal space or reserves to call upon.

An effective response to the unfolding large scale crisis requires a global financial system guaranteeing stability, security and fairness for all. Participants highlighted that governmental and international action had to be coordinated and coherent. Economic stimulus packages needed to be comprehensive and target job preservation and creation and social protection as central to sustainable recovery and growth. Practical measures called for included:

- Protecting and supporting decent jobs;
- Collective bargaining and social dialogue particularly in negotiating flexible hours, wages, temporary lay-offs and severance packages;
- Rolling out quickly infrastructure and labour-intensive public works projects, to keep men and women in work, particularly those retrenched;
- Enterprise support measures including access to credit to focus particularly on small and medium sized enterprises (SMEs) and entrepreneurs.
- Targeting support to specific sectors such as the rural and agricultural economy, and for vulnerable groups of workers - international and internal migrants, informal sector workers, women and young people;

- Social security and social protection systems to be expanded to support vulnerable groups and increase disposable income levels;
- International and regional support to include funding for developing countries and easing of conditionality in funding from international financial institutions:

The ILO to help mobilize development partners and actors to support the above priority measures, to strengthen regional co-operation in responding to the crisis and reduce barriers to trade and commerce, and to build capacities for national, regional and international policy coherence for growth, employment and decent work.

“A strong message came from the meeting that national, regional and international responses must be coherent and co-coordinated, and that they must take into account social factors as well as economic factors,” said Sachiko Yamamoto, ILO Regional Director for Asia and the Pacific. “The crisis is severe and we haven’t seen the worst of it. The poorest and most vulnerable could be severely hit by its brutality as it spreads. To be effective, we must ensure that assistance reaches all levels of society and economies”.

“This is the first major crisis in the era of globalization and it needs a global response; the ILO has an important role to play in developing that response,” she added. “The decent work agenda and social dialogue in particular, has never been more important. We must keep talking and not compound our problems by relinquishing gains that have been made, such as the minimum wage and fundamental rights and standards.”

The high-level forum, “Responding to the Economic Crisis - Coherent Policies for Growth, Employment and Decent Work in Asia and the Pacific”, was convened by the International Labour Organization (ILO) to discuss the effect the crisis is having on countries and their workers.

The forum was organized with the collaboration of the ADB and the Department of Labour and Employment of the Philippines, and with the support of the Government of Norway. It is one of a series of regional events whose outcomes feed into a high-level meeting on the economic crisis, called by the ILO’s Governing Body. The global meeting involving international financial organizations and the UN system will take place at the ILO in Geneva on 23 March 2009.

* * * * *

ASEAN-ILO/Japan Seminar –

Towards ASEAN Integration: Promoting Good Practices for Sound and Harmonious Industrial Relations

Objectives

Seminar **part** of ASEAN-ILO/Japan partnership project seeking to:

- promote constructive IR among ASEAN members
- build up capacity of ASEAN in disseminating IR knowledge & information
- strengthen ASEAN-ILO partnership in IR & related areas

Context

Seminar taking place in the context of two major developments:

- rapid ASEAN integration processes, esp. adoption of ASEAN Charter (from consensusbased to rules-based ASEAN)
- unfolding global financial/economic crisis and social/labor implications

Some key learnings

- Investing on positive IR requires building appropriate IR institutions (laws, rules, mechanisms, etc.). But the question sometimes is HOW, e.g., how to develop instis for dispute settlement in situation of widespread wildcat strikes or for CB in a situation where there is multiplicity of unions.
- Social dialogue is at the heart of positive IR. On the other hand, SD requires open & honest communication. Both can change attitudes & can be undertaken at the firm, industry and national levels, & at bipartite and tripartite levels as well.

Some key learnings

- Capacity/competency building in all areas of IR, be it dispute settlement (conciliation, mediation, arbitration, etc.), be it CB or social dialogue, or be it in enactment of laws, etc.
- Benchmarking to build a regime of good IR practices.
- Adjustments to GFMD/recession (bipartite/tripartite initiatives)

Some critical items w/ limited discussion so far

- Plant-level mechanisms – LMCs, GM, IR as a line function
- Domestic market as stabilizing factor for economy & IR
- Social safety nets

Other examples: see tripartite declaration on good IR practices in oil and power sector (2002)

IR-related responses to global crisis

- Importance of social dialogue, tripartism and bipartism in
 - preservation of jobs
 - packaging stimulus programs (vary from country to country) to sustain growth and job creation
- Key lesson from Singapore: TUs can initiate separate programs, for example, NTUC has
- up-re-skilling (leading to multi-skilling flexibility)
 - support for cost-cutting programs without cutting personnel
 - re-deployment to combat unemployment

BUT WHAT are the employers' initiatives? Maybe we should ask ABAC and ACE.

- IR instis, especially social dialogue, most needed in bad times

Recommendations from Asia-Pacific ILO seminar in Manila

- comprehensive (well-rounded) and coherent (involving all sectors, including labor and finance ministries) stimulus packages
- role of CB and social dialogue in negotiating flexible hours, wages, temporary lay-offs and separation packages
- preservation of decent jobs
- quick-job-creating infrastructure projects to help retrenched
- support measures for SMEs
- targeted assistance/expanded social security for vulnerables
- easing conditionalities for indebted developing countries

Lessons from Japan

- changing labor market, characterized by rise of non-standard employment, poses a major challenge to unions, which are losing members. However, labor flexibilization need not lead to erosion of IR institutions such as unionism, collective bargaining, labor management consultations, etc.
- efforts of Japan tripartite actors to address fairness (just treatment) for part-time & other non-standard employees, including rights to form unions & conclude CBAs. Case of Takashiyama-JSD social partnership cited
- importance of policy coherence (economic & labor) at the macro/meso/micro levels

However, like in other countries, there are policy dilemmas, e.g., support for protected vs. unprotected workers, etc. In the end, the issue is how to manage adjustments in a balanced way

On ASEAN & IR Guidelines

- ASEAN rapidly integrating – economic blueprint very clear but social dimension blueprint not so clear
- IR -- promotive of tripartism, bipartism and social dialogue -- crucial in building & transforming ASEAN into a community of caring and sharing societies.
- Such partnership should be nurtured and strengthened as a key program of ASEAN

Key comments on IR Guidelines

- Inclusion in the preamble of the commitment (or affirmation of such commitment) of the tripartite parties to the draft Guidelines.
- Recognition of job as having characteristics of a 'property right', which can not be taken away from the individual worker without due process
- Further review of para titled 'II. Fundamental rights of employers and workers'. This para mirrors ILO C87 which a number of ASEAN countries have not yet ratified.
- Securing concurrence of the ASEAN Labour Ministers re para 4 of the Preamble (*"..The ASEAN Ministers of Labour lay down and adopt the following set of guidelines.....in their continuing quest for harmonious and productive IR based on social justice, as a cornerstone of quality workplaces and economic justice."*)

Key comments on IR Guidelines

- Inclusion of additional good IR practices, namely:
 - the need for regular and transparent communication
 - skills development training
 - management of redundancy and retrenchment
 - development in each country of a code of conduct for good IR practices and harmony
- Participants moved for the adoption of the draft "Supplemental Note" and the "Follow-up" programme to the ASEAN Guidelines.
 - a mechanism to monitor progress of member countries in the application of the guidelines, identification of areas where technical assistance is needed
 - circulation of a report in conjunction with every ALMM of the progress of implementation or observance of the Guidelines on Good IR Practices

Key comments on IR Guidelines

- Any further inputs on the Guidelines should be conveyed to Indonesia by 20 March 2009.
- Indonesia and Thailand will present the revised document to the SLOM Working Group for further review before it is submitted to SLOM for endorsement.

On ASEAN-ILO/Japan project

To continue to promote IR capacity building in ASEAN

Example: capacity building in IR research, training & policy formulation to help

- build/strengthen IR institutions (e.g., CB, dispute settlement, etc.)
- identify winners/losers and included/excluded at national/regional levels in the integration process
- assist how winners can be winners and losers survivors and eventual winners
- upgrade skills and readiness programs for youth, etc.
- formulate safety nets programs for the vulnerables/weak
- develop social protection for the large informal economy
- understand the workings of the market (reducing gaps, combating jobless growth, reform sequencing, etc.)
- promote social dialogue on how to achieve productivity and competitiveness without sacrificing jobs
- document good IR practices at micro/meso/macro/regional levels

Other IR Capacity Building Concerns

- Developing research, analytical and policy formulation capacity in understanding IR issues and concerns
- Dialogue with ASEAN on how to develop IR program
- Filling gaps in policies for social protection, informal economy
- Managing divisive IR issues, e.g., minimum wage fixing, flexible labor deployment, etc.

Tripartite Meeting on the Promotion of Good Industrial Relations Practices in Oil and Gas Production and Oil Refining

Geneva, 25 February - 1 March 2002

Conclusions on the promotion of good industrial relations in oil and gas production and oil refining

The Tripartite Meeting on the Promotion of Good Industrial Relations in Oil and Gas Production and Oil Refining.

Having met in Geneva from 25 February to 1 March 2002;

Adopts this first day of March 2002 the following conclusions:

General considerations

1. Structural change is likely to continue throughout the oil and gas industries and affect many aspects of the sector, including industrial relations. Based on past experience, industrial relations are likely to become more complex as the industry strives to deliver its products and services at optimum cost and with the least environmental and social impact.
2. Good industrial relations that take account of different needs, cultures and practices are an essential component of industrial, economic and social stability at national, regional and international levels. Social dialogue, at different levels as appropriate, can play an important role in improving industrial relations. It should take place at the appropriate decision-making level and involve the social partners.
3. National and regional agreements and voluntary global accords between the parties concerned can play a role in improving industrial relations.

Industrial relations elements and issues

4. The enterprise is generally the appropriate starting point for developing good industrial relations, which should be developed at all levels. At all these levels, good industrial relations are underpinned by common interests and effective and open communication between the parties. Information should be provided in a timely and effective manner within the constraints of the laws and regulations.

5. Knowledge of and adherence to national laws and agreements are fundamental to good, consistent industrial relations policies, practices and outcomes.
6. Although there are national variations in law, improvements in industrial relations can be achieved when full account is taken of the core ILO standards, notably the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The ILO's core standards lay the foundation for decent work around the world and are an important element in improving industrial relations.
7. Experience has shown that legislation, voluntary framework agreements and codes of practice have contributed to creating and supporting good industrial relations. Therefore, these options should be explored and, where appropriate, developed.
8. In countries where governments are involved in the oil and gas sector, they should contribute positively to the promotion of good industrial relations. Mergers and acquisitions
9. The question of providing information in advance of mergers and acquisitions is often constrained by law or commercial considerations. Workers' representatives on company boards or works councils are also constrained by their duties. Having regard to these constraints, companies should have a clear communications strategy and should keep workers and their representatives fully informed about the process at the proper time.
10. Workers should not have to learn about important developments that affect them through the media. Information should be provided and comprehensive consultations at the appropriate level should take place with workers and their representatives as soon as possible in the process. Effective means of communications should be used to inform all concerned.
11. The effects of any corporate restructuring should be managed through social dialogue, including with a successor company, if one exists, especially in the time between the public announcement of the intention and the actual conclusion of a deal.
12. Where reductions in the workforce are likely as a result of corporate restructuring, appropriate measures should be put in place according to good industrial relations practices to protect, as far as possible, workers' rights and interests.
13. Safety and health are two important issues, particularly when mergers and acquisitions are being considered. Timely and comprehensive information on safety and health issues is the key to ensuring that they are dealt with in a structured way and are not compromised.

Promoting good industrial relations in contracting companies

14. The independence of contractors and subcontractors should be respected. In some countries, the principal employer has certain obligations regarding contractors and subcontractors, including being legally responsible for safety and health. However, in other countries, the contractors and

subcontractors are legally responsible for safety and health. Governments should assure that companies' safety management systems make clear how safety responsibility is divided; responsibility for the overall safety management system should rest with the operator.

15. As regards occupational safety and health, which should never be compromised, the principal employer has the overall responsibility to ensure that workers in contracting and subcontracting companies have the appropriate training and access to the appropriate information in order to perform the tasks they are contracted for on the employer's premises.
16. The principal employer should provide contractors and subcontractors with its own standards or code of conduct on safety and health and workers' rights. A best practice for adherence to the above by the contractor could be included in the tendering process.

Frameworks and institutions for social dialogue

17. Social dialogue is the process of exchanging information and viewpoints with the purpose of fostering mutual understanding that might result in better industrial relations and/or negotiations.
18. Having regard to the diversity of frameworks and institutions for social dialogue and the extent to which it equates to negotiation, the social partners should establish at the outset an agreed basis for their interaction, the issues for discussion and the nature of the outcome. ILO standards offer guidance in this respect.
19. Social dialogue requires competent social partners and effective mechanisms. Workers engaging in social dialogue, whatever their qualifications and responsibilities, should be protected from discrimination and victimization.

Managing change in the environment of social dialogue

20. The closer to the workplace social dialogue is undertaken, the clearer and more specific the issues generally are and the more concrete the outcomes are likely to be. Nonetheless, since social dialogue takes place at different levels - national, sectoral, enterprise - according to national and local circumstances, it needs to be established and promoted adequately at each one in order to foster greater understanding of the process by those concerned.
21. The principles of collective bargaining and the right to organize facilitate the process of managing changes in how social dialogue is undertaken; they should be respected. Training for industrial relations practitioners
22. Governments, employers' and workers' organizations have a common interest in training and retraining for promoting industrial relations and social dialogue in the oil and gas production and oil-refining industries.

23. Training should be provided to workers and their organizations involved in mergers and/or acquisitions, to manage sensitive information and build trust between the social partners.
24. Training in human resources practices and supervisory skills, especially at middle-management level, should be broadened and intensified, particularly where structural changes are occurring.
25. Because collective bargaining is important in industrial relations, the social partners should improve their negotiating skills.
26. There is a need for more training on ILO standards, labour laws and regulations pertaining to industrial relations. Governments, employers' and workers' organizations should share their experiences and practices in this regard.
27. Recognizing the ILO code of practice HIV/AIDS and the world of work, there is a vital need for education and training to address the HIV/AIDS pandemic. Governments, employers' and workers' organizations should cooperate, drawing lessons from activities in other sectors, such as mining, in programmes of education, prevention, treatment and care.
28. Continued efforts should be made to increase training and retraining in relation to hazardous chemicals and other safety and health risks in this industry.

ILO activities

29. In cooperation with the social partners concerned, the ILO should collect and disseminate examples of good industrial relations practices and outcomes, particularly in relation to corporate restructuring, and information on good safety and health practices and results.
30. The ILO should use its expertise to facilitate access to the necessary skills and resources to impart the training referred to above, particularly training trainers and assisting workers' representatives and, where appropriate, employers and government officials, to improve their negotiating skills, deal with HIV/AIDS, multicultural situations, mergers and acquisitions. National, regional and/or international seminars or workshops should be organized to achieve these objectives.
31. The ILO should promote ongoing dialogue on social issues between governments and representative employers' and workers' organizations.
32. The ILO should explore mechanisms to strengthen the understanding of and support to all the principles of the Global Compact throughout the industry.
33. The ILO should examine ways to strengthen its work and programmes that promote social dialogue in the oil and gas sector in the workplace, at international, regional and national level.

SPECIAL REPORT

Industrial Relations in ASEAN : Good Practices and Emerging Challenges



Industrial Relations in ASEAN: Good Practices and Emerging Challenges

Introduction: Good IR practices, Social ASEAN and integration adjustments

This Report is a summary of key industrial relations (IR) issues, insights and lessons discussed in the “First Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project” held in Bogor, Indonesia, February 26-27, 2009. The Seminar was attended by tripartite participants coming from the different ASEAN countries and from two ASEAN “Dialogue Partners”, Japan and South Korea.

This Report discusses these IR issues, insights and lessons in the context of the 2008-2010 ASEAN-ILO/Japan Industrial Relations Project, which has the following declared objectives:

- To promote constructive industrial relations among ASEAN member countries,
- To build up the capacity of the ASEAN Secretariat in disseminating IR knowledge and information among the member countries, and
- To strengthen the relationship between the ASEAN and the ILO’s Regional Office in industrial relations and other related areas.

This ASEAN-ILO/Japan partnership in the IR area has acquired central importance and urgency in the light of the accelerating ASEAN integration process, which is complicated by the current global economic recession. ASEAN has targeted 2015 as the year for the economic, social and political integration of the ten member countries into one ASEAN community. In preparation for this full “community-hood”, ASEAN is completing the implementation of the ASEAN Free Trade Agreement (AFTA) project which reduces to 0-5 per cent tariff range the ASEAN goods traded by member countries within the region. By 2012, more than half of the ASEAN GDP shall be covered by a liberalized economic regime (free flow of goods, services, investments and skilled labor) under the liberalization schemes outlined in the 12 “Priority Integration Projects” or PIPs. ASEAN is also in the process of either concluding or implementing a number of regional and bilateral economic partnership/free trade agreements with the three East Asian countries of China, Japan and Korea and with the other Asia-Pacific bloc countries under the APEC umbrella such as Australia-New Zealand, United States and India. It also has ongoing trade and economic talks with the European Union (EU), not to mention the fact that the ASEAN-EU partnership is a key component of the ongoing Asia-Europe Meeting (ASEM) process that started in the 1990s.

¹ Prepared by Dr. Rene E. Ofreneo, IR Consultant, March 2009. This Report is based on the results of the Bogor Seminar, February 26-27, 2009, supplemented by IR Consultation Meetings held in ILO Bangkok and ILO Jakarta, and observations from mission visits to Bangkok, Jakarta, Manila, Phnom Penh and Hanoi.

In the meanwhile, ASEAN has approved a historic “ASEAN Charter”, which seeks to transform ASEAN into a rules-based regional organization. In particular, this Charter seeks to build a people-centred ASEAN and promote respect for basic human freedoms through the establishment of an “ASEAN Human Rights Body”. In the Preamble, the Charter unequivocally declares the ASEAN’s adherence “to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms”. This declaration is consistent with the 1948 United Nations Declaration on Human Rights and the various ILO Conventions on core labour standards, namely: freedom of association, collective bargaining, non-discrimination, prohibition of forced labour and elimination of child labour. Above all, this declaration is in line with the ASEAN declaration to nurture a “caring and sharing ASEAN community” as outlined in the 2003 Bali Concord II and the 2004 Vientiane Action Programme. Earlier, in 2007, ASEAN gave the signal on its intent to promote fundamental labour rights when the ASEAN Leaders adopted an “ASEAN Declaration on the Rights of Migrant Workers”, which states the obligations of both labour-sending and labour-receiving countries to respect the rights of migrant workers and to develop the necessary legal and welfare facilities for migrants. In November 2008, the ASEAN organized in Manila the “ASEAN Social Forum” involving governments, civil society organisations and trade unions in the region under the theme “Working Together Towards an ASEAN Community”.

From the foregoing, it is abundantly clear that ASEAN is not only on the high road to economic integration but is also now in the thick of community building, which, in the words of ASEAN Secretary General Surin Pitsuwan, means bringing “ASEAN to the people”².

Building and promoting a regime of good IR practices among the ASEAN countries is clearly in line with the ASEAN’s current thrust of community building. As Abhik Ghosh, Senior Specialist on Labour Administration and Labour Relations of the ILO Regional Office for Asia and the Pacific of ILO in Bangkok, put it, sound and stable IR institutions.

- Affirm the dignity and humanity of the productive social partners through the recognition and respect they accord on each other’s rights,
- Provide social and labour stability through IR principles and processes which help reduce conflicts and tensions on the industrial relations front, and
- Serve as a platform for economic competitiveness because IR institutions are necessary in building up human resources, productivity and cooperative work.

In addition, one may add here that sound IR institutions and good IR practices are central in smoothening the process of economic and labour adjustment to a changing economic environment brought about by the ASEAN’s agenda of accelerated economic integration as well as sudden external aberrations such as the global food crisis, global fuel crisis and the global financial meltdown of 2008. For example, in response to these food-fuel-financial crises and in line with the call of the ILO Director General Juan Somavia, Indonesia, Philippines and Singapore organized tripartite dialogues and consultations on how the social partners can help one another in ensuring the survival of businesses and jobs in difficult times. Such dialogues have helped these countries avoid repeating some of the divisive and disastrous

² Overview Paper for the ASEAN Social Forum, Manila, November 26-28, 2008.

unilateral labour-management responses that took place in some East Asian countries at the height of the 1997-98 Asian financial contagion. Needless to say, badly-managed adjustments to economic integration challenges (for example, declining protection for some sectors) and/or to external problems/shocks such as the global crisis tend to weaken an economy and polarize the stakeholders in society, thus exacerbating existing difficulties.

What constitutes a stable IR system?

What then are the good IR practices that can help ease the adjustment processes in an integrating ASEAN and strengthen community building in the region?

Industrial relations defined

First, it is important to clarify some IR basics. By definition, industrial relations involves the complex relationships between and among the following IR parties or actors:

- Workers and their groups, i.e., trade unions and worker associations;
- Employers, managers and trade and professional associations; and
- Government and the executive, legislative and judicial/quasi-judicial agencies dealing with IR issues, including industrial disputes.

These relationships are generally shaped by the IR rules or institutions established by the IR actors themselves such as labour standards laws, collective bargaining agreements, personnel policies and regulations, dispute settlement mechanisms and norms of work at the plant, industry, regional, national and international levels. This is why John Dunlop, in his pioneering book on the nature of industrial relations³, singled out rule making based on the interaction among the IR actors as the heart of industrial relations. Of course, the outcomes of such rule making varies across countries and industries, depending on the level of industrial development, history and traditions, and political economy of a given country as well as the nature of the power relations obtaining among these IR actors. However, the world has come to accept the universality of some international labour rights, a number of which were incorporated in the 1919 Constitution governing the formation of the International Labour Organization (ILO). Subsequently, these rights have been reiterated or reaffirmed in various ILO Conventions and Recommendations as “international labour standards”. These international labour rights include the following: right of workers to form association, payment of reasonable wage to maintain reasonable standard of living, eight-day work or forty-eight-hour week, weekly rest of at least 24 hours, abolition of child labour, equal pay for equal work, equitable treatment of all workers in a country, and enforcement of laws for worker protection⁴.

³ Dunlop, John T., 1958. *Industrial Relations Systems*, Boston: Harvard Business School.

⁴ Kaufman, Bruce F., 2004. *The global evolution of industrial relations*, Geneva:ILO, 2004.

It is interesting to note that a number of the above universally-recognised labour institutions such as unionism, collective bargaining and fair dispute settlement bodies, including the discipline of industrial relations as a field of research and academic study, were institutionalised in the crisis decades between World War I (1914-1918) and World War II (1939-1945) in North America and Europe, more specifically during the Great Depression decade of the 1930s. This was so because societies discovered that they needed in crisis periods the guiding hand of government (which is what Keynesian economics is all about) and the stabilising role of labour and other social institutions (which define the terms of engagement between and among the social and IR actors)⁵. Not surprisingly, this stance is being re-echoed in today's global economic recession. Barack Obama of the United States and Kevin Rudd of Australia are pushing for stronger unionism through the Employee Choice Act in the United States (which seek to relax some rules on union organising) and the repeal of the individual bargaining law in Australia (which has subverted collective bargaining). Likewise, a number of economists such as Paul Krugman and Joseph Stiglitz have been calling for stronger labour rights as part of the solution to the global economic crisis based on the logic that aggregate global demand would rise because of a stronger labour movement.

What are good IR practices?

It is difficult to find a universal definition of what constitutes good IR practices. Unions and their supporters normally would insist that a good IR system is one which gives their members full job, income, workplace and union security. On the other hand, some employers would equate a good IR system to one which gives them flexibility to conduct business freely and productively, unhampered by unionism or rules on wages and tenure. Governments naturally would try to seek a middle ground, as they try to balance the interests of the two parties.

At the minimum, however, good IR practices mean national tripartite compliance with the international labour conventions and recommendations because these are universal or internationally-established standards. In particular, there should be compliance with the core labour conventions dealing with freedom of association, collective bargaining, non-discrimination at work, prohibition of forced labour and elimination of child labour as elaborated or reiterated in the 1998 "Declaration on the Fundamental Principles and Rights at Work". These conventions include the following:

- C29 Forced Labour (1930),
- C87 Freedom of Association and Protection of the Right to Organize (1948),
- C98 Right to Organize and Collective Bargaining (1949),
- C100 Equal remuneration (1951),
- C105 Abolition of Forced Labour (1957),
- C111 Discrimination in Employment and Occupation (1958),
- C138 Minimum Age Convention (1973), and
- C182 Elimination of the Worst Forms of Child Labour (1999).

Compliance with the above conventions means coming up with the appropriate national laws, rules and norms for their effective observance. It also means ratification by ILO Member States of these

⁵ See chapters 2-3 of Kaufman. See also: Katz, Harry C., Kochan, Thomas A. and Colvin, Alexander J.S., 2008. An Introduction to Collective Bargaining and Industrial Relations, New York: McGraw-Hill Companies.

conventions. However, non-ratification does not exempt a member state from the duty or obligation to enforce a core international standard, as pointed out by Tayo Fashoyin of ILO Geneva in his talk at the Bogor Seminar. Of course, good IR practices do not mean minimalism, or compliance with minimum standards of good behaviour. In the spirit of kaizen, good IR practices also means continuous improvement of IR institutions such as collective bargaining, labour-management consultation and dispute settlement at the plant, industry, sectoral and national levels. Good IR practices also include the enhancement of bipartite and tripartite social dialogue and cooperation. This is where voluntary bipartite agreements and codes of conduct (such as those promoted by the big transnational firms), which help promote enterprise productivity, come in. However, such voluntary agreements and codes can not substitute for compliance with the basic core labour standards; they should supplement or strengthen the latter.

A good illustrative example of how to promote good IR practices can be gleaned from the Concluding Declaration for the “ILO Tripartite Meeting on the Promotion of Good Industrial Relations Practices in Oil and Gas Production”⁶. In this meeting, the tripartite representatives declared that a regime of good IR practices should:

- take into account the “needs, cultures and practices” of a country;
- promote “social dialogue”, with a full sharing of relevant information in advance;
- start at the enterprise level through better communication between the parties;
- encourage compliance with national laws, agreements and core ILO standards;
- protect workers’ rights and interests in times of corporate restructuring;
- instil in contractors and subcontractors the duty to comply with labour standards, especially standards on workers’ rights and health and safety;
- institutionalize training and re-training on good IR practices, social dialogue, ILO standards, and labour laws and regulations; and
- promote cooperation with the ILO in the conduct of the above activities, including documentation of good IR practices and outcomes;

Additionally, IR actors in Southeast Asia can access through www.ilo.org/asia an “Asian Decent Work Decade Resource Kit” on how to develop IR institutions for productivity, competitiveness and industrial harmony produced by the ILO Regional Office for Asia and the Pacific.

ASEAN draft program on good IR practices

The ILO and the ASEAN, together with the ASEAN Ministers of Labour, have, through the years, built up substantial materials on the features that make up a regime of good IR practices. In particular, past ASEAN-Japan and ILO-ASEAN workshops and seminars on IR policies and practices are rich sources of experiences and lessons in building up such a regime. The draft document “ASEAN Recommended Guidelines on Good Industrial Relations Practices” discuss key elements in an ideal IR regime or stable IR system as follows:

- **Favourable legal framework**, which guarantees the basic rights of employers to manage their business and of the workers to just and decent working conditions even as each country seeks to

⁶ Geneva, 25 February - 1 March 2002.

establish such framework by taking into account their specific national economic and social conditions. Part of the legal framework should be the **recognition of the core labour rights** as summarized in the ILO's "**Fundamental Principles and Rights at Work**" (covering freedom of association, collective bargaining, non-discrimination, prohibition of forced labour and elimination of extreme forms of child labour).

- **Bipartite cooperation and collaboration**, for genuine cooperation and collaboration leading to higher enterprise productivity and better working conditions eventually must take place at the shop floor. One way of forging cooperation is by **building mutual trust and respect**, which means frank and meaningful dialogue and consultation between the parties on mutually beneficial approaches to work relations as well as **good faith behavior** in negotiations and collective bargaining. Another is recognition of the dignity of work, which means labour should not be treated as a commodity and that there are "**best practices**" in developing work relations which accord full dignity to labour.
- **Tripartite partnership and social dialogue**, which are essential in forging national competitiveness and harmonious industrial relations. A key guideline in successful tripartite partnership is focusing on **mutuality of purpose and benefits** based on **tripartite vision** (by government, employers and workers) and formulation of a **common understanding of shared IR concerns and responsibilities**.
- **Effective labour dispute settlement**, which is integral in the development of any sound industrial relations system. This means the establishment of efficient machineries for conciliation, mediation, arbitration and adjudication, which are fair, affordable and acceptable to all the parties.

The draft Guidelines were the subject of the workshop portion of the Bogor Seminar. The participants unanimously expressed support for the Guidelines and the proposed Follow-up Program, including a stronger ASEAN-ILO partnership in IR capacity development

Key learnings from the Bogor seminar

The two-day ASEAN-ILO/Japan Seminar in Bogor became an occasion for a fruitful sharing of good IR practices among the tripartite participants. Briefly, the following are key "learnings" from the Seminar:

- Investing on positive industrial relations requires building appropriate IR institutions, which are usually expressed in the form of laws, rules, procedures and so on. For example, collective bargaining as a means to promote industrial peace might require laws recognizing freedom of association, collective bargaining, identification of bargaining representatives and good-faith negotiation as well as capacity-building programs on win-win-type of bargaining. Similarly, the settlement of strikes⁷

⁷ In transition countries such as Vietnam and Cambodia, labour institutions governing the non-public or private industrial parks are still underdeveloped, for example, the institution of free collective bargaining consistent with the functioning of a free market requires the existence of unions able to speak up for the workers, employers cognizant of their varied obligations to the workers, including the duty to negotiate, and government agencies and laws dealing with union recognition, strike regulation, bargaining facilitation and dispute settlement. Admirably, Vietnam has managed to deal with the waves of "illegal strikes" launched by workers with no visible leaders in recent years in a fairly calm and even-handed manner, primarily by organizing "task forces" (TFs) which conciliate between employers and these seemingly leader-less and unregistered associations of workers. While the present goal of the newly-established National Industrial Relations Commission is to have a normal union-employer system of collective bargaining and a government-led system of dispute settlement in place in the new market economy sectors, some transition IR measures can not be avoided such as the formation of these task forces and the enhancement of TF members' skills in conciliation-mediation as well as the development of policies

may require not only rules to be followed in the conduct of a lawful strike but also the institutionalization of mechanisms which minimize strikes such as preventive mediation and plant-level procedures in the processing of grievances

- Social dialogue is at the heart of positive industrial relations. For dialogue to work, however, there should be open and honest communication between the parties. Social dialogue should be promoted at the firm, industry and national levels⁸. It can also be a dialogue of the bipartite or tripartite social partners.
- Positive IR also requires capacity building in all areas of IR or employment relationship, be it in dispute settlement (e.g., skills in conciliation, mediation, arbitration, etc.) or CB/social dialogue (e.g., building up trust or opening lines of communication), or in the enactment of needed laws (e.g., benchmarking with legal regimes of other countries) and so on. It is in capacity building where ILO can be of greatest help to the tripartite partners in the ASEAN.
- Building a regime of good (or best) IR practices at the firm, industry and national levels requires benchmarking at home and beyond national boundaries. Good IR practices can cover the whole gamut of employment relationship – from recruitment to deployment, from training to compensation, from union recognition to collective bargaining, from grievance handling to litigation of a labour dispute, and so on.
- Positive IR is central in the smooth or better management of industry as well as country adjustments (bipartite or tripartite) to the difficult challenges posed by the regional economic integration and the global economic crisis. In relation to this, the Asia-Pacific ILO-ADB-UN seminar on the global economic crisis held in Manila February 18-20, 2009 came up with the following recommendations:
 - Countries should develop comprehensive (well-rounded) and coherent (involving all sectors, including the labour and finance ministries) stimulus packages to sustain growth and jobs.
 - Social dialogue and collective bargaining are necessary in assisting employers and workers in coming to an agreement on difficult issues such as flexible hours, wage and benefit adjustments, temporary lay-offs and separation packages.
 - There should be maximization of efforts by all concerned for the preservation of good quality jobs.
 - Governments can launch quick-job-creating labour-intensive projects in order to help retrenched and distressed workers.
 - There should be support measures for the small-and-medium enterprises (SMEs), which account for the bulk of the employed in every country.

encouraging leaders of the “illegal strikes” to surface, join the duly-recognized national labour formation and lead the workers in a truly legitimate fashion.

⁸ Social dialogue can take place at the following levels – first, between employers and employees in relation to the terms and conditions of employment; second, between employers and employees over the functioning of an enterprise; and third, between social partners and public authorities on social and economic policy. See Gai, Dharam, 2002. Decent work: Concepts, models and indicators, Geneva: ILS.

- Special government social assistance or protection should be targeted for the most vulnerables in the labour market.
- Indebted countries and international creditor institutions should negotiate for the relaxation of tight fiscal conditionalities which collide with the urgent requirement for economic stimulus.

During the Bogor Seminar proper, specific country experiences on good IR practices were highlighted. These include the following:

- Cambodia: system of determining the most representative organization to represent the workers in the CBA process in place (to solve problem of bargaining in an enterprise with multiple unions); system of conciliation-mediation to resolve disputes at the enterprise level also in place; and development of a tripartite but independent Arbitration Council to settle disputes unresolved at the enterprise level.
- Indonesia: all core ILO conventions ratified (mostly after the 1997-98 Asian financial crisis); new legal framework to promote labour rights institutionalised; most effective way to settle labour disputes is still through face-to-face or direct negotiation between labour and management, with no third party intervening between the two parties.
- Japan: new legislative initiatives to secure fair treatment for part-time workers and to promote the transformation of part-time workers into regular workers; increased labour-management dialogues on productivity in response to the global crisis; successful efforts of some unions such as JSD to organise the “non-standard” employees and to forge “global framework agreement” with Japanese multinationals.
- Philippines: constructive role of social dialogue and tripartism in stabilizing the IR system in good and bad times in the last three decades; case studies of how legalistic and adversarial process of collective bargaining transformed into cooperative and productive one through good-faith bargaining, trust and better communication between the parties.
- Singapore: positive response of the government to the global crisis through tripartite dialogues; National Trade Union Council demonstrates how unions can undertake programs to save jobs by helping companies to cut costs without laying off workers and helping workers “up-skill, re-skill” so that they can easily be redeployed.
- Viet Nam: settlement of disputes through a direct negotiation between or among the parties themselves in the place where the dispute has occurred; formation of special task forces to settle “illegal strikes”; employer organisation collecting ideas among employers on good employment relationship and monitoring of activities relating to employment regulation.

IR challenges and tasks in an integrating ASEAN

The Bogor Seminar is clearly blazing a new path in the ASEAN integration process by helping the Association address the labour dimension of regional integration through the identification and propagation of good IR practices. The Seminar is a rich documentation of good IR practices, which can be further fleshed out and popularized in each ASEAN member country. However, the tripartite IR actors in every country have to refine or blend these practices in the context of their country's own history, tradition, culture and norms. For as Abhik Ghosh put it, there is no such thing as "one-size-fits-all" in industrial relations.

It is also clear that upgrading an industrial relations system requires a holistic, not a segmented or piecemeal approach. Thus, the efforts of the ASEAN and the ILO to come up with the draft guidelines on good IR practices in a comprehensive way are most welcome. What this Consultant did was to cluster these in accordance with the key components of a national IR system: enabling legislative framework, bipartite cooperation, tripartite dialogue and fair and effective dispute settlement machinery. Sometimes, one loses sight of the other components if one gets obsessed only with one component, for example, focusing on labour-management cooperation without addressing issues under the legal framework and dispute settlement. In this connection, the Bogor Seminar and the Seminar participants and organisers were able to come up with good IR practices under each component. However, there are some underdeveloped areas which the ASEAN and ILO may wish to give special attention, to wit:

- Enabling legal framework. One major challenge here is how ASEAN and ILO can help member countries which have a low rate of ratifying core ILO conventions improve this rate and develop or upgrade the national legal systems in order to conform with these conventions. This will definitely require some in-depth tripartite consultations also.
- Bipartite cooperation. It is well-known that industrial disputes emanate at the enterprise level; hence, a good IR system and good bipartite practices at the enterprise level, e.g., collective bargaining and labour-management consultation/cooperation system, help minimize disputes. However, one critical bipartite IR institution that was hardly touched in the Seminar is the grievance machinery, which should be in place in all enterprises, unionised or not. Unprocessed, small grievances tend to fester and grow until they become big labour cases or disputes. Capacity building in resolving disputes, especially in small-and-medium enterprises, is a desirable program in most countries of the ASEAN.
- Tripartite dialogue. Some countries are fairly advanced in the practice of tripartism, with clear structures and processes. It will be a good idea to have an exchange or sharing of experiences in tripartism, starting with an ASEAN-ILO documentation of tripartism in the ASEAN, with a special focus on what works and what does not.
- Effective dispute settlement. In some ASEAN countries, the system of dispute settlement is a work in progress. In fact, some countries have underdeveloped labour laws and dispute settlement mechanisms. The ASEAN and ILO can undertake joint mission or assessment of some country experiences, with a view of helping identify policy options.

The way forward in the coming months?

One way is to tighten further the ASEAN-ILO partnership on the conduct of varied activities – research, documentation, training, consultation, publication, propagation, etc. – to promote the ASEAN-ILO/ Japan IR program on good practices based on the results of the Bogor Seminar and the list of other doables as outlined above. Another possibility is for the ASEAN and ILO to give the proposed ASEAN/ Asian IR Network more attention by providing the needed resources for the network to take off, e.g., development of a network of cooperating IR institutions and researchers, conduct of researches and training, and so on. Or both can be done.

The whole point is to make Bogor the start of a positive new era of industrial relations in the ASEAN.

* * * * *

One Vision, One Identity, One Community

www.asean.org