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



ASEAN-ILO/Japan Industrial Relations Project

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Second Regional Seminar
on
Industrial Relations in the ASEAN Region**

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Foreword

The importance of industrial relations within the ASEAN region is stipulated in the ASEAN Socio-Cultural Community Blueprint and is amongst the International Labour Office (ILO)'s regional priority areas. In line with this, the ASEAN-ILO/Japan Industrial Relations Project promotes sound and harmonious industrial relations in the ASEAN region. The project started in 2008 as one of the components of ILO/Japan Multi-bilateral Programme on the basis of the outcome of the ASEAN-Japan Programme on Industrial Relations, which started in 2002, with the support from the Ministry of Health, Labour and Welfare of Japan. The project keeps the position of ASEAN projects in close cooperation with ASEAN Secretariat and is operated by the ILO, with full involvement of representatives of employers and workers' organizations in the region in the design, implementation and impact assessment of the project and its activities.

Regional seminar on industrial relations in the ASEAN region is one of the key activities, held on an annual basis. Tripartite participants from the ASEAN countries and Japan were invited to actively participate in the seminar.

This report highlights the discussions during the Second Regional Seminar on Industrial Relations in the ASEAN Region which took place on 3 and 4 February 2010 in Kuala Lumpur, Malaysia. The idea of publishing this report including its annexes (country papers on good industrial relations practices) originated from the joint aspiration of the ASEAN Secretariat and the ILO Regional Office for Asia and the Pacific to disseminate to a wider audience the good industrial relations practices shared by the tripartite representatives of the ASEAN member states during the seminar.

Carrying the theme "Emerging industrial relations issues and trends in the ASEAN countries in the time of financial and economic crisis", the report provides examples of how ASEAN member states have sought to maintain and promote good industrial practices in the context of a rapid structural adjustments resulting from the spreading global financial crisis and measures they have taken to address the issues. Sharing experiences and building capacity of the social partners to engage in constructive dialogue to address the crisis issues at different levels have also been identified by many trade unions and employers' organizations as a priority. The seminar is one good example of such initiatives.

We would like to express our appreciation to the Ministry of Health, Labour and Welfare of Japan for the continued support to the project, to the ASEAN Secretariat for its cooperation in implementing the project, the Ministry of Human Resources of Malaysia for hosting this seminar, and to all seminar participants.

Sachiko Yamamoto
Regional Director
Regional Office for Asia and the Pacific

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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



HIGHLIGHTS OF THE SECOND REGIONAL SEMINAR ON INDUSTRIAL RELATIONS: “EMERGING INDUSTRIAL RELATIONS ISSUES AND TRENDS IN THE ASEAN COUNTRIES IN TIME OF FINANCIAL AND ECONOMIC CRISIS”

**3-4 February 2010, Impiana Hotel & SPA KLCC,
Kuala Lumpur, Malaysia**

INTRODUCTION

1. The Second Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project was held on 3-4 February 2010 in Kuala Lumpur, Malaysia, with the caption “Emerging Industrial Relations Issues and Trends in the ASEAN Countries in Time of Financial and Economic Crisis”. The seminar aims at providing opportunity for ASEAN member countries (tripartite) to discuss and share good industrial practices in the context of financial and economic crisis, is the second regional activity under the ASEAN-ILO/Japan Industrial Relations Programme, which has the following objectives:

- To promote constructive industrial relations among the ASEAN countries;
- To support the ASEAN Secretariat in building its capacity to disseminate knowledge and information about industrial relations among its members; and
- To strengthen the relationship between the ASEAN and ILO Regional Office for Asia and the Pacific.

2. The seminar was hosted by the Ministry of Human Resources (MOHR) of Malaysia. MOHR organised the two-day seminar together with the ILO Regional Office for Asia and the Pacific in Bangkok and the ASEAN Secretariat. The Seminar was supported by Ministry of Health, Labour, and Welfare (MHLW) of Japan and the International Labour Organization (ILO).

3. The seminar was attended by tripartite representatives from the government, trade unions and employers’ organisations of Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Thailand, Viet Nam and Japan. The representatives of MOHR, the ASEAN Secretariat, ILO, International Trade Union Confederation – Asia-Pacific (ITUC-AP) and the ILO Association of Japan also attended. The list of delegates and attendees appears as **ANNEX 2**.

OPENING MESSAGES

4. **Dato' R. Segarajah, Secretary General, Ministry of Human Resources, Malaysia,** honoured and gratified for Malaysia to be hosting this seminar on industrial relations. Special mention was given to the International Labour Organization (ILO) and Government of Japan for their consistent technical support and assistance in making valuable projects of this nature possible, which in turn should assist the ASEAN member countries to share experiences, exchange views, practices and pertinent problems faced in common, and to deal with the emerging industrial relations issues confronting the tripartite partners in the light of current economic crisis.

He expressed hope that the recommendations derived through the seminar could facilitate discussions among the social partners, to address and tackle the various emerging issues during the economic downturn, with the view to secure continued sound and quality industrial relations in the respective countries. Given the present challenges and uncertain economic circumstances, the priority of the Malaysian government is to heighten the collective engagement and building consensus to deal with industrial issues between the social partners, through regular social dialogue and consultations. The Government highly values tripartism which had for the last decade facilitated the nation with a sound industrial relations environment.

Malaysia has consistently endeavoured to ensure prompt resolution of industrial disputes through preventive strategies to minimise labour dislocation and retrenchment. He also noted that today's uncertain economic environment demands progressive and productive labour-management relations and cooperation, which has prompted the Ministry of Human Resources, Malaysia to promulgate its Strategic Plan Objectives 2008-2010 in realising the Decent Work Agenda for the Malaysian workforce.

The Malaysian government had also embraced **1Malaysia**, a unifying concept, to integrate efforts and by being inclusive among every Malaysian to work as one team in the collective pursuit of accomplishing one common goal of realizing the developed nation status by the year 2020. His full speech appears as **ANNEX 3**.

5. **Mr Taro Muraki, Assistant Minister, Ministry of Health, Labour and Welfare, Japan,** noted that the seminar is a forum where all participants can present and share the good practices or case studies in their respective country. Through the active participation in discussion and deliberation, it is hoped that it would promote harmonious bipartite relationships in the workplace and eventually help in overcoming the current economic crisis. Regarding the current economic downturn, he quoted a Japanese proverb "After the rain, the ground becomes more solid" which means a situation would be better after overcoming a particular hardship.

He further emphasised the importance of consultations between workers/union and employer to help build sound and harmonious industrial relations and thus contribute to quick recovery from crisis. Finally, Mr Muraki stressed that the outcome of this seminar would help to define a roadmap which includes the development of toolkits that would improve workers' skills and maintain good management of companies for economic prosperity and the realisation of Decent Work Agenda in ASEAN countries. His full speech appears as **ANNEX 4**.

6. **Mr Bill Salter, Director of the ILO Subregional Office for East Asia, Bangkok** thanked the Ministry of Human Resources, Malaysia, Ministry of Health, Labour and Welfare of Japan and ASEAN Secretariat for jointly organise the seminar. In light of the severe economic downturn, tripartite consultations and collective bargaining were vital in helping to guide a sustainable

recovery. The ILO had responded to the crisis by developing and achieving broad consensus on a Global Jobs Pact (GJP) where governments, communities, enterprises and social partners, through social dialogue had determined specific measures to address the effects of the crisis and to emerge with more balanced national and global economies. The GJP provides a tool box of policy responses that has been discussed and approved by tripartite constituents at the International Labour Conference.

Social dialogue can be bipartite, tripartite and may also involve other parts of society in order to gain wider perspective and consensus. He cited some examples of regional social dialogue held at European level within the European Union, and MERCOSOR, a regional trade bloc in Latin America. Trust, respect, the willingness to make compromises and share information, and the capacity and ability to implement decisions are crucially important in order to arrive at decisions at national, sectoral, or enterprise level.

He also highlighted a few points to be considered and adopted by the ASEAN member countries such as involving social partners in policy design at all levels, ensuring fundamental principles and rights at work are observed during the crisis, and rebalancing development strategies and cooperation among Asian countries. He ended his message by encouraging the participants to actively contribute and share their ideas and experiences in tackling the global economic crisis. His full speech appears as **ANNEX 5**.

Social impact of the global financial crisis

7. **Dr Donald Tambunan**, Head of Social Welfare, Women, Labour and Migrant Workers Division, ASEAN Secretariat, opened the seminar by expressing the ASEAN's appreciation towards the efforts of the MOHR, Malaysia in organising the seminar. He also thanked the ILO and the MHLW of Japan for making the seminar happened under the ASEAN-ILO/Japan Industrial Relations Project. Later Dr Tambunan introduced the delegates on what ASEAN is currently working on to address the global financial crisis. He informed that ASEAN, led by the World Bank Team (with funding support from Australia), had conducted an assessment on the social impacts of the global financial crisis and he welcomed views or inputs from the participants on the subject matter. He then mentioned the objective of the study is to carry out a regional review on the social impact of the global financial crisis and policy responses in ASEAN member countries. Dr Tambunan explained that the methodologies used for the studies are based on secondary data which was obtained from the relevant agencies of each member country. He then outlined the main findings of the assessment:

- Unemployment rates remained fairly stable, but with significant adjustments in employment;
- Pace of poverty reduction decreases, impacts on health and human capital remain unclear as insufficient data collected on the subject matter;
- The effects on employment and earnings are at the core of the crisis;
- Social safety net responses varies-cash transfers of various types;
- Pre-existing social protection programmes shape the set of feasible crisis response options and it is so important to have solid blocks upon which to build, particularly in areas of social impact monitoring, targeting, institutional capacity and coordination.

He concluded that it is pertinent for the countries to address the issues so as possible actions be taken at both country level and regional level. He added that social protection programmes play

a very important role in mitigating the impact during times of financial crisis. He informed the participants that the above finding was prepared by World Bank, although ASEAN has the draft report, but was unable to share it with the participants at the moment.

SELECTED COUNTRY PRESENTATIONS ON EMERGING INDUSTRIAL RELATIONS ISSUES AND TRENDS IN THE ASEAN COUNTRIES IN TIME OF FINANCIAL AND ECONOMIC CRISIS

A. Social dialogue

8. **The Philippines** was represented by **Ms Ma. Elena Hernandez**, Director II of the National Conciliation and Mediation Board, Department of Labor and Employment. She gave an overview of the labour market scenario in Philippines which consists of locally employed workers and overseas Philippines workers. She pointed out that several policy measures were undertaken to ensure protection of workers' welfare, especially DoLE Advisory No. 2 on Flexible Work Arrangements, Executive Order No. 782.S.2009 requiring the allotment of 1.5 per cent of the Maintenance and Other Operating Expenses of agency budget for hiring displaced workers or their dependants, and R.A. No. 9504, Tax Exemption for Minimum Wage Earners policy which exempts minimum wage earners from paying income tax. Several other programmes were implemented, such as ERP or Economic Resiliency Plan which serves as the main plan consisting of a stimulus package with a total budget of 330 billions. Furthermore, the government formulated the Comprehensive Livelihood and Emergency Employment Program (CLEEP) to protect the most vulnerable sector.

Jobs and Livelihood Fairs held by tripartite partners showed important results, with the involvement of about 8,500 companies; 40,000 local jobs and 200 overseas jobs were offered, and about 10,000 people were hired immediately. Nevertheless Philippines continues to face impact of the global financial crisis on labour and employment via the increase in unemployment and underemployment. IR challenges continue to surface, such as the inability of regulatory institutions to enforce labour standards, pervasiveness of informal and non-traditional forms of employment, vulnerability of the workers to reduction of income and increase in expenditures which make collective negotiations more difficult. In order to overcome the challenges, the government had to intervene with the view to find a solution for the affected workers.

Ms Hernandez opined that close cooperation between the tripartite partners is crucial to reduce the problems in the workplace.

9. **Viet Nam**, represented by **Ms Nguyen Thuy Linh**, expert from the Ministry of Labour, Invalids and Social Affairs (MOLISA), shared the experience in industrial relations issues and trends in Viet Nam. Presenting information from the General Statistics Office, she commented that Viet Nam's financial market has been severely affected as reflected by the drastic drop in direct and indirect foreign investment coming into Viet Nam. Meanwhile, statistics have shown that the inflation rate for the year 2008 was about 22.97 per cent, the export turnover had decreased by 9-7 per cent from the year 2008 and the tourism service revenue had also decreased by 22.4 per cent. Giving a brief introduction on the industrial relations scenario in Viet Nam, she said the system has not been fully run on free market principles and the government is required to play a central role in leading and balancing the system via administrative machinery. Establishing the National Labour Relation Commission in late 2007 has been seen the new step of Viet Nam's government in strengthening social dialogue at central level and building

cooperative labour relations in enterprises. Likewise, the systems of labour arbitration, labour conciliation as well as labour court have been in place but they are not active.

Ms Linh also described the tripartite mechanism in Viet Nam which is active at central level but was not applied widely at provincial and enterprise level. She further pointed out that there are advantages and disadvantages in the tripartite mechanism resulting positive and negative impacts on industrial relations during economic crisis. She concluded her presentation by saying co-operation between the bipartite partners through social dialogue is essential in managing the crisis.

10. **Lao PDR** was represented by **Mr Onevong Keobounavong**, Director of Labour Management Division, Department of Labour Management, Ministry of Labour and Social Welfare. He began his presentation by pointing out that due to the financial and economic crisis, the GDP growth had declined to 5 per cent in year 2009. Besides that, financial market in Lao PDR is undeveloped due to reduced foreign direct investment, reduced demand for export and reduced tourism activity in Lao PDR. He said the global financial crisis has affected Lao PDR's households with the reduction of overseas remittance and also quality of life apart from affecting the rate of employment and wage offered in the workplace. He added that the government has responded to the crisis through:

- Organising governors provincial meeting;
- Reduction of number of working hours so as to save jobs for the workers;
- Organising social dialogue/meetings among tripartite partners on industrial relations to reduce labour disputes;
- Providing consultation service to employers and workers;
- Enforcement of labour law-on payment of wages;
- Continuous support to Prime Minister's policy on sending Lao PDR workers to abroad;
- Supporting the MOU between Lao PDR and Thailand on employment.

Mr Keobounavong concluded that industrial relations strategies implemented in Lao PDR placed high emphasis in organising regular tripartite social dialogues, upgrading knowledge of the social partners on labour matters, providing consultation to employers, workers as well as public, disseminating knowledge on labour law and collective bargaining apart from revising some articles of the labour law from time to time.

Open discussion on social dialogue

11. In the open discussion, Mr Mohd Jeffrey Joakim, Deputy Director General of the Department of Industrial Relations, MOHR, Malaysia, as moderator for the session, urged the participants to share their country experiences in response to the global economic crisis. There is a startling uniformity in the answers in facing the global economic crisis – all countries are promoting tripartite and bipartite social dialogues as a flexible and practical tool to manage emerging industrial relations issues and trends in time of financial and economic crisis.

Emphasis and significance of social dialogue in all circumstances should not be taken for granted as the requirement for social dialogue in ASEAN region is not the same given the fact that it varies from one country to another according to the peculiarity of the country itself. The

participants felt that common understandings among the tripartite and bipartite partners are vital to achieve positive outcome for the parties. Constructive industrial relations was said to be capable of promoting decent work, common welfare, common interests and labour standards. Finally, it was concluded that conducive conditions of economic climate and fair distribution of the fruit of success to the respective stake holders are essential in achieving peaceful and harmonious industrial relations.

B. Collective bargaining

12. **Malaysia**, represented by **Mr Jack Meredu Ak Ko** from the Industrial Relations Department, Ministry of Human Resources, Malaysia shared the collective bargaining experience in Malaysia. He highlighted the legal frame work which operates the industrial relations system of the country based on the Industrial Relations Act 1967(IRA), Trade Unions Act 1959, Employment Act 1955, Sarawak or Sabah Labour Ordinance and the definitions of collective bargaining, collective agreement, dispute settlement and management prerogatives. Under the IRA, he said the collective bargaining process should begin after recognition has been accorded by the employer, when there is an invitation to negotiate the proposal for collective agreement is initiated.

However trade dispute may deem to exist if one party refused to negotiate and in such situation the other party may notify the Director-General for Industrial Relations who will take the necessary steps to bring the parties to negotiate. Mr Jack remarked that should negotiation, conciliation or collective bargaining between the parties fail to conclude any collective agreement, the IRA provides an avenue for the trade dispute to be referred to the Industrial Court for an award. He added that collective bargaining is a dispute settlement process which not only requires pragmatic negotiation art and skill but also requires parties to be realistic and rational in their expectations. The success of the collective bargaining process in Malaysia reflects the existence of close cooperation between employer and union in giving priority to maintain harmonious relationship in the workplace, and he concluded that the dispute resolution machinery under the Malaysian industrial relations system through collective bargaining as well as tripartite consultation and dialogues is one of the key factors that has contributed to the workplace cooperation and employer-union cordial relationship in Malaysia.

13. **Cambodia** was represented by **Ms Alessandra D'Amico**, Secretary General of Cambodian Federation of Employers and Business Associations (CAMFEBA). She provided an introduction to the Cambodian government administrative system and of its social and economic background in general. Collective bargaining agreement is relatively still a new concept and currently concluded only in industries such as tourism, garments, banking and construction with a total of 158 CBAs as of November 2009. Cambodia is still in the process of learning about collective bargaining and there are challenges such as different interpretations of the concept between the parties concerned. Other problems faced by the country are the lack of diversification in the industries and multiplicity of union whereby the law allows an enterprise to have more than one union.

Ms D'Amico stated that CAMFEBA supports the practice of CBA but she believed that it is still not the right time to promote it now due to factors such as poor enforcement of labour law by the government, poor knowledge of the workers on global economic situation and the lack of legislation to punish those going on illegal strikes. Nonetheless CAMFEBA is promoting CBA among employers in the country by conducting training on bargaining and negotiation techniques.

Thus far it had revised and reprinted the IOE and ILO ACT/EMP's *Guidebook for Employers on Strategic Collective Bargaining*. In conclusion, Ms D'Amico said although the process of collective bargaining is not wide spread, Cambodia has in general accepted the CBA concept in accordance with the ratification of Conventions No. 87 and No. 98.

Open discussion on collective bargaining

14. This session was held without a chair, and began with a question from Japan posed to Malaysia pertaining to whether termination and dismissal are considered part of management prerogatives and they are not allowed to be negotiated and incorporated into the collective agreement. The Malaysian representative responded that such matters are clearly stated in the IRA.

The representative from Singapore wished to enquire from Malaysia whether collective agreement that had been taken cognizance or awarded by the Industrial Court is given some transparency on its content to other trade unions. The meeting was informed that information contained in the collective agreement is publicly available at the Industrial Court.

To another question from ILO whether the word "arbitration" used in the context of Malaysian Industrial Court is similar to court proceeding, the Malaysian representative's answer was that within the legal framework of the IRA, the Industrial Court is considered as tribunal and arbitration is the process of the Industrial Court to adjudicate disputes arising from the relationship between the employer and the workmen or their respective union. In the event a party is dissatisfied with the award handed down by the Industrial Court, an application for judicial review may be filed at the High Court to quash the said award.

C. Dispute prevention

15. **Thailand**, represented by **Mr Pornchai Saengaroon**, Chairman of Labour Relations sub-committee, Employers' Confederation of Thailand shared the experience of Thailand in the face of the recent economic crisis. According to Mr Saengaroon, Thailand was not spared the impact of the world financial crisis and its economy was badly affected by the global economic recession, preceded by the oil price shocks and inflation. This led to a reduction in FDI, affecting demand for employment, resulting in large numbers of business closures and lay-offs. In the course of deliberation, he cited a situation faced by a company which had terminated the employment of 1,959 staff due to the impact of the economic crisis. The Department of Labour Protection and Welfare then organised a tripartite discussion resulting the employer's agreement to compensate the laid-off workers. The representative from Thailand had also described the *Government Policy* promulgated by the Prime Minister and *Urgent Policy* of the Ministry of Labour aimed to relieve the hardship of the employees affected by the economic crisis.

In coping with the economic crisis in Thailand, Mr Saengaroon, said the government had taken various measures to help particularly the laid off workers, labourers in the rural agricultural sector and new graduates who are unemployed. Among these strategies, the most notable were the measures of '3 Reductions, 3 Increases' which in essence means the reduction of termination of employment, reduction of labour mobility, reduction of living costs of employees, the increase of employment and jobs, increase of job opportunities and the increase and upgrade of labour skills.

In his subsequent narration, as dispute preventive measures in the workplace, he outlined the requirement to:

- Share information with the workers;
- Consult and cooperate between bipartite partners;
- Consult each other to seek reduction of employment;
- Be sensitive to the needs of the employees;
- Be cautious of the crisis faced by the enterprise.

In conclusion, he noted that tripartite cooperation is an important mechanism that helps to prevent and resolve disputes between the employers and their employees arising from time to time in the workplace, but added that there is still room for improvement in the tripartite mechanism to achieve better dispute resolution.

16. **Indonesia** was represented by **Mr Rekson Silaban**, President of Confederation of Indonesian Prosperity Trade Union. He began his presentation with statistics that reveal 90 per cent of the workers in Indonesia are in small and medium enterprises and out of which 70 per cent are in the informal sectors. He gave an overview of the industrial relations situation in Indonesia during the Pre Reformation Era and the Reformation Era. Relevant legislation was supplemented by company regulations, collective labour agreement, bipartite cooperation body, tripartite cooperation body and trade unions aimed to resolve problems and disputes peacefully through negotiation at bipartite level. Collective agreements could be formulated by way of bipartite negotiation, mediation, conciliation or arbitration. He later highlighted the impact of the global financial crisis in Indonesia and strategies taken by the Department of Manpower through measures such as consolidating the employer-workmen rapport via tripartite consultation, promoting effective bipartite communication and improving the effectiveness of mediation settlement mechanism to overcome the challenges ahead. In his concluding remark, Mr Silaban spoke about the long time frame taken by the government agencies based on the existing labour law to settle disputes. He felt that before the disputes worsen, it is imperative to have them resolved expeditiously.

17. **Japan** was jointly represented by representatives from the Japanese government, trade union and employer in the presentation. **Mr Taro Muraki** and **Mr Shojiro Yasui**, representing MHLW, gave an overview of the historical background and characteristics of the Japanese industrial relations system with special reference to the three principles of productivity based on the *Productivity Improvement Movement* and the unique practice of *Spring Wage Offensive* in which a total of 10 million union members (in 2009), comprising of approximately 18.5 per cent of the national workforce are involved.

In his subsequent deliberation, Mr Yasui briefed the participants on four case studies pertaining to success practices that had been applied at enterprise, industry and national level in response to economic crisis. The first case study elaborates on how the strategies in tune with the *Productivity Improvement Movement & Spring Wage Offensive* were implemented in the 1950s and the problems that subsequently surfaced nationwide before Japan reaped the fruit of success in post war economic recovery. It was said, besides putting the country's economy on a strong foundation, both the *Productivity Improvement Movement & Spring Wage Offensive* strategies had contributed to better bipartite cooperation rendering sound and stable industrial relations in Japan. Case study 2 portrays about the provision of employment adjustment subsidy to workers in Japan with particular amount of money when they turned into temporary or training leave. Sourcing

from insurance premiums paid by employers to the government annually, the Employment Adjustment Subsidy System established since 1974, which subsidises a partial amount of wages to employers, was aimed at promoting harmonious industrial relations and maintaining employment in the enterprise. The said policy was said to have the effect of maintaining employment which in turn bring about closer cooperation and trusted bipartite relationship. Case study 3 is about the introduction of works council system in the workplace which facilitates mutual communications between workers and their employer, apart from providing support and guidance to enterprise-based unions confronting with problems. Under the said system, *Guidelines for Responding to Management Issues* will have to be developed by industrial unions to enable better information sharing with the employer and establishing a cooperative relation on promoting productivity through better understanding of the company's policy. The system also provides for a manual on how to respond to workforce reduction exercise called *Guidelines on Responding Rationalization* so that the union could better prepared itself with the workmen in the face of a rationalization proposal, which is accelerated by focusing on EBITDA (earnings before interest, taxes, depreciation and amortization) than net profit. The works council system was said to have worked well in dispute prevention and has a role in promoting bipartite relationship of trust in the workplace. Finally, case study 4 is based on the success story of a steel production company having strived hard on preventing labour disputes and maintaining employment, had successfully built a long-term relationship of trust with the union through the assistance of the works council system. Mr Yasui attributed the success of the company to its willingness to hold regular *earnest social dialogues* and *three-level social dialogues* with the workers on issues surfaced in the workplace.

In his concluding remark, he emphasised the following good practices in the Japanese experience:

- The prevalence of regular consultation through works council system;
- Vitality of maintaining the employment in the company and;
- Sense of unity between the management and workers that has become a background of sound industrial relations.

18. On the other hand, the Japanese Trade Union Confederation (JTUC) – Rengo, represented by **Mr Shigeru Nakajima**, discussed about dispute prevention mechanism in Japan. In the course of his deliberation, he gave an outline on the structure of the Japanese trade unions which is divided into 3 levels namely, the national confederation, industrial federation and enterprise based union. It was said the Japanese at large are working continuously on bipartite basis in the prevention of disputes in which the tools used in the said prevention are basically the respect and trust between the employer and the union.

19. **Mr Toshio Suzuki** gave the Japanese employers' perspective that gain sharing takes a very long process to build up the trust among the parties in the workplace. Bipartite counterparts not only need to discuss about issues of gain sharing but it is imperative to have common understanding on how to enhance productivity in the context of dispute prevention.

Open discussion on dispute prevention

20. In the open discussion, Ms Alessandra D'Amico, from the Cambodian Federation of Employers and Business Associations, as moderator for the session, urged the tripartite participants to share their country's experience in response to the global economic crisis in the context of dispute prevention. There was uniformity in answers from all countries - that dispute

settlement is essential in constructive industrial relations and the social partners are striving hard to settle disputes in an amicable manner. It was agreed that reduction of tension among employers and workers through tripartite consultation will be the key to dispute prevention with the pre-condition that dispute settlement must be fair, prompt and less costly. In handling disputes, the issues should be separated rationally as common issues and conflicting issues need to be dealt with different approaches. Ms D'Amico concluded the session with the perspective that environmental, political and economic changes have a bearing on dispute settlement according to its peculiarity. The time frame involved in settling disputes is key factor in determining the success of dispute prevention and settlement in ASEAN region.

D. Changing forms of employment/new employment relations

21. **Singapore** was represented by **Mr Joon Hong Daniel Yap**, Head (Operations Planning), Standards Compliance, Ministry of Manpower, Singapore. Applying statistics, Mr Yap explained about the trends of employment in Singapore in which in the present time many of the employment opportunities have emerged particularly in the form of short term contract. It has been observed that a significant proportion of employees on short term contract in Singapore are mature workers, less educated and earning less than the permanent workers. Apart from that, he had also observed that one of the challenges faced by the government with regard to the short term contract workers is that majority of them are from the service sector where many employers are prone to outsourcing the non core functions of the company.

Apart from those predicaments, short term workers are also considered as low skilled manifesting tendency of low productivity and income growth. In his deliberation, he said the Singapore government took a tripartite approach by setting up a tripartite committee on “CPF and Work Related Benefits for Low-Wage Workers” in 2007 to address issues such as employment conditions and employability facing the low wage contract workers. To address the said issues, Mr Yap mentioned the three-prong strategy adopted with the tripartite partners namely, the strategy to educate the workers and employers on their rights, obligations and good practices, the strategy to provide skills enhancement and job-redesign to improve employability and finally the strategy of targeted enforcement on employers who hired contract workers and are prone to non compliance of the labour law.

Through a case study on the private security sector, he illustrated the measures taken in tackling issues relating to working conditions and the employability of security officers and the results manifest that there is greater compliance of the employment laws, more female officers are joining the industry and the salaries are improved. In conclusion, Mr Yap was optimistic that contract employment in Singapore will continue to grow and challenges facing the workers continue to be relevant despite tripartite efforts are being taken.

Open discussion on changing forms of employment/new employment relations

22. This session was chaired by **Mr Taro Muraki** from MHLW, Japan.

Delegate from Japan informed that Japan had established the safety net for non-regular workers in the country. They also commended Singapore’s approach in tackling issues relating to contract or non-regular workers and wished to have an exchange of experience with Singapore pertaining to the mentioned issues.

Mr John Ritchotte from the ILO took the opportunity to commend Singapore for successfully applying the strategies in addressing issues of contract employees but he queried the government representative on recent reports that the reliance on low-skilled foreign workers was having a negative impact on productivity.

Singapore representative responded by admitting the issue but said Singapore has been striving hard to reduce dependency of the contract workers as well as foreign labourers.

Mr Rekson Silaban, representative from Indonesia disagreed with the current trend of outsourcing by employers which policy he considered as ‘victim of vulnerable world’ since there is no social security guaranteed and the workers involved are prone to be de-motivated. He reiterated that labour is not commodity and Indonesia is in the process of outlining a new scheme on outsourcing for the compliance of the employers.

Mr Syed Shahir Syed Mohamud from Malaysia expressed the view that the trend of unionism is declining throughout the region and prompt efforts to check the cause of the decline need to be carried out. Any restrictions which impede the formation of union as well as collective bargaining process should be abolished or rectified. He felt that there ought to be check and balance on the current outsourcing trend as he believed that the trend works against efforts promoting trade unionism.

Ms Christine Nathan from the ILO explained that informal worker is a trend in many developing countries. She strongly felt that the rights of an informal worker should be protected by law.

Ms D’Amico from Cambodia commented that there are a many challenges emerged in outsourcing. However, she disagreed with the accusation that employers are using outsourcing as a mean to get rid of workers. Outsourcing is relevant in the current economic scenario for some industries might benefit from it. Outsourcing the non core functions of the company may have the tendency of improving the productivity and level of expertise in areas such as security and cleaning services. She reiterated that flexibility of workforce is important and the government should legislate specific law to address the issue.

Ms Christine Nathan again took the opportunity to comment that the stakeholders should change their mindset as far as outsourcing is concerned. She said the current labour law needs to be reformed whereby the definition of workman ought to be revised so as it is in tune with time to encompass various newly categorised workers and these include outsourcing and contract workers. She felt that the government has a big role in tackling this issue.

Mr Joon Hong Daniel Yap from Singapore mentioned that Singapore has specific strategy to tackle the widening income gap between the low-wage worker and other categories of worker. Mr Yap later explained that the law in Singapore does not prevent contract workers from joining a trade union, he, however admitted that practically it is quite difficult for such workers to do so.

Mr Alejandro Capalad Villaviza from the Philippines (workers’ representative) informed that outsourcing is a big problem in his country and the government had fixed a limit of 20 per cent of the total workforce which can be outsourced. On the other hand, Mr Ranulfo P. Payos, the employers’ representative from the same country explained that outsourcing is very much relevant especially in seasonal industries and construction sector. He stressed that outsourcing currently is a common reality that everybody must accept but he admitted that there are some investors who use outsourcing to circumvent their obligations and laws.

Finally, **Mr Tadashi Nakamura** stressed the importance of striking a balance between security and flexibility of employment. He remarked that the solution to the problem should be left to be determined by the parties concerned.

(The various country presentations appear together as **ANNEXES 7-10**)

Summary of the seminar

23. **Mr John Ritchotte**, ILO Labour Administration and Labour Relations Specialist summarised the two-day seminar, starting with thanks for everyone's intensive participation. He highlighted some main issues as follows:

- It was important to recognise and respect the diversity of cultures, legal systems and industrial relations systems within ASEAN, while also recognising common fundamental principles and common challenges.
- The context of the meeting was the global financial crisis. ASEAN was quite proactive in responding, with a common focus on preservation of employment, retention of workers, and retraining. It was important to document and learn from these experiences to prepare for the next, inevitable, crisis. The Global Jobs Pact can play an important role in this regard.
- Genuine freedom of association is the cornerstone for genuine dialogue, industrial relations and collective bargaining. These need representative and independent organisations of workers and employers to function properly. Ratification of ILO Conventions 87 & 98 shows international commitment to upholding these principles.
- A common and repeated theme was the role of trust and the need for continuous practice to achieve effective social dialogue, based on experiences shared by Singapore, Indonesia, Malaysia, and the Philippines.
- Collective bargaining and dispute prevention was a major theme of the meeting. Philippines had shown some success by focusing on prevention at the enterprise level. Lack of trust was hampering collective bargaining over profit sharing in that country. Viet Nam faced the challenge of the changing role of the social partners in the transition to the market economy, while in Cambodia, multiple unions and a lack of experience and capacity had an impact on the emergence of collective bargaining, a matter that could only be addressed through practice. Cambodia also shared a unique experience in ASEAN with its Arbitration Council. Indonesia's experience with labour courts was also valuable.
- Changing forms of employment, in forms of subcontracting, outsourcing, triangular employment relationships, and the like, was taking place throughout the region. While too complex to summarize, two principles were noted:
 - a) Recognition of the need for flexibility
 - b) Recognition of the need to provide decent work for all workers
- The tripartite and interactive format of the meeting was also highly appreciated. Questions and answers among all parties enriched the discussion and brought real-world and practical experience into the discussion.

- He closed by expressing sincere thanks to the participants, the Ministry of Human Resource of Malaysia, the ASEAN Secretariat and the Ministry of Labour, Health and Welfare of Japan.

Proposal from the participants for the next regional seminar

1. ASEAN countries to have joint venture efforts in comparative studies.
2. Study on issues relating to small and medium-sized enterprises (SMEs), industrial relations and migration to be carried out.
3. The need of setting up an ASEAN Portal to facilitate regular exchange of information among the ASEAN countries.

Final remarks

24. **Mr Mohd Jeffrey Joakim**, Deputy Director General of Industrial Relations Department, Malaysia, felt it was an honour given the privilege to speak on behalf of the Secretary General, Ministry of Human Resources at the close of the seminar. He said the two-day seminar had witnessed active and productive discussion as well as sharing of useful knowledge and vital information among all the distinguished ASEAN participants and valued friends from the ILO, Japan and the ASEAN Secretariat to address current and emerging industrial relations issues and trends in the ASEAN region, in the light of the current economic crisis. He was pleased to note that in the course of the seminar, participants had strived to share as much pertinent views and experiences as possible within the limited space of time allotted, to impress upon parties how significant social dialogue, as a flexible instrument for consensus building, had played its role in achieving regional sustenance of progressive economic growth. It was noted, as he observed, how ASEAN region has strived to ensure as minimal industrial disputes as possible, to minimise labour dislocation and industrial friction which could impede persistence efforts towards economic recovery. He noted that papers presented in the seminar provide a glimpse of how the tripartite social partners in industrial relations are changing and some of the innovations that are bringing these changes about. He urged, given the challenges of the current time, all parties concerned to continue to expand the vision of the changes in the industrial relations system and explore the effects of these changes on the frontlines of innovation. Mr Mohd Jeffrey remarked that this Seminar must have immensely benefitted the attendees in the collective pursuit of realising the respective development agenda, especially in the area of industrial relations. Finally, he expressed his deepest appreciation and special thanks, on behalf of the Ministry of Human Resources, for the technical support of the ILO, the grant of financial assistance by the Government of Japan and assistance rendered by members of the ASEAN Secretariat in coordinating the organisation of the Seminar. His full speech appears as **ANNEX 11**.

Prepared by the Ministry of Human Resources,
Malaysia

**Second Regional Seminar on Industrial Relations: Emerging Industrial
Relations Issues and Trends in the ASEAN Countries in the Time
of Financial and Economic Crisis
ASEAN-ILO/Japan Industrial Relations Project
3-4 February 2010, Kuala Lumpur, Malaysia**

SEMINAR SCHEDULE

Wednesday 3 February 2010	
08.00 – 08.50	Registration
08.50 – 09.00	Delegates and guests to be seated
09.00 – 09.10	Welcome speech by Dato' R. Segarajah Secretary General Ministry of Human Resources, Malaysia
09.10 – 09.25	Opening remarks by Mr Taro Muraki Assistant Minister Ministry of Health, Labour and Welfare, Japan
09.25 – 09.45	Keynote address by Mr Bill Salter Director ILO Subregional Office for East Asia
09.45 – 10.00	Tea/coffee break
10.00 – 10.30	Social impact of the global financial crisis by Dr Donald Tambunan Head of Social Welfare, Women, Labour and Migrant Workers Division, ASEAN Secretariat
10.30 – 10.45	Social dialogue in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis – Philippines tripartite representative/s
10.45 – 11.00	Social dialogue in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis – Viet Nam tripartite representative/s
11.00 – 11.15	Social dialogue in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis – Lao PDR tripartite representative/s

11.15 – 12.30 **Open discussion: Social dialogue** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis*

Moderator: Malaysia government representative

12.30 – 13.45 Lunch

13.45 – 14.00 **Collective bargaining** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis* – **Cambodia tripartite representative/s**

14.00 – 14.15 **Collective bargaining** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis* – **Malaysia tripartite representative/s**

14.15 – 15.30 **Open discussion: Collective bargaining** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis*

Moderator: Indonesia workers' representative

15.30 – 15.45 Tea/coffee break

15.45 – 16.00 **Dispute prevention** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis* – **Indonesia tripartite representative/s**

16.00 – 16.15 **Dispute prevention** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis* – **Thailand tripartite representative/s**

16.15 – 16.55 **Dispute prevention** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis* – **Japan tripartite representative/s**

Welcome dinner hosted by Ministry of Human Resources, Malaysia

Thursday 4 February 2010

- 09.00 – 10.30 **Open discussion: Dispute prevention** *in the context of Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis*
- Moderator: Cambodia employers' representative**
- 10.30 – 10.45 Tea/coffee break
- 10.45 – 11.00 **Changing forms of employment/New employment relations – Singapore tripartite representative/s**
- 11.00 – 11.15 **Changing forms of employment/New employment relations – Brunei tripartite representative/s**
- 11.15 – 12.30 **Open discussion on changing forms of employment/New employment relations**
- Moderator: Japan representative**
- 12.30 – 14.00 Lunch
- 14.00 – 15.00 **Open discussion/brainstorming how to address the issues pertaining to Emerging Industrial Relations Issues and Trends in the ASEAN countries in the Time of Financial and Economic Crisis**
- Moderator: ILO**
- 15.00 – 15.30 **Closing session**
- Summary of the two-day discussion by Mr John Ritchotte, ILO Labour Administration and Labour Relations Specialist**
- Final remarks by Ministry of Human Resources
Mr Mohd Jeffrey Joakim
Deputy Director General of Industrial Relations
Department of Industrial Relations Malaysia**

**Second Regional Seminar on Industrial Relations
ASEAN-ILO/Japan Industrial Relations Project**

3-4 February 2010, Kuala Lumpur, Malaysia

LIST OF PARTICIPANTS AND RESOURCE PERSONS

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- 1. Ms Chanveasna Bo**
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Ministry of Labor and Vocational Training
- 2. Mr Kimheng Srey**
National Executive Committee
Cambodian Confederation Unions (CCU)
- 3. Ms Alessandra D'Amico**
Secretary General
Cambodian Federation of Employers and Business Associations (CAMFEBA)

INDONESIA

- 4. Ms Retna Pratiwi**
Head of Sub-Directorate Discrimination Analysis of Working Condition
Ministry of Manpower and Transmigration
- 5. Mr Ario Danardono (observer)**
Section Head Legitimacy Mediator, Conciliator and Arbiter Industrial Relations
Ministry of Manpower and Transmigration
- 6. Mr Rekson Silaban**
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- 7. Ms Endang Susilowati**
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LAO PDR

- 8. Mr Onevong Keobounavong**
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9. Ms Sengdavone Bangonsengdet
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Lao Federation of Trade Union

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President
Malaysian Trades Union Congress

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16. Ms Ma. Elena Hernandez
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17. Mr Alejandro Capalad Villaviza
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18. Mr Ranulfo P. Payos
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- 21. Mr Theng Loon Charles Ng**
Industrial Relations Consultant
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- 67. Ms Noraida Abdul Rahim**
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Ministry of Human Resources, Malaysia
- 68. Ms Suryati Shamsul**
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Department of Industrial Relations
Ministry of Human Resources, Malaysia

**Welcome speech
by the Secretary General
of Ministry of Human Resources of Malaysia**

**TEKS UCAPAN ALU-ALUAN OLEH YANG BERBAHAGIA DATO' R. SEGARAJAH,
KETUA SETIAUSAHA, KEMENTERIAN SUMBER MANUSIA
SEMPENA MAJLIS PERASMIAN "THE SECOND REGIONAL SEMINAR ON
INDUSTRIAL RELATIONS: EMERGING INDUSTRIAL RELATIONS ISSUES AND
TRENDS IN THE ASEAN COUNTRIES IN TIME OF FINANCIAL AND ECONOMIC
CRISIS" DI HOTEL IMPIANA KLCC, KUALA LUMPUR PADA 3-4 FEBRUARY, 2010**

Terima kasih Saudari Pengerusi Majlis.

1. His Excellency, Mr Taro Muraki
Assistant Minister,
Ministry of Health, Labour and Welfare, Japan.
2. Mr Bill Salter
Director,
International Labour Organization Subregional Office for East Asia.
3. Resource Persons from the International Labour Organization (ILO).
4. Members of the ASEAN Secretariat.
5. Senior Officers, Ministry of Human Resources, Malaysia.
6. Distinguished participants,
7. Ladies and Gentlemen.
8. Good morning and a very warm *Selamat Datang* to our ASEAN friends and guests from overseas to the Second Regional Seminar on Industrial Relations to address emerging industrial relations issues and trends in the ASEAN countries in time of financial and economic crisis. We are both honoured and gratified to be hosting this two-day Seminar on industrial relations.
9. I am glad to note that participants attending this Seminar comprise representatives from the workers, employers and government representatives of the respective ASEAN member countries in the true spirit of tripartism as well as the distinguished delegates from Japan and the ILO. I am convinced that the array of participants together with their multiplicity of knowledge and experiences, should bring forth practical ideas and workable measures that should facilitate the realization of our objectives in addressing emerging industrial relations issues and trends in times of economic downturns.

10. Special mention must be given to the International Labour Organization (ILO) and the Government of Japan as well as members of the ASEAN Secretariat for their unrelenting technical support and assistance in making valuable projects of this nature possible, for which I am confident should in one way or the other assist, the ASEAN member countries into integrating efforts, to share experiences, exchange views, practices and pertinent problems faced in common, to deal with emerging and challenging industrial relations issues and circumstances confronting the tripartite partners in the light of the current economic uncertainties. The smooth running of this Seminar hopefully is a clear demonstration of *collaborative networking* achieved between ASEAN, the ASEAN Secretariat and the ILO.

11. I do hope that the recommendations or ‘resolutions’ derived through active deliberation and involvement by the participants throughout the two-day proceedings would facilitate the enhancement of regular and constructive discussions among the social partners, to address and tackle the various emerging industrial relations issues and trend in times of economic downturn, with the view to secure continued sound and quality industrial relations in our respective countries, in particular, and within the whole ASEAN region, in general.

Ladies and Gentlemen.

11. The year 2009 has not been an easy year for ASEAN. Malaysia, like most of our ASEAN counterparts was not spared from the unfavorable impact of a weakening external economic environment due to the unprecedented distortions to the global financial order which started in the last quarter of 2008. As a trading nation, Malaysia felt the brunt of the economic downturn given our country’s position as one of the world’s leading exporter of manufactured products. As an emerging economy, our country is heavily dependent on exports of technology related products to fuel our economic growth.

12. The global financial crisis has had severe ramifications for the real economy of our country. The decline in the economies of our major trading partners had led to consequential impacts on our companies. Retrenchment exercises and instances of pay-cuts escalated and many of our employers and workers had to implement various cost-cutting measures. Although one year or so has passed since the brunt of the economic downturn was felt and there are now some signs of visible recovery in certain economic sectors, Malaysia still persists in her efforts to secure persistent and enhanced economic sustainability. Our government’s main concern is to secure jobs for our citizens, in particular those who lost their jobs due to retrenchment, besides ensuring their continued employability.

13. Given the present challenging times, amidst uncertain economic circumstances, our priority concern is to heighten our collective engagement and rapport, building consensus to deal with strategic industrial relations issues, through **regular social dialogues and consultations. The Government highly values tripartism which had for the last decade facilitated the nation with a continued sound and conducive industrial relations atmosphere.**

14. Our model of tripartite collaboration with workers and employers had served our nation well in both, good times as well as in difficult times. On the government’s part, we recognize that such consultative relationship with our social partners in industry is a priority area that should not be taken for granted in managing industrial relations issues. We have always sought to work closely with our workers and employers’ organizations, and only by gathering their strong support, their shared sacrifices and cooperation, will we be able to embark on measures to sustain continued employment and employability of our workers.

15. In Malaysia, we have constantly resorted to preventive industrial relations strategies to prevent, monitor and ensure the expeditious resolution to industrial disputes so that we experience as minimal labour dislocation as possible. We ensured that retrenchment of workers is done only when absolutely necessary and as a last resort. We have also asked employers to compensate their workers fairly and to assist in finding them new employment. We have also set up programmes for retraining and re-skilling of our workers to enable them to learn and acquire new skills in order to move forward and secure continued employment in different economic sectors.

16. Most of our labour force is involved in sectors that export to other parts of the world. Any future downturn in the global economy may likely results in similar retrenchments. Thus, we must formulate a regional guideline on how we can handle external pressures to our labour markets. I hope this seminar will be able to address and discuss the many models of enterprises' best practices to deal with this matter.

17. In these difficult times, it is imperative for parties to give due regards to regular and constructive social dialogue, to reach common understanding and demonstrate mutual trust in coping and overcoming the current economic crisis. In this regards, social dialogues must include firm and genuine willingness to deliberate on and find amicable solutions to difficult but pertinent issues related to human resources management.

18. Security of tenure of employment is increasingly becoming a more challenging issue in the present globalised and competitive economic environment. While our employers would like to have smoother and clearer processes in dealing with management prerogatives, for instance, the right to hiring and firing, we have to ensure that the rights and welfare of our workers are not compromised but instead given due care and consideration.

Pertaining to this, the Malaysian Government through the Ministry of Human Resources is entrusted with the responsibility of ensuring employment and safeguarding the welfare of our workers besides the interest of management as well. In carrying out its task, the Ministry performs the delicate role of regulating and balancing the rights between labour and capital in our continued policy of promoting and maintaining a sound industrial relations ecosystem in the country.

Ladies and Gentlemen,

19. The quest for sound industrial relations in today's uncertain economic environment demands **progressive and productive labour-management relations and cooperation**. Success stories among successful enterprises in the country have proven the fact that the state of relations and cooperation between workers and employers can be significantly improved through the development and motivation of human resources.

20. To actuate realization of the aforesaid policies and objectives, the Ministry of Human Resources, Malaysia accords due regard to realizing the **Decent Work Agenda** for our Malaysian workforce. Our Decent Work Agenda captures the various dimensions of the concept of decent work governing areas on labour standards and fundamental principles and rights at work; employment opportunities; social protection; and social dialogues. On industrial relations, our Decent Work country programmes seek to induce a conducive work environment with harmonized industrial relations. These efforts are carried out in collaboration with our social partners in the spirit of tripartism.

21. In the Government's effort to lessen the probable and imminent impact on employment due to the present economic slowdown, the Government had initiated steps to implement two Economic Stimulus Packages with the view, among others, to facilitate the conduct of training and re-skilling programmes for our retrenched workers. This is to provide them with the opportunity to secure new skill sets, thus widening their prospect for employment and employability into other jobs.

Ladies and Gentlemen,

22. As a growing nation, Malaysia has to ensure its competitiveness while fostering sustainable growth of its economy. Concentration on factors that encourage productivity growth and the creation of quality jobs will be critical to promote competitiveness and a decent livelihood for our workers. To this end, our policy is to encourage companies to invest in worker's skills and improve access to new technologies. Complimenting this objective, our government stresses on systematically fostering innovation and creativity as the key drivers of value-add and promoting higher value-add sources of growth.

23. The transition to a high-income economy for the future of our country is the key priority of our Government today. In this regard, the Government saw the urgency to bring about competition in all sectors of our economy so as to shift our country's reliance from a manufacturing base dependent on semi-skilled and low-cost labour to one that hinges on high technology and a modern services sector dependent upon skilled and highly paid workers. In this regards, the importance of collaborative networking through regular and constructive social dialogues among our social partners in complimenting our responsiveness to ensuring a smooth transition to a high-income economy cannot be over-emphasised.

24. In this era of rapid structural changes and increasing competitive pressure, it is also essential that we increase our workers productivity whilst streamlining our production value chain. Productivity management is essentially managing our competitiveness factor to enable our nation to remain attractive for FDI and investment growth. Productivity in particular is a vital determining factor in the competitiveness of both national economies and individual enterprises.

25. Other things being equal, higher labour productivity increases competition which in turn attracts investment and fuels economic growth and employment generation. A productive and competitive workforce will help in building a more competitive economic environment which, in turn, may prompt higher levels of income for our workers.

26. Social dialogues and tripartism have been key factors in enabling ASEAN member countries to address the downturn. Managing industrial relations issues in these turbulent times inevitably demand real collaboration through persistent and constructive social dialogues and consultation between the tripartite social constituents.

27. It will not be an easy balance to achieve, but by learning from all the experts present today and listening to viewpoints and tapping on the synergies among the social partners during this two-day tripartite Seminar, it is hoped that we can share pragmatic approaches in dealing with the current difficulties we are facing, so that we can effectively address them and move forward with renewed optimism, to pursue our collective policy of realizing the goal we seek to achieve and create the country in which we want to live for the benefits of our workers, employers and our regional economies within ASEAN.

28. As our country faces the global environment of slower economic performance, Malaysians have remained largely united in overcoming all ensuing challenges. The future is a collection of many possibilities and uncertainties. In maximizing *potentials for growth* and overcoming possibilities in an uncertain and ensuing challenging environment, our Government had embraced *1Malaysia*, a unifying concept to integrate efforts and by being inclusive among every Malaysians to work as one team in our collective pursuit of accomplishing one common goal of realizing our envisioned developed nation status by the year 2020.

29. With the prevailing economy showing encouraging signs of emerging from the downturn in certain sectors of the economy, our employers who are no longer confronted with excess manpower can prepare themselves by improving competitiveness and sustainability in managing manpower issues and challenges so that they can ride on the winds of the coming upturn, whilst remaining vigilant to threats which may impede business recovery.

Ladies and Gentlemen,

30. Within the ASEAN perspective, looking ahead to the next five years from today, the shared vision to accelerate integration among ASEAN member countries reached at the ASEAN Summit held in Cebu, Philippines in January 2007 with the aim of establishing an **ASEAN Economic Community by the year 2015** is indeed an important and relevant visionary agenda. It is hoped that more projects in the form of conferences, seminars, dialogues, workshops and exchange programmes should thrive in the ASEAN family as these events could help to foster and strengthen tripartite understanding and regional cooperation apart from building human resource capability in these regions. This move should contribute to making the ASEAN region a favourable location for foreign investments, bringing about sustained, inclusive economic growth and jobs creation for the benefits of the people within the whole ASEAN region.

31. Last but not least, ladies and gentlemen, I should like to express my sincere appreciation and special thanks for the support of the ILO, the government of Japan and the ASEAN Secretariat, for Malaysia to host this seminar. I should also wish to thank the presenters, the moderators, observers and all our distinguished participants for their involvement and making this seminar a reality. I have every confidence in the success of the Seminar and have no doubts that your active deliberations over the next two days should bear creative and productive outcomes. On this note, ladies and gentlemen, I wish all the delegates a fruitful Seminar and a pleasant stay in Kuala Lumpur. Thank you.

(Dato' R. Segarajah)
Secretary General,
Ministry of Human Resources Malaysia.
Dated: 3 February 2010

**Opening remarks
by Mr Taro Muraki
Assistant Minister,
Ministry of Health, Labour and Welfare of Japan**

Dato' R. Segarajah from Malaysian Ministry of Human Resources,

Dr Tambunan of ASEAN Secretariat

Mr Bill Salter, Director of ILO Subregional Office for East Asia; and

Distinguished tripartite members present here today,

Upon commencement of the Second Regional Seminar of ASEAN-ILO/Japan Industrial Relations Project, let me have few words.

First of all, I would like to extend my sincere appreciation to Malaysian Government for efforts on preparing this seminar.

Having been operated as a Japan/ASEAN cooperative project for years, this project transferred into ILO multi-bilateral scheme from 2008. While the current global financial and economic crisis has severely struck employment situation, contribution of the ILO is highly expected in the field of employment. I hope ILO's support would enhance performance of this project as well.

Recalling the outstanding economical development in Asian countries after overcoming Asian Financial Crisis in 1997, the mutual relationship over Asian countries has deepened and become inseparable in the globalized social and economical society. The Asian economy is now gradually recovering from the current crisis, and would be the first region to be getting out from this hardship, supported by internal demands within the region. Thus, Asia is expected to act as driving force for sustainable development of the world economy.

To do so, it is essential to promote production activities based on consultation between workers and employers, and I hope this project can support capacity building of ASEAN countries toward building sound and harmonious industrial relations.

The main theme for this year's seminar is, "Emerging Industrial Relations Issues and Trends in the ASEAN countries in the time of Financial and Economic Crisis." Participants are expected to make presentations in particular subthemes assigned for each country to introduce good practices and case studies. We hope the expected discussions can help ASEAN to overcome the current crisis with harmonious bipartite relationships.

Japanese tripartite members are prepared to present our experiences and good practices with a subtheme of "Dispute Prevention" today. We are grateful to introduce our practices on Japanese industrial relations to you all.

We have a Japanese proverb such that "After the rain, the ground becomes more solid," which means that, a situation would be better, after overcoming a hardship. In the current crisis, we are

facing many problems and conflicts, and asked to strive on responding to the issues with consultations between workers and employers. Such consultation would help building sound and harmonious industrial relations, ultimately accomplishing quick recovery from crisis and further economic development.

This IR project will be completed at the end of next year. Our expected outcome from this project is to build a roadmap which will promote sound industrial relations in ASEAN region, which include development of toolkits for empowering workers and employers. I highly expect this roadmap could support improving worker's skill and maintaining good management of companies, which will contribute on maintaining employment, further economic prosperity and realizing Decent Work in ASEAN countries.

I sincerely hope to have active and thorough discussion and success of this seminar.

Thank you very much.

**Keynote address
by Mr Bill Salter
Director
ILO Subregional Office for East Asia**

Dato' R. Segarajah, Secretary General, Ministry of Human Resources, Malaysia

Mr Taro Moraki, Assistant Minister, Ministry of Health, Labour and Welfare, Japan

Mr Donald Tambunan, ASEAN Secretariat

Excellencies, Tripartite representatives from ASEAN member states and Japan, Ladies and Gentlemen, Good Morning

Let me start by thanking, on behalf of the International Labour Organization, the Ministry of Human Resources in Malaysia for hosting this important seminar, the Ministry of Health, Labour and Welfare of Japan for their financial support, and the ASEAN Secretariat for its strong organizational support.

The theme of this seminar is a vitally important one, and one that the whole world has been grappling with in one form or another for the past 18 months. This economic downturn is widely considered the most severe since the Great Depression of the 1930s, with billions of dollars of value wiped out, millions of jobs lost, and the very real risk of deep unemployment and poverty. As some countries in Asia are beginning to emerge from the downturn, attention to tripartite consultation and collective bargaining remains vitally important to help guide a sustainable recovery.

In my remarks this morning, I will touch upon the ILO's response to the crisis and how we are seeking to assist member states. I will then discuss tripartism and social dialogue at different levels and why these are important. I will then turn briefly to the ILO -Asian Development Bank meeting that took place in February 2009 to compare today's developments with some of the issues highlighted one year ago.

I. Global Jobs Pact

The ILO has responded to the crisis by developing and achieving broad consensus on a Global Jobs Pact. This plan of action outlines specific measures that governments, communities, enterprises, and social partners can take to address the effects of this crisis, and to emerge with healthier, more balanced national and global economies. Social dialogue plays a central role in determining the precise policy response in each country.

The GJP provides a tool box of policy responses that have already been discussed and approved by tripartite constituents at the International Labour Conference, including representatives of the governments, workers, and employers organizations gathered here. The precise policy mix, the choice of tools from the toolbox, will depend on each country's needs.

Some of you may have seen the BBC debate at Davos with Sharon Burrows of the ITUC, Pascal Lamy of the WTO, and others. The GJP featured prominently in this debate.

Let me now turn to tripartism and social dialogue at different levels in society and then briefly look at how these mechanisms might relate to some of the major policy initiatives in ASEAN member states and in Asia more broadly, policy changes that were underway in any case as part of economic development, and which have accelerated or taken on greater importance because of the crisis.

II. Tripartism and social dialogue

Interestingly there are very few ILO official instruments specifically devoted to tripartism and dialogue, although nearly all Conventions, Recommendations and policy documents refer to consultations with workers and employers organizations. Convention No. 144 concerning Tripartite Consultations to Promote the Ratification of International Labour Standards is one of the few specifically addressing tripartism, and the ILO is engaged in an intensive campaign to promote its ratification worldwide. Among ASEAN member states, Indonesia, Malaysia, Philippines and Viet Nam have ratified, as well as China, Republic of Korea and Japan.

So what is social dialogue for the ILO?

Social Dialogue is defined by the ILO to include all types of *negotiation, consultation* or simply exchange of *information* between, or among representatives of governments, employers and workers, on issues of common interest relating to economic and social policy.

Social dialogue is a means of resolving conflict, improving social equity, and effective policy implementation. It is a means by which rights are defended, employment promoted, and work secured. It can apply at all levels, from the enterprise through to the international level, with many varieties in between.

The actors can be bipartite, between workers and employers; they can be tripartite with the government involved on a formal basis; or tripartite plus, if the regular partners engaged in dialogue invite other parts of society in order to gain a wider perspective and consensus.

The institutions involved also vary according to legal framework and the industrial relations culture. They may be formal, statutory bodies and processes; informal, voluntary arrangements; or *ad-hoc* arrangements. Often one sees a combination of all three forms, at least at national levels and below.

International experience with different forms of social dialogue has revealed a number of lessons. What factors make it work, make it successful?

As Dato' R. Sagarajah reminded us in his welcoming address, at the top of the list are mutual respect and high levels of trust. Secondly the parties who inherently have power and influence must be willing to share it, and also willing to search for consensus. We often talk about the willingness to make a deal.

The process should be open and democratic. Government, as the policy-maker, plays a key role in this regard. Officials need to be ready to engage with and lead such a process. Finally there should be a capacity to deliver on the policy decisions that are made during the dialogue process.

None of this is to say that dialogue is easy, or that reaching agreement is easy. The parties to dialogue may have fundamentally opposing interests. This needs to be recognized up front. Rarely will all parties be 100 per cent satisfied with the outcome. Dialogue ensures that everyone's voice is heard, and allows for creative solutions to be found. It allows the parties to the discussion to find where the common ground, the consensus, might lie. "Consensus" does not always mean universal agreement on every point. Sometimes it can mean a harmonious outcome, or a decision that everyone can live with.

Regional level

Let me briefly mention some examples of regional social dialogue in three different contexts. One is at European level within the EU, the most integrated regional grouping in the world. Another is MERCOSUR, a regional trade bloc in Latin America.

Within the EU, trade unions and employers are represented at European level, and have a statutory role enshrined in the 1992 Treaty of Maastricht. They engage with the governing structures of the EU, such as the Commission and the Parliament, and are deeply involved in all matter of legislation and policy. However, quite apart from their role with EU institutions, employers and workers also engage on a bipartite basis in European-level collective bargaining.

MERCOSUR, a trade bloc composed of Argentina, Brazil, Uruguay and Paraguay, started as a purely commercial undertaking. As from 1998, however, the members committed themselves to the ILO Fundamental Principles and Rights at Work, and recognize social dialogue as a right and practice at both national and regional levels. Mechanisms and forums for dialogue within MERCOSUR have been established through formal treaties.

Let me emphasize that in each of these cases, there are both formal and informal opportunities for dialogue. The informal channels have proven to be almost as beneficial and useful as the formal ones. The degree of decision-making authority given to the social partners will vary. What is important is the recognition that dialogue is important, and for accommodating that dialogue within the regional arrangements.

I hope that these and other international experiences will be useful to as ASEAN moves towards a single market

Sectoral, national and enterprise level

For the governments, trade unions, and employers gathered here today, decisions at the level of the country, the industrial sector, and the enterprise are probably the most important. I will only repeat the principles and the lessons learned mentioned above. Trust, respect, the willingness to make compromises and share information, and the capacity and ability to implement decisions are all crucially important here. Research conducted by the ILO on the role of social dialogue in responding to the crisis illustrated that this is the level at which many of the decisions on the response to the current economic crisis are being made.

I imagine that much of the discussion today and tomorrow will focus here. But let me emphasize the position of the ILO and the international tripartite constituents on this subject, as expressed in the Global Jobs Pact. The Pact states that, social dialogue is "an invaluable mechanism for the design of policies to fit national priorities and a strong basis for building the commitment of employers and workers to the joint action with governments needed to overcome the crisis and for a sustainable recovery."

Enterprise level dialogue can refer to a range of activities, from forms of workplace cooperation, to collective bargaining, and information and consultation. In the context of the crisis, all of these become magnified. The ability of a company to survive in these difficult times is closely linked to the degree of trust and dialogue between management and workers. Enterprises that can negotiate job-sharing and job-saving agreements, for example, are more likely to retain experienced workers. Unions that have accurate information on the performance of an enterprise are more likely to make concessions. These are highlighted in many of the case studies that will be presented at this seminar.

We are observing a major transformation in labour and social policy in this part of the world. This ranges from the new employment contract law in China, a review of outsourcing legislation in Japan, and the overall labour and trade union codes in Viet Nam, just to name a very few. Countries throughout the region are changing their labour laws, introducing social security and other major policy measures at a pace much greater than in the past.

This underscores the importance of having well-functioning institutions of dialogue in place, and actors that can engage in these discussions in a meaningful way. This will allow for these policies to be designed to meet the needs of the people who will ultimately use and benefit from these policies.

III. ADB/ILO Meeting, Manila, 18-20 February 2009

Recognizing the potential impact of the crisis on employment, enterprise development, and poverty in Asia, the ILO and the Asian Development Bank convened a meeting in February 2009 to examine the impacts on Asia and the policy responses that could be adopted by governments, workers and employers

Among the areas covered by the ILO at that meeting, some that are worth highlighting this morning:

1. The impact of the crisis on contract and migrant workers

While all recognize that business needs flexibility to manage the level of workforce in response to business cycles, we should equally recognize that subcontract, casual, and temporary workers are often the most vulnerable to the initial job cuts.

Similarly, overseas migrant workers, many of whom are hired as temporary workers, are often among the first to be dismissed during an economic downturn. In addition, many are not retained upon the expiration of their contract and are expected to return home. However, migrant workers and nationals often compete in different segments of the labour market, and thus repatriating migrants may simply leave certain types of jobs unfilled despite the economic contraction.

2. Impact on wages and inequalities and the role of social dialogue and standards

Between 2001 and 2007, a period of tremendous economic growth in Asia and the Pacific, average annual real wages in a sample of economies in the region grew at a rate of 1.8 per cent, far below the average annual growth in labour productivity over the same period. Accordingly, the period was also characterized by rising inequalities in many Asian economies – for example between skilled and unskilled workers and between inhabitants in rural and urban areas. In addition, high and persistent gender-based wage inequalities are widespread in the region.

The substantial growth slowdown in 2008 and 2009 led to stagnant or falling real wages in most countries. This is starting to change in countries that are emerging from the crisis. But the challenge remains one of bringing wages in line with productivity growth. This is also linked with the challenge of re-balancing the global economy, a theme I will return to later.

In this context, governments have an important role to play to protect workers' purchasing power in the face of difficult economic circumstances. Carefully designed and well-monitored minimum wages are one key mechanism. Collective bargaining can and should provide a means for workers and employers to negotiate solutions that are acceptable to both parties. Yet, given the large share of female and male workers in the informal economy in the region and the small share of workers covered by collective bargaining agreements, maintaining workers' overall living standards and ensuring that inequalities do not rise further will also depend critically upon whether the purchasing power of workers in the informal economy is sustained – a major task for social transfer programmes.

3. Impact of the crisis on industrial relations

The global crisis has unquestionably brought some clear changes on industrial relations in the region, by exacerbating workers' sense of insecurity regarding retrenchments, non-payment of wages, changing working conditions and indeed basic labour rights.

In Cambodia and Viet Nam, for example, industrial disputes dropped substantially in 2009. In these countries and in China, factory closures have led to reported cases of worker protests, demanding fair compensation for unpaid wages. The global crisis has also reignited the heated debate among the tripartite partners in the Republic of Korea and Japan on appropriate protection for flexible forms of employment such as temporary and part-time workers.

Collective bargaining also has been impacted by the global crisis. Before the crisis, collective bargaining in China, for example, had been used to increase wages, narrow wage inequality and improve working conditions.

IV. Some thoughts on moving forward

As many countries in this region begin to see a return of growth, I would like to close this address with some considerations for moving forward.

Involving social partners in policy design at all levels

Social dialogue can help improve the design of the crisis response measures at enterprise, industry and national levels, as well as provide political support for the fiscal packages and other government policies. However, much depends on national circumstances and the quality of the industrial relations system.

Sharing experience and building the capacity of the social partners to engage in constructive dialogue to address crisis issues at different levels have been identified by many trade unions and employers' organizations as a priority. This seminar is one example of such initiatives. This is also a time in many countries in the region to start developing effective mechanisms for dialogue and building mutual trust between government, workers and business – however hard it might be under the present conditions – to foster cooperation and innovation and to find negotiated solutions to the crisis.

Ensuring fundamental principles and rights at work are observed during the crisis

The deep recession could add to pressures undermining workers' rights. Therefore, it is essential to ensure that social progress is not reversed. Above all, the crisis cannot be taken as an excuse for the erosion of the fundamental rights at work, namely freedom of association, the right to collective bargaining, the elimination of all forms of forced and compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation.

Rebalancing development strategies

In some countries, notably in China, the stimulus package is not only a response to the crisis but also a part of a broader, longer-term strategy to shift from export-led growth to more domestic led growth. Spreading public spending and job creation broadly could contribute to such a 'rebalancing' of the economy. In this respect, investments in schools and hospitals and in free education, affordable health care and pension systems are essential as they provide a basic level of economic and social security among citizens, encouraging them to consume more and boosting overall demand in the domestic economy.

Nevertheless, shifting from an export-led model to a more balanced development path is not just about government spending. In fact, this is the easier part. A much more difficult task is to reorient production, which today is geared to export markets, towards domestic demand. This is a huge challenge, and will take time. In other words, the more difficult challenge in China and in some other countries in the region is to raise the share of household income in national income, which would require new incentives as well as structural change in the economies.

Collective bargaining can play an important role in this regard. Research has shown that countries with high level of bargaining coverage have a higher share of wages as a percentage of GDP. This not only reduces the inequalities mentioned earlier, but also enables workers to purchase more goods in the local economy, thereby stimulating domestic demand. Collective bargaining also helps to bring wages more close to productivity growth, allowing workers to maintain a decent standard of living.

International cooperation is essential

Strong cooperation among Asian countries could help to confront the crisis and minimize the consequences for people, enterprises, rights and decent work. Solidarity is also critical as not every country in the region or globally has the 'fiscal space' to implement bold measures to counteract the crisis.

Vitally important is the participation of trade unions and employers' organizations as equal partners in the processes currently taking place for establishing a new regulatory framework for the global financial system, as they share the common objective that the financial sector should primarily be at the service of the real economy, not the other way around. This is the time for strong and coordinated international policy actions to support recovery and to improve the prospects for decent work for all.

Ladies and gentlemen,

This seminar will provide an opportunity to share real experiences from governments, workers and employers in the region of their efforts to tackle the economic crisis and their use of social dialogue in these efforts. It is an important and timely meeting and I look forward to hearing the outcomes.

Thank you.

INTRODUCTION

ASEAN Assessment on the Social Impacts of the Global Financial Crisis

Led by the World Bank Team
(With funding support from AusAID)



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Expected Outputs

- Regional Report supplemented by Country Reports (draft)
- Regional Workshop: consider reports and recommend collective actions
- Planning Workshop: discuss the next steps
 - **Published Reports**



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Objectives

- To carry out a regional review on the social impact of the global financial crisis and policy responses in ASEAN Member States



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Steps Taken

- Series of country visits to collect data and information by the World Bank: August – September 2009
- Preliminary findings → a snap-shot report:
 - Consulted with SOMRDPE in early October 2009
 - Noted by the ASCC Council, 22 October 2009
 - Noted by the 15th ASEAN Summit, 23-24 October 2009, Cha-am Hua Hin, Thailand
- Development of a full-fledged regional report supplemented by individual country reports.



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Steps Taken

- Regional Workshop, 8-9 December 2009, Bangkok (SLOM reps also participated):
 - To consider the draft reports
 - Discuss possible concrete collective actions
- Further consultations with AMSs on the draft country reports (done during the Workshop or afterward).



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Related ASEAN Events

- High-level Forum on Reducing Vulnerability in the Face of Crisis, 19-20 February 2009, Jakarta
 - *Ministry of Finance of Indonesia, ASEC, support of the World Bank, Governments of Australia and Britain*
- Regional Conference on the Impact of Financial Crisis on Vulnerable Sector - Civil Society Voices and ASEAN, 28-29 July 2009, Jakarta
 - *AsiaDHRRA, UNI-Apro, AFA, support of ASEC*



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The approach: identify social impacts with less than ideal data

Existing data	Filling the Gaps	
<ul style="list-style-type: none"> • LM and HH surveys • Administrative data • Firm surveys 	Quantitative: <ul style="list-style-type: none"> • Rapid surveys • Add-ons to existing surveys 	Qualitative: <ul style="list-style-type: none"> • Focus group discussions • Key informant interviews

- Use existing data sources opportunistically and supplement with quick, economical qualitative and quantitative surveys to fill data gaps
- In-country visits and consultations with Ministries implementing SP programs
- Identify regional patterns in policy responses
- Fast process, there may be gaps

Selected Findings



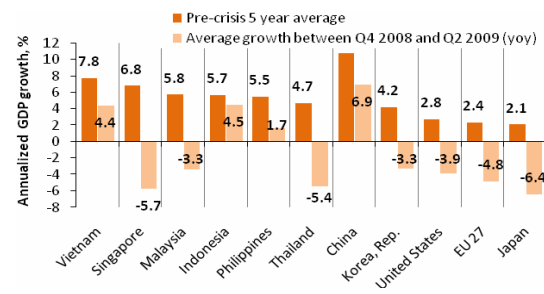
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Main Findings

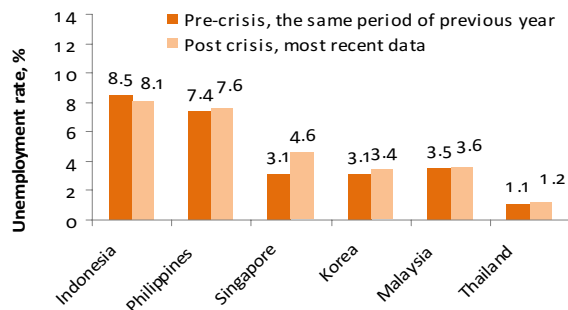
- **Unemployment** rates remained fairly stable, but significant adjustments in employment (sectors, types, hours worked, wages)
- Pace of **poverty reduction** decreases, impacts on health and human capital remain unclear
- The effects on employment and earnings are at the core of the crisis' social impacts, **responses focused on labor market:**
 - In higher and middle income AMS focus of response on ALMP
 - In lower and some other middle income AMS small infrastructure investments and community grants to generate jobs and act as a productive safety net
- **SSN response** varies - Cash transfers of various types
- In general, pre-existing SP programs shape the set of feasible crisis response options so important to have solid blocks upon which to build particularly in areas of social impact monitoring, targeting, institutional capacity and coordination

There has been considerable variation in economic growth across countries

Annual GDP Growth in Selected ASEAN member states
(before and during the crisis)

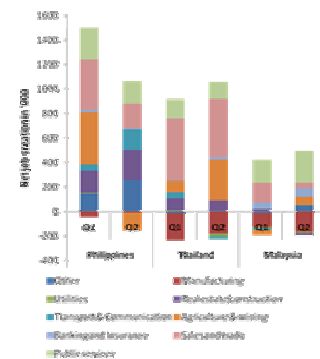


Open unemployment rates have remained stable and low...



Source: World Bank calculations

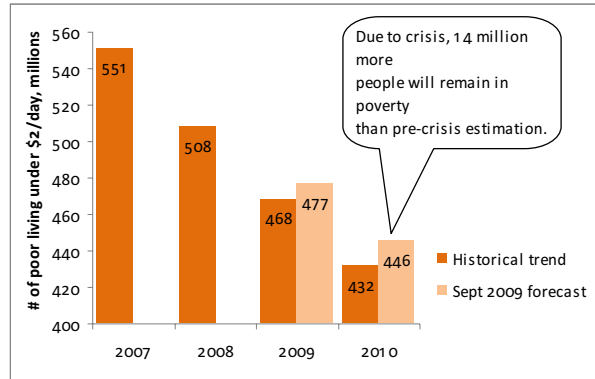
..but underneath the surface there is a lot of "churning"



Source: World Bank calculations

- Movement out of manufacturing into sales and trade – primarily retail trade
- Movement from formal into informal work
- Movement out of and into the labor force
- Movement from full time into part-time employment

Poverty reduction is expected to slow down in East Asia ...



Social protection response (ii)

- **Cash transfers** are achieving progressively greater importance within SP policy mix:
 - One time (*Vietnam, Philippines*)
 - Expansion of categorical transfers (*Singapore, Malaysia, Thailand, Indonesia, Philippines, Vietnam*)
 - UCT (*Indonesia*) and CCT (*Philippines*) expansion
- **Food transfers and subsidies** received additional funding in response to both FFC and GFC, though less widespread than expected

Strengthen SP Systems Beyond Crisis -- Positioning Social Protection in East Asia

- To alleviate absolute poverty, enhance equity, and develop a caring society
- Is linked with direct human capital investment
- Tools for households to manage risks and volatility, and hence seek higher return and efficiency
- SP programs can play a role in achieving macroeconomic objectives (e.g. avoiding over-reliance on precautionary savings and rebalancing growth models towards domestic consumption)

Issues and Possible Actions

- Who are the poor and vulnerable?
- What are the right SSN program mix?
- How do we foster LM competitiveness while protecting the unemployed?
- How do we better use data and learn from each other in developing SP programs?



Possible Actions (1)

Country levels:

- *Analyse poverty/vulnerability profile; determine targeting method*
- *Assessment of active labour market policies (ALMPs) and institutional issues*
- *Review of policy framework for domestic and international migration*
- *Policy design*



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Possible Actions (2)

Regional levels:

- *Social impact monitoring: a need for more timely and good quality data for monitoring crisis impacts*
- *Promoting efforts to maximise the benefits of migrant labor for host and sending countries and workers*
- *Promoting sharing of experience, best practices and capacity building*
- *Establishing a central repository for documentation on crisis impact and response: policy responses, data, case studies, best practice in social protection etc.*



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Next Steps

- Finalisation of the Reports (to be submitted in February 2010)
- Discussion on the possibility of holding High Level Workshop addressing the recommendation of the Study (to be participated by various ASEAN bodies including SLOM) – Strengthening the Social Protection Systems in ASEAN
- March 2010: High level Workshop



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Thank you



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ANNEX 7

SOCIAL DIALOGUE

**IN THE CONTEXT OF
EMERGING INDUSTRIAL RELATIONS ISSUES AND TRENDS
IN THE TIME OF FINANCIAL AND ECONOMIC CRISIS**

THE PHILIPPINE COUNTRY REPORT

“Social dialogue in the context of emerging industrial relations and trends in the ASEAN countries in the time of financial and economic crisis”

*Prepared and presented by
Ms Ma. Elena M. Hernandez, NCMB-DOLE
Mr Alejandro C. Villaviza, TUCP
Mr Ranulfo P. Payos, ECOP*

The Philippine economic situation

The recent economic and financial crisis has created a synchronized recession among industrialized countries which lead to the contraction in world trade. While advanced countries were the hardest hit by the economic slowdown, emerging and developing countries like the Philippines, was not spared from the economic slowdown. Philippine GDP growth decelerated considerably in the fourth quarter of 2008 and first half of 2009. From a growth of close to 7 per cent in 2007, the GDP growth was almost halved in 2008 and has managed to grow by only an average of less than one per cent for 2009 (see table 1).

Nonetheless, the economy has somehow managed to stay in the positive growth territory, although export growth turned negative in the last quarter of 2008 and in the three quarters of 2009. For the last quarter of 2009 and the beginning of 2010, there are now reports that export demand is again on the upswing and is likely to return to pre-GFC level.

	2007				2008				2009		
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
GDP growth	6.9	8.3	6.8	6.3	3.9	4.2	4.6	2.9	0.6	0.8	0.8
Export growth	9.4	4.6	2.3	9.9	2.8	5.5	4.1	-22.3	-36.8	-23.4	-21.5

Source: Josef Yap, November 2009, “The 2008 global financial and economic crisis: impact on the Philippines and policy responses at the national and regional levels”, *Policy Notes*, No. 2009-03, NEDA: Philippine Institute for Development Studies.

In the paper of Mr Josef Yap, “The 2008 global financial and economic crisis: Impact on the Philippines and policy responses at the national and regional levels”, *Policy Notes*, No. 2009-03, NEDA: Philippine Institute for Development Studies the following were reported:

- Asset prices experienced volatility but unlike the 1997 East Asian crisis, the financial sector remained fairly stable.
- Unemployment increased moderately, but was more pronounced in the manufacturing sector which felt the brunt of the slowdown mainly through the export channel;
- Remittances from overseas Filipino workers continued to grow, albeit at a lower rate;

- A cause of concern is the widening fiscal deficit, which is largely due to the need to increase government expenditures to offset lower consumption, investment, and exports;
- One factor behind the wider fiscal deficit is the weak tax effort and if this persists, the resources to finance achievement of the Millennium Development Goals will likely be reduced;
- Government will not have enough resources to improve their situation in the medium term;
- To its credit, the Government embarked on a campaign to increase and expand social protection in response to the deteriorating poverty situation;
- In the wake of the crisis, resources were increased and programs were improved;
- The Economic Resiliency Plan is a key component of the Government response to the crisis and 2009 first half data indicate modest success.

Hence, despite a number of policy and program reforms, the Philippines continues to face important challenges and must sustain the reform momentum to achieve and sustain strong crisis recovery needed to spur investments, achieve higher growth, generate employment, and alleviate poverty for a rapidly expanding population.

Global financial crisis impact in the Philippine labour market

Workers affected by GFC are classified under two categories. The first are the locally employed workers and the second comprise the Overseas Filipino Workers. The locally employed workers refer to workers who have been retrenched or displaced locally, or are under flexible work arrangements. The second category are the Overseas Filipino Workers, or those working outside the Philippines. These are Filipino workers whose contracts of employments were pre-terminated or workers who may be under forced leave.

From the onset of the global financial crisis in October 2008 up to May 2009, some 864 local establishments were recorded to be affected, covering more than 150,000 workers. Of the 864 affected establishments, 140 establishments or about 16.2 per cent, have either recalled, rehired their workers or have returned to normal work schedules. The global crisis is still being felt by 775 establishments.

The impact of the crisis on the labor market was felt strongly in the export producing sectors particularly the electronics industry. For the period October 2008 up to 31 May 2009, the crisis affected around 860 establishments. More than half of these firms are from the manufacturing (electronics, manufacturing and repair of furniture, garments). The rest of the firms are from real estate, renting and business service activities; wholesale and retail trade; transport, storage and communication; and mining.

The total workers affected by the crisis during the same period were 159,400. Of this figure, 32.4 per cent or 51,798 workers have been recalled to work, rehired and/or have returned to normal work schedules. About 67.5 per cent or 107,602 workers are still affected by the global crisis; 57,034 workers or 53 per cent of which were either permanently or temporarily displaced. The rest was under flexible work arrangements (47 per cent).

The top sectors where workers are most affected are in the electronics, garments, metal components, real estate, renting and business service activities, and mining industries. These industries account for 96 per cent of the total GC-affected workers. Also, most affected regions are Region 4A with 57,022 displaced workers accounting to 53 per cent; Region 3 at 16,901 or 15.7 per cent; Region 7 with 16,227 or 15.1 per cent; and Metro Manila with 4,554 or 4.2 per cent.

For overseas employment, reports showed that as of May 2009, 321 companies have been affected by the crisis, displacing almost 7,000 OFWs. These workers come from Taiwan, Australia, Brunei, UK, UAE, Macau, Greece, KSA, Korea, Poland, Canada, Japan, Malaysia, Russia, Singapore and Qatar. About 64.6 per cent or 4,495 OFWs returned to the Philippines. Most of the affected companies are located in Taiwan, displacing 4,428 OFWs.

Despite worldwide sluggish employment figures, however, the Philippines posted increases in employment in both the local and global fronts in 2009. In fact, the Department of Labor and Employment (DOLE) sees positive gains in 2010 in remittance growth and the opening of new markets abroad, alongside sustained vibrancy at home in the country's Business Process Outsourcing (BPO), the services sector, and other industries.

Defying earlier prediction of a lower OFWs deployment as a result of the global crisis, data from the Philippine Overseas Employment Administration (POEA) showed that OFWs who have left the country for overseas employment on the contrary even grew by 11.7 per cent from 1.149 million in November 2008 to 1.284 million in the same period this year. The OFWs deployment was buoyed up by demand in traditional markets like the Gulf countries in the Middle East that have taken concrete steps to cushion the impact of the crisis. This was complemented, he added, by demand for OFWs in emerging markets such as Canada, Australia, New Zealand, Macau, and parts of Europe.

The *Bangko Sentral ng Pilipinas* (BSP) figures showed that in the first ten months of 2009, the OFWs worldwide injected a record US\$14.3 billion to the country's economy. As the trend sustains, and with the OFWs remitting more than US\$1.4 billion per month on the average, the total year-on-year global remittances this year would likely reach, if not surpass, the US\$17 billion mark, above the US\$16.2-b level reached last year.

Policy and program responses to the global financial crisis

Policy responses

Department Advisory 02-09. Among the policy measures undertaken by the government in terms of labor and employment is the issuance of the Department of Labor and Employment of Department Advisory 02-09 on 29 January 2009. The advisory provides for the guidelines on the adoption of flexible work arrangement (FWA) as a coping mechanism and remedial measures in times of economic difficulties and national emergencies. This is considered as a better alternative than outright termination of services of the employees or the total closure of the establishments.

FWAs are defined as alternative arrangements or schedules other than the traditional or standard work hours, workdays and work week. DA 02-09 listed six FWAs:

1. Compressed workweek – refers to one where the normal workweek is reduced to less than six days but the total number of work hours of 48 hours per week shall remain.

The normal workday is increased to more than eight hours but not to exceed 12 hours, without corresponding overtime premium.

2. Reduction of workdays – refers to one where the normal workdays per week are reduced but should not last for more than six months.
3. Rotation of workers – refers to one where the employees are rotated or alternately provided work within the workweek.
4. Forced leave – refers to one where employees are required to go on leave for several days or weeks utilizing their leave credits, if any.
5. Broken-time – refers to one where the work schedule is not continuous but the work hours within the day or week remain.
6. Flexi-holidays schedule – refers to one where the employees agree to avail the holidays at some other days provided there is no diminution of existing benefits as a result of such arrangement.

Notably, under the FWA, establishments may avail of such schemes, provided that both labor and management have voluntarily agreed to utilize such measures. Anchored on voluntary basis and conditions mutually acceptable to both parties, it is recognized as beneficial in terms of reduction of business costs and helps in saving jobs while maintaining competitiveness and productivity in industries.

Parties to the flexible work schemes are primarily responsible for its administration. In case of differences of interpretation, the issue is treated as grievances to be processed under the grievance mechanism of the company. In the absence of grievance mechanism or if the same is inadequate, grievance shall be referred to DOLE for appropriate conciliation-mediation proceedings.

In a study entitled “A Rapid Appraisal of Flexible Work Arrangements as a Global Financial Crisis Adjustment Measure” by the Institute for Labor Studies of DOLE, it was found out that a total of 320 firms from across all industries in the country availed of allowable FWAs covering the period October 2008-May 2009. Of these firms, some 86,458 workers were reported to have undergone FWAs, combining those who were still undergoing the scheme and those recalled to work or whose work schedules have returned to normal. Across industries, the manufacturing sector appeared to have led in availing FWAs in terms of magnitude of workers affected.

In the 12 cases documented, it was found out that DA 02-09 was effective, timely and relevant for the policy has reached its objectives: businesses were sustained and jobs were saved amidst the crisis.

Executive Order No. 782. S. 2009. The Executive Order No. 782 requires the allotment of 1.5 per cent of the Maintenance and Other Operating Expenses of agency budget for hiring of displaced workers or their dependents. As of September 2009, about 14,500 workers were hired by various national government agencies, government owned and controlled corporations (GOCCs), and government financial institutions (GFIs).

R.A. No. 9504, Tax Exemption for Minimum Wage Earners. The law was signed and approved on 17 June 2008. It exempts minimum wage earners from paying income tax. The objective is to provide financial relief to taxpayers in cognizance by the government of the hard times brought by multiple factors, including the current rice crisis, oil price hikes and the heightening inflationary pressure on commodities of all kinds and to help reduce the wide tax gap in the taxation of self-employed and professionals.

Programs undertaken

1. Comprehensive Livelihood and Emergency Employment Program or CLEEP aims to protect the most vulnerable sectors – the poor, hungry, returning expatriates, workers in the export industry, and out-of-school youth – from threats and consequences of reduced or lost income as a consequence of the global economic crisis. This is achieved through: (1) hiring for emergency employment; and (2) funding and supervising livelihood projects.

2. Expansion of Social Protection Programs. The government increased by PhP5 billion the allocation of DSWD for conditional cash transfers to cover an additional 321,000 poor households giving them a maximum cash grant of PhP9,000.00 per year.

An additional PhP1 billion was given to PhilHealth to ensure the full national government contribution to the national Health Insurance Program. TESDA received additional PhP2 billion to support more tech-voc scholars. Additional PhP1.97 billion was given to DOH to enhance its facilities, more primary and secondary hospitals.

3. Accelerated Spending for Small and Large Infrastructure to Create Jobs. Infrastructure agencies such as DPWH and DOTC front loaded resources for full and quick spending on high-impact and labor-intensive projects. Resources of GOCCs and GFIs were tapped for large infrastructure and construction projects.

Conditional Cash Transfers (CCTs). Dubbed as Pantawid Pamilyang Pilipino Program (4Ps), the Philippine's CCT program has dual objectives: (i) social assistance, i.e., 4Ps provides cash assistance to the poor to alleviate their needs in the short-term; and (ii) social development, i.e., 4Ps aims to break the inter-generational transmission of poverty through investment in human capital particularly education, health, and nutrition in the long term.

4. Other DOLE programs

- Tulong Panghanapbuhay sa Ating Disadvantaged/Displaced Workers (TUPAD) provided short-term wage employment to almost 15,000 beneficiaries.
- Integrated Services for Livelihood Advancement of the Fisher folks (ISLA) assisted some 6,800 fisher folks in making their existing livelihood undertakings grow into viable and sustainable business, thus improving their income to a level at par with the minimum wage earners. Fisher folks were organized into groups and were given training on entrepreneurship and basic business management. They were also given funding assistance for the acquisition of fishing materials and equipment.
- Adjustment Measures Program (AMP), Workers Income Augmentation Program (WINAP) and DOLE Integrated Livelihood Program benefitted some 60,000 displaced and low-income workers.
- Nurses Assigned in Rural Services (NARS) training cum deployment project mobilized more than 10,000 registered nurses in the poorest municipalities to improve the delivery of health care services. In the second semester of project implementation, the coverage was expanded to rural schools and areas badly affected by the typhoons.
- The DOLE, through its National Wages and Productivity Commission (NWPC) extensively promoted non-wage benefits, taking advantage of the lull in minimum wage fixing:

- Diskwento Caravan, a nationwide program aimed to provide basic goods and commodities to workers at lower/discounted prices (10-20 per cent discounts) through coordinated arrangements with manufacturers/suppliers, Department of Trade and Industry, local government units, trade unions, and private companies.
- Productivity Program, with emphasis on service quality (SQ) for Key Employment Generators. The SQ, initially implemented to create an “error-free” service delivery in the hotel and restaurant industry in partnership with the Department of Tourism (DOT), the Technical Education and Skills Development Authority (TESDA), and the Hotel and Restaurant Association of the Philippines (HRAP).

5. Immediate job placements through intensive jobs and livelihood fair and caravan

Amidst the global financial crisis, The DOLE remains undaunted in its mission to promote and facilitate the employment of workers with strong engagement and cooperation from the business and workers’ sectors.

Labor Day 2009. The May 1 Jobapalooza ’09 with the theme “Tayo Na, Trabaho Na” was spearheaded by the country’s largest labor federations and corporate sponsors. It was participated in by 830 companies offering a total of 45,776 local employment and 847 recruitment agencies offering a total of 173,294 job vacancies for overseas work.

With the collaboration of labor, private sector and government, about 10,000 jobseekers were immediately hired on the spot during the nationwide Jobapalooza ’09 job fair which was held nationwide in observance of Labor Day last May 1. In an unprecedented fashion in the conduct of the job fair among the 16 regions of the country, the one day marathon screening and selection by employers who participated in the jobs fair gave out jobs to 10,000 workers. The participating employers who offered thousands of local and overseas jobs during the May 1 jobs fairs focused on the selection of qualified applicants to haste hiring and the workers’ search for employment as this would boost the country’s resiliency against the effects of the global economic crisis.

Aside from the 10,000 applicants hired on the spot, the Jobapalooza fair also referred another 16,442 jobseekers for employment in participating firms which offered highly in-demand jobs. In demand jobs in the country at present include those in all centers, BPOs, IT services, wholesale and retail, construction, engineering, automotive, food and beverages, catering, hotels and restaurants, agriculture and agri-related business, manufacturing, apparel, education, banking and finance, travel and tourism, real estate, transportation, hospital and medical services, and bio-technology and clinical research.

Independence Day 2009. The DOLE next hosted the biggest jobs fair in the country with more than 1,400 employers joining the event during the historic celebration of the 111th Anniversary of the Proclamation of Philippine Independence on June 12-14. Collectively, almost 400,000 productive local, overseas and government employment opportunities to new graduates and other job seekers during the nationwide, three-day event dubbed as the “Kalayaan 2009 Mega Job and Livelihood Fair”.

In line with the pump-priming efforts aimed at cushioning the impact of the global crisis, the government also awarded emergency employment, training scholarships and livelihood assistance to 158,253 unemployed and disadvantaged workers under the Comprehensive Livelihood and Emergency Employment Program (CLEEP).

DOLE's Framework of Assistance for displaced workers

DOLE's Framework of Assistance for Displaced Workers outlines the safety nets and interventions given to its stakeholders.

It starts with a data capture which is firm- and industry-based as reported to our field and regional offices for local and to our Philippine Overseas Labor Offices for overseas displacement. The DOLE immediately profile the workers, either manually or electronically, although data base on displaced workers is now available at <http://phi-job.net>. Along with profiling is the assessment of the needs of affected workers. The most immediate assistance being asked is facilitation of their monetary claims such as separation pays and other benefits particularly for locally displaced. For overseas, the immediate concern is recovery of fees and cost/wages.

Most of the affected workers still prefer to go back to wage employment either local or overseas. Those who may have difficulty returning back to wage employment are given livelihood or entrepreneurial options. In both instances, skills upgrading or training play an important role in connecting the affected workers to employment and livelihood opportunities.

In this Framework of Assistance, the DOLE recognizes the importance of social partners, not just its traditional partners (private and workers sectors). We have expanded our partners to include the NGOs, faith-based groups, other government agencies, LGUs, academe and international organizations to facilitate and implement all the programs and projects. The network of partners are also members of the various delivery mechanisms such as the One-Stop Workers Assistance Centers, Quick Response Teams, Tripartite Industrial Peace Councils, RTIPCs, Industry Tripartite Councils, Service Caravans and On-Site Mobile Teams.

Indeed, forging cooperation from the partners provides for strong impetus in effectively managing the crisis. This will remain the ideal trajectory of DOLE-tripartite plus other key stakeholders partnerships.

ENGAGING THE SOCIAL PARTNERS IN DIALOGUES AND SERVICE DELIVERY

Engaging our social partners on service delivery are good practices which help the Department implement programs and projects even at the local level. However, the most significant approach that the Philippines has adopted is engaging the social partners in social dialogue, particularly in the aspect of determining the effects of the crisis to the workers and the business sector, finding alternative solutions and strategies to address the same as well as in the implementation of identified plan of actions. The increased use of existing tripartite mechanisms between government, business and labour unions, as well as significant social partners from the academe, church-based organizations, informal sector organizations, LGUs, NGOs and other civil societies, is necessary in order to identify vulnerable industrial sectors and firms to develop proactive solutions for affected workers in these areas. The government could provide a targeted package of assistance to distressed firms and vulnerable workers in these sectors, instead of offering a wide-ranging menu which can be availed of by any firm.

Among the major tripartite plus consultations conducted are the following:

Multi-Sectoral Conference on the Global Financial Crisis: Responding to the Employment Challenges, 30 January 2009, OSHC, Quezon City which resulted in the signing of "Joint Commitments and Deliverables" that lay the groundwork for cooperation

and collaboration to urgently address the employment challenges brought about by the global crisis.

To concretize the commitments made during the Conference, the **Job Summit: Joining Hands Against the Global Crisis** was held on 9 February 2009 at the Malacanan Palace, Manila. A “Communiqué” which spells out commitments to support for business growth and support to workers’ safety nets was presented to the President.

For those in the informal sector and agri-based industries, the DOLE initiated the **Multi-Sectoral Consultation for Affected Workers in Selected Agri-Based Industries** on 13-14 February 2009 in Davao City where agri-based stakeholders signed a “Joint Resolution” to mitigate the impact of the global crisis on workers in the agri-based industries specifically in banana, coconut, abaca, tuna, and rubber industries.

Finally, the **Overseas Employment Forum** was held 2 March 2009 again at Malacanan Palace, Manila. This resulted to the presentation of “Communiqué” to the President that call upon all Filipinos to unite and support efforts to generate, preserve, expand job opportunities for EFWs and continue to uphold their welfare and protection.

Against the backdrop of uncertainties in the economic crises and its inevitable impact on the labor market, the Philippines has continuously embarked on heightened social partnership and cooperation as an inevitable component in achieving its economic and societal goals. The program actions are actualized through:

- Proactive advocacy on enhancing workplace relationships by cultivating a culture of partnership & cooperation, involving workers in maintaining or harnessing productivity (FWAs requiring discussion/consent of the workers)
- Proactive engagement of labor-centers, federations & workers’ associations in cascading DOLE assistance to affected union members
- Proactive assistance through the Quick Response Team extending DOLE services for conciliation-mediation, job matching & livelihood assistance to displaced workers
- Proactive conciliation-mediation services by the DOLE regional offices and NCMB
- Use of workplace grievance mechanism and conciliation on issues and concerns arising from the implementation of DOLE Advisory No. 2
- NLRC is to fast track OFWs and local workers’ cases

Challenges to industrial relations

The effects of the global financial crisis on labour and employment in the Philippines is less compared to some of its Asian neighbours. The fears and apprehensions that greater debilitating effect will be experienced than that of the 1998 Asian Financial Crises has turned out to be unfounded. Still, the moderate level of economic growth that the country has experienced in the recent past has been disturbed.

In this regard, we have identified some challenges that the Philippine industrial relations is faced with during this difficult times.

- Inability of regulatory institutions to enforce labour standards due to economic pressures;

- Pervasiveness of informal and non-traditional forms of employment;
- Vulnerability of the workers to reduction of income and increases in expenditures which makes collective negotiations more difficult;
- The need to come up with effective strategies to arrest the continuing stagnation of industrial sector while protecting the welfare of the workers.

Mechanisms for tripartism and social dialogue

For the past two decades, the Philippines has embodied tripartism and social dialogue in its industrial relations mandate and structure. Tripartism has been declared a State policy, affording workers and employers the opportunity to be represented in decision and policy-making bodies of the government. The law even requires workers and employers representation in various government agencies that affect workers and employers.

As a result, several tripartite and tripartite-plus mechanisms have emerged. These mechanisms may either be policy-making, decision-making or advisory in nature.

Among these agencies are the National Labor Relations Commission (NLRC); National Wages and Productivity Commission (NWPC); Philippine Overseas Employment Administration (POEA); Overseas Workers Welfare Administration (OWWA); Occupational Safety and Health Center (OSHC); Technical Education and Skills Development Authority (TESDA); Tripartite Voluntary Arbitration Council (TVAAC), all of which are attached to the Department of Labor and employment.

Outside the DOLE, agencies have likewise provided slots for labor and management to participate in policy making processes, including, the Social Security System (SSS); Employees Compensation Commission (ECC); Government Service Insurance System (GSIS), the Philippine Economic Zone Authority (PEZA); the Home Development Mutual Fund (HDMF); Philippine Health Insurance Corporation (PhilHealth), and the National Anti-Poverty Commission (NAPC), among others.

Another tripartite body, the Tripartite Industrial Peace Council, serves as forum for compilation and discussion of issues, policies, rules and regulations affecting labor-management. Key issuances of the DOLE go through the TIPC before they are finalized and issued by the Secretary of Labor and Employment.

At the regional level and provincial levels tripartite councils are also in place. In some industries, industry tripartite councils have also been set up by the social partners as mechanisms for consultations on matters affecting the industry. Among the industries where these bodies are in place are in the hotels and restaurant sector, banking, construction, clothing and garments, sugar and automotive industry.

The way forward: Cascading social partnerships and social dialogue even to the workplaces

Today, tripartism, social partnership and social dialogue continue to evolve as a viable mechanism in responding to the challenges of globalization and in seeking to reconcile the imperatives of social justice, enterprise competitiveness and economic development.

It is in this direction that the National Conciliation and Mediation Board, an attached agency of DOLE, is intensifying the implementation of its mandate to adopt labor-management cooperation and bipartite grievance handling programs promotive of employees participation and commitment at the enterprise level. These programs are:

- Workplace Relations Enhancement Program or Labor Management Cooperation;
- Workplace Dispute Prevention and Settlement or Grievance Settlement;
- Conciliation-Mediation.

Labor-management Councils and Grievance Mechanisms are utilized as first lines of defense in addressing not only plant-level issues and concerns but also crisis-related disputes, policy issues and directions faced by the industry. Under the plant-level social dialogue mechanisms, labor and management are able to discuss various issues, such as, production and work systems, new business and work arrangements, health and safety, workers' welfare, skills training, human resource development, productivity improvement and gain-sharing, incentive pay schemes and other concerns.

Aside from encouraging bipartite initiatives, the NCMB, at the first sign of enterprise distress, may *mutuo proprio*, dispatch a team to hold consultations and dialogues or conciliation-mediation proceedings with labor and management representatives in order for the parties to: 1) arrive at an amicable settlement, or 2) resolve their differences at the lowest possible level, the fastest time possible, and at least possible cost.

Indeed, successful enterprise constitutes the bedrock of successful economy. National economic growth will always be predicated upon the growth and viability of a successful enterprise. If good-labor management relations pervade in every workplace, industrial harmony shall give way to higher productivity and competitiveness, thus creating an environment that is attractive to both local and foreign investments. These remain to be the prime conditions for ensuring continued national economic growth on one hand, and social development, on the other hand.

“Social Dialogue in the Context of Emerging Industrial Relations Issues and Trends in the ASEAN Countries in the time of Financial and Economic Crisis”

Philippines Report on the 2nd Regional Seminar on Industrial Relations in the ASEAN Region
Impiana KLCC Hotel, Kuala Lumpur, Malaysia
3-4 February 2010

Ms Ma. Elena M. Hernandez
DOLE NCMB NCR

Mr Alejandro C. Villaviza
TUCP

Mr Ranulfo P. Payos
ECOP

SCOPE OF PRESENTATION

- I. The Philippine Situation
 - Economic
 - Labor Market Scenario
- II. Policy Measures and Programs Undertaken
 - Policy interventions
 - Program Interventions and Safety Nets
- III. Challenges in Industrial Relations
 - Engaging the Social Partners
 - Dispute Prevention and Resolution (Crisis-related Concerns)



GFC and the Philippine Economy

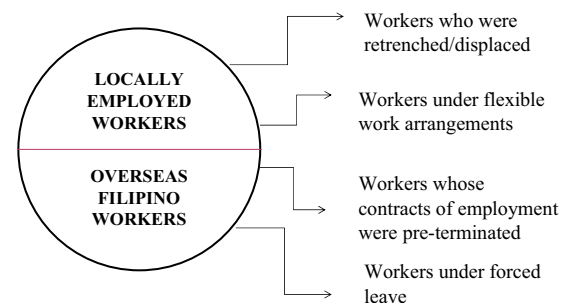
- ⊙ The Philippines GDP growth decelerated considerably in the fourth quarter of 2008 and first half of 2009.
- ⊙ Asset prices experienced volatility but unlike the 1997 East Asian crisis, the financial sector remained fairly stable.
- ⊙ Unemployment increased moderately, but was more pronounced in the manufacturing sector which felt the brunt of the slowdown mainly through the export channel.

GFC and the Philippine Economy

- ⊙ Remittances from overseas Filipino workers continued to grow, however, albeit at a lower rate.
- ⊙ The Economic Resiliency Plan is a key component of the Government response to the crisis and 2009 first half data indicate modest success.
- ⊙ Government has embarked on a campaign to increase and expand social protection in response to the deteriorating poverty situation.
- ⊙ In the wake of the crisis, resources were increased and programs were improved.

LABOR MARKET SCENARIO

⊙ Who are the GC-Affected Workers?



LOCAL employment

❖ GC Affected Workers: How many are they?

Mostly affected Industries	
☐ Top 5 Industries	
• Electronics (39,569 or 36.8% of total affected)	
• Metal Components (8,941 or 8.3%)	
• Real estate, renting and business service activities (8,921 or 8.3%)	
• Garments (5,749 or 5.3%)	
• Mining (5,574 or 5.2%)	

Mostly affected Regions	
☐ Region 4A	57,022 or 53%
☐ Region 3	16,901 or 15.7%
☐ Region 7	16,227 or 15.1%
☐ Metro Manila	4,554 or 4.2%

Source: BLES, Data as of June 4, 2009

overseas employment

❖ GC Affected Workers: Where are they?

COUNTRY	INDUSTRY	REASONS
Taiwan	Electronics, metal-work, semicon	Bankruptcy, retrenchment
Australia	Shipbldg, construction	Redundancy
Brunei	Garments	Restructuring
UK	Electrical/Telecom	Reduction in workload
UAE	Service, construction, advertising, arch, engr	Op slowdown, redundancy
Macau	Construction, hotel	Suspension of const. projects, cost-cutting in op
Greece	Service, cruise vessel	Retrenchment
KSA	Construction	Workforce reduction
Korea	Electronics	Laid-off/go home
Poland	Metalwork	Retrenchment
Canada	Oil & gas	Retrenchment
Japan	IT	Retrenchment
Malaysia	Garments	Retrenchment
Russia	Bldg Construction	Suspension of cons project
Singapore	Metal work	Retrenchment
Qatar	Various (construction, engineering etc.)	Retrenchment

Source: BLES, Data as of June 4, 2009

Positive Outlook: Local Employment

- Despite GF crunch, growth in employment boosts economy
 - No. of employed person grew by 2.7 per cent from 34.533 M in Oct. 2008 to 35.477 M in same period of 2009
- Top contributor to employment growth:
 - Wholesale and retail trade sector (7 M)
 - Transport, storage & communication (2.735 M)
 - Private household w/employed person (1.9 M)
 - Public administration & defense, compulsory social security (1.774 M)
 - Real estate, renting and business activities (1.105 M)

Positive Outlook: Overseas Employment

	2007	2008	2009	Growth Rate
Deployment		1.149	1.284	11.7%
Remittances	\$14.5 B	\$16.4 B	\$17.1 B	8.6%

Policy Measures and programs undertaken

POLICY

- **DOLE Advisory No. 2, S. 2009** policy guidelines on **Flexible Work Arrangements (FWA)**
 - intended for global-crises affected establishments, enabling about 88,000 workers under FWA to hold on to their jobs during crisis
- Voluntary
 1. Compressed Workweek
 2. Reduction of Workdays
 3. Rotation of Workers
 4. Forced Leave
 5. Broken-Time Schedule
 6. Flexi-Holidays Schedule

◎ DOLE Advisory No. 2

Employers shall take into account the ff:

- Situation of the business;
- Adverse consequence of FWA;
- Financial condition of the company;
- Put into agreement the FWA.

- The parties shall be primarily responsible for its administration. In cases of differences in interpretation:
 - Differences shall be treated as grievances under the grievance machinery of the company,
 - If there is no GM, the grievance shall be referred to the DOLE Regional Office for appropriate **conciliation**.

POLICY

Executive Order No. 782. S. 2009

Requires the allotment of 1.5 per cent of the Maintenance and Other Operating Expenses of agency budget for hiring of displaced workers or their dependents. As of September 2009, about 14,500 workers were hired by various national government agencies, government owned and controlled corporations (GOCCs), and government financial institutions (GFIs).

POLICY

R.A. No. 9504, Tax Exemption for Minimum Wage Earners

- signed and approved on 17 June 2008, exempts minimum wage earners from paying income tax. It amends, Sections 22, 24, 34, 35, 51, and 79 of RA 8424 or the National Internal Revenue Code of 1997.
- aims “to provide financial relief to taxpayers in cognizance by the government of the hard times brought by multiple factors, including the current rice crisis, oil price hikes and the heightening inflationary pressure on commodities of all kinds and to help reduce the wide tax gap in the taxation of self-employed and professionals.

PROGRAMS

- **ERP or Economic Resiliency Plan”**
 - stimulus package with total budget of 330 B.
 - focused on job creation through financing of job generating infrastructure development and maintenance project under CLEEP
- **CLEEP or Comprehensive Livelihood and Emergency Employment Program**

CLEEP aims to protect the most vulnerable sectors – the poor, hungry, returning expatriates, workers in the export industry, and out-of-school youth – from threats and consequences of reduced or lost income as a consequence of the global economic crisis. This is achieved through: (1) hiring for emergency employment; and (2) funding and supervising livelihood projects.

Expansion of Social Protection Programs



- ❑ Conditional cash transfers
- ❑ Full National Government contributions to the National Health Insurance Program of PhilHealth
- ❑ Additional TESDA training programs & scholarships for 566,000 beneficiaries ages 15 to 24 years old – the biggest segment of the unemployed
- ❑ CHED student loans



Other DOLE Programs

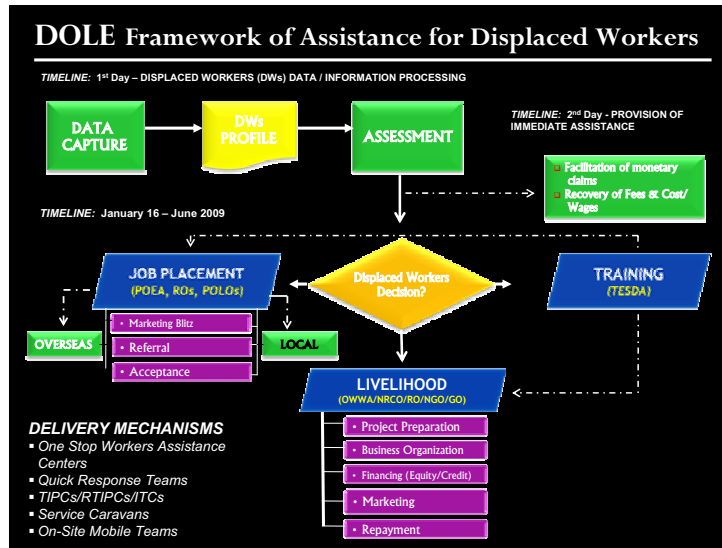
- ⊙ Adjustment Measures Program (AMP), Workers Income Augmentation Program (WIN AP) and DOLE Integrated Livelihood Program benefitted some 60,000 displaced and low-income workers.
- ⊙ Nurses Assigned in Rural Services (NARS) training cum deployment project mobilized more than 10,000 registered nurses in the poorest municipalities to improve the delivery of health care services. In the second semester of project implementation, the coverage was expanded to rural schools and areas badly affected by the typhoons.

Other DOLE Programs

- ⊙ The DOLE, through its National Wages and Productivity Commission (NWPC) extensively promoted non-wage benefits, taking advantage of the lull in minimum wage fixing:
- ⊙ Diskwento Caravan, a nationwide program aimed to provide basic goods and commodities to workers at lower/discounted prices (10-20 per cent discounts) through coordinated arrangements with manufacturers/suppliers, Department of Trade and Industry, local government units, trade unions, and private companies.
- ⊙ Productivity Program, with emphasis on service quality (SQ) for Key Employment Generators. The SQ, initially implemented to create an “error-free” service delivery in the hotel and restaurant industry in partnership with the Department of Tourism (DOT), the Technical Education and Skills Development Authority (TESDA), and the Hotel and Restaurant Association of the Philippines (HRAP).

Jobs and Livelihood Fairs





Challenges in industrial relations

- ◉ The effects of the global financial crisis on labour and employment in the Philippines is less compared to some of its Asian neighbours.
- ◉ Still, the crisis has a relatively strong impact via increases in labour unemployment and underemployment, lower real wages and a number of retrenchments or displacements of workers.

Challenges in Industrial Relations

- ◉ Inability of regulatory institutions to enforce labor standards due to economic pressures;
- ◉ Pervasiveness of informal and non-traditional forms of employment;
- ◉ Vulnerability of the workers to reduction of income and increases in expenditures which makes collective negotiations more difficult.

Challenges in Industrial Relations

- ◎ Still, the greatest challenge is how to come up with

EFFECTIVE STRATEGIES TO ARREST THE CONTINUING STAGNATION OF INDUSTRIAL SECTOR WHILE PROTECTING THE WELFARE OF THE WORKERS

The economic crisis has shown that government, business and labour increasingly resorted to tripartite responses to employment problems and issues.

Engaging the social partners: Good Practices and Service Delivery

ENGAGING THE SOCIAL PARTNERS: *GOOD PRACTICES ON SERVICE DELIVERY*

Set up of LGU-based One-Stop Workers Assistance Centers to provide available government services to GC affected workers, particularly in municipalities/cities severely affected by the crisis.



☐ Quick Response Teams

☐ One Stop Workers Assistance Centers

☐ TIPC/ITCs

☐ Special Task Force on GC Affected Workers

MULTI-SECTORAL AND INDUSTRY CONSULTATIONS



Multi-Sectoral Conference on the Global Financial Crisis: Responding to the Employment Challenges, 30 January 2009, OSHC, Quezon City



Job Summit: Joining Hands Against the Global Crisis, 9 February 2009, Malacanan Palace, Manila

29/25

MULTI-SECTORAL AND INDUSTRY CONSULTATIONS

Multi-Sectoral Consultation for Affected Workers in Selected Agri-Based Industries, 13-14 February 2009, Davao City



Overseas Employment Forum, 2 March 2009, Malacanan Palace, Manila

30/25

Dispute Prevention and Resolution

(Crisis Related Concerns)

DISPUTE PREVENTION (CRISIS RELATED):

- Proactive advocacy on enhancing workplace relationships by cultivating a culture of partnership & cooperation, involving workers in maintaining or harnessing productivity (FWAs require discussion/consent of the workers)
- Proactive engagement of labor-centers, federations & workers' associations in cascading DOLE assistance to affected union members (federations & unions are made DOLE conduits, WINAP NCR, 25 unions granted a total of P10M for income augmentation schemes).

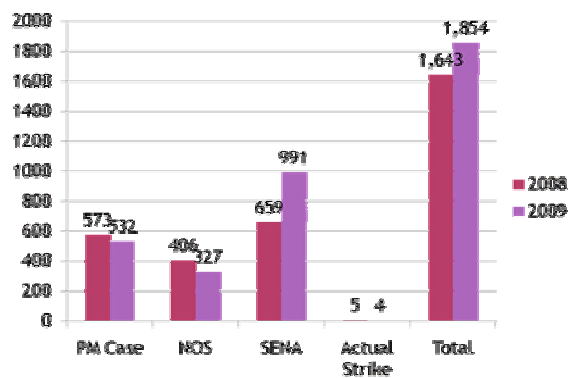
DISPUTE PREVENTION/ RESOLUTION:

- Proactive assistance through the Quick Response Team extending DOLE services for conciliation-mediation, job matching & livelihood assistance to displaced workers.

DISPUTE RESOLUTION:

- Proactive conciliation-mediation services by the DOLE regional offices and NCMB,
- Use of workplace grievance mechanism and conciliation on issues and concerns arising from the implementation of DOLE Advisory No. 2
- NLRC – the directive is to fast track OFWs and local workers' cases

Total No. of Cases Handled as of 31 Dec. 2009
National Conciliation & Mediation Board - DOLE



The way forward

*Cascading Social Partnerships
and social dialogue even to the
Workplaces*

Cascading Social Partnerships to the Workplace:

- ◉ *Workplace Relations Enhancement Program or Labor Management Cooperation;*
- ◉ *Workplace Dispute Prevention and Settlement or Grievance Settlement;*
- ◉ *Conciliation-Mediation;*
- ◉ *Tripartism, Multipartism and Social Dialogue*

END OF PRESENTATION

Thank You!

VIET NAM COUNTRY REPORT

“Government and social partners together overcome difficulties emerging from the global economic and financial crisis”

*Nguyen Manh Cuong
Center for Industrial Relations Development (CIRD)
Viet Nam*

I. Introduction

After more than 20 years of implementation of “Đoi Moi” policy, especially after becoming an official member of the WTO in 2007, Viet Nam economy has been shifting to market economy and integrating in the world market. As a part of the world economy, Viet Nam not only benefits from investment and trade but also is prone to be much more sensitive to the world economy’s fluctuation. The global economic and financial crisis which started in 2008 has made direct impacts on Viet Nam economy. It is clear to witness the decrease in foreign investment, exports leading to the decline of the economic growth and negative impacts on employment and income of workers. The statistics show that industrial production of the first two months in 2009 increases only 2.5 per cent, the total amount of export turnover at the same time goes down 5.1 per cent and the number of tourist decreases 10.3 per cent compared to the same time last year.

This global financial and economic crisis is considered the first shock of Vietnamese economy after joining WTO in 2007. This is also the biggest challenge to the Government and social partners of Viet Nam to cooperate overcome problems of industrial relations arising from this crisis.

II. The global downturn’s impacts on employment in Viet Nam

In the ending months of 2008 and early 2009, there have been a number of reports which estimated and forecasted the impacts of the financial and economic crisis on the economic growth and employment.

According to the Ministry of Labour, Invalids and Social Affairs, to the end of 2008, 863 enterprises in 47/63 provinces, cities have reported the number of laid off workers of more than 69,900 people accounting for 15 per cent out of the total number of workers working in these enterprises, in which the female workers take up 27.4 per cent out of the laid off workers. In addition, there were 16,000 workers who were considered under-employed.

Provinces, cities which get the high numbers of laid off workers are the provinces, cities in major economic areas having labour market more developed such as: Ho Chi Minh City: 19,000 people, Hanoi City: 9,600 people, Binh Duong province: 8,500 people, Dong Nai: 6,400 people, Bac Ninh province: 4,000 people. According to the reports of the Management Board of the industrial zones and processing zones in Ho Chi Minh City, in 2008 alone, the number of new jobs created in industrial zones of Ho Chi Minh City was 244,000 – less about 7,000 compared to the year 2007. The sharp decline happened in the ending months of 2008 while the financial and economic crisis began wide spreading all over the world.

Sectors owing the highest number of laid-off workers are the sectors having products mostly for export such as: garment, footwear, seafood processing, agricultural products, construction, wood furniture and electronics. At early 2009, Ho Chi Minh Association of Textile and Garment forecasted there would be approximately 20 thousands workers at risk of losing or lacking jobs in its sector in Ho Chi Minh.

In addition, the overseas labour market for Vietnamese workers also experienced the negative impacts of the global financial and economic crisis which have lead to the decreasing demand for Vietnamese labour in traditional markets such as: Middle East, Korea, Malaysia, and Taiwan. Up to the end of quarter I/2009, there were over 6,000 Vietnamese workers have returned home not having completed the contracted time. In early 2009, the forecast number of laid-off workers going home in 2009 could emerge up to 10,000 workers.

In rural area, there are 35 million workers of working age; therefore the situation of employment in the end of 2008 was also very tense. The small and medium sized enterprises in trade villages are suffering the impacts due to the greatly reducing demand of domestic as well as export markets. In knitting trade village in La Phu commune (the suburb of Hanoi City) at pre-crisis time, with more than 97 businesses, manufacturing combination and over 1,000 households doing business, in which about 10,000 people regularly working in enterprises, 15,000 people at home processing goods for enterprises at the commune and nearby localities. However, because of the impacts of the economic downturn and the situation of Eastern European countries which are facing difficulties and having fluctuation of exchange rate, the export goods to these countries reduced so significantly that the demand of labour force in this commune has decreased to 50-70 per cent. Wooden furniture making Dong Ky village (Bac Ninh province) is another example, this village has also been influencing by the economic decline. With 140 enterprises and 20 cooperatives specializing in the traditional products, as a result, the demand of workers of this village is up to 6,000 workers at local and approximately 10,000 workers from nearby localities each year, but to early 2009, 2/3 the number of workers has been cut.

In the sector of the medium and small sized enterprises, the report of the Viet Nam Association of Small and Medium Enterprises shows that there is about 60 per cent in 350,000 small and medium enterprises facing difficulties in market, in which there is about 20 per cent at the risk of bankruptcy.

At early 2009, the Ministry of Labour, Invalids and Social Affairs forecasted the number of laid-off people due to the economic crisis in 2009 might range from 300,000 to 400,000 people. But according to an estimation made by the Institute of Labour and Social Affairs in late 2008, it showed that on the basis of calculations: if the economic growth speed is from 6.2 per cent to 8.5 per cent so each year has 1.7 million employments for the new workers entering in the labour market. But in the fact that about 1.3 to 1.5 million new jobs were created in 2008. If the workers losing jobs in 2009 were 400,000 people so the total amount of new jobs which needed to be created in 2009 would be about 2 million. Under such pressure of job requirement, the rate of unemployment in the area of cities might surge from 4.7 per cent up to 5.3 per cent or to 5.5 per cent.

However, in the mid-year of 2009, the sign of the world economic recovery appeared leading to the improvement of the situation and changes in the forecasted numbers. In Ho Chi Minh City, in the number of 19,000 workers which registered about losing jobs, has 14,850 people finding a new job (account for 78 per cent). In Ba Ria-Vung Tau province, there are 850 people losing jobs, but the notice of recruitment of local enterprises needs 12,150 workers. Dong Nai province

has more than laid-off registered 10,000 workers but the demand of workers recruitment of local enterprises is over the number of 50,000 people, it means it is five fold to the number of people getting jobs. In Binh Duong province, there are more than 7,000 people finding a new job in laid-off registered 8,500 people.

III. Industrial relations

In order to understand the dynamics of the interaction between industrial actors in Viet Nam in responding to the crisis, it is important to know some main feature of industrial relations in Viet Nam today.

Basically, it can be said that industrial relations in Viet Nam currently in double transition processes: one in the transition from an agriculture base economy to an industrializing economy at early stage; the second transition is from centrally planned economy to an economy that tend to be run on market principles.

In such a double transition status, the industrial relations system in Viet Nam has not yet fully running on free market principles. At national and provincial level, the Government is still playing central role in leading and balancing the system mainly through administrative machinery. Viet Nam General Confederation of Labour is the nation wide and the only recognized trade union in Viet Nam. Two organizations are recognized by the Government to be representative of the employers namely Viet Nam Chamber of Commerce and Industry (VCCI) and Viet Nam Cooperative Alliance (VCA). However, this government recognition does not speak for the recognition by the business community. There have been claimed by VGCL that 70 per cent of SOE, 50 per cent of FDI and 30 per cent of Vietnamese private enterprises have signed CBA but it is quite a few that CBA could be trusted as the product of negotiation. The contents of the CBA are mostly a copy of minimum standards set by the law with some slight additional benefits such as welfare for holidays, funeral and wedding leave. It is especially important to note that all of the strikes happened so far (about more than 3,000 for the last 10 years) were wildcat (or unlawful). But it is also important to note that although the VGCL claimed not to organize or lead any single strike so far but almost all the strikes were very well organized. When strikes happened, it is very common that local authority set up the ad-hoc interagency task force that normally comprising representative from departments or authority of labour, police, VGCL, people committee of district and some time VCCI where it is present. Settlement of strikes is mostly done with the direct support or intervention of this task force.

At national level, in late 2007, National Labour Relations Commission was established. Its members include Minister of Labour, Chairman of VGCL and three heads of three employers organizations, namely VCCI, VCA and Viet Nam Association of Small and Medium Enterprises. The Commission main function is to advise Prime Minister on labour and industrial relations issues.

The system of labor arbitration, labour conciliation and labour court in theory are in existence but has not been active. There were no cases of collective labour dispute was brought to conciliation or arbitration. There were reported that just few cases of collective labour dispute were brought to the labour court. In short, whole official industrial relations system has been almost inactive since the current Labour Code come to effect in 1995.

Having understood current Viet Nam industrial relations system, one may have clearer view on industrial relations in Viet Nam during the time of the crisis. The financial economic crisis has brought direct impacts to industrial relations and deepened the following it:

First, 80 per cent of workers working in industrial zones are migrant workers coming from rural areas in South-East Delta and northern provinces. In the case those workers are laid off and had to return home, they may create a great pressure on employment in their home provinces and therefore may become the potential dangers for social stability.

Table 1: Labor forces in EPZ and IP

Year	Labor force		Immigrated workers	
	Total (thousand)	Increase (per cent)	Total (thousand)	Proportion (per cent)
2003	472	100	268	56.76
2004	556	118	331	59.43
2005	698	126	414	59.25
2006	821	118	492	59.95
2007	973	119	617	63.39

Source: Ministry of Labor, Invalids and Social Affairs

Second, labour dispute and strike happen mostly in three provinces and cities namely Ho Chi Minh City, Binh Duong và Đồng Nai. The problem is that these three provinces and city are also the provinces where most of enterprises experiencing difficulties are located. The wave of laying off workers late 2008 and early 2009 in these three provinces could have posed serious problems for industrial relations, even could have been elevated to social unrest. Luckily it did not happen.

Table 2: Number of strikes in 2007 by provinces

Order	Provinces/Cities	Number of strikes	Proportion (per cent)
1	Binh Duong	184	40.2
2	Đồng Nai	98	21.4
3	TP Ho Chi Minh	96	21.0
4	Tay Ninh	31	6.8
5	Long An	20	4.4
6	Hai phong	9	2.0
7	Other	20	4.4
	Total	458	100

Source: Ministry of Labor, Invalids and Social Affairs

Third, labour dispute and strikes in Viet Nam happen mostly in labour intensive industries such as garment, footwear, wood processing, electronics, and plastic goods. But these are also the most hit industries by the crisis causing the mass of laid off workers in enterprises in these industries. Those workers who were still working at these enterprises during the crisis time could not have much work to do, therefore their income have much declined. This fact called for serious consideration on the negative impacts on industrial relations in these sectors.

Table 3: Number of strikes in 2007 by industries

Order	Industries	Number of strikes	Proportion (per cent)
1	Garment	186	40.6
2	Wood products	48	10.5
3	Footwear	47	10.3
4	Mechanics	43	9.4
5	Plastics	17	3.7
6	Electricity and Electronics	10	2.2
7	Processing	12	2.6
8	Others	95	20.7
	Total	458	100

Source: Ministry of Labor, Invalids and Social Affairs

Fourth, all the strikes happened so far in Viet Nam were unlawful or spontaneous. Therefore, the dissatisfaction feeling of the mass of workers because of losing jobs or declining in income could have easily turned into spontaneous industrial action.

Table 4: Number of strikes by years and ownership

Year	Total of cases	State-owned enterprises		FDI		Vietnamese private enterprises	
		Cases	per cent	Cases	per cent	Cases	per cent
2000	70	15	21.4	38	54.3	17	24.3
2001	90	9	10.0	55	61.1	26	28.9
2002	99	5	5.1	65	65.7	29	29.3
2003	142	3	2.1	104	73.2	35	24.6
2004	124	2	1.6	92	74.2	30	24.2
2005	152	8	5.3	105	69.1	39	25.7
2006	390	4	1.0	287	73.6	99	25.4

Source: National Labor Relations Commission

Fifth, the time of Tet (Vietnamese New Year) as observed over the years proved to be the most sensitive time for industrial relations. Workers normally expect the employer pay ‘the 13th month salary’ on Tet occasion, no matter the enterprise run on loss or making profit. Time before Tet normally is the ‘peak’ of the wave of strike in a year. Therefore, the time of Tet 2009 was the sensitive time for industrial relations. Due attention was paid into this fact during Tet 2009 to make sure that the situation was under control.

IV. Some major measures that the government and social partners have adopted to mitigate the negative impacts of the crisis to economy and employment

At national level, in the ending months of 2008 and early 2009, the Government and social partners have adopted several measures to mitigate the impact of the crisis to economic growth, employment and income of the population.

The first measure is the Government Resolution 30: On 11 of December 2008, having considered the visible and possible negative impacts of the crisis to national economy, employment and wellbeing of the people, the Government of Viet Nam adopted Resolution 30 on “*The urgent measures to curb the economic downturn, sustain growth and protect social*”. The resolution contains three components on stimulus of investment, financial policy and social security. This resolution was considered the most comprehensive package that the Government introduced at the time of crisis aiming at not only economic growth, but the employment and social security.

Major points of the Government’s Resolution 30 on 11 December 2008

1. Solutions on investment stimulus

- For projects using state budget: the remaining fund of 2008 will be allowed to used up to the end of June in 2009
- The Government advanced bonds of 1.500 billion VND to invest in building, improving, upgrading the water system, repairing dykes system, enhancing the capacity of watering and preventing against storms and floods in the Red river delta.
- Speed up disbursement of FDI and ODA resources; focus the projects for infrastructure building, the projects for investment in high-tech products which have the great export value, the projects for large employment solution.
- Provide favorable conditions on land, access to market, interest to the utmost for enterprises investing in large-scale projects, constructions.
- Form the Housing Fund for social beneficiaries in the period of 2009-2015, encouraging investing in housing construction for workers at industrial zones.

2. Financial policy

- Reduce 30 per cent of the total of business income tax on the quarter IV of 2008 and 2009 to the small and medium-sized enterprises.
- Delay the time of collecting business income tax in 9 months to the enterprises which are using a large number of workers in the field of manufacturing, processing agricultural, forest and textile products, leather shoes, electronic components.
- Refund temporarily 90 per cent of the amount of input value-added tax to net goods for export.
- Reduce import tax rates for a number of goods group which are inputs of production

3. Social security

- Allocate budget for supporting the poor in the poorest 61 provinces.
- Invest in housing construction for the poor, beneficiaries, workers at industrial zones and for pupils and students;
- Support income for the beneficiaries, workers who have low incomes, people damaged by storm, flood destruction.
- Subsidy for people who are get pay from the state budget, have difficult life and low income.
- Provide credits to the poor households, poor students, pupils and other social beneficiaries.
- Adopt policies which assist manufacturing land, building land, housing and running water for the poor ethnic minorities having life difficulties.
- Provide vocational education for the rural workers, especially from the poor households.

The second significant measure was the Prime Minister's Decision 30: On December 23, 2009, Prime Minister issued Decision 30 on '*Assistance to laid-off workers of the enterprises experiencing difficulties caused by the crises*. In addition to the Resolution 30, the Decision 30 of the Prime Minister had direct objectives to mitigate the negative impacts of the crisis on employment. The Decision has two main components with one supporting the enterprise while the other component aiming at direct assistance for the workers.

For the enterprises, the Government allows those enterprises which lost ability to pay salary, social insurance and unemployment benefits to borrow the loan from the Government in order to pay those pays to the workers. The enterprises entitled to this scheme are those who proved to be affected adversely by the crisis and had to lay off at least 30 per cent of their workers or more than 100 workers (not counting seasonal workers contracted for less than three). Term for the loan was 12 months with zero interest. The maximum amount the enterprise could borrow is three months salary per laid-off worker.

Laid-off workers in 2009, including those who returned from overseas due to the early termination of employment contract are entitled to borrow money from National Fund for Employment Generation with low interest for the purpose of creating jobs or getting vocational training for the period of 12 months since the date the workers lost job.

The third measure was the consultation conducted by the National Industrial Relations Commission on measures to help overcome crisis. The Commission comprising three parties convened the special meeting late 2008 to discuss the impacts of the crisis. The commission discussed and unanimously made some proposals to the Prime Minister. As a result, the Prime Minister endorsed the Commission's proposals:

- Allow enterprises to delay in paying unemployment insurance for six months. This was a new contribution that the enterprises have to make according to the Law on Social Insurance that comes to effect January 2009. The reason the Prime Minister agreed with this proposal was that although the contribution will be collected from January 2009 but the payment will not be made until January 2010. Therefore, the delay in contribution would not effect to the payment of this benefit in 2010
- FDI enterprises were allowed to delay in making contribution of 1 per cent salary to trade union fund. It is noted that non-FDI enterprises have been making this contribution years ago. The stipulation on this applied to FDI from January 2009. All these delayed money have to be paid in the months of second half 2009.

Through this mechanism, the parties have also agreed that the employers try all possibilities not to lay off workers even if the workers have to work not full days or full weeks provided to maintain minimum wage and social insurances. It is important that not to create the shock for the workers financially and.

The fourth significant measure was the Prime Minister Decision 1129 on building sound industrial relations: late 2008, after consultation with employees and employers organizations, the Prime Minister issued Decision 1129 on building stable, harmonious and progressive industrial relations. This was a comprehensive programme, including the concerted actions of the Government, trade unions and employers. This comprehensive programme was considered the landmark for the development of industrial relations in Viet Nam in the context of global economic downturn.

Some major points from the Prime Minister's Decision 1129 on building the harmonious, stable and progressive industrial relations at enterprise

- Establish inter-agency task force on industrial relations in provinces.
- Develop measures by provinces to prevent and minimize wildcat strikes.
- Establish institutions to assist and mediate two parties in industrial relations.
- Develop models for negotiation, consultation on wages; assisting to enhance skills of collective agreement negotiation and signing at enterprises; carry out the pilot programme on build-up and signing of some industrial collective agreements.
- Local authorities to regularly hold meetings for exchange, dialogues with their investors, especially the foreign investors and businesses using many workers in the industrial zones, processing zones, economic zones to timely solve problems rising during the process of existing laws and policies implementation.
- Develop housing for workers, building facilities for agricultural activities, social security points at the concerted industrial zones. Giving preferential treatment on taxes, land, credit, standards of rental house, house for rent price in a view to encouraging businesses from all branches of the economy to participate in housing construction and other social constructions for workers at the concerted industrial zones.
- Develop the action programme of enhancing the capacity for the business associations in the field of industrial relations; regularly holding training courses, professional trainings; delivering information, consulting...to the business associations and employers in the course of industrial relations laws implementation and progressive industrial relations build-up at enterprise.
- Promote the establishment of trade union organizations at enterprise, especially at FDI enterprises; specifying clearly the representative responsibilities of trade union organization for workers at enterprise, studying to reform current mechanism and to enhance the operational effectiveness of trade union organization at enterprise; setting out training plans to enhance the operational capacity, negotiation – bargaining skills for trade union officers at enterprise.
- The upper level trade unions support enterprise trade unions in negotiation, bargaining to sign collective agreements at enterprise; establishing industrial trade union organizations to undertake negotiation and signing of industrial collective agreements.

The fifth measure was to promote labour market information work and vocational training activities at provincial level.

The labour authority at provincial level had been requested to concentrate in two activities namely labour market information and vocational training and re-training for laid-off workers.

The high-lighted city for this work was Ho Chi Minh City – the baggiest labour market in Viet Nam. All employment services centers under the City Department of Labour have been in communication with Labour Divisions at district level in order to get information on enterprises that may have to down-size their production and at the same time to get information on those enterprises that may have potentials to recruit new workers nearby. The center will try to connect potential enterprises and the laid-off workers. For example, Tan Thuan employment services center provided information for about 1,000 job seekers. As the result among more than 24,000 cases that have been reported laid-off in late 2008, about 15,000 – about 78 per cent – have found new jobs. The municipal authority also spent city budget to support laid-off workers to take

training courses for new job or to create new job by themselves. The city also provides support to the enterprises for them to provide re-training at the enterprises for their workers.

The six measures was the proactive role of the Viet Nam General Confederation of Labour

Central VGCL has requested provincial and city VGCL to contact with trade union leaders at enterprise level to get information on the jobs situation at their enterprises to find out if the jobs are available, even temporarily ones. There were proactive trade union leaders who were able to persuade the employers to recruit workers who were laid off from other enterprises. For example, upon the proposal of the president of the enterprise trade union, the CEO of Pou Yen company (located in Tân Bình district) to recruit 1,000 workers who lost jobs at Vina Haengvon Industry company (located in district 8).

VGCL had spent 63 billion Dongs from the organization employment fund for the laid-off workers to borrow for employment generation purposes.

In addition, it is worth to mention the campaign generated by VGCL to support laid-off workers who are were in extremely difficult situation such as women in pregnancy or have child under 12 moths, or who are in serious health situation. For those cases, VGCL will provide money to by milk to feed the child or medicines or other essentials.

V. Some case studies on social dialogue at enterprise level

Being effected by the crisis, every company tried its way to overcome the challenges emerging from the crisis. The common problem for production companies was that the buyer cut the order, therefore the company (supplier) was under the pressure to cut off labor cost. In such situation, the company had to choices to make: the first was to lay off workers. By doing so, the company could immediately save financial situation of the company but may face the lack of manpower later on when the crisis is over and the production would be resumed in full track. The second choice was to sustain the company labor force even without employment or with a minimum level of employment.

The first choice was normally made by those company that have relatively stable market (demand) and the company believes that the critical time would pass by quickly and that the company would be back to full track of production. Another reason for the company to make this choice was that labor force employed by the company were high skill or professional workers that are normally not so easy find in labor market.

At the same time some companies chose the second way that was to lay off workers. This choice was normally made by those companies using a lot off low-skill or semi-skill workers and labor cost counts for major part in their production cost. These companies also counted that later on when needed, it would not be too difficult to find low-skill workers.

There were such cases that the companies were not really under the pressure of cutting labor cost, but the companies took the change of the crisis in order to announce the need to reduce labor cost and use this reason for laying out some workers that the companies did not want to continue to hire because of different reasons.

For the companies where the management wanted to make the first option, it was not so difficult to reach the agreement between the management and trade union. Such case was Nidec Tosok

Company, located in Tan Thuan Export Processing Zone, Ho Chi Minh City. This is the Japanese invested company, producing automobile spare parts. Like other companies, late 2008 and early months of 2009, the order for the company was significantly reduced. The management and the executive board of the company trade union had several meetings to consult and discuss the solutions to overcome the situation. From the management side, the company personnel director informed the trade union representative of the objective difficulties on reduced order that the company was facing and expressed their believe that in a long-term, the traditional market would have great potential of growth and the company production would be soon recovered. Management expressed the company desire to keep workers stay with the company for the difficult time and if the workers decide so the company would provide some allowance to support the workers. The trade union expressed workers understanding the situation and the majority desire to stay with the company in difficult time. The two sides reached the agreement that for those workers who stay without work or with little work to do, the company would provide the financial support not less than 1.5 million dong per month.

The allowance program lasted for three months until May 2009 when the company started receiving new orders and resumed the company production to full scale.

This case was viewed as win-win solution where the company did not loss their trained and experienced workers who have been working with the company for years and the workers did not loss their job although the company had to spent some extra money for allowance and the workers had to live for three months with low income. The company now is back to full operation and recently expanded one more factory for new workers.

Another case was the garment company Huu Nghi II, located in Binh Tan district, Ho Chi Minh City. The company specialized in making suitcases for export. Like other garment companies, during the ending months of 2008 and early 2009, the company did not receive new order. All 300 company workers stayed without work. Thinking the same way as in the case of Nidec Tosok, the management of Huu Nghi company chose the option to invite workers to stay with the company with a modest financial support from the company. After brief negotiation, the company management and trade union leaders agreed that the company would provide the allowance of 1 million dong per month for each waiting worker (equal to monthly minimum wage). Similar to Nidec Tosok, the situation lasted for three months before the time when the company was back in full operation and all 300 workers were back to previous workplace. The was important to note that during the time the workers were waiting for work, there were some offers for job from other companies to the workers but most of the 300 company workers decided to stay on with the company. They were happy with the work they had and believed in future of the company. After the crisis, both management and trade union said they both appreciated each other goodwill and that the difficult time was the best opportunity for them to show their trust and appreciation to each other.

However, it is noted that not all cases have the “happy ending” like the two cases described above. One company in Tan Thuan Export Processing Zone, Ho Chi Minh City, where the workers agreed to stay with the company to work during the crisis time with quite low wages of 1.2 to 1.4 million dong per month (slightly above the minimum wage) with the understanding that the wages later on will be adjusted when the economic situation is getting better. The difficult time lasted for six months until May 2009. But then the workers complained that after the recovery of the production, their wages were not much improved, just up to 1.5-1.7 million dong while other companies were paying more than two million dong per month for the same job. The workers did not agree with the explanation from the management that the company had to

compensate with the expenses that the company had to pay during the difficult time. Many workers then left the company to work for other companies.

Another worse case was the case a company located in Binh Chanh district, Ho Chi Minh City. Having understood the difficulties that the company faced with during the crisis time the workers agreed for the management to delay in paying wages for two months. At the end, the management did not pay that wages for workers and declared closing the business. But the workers later on claimed that the business owner then opened a new company and continue the same business under a new name. By changing the status of the company, the management openly wanted to avoid paying the wages that the company owned to workers.

Ms Pham Thi Xa – Vice Chairwoman of VGCL of industrial and export processing zones Ho Chi Minh City: *“Trade union and labor have to be serious with the employers with they are committed with law violation action, but at the same time, we have to understand and share with them the objective difficulties that emerging from the global economic crisis in order to find reasonable solution for each business”*

VI. Results

The outcome of the above measures was positive, particularly in terms of employment and stability of industrial relations. Employment indicators have reached the level that was much more positive than expected or predicted.

First, major macro indicators were at positive levels: the economy could maintain the economic growth at 5.62 per cent and the unemployment rate in urban areas was kept as low as 4.7 per cent – much lower than 5.3 to 5.5 per cent as predicted by some economists in early 2009. The country poverty rate was 12.3 per cent – lower than predicted level at higher than 13 per cent.

Second, on employment: the number of workers who were actually laid-off during the time of the crisis, i.e. late 2008 and early 2009, was only 133 thousand as documented – just one third of that predicted by the Labour Ministry early 2009 (as many as 400,000). To be exact, the number of 133,000 of laid-off workers means 18 per cent of total labour forces employed by the reporting enterprises.

For those workers who lost jobs, the time of being unemployed was not too long (see table below) before they can have new job or reemployed. As reported by some most industrializing provinces, as of quarter IV/2009, almost all the laid-off workers have been reemployed. By December 2009, although some provinces still reported about the laid-off workers like Kien Giang (400), Ha Tinh (450), Thai Binh (200), but in industrializing provinces, labour market indicators have almost been back to the time before the crisis when the demand for labour was constantly higher than the supply.

Table 5: Number of laid-off workers in some most industrializing provinces 2009

No.	Provinces/cities	Number of laid-off workers in late 2008	Number of laid-off workers in 2009			
			Quarter I	Quarter II	Quarter III	Quarter IV
2	Hồ Chí Minh	24,400	15,540	8,250	415	0
3	Hà Nội	15,150	12,850	830	210	0
4	Bà Rịa-Vũng Tàu	9,600	8,000	965	695	0
5	Bắc Ninh	8,470	5,230	2,390	235	0
6	Đồng Nai	8,100	5,460	2,360	293	0
8	Hải Phòng	5,400	4,050	1,350	570	0

Source: Employment Bureau, Ministry of Labour, Invalids and Social Affairs

Third, salary and income: the salary and income of the workers after a short period of sharp falling in late 2008 and early months of 2009, have resumed the level that was before the crisis and even reached the higher level. According to the official report released in early January 2009 by the Department of Labour and Wages, Ministry of Labour, War Invalids and Social Affairs, the average wages paid in 2009 was 2.840 million VND per month – increased of 10.08 per cent compared to that of 2008, in which: SOE: 3.350 million per month – increased 7.37 per cent, FDI enterprises 2.650 million per month (estimated) – increased 9.96 per cent and Vietnamese private enterprises: 2.050 million per month (estimated) – increased 10.81 per cent compared to that of 2008.

Fourth, industrial relations situation has been relatively “calm”. Surprisingly, the number of strikes in 2009 significantly reduced compared to the previous year (2009: 216 cases compared to more than 800 cases recorded in 2008). Through the difficult time of crisis, social partners from national level to provincial and enterprises levels have more recognized the importance of the dialogue, of listening to each other and have produced meaningful outcomes through the dialogues.

VII. Lessons learned

From the exercises of interaction between the Government and social actors at all levels in addressing issues emerging from the economic and financial crisis in late 2008 and early 2009 in Viet Nam, some following lessons could be drawn out:

First, the Government should act as early as possible in communicating and calling the cooperation from social actors. The consensus reached by the Government and social actors plays a vital role in building up national spirit of cooperation and solidarity in overcoming objective difficulties brought to national economy by the global crisis.

Second, the Government should have dynamic and clear macro policies that aim at both priorities to maintain economic growth and generate and protect employment. That policy should provide direct support to both businesses and labour in addressing both their own problems as well as the problems of common concerns.

Third, in the time of economic crisis, in parallel with innovative economic and financial policies in order to directly address economic and financial issues, the Government should run effective social security policy with priorities on poor people and vulnerable group of workers.

Fourth, for the country like Viet Nam, it is important to attach due consideration to informal sector, small and micro enterprises and rural areas. Rural areas are the departure place for millions of workers who work at factories during the good time for industry, at the time of crisis became the destination for many laid-off workers. The rural automatically become the valve that helps releasing the tense in urban and industrial areas.

The experiences show that more than ever, at the time of crisis, it is essential to have the consensus and concerted actions of the Government and social actors in addressing the issues emerging from the crisis. The good cooperation would help the country overcome the crisis at lower cost and get more positive result.

LAO PDR COUNTRY REPORT

The Lao People's Democratic Republic (Lao PDR), commonly referred to as "Laos" abroad, is a land-linked country in the heart of Southeast Asia. Encompassing 236,800 square kilometers and sharing borders with China in the north, Cambodia in the south, Viet Nam in the east, Myanmar in the northwest and Thailand in the west it provides a land link to all of the countries in the region. It connects its five neighbors to each other and has the potential to be a valuable transportation link. Laos is characterized by two main geographical zones: the central plains along the Mekong River and the mountainous regions to the north, east and south. The climate is governed by two monsoons, bringing rain from May to September and a dry season from November to February.

Laos has a population of approximately 6.677 million people with a growth rate of 2.8 per cent per year. The Lao population comprises three main ethnic groups: the Lao Loum (lowland), 68 per cent, the Lao Theung (low mountains), 22 per cent, and Lao Sung (high mountains), 10 per cent. The population density of Laos is 19 persons per square kilometer and roughly 85 per cent of the population lives in rural areas. The major cities are Vientiane, the capital, Savannakhet, Pakse and Luang Prabang. Buddhism is the dominant religion with more than 85 per cent of the population as believers. Real GDP growth in Lao PDR rose to 7 per cent in 2005, from 6.4 per cent in 2004. All sectors grew rapidly – with industry growing fastest but from a low base. The share of industry is now more than 25 per cent of GDP. The stimulus of large projects in mining and power sectors more than offset the dampening effects of high international oil prices and the expiry of the Multi-Fiber Agreement (MFA) quota system.

The economy is projected to grow at 7.1 per cent in 2006 and to continue growing steadily at 6-7 per cent in the future. However, a large part of this growth comes from increased foreign investment flows in hydropower and mining: without large projects and increased investment and exports in these sectors real growth would have been about one third lower.

The official language of the Lao PDR is Lao. Millions of people in the region speak the language; in fact, there are more speakers of the Lao language living in Thailand than there are in Laos. The Lao GDP growth rate stood at 5.5 per cent. Since the late 1980s, the government's economic policy has been to move rapidly from a centralized, planned economy toward an open, liberalized, market-oriented economic system. The foreign exchange markets have been opened and the kip floats freely based on supply and demand in relation-ship to the exchange rate in the "parallel market." Formal exchange controls have been lifted.

The average consumer price index in Laos from 1988 to 1997 was 20.447 per cent. After the Asian financial crisis erupted, the value of kip fell sharply. As a result, inflation rate rapidly increased. In 1998, the inflation rate reached a peak of 141.97 per cent. In the third quarter of 1999, however, inflation began to ease. According to the Bank of Lao PDR, the average inflation rate of the year 2000 is 30 per cent. In 2001, consumer price inflation was at 7.8 per cent.

Education is compulsory through age 12 in Laos. The education system is organized with six years of primary education starting at age six, three years of middle and three years of high school. University enrolments have been expanding rapidly over the past decade.

The official motto of Lao PDR is “Peace, Independence, Democracy, Unity, and Prosperity.” Laos is led by the Lao People’s Revolutionary Party (LPRP) and directed by a Party Congress which meets every four or five years to elect Party leaders. Some important administrative organizations are the Prime Minister’s Office, the Bank of Lao PDR, the State Planning Committee, and the Nationalities Committee and others. The National Assembly, the government’s legislative body with between 40 and 45 members, meets once a year to approve the laws and legislation of the country. The President of Laos is the Head of the State and is elected by a two-thirds majority of the National Assembly. Laos is divided into seventeen provinces and one special region. The country is further divided into 139 districts and 11,047 villages.

From 1975 to 1990, Laos did not have a constitution. A constitution was drafted and approved by the National Assembly in June 1990. The Constitution explicitly permits private enterprise and foreign investment. The first national legal Code was not passed until 1988: the Code on Foreign Investment. In 1994, the Law on the Promotion and Regulation of Foreign Investment superseded the Code. Over the 1988-2000 period, the government passed a host of laws to govern the economy: laws on tax, customs, business, banking, secured transactions, land, mining, domestic investment, labor, electricity, transportation, and so on.

The Lao economy is primarily an agricultural one. In 2001, 52.2 per cent of the GDP originated in agriculture and forestry, and this sector employed over 80 per cent of the labor force. Agriculture has been a relatively dynamic sector with increases in cultivated land and yields for rice and maize as well as increasing production of cattle, pigs and chickens. Over the past twenty years paddy yields doubled, making Laos’s rice fields more productive than those of Thailand. Laos has three types of agricultural production: low land irrigated, low land non-irrigated, and upland slash and burn agriculture. The government has an explicit goal of increasing the amount of irrigated land and decreasing slash and burn agriculture. Important crops are rice, maize, starchy roots, mung and soy beans, peanuts, tobacco, cotton, sugarcane, coffee and tea. In particular, coffee production has been viewed as an area of growth for the country. The abundant cover of first growth tropical hardwoods also gives Laos a comparative advantage in logging, lumber and forest products.

Power generation, largely from hydropower, has the greatest potential for private sector investment in the Lao PDR. Not only does the mighty Mekong and its tributaries run through the country, but Laos also has considerable supplies of gas and coal. Several hydropower stations are already operational, and the development plans for Laos call for continued strong expansion in this area. The stretch of the Mekong that flows through the country offers Laos the potential to generate 20,000 MW. Currently, only about 2 per cent of that potential energy has been tapped. There are efforts under way to garner an additional 5,000 MW within the next 15 years. The Nam Theun 2 hydroelectric project (NT2) will be the largest of its kind in Laos so far. It will have the capability to produce 920 MW and generate US\$235 million in gross revenues from yearly sales to Thailand.

Though mining was a major draw for foreign investors into the Lao PDR in the mid-1990s, the Asian economic crisis beginning in 1997 reduced Thailand’s demand for fossil fuels, weakening this industry in Laos. Around the same time, the Government issued an amendment to the Investment Law, requiring that all applications for investments involving natural resources have to be approved by the Prime Minister. No foreign investment license has been given in the mining sector since 1999. The Lao PDR has a plentiful supply of the following natural resources: coal, natural gas, tin, iron ore, gold, and precious stones. As transportation routes improve and Thailand

recovers from the economic downturn, the mining sector looks to be an enticing prospect for foreign investment. The Lao PDR has made a name for itself around the world as both a location for cost-effective manufacture of garments and high-end woven fabrics. The primary markets for the wholesale distribution of Lao garments are Thailand and Europe. Lao exports enter the EU duty-free due to its status in the Quota-Free Generalized Preferential System.

No other industry in the Lao PDR seems to attract as much attention these days as tourism. An interesting history, affordable costs, beautiful nature and relaxed atmosphere, and the friendliness of the people in this exotic country make Laos a much-touted destination for both backpackers and higher-end tourists. Recently, eco-tours and other packages and services have sprouted up to cater to the various needs and desires of those who travel to this once-closed society. The National Tourism Authority of Lao PDR is the government organization in charge of this growing industry.

Cross-country land routes offer the potential to make the Lao PDR a key hub of Asian trade. The country is neighbor to China, Myanmar, Thailand, Cambodia and Viet Nam. Of particular interest is the newly sanctioned Savan-Seno Special Economic Zone (SSEZ) in the south of Laos, offering special sanctions for trade transit among the neighboring countries in the region. For more information on the SSEZ, Steady air traffic through Wattay International Airport in the capital city of Vientiane and the development of other airports point to another opportunity for transit growth.

Foreign investors may be interested in the various untapped or specialized markets in the Lao PDR, such as telecommunications or IT. Additionally, a sizeable increase in the popularity of post-secondary schools, as well as the opening up of the market (with the enticement of private sector jobs) has created a pool of energetic skilled workers, many of whom speak English and other languages. Relatively low operation costs, payroll, and tax make Laos an attractive place for business.

Therefore, promoting growth in sectors other than mining and hydropower is increasingly important for ensuring stable growth in the long-run. The government's efforts in liberalizing trade and improving the investment climate are thus steps in the right direction. The poverty headcount in Lao PDR has fallen from 46 per cent of the population in 1992/3, to 39 per cent in 1997/8 and to 33.5 per cent by 2002/3. Even though the population grew by one million people over this period, the absolute number of poor fell from about 2.1 to 1.9 million. World Bank staff projections indicate that there is potential for Lao PDR to continue these positive trends, with simulated poverty headcount rates of between 23 and 28 per cent in 2010.

Macroeconomic conditions have remained broadly stable. CPI inflation fell from 15.5 per cent in 2003 to 7.2 per cent in 2005 – although it picked up in mid-2005, driven by higher oil prices and higher rice prices due to floods. The kip exchange rate has been stable while reserves equal three months of imports. The balance of payments held up well in 2005, despite some adverse shocks. A surge in mining exports offset the impact of oil prices. But the imports associated with the NT2 project have caused the current account deficit to plunge to 15 per cent of GDP, offset by capital inflows, principally from foreign direct investment.

While the cash budget deficit has been kept within the 4 per cent (of GDP) target, the fiscal position has remained under pressure due to weak revenue collection combined with the ongoing lack of realism in revenue projection, plus the pressures to increase the wage bill (which grew by 24 per cent in FY2004-05).

Delays in implementing key tax measures contributed to negative budget pressures. High public external debt remains a concern (falling since 2002 but still very high at 83 per cent of GDP in 2004 or 55 per cent in NPV terms). The crude cash rationing used to control the budget deficit has resulted in budgetary distortion – with non-wage recurrent expenditures increasingly squeezed – and built up of arrears to Government suppliers.

The impact of the crisis and policy responses

The real GDP growth is projected to slow to 5 per cent in 2009 because of the impact of the crisis. Financial markets in Lao PDR are undeveloped, so the main ways in which the global financial crisis is making itself felt in Laos is in reduced foreign direct investment (FDI), reduced demand and prices for exports (particularly natural resources such as copper), and reduced tourism. Continuously restrained credit markets with low liquidity and high cost of borrowing could have a substantial negative impact on planned investments and on the implementation of large projects, particularly in the mining and hydropower sector. Several investment projects, in particular in the natural resource sector, have been cancelled or delayed. Lao exports mainly consist of metals (copper and gold) and agricultural products (rice, coffee, maize, and rubber). Exports fell by 5 per cent in the first six months of 2009 compared with the same period last year, and the World Bank (as of June 2009) expected exports to drop by 15 per cent on average in value terms in 2009, although it expects them to recover in the medium term.

Negative impacts on trade and the natural resource sector have had fiscal consequences, with reduced revenues from export tariffs, taxes, and income from state assets such as State Owned Enterprises. In total, the World Bank expects Lao's revenue to fall from 14.2 per cent of GDP in 2007/8 to 13.2 per cent in 2008/9. However, partly because of reforms to make revenue collection more efficient and the imposition of new taxes, the budget deficit has been smaller than anticipated. The World Bank currently predicts a deficit of around 6.8 per cent of GDP for 2009, including off-budget spending, which is significantly lower than the figure of 7.6 per cent of GDP initially predicted in June 2009.

The incidence of poverty has declined steadily over the last 15 years from 46 per cent in 1993 to 26 per cent in 2008, and yet a large share of the population remains vulnerable. During the past five years, Lao's economy has grown at an average of approximately 7.4 per cent each year, including an estimated 7.0 per cent in 2008 (World Bank, 2008), which has contributed to the sustained reduction in poverty. Agriculture remains the primary economic activity, with 71 per cent of the labor force reporting farming. In 2008, the agriculture sector grew only by 2.0 per cent due to flooding and falling commodity prices. However, in the absence of natural disasters, growth in agricultural production is expected to be more robust this year.

Over time, as households have become increasingly integrated into the market economy, new sources of vulnerability are emerging, which have been highlighted during the recent crises. The global financial crisis is expected to impact Lao households through three primary channels: (i) by reducing employment or earnings within Lao PDR as a result of declines in demand for exports and foreign direct investment; (ii) by reducing overseas remittances and prompting return migration as other countries experience the recession; and (iii) by reducing the quality of or access to services because of cuts in government spending or the inability of households to afford the costs (either direct or indirect) of services.

Employment and wage effects of the global crisis

Overall, the effects of the financial crisis on employment and wages in Lao PDR do not appear to be dramatic, but it is possible that they have been delayed. Few workers are employed in the formal sector, and the vast majority work in agriculture, forestry, or fishing, sectors which have not been strongly affected by the crisis. Most of the available evidence suggests that the impact on non-agricultural sectors, apart from mining, have been limited so far. However, some of the preliminary results of a small qualitative survey¹ suggest that workers in garments and jewelry are beginning to experience cuts in their wages and working hours and that tourism has decreased.

Specific vulnerability to the employment or wage effects of the financial crisis is largely a function of the extent of this impact on different sectors of the economy and the importance of these respective sectors in terms of employment. In this regard, the first thing to note about the labor market in Lao PDR is that it is predominantly informal. Indeed, the most recent census suggests that only around 6 per cent of the population (or around 13 per cent of the active labor).

Evidence suggests that there have not been massive layoffs and that the impact of the crisis on business performance and operations has been limited. The Ministry of Labour and Social Welfare (MLSW) reports that the number of members of the formal social security fund decreased from 43,500 in December 2008 to 41,000 in March 2009, which might represent layoffs. However, preliminary estimates indicate that membership has recently increased once again. Even from separate sources, the MLSW has found no evidence of large layoffs. The World Bank carried out a rapid enterprise survey in April 2009 that covered 140 firms in the retail, manufacturing (including export-oriented manufactures), and tourism sectors. Although about 69 per cent of firms said that their businesses have been affected by the global financial crisis, the survey revealed that the crisis has had only a limited impact on their business performance and operations. Forty-four per cent of the firms reported having higher revenues for the first quarter of 2009 than in the same period the previous year, and only 40 per cent suffered a decline in their first quarter revenues. The respondents hypothesized that the limited impact of the global crisis may be due to the fact that demand for imported clothing in Europe, Lao's main market, has been less affected by the crisis. Lao garment producers have also indirectly benefited from the strong performance of Thai clothing exports in Europe because a significant number of Lao producers are operating as subcontractors for Thai textile exporters. Unlike in other sectors, the percentage of firms reporting a decline in sales in the retail sector was slightly higher than those reporting increases, which may be an early sign of the crisis having an impact.

The crisis is expected to have only a minimal effect on tourism. Lao PDR is gradually becoming an integral Greater Mekong Subregion tourism destination. New tourist sites and accommodation facilities have increasingly been developed over the past few years. Furthermore, the World Tourism Organization expects international tourism to grow in Asia and the Pacific in 2009, though more slowly than in recent years. As a result, the Lao tourism industry has experienced healthy growth, and tourist arrivals almost tripled between 2003 and 2008. The Lao National Tourism Administration reported an increase in the number of tourist arrivals in the first three months of 2009 compared with the same period in 2008. However, shows that this increase was caused by an increase in Thai tourists. Decreases in arrivals from other Asian countries, Europe, and the Americas suggest that the impact of the crisis is already being felt to some extent.

Migration and remittances

The crisis on migrants is limited and does not appear to be significant, but it will be important to monitor reverse migration. The financial crisis may have a severe negative impact on the income of Lao households if migrants send fewer remittances or return home themselves. The primary destination for international migrants from Lao PDR is Thailand,² although estimates of the number who are working abroad vary, partly because much of the migration is informal.

In so far as the crisis affects the Thai economy leading to wage reductions and unemployment among migrants, this can be expected to reduce remittances and increase return migration, leading to unemployment in Lao PDR. The Fiscal Policy Office (FPO) of Thailand predicted that around 1.4 million workers would lose their jobs as a result of the current financial crisis. During such crises, migrant workers are often among the most vulnerable in terms of job losses in destination countries (IOM).

The Government's response to the crisis

The impact of the crisis has not been felt yet and no substantial stimulus measures have been undertaken. Overseas development aid (ODA) does not appear to have decreased, and government expenditure on education and health has not been cut relative to the pre-crisis budget. Recently, the government announced that it would be spending over 3,000 billion Kip to support large projects, including large hydro and thermo power plants and mining projects to create employment. The government is promoting the extensive development of small and medium-sized power plants to increase the local supply of electricity and to reduce the demand for imported electricity

The Government's response to the global financial crisis (GFC)

- Organized governors provincial meeting chaired by Prime Minister on against impact of GFC in Laos
- Ministry of Labour and Social welfare announced to all units employment in all hold country to solve the crisis with appropriate way such as reducing the number of working hours and keeping number of workers
- Organized social dialogue meeting among tripartite on Industrial Relation for decreasing labour dispute to promote both sides to respect the labour law and other decree with concerned with labour management
- Provided the consultation to employers and workers
- Force follow labour law articles No. 28, 29 on terminating employment and articles No. 50 and 51 on payment and wages the time layoff and priority entitle of workers to receipt salary
- Continued support Prime Minister's Decree No. 68/pm on Sending Lao Workers to abroad
- Continued support Lao-Thai MOU on employment in 2002 and employment contract with partner recruitment agency
- Established the decree of Minister of Labour and Social Welfare on Implementation of Committee for Occupation Safety and Health at the central level

- Established the decree of Minister of Labour and Social Welfare on Implementation of Committee of Inspection at the central level
- Improved cost of minimum wage from 34\$ to 40\$

Strategy of Lao PDR to improve industrial relations

- Organize regularly social dialogue meeting among tripartite
- Upgrade knowledge on labour protection to staff of labour and social welfare at all levels
- Provide the consultation on Labour law for employers, workers or society
- Wider provide the dissemination on Labour law to all investors
- Continue support project of collective bargaining
- Revise some articles of labour law such as No. 28 & 29
- Amendment the decree of labour management

Same data for industrial relations of Lao PDR

Lao PDR is agricultural country, 80 per cent of it people are farmer, industry and services 20 per cent

- There are 151,906 units of employment
- Force labourers 652,000
- Agriculture sector 406,000
- Industrial sector 102,000
- Services sector 144,000
- Permanent workers 343,748, female 45,145
- Foreigner employees 22,699, female 1,707
- Lao workers work in abroad 70,370, then in Thailand 69,973
- Lao migrant in Thailand estimate over 200,000

Number of labour dispute in hold country in 2006-2010

There were 274 cases, 52.5 per cent of cases were solved, 47.5 per cent were not solved.

ANNEX 8

COLLECTIVE BARGAINING

**IN THE CONTEXT OF
EMERGING INDUSTRIAL RELATIONS ISSUES AND TRENDS
IN THE TIME OF FINANCIAL AND ECONOMIC CRISIS**



**Kingdom of Cambodia
Nation Religion King**

**COUNTRY REPORT
Collective Bargaining in Cambodia**

**ASEAN-ILO/Japan Industrial Relations Project
Second Regional Seminar on Industrial Relations in the ASEAN Region
“Emerging Industrial Relations Issues and Trends
in the ASEAN Countries”**

3-4 February 2010

The Impiana KLCC Hotel, Kuala Lumpur, Malaysia

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THE CAMBODIA COUNTRY REPORT

COLLECTIVE BARGAINING UNDER THE OVERALL THEME

**“Emerging Industrial Relations Issues and Trends
in the ASEAN countries in the time of
Financial and Economic crisis”**

*Prepared by Bo Chanveasna
26 January 2010*

1. Name and nature of organisations represented, and description of their programs

1.1. The Ministry of Labour and Vocational Training:

Cambodian Governments has established 25 ministries to fulfill their mandate including Ministry responsible for labour related and industrial relations policies. In the third term of the Governments, the former Ministry of Social Affairs, Labor, Vocational Training and Youth (MSALVY) which was responsible fore labour related and industrial relations policies was divided into two ministries: the Ministry of Labour and Vocational Training and the Ministry of Social Affairs and Youth. The Ministry of Labour is responsible for implementation of Labour Law and issues regulations/policies in industrial relation. Legal regulation issued by the Ministry is called PRAKAS.

Under the former Ministry structure of MSALVY, inspection and dispute resolution were handled by the same Department; its officials were responsible for both functions.

According to the ILO research on the Current system of conciliation in Cambodia in 2006, the ILO – Labor Dispute Resolution Project (ILO-LDRP) began working closely with the former ministry in 2002. The project conducted an assessment of MSALVY and as a result recommended to the Ministry to separate its dispute resolution and conciliation functions from its inspection function. This new strategy was implemented with the creation of the two separate departments – the Department of Labour Disputes and the Department of Labour Inspection. However, this separation has only been applied at the level of the Central Departments in Phnom Penh, and has yet to be implemented in the provinces.

According to Sub-decree No. 52 dated 1 April 2005 on the Performance and Functioning of the MoLVT, the Ministry has three levels in its management structure:

- The middle level has six general departments: the General Directorate of Administration and Finance; the General Directorate of Labor; General Directorate of Education, Technical and Vocational Training; General Inspection; the Department of Internal Audit; and the Finance Controlling Unit;
- At the local level there are municipal, provincial and district Departments of Labor;
- Finally, are public establishments under the Ministry; further details on which it can be found in the attached Annex I to this report.

Furthermore under the Sub-decree, one of the major tasks of all departments under the General Directorate of Labour and General Directorate of Education, Vocational and Professional Training is to prepare draft laws, regulations or policies related to their responsible area. The Department of Labour Inspection is responsible for drafting regulations related to working conditions, Department of Labour Dispute is responsible for drafting regulations related to protection of rights and interests of employees during their employment; Department of Social Security is responsible for drafting regulations to implement law on Social security regime for those who covered by the Labor Law; Department of Manpower responsible for drafting regulations related to govern foreigners working in Cambodia; Department of Child Labour responsible for drafting policies, law and regulations related to child labour; Department of Labour medical drafting regulation related hygiene and technical job security preventing accident; etc.

The Department of Labor Disputes is one of six departments under the General Directorate of Labor, in the middle management structure of the Ministry. The Department has two main offices, namely Labor Disputes, which handles conciliation, and Industrial Relations, which registers unions and union federations operating in Cambodia. The Department is often referred to as the Central Department of Labor Disputes [or the Central Conciliation Department].

Under the Sub-Degree, the Department of Labor Disputes was established to perform the following primary responsibilities:

- to draft provision and regulation related protection of workers' rights and interests;
- to protect workers and employer organizations in all enterprises;
- to enforce the procedure of dispute resolution;
- to settle all labor disputes;
- to monitor and encourage collective bargaining, and review and register professional organizations and collective bargaining agreements (CBAs) and issue certificates on representativeness of worker trade unions;
- to direct the Secretariat of the Arbitration Council; and
- to direct the Secretariat of the Labor Advisory Committee.

One of the above functions the Department is responsible for registration of professional organization and collective bargaining agreement. This is an only place in the whole country where union, union federation, confederation and employer association can be registered as an official body to represent their members and also where collective bargaining agreement is registered. Furthermore Department is also responsible for issuing a certificate of representativeness or most representativeness of union in the enterprise, see Prakas N^o 305 dated November 22, 2001.

At present, the Central Department of Labor Disputes is responsible for resolving disputes in Phnom Penh. It appears that the Central Department neither has a nation-wide policy nor supervises the conciliation services of provincial labor bureaus, though occasionally a conciliator in the Central Department is requested and assigned to cases in the provinces. This general detachment of provincial labor departments from the Central Department raises a concern that provincial officials, who are already seriously under-funded, may be left alone in dealing with labor disputes without clear policy directives and support.

At the provincial level there are Departments in charge of labour and vocational training where the officers are responsible for both dispute resolution and labour inspection.

The Ministry also has a particular department responsible for employment/unemployment, statistic on labour market situation.

1.2. CAMFEBA

The Cambodian Federation of Employers and Business Associations (CAMFEBA) represents employers on all the main national committees working on labour issues. CAMFEBA ensures employers contribute to the formation of legislation and national policy on employment related matters.

CAMFEBA provides an extensive range of service to its members providing advice, legal updates and training to keep members up to date with changes to the regulatory environment.

CAMFEBA is an independent business association recognised by the Royal Government of Cambodia. Currently CAMFEBA represents more than 950 businesses.

CAMFEBA provides its members with essential services for businesses operating in Cambodia:

- Legal and Advisory Services
- Information Dissemination
- Training and Networking Opportunities
- Government Compliance Services

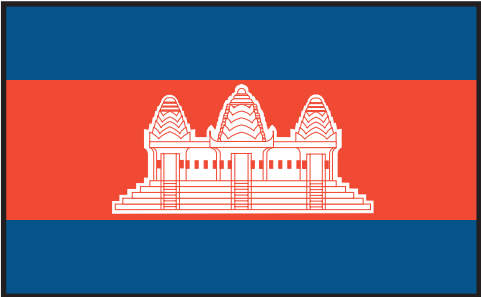
1.3. CCU-Cambodia Confederation of Union: *(We have no document related to CCU)*

2. General information

2.1. Introduction to participant’s country



Cambodia Map



Cambodia Flag

Cambodia is an agricultural country located in South-East Asia. It is bounded by Thailand to the west, Laos and Thailand to the north, the gulf of Thailand to the south-west, and Viet Nam to the east. It has a total land area of 181,035 square kilometres.

Cambodia has a tropical climate with two distinct monsoon seasons, which set the rhythm of rural life. From November to February, the cool, dry north-eastern monsoon brings little rain, whereas the south-western monsoon carries strong winds, high humidity, and heavy rains. The mean annual temperature for Phnom Penh, the capital city, is 27°C.

Cambodia's population has grown from 12.6 million in 2000 to 14, 244, 293 in 2009¹, with an average annual population growth rate of 1.7 per cent². The age structure:

0-14 years: 33.2 per cent (male 2,389,668/female 2,338,838)

15-64 years: 63.2 per cent (male 4,372,480/female 4,627,895)

65 years and over: 3.6 per cent (male 193,338/female 319,421) (2008 est.)

The most important political event was the free and fair elections held in May 1993 under the close supervision of the United Nations Transitional Authority in Cambodia (UNTAC). Since then, Cambodia was proclaimed the Kingdom of Cambodia and has a system of constitutional monarchy. Another three free and fair elections took place in 1998, 2003 and 2008. Now, Cambodia is stable and well on its way to democracy and a promising future. The next general election will be held in July 2013.

Since the 1991 Paris Peace Accord, Cambodia's economy has made significant progress after more than two decades of political unrest. However, Cambodia still remains the poorest and least developed country in Asia, with the gross domestic product per capita estimated at approximately \$1,800 (2006 est.), \$1,900 (2007 est.) and \$2,000 (2008 est.)³. Agriculture, mainly rice production, is still the main economic activity for Cambodia. In addition, small-scale subsistence agriculture, such as fisheries, forestry, and livestock, are still the most important sector. In addition, garment factories and tourism services are also important components of foreign direct investment.

2.2. Government administrative system

The territory of the Kingdom of Cambodia divides into provinces (24), districts (185), and communes (1,621). The province and district officials are appointed by the RGC while the commune council members are democratically elected by the Cambodian citizens.

The Kingdom of Cambodia adopts a policy of Liberal Democracy and Pluralism. The Cambodian people are the masters of their own country. All power belongs to the people. The people exercise these powers through the National Assembly, the Senate, the Royal Government and the Judiciary. The legislative, executive, and judicial powers are separate.

The Council of Ministers is the Royal Government of Cambodia. The Council of Ministers is led by one Prime Minister assisted by a Deputy Prime Minister, and by State Ministers, Ministers, and State Secretaries as members. Members of the RGC are collectively responsible to the National Assembly for the overall policy of the RGC. Each member of the Royal Government is individually responsible to the Prime Minister and the National Assembly for his/her own conduct.

¹ CIA World Factbook demographic statistics

² CIA World Factbook demographic statistics

³ CIA World Factbook demographic statistics

2.3. Social and economic background

Cambodia is recovering from the aftermath of three decades of conflict. Peace and stability have been re-established and the country has experienced relatively high economic growth in recent years⁴. In September 2007, the International Monetary Fund (IMF) has praised Cambodia's economic progress, predicting that the economy will grow by 7.75 per cent next year on the back of continued expansion in its four pillar industries⁵. However, over a third of Cambodia's population of 14 million still live below the poverty line.

An estimated 35 per cent of Cambodians live below the national poverty line, down from an estimated 47 per cent a decade ago. Significant progress has thus been made, largely thanks to the establishment of peace and security and the implementation of policies that have encouraged both trade and investment in infrastructure. Although all segments of society have benefited, it is those living in urban areas that have benefited the most. About 91 per cent of those living below the poverty line live in rural areas, mainly in remote locations with limited access to roads, markets and basic services. While the poor have experienced an improvement in living standards overall, inequality has also increased significantly.

The state of poverty in Cambodia translates into poor health, nutrition and educational status for many children, depriving them of their right to develop to their full potential. In terms of survival and physical development, one in 15 children (65 per 1,000 live births) and one in 12 children (83 per 1,000 live births) dies before her first and fifth birthdays, respectively, while 36 per cent of children under five years of age are underweight as of 2005.⁶ Although these rates have decreased substantially in the last five years, they continue to be the highest in the East Asia and the Pacific region.

3. Situation about industrial relations during global economic and financial crisis⁷

In the year of 2008 and 2009, the changing of economic situation and financial crisis in the world had some influence on Cambodia and also affected the daily life of Cambodian and the living of workers in some sectors such as garment and shoes making, tourism and construction.

Even though having some information related to the rising of the economic growth, from January-November 2009, the Ministry noticed that

- There are 93 factories were closed and led 38 190 workers lost their job.
- There are 55 factories were established and absorbed 15,173 workers.
- Among 60 factories that suspended 35,337 workers' job, now 50 per cent of them were started their production.
- Now there are 516 factories (garment and shoes making) with 358,660 workers are processing their works. Among 516 factories, there are 418 factories with 262,320 workers in Phnom Penh and 98 factories with 96,340 workers in province.

⁴ The Gross Domestic Product (GDP) increased from 3.9 per cent in 2000 to 13.4 per cent in 2005

⁵ The Development weekly, 24-30 September 2007

⁶ Cambodian Democratic Health Survey 2005

⁷ Speech of the Secretary of state of the Ministry of Labour and Vocational Training during the 4th National Conference on Global Economic Crisis and Cambodian Industrial Relations: Challenge and Way Forward prepared by the Arbitration Council Foundation.

In response to the global crisis, several initiatives are underway to assist the garment sector and affected workers. The Ministry of Labour Vocational Training, with technical assistance from the ILO, plans to open nine regional job centres by the end of 2010. The job centre will assist laid-off workers by assessing their skills, and linking them to potential employers and/or skills training programs. They also will facilitate access to micro-credit for workers seeking to open small businesses. In addition, GMAC has announced its intent to invest US\$ 2 million in a training centre to develop skilled labour in the garment sector, with goal being to boost industry competitiveness⁸.

The government has granted garment manufacturers a two-year tax holiday on profits. In addition, the monthly 1 per cent turnover tax that normally is imposed on all garment factory expenditures (including material inputs and labour costs), has been suspended for two years starting in January 2009 in an effort to ease factory cash flows.

The Cambodian National Social Security Fund (NSSF) was established in November 2008 and a program to compensate workers for work-related accidents and injuries is currently underway. In order to reduce cost of doing business, the Government has lowered the employer contribution to the accident compensation fund to 0.5 per cent of wage payments instead of the initial 0.8 per cent for the years 2009 and 2010.

4. Collective bargaining

4.1. Summary Legal Framework of Collective Bargaining Agreement (CBA)

International instruments:

- Right to Organize and Collective Bargaining Convention, 1949, which Cambodia ratified on 23 August 1999. This Convention No. 98 is one of the eight ILO Fundamental Conventions.
 - Adopted: 1 July 1949; and
 - Came into force: 18 July 1951
- Collective Bargaining Convention, 1981. [Cambodia has not ratified this Convention.]
 - Adopted: 19 June 1981; and
 - Came into force: 11 August 1983.

Domestic instruments:

- Labour Law (LL) 1997: Chapter V on Collective Bargaining Agreement
- Prakas (PK) 287/01
- PK 305/01
- PK 99/04

⁸ UNDP, Crisis Impact Watch, 10 April 2009

I. Overview of CBAs

1. Definition and requirements

The CBA is a written agreement relating to, but is not limited to:

- working and employment conditions of workers,
- relations between employers and workers as well as their respective organizations, and
- protection of workers against social risks. (See Art. 96(2) of LL)

The CBA must be written in Khmer. It can be interpreted into a foreign language; however, in the event where there is a dispute regarding the interpretation of the CBA, Khmer version is authentic before the law. (See Clause. 1 of PK 287/01)

The CBA, together with its annex(es) and complementary contracts, must be registered with the competent authority (municipal or provincial office in Charge of Labour) in order for them it to become effective. (See Cl. 4 of PK 287/01) The CBA becomes effective one day following its registration with the competent authority.

2. Purpose (See Art. 96(1) of LL)

The purpose of the CBA is to:

- determine working and employment conditions of workers,
- regulate relations between employers and workers as well as their respective organizations, and
- extend its legally recognised roles to trade union organisations and improve the guarantees protecting workers against social risks.

3. Parties (See Art. 96(2) of LL)

The CBA is signed between:

- one part: an employer, a group of employers, or one or more organisations representative of employers; and
- the other part: one or more trade union organisations representative of workers, or worker delegates who have been duly elected if during the transitional periods that there is no trade union organisation representative of workers in an enterprise or establishment.

Note: A CBA is not valid if it is concluded between the employer and the worker delegates when there is a union with most representative status within the enterprise/establishment. (See Arbitral Award 28/04-Grand D'Angkor, issue 3)

4. Sources

- From the negotiation between the employer and union party/worker delegates (See Art. 96(1) of LL)
- From the Arbitral Award of the Arbitration Council that settles an interests dispute (See Cl. 43 of PK 99/04)

- From a conciliatory agreement, signed by the parties and visaed by the conciliator (See Art. 307 of LL)⁹

II. Conclusion and termination/cancellation

A CBA can be concluded in the type of definite-term CBA and indefinite-term CBA.

1. *Definite-term CBA*

Generally, the maximum duration of a definite-term CBA is three years. However, the maximum duration is only one year for CBA that is concluded between employer and worker delegates, or CBA that replaces the arbitral award that settles an interests dispute. (Cl. 43 of PK 99/04)¹⁰

At its expiration, a definite-term CBA remains in effect unless it has been cancelled, on the condition of keeping a three months' notice, by either party. (See Art. 96(3) of LL; see also Cl. 44 of PK 99/04)¹¹

Note: *Art. 96(3) does not provide clear specification regarding how long further the definite-term CBA continues to remain in effect when it expires without a notice to cancel. Nevertheless, it could reasonably be construed that so long as the notice is given by either party three months in advance, such CBA will be cancelled.*

2. *Indefinite-term CBA*

When the CBA is concluded for an indefinite term, it can be cancelled, but it continues to be in effect for a period of one year to the party that forwarded a complaint to cancel it. (Art. 96(3) of LL).

3. *Effect of termination on other Signatories*

The CBA ceases to be effective on the parties to which it is cancelled. The notice of cancellation does not prevent the CBA from being implemented by the other signatories. (Art. 96(3) of LL)

4. *Effect of change in ownership*

If there is change in ownership of an enterprise, all collective agreements in effect on day of change remain binding between new owner and former worker who continue to work. (See Arbitral Award 95/04-ASD, issue 2)

⁹ The LL does not mention whether a conciliatory agreement will take the form of a CBA of a definite term or an indefinite term.

¹⁰ Cl. 43 of PK 99/04: "An arbitral award which settles an interest dispute takes the place of a collective bargaining agreement and shall remain in effect for one year from the date on which it becomes final unless the parties agree to make a new collective bargaining agreement replacing the award."

¹¹ Cl. 44 of PK 99/04: "Such an award shall still remain in effect after this one-year period, unless either party gives three-month advance notice to the other party that it no longer wishes to be bound by the award."

III. Scope of application

The CBA is required to specify the scope of application. There are different levels of CBA, which can be an enterprise, a group of enterprises, an industry or branch of industry, or one or several sectors of economic activities. (See Art. 96(3) of LL; Cl. 2 of PK 187/01)

The provisions of a CBA apply to employers concerned and all categories of workers employed in the establishments as specified by the CBA. (See Art. 97 of LL)

In principle, in the event of CBAs covering the wider scope of application applicable to an enterprise/establishment, the provisions of all these CBAs must be adapted accordingly by the enterprise-level CBA. (See paras. 3 and 4 of Art. 98 of LL)

Enterprise-level CBA

1. *The CBA applies to the employer and all the workers in the enterprise* if it is concluded between:

- a. the employer and the union with most representative status that covers the majority of the workers in the enterprise. (See para. 1 of Cl. 9 of PK 305/01; para. 1 of Cl. 6 of PK 305/01 which states that the union having members that comprise of the absolute majority of the workers in the enterprise has the right to represent all the workers in the enterprise; Arbitral Award 89/06-YGM, issue 1, which the AC states that the CBA, concluded between the employer and the local union of CIU with most representative status, applies to all the workers, including the local union of KYFTU and its members; see also Arbitral Award 105/04-United Eternity.)
- b. the employer and all of or the majority of the unions, whose members constitute the majority of the workers in the enterprise. (See para. 2 of Art. 9 of PK 305/01) (**Note:** that this interpretation of PK 305/01 is NOT explicitly stated in the regulation, and AC has never interpreted this point.)

Note: *A CBA is not effective on the members of a union if it is not concluded by a person with legal authority to represent the union. (See Arbitral Award 03/06-Flying Dragon.)*

2. *The CBA applies to the employer and all of the workers in a specific category of workers within the enterprise* if it is concluded between:

- a. the employer and the union with most representative status that covers the majority of the workers in the category of workers within that enterprise. (See para. 1 of Cl. 9 of PK 305/01; also related is para. 1 of Cl. 6 of PK 305/01, which elaborates that the union with the members that are comprised of the majority of the workers in a specific category of workers within the enterprise has the right to represent [all of] the workers in the category.
- b. the employer and all of or the majority of the workers in a specific category of workers within the enterprise (See para. 2 of Cl. 9 of PK 305/01) (**Note:** that this interpretation of PK 305/01 is NOT explicitly stated in the regulation, and AC has never interpreted this point.)

3. Para. 3 of Cl. 9 of PK 305/01 reads “in the case where the collection of all of the union with minority of membership does not represent the majority of the workers

in the enterprise/establishment or a specific category of workers within the enterprise covered by the CBA, the employer is obliged to negotiate with the unions with effects to only the members that they represent.” The Art. suggests that *the CBA applies to the employer and the members of the unions only* if it is concluded between all of the unions with minority of members that, in entirety, do not constitute the majority of the workers in the enterprise or a specific category of workers within the enterprise. (See para. 3 of Cl. 9 of PK 305/01; also related is para. 1 of Cl. 6 of PK 305/01, which provides that if the members of the union do not constitute the majority of the workers in the enterprise or a specific category within the enterprise, the union has the right to represent its members only.)

Note 1: *AC has never interpreted point III(3) above.*

Note 2: *PK 305/01 does not have any provision pertinent to whether a CBA can be concluded between, and/or applied to, the employer and a union with a minority of membership acting alone.*

Note 2: *PK 305/01 does not have any provision relating to a CBA concluded between the employer and the worker delegates.*

IV. Monitoring the enforcement

Refer to the PK of the Ministry in charge of Labour to determine the methods for monitoring the enforcement of CBAs. (See Art. 101(d) of LL) Under Cl. 7 of PK 287/01, the Labour Inspector may monitor the execution of a CBA through inquiries to the worker delegates, director of the enterprise/establishment, or workers themselves.

Note: Other than PK 287/01, apparently the Ministry in charge of Labour has not issued any PK that lay out the comprehensive methods for monitoring the enforcement of CBAs.

V. CBAs and their legal implications

1. CBA and public order

The CBA can be more favourable to workers than those of laws and regulations in effect; however, it cannot be contrary to the provisions on the public order of laws and regulations. (See Art. 13 of LL; para. 1 of Art. 98 of LL; see also Arbitral Award 105/04-United Eternity, in which the AC finds that the CBA that provides workers with 50 per cent of wages during the period of legal suspension is more favorable to the workers than those of the LL.)

2. CBA and individual contracts

Relevant provisions of a CBA nullify and automatically replace provisions of labour contracts between employers and workers, already covered by the CBA, that are less favourable than the provisions provided for in the CBA. (See Art. 13 of LL; para. 2 of Art. 98 of LL; 95/04-ASD, issue 2 in which the AC states that the CBA must have value and effect equal to or higher than employment contracts.)

3. CBA and industrial actions

In the event of non-compliance with a CBA, the right to strike can be exercised to enforce it. (Para. 2 of Art. 320 of LL)

When the collective dispute results from the interpretation of a judicial rule originating from a CBA, the right to strike or lock-out cannot be exercised. (See para. 1 of Art. 321 of LL; see also Art. 322 of LL)¹²

It is prohibited to revise a CBA through the exercise of the right to strike or lock-out when it has not yet expired. (Para. 2 of Art. 321 of LL; see also Art. 322 of LL)

4. Claim to revise a CBA

Note: A demand that effectively changes the terms of a CBA violates the essence of the CBA and will only be considered by the AC if there is proof the CBA should be deemed null and void. (See Arbitral Award 11/04-CAMS, issue 1)

5. CBA and dispute settlement mechanism

A CBA can be devised to lay out the mechanism to settle collective disputes between the employer(s) and their employees. In support of this proposition is Art. 303 of LL, which partially reads “*If there is no planned settlement procedure in a collective agreement, the parties shall communicate the collective labour dispute to the Labour Inspector of their province or municipality...*” [Emphasis added]

Art. 2 of PK 287/01 further encourages the signatories of the CBA to make their best endeavor to include procedures relative to the conciliation and arbitration of labour disputes and interpretation of the CBA.

Note: *Whether or not the settlement procedure for individual disputes can be spelled out in a CBA is not expressed in the Labour Law.*

4.2. Situation of collective bargaining in Cambodia

Number of Collective Bargaining Agreement registered at the Ministry of Labour and Vocational Training (MoLVT) = 217 CBA¹³

- Banking = 2
- Hotel = 16
- Company(other) = 6
- Garment and Shoes making = 193 (there are 117 among 193 state only about wage-payment)

Most CBA in Cambodia state only the condition at the minimum floor that the Law said. And they don't take it as the main guide for both parties to solve their problems like other country. So it does not play as the important role.

We noticed that the number of CBA is increased but those CBA stated only about the wage. The MoLVT issued a Circular No. 1903 dated 24 November 2008 to order all enterprises to pay wage twice a month in order to prevent some enterprise close without notice and the workers can get some wage already. So the employer met difficulty then they ask their union/workers to make a CBA that allow them to pay wage once per month.

¹² Art. 322 of LL read “The right to lockout shall be exercised under the same provisions as the right to strike.”

¹³ Source from MoLVT

Furthermore, the unions with the most representative status are easy to negotiate a collective bargaining with employer because employers want to negotiate only with the MRS union. Union who have no MRS, can submit what they want to the union with MRS to negotiate instead of them.

The difficulty in collective bargaining:

- Industrial relations in Cambodia is still young.
- The capacity of union/workers is limited.
- The issues that demanded by union/workers to negotiate are higher than what the law said so employers don't want to go through because they are facing with global economic and financial crisis. And sometime unions/workers do not give enough time for employer to consider.
- Another problem is lacking of the communication between both parties, and it is also because of the translation as well. Most employers are not Cambodian so they need translator. If translator does not translate correctly base on what the employer said, it is the big problem of misunderstanding.
- Sometime employer does not bargain in good faith such as:
 - Does not agree to reasonable rules for bargaining
 - Does not respond to proposals made by the union in a reasonable way
 - Does not provide reasonable resources and information to union



Second Regional Seminar on Industrial Relations in the ASEAN Region

Overview of Collective Bargaining Agreement in Cambodia

Ms. Sandra D'Amico
Secretary General, CAMFEBA
3-4 February 2010, Kuala Lumpur, Malaysia

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- Cambodia at a Glance
- Cambodia Vs. International Conventions
- Trade Unions & Employers' Organization in Cambodia
- Overview of CBA in Cambodia
- CAMFEBA Vs. CBA
- CAMFEBA's responses to CBA
- Q & A

Cambodia at a Glance

- Land Areas(km²) 181,035
- No. of provinces 24
- No. of districts 185
- No. of communes 1,621
- No. of Villages 14,073
- Population (census 2008): 13,388,910
- Annual Pop. Growth rate (2008): 1.54
- Density of Pop. (2008): 75/km²
- GDP per capita in 2008 (US\$): 625

Cambodia Vs. International Conventions

Cambodia has ratified all the core ILO's Conventions:

- Con. 87 & 98 on freedom of association and collective bargaining
- Con. 29 & 105 on elimination of forced and compulsory labour
- Con. 100 & 111 on elimination of discrimination in respect of employment and occupation
- Con. 138 & 182 on abolition of child labour

Trade unions & Employers' Organization in Cambodia

1. Trade Unions

- The first trade unions in Cambodia were set up in 1996 and the labour law was enacted in 1997.
- Since then, a number of trade unions and federations have been established, representing a wide range of industries, including garment, tourism and hotels, construction and the informal sector.
- As of April 2009, there are **1596** local trade unions, **37** union federations, **1** National Union Alliance Chamber of Cambodia and **7** Confederation Trade Unions in all industries. Most of which are in the garment and footwear industry. **80** registered as Most Representative trade unions as of November 2009.
- There is no one unified national trade union in Cambodia.

TURN TO US FOR INDUSTRIAL HARMONY

5

Trade Unions & Employers' Organization in Cambodia

2. Employers' Organization

- **Cambodian Federation of Employers and Business Associations (CAMFEBA)** was established in July 2003.
- Registered with the Ministry of Labor as the Professional Organization of Employers in Cambodia in August 2000.
- The sole national EO representing employers in all sectors in Cambodia.

TURN TO US FOR INDUSTRIAL HARMONY

6

Overview of Collective Bargaining in Cambodia

- Cambodia has ratified ILO's Convention 87 & 98 on freedom of association and collective bargaining
- The constitutional law also supports these conventions
- The labour law and Prakas 305 require the employers to negotiate when the union side met certain criteria
- There are 158 CBAs in Cambodia as of November 2009.

TURN TO US FOR INDUSTRIAL HARMONY

7

CAMFEBA Vs. CBA

- CAMFEBA strongly supports CBA but we think it is not the right time to promote it now because:
 - Poor enforcement of Labor Law and Prakas 305 on the rights of MRS unions, which should be respected by minority unions, as the sole negotiation party with employers.
 - Strikes staged by minority unions still happened during negotiation
 - Poor knowledge of workers on global economic situation.
 - Unreasonable demands made by unions
 - Lack of law to punish the illegal strikes

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8

CAMFEBA's Responses to CBA

We prepared our members for CBA negotiation by cooperating with IOE and ILO ACTEMP to hold a two-day training workshop for employers on 7-8 September 2009.



TURN TO US FOR INDUSTRIAL HARMONY

CAMFEBA's Responses to CBA

We adjusted and reprinted the IOE and ILO ACTEMP's Guidebook for employers on **"Strategic Collective Bargaining"** for dissemination with employers.



TURN TO US FOR INDUSTRIAL HARMONY

CAMFEBA's Responses to CBA

We conducted training for employers on CBA and negotiation techniques.



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Thank You!
Q & A

TURN TO US FOR INDUSTRIAL HARMONY



COUNTRY REPORT: MALAYSIA

**ASEAN-ILO/Japan Industrial Relations Project
Second Regional Seminar on Industrial Relations: Emerging Industrial
Relations Issues and Trends in the ASEAN Countries
in Time of Financial and Economic Crisis**

3-4 February 2010

The Impiana KLCC Hotel, Kuala Lumpur, Malaysia

**JACK MEREDU AK KO
Department of Industrial Relations
Ministry of Human Resources**

MALAYSIA COUNTRY REPORT

“Second Regional Seminar on Industrial Relations in the ASEAN Region: Emerging Industrial Relations Issues and Trends in the ASEAN Countries in Time of Financial and Economic Crisis – the Malaysia Experience”

*Prepared and Presented by
Jack Meredu Ak Ko
4 February 2010*

1. Introduction

1.1 Amidst globalization and Malaysia as a trading nation, we were not spared from the unfavorable impact of a weakening external economic environment due to the current unprecedented displacements and distortions to the global financial order given our nation's position as one of the world's leading exporter of manufactured products. As an emerging economy, Malaysia is heavily dependent on exports of technology related products to fuel economic growth.

1.2 The global financial crisis and its ensuing equity markets volatility in the concluding period of 2008 and 2009 have had some severe ramifications for real economy of the country. The Malaysian economy registered a -3.5 per cent overall growth in the last quarter of 2008 and -3.3 per cent by November 2009, down from 7 per cent in 2006¹. The Malaysian export market which is largely complemented by the manufacturing sector had been badly hit due to cancellation of exports. The sliding economy which had hit many global economies had led to upsetting consequential impact upon certain business operators and loss of jobs for workers in Malaysia.

2. Impact of global economic crisis

2.1 A resultant impact of the economic slowdown had undeniably affected the employment of workers in Malaysia and the inevitable impact of the current economic crisis can be witnessed by the reduction of our workforce as a result of retrenchment and termination of employment. In the context of our country Malaysia, as of 26 January 2010, statistics compiled by the Ministry of Human Resources recorded a cumulative figure of 47,790² workers who were out of employment due to the prevailing economic crisis. Out of this figure, 35,907 workers were retrenched while 11,883 workers resorted to voluntary termination from their employment.

2.2 The government's effort to lessen the impact on employment due to the present economic slowdown, through the Ministry of Human Resources (MOHR) had initiated proactive steps by implementing the Economic Stimulus Packages. Under these stimulus packages, a RM650 million allocation had been approved by the government to enable the Ministry to undertake various training and placement programs to reduce unemployment and provide employment opportunities for Malaysians.

¹ Central Bank Report

² Department of Labour

2.3 However despite softening of the Malaysian economy, jobs are still aplenty in certain economic sectors such as the agriculture and services sectors. Malaysian job seekers especially among those who were retrenched should be willing to have a positive outlook about acquiring new skills through the “Train and Place” as well as the “Train and Retain” program set up by the government. Unemployed workers must be willing to go for training through the programs as it provides them with the opportunity to secure new skill sets, thus widening their prospect for employment and employability into other jobs.

2.4 On retrenchment, the principles enunciated in the Code of Conduct for Industrial Harmony 1975 played an important role by providing guidelines for employers should redundancy and retrenchment be resorted to during the current economic turmoil. The code set out procedures to be followed which among others include (1) giving early and adequate warning/notice of the impending retrenchment; (2) retraining and transfer (out-placement services); (3) consultation with workers representative; (4) Voluntary retrenchment and retirement; (5) selection for retrenchment (guided by the Last In First Out Policy); (6) to work closely with relevant government department or agencies to assist workers to find alternative employment. Though the code is not a legally-enforceable document: its sanction is moral, not legal. Nevertheless, the IRA has accorded it a semi-legal status, for the Act declares that the Industrial Court may, in making an award, ‘take into consideration any agreement or code relating to employment practices between organizations representative of employers and workmen respectively, where such agreement or code has been approved by the Minister of Human Resources [Section 30(5A)].

3. Collective bargaining & collective agreement – emerging industrial relations issues

3.1 The principal legislations that determine the legal framework within which the system of industrial relations operates in Malaysia consists of the Industrial Relations Act 1967 (IRA), Trade Union Act 1950, The Employment Act 1955/Labour Ordinance Sarawak/Sabah.

3.2 IRA is an act to promote and to maintain industrial harmony and to provide for the regulation of relations between employers and workman and their trade union; the prevention and settlement of any differences or disputes arising from their relationships and generally to deal with trade dispute and matters arising therefrom.

“.....The intention of the IRA as one that seeks to achieve social justice on the basis of collective bargaining, conciliation and arbitration”³

3.3 The Malaysian Industrial Relation Systems operates within the ambit of ILO Convention through its ratification of the Right to Organise and to Bargain Collectively Convention, 1949 (No. 98).

3.4 The terms Collective bargaining and Collective agreement are defined in Section 2 of the IRA as follows:

“Collective bargaining means negotiating with the view to the conclusion of a collective agreement”

“Collective agreement means an agreement in writing concluded between an employer or a trade union of employers on the one hand and a trade union of workmen on the other relating to the terms and conditions of employment and work of workmen or concerning relations between such parties”

³ Federal Court, 1976, 2 MLJ 67, Non-Metallic Mineral Products Manufacturing Employees Union v South-East Asia Firebricks Sdn. Bhd.

3.5 However the right to conduct collective bargaining accrues to the trade union only after recognition has been accorded by the employer (Section 9, IRA). Once recognition is accorded a trade union may submit proposals for collective bargaining. Usually it is the union that first submits (in writing) a proposed collective agreement to the employer, and invites the latter to commence negotiations. The employer must reply to the invitation within 14 days. If the employer agrees to begin negotiations, the bargaining sessions must start within 30 days. However, the employer may refuse to negotiate, in which case a trade dispute is deemed to exist and the union may inform the Director-General of Industrial Relations, who will take necessary steps to bring the parties to commence collective bargaining.

3.6 The IR system in Malaysia also provide avenue for parties to refer the dispute to the industrial court for arbitration should negotiation, conciliation or collective bargaining processes fail to conclude any collective agreement.

3.7 A statutory definition of collective bargaining is necessary to indicate to the parties the matters that can be included in collective bargaining

3.8 The scope of collective bargaining is contained in the phrase “terms and conditions of employment and work of workmen or concerning relations between such parties” (Section 2 IRA). This wide-ranging phrase contained in the definition of collective agreement above easily includes: (a) demands relating to terms of employment such as wages, hours of work, and fringe benefits; (b) demands relating to conditions of work such as physical conditions under which a workman works including matters of his safety and physical comfort; and (c) relationships between the parties regulating matters such as discipline, lay-offs and retrenchment.

3.9 However, the wide scope of collective bargaining implied by the statutory provision is curtailed by Section 13(3) of the IRA. The managerial prerogative clause in the Act specifically precluded a trade union from raising any bargaining demand concerning the recruitment, transfer or promotion of any workman, his retrenchment by reason of redundancy or reorganization, his dismissal and reinstatement and assignment or allocation of his duties and tasks. In short, this clause is restrictive of collective bargaining but nevertheless, the proviso under Section 13(3) permits the union to raise questions of general character relating to procedure of promotion of workmen during collective bargaining or at any time.

3.10 Collective Agreement shall be in writing and signed by parties. The terms and conditions of the agreement must specify the names of the parties to the agreement and the period the agreement is to be effective, which cannot be less than three years; prescribed the procedure to modify or terminate the agreement; the procedure for resolving any questions that may arise over the interpretation and implementation of the agreement by the reference of any such question to the Industrial Court for arbitration and it cannot contain any terms and conditions less favorable and in contravention of any written law applicable to the workmen covered by the Collective Agreement.

3.11 During the year 2009⁴ a total of 189 cases of collective agreement were referred to the Industrial Relations Department for conciliation. 93 cases (49.2 per cent) were resolved through the process of conciliation, 50 were referred to the Industrial Court for arbitration and one does not merit reference.

⁴ Department of Industrial Relations

3.12 Collective bargaining as a trade dispute resolution mechanism requires negotiating art and skills. It is a delicate process because failure in concluding any agreement will result in declaration of trade dispute and industrial disharmony at the workplace and this may consequently lead to industrial action like strike and lock-out, situation not conducive to the economy and stability of the country. This is compounded by the fact that interest and objectives of workers and employer often collide and what is good for one is frequently costly for the other, a historically adversarial relationship and while the employer's prime objective is to maximizing profit with minimum costs, union on the other hand is motivated to further improvise the existing terms and conditions of employment of its members. Economic downturn, the Malaysian experience further enhanced these challenges to thwart successful collective bargaining between employers and union.

3.13 Collective bargaining mechanism of dispute resolution therefore faced many challenges ranging from complexities of dispute to the risk of deadlock which may invite industrial action if no agreement is reached between parties. The issue of demand by the union itself in seeking increase in wages, benefits and better terms and conditions of employment for its member, normally based on increased cost of living factor as a basis against affordability factor of employers who would bring up issues of high or increasing maintaining operating costs compounded by decreased in demand of products during bad times, coupled with issue of productivity-linked wage system posed serious challenge to the success of collective bargaining. During this difficult economic situation, it therefore invites not only skills and professionalism of negotiators, but at time requires parties to be realistic and rational in the demands beside tolerance and sacrifices. The issue of demand is further complicated by the uncompromising stance of both parties at times or the question of bargaining in good faith. It is however best to leave this experiences to the relevant parties i.e. employers or union who are directly involved in the collective bargaining process to share with us here.

3.14 However, the Institution of Collective Bargaining from Malaysian perspective can be considered as the most appropriate venue for workers or union and employers to voice their legitimate grievances and problems faced. For this reason the current emphasis is to encourage parties to conclude collective agreement at the enterprise level. Bilateral negotiation during collective bargaining can foster better employer and workers relationship. Therefore, besides being a forum for determinations of wages and conditions of employment, collective bargaining should also be used as a channel to engage in constructive dialogues. In doing so, the parties can improve understanding and ultimately strengthening the bond of partnership between parties.

3.15 The advantage of Collective bargaining is that it settles issues through dialogue and consensus to conflict and confrontations. It also differs from arbitration because the latter represents a solution based on a decision of a third party, while arrangements resulting from collective bargaining usually represent the choices or compromises of the parties concerned. Collective bargaining is therefore a form of employees' participation in management of the companies or organisation.

3.16 Most important of all, Collective bargaining agreement sometimes renounces or limits the settlement of disputes through union action or lock out by employers. Therefore collective bargaining agreements can have the effect of guaranteeing industrial peace for the duration of the agreements, either generally or more usually on matters covered by the agreement. This is evident by the very minimal occurrences of industrial action by parties arising out of the failure of concluding any agreement to their trade disputes.

3.17 Pertaining to this, the Government through the Ministry of Human Resources is entrusted with the responsibilities of ensuring employment and safeguarding the welfare of workers as well as the interest of management. The Ministry in its concerted quest and continued policy of promoting and maintaining sound and quality industrial relations in the country also performs the delicate role of regulating and balancing the rights between labor and capital.

3.18 Having said all these, and inspite of having to undergo the brunt of economic uncertainties and difficulties, due credit must be accorded to both the employer and the union for their success in concluding collective agreement during the difficult period, either through direct negotiation at the enterprise level or with assistance of conciliation machinery provided by the Industrial Relations Department. This is evidenced by the number of collective agreement taken cognizance by the Industrial Court as follows:⁵

Year	Number of Collective Agreement taken cognizance	Award
2008	273	270
2009	273	276

3.19 The data depicted above not only reflect the effectiveness of collective bargaining as an institution of resolving trade dispute but also a reliable indicator showing the existence of closed cooperation and understanding between employers and union thereby giving priority to maintaining harmonious relationship and industrial harmony in the workplace to self interest. It is also worth taking cognizance here the instances where there were signing ceremony being held when both parties concluded a collective agreement, thus signifying the existence of harmonious working relationship and cooperation during difficult time.



Picture: Collective Agreement Signing Ceremony Between TCMA and KPPTCMA on 20 November 2009 (Tan Chong Motor Assemblies Sdn Bhd)

3.20 Present trend in industrial relations and human resource management is to accord greater emphasis on employee's involvement, harmonious employer-employee relations and on mechanisms and practices which promote them. Heightening engagement between workers and employers through constant communication and consultation will keep the parties keeping abreast

⁵ Industrial Court

of the challenges confronting the enterprise. Generally speaking, in order to ensure and to promote sound and productive industrial relations, it is imperative for parties to observe and to acknowledge two-way communications, information sharing, consultation and participation as it is the key to building confidence, trust and cooperation among parties. The performance of an organization in the context of our present day economy is affected by the manner in which that organization communicates with its employees.

4. Conclusion

4.1 Managing industrial relations issues in the present context, demands collaboration to confrontational approach and a better comprehension and appreciation of problems faced by parties concerned. It will not be an easy balance to achieve, but it is hope at this seminar today, we can create pragmatic approaches on our quest to move forward with renewed optimism for the benefit of our workers and employers and the economy within the ASEAN region. For Malaysia, the Industrial Relations System of dispute resolution vis-vis the collective bargaining, the workplace cooperation and employer-union cordial relationship through tripartite consultation and dialogue had been the key factors contributing to the present continued industrial harmony in the country. The Code of Conduct for Industrial Harmony 1975 is also certainly significant in complementing our effort to promote sound industrial relations practices during difficult economic period. The code endorsed by the Malayan Council of Employer Organisations (succeeded in 1978 by the Malaysian Employers Federation) (representing employers) and the Malaysian Trade Union Congress (representing employees), and the endorsement was witnessed by the Minister of Human Resources, whose aim is to lay down principles and guidelines to employers and employees on the practice of industrial relations for achieving greater industrial harmony. It drew up a document entitled Areas for Cooperation and Agreed Industrial Relations Practices in four broad areas of cooperation – (1) Recognition of Trade Union; (2) Negotiation; (3) Joint Consultation; (4) Redundancy and Retrenchment and other vital areas of cooperation.

Annex

INDUSTRIAL RELATIONS ISSUES IN MALAYSIA (Syed Shahir Syed Mohamud, President, Malaysian Trades Union Congress)

The legal framework of industrial relations in Malaysia is primarily governed by the 1959 Trade Union Act (TUA), the 1967 Industrial Relations Act (IRA) and the Employment Act of 1955.

The ILO Convention 98 on right to organize and bargain collectively was ratified by the government but the spirit and intention of the Convention remains very much on paper only. The law recognizes the right of most workers to form and join trade unions, but continuation of amendments to the 1959 Trade Unions Act (TUA) and the 1967 Industrial Relations Act (IRA) place extensive restrictions on freedom of association. Of late the recognition process of the union is another issue.

Restrictions on Union formation

The Director General of Trade Unions (DGTU) has power to supervise and inspect trade unions, can refuse to register a trade union without giving any reason for the refusal and can withdraw registration. The DGTU is given very broad discretion in deciding these matters. The DGTU may also deregister a union if s/he finds that two or more registered trade unions exist in a “particular establishment, trade, occupation or industry”. The DGTU has the authority to suspend a branch of a trade union if s/he “is satisfied” that the branch has contravened any part of the Act or the rules of the Union.

The DGTU can specify the sector and category in which a union would be permitted to organize. The TUA limits trade union membership to workers in similar trades. General unions are categorically prohibited.

The law prohibits industrial unions from organizing employees in managerial and executive positions. This interpretation is abused by most employers to deny union membership right and remove experienced union leaders.

The arbitrary process of union recognition from employer

The law requires the union to apply for recognition from the employer. Another amendment to the IRA in 2007 provides that if the trade union fails to report to the minister within 14 days about the employer’s refusal to recognize the union, the Minister shall deem the union’s application for recognition withdrawn. Furthermore, the law now states that workers in a union that has its recognition withdrawn in this manner shall have no protection against dismissal.

In early 2008, the government completed a process of amending the TUA 1959 and the IRA 1967 in a number of ways which were vehemently opposed by the MTUC. One of the provisions is a change in the method for determining the legitimacy of a union’s challenge to an employers’ refusal to recognize the union. Now the law requires a secret ballot of workers to be conducted, in which the union must achieve a majority to win. However, the law fails to provide adequate safeguards against employer manipulation of the size of the bargaining unit (through addition of temporary or fixed-term contract workers, including those who are migrants) for the purposes of the election.

Obtaining a response from an employer to a request for union recognition should take a maximum of 21 days. However, in reality this takes much longer if a dispute occurs, because the matter must be taken to the Director General of Industrial Relations (DGIR), the DGTU and then the Minister of Human Resources, who has the final say, unless that is challenged in the High Court. Some applications take as long as three to five years.

The Ministry of Home Affairs (MHA) also sets out a series of conditions connected to the issuance of work permits to migrant workers. One of these conditions is an absolute prohibition on migrant workers joining any sort of association of which the employers includes this as a very pertinent condition in the contract of service. In the public sector, the joint council system limits public sector unions to a consultative role where their only power is to “express their point of view” on principles regarding wages and working conditions.

The right to strike is not specifically recognized, and legislative restrictions make it practically impossible for workers to hold a legal strike. Trade unions are not allowed to go on strike for disputes relating to trade union registration or illegal sacking. General strikes are not permitted.

Restrictions on collective bargaining: the IRA excludes hiring and firing, transfer and promotion, dismissal and reinstatement from the scope of collective bargaining. The latest amendment of the IRA has further restricted the scope of collective bargaining by setting out very narrow areas that can be proposed for bargaining. These topics include making provisions for training to enhance skills, for an annual review of the wage system and for a performance-related remuneration system. PLWS is mentioned but the report by the MOHR Malaysia does not make any mention about the persistent attempt of the government to influence the court. The amendments made in 2008 to limit back wages and compensation to workers dismissed unfairly and wrongfully, clearly encroaches on the independence of the Industrial Court.

The shortcomings of the conciliation machinery and the frustrating delay in referring disputes to the Industrial Court and the inordinate delay faced by unions at the Industrial Court is a fact or that ought to be mentioned. Further, legislative restrictions make it practically impossible for workers to hold a legal strike. Trade unions are not allowed to go on strike for disputes relating to trade union registration or illegal sackings.

ANNEX 9

DISPUTE PREVENTION

**IN THE CONTEXT OF
EMERGING INDUSTRIAL RELATIONS ISSUES AND TRENDS
IN THE TIME OF FINANCIAL AND ECONOMIC CRISIS**

INDONESIA COUNTRY REPORT

“History of Industrial Relations Disputes Settlement Regulations in Indonesia”

Regulations on industrial relations disputes settlement in Indonesia have changes along with industrial relations development. In principle, the settlements of industrial relations disputes emphasize on the important function of the two parties in a company in settling workers problems, grievances, and any disputes related work in a bipartite manner.

Milestone of regulation change

1. Pre reformation era

Act number 22 of the year 1957 and Act number 12 of 1964

This act emphasizes that every problem and dispute should be settled peacefully through negotiations at the bipartite level. The agreement reached in the negotiations can be formulated in the form of a mutual agreement. Employers or trade unions that fail to resolve their disputes in a bipartite manner may seek the assistance of a government mediator to help them to reach a compromised agreement, or to seek help of an arbitrator.

If the employer and the trade union to the recommendations, the alternatives for the settlement are firstly by Regional Committee for the Industrial Relations Disputes Settlement and/or the Central Committee for Industrial Disputes Settlement.

A termination of employment by the employer will become an industrial disputes if the worker or the trade union do not voluntarily agree with the termination. Act number 12 of the year 1964 stipulates that the employer shall obtain Regional Committee for the Industrial Relations Disputes Settlement's or the Central Committee for Industrial Disputes Settlement's approval prior to terminating employment.

Challenges

With the enactment of Act number 5 of the 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

In the era of industrialization, industrial relations disputes have become more complex, it is therefore necessary to establish an institution that ensures fast, appropriate, fair and inexpensive settlement of labour disputes. The former Act No. 22 of the year 1957 regarding Settlement of Industrial Relations Disputes and Act No. 12 of the Year 1964 regarding Termination of Employment in Private Company are deemed to be no longer relevant to the new situation.

The application of Act No. 5 of the Year 1986 regarding the State Administrative Courts allows decisions made by the Central Committee for Settlement of Labour Disputes which were originally designed to be final, to be brought forward to the higher State Administrative High Court and appeal may subsequently be filed with the Supreme Court. This process takes a relatively long time and therefore, it is not considered appropriate for labour cases that require settlement as they affect production and employment process.

Along with reformation era in Indonesia began in 1998 there are three major laws related to industrial relations disputes settlement as follows:

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

This era has been indicated by significant changes in the procedure on industrial relations disputes settlement. Act number 22 of the year 1957 that all along has been used as the legal basis for industrial relations disputes settlement is felt no longer to be able to accommodate 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. However, Act No. 21 of the year 2000 on Trade Union specifies that every worker has the opportunity to establish/join any organization that he/she likes.

Legislation that oversees the resolution of industrial relations disputes up to now has not been able to put into effect a quick, appropriate, just, and inexpensive way of settling disputes. In addition, there was not a time frame on the duration of settlement while Act No. 2 of the year 2004 has settled time duration in each phase of settlement. The longest period is 140 working days.

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

Bipartite negotiations

Efforts industrial dispute settlement through negotiations in consultation to achieve consensus between employers with workers' sense of family.

Based on Act No. 2 year 2004 concerning Industrial Relations Disputes Settlement that the settlement of disputes can be resolved by the Mediator, and Conciliator, Arbitrator. Government Office of Manpower Service in receiving the file registration dispute must ask whether it is done through negotiations Bipartite, if not yet to be done before these negotiations and if there should be a letter bipartite outcome. Then the Department of Labor District/City is offering the settlement will be completed by the Mediator, Conciliator and Arbitrator or with the consent of both parties.

MEDIATION

Each government office of manpower service should appoint a number of official as mediators to settle disputes between employers and workers. If both employer and the worker or the trade

unions do not reach agreement to bring the dispute case to be settled through a conciliator or arbitrator, the local government of employment service will transfer the case to be a mediator.

Within seven working days after receiving the request, the mediator should review the case, collect necessary information and hold a mediation session no later than the eight day. For this purpose, the mediator may invite witnesses and or expert witnesses. If the employer and the worker or the trade union reach an agreement, such agreement should be formulated in a collective agreement signed by the disputing parties and acknowledged by the mediator.

In case, the employer and the workers fail to reach an agreement, no later than ten working days after the first mediation, the mediator should make written recommendation to the disputing parties. Within ten working days after receiving the written recommendation, the disputing parties should submit to the mediator their objection or acceptance of the recommendation in writing.

If the disputing parties accept the mediator's recommendation, this acceptance should be formulated in a Collective Agreement. If the mediator's written recommendation is turned down, both sides to the dispute shall take the case to the local Industrial Relations Court. Either way, the mediator must complete his duties to settle a case within a period of not more than 30 working days.

CONCILIATION

Conciliation is a member of the community who is experienced in Industrial Relations and possesses a through knowledge of labour laws and regulations. The conciliator is appointed by the minister of Manpower to provide conciliation services and written recommendations to the employer and the worker or the trade union in order to settle disputes over interests, over employment termination, and the disputes between trade unions.

A list of conciliations in a local area shall be made available by the government office of Manpower service. Subject to their mutual agreement, the employer and the worker or the trade union may appoint a conciliator from the list and ask his/her help to settle their dispute. Similar to a mediator, the conciliator should collect necessary information within seven working days upon receipt of a request for conciliation. If both parties reach mutual agreement, such agreement should be formulated in a collective agreement, signed by both parties, witnessed by the conciliator. The Collective Agreement should be registered at the office of the Industrial Relations Court.

In the event that both parties do not reach agreement, the conciliator within ten working days after the first conciliator session should provide a written recommendation. The parties should make a statement indicating their acceptance or refusal of the conciliator's recommendation no later than ten working days. In case both parties accept the recommendation, the Collective Agreement should be concluded within three working days. If a party disagrees with the recommendation, such party can take the case to the Industrial Relations Court.

Overall, the conciliator should settle a dispute within a maximum of 30 days. In the process on conciliation, the conciliator may invite witnesses or expert witnesses. The Government pays the honorarium of the conciliator as well as expenses related to the business trip(s) and accommodation of the witnesses of the witnesses and expert witnesses.

ARBITRATION

Arbitration is the settlement of a dispute by one or a panel of three arbitrators, who, upon mutual agreement of the disputing parties, are appointed to settle disputes over interests and disputes among trade unions. In case the disputing parties choose three arbitrators, each party may appoint one arbitrator within two arbitrators should nominate the third arbitrator as the Chairman of the Arbitration Council or Panel Arbitrators should meet certain criteria set up by the Government and shall be registered in a Government Office of Manpower Service.

In their agreement to opt for settlement through arbitration, the employer and the worker or the trade union should make an arbitration agreement, which states, among others, the main problem(s) and causes of the dispute to be settled by arbitration, the number of the decision made by the arbitrator.

The arbitrator should, first of all, try to settle the dispute in a bipartite manner. If this works, the arbitrator should issue a deed of reconciliation, confirming the settlement of the dispute in a bipartite manner. If the disputing parties are unable to reconcile, the arbitrator shall conduct arbitration sessions. The arbitrator should settle the industrial dispute within a period of 30 working days after the letter of the appointment of the arbitrator is signed. Upon agreement of both parties, the arbitrator's service may be extended for no longer than 14 working days.

The arbitrator's decision is final and legally binding on both parties. If one of the parties fails to execute the decision, the other party may ask the court to force the defaulting party to execute the arbitrator's decision.

Within 30 days after the arbitrator's decision is officially made known, one of the disputing parties may appeal to the Supreme Court if:

- It has been proven or admitted that the documents submitted for review are fake or falsified;
- It turns out that the other party has intentionally concealed documents that are vital for decision making;
- It has been proven that the arbitrator's decision was based on cheats or facts or data that have been distorted by other party;
- It turn our that the arbitrator's decision is beyond the confines of the arbitrator's authority;
- The arbitrator's decision was against laws and regulations.

SEMINAR ON INDUSTRIAL RELATIONS IN ASEAN REGION

INDONESIA

KUALALUMPUR, 3-4 FEBRUARY 2010

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	
3.	Bipartite Cooperation Body	11,627	
4.	Tripartite Cooperation Body	24 268	Provincial level Municipal/Regency level
5.	<u>Trade Union</u> Federation Confederation Company Level Member	91 3 11,467 3,388,597	

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 Disputes Settlement Committee (Provincial and 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.

continuation

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

Act No. 2 of Year 2004 concerning Industrial Relations Disputes Settlement

- a. It applies to employers and workers as individual 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 consist of Ad-Hoc Judge from representative of Employers' organization and Trade Unions, as well as a career judge.

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	3.127	2.384	596
2008	3.082	2.349	587

Source: Directorate General of IRSSD, MOMT, 2008

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.

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 > MA 	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 > Interest 	Termination of Work	<ul style="list-style-type: none"> > Rights > Interest > Termination of Work > Between Trade Union/Workers' Organization
3.	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	<p>Relatively quite long: There is no fixed duration of settlement in P4D and P4P</p>		<p>Short The latest 140 working days</p>

The Impact of the global financial crisis

- > Crisis in the Financial Sector is Cause Commodity Price Reduction Main Commodity Especially Indonesia (CPO, Coal, Oil and Gas)
- > Product Export Demand will be Decreasing from Main Market Weakening Indonesia Product Export (United State, Europe, Japan)
- > Because of the Pressure is Imported from Trend Exporting Countries Would Take Its Market to Other Areas Including Indonesia Potential is Considered Enough.
- > Reduced Demand Market (International and Domestic) Order Cause Loss of Business Make Decreasing Utility Production Capacity
- > Operational Costs and Production Company to be Efficient, So does the Company Liable for Efficiency in All Fields, Including in the Field of Manpower and Possibility of Fle

Department of Manpower Do

- > Consolidation elements workers/labourers and employers through a tripartite consultation institution and National and Regional National Wage Council and the Region to formulate the minimum wage trying to support the sustainability and peace work with always consider the ability of the business world, especially labour-intensive business and national economic growth

- 
- **To promote effectiveness bipartite communication between workers, union, and employees in the company.**
 - **Efforts to improve the effectiveness of the mediation settlement of industrial dispute quickly and justice and the prevention of layoffs**

THAILAND COUNTRY REPORT

Second Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project, 3-4 February 2010, Kuala Lumpur Labour Dispute Prevention in Thailand

“Emerging Industrial Relations Issues and Trends in the ASEAN Countries in the time of Financial and Economic Crisis”

I. Introduction

Thailand is a developing country with a population of 67 million, 38.25 million of which are in the labour force. The workforce in the agricultural sector amounts to 14.84 million, while the remaining number is scattered in the non-agricultural sectors like industry, construction and service. The country's main income, which is more than 50 per cent of its GDP, derives from the export-oriented manufacturing industry.

The nation's development in the past placed a strong emphasis on its economic growth. As a result, the government made it a priority to expand the industrial sector, especially the export-oriented manufacturing. As the world entered into the era of globalization, business competition, both at the local and the international levels, gradually intensified. Consequently, business competitiveness improvement became Thailand's export-led economic development strategy, placing an emphasis on technology and management improvement and cost reduction rather than human resources development and industrial relations improvement to keep up with the changes in production technology. This was one of the underlying causes of industrial conflicts facing a great number of business enterprises, either organized conflicts (e.g. strikes, lock-outs, lay-offs, etc.) or unorganized conflicts between individual employee and employer, either in apparent or hidden forms of protest. These conflicts led to a slump in production and a stressful and disruptive working environment, especially during the economic crises in 1997 and 2007.

At present, preventive and corrective measures towards labour disputes in Thailand tend to be based on a new industrial relations philosophy, which emphasizes the exchange of data and information, joint consultation, cooperation and rational collective bargaining, in order to encourage business enterprises to modernize workplace labour-management relations to keep up with changing technology. Emphasis is also placed on developing skill and knowledge to enable employees to live a happy life in the modern industrial society.

II. Country context

In 1961, Thailand's First National Economic and Social Development Plan was implemented. Within its framework, the industrial sector, especially the export-oriented manufacturing, was greatly promoted. The industrial sector expanded from 20 per cent in 1990 to 32 per cent in 2000.

The economic growth in this manner was conducive to extravagant spending which led to the bubble economy in 1996, characterized by inflation, non-liquidity, export contraction and currency

attack. The Thai economy plummeted as a result. Fifty six financial institutions collapsed. A large number of business enterprises became bankrupt, leading to the economic crisis in the following year.

Labour disputes

The 1997 economic crisis brought about a great number of lay-offs. According to the Annual Report of the Labour Protection and Welfare Department, out of the nation's 338,501 business ventures, 5,725 collapsed, with their 465,304 employees being laid off. In addition, labour disputes surged and affected the general public, as a large number of employees took such industrial actions as protests, slowdowns, work stoppages and strikes. Labour conflicts occurred in 512 business enterprises, involving 56,603 employees. The conflicts led to strikes in 15 business enterprises.

In an attempt to solve the economic crisis, the government sought assistance from an international financial institution. The Cabinet Resolution of March 30, 1999 issued various fiscal measures to stimulate the economy and lessen the social impact. Moreover, a tripartite meeting with representatives from employers, employees, and the government was convened to set guidelines for solving labour problems and agreed to adopt "the 1998 Practical Guidelines for the Promotion of Industrial Relations in Economic Crisis". Within its framework, employers are encouraged to reveal the information about labour situations and disclosable business performance information. Employers and employees are advised to use a bipartite system in the forms of joint consultation, opinion seeking, and cooperation on cost saving in order to keep the business going.

It is reflected in these guidelines that both employers and employees fully realize the significance of organization administration based on bipartite industrial relations. Both parties are well aware that bipartism is conducive to consultation, cooperation and better understanding among the personnel in the organization, and that it can prevent any future dispute and rectify the existing one, helping subdue any confrontation between employers and employees as well as losses.

In addition, there are also other related measures, such as job placement services for laid-off employees and skill development for the unemployed.

The tripartite effort to solve the problems got good response. The overall labour situation was gradually improved. The number of labour disputes continually decreased from the number recorded in 1997.

In 2007, the U.S. financial crisis, arising from the subprime mortgage business, affected the whole world. It had a great impact upon Thailand, as more than half of its income derived from the export markets in the U.S., the European countries and Japan. When these trading partner countries reduced their orders in a great quantity, the Thai economy slumped dramatically. Instead of a growth expansion of 4.5 per cent in 2008 as previously projected, the economy experienced a contraction of 4.2 per cent in the fourth quarter of 2008 and kept falling continuously, reaching a contraction of 7.1 per cent in the first quarter of 2009. The crisis led to the collapse of 153 business enterprises and 29,915 employees being laid off. Industrial relations problems consequently rose, compared with the record of the previous year. Labour demands were submitted in 429 business enterprises and 100 cases of labour disputes occurred involving 48,069 employees.

During October-December 2009, a lot of business enterprises decided to freeze wage and reduce or halt bonus payment in response to the economic crisis. Dissatisfied with such measures, the

affected employees staged protests to make their demands known and put pressure on employers to negotiate. There were 44 worker protests during this period, a 91.30 per cent rise compared with 23 protests during the same period of 2008. The government employed conciliation mechanism to settle these disputes. Finally, the employees stopped protesting and returned to their work.

Labour dispute prevention measures in economic crisis

The measures implemented by the Thai government to relieve the hardship of employees affected by the economic crisis and hence prevent labour disputes are reflected in the Government Policy announced by the Prime Minister in January 2008 and the urgent policy of the Ministry of Labour as follows:

The Government policy

The policy to maintain and increase the income of people:

- To cooperate with the private sector to decelerate the termination of employment, and to prevent the spreading of employment termination in business enterprises of all sizes in industries and services.
- To accelerate the assistance to relieve the difficulties the laid off workers and the unemployed due to the economic crisis by providing fast and adequate benefits as prescribed by laws, helping them find new jobs, promoting and supporting self-employment, creating new jobs, enhancing and upgrading skills and performance of workers to be able to change jobs, providing necessary welfares, and so on.

Urgent policy of the Ministry of Labour

The Ministry of Labour declared the National Agenda to invite the participation of every sector to help relieve and solve the problems, to set up preventive measures and resolutions for the problem of employment termination and to generate security of employment in the economy. Therefore, the Ministry of Labour has set up the 'Committee on the Policy to Relieve the Problem of Employment Termination Resulting from the Economic Crisis', which is chaired by the Prime Minister and the members of which are representatives of the relevant authorities of the Ministry of Labour, representatives of employers and employees. The main theme of the National Agenda is under the measures of '3 Reductions, 3 Increases' emphasizing on resolving the problems of the three groups of workforce affected by the crisis-namely the laid off workers, labour in the rural agricultural sector and the new graduates.

The measures of '3 Reductions, 3 Increases'

'3 Reductions' include:

- Reduction of termination of employment by creating jobs, providing job placement service for laid off workers and the unemployed, enhancing the financial liquidity of business enterprises, and providing credits for laid off workers who want to start small business as a self-employed.
- Reduction of labour mobility by emphasizing on promoting local employment for seasonal agricultural workers.
- Reduction of living costs of employees and the unemployed by reducing essential living costs like the cost of water supply, electricity and public bus fares.

'3 Increases' include:

- Increase of employment and jobs for the laid off workers and the unemployed.
- Increase of job opportunities by creating more occupation alternatives.
- Increase and upgrade labour skills by organizing various occupational training programmes to enable workers to be self-employed.

Other Measures of the Ministry of Labour

- Reducing the cost of living of laid off workers by extending the period of unemployment benefit payment at the rate of 50 per cent of earning from six months to eight months.
- Reducing the social security contribution rates to ease the burden of employers in running their business.
- Compiling the data of job vacancy and employment opportunities.
- Reducing labour mobility.

III. Industrial relations in Thailand

Industrial relations in Thailand has constantly been under the influence of political, economic and social changes, occurring locally as well as globally.

In 1945, after the Second World War, the growth of industry and infrastructure drew a great number of rural workforce to seek employment in large cities. Eventually, workers got organized in the form of associations to carry out various labour activities, for example Bangkok Workers Association and the Association of Tri-Cycle Drivers.

In 1956, the country's first labour law, the Labour Act of 1956, was promulgated. The Act included the laws on labour protection and labour relations with an aim to develop better relations between employers and employees.

In 1965, to cope with the growing problems of labour disputes and strikes, the government passed the Labour Dispute Settlement Act. This law laid down the procedures for submission of demands, collective bargaining and dispute settlement, but it prohibited organizations representing employers and employees within business enterprises.

In 1972, the Ministry of Interior issued the labour law in the form of the Ministerial Regulation allowing employees to form employees' associations at the enterprise level and employers to form employers' associations. But the law did not allow the formation of trade unions. Other labour administrative matters, such as labour disputes settlement procedures, were stipulated.

Another major change in the country's industrial relations occurred when the Labour Relations Act of 1975 was passed. This Act grants basic rights to workers in the private sector in accordance with the international labour standards and principles. It provides employees with the right to form trade unions, labour federations and labour congresses. The rights of the founders and those involved in the activities of employees' organizations are protected under this Act. Likewise, employers have the rights to form employers' associations, employers' federations and employers' congresses.

Since this Act was in effect (March 28, 1975), increasing number of employees' and employers' organizations have been established, the details of which are shown below.

Current number of employees' and employers' organizations (2010)

Organizations	Bangkok	Provinces	Total
Employees' organizations			
• Trade unions	310	877	1,187
• Labour federations	6	12	18
• Labour congresses	11	1	12
Total	327	890	1,217
Employers' organizations			
• Employers' associations	148	193	341
• Employers' federations	1	1	2
• Employers' congresses	12	–	12
Total	161	194	355

This law stipulates two types of relations between employees' organizations and employers at the enterprise level. The first type is joint consultation based on bipartite cooperation between employers and elected employees' representatives called the Employee Committee, which is required by the law to be set up in the business enterprise with 50 employees or more. The second type is negotiation between employers and employees' representatives or trade union committee members.

This Act also lays down the procedures for labour dispute settlement. Once a dispute occurs, the case shall be referred to a conciliator for conciliation. If the dispute cannot be settled, both parties may appoint an arbitrator a panel of arbitrators to rule on the case, or an industrial action may be taken, i.e. a strike by employees or a lock-out by employers. If a dispute occurs in certain essential businesses (such as railways, electricity generation and distribution, water works, hospitals, etc.) an industrial action is prohibited and the unsettled dispute must be submitted to the Labour Relations Committee for consideration and decision. In addition, if the Labour Minister considers that any unsettled dispute may affect the nation's economy or public order, he may order the Labour Relations Committee to consider and decide on such dispute.

Bipartism

In Thailand, workers' participation or bipartite labour relations at the enterprise level that takes the form of bipartite committees joined by employees' representatives are as follows:

1. *Employees' committee*

The Labour Relations Act of 1975 stipulates that the employer of the business enterprise with 50 employees or more shall arrange for the election of this committee to take part in the consultation with the employer concerning the matter of working conditions improvement.

2. *Occupational safety, health and environment committee*

The Labour Protection Act of 1998 stipulates that in the business enterprise with 50 employees or more, the employer shall set up this committee to support and cooperate with the employer in dealing with the matter of safety and health in the workplace.

3. Labour welfare committee

The Labour Protection Act of 1998 stipulates that in the business enterprise with 50 employees or more, the employee shall arrange for the election of this committee to discuss with and give suggestion to the employer on the of labour welfare in the workplace.

Collective bargaining is another form of bipartism stipulated in the labour relation law. It can be employed as a means to promote better working conditions in the workplace, solve labour-management conflict and maintain industrial peace if both parties negotiate with an aim to reach a win-win agreement. Unfortunately, this mechanism fails on many occasions, leading to a labour dispute.

Other forms of bipartite cooperation like the exchange of data and information, in-house grievance procedure, joint consultation, quality control circle and so on are implemented successfully on a voluntary basis in a great number of business enterprises.

Tripartism

Tripartite cooperation is another mechanism that helps prevent and solve labour relations problems as well as promote industrial peace through the tripartite organizations of various responsibilities, such as the National Advisory Council for Labour Development, the Wage Committee, the Labour Relations Promotion Committee, the Labour Relations Committee, the Public Enterprise Labour Relations Committee, etc. However, there is still room for improvement on the tripartite mechanism regarding the issues of representativeness, time allocation and expertise of the committee members of these tripartite bodies.

IV. Case studies

Case study 1

Making it through the economic crisis with the help of tripartism: Export industry group in Amata Nakorn Industrial Estate, Chonburi

Amata Nakorn Industrial Estate is located in Chonburi province in the area promoted by the government as industrial investment zone. Being a large industrial estate, it houses more than 400 business enterprises with 140,000 employees engaged in the country's major and important industries including automotive industry, automotive electronic and component manufacturing and other related industries.

During the time of economic prosperity, the industries in Amata Nakorn Industrial Estate were one of the major production forces and earned high income for the nation from export. Employment in the industrial estate multiplied as a result.

As most of the companies here are joint ventures with foreign investors, their labour administrative practices are modern and meet standards. As most companies are export-oriented manufacturing, competition in the international market requires a standardized administrative system among business partners. Many companies here have been awarded for Outstanding Business Enterprise in Labour Relations and Welfare and have obtained Thailand Labour Standard (TLS 8001-2003) under the programme supervised by the Department of Labour Protection and Welfare.

However, the business enterprises in Amata Nakorn Industrial Estate have continually affected by the 2007 economic crisis, as the orders from abroad decreased. This led to suspension of wages and bonuses as well as lay-offs in some companies. Most labour conflicts were settled by bipartite negotiation between employers and employees' organizations. Only a few cases turned into disputes and strikes. In such cases, the Department of Labour Protection and Welfare intervened and dealt with them in accordance with the legal procedures until the disputes were settled.

It is worth noting that the government helped solve the economic problems not only in Amata Nakorn Industrial Estate, but also elsewhere on which the crisis took toll. On January 29, 2008, the Prime Minister declared in the House of Parliament the policy to solve economic problems aiming to maintain and increase the people's income via various measures as mentioned in Part II.

Various departments of the Ministry of Labour combined efforts with other concerned agencies to help solve the problems in line with their duties. For instance, the Department of Skill Development carried out training programmes to upgrade the skills of the workforce outside business enterprises and laid off employees in the locality of their residence.

The impact of this economic crisis led the government to foster the policy aiming to develop a modernized labour relations system. Within its framework, the Department of Labour Protection and Welfare issued the "Practical Guidelines for the Promotion of Labour Relations in Economic Crisis", which urged employers and employees to use the bipartite system in the form of joint consultation and disclosure of information in good faith. Other measures included cost of living reduction, extension of the period for receiving unemployment benefit, and setting up a fund of 40 billion Baht under the "Thai Labour's Recovery from Crisis Project", whereby laid off employees were entitled to get a loan with a very low interest rate.

The combined effort, exerted by various organizations in the society spearheaded by the public sector, have helped lessen the impact of the crisis to a certain extent. As the whole situations gradually return to normality, the recovery will eventually come into view.

Case study 2

Workplace industrial peace through bipartite cooperation: Thai Yazaki Corporation, Ltd.

Thai Yazaki Corporation, Ltd., a Japanese transnational company in Thailand, got its start in 1962. At present, there are 6 affiliated companies in the Thai Yazaki Group, the offices and factories of which are located in 4 provinces: Bangkok, Samut Pra Kan, Chachoengsao, and Pitsanulok. It has 13,600 employees in total. The company is engaged in the manufacture of various products, including electric wire and PVC tape, automotive wire and wiring harness, cast copper rod, and telecommunication cable wire and flexible plastic pipe. These products are produced for the local market as well as overseas affiliated companies.

In 1980, prompted by the economic factors characterized by unpleasant working conditions and low wages, and by the administrative factor involving authoritative and non-participative style of management, Thai Yazaki Electric Wire and Associates Worker Union was established. The conflict and confrontation between the union and the management during 1980-1985 led to a strike in 1986. As a result, the conflicting parties came to realize that confrontation inflicted high costs and defeats on both parties. In 1986, the employer could not produce goods

to meet customers' demands on schedule, and the employees failed to get higher wages and better welfare.

The Department of Labour Protection and Welfare mediated the dispute, helping the conflicting parties to reach a settlement through negotiation. After that event, both parties tried to reconcile. The policy of building mutual trust between the union and the management, and the formation of one-family sentiment were actively promoted and materialized. The labour relations mechanisms required by the labour law were set up, and the participation system became the company's labour relations policy.

The management has adjusted its attitude towards the employees, viewing them with understanding, regarding them as one of the company's important elements, considering them as human beings who use both physical labour and brain, not merely a kind of production factor. The employees have been empowered and given the right to submit policy proposals that can be beneficial to the company.

The change in the employer's policy has a favourable impact on the union-management relations. The management provides the union with an office in the factory premises, allows the union's president, vice president, secretary-general, and chief of public relations section to work full time for the union, and encourages employees to become the union members. In addition, the management reveals the company's important information to the union to be used as the basis for negotiation, such as amounts of sales, production, profits, etc. The company recognizes the union as one of its essential components.

After the 2007 economic crisis, the company was affected like many other companies, as a certain part of its products is produced for export. The company solved the problem by means of bipartite consultation with the Employees' Committee and the trade union, taking into account the Ministry of Labour's "Practical Guidelines for the Promotion of Industrial Relations in Economic Crisis of 2008". They agreed upon various measures to reduce the company's cost, such as water and electricity saving and early retirement on a voluntary basis. There were 187 employees who voluntarily resigned with severance pay to which they were entitled. These measures could help cut the company's cost to a considerable extent.

The company has been able to make it through the economic crisis not only by following the practical guidelines of the Ministry of Labour, but also by implementing good labour-management relations system and effective bipartism.

V. Impact of economic crisis on industrial relations

Positive impact

- Those involved in the industrial relations administration have become aware of the problem and revised their policy with an emphasis on proactive conflict prevention rather than reactive problem-solving measures.
- Relations between employer and employees tends to change positively. Increasing number of employers, who previously regarded themselves as business owners and thus had authoritative style of management, have turned to bipartite system. Joint consultation and negotiation have been better accepted. The management also has developed a more positive attitude towards employees' organizations, as can be seen in the Case study 2.

Negative impact

- In response to the economic crisis, employers had to revise employment conditions for their business survival, such as wage and/or bonus freeze or reduction, no overtime work, or layoff. This brought about dissatisfaction among employees, leading to conflicts, disputes and strikes.

VI. Conclusion

Labour disputes during the economic crisis have eventually been settled through the cooperation of all sectors. The government is the prime force in the policy formation and implementation via various governmental and social mechanisms. Meanwhile, employers and employees, who were directly affected by the crisis, have employed joint consultation, compromise and negotiation as the main mechanisms to solve the problem.

Dispute Prevention

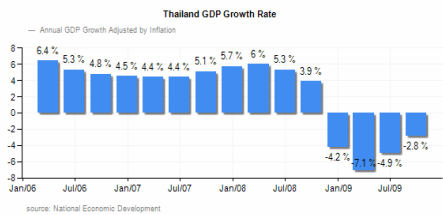


**Ms Renu Sunghongjean
Mr Pornchai Saengaroon
Mr Thawatchai Pholcharoen
3 February 2010**

Overview on Economic Crisis



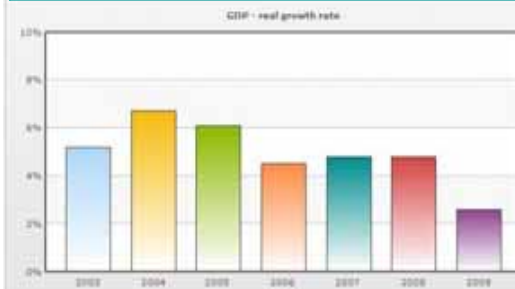
Thailand GDP Growth Rate (First half 2009)



Thailand GDP Growth Rate (month)

Year	Mar	Jun	Sep	Dec	Average
2009	-7.10	-4.90	-2.80		-4.93
2008	6.00	5.30	3.90	-4.20	2.75
2007	4.40	4.40	5.10	5.70	4.90
2006	6.40	5.30	4.80	4.50	5.25

Thailand GDP Growth Rate 2009



The Economic Situation in Thailand

THAILAND ECONOMIC SITUATION IN 2009 WAS AFFECTED BY VARIOUS FACTORS;

- THE GLOBAL ECONOMIC RECESSION (THE HAMBURGER CRISIS)
- THE HIGH RISING OF THE COST OF LIVING
- OIL PRICE FLUCTUATION



Serious Labor Crisis

Serious Labor Crisis

- THE INVESTORS LOSE CONFIDENCE AND SLOWDOWN THEIR INVESTMENT
- DECREASING OF DEMAND FOR EMPLOYMENT
- BIG NUMBER OF WORKERS WERE LAID OFF
- EMPLOYERS CLOSED DOWN THEIR BUSINESS



The economic crisis affected the job security and living conditions of the workers and the investment atmosphere of the country

Promotion of Labor relations Under economic crisis

Case Study: Triumph

- Terminate 1,959 staffs out of 4,000 due to economic crisis
- Employer already paid severance and extra payment.
- Department of Labor Protection and welfare organize a tripartite discussion. Finally, the employer agree to compensate more additional payment and benefits.



Promotion of Labor relations Under economic crisis

Case Study: Triumph



- At present, most of the terminated staffs occupy the ground floor of the department of Labor Protection to continue their production of the products to earn their living and still hopefully to go back to their workplace.



Government Policy

- **Maintaining and Increasing the Income of the People**
- **Committee on the Policy to Relief the Problem of Termination of Employment resulting from the Economic Crisis**



Ministry of Labor's Strategy

- Reduce the contribution rate of Social Security Fund.
- Provide occupational trainings to upgrade skills for workers.
- Occupational trainings for the laid-off workers.



- Reduce labor mobility.
- Extension the payment for unemployment.
- Provide low-rated loan for unemployment and self-employment.
- 3R & 3I policy



3 Reductions 3 Increases' Measures

3 Reductions

- Reduction of termination of employment
- Reduction of labor mobility
- Reduction of living costs of employee and the unemployed

UNEMPLOYMENT



3 Increases

- Increase of employment and jobs
- Increase of job opportunities
- Increase and upgrade the labor skills

Measures to cope with Labor Crisis

Measures for prevention and relieve the difficulties due to termination of Employment



The measures also help the employer to survive their own business.

Measures to cope with Labor Crisis

1. The reduction of expenses in collaboration with employee by



- Reducing the management costs.
- Reducing the labor costs.

Measures to cope with Labor Crisis

2. Improvement of personnel administration to suit the situation

- Appropriate Staff Planning.
- Develop the employee's performance to increase people productivity.
- Prepare for job changing.
- Prepare staff for new job seeking.



Measures to cope with Labor Crisis

3. Employee reduction

- Cease a recruitment of new staff.
- Early Retirement Program/ Voluntary Resignation Program.
- Termination of Employment.



Dispute Prevention Promotion of Labor relations Under economic crisis



Promotion of Labor relations Under economic crisis

- Disclose the information about the situation and result of operation to employee as far as possible.



- Jointly consult and cooperate between the employer and employees to economize as much as possible and by all means to survive

Promotion of Labor relations Under economic crisis

- Jointly consult on bipartite basis to seek for the reduction measure which has least effect on employees.



- The employees should recognize the crisis.



and be aware of consent and acceptance of the employees.



Best Practices Sharing The Post Publishing PLC.



Best Practices Sharing The Post Publishing PLC.

- Treat staff equally (union/non-union)
- Initiate providing appropriate welfare
- Maintain good relationship between management and Labor Union
- Extend concerns to staff's family (welfare/benefits/activities)
- Communicate effectively to staff for clear understanding
- Joint consultation (Bipartite)
- Establish staff's involvement



Best Practices Sharing The Post Publishing PLC.

- Cost of Living Allowance (COLA)
- Strictly Control Headcount
- Gasoline Allowance
- Outsourcing
- Work-Life Balance
- Staff take role of organizer
- Post Award
- Every a Little Bit (Staff's involvement)
- Rent instead of purchasing or investment



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Family Day



Post Summer Camp



Front Page Canteen



Anniversary Day



Sports Day



Retirement Party





JAPAN COUNTRY REPORT

“Sound and Harmonious Industrial Relations: Labour Dispute Prevention in the time of Financial and Economic Crisis”

*International Affairs Division
Ministry of Health, Labour and Welfare
Government of Japan
3 February 2010*

I. Introduction

Japan has been enjoyed sound and harmonious industrial relations for years, however, now faces a time of reshaping of the relations due to a wide-spreading business strategy which focuses on investment efficiency in response to recent globalized capital movement. Under these circumstances, the current financial and economic crisis has affected on Japan’s employment severely.

This report aims to, from the view point of labour dispute prevention, describe historical backgrounds, systems and characteristics of industrial relations in Japan. The report also tries to provide some case studies on actions taken by enterprises and industrial unions for preventing labour dispute in time of current economic crisis.

II. Country context

Japan accomplished positive real economic growth in the first half of the year of 2009. Even under the current “global financial crisis” and “global depression”, the Japanese economy has bottomed out with consumer and business sentiments picking up, resulting from an increase of exports and production. However, the unemployment rate remains high, while the nominal GDP has contracted for six consecutive quarters and the supply and demand gap has been in huge supply surplus.

Recently, the economy has been in moderate deflation. The foreign exchange market has been showing volatile movement. Although the economy is expected to pick up gradually, the foundation of economic growth is weak. In light of employment dimension, even if the economy recovers from economic slump, this recover might be a “Jobless Recovery”, so that we need keeping eyes on the future projection of our economy.

III. Industrial relations context

Japan Trade Union Confederation (JTUC-RENGO) and Japan Business Federation (Nippon Keidanren) represent the workers’ and employers’ organizations respectively. JTUC-RENGO was found in 1989 by unity of trade unions, and its member totals approximately 6.8 million. Japan Business Federation was found in 2002, and its member counts for about 1,600 enterprises/ organizations.

The unique characteristics of Japanese trade unions are as follows. The trade unions in Japan are generally organized on the basis of individual enterprises. Collective negotiations normally take place between individual employers and enterprise-based unions on the issues such as wages, working conditions, and other related matters.

Enterprise-based unions forms industrial sector trade unions or confederations, and those industrial unions organize the national center. These upper-level unions focus on labour policies and social systems issues which enterprise-based unions are difficult to treat with.

The number of union members in Japan totaled approximately 10 million in 2009, which is comprised of approximately 18.5 per cent of the national workforce. The overall unionization rate has been declining in recent years. The main reason for the decline seems to be a rapid expansion of workers in the tertiary industry and part-time and dispatched workers, and it emerges as an issue for Japanese industrial relations. One-third of total workforce in Japan is now categorized as non-regular workers, however, rate of estimated unionization rate of part-time workers remains 5.3 per cent, and dispatched workers are rarely unionized.

As mentioned earlier, Japan has been proud of its sound and stable industrial relations. This is because Japanese social partners have succeeded to build mutual relationships of trust, by complying with “three principles of productivity” (Maintaining employment, Bipartite consultations and cooperation and Fair distribution of benefits) based on the “Productivity Improvement Movement” started in 1955. Japanese workers and employers particularly focus on maintaining employment. Under life-long employment system, employers can be benefited by experienced and skilled workers, and workers can secure and protect their lives, thus it is shared by social partners that maintenance of employment can provide benefits to both employers and workers.

A unique practice of Japanese industrial relation is called the “spring wage offensive (Shun-To)”, which has started in 1956. Around the season of springtime (usually in February to April), each enterprise-based union starts negotiating with employers for their wages and working conditions at once, in accordance with guidance and coordination of industrial sector unions and the national center. This strategy has been taken due to strengthening bargaining power of unions as a whole, and to standardizing an increase rate of wages in each industrial sector. This yearly negotiation is widely accepted as a standard wage setting system uniquely in Japan and becomes a huge annual event in Japanese industrial relations.

With regard to social dialogue, important labour policies are mostly consulted to tripartite councils which are organized by the government and composed of representatives of workers’ and employers’ organization and academics as neutral members. The government has obliged to respect reports developed in the councils. Other than above, occasions for listening to opinions from workers and employers are called “Government-Labour Meeting” and “Industrial Labour Discussion.” Under the previous regime (Liberal Democratic Party), “Government-Labour Meeting” was held periodically between the prime minister and the president of JTUC-RENGO to exchange their opinions. “Industrial Labour Discussion” is a private inquiry committee set by Ministry of Health, Labour and Welfare, to discuss labour issue with employers of particular enterprises. The government makes efforts on reflecting opinions raised in these meetings to labour policies.

Under the current regime (Democratic Party), since JTUC-RENGO is the largest organization which supports Democratic Party, the party is keen on the opinions made from them, thus the current government has dismissed “Government-Labour Meeting”, and reconstructed it as “Government-Labour Summit”.

IV. Case studies – successful practices in the topics assigned at enterprise, industry and national level in response to the crisis

Case 1 (National level response)

Productivity improvement movement and spring wage offensive

Overview

The productivity improvement movement and the spring wage offensive (spring wage negotiation) contribute to prevent labour disputes by promoting consultations between workers and employers.

Problem analysis

“The time is no longer called as ‘post-war’” is the statement which is described in the Economic White Paper published in 1956. Japan had succeeded remarkable economic recovery in ten years after the World War II, and in effect, national goals have shifted from post-war recovery to ones such as further development of economy and improvements on domestic living standards. For sake of accomplishing these goals, productivity improvements in industries were urgently required. In this connection, Japanese productivity improvement movement first has been launched among the employers’ organizations. The movement gradually has made large effect on even government’s domestic and foreign policy making. In 1955, “Cabinet decision for productivity improvement promotion” was issued. At this point, workers were not taking a part of the movement, but their support and cooperation were unquestionably needed. Some leaders of unions, however, are afraid of negative effects resulting from the movement. For workers, improving productivity may lead huge surplus of workforce, which is likely to be result in lower wages, and even lose their jobs in the worst case. Thus workers were reluctant to agree and cooperate on the idea of the movement.

In this context, “three principles of productivity movement” (Maintaining employment; Bipartite consultations and cooperation; and Fair distribution of benefits) were determined as important pillars to disseminate the essential ideas of the productivity movement to everyone in the country.

In post-war period, labour movement significantly were expanded its role compared with prior to the World War II. The movement established a solid political and social foundation of trade unions as an independent, democratic organization in the modernized society. The system composed of four major confederations of trade unions had established in 1956. The system had been active until Japan Trade Union Confederation was founded in 1987, and had provided a projection of post-war labour movement. General Council of Trade Unions of Japan (used to be known as “Sohyo”), one of the four trade unions confederations, decided to embody the decision of board of directors in 1955 and firstly lunched the spring wage offensive in 1956.

Japan had experienced severe industrial disputes until mid 1970s, which concerns with improvement of management efficiency and productivity, and industrial reconstruction on the energy transfer from coal to oil. In transition of economy from rapid growth to stable growth, interests of trade unions had shifted from “wage raise” to “comprehensive working conditions”, and initiative of the labour movement had transferred from public sectors to private sectors. As results, the movement shifted from “opposing” or “confronting” approach to more “harmonious” approach.

Institutions or organizations involved

In line with the fundamental principle of ILO, Japanese policy making procedure of labour issues is based on tripartism, in which government's role is acted by academics as a neutral member in some cases.

Strategy pursued

The three principles of productivity improvement are described as following.

1. Improvement of productivity increases employment ultimately, however, it might cause tentative surplus of workforce, for which appropriate measures such as job rotations would be taken to avoid unemployment as much as possible under intimate cooperation with the government and private sectors.
2. Detailed measures for improving productivity would be developed and consulted in cooperation with workers and employers, in consideration of conditions of individual enterprises.
3. Benefits derived from the productivity improvement would be fairly distributed to employers, workers and consumers, in consideration of conditions of nation's economy.

As for the first principle, maintaining and expanding employment is important for trade unions because their main concern is "maintaining employment opportunity for members". The second principle highlights importance of bipartite cooperation for developing specific measures to improve productivity. The last principle points out that employers, workers and consumers are all deserved to receive the benefit earned from the productivity improvement, thus fair distribution is necessary to create mutual satisfaction. Upon understanding the above views mentioned, trade unions has gradually agreed on the principles.

The spring wage offensive is the strategy for strengthening bargaining power of union as a whole and standardizing the increase rate of wages in each industrial sectors. Employers also recognize this practice is beneficial to them because it provides opportunities of social dialogue on wide variety of issues.

How the strategy was implemented

(1) Productivity improvement movement

As it mentioned in previous sections, the productivity improvement movement was firstly triggered by employers' actions, then, the government and workers gradually agree on ideas of the movements and cooperate together to realize further development of industries.

(2) Spring wage offensive

The spring wage offensive has been dominating in Japanese wage negotiation process since 1956. The purposes of the practice are (a) to raise the wage increase rate as a whole by reflecting the highest rate won in particular good-business-industry to the ones in other industry, and (b) to mitigate wage gaps between large enterprises and small and medium-sized enterprise (SME) by starting negotiation in SMEs after settlements of negotiation reached in large enterprises, which settlements are used as reflective indicators in negotiations in SMEs.

Negotiations of the spring wage offensive are conducted between enterprise-based unions and individual enterprises in which unions belong to, rather than between employers' organization and industrial sector unions. By means of this nature, Japanese wage negotiation seems "decentralized" practice. However, the practice can be observed as "centralized" practice from the view points that (a) the target wage increase rates are standardized by industrial sector unions, (b) dates of releasing answers from employers are concentrated in a particular day, (c) the agreed wage increase rates in each industries are close, and (d) agreed rates indicate similarity even among different industries. Background of this phenomenon could be observed from several aspects. For workers side, effective information networks are established among enterprise-based unions, industrial unions and the national center. The networks help industrial unions to coordinate target rates of individual enterprise-based unions in each industry in accordance with the target rate advocated by the national center. Employers' side has same kind of information networks among employer's organizations in each industry. This coordination mechanism has worked well to mitigate gaps between individual enterprises in each industry.

Impact on policy, enterprise, and employees

The productivity improvement movement and the spring wage offensive system could not be absorbed nationwide so quickly. Confrontations between workers and employers had been severe until 1960, five years after the productivity improvement movement was launched. As time goes by, labour disputes were subsided gradually, and workers decided to select "harmonized" approach in assent with the productivity improvement movement. This changed perception has ultimately created the foundation of current industrial relations in Japan.

Potential for up-scaling and replication

The productivity improvement movement has contributed to the post-war economic recovery in Europe first, then Japan, under the principles that "the productivity improvement movement shall be developed with full understanding and supports from people all over the country to be a national movement," which guarantees to receive benefits fair and square. Japan has succeeded, as a result, in promoting bipartite cooperation, which realized sound and stable industrial relations.

The spring wage offensive is a unique practice developed by trade unions, however, employers has gradually recognized it as beneficial practice because it gives a good opportunity of social dialogue on wide variety of issues about working conditions as well as managing status.

Case 2 (National level response)

Preventing labour disputes in the use of Employment Adjustment Subsidy

Overview

In time of economic downturn, enterprises have to choose an option of temporary shutting down business in some cases, in which affects to workers' employment situation. In order to avoid dismissals, the "Employment Adjustment Subsidy System" has established in Japan since 1974. This subsidy provides workers' with particular amount of money (ranges from 2/3 to 4/5 of labour costs) when they turn into temporary leave, or training leave. The subsidy promotes harmonious industrial relations in effect of maintaining employment.

Problem analysis

Japan had been experiencing good time of rapid economic growth after World War II. However, the devaluation of US dollar in 1971 and consecutive revaluation of Japanese Yen had influenced world market economy. The first oil shock in mid 1970s also struck heavily on the market and employment situation.

In 1970, Japanese policy measures on unemployment issues mainly focused on people who already lost their jobs. There was no employment policy to protect workers from losing their jobs beforehand. Thus, as medical treatment developed its methods not only curing illness but also prevention of diseases, new employment policy was needed for workers to avoid losing their employment.

If workers are able to keep their employment, which means they could sustain their income and avoid disadvantages raised from unemployment. For employers, they would also be benefited from maintaining skilled and experienced workers, and preparing for future economic recovering. In this regards, this publicly operated system beneficiates both employers and workers, and ultimately promotes sound industrial relations.

Institutions or organizations involved

Financial source of the employment adjustment subsidy system is insurance premiums paid by employers to the government annually. The amount of the premium is calculated by multiplying premium rate with total amount of wages paid to workers. The government pools paid premiums and administers it upon employers' requests. This system is easily undulated by economic fluctuation, which means relatively big amount of money will be subsidized in the time of economic downturn, and fairly small amount will be used while economy is prospering. In this connection, resource has very well functioning system such that funds accumulate when prospering, and spend in time of economic slump.

Strategy pursued

As it mentioned, the system subsidizes a partial amount of wages to employers, when workers are temporarily on leave or receive training in case of company facing economical difficulties caused by economic fluctuation, changes of industrial structure or other cases affecting enterprises.

The employment insurance is a compulsory system, thus any enterprise which employs one or more workers is subject to join this insurance. The employment insurance breaks down to two parts: (a) Unemployment Insurance Benefit, and (b) Employment Security Fund and Human Resource Development Fund which aims to avoid unemployment, improve employment conditions, enlarge employment opportunities, and provide vocational training to enhance workers' welfare. Funds which are spent for the programs would be collected from only employers. Amount of insurance premium is 0.3 per cent of wages. Budget for financial year 2009 (April 2009 to March 2010) is approximately 650 billion yen. (About 72.2 billion USD)

How the strategy was implemented

Employers would submit a plan of temporary leave or other measures to nearest prefectural labour bureaus or public employment security offices (hello-works) before hand, then they would submit a request for the employment adjustment subsidies when temporal leaves are actually taken place.

Maintaining employment methodologies and amount to be subsidized

There are several ways for employers to maintain employment. When employers implement following measures, they are recommended to consult thoroughly with workers in order to choose the best way to be taken, in accordance with collective agreements and management situation of each offices. Subsidies are given with following conditions, upon request from employers.

For temporary leave:

- A part of temporary leave benefit would be subsidized.
- Amount of subsidies would be 2/3 of wages for larger company, and 4/5 wages for SMEs. (7,685 yen/day maximum for each worker)
- If workers did not dismiss workers yet, subsidies would be increased up to 3/4 for larger companies and 9/10 for SMEs.

For vocational training:

- Partial amount of wages will be subsidized.
- Amount of subsidies would be 2/3 of wages for larger company, and 4/5 wages for SMEs. (7,685 yen/day maximum for each worker)
- If workers are not dismissed, subsidies will be increased to 3/4 for larger companies and 9/10 for SMEs.
- Large scale companies receive 4,000 yen and SMEs receive 6,000 yen for educational training fee.

For temporary transfer:

- Partial amount of wages will be subsidized which receiving companies paid for worker.
- Amount of subsidies would be 2/3 of wages for larger company, and 4/5 wages for SMEs. (7,685 yen/day maximum for each worker)
- If workers are not dismissed, subsidies would be increased up to 3/4 for large scale companies and 9/10 for SMEs.

Impact on policy, enterprise, and employees

Maintaining employment could result in following aspects.

- Promote cooperative and trusted bipartite relationships, and improve efficiency of management when the economy has recovered,
- Promote moral standing of workers.
- If vocational trainings are conducted, workers are going to be trained on their vocational skills. As results, job rotations for production adjustment and further development after recovery are easily adopted.
- Protect workers' living, and stop worsening the national economy caused by consumption cooling.

In the current time of global economic crisis, thousands of enterprises are going through hardship; in particular, SMEs are the most sufferers facing bitter choice to dismiss workers in order to maintain their business. In December 2008, "Emergency employment maintaining subsidies for

SMEs” was established for responding the situation. This system is similar to the employment adjustment subsidy system, but it is specialized and targeted for SMEs. A lot of SMEs employers has applied to this system which has some flexibility to respond to unexpected outbreaks, and enables SMEs not to conduct retrenchment that might induce labour disputes.

By flexibly responding to employers’ needs and requests, the subsidy system has been supporting over 85 thousand offices and approximately 1.97 million people.

Potential for up-scaling and replication

This system cannot be functional without the coexistence of the unemployment insurance system. Therefore, establishing the unemployment insurance system is the first step to introduce the Employment Adjustment Subsidy system. The government of Japan is planning to support ASEAN countries establishing unemployment insurance system through ILO-Multi-bilateral cooperation scheme, expected to be launched this year.

Case 3

An industrial sector trade union

Activities

An industrial sector trade union facilitates mutual communications between workers and employers through the works council system, and provides specific and speedy supports to enterprise-based unions when confront with problems.

Problem analysis (for industry or enterprise, basic facts and figures)

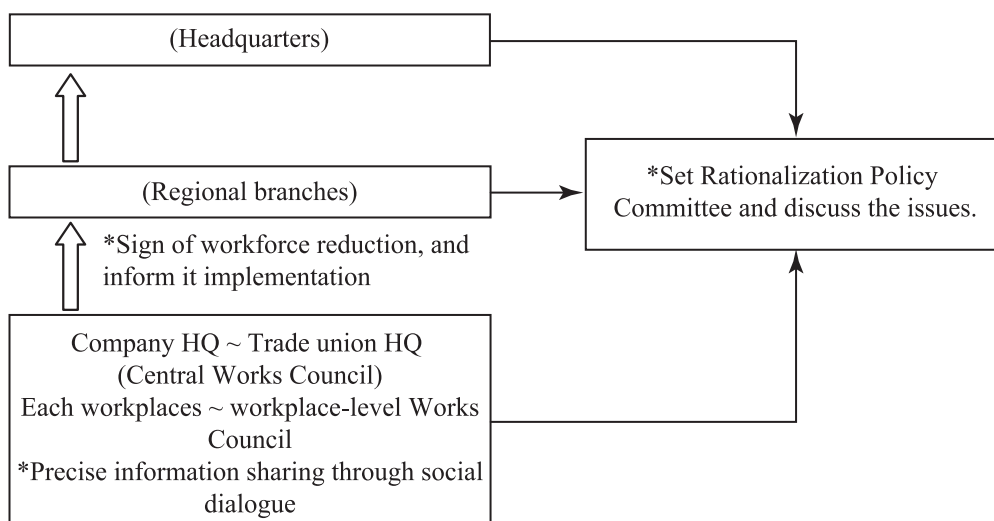
In the current economic downturn caused by global financial and economic crisis, employment issues including dismissals have been widely erupting in Japanese enterprises. In particular, small and medium-sized enterprises (SMEs) have fired their workers because of slumping business (Personnel Downsizing due to Business Slumping). On the other hand, in large scale enterprises tend to publicize and implement a re-structuring plan which is not well consulted with trade unions, before the business actually fall into red. This is because employers, under severe pressure from globalized capital market, recently have focused on EBITDA (Earnings before interest, taxes, depreciation and amortization) rather than net profits for fund raising (Personnel Downsizing due to Enterprise Strategy). In addition, because of dissolvent of mutual equity holding relationships since 1990s, which was long time Japanese tradition, and growing foreign investments in the market, some enterprises implemented re-structuring plans while they could maintain dividends for stakeholders.

Fundamental idea of company restoration policy is based on “Selection and Concentration,” which means shutting down or selling out non-core business categories which did not make enough revenue to increase company’s profit. In case of downward situation in the market, however, it is highly difficult to sell the non-core business, so it turns out shutting down the business and dismissing workers.

Re-structuring of business influences employment situation primarily and makes impact on peoples’ lives. Therefore, it should be granted that workers deserve to have consultation on their future employment status before implementing any policies and measures. Sudden and forcible dismissals may confuse workers and may cause labour disputes.

Institution or organizations involved

We illustrate trade unions' framework to tackle company's attempts for workforce reduction below.



Strategy pursued

If restructuring/rationalization policy is decided to be implemented, trade union's primary action on preventing labour dispute is to provide precise and sufficient information to workers about management situations of their company, actual needs of restructuring/rationalization to revive itself, and company's future prospect of maintaining employment.

Sudden proposal of shutdown or closure of factories or branches, which ultimately converges with employment issues, is tend to invite emotional backlash and confusion in union members' meeting. Workers have feelings such that "why our workplace was selected?" or "why we have to lose our jobs?", and tend to concentrate on accusing company's responsibility and asking "how the company is going to take measures to get out from this situation?" Trade unions need to provide clear information and facts to workers on what is going to happen to their employment status by shutting down the workplace and what measures they are going to take. Failing to provide precise information consequently end up in labour disputes.

Based on discussions at members' meeting in advance, trade unions need to start negotiation on their employment issues through collective negotiation. For smooth negotiation, it is utterly important to strengthen union's solidarity and bargaining power backstopped by a relationship of mutual trust among union members. This relationship would be built in daily activities of union members in particular through "complaint processing procedures." In case of emergency such as restructuring, democratic management of unions through continuous workplace discussions and collective negotiations are indispensably needed.

Industrial sector unions have functions to support enterprise-based unions by establishing principal guidelines which enable them to conduct activities mentioned above. If a restructuring plan is actually proposed, industrial sector unions would form "Rationalization Measures Committee" in collaboration with member unions to direct and consult on proper actions to be taken in response to the situation. Industrial unions even directly participate in collective negotiations with enterprises which proposed a plan in some cases. These actions could strengthen member unions' bargaining power.

How the strategy was implemented

1. Strengthening the works council system through “Guidelines on Responding Management Issues”

Employment issues are directly affected by company’s management situation. When employers propose workforce reduction, in order to acquire understandings from workers, they need to clarify the management situation, validity of management direction, and measures to be taken to avoid dismissing workers. Collective negotiation needs to be conducted if sudden workforce reduction is proposed; however, trade unions need to keep tabs on company’s management situation and policy in daily basis. Prior to sudden proposal of workforce downsizing, some signals would be observed such as diminishing sales, changes of top management or capital relationships. Unions need to be keen on finding these signals to prepare necessary actions in advance for avoiding labour disputes.

With regard to company’s management situation and management policies, enterprises do not have obligation to disclose these information to workers, unless management situations directly affect employment and working conditions. Thus, it is hard to include those matters into collective negotiations. A works council, which is composed of workers and employers and established based on mutual relationship of trust, provides opportunity to share information of both employers and workers including management situation and policies to stabilize industrial relations. It is necessary to establish the works council that workers and employers mutually recognize it as a tool of bipartite autonomy based on collective agreements. Through this process, mutual relation between workers and employers would be cultivated and utilized for deeper consultation with issues about management situation and management policies. Strengthening and deepening the works council system is the most important for labour dispute prevention.

Industrial unions develop the “guidelines for responding to management issues” to promote establishing the works council system in each member union. The guidelines highlight the followings.

First point is to confirm the “three principles of productivity” in the “productivity improvement movements” which the Japan Productivity Center (found in 1955) had proposed. A meaning and a merit of having a works council in a company is that, it enables to establish a cooperative relation on promoting productivity through complete understanding on company’s management policy.

Secondly, it is important to understand that the works council system is essentially different from collective negotiations. It is an opportunity to provide workers and employers to share their information and promote mutual relationship of trust. Regarding company’s management situation and management policies, employers are accounted for explaining management situations based on facts. Workers would consult on these issues by asking whether proposed management policies would actually be functioned at the workplace and whether there is any concern in implementing the policy. However, it is needed to be clarified that the final decision on management issues lies on employers, thus roles of trade unions are limited to checking on the management’s practices.

Thirdly, in order to acknowledge the works council system as meaningful for both workers and employers, it is necessary to have continuous consultations regarding to emerging problems and issues around workplaces and strive to find concrete improvement measures to achieve improvement of productivity and working environment. For unions, it is essential to keep coping with problems through grievance procedures to solve workplace issues.

2. Clarify management policies in the use of “Guidelines on Responding Rationalization”

“Guidelines on Responding Rationalization” is a manual of how to respond to rationalization (workforce reduction) proposals. “Four fundamental principles for responding rationalization” include;

1. Establishing consultation prior to implementation of proposal, and strengthening workplace discussions,
2. Information disclosure,
3. Preventing working condition aggravation,
4. Securing full employment and right of school enrollment.

The first and second principles above intend to establish the works council system and strengthen union democracy and workplace discussions. The third and fourth principles intend to clarify fundamental stances of trade unions on collective negotiations.

When union receives workforce reduction proposal, union takes initial actions to clarify the following;

1. Reason why rationalization is needed,
2. Measures and management policies taken to avoid rationalization,
3. Feasibility of rationalization,
4. Anticipation of future recovering upon implementation of rationalization.

On condition that above four points is clarified, the union would conduct workplace discussions to explain details of the proposal and collect questions and concerns from workers if needed, then, go back to collective negotiations to clarify those concerns. If the proposal is judged to be accepted, consultations would shift to negotiation regarding their employment maintenance and remedies to be provided for turnover. Neglecting clear explanation on necessity of workforce reduction from the beginning might cause confrontation during the process, and it might end up in worsening the situation.

At the same time, “Guidelines on Responding Rationalization” recommends member unions to report to regional (or prefectural) industrial union branches when the rationalization proposal has been made, and establishes “rationalization measures committee” consists of the member unions, prefectural branch of industrial sector unions. Detailed plans and policy would be developed in the committee. The committee even participates in the negotiation in some cases. The reason is described as following;

- most of enterprise-based unions do not have enough experience on how to actually respond to the rationalization proposal.
- union needs wide range of knowledge to decide whether they should accept the proposal, and needs relevant skills to explain clearly the details of the proposal in workplace discussions to remove any doubt that board members of unions are secretly making alliance with employers.
- In case which the rationalization proposal is decided to be accepted, the committee also takes a role in standardization of level of remedies, and support job placements for members who left their jobs.

Impact on policy, enterprise, and employees and factors for success

Promoting bipartite relationship of trust through the works council system has a significant role in disclosing the information about management situation. In case of workforce reduction, employers are very cautious on disclosing company's management status because there is a high risk to hurt company's reputation. On the other hand, for sake of union's democracy, unions need adequate information and sufficient time for dispute prevention. The works council system is the useful method to resolve this dilemma.

Potential for up-scaling and replication

For building a sound and harmonious industrial relations, it is important to construct stronger bipartite relationship through the works council system. In other words, employers and workers need to recognize that mutual development leads to mutual benefits. Employer's attitude which does not hesitate to exploit workers for their profit shown in some Asian countries cannot achieve sound and harmonious industrial relations. For strengthening company's long-term competitiveness in international market, workers and employers need to understand that bipartite cooperation through social dialogue on improvement of productivity and labour skills development is indispensable.

Case 4

An enterprise in the steel industry

Overview

A company in Case 4 strives on preventing labour disputes and building long-term relationship of trust by operating the works council system and maintaining employment, even in a time of business slump. By that, the company could keep workers with high skills and knowledge.

Problem analysis (for industry or enterprise, basic facts and figures)

For decades, the steel production industry had experienced several economic slumps. The industry have had much effort to improve their international competitiveness through productivity improvement. In effect, number of workers had decreased, but the company had never implemented any dismissal. Some workers were temporarily transferred, or re-employed in the new category of business to sustain employment.

	1970	2007
Total employees	819,000	177,000
Amount of steel produced	33 million (tons)	33.1 million (tons)

Institutions or organizations involved

(1) *Implementation of earnest social dialogue*

Regarding to social dialogue, the company has conducted consultation with workers not only on minimum items to be treated in collective negotiations, but also other managerial issues. Types of consultations are as follows;

(a) Collective negotiations and workers-level consultations take care of a revision of collective agreements and issues related to working conditions. During negotiation, the management tries to explain thoroughly on company's management conditions and reasons of reforming or repealing the agreement to gain understanding from workers. In 2008, collective negotiations were held 14 times and workers-level consultations were held 11 times. These two meetings are flexibly held upon necessity.

(b) Works council:

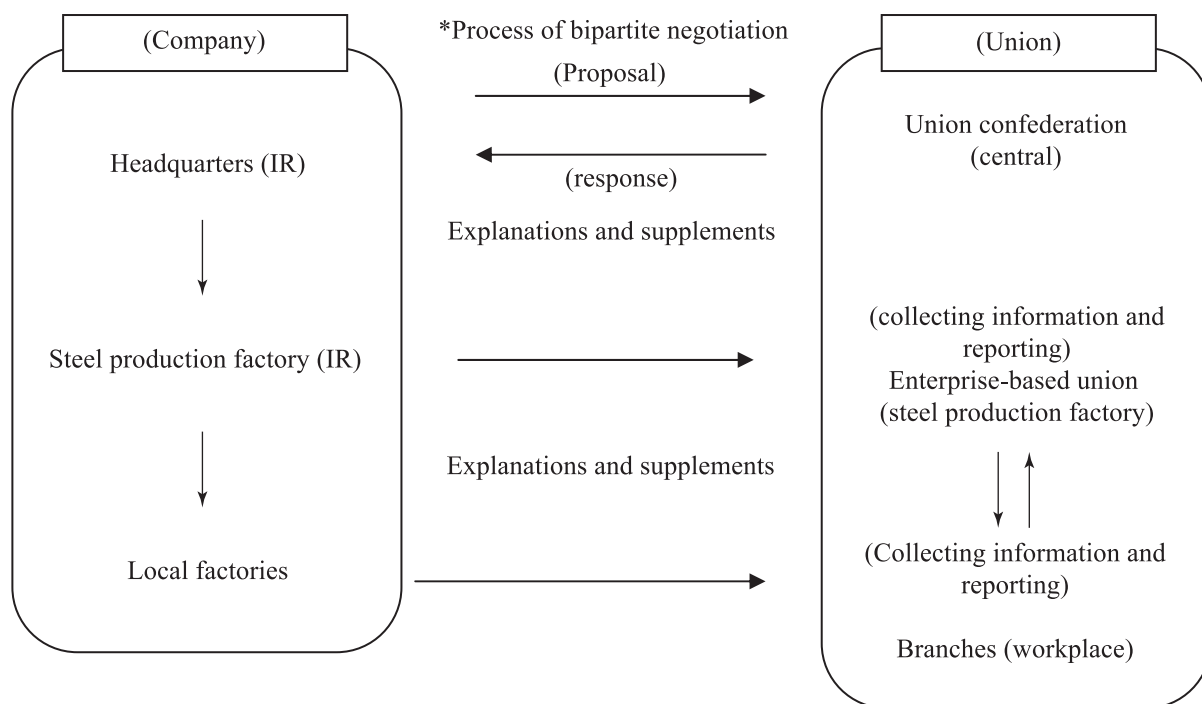
The works council deals with issues which normally belong to management discretion, but somewhat related working conditions (Manpower plan, job rotation, welfare etc...). In 2008, works councils were held 26 times.

(c) Management council:

The management council takes care of issues such as management policies which clearly belong to managerial discretion, but needed to be shared with unions. This council is held twice a year regularly, and more if needed. The committee was held 12 times in 2008.

(2) *Three-levels of social dialogue*

Social dialogues are conducted on three layers such as central (Headquarters), regional (production factories), and local levels (workplaces). Bipartite negotiations are mainly happening at central-level. The management of headquarters conveys information to lower levels (regional and local) managements subsequently, and explanatory meetings are held at each level. The unions collect and accumulate opinions at each level, then it responds to and negotiates with the management at central level.



Strategy pursued

There are two fundamental principles in order to prevent labour disputes. Firstly, earnest dialogue is the most important for building sound and harmonious industrial relations by thorough explanations and information sharing. Secondly, the company has avoided dismissals of workers. Since the steel production industry is skill-intensive industry, training of workers is indispensable for keeping high-level skilled workers. Thus, it is bipartite benefit to have workers accumulate knowledge and experiences at workplace through long-time employment.

How the strategy was implemented

The management has taken measures base on the two ideas mentioned above. For information sharing with workers, the management is striving to provide the unions opportunities to access management information to earn worker's apprehension. Since inaccurate and imprecise information is the most significant risk to arouse mistrust of workers, the management has to take efforts on conveying information to workers through the single designated channel. In addition, grievance procedure committee is set for processing daily claims, human resource administration and legal consultation opportunities are provided at the corporate risk consultation room, and 'compliance hotline' information service is provided to receive reporting of any default practices and activities. Varieties of measures are taken to prevent individual labour disputes.

In addition, the management introduced performance-related incentive determination scheme to promote more trusting relationship with workers. In effect, performance of business directly connects to workers' income, which in turn, the management and workers are tied together more strongly. Executive members and workers actively exchange opinions in occasions of small group voluntary activities, or skills competitions, by which sense of unity is aroused. Continuous small activities have contributed to remove boundaries between the management and workers.

The management has never conducted dismissals even in an economic slump, and endeavored to maintain employment. Even if it is determined to downsize production in response to decline in demands, the management strives to provide information for workers to earn their understandings of conducting temporary leave, vocational trainings and other measures to temporarily reduce workers, but never dismissed them. The management sometimes utilizes governmental supports, such as the employment adjustment subsidy, to ease up their labour costs.

Impact on policy, enterprise, and employees

Following outcomes are observed by doing above practices. First of all, the management has succeeded in maintaining good industrial relations and keeping skilled workers by not dismissing anyone even in the time of economic downturn. Second, the management has established the functional information network channel which protects workers from receiving any inaccurate and doubtful information and rumors. Thirdly, by creating opportunities for the management and workers to bond together, they share the common ideas that company's benefit nearly equals to workers' benefit.

Accumulation of these activities and practices, relationship between the management and workers has been deepened, and enabled cooperative developments. Since mid 1950s, there is no union strike in this company.

Potential for up-scaling and replication

Most labour dispute cases are triggered because of lacking of adequate communication with workers and the management, and disclosure of sufficient information about management situation. In other words, complying with these two agenda would lead to prevention of disputes.

For example, there was a labour dispute at a company in Thailand, because the president did not disclose sufficient information to workers. Another example is, one company in the US with no labour union described in their investor relations booklet as “Origin of competitiveness is workers,” and listed all the workers’ name on the front cover of the booklet, which shows managers weigh heavily on workers. By that, the company maintains very good industrial relations. The company believes that the principle of industrial relations is the same in any place in the world.

V. Impact of the crisis on industrial relations-positive and negative trends

Under the effect of financial and economic crisis, number of bankruptcy in first half of 2009 has increased, comparing with the same period in 4 consecutive years. According to wage agreement situation in spring wage offensive in 2009, the rate of wage raise was 1.83 per cent. It is decreased by 0.16 per cent points from last year. It is for the first time that the increase rate is less than the last year since 2002.

In such situation, a tripartite agreement is issued in March 23, 2009, which states that tripartite cooperation toward maintenance of employment and new employment creation is indispensable for resolution of employment insecurity. The background of the agreement is a tripartite recognition that long-term employment systems had contributed in stabilizing industrial relations and promoting human resources; as results, supported national economic growth.

VI. Conclusion

Japanese experience highlighted that (a) thorough consultation not only by collective negotiations but also by the works council system which deals issues other than working conditions is indispensable to create a mutual trusted relationship between employers and workers; (b) employment maintenance is vital for sound industrial relations; (c) a sense of unity between the management and workers becomes a background of sound industrial relations, which is created by bipartite cooperation over “productivity improvement movement”. The recent globalized capital market has a potential risk to aggravate industrial relations by emphasizing EBITDA (Earnings before interest, taxes, depreciation and amortization) rather than net profit, as results, invite workforce reduction which is not well consulted with trade unions, even before the business actually falls into red.

Sound and Harmonious Industrial Relations: *Labour Dispute Prevention in the time of Financial and Economic Crisis*

3 February 2010
ASEAN/ILO-Japan IR Seminar in KL
International Affairs Division
Ministry of Health, Labour and Welfare, Japan



II. Recent Japanese Economic Situations

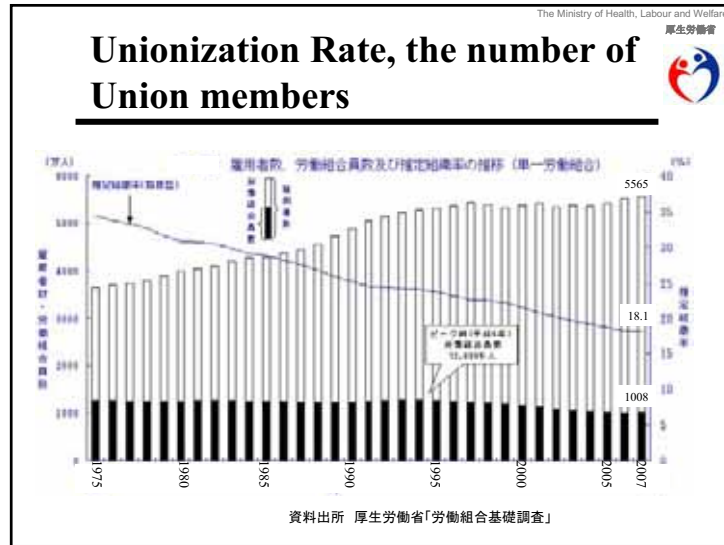
- Under the current “global financial crisis”,
 - Unemployment rate remains high,
 - Nominal GDP contracted for six consecutive quarters.
 - Supply/demand gap been in huge supply surplus.
- Japanese economy has
 - bottomed out with consumer and business sentiments picking up, resulting from an increase of exports and production.
- Recently, economy has been in moderate deflation
 - Foreign exchange market showing volatile movement. Although the economy is expected to pick up gradually, the foundation of economic growth is weak.
 - In light of employment dimension, even if the economy recovers from economic slump, this recover might be a “Jobless Recovery”

I. Introduction

- I. Japan has been enjoyed sound and harmonious industrial relations for years,
- II. Now faces a time of reshaping due to
 - I. Wide-spreading business strategy which focuses on investment efficiency
 - II. in response to recent globalized capital movement.
- III. This report aims to,
 - I. describe historical backgrounds, systems and characteristics of IR in Japan.
 - II. Provide some case studies on national, enterprises and industrial unions level actions

III. Industrial Relations in Japan

- Social Partners' Organization
 - JTUC-RENGO was found in 1989 by unity of trade unions, and its member totals approximately 6.8 million.
 - Japan Business Federation was found in 2002, and its member counts for about 1,600 enterprises/organizations.
- Characteristics of Japanese Trade Unions
 - Organized on the basis of individual enterprises
 - Collective negotiations normally take place between individual employers and enterprise-based unions
 - Industrial sector trade unions and the national center focus on labour policies and social systems issues which enterprise-based unions are difficult to treat with



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Historical Backgrounds and Characteristics of Japanese IR (1)

- **Productivity Improvement Movement**
 - Started in 1955, Japanese social partners build mutual relationships of trust, by complying with “three principles of productivity improvement”
 - (Maintaining employment, Bipartite consultations and cooperation and Fair distribution of benefits)”
- **Focusing Maintenance of Employment**
 - Under life-long employment system, employers can be benefited by experienced and skilled workers, and workers can secure and protect their lives
 - Win-win situation for both social partners

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Historical Backgrounds and Characteristics of Japanese IR (2)

- **Spring Wage Offensive (Shun Toh)**
 - In springtime, enterprise-based union starts negotiating with employers in accordance with guidance of industrial sector unions and the national center.
- **System of Social dialogue**
 - important labour policies are mostly consulted to Tripartite Councils organized by the MHLW
 - “Government-Labour Meeting”
 - between the prime minister and the president of JTUC-RENGO to exchange their opinions.
 - Under the current regime (Democratic Party), reconstructed it as “Government-Labour Summit”.

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Case Studies

- **Case 1 (National Level)**
 - Productivity Improvement Movement
 - Spring Wage Offensive
- **Case 2 (National Level)**
 - Employment Adjustment Subsidy
- **Case 3 (Union/Enterprise)**
 - An Industrial Sector Union
- **Case 4 (Union/Enterprise)**
 - A Steel Production Company

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Case 1: Productivity Improvement Movement & Spring Wage Offensive



- **Overview**
 - Productivity Improvement Movement & Spring Wage Offensive contribute
 - to prevent labour disputes by promoting consultations between workers and employers.
- **Background and Problem Analysis (1)**
 - **“The time is no longer called as ‘post-war’”** is the statement which is described in the Economic White Paper published in 1956.
 - Japan had succeeded remarkable economic recovery in 10 years after the World War II, and in effect, national goals have shifted from post-war recovery to further development of economy and living standards.
 - In this context, **productivity improvements** in industries were urgently required.

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Case 1: Background and Problem Analysis (2)



- **Productivity improvement movement first has been launched among the employers’ organizations**
 - In 1955, **“Cabinet decision for productivity improvement promotion”** was issued, however,
- **Some leaders of unions, however, are afraid of negative effects resulting from the movement.**
 - For workers, improving productivity may lead surplus of workforce, which be result in lower wages, and even lose their jobs in the worst case.
- **“three principles of productivity movement” were determined as important pillars the movement**
 - Maintaining employment;
 - Bipartite consultations and cooperation; and
 - Fair distribution of benefits)

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Case 1: Background and Problem Analysis (3)



- **In post-war period, labour movement expanded its role compared with prior to the World War II.**
 - The movement established a solid political and social foundation of trade unions as an **independent, democratic organization** in the modernized society.
 - Japan had experienced severe labour disputes until mid 1970s, however, in transition of rapid growth to stable growth, interests of unions shifted from **“wage raise” to “comprehensive working conditions”**,
- **As results, the movement shifted from “opposing” or “confronting” approach to more “harmonious” approach.**

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Case 1: Strategy – 3 principles of Productivity improvement



- **The three principles of productivity improvement are established and disseminated**
 1. Improvement of productivity might cause tentative surplus of workforce, for which appropriate measures be taken to avoid unemployment such as job rotations under intimate cooperation with the government and private sectors.
 2. Detailed measures for improving productivity be consulted in cooperation with workers and employers
 3. Benefits derived from the productivity improvement be fairly distributed to employers, workers and consumers

Case 1: Strategy Implementation Spring Wages Offensive

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- The purposes of the practice are
 - (a) to raise the wage increase rate as a whole by reflecting the highest rate won in particular good-business-industry
 - (b) to mitigate wage gaps between large enterprises and small and medium-sized enterprise (SME) by starting negotiation in SMEs after settlements of negotiation reached in large enterprises,
- Observed as “centralized” practice due to;
 - (a) the target wage increase rates are standardized by industrial sector unions and the national center
 - (b) dates of releasing answers from employers are concentrated in a particular day,
 - (c) the agreed wage increase rates is standardized in each industries even among different industry

Case 1: Potential for up-scaling and replication

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- Productivity improvement movement contributed to the post-war economic recovery in Europe first, then Japan.
 - Why not in ASEAN?
- The spring wage offensive is a unique practice developed by trade unions, however,
 - Employers gradually recognized it as beneficial because it gives a good opportunity of social dialogue on wide variety of issues

Case 2: Employment Adjustment Subsidy

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- Overview/Background
 - In time of economic downturn, enterprises have to choose an option of workforce reduction including dismissals
 - To prevent them, “Employment Adjustment Subsidy System” established since 1974.
 - Subsidize **ranges from 2/3 to 4/5 of labour costs**, when they turn into temporary leave, or training leave.
 - The subsidy promotes harmonious industrial relations in effect of maintaining employment.

Case 2: the System

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- Government pools paid premiums and administers it upon employers’ requests.
 - Relatively big amount of money subsidized in the time of economic downturn, and fairly small amount used while economy is prospering.
 - Funds accumulate when prospering, and spend in time of economic slump.
- Funds for the subsidy collected from only employers. Amount of insurance premium is 0.3 per cent of wages.
 - Budget for financial year 2009 (April 2009 to March 2010) is approximately 650 billion yen. (About 72.2 billion USD)

Case 2: Impact on IRs

- **Maintaining employment could result in following aspects.**
 - Promote cooperative and trusted bipartite relationships, improve efficiency of management and promote moral standing of workers.
 - workers trained on their vocational skills. As results, job rotations for production adjustment
 - Protect workers' living, and stop worsening the national economy caused by consumption cooling.
- **Potential for up-scaling and replication**
 - Establishing the unemployment insurance system is the first step to introduce Subsidy system.
 - The government of Japan is planning to support ASEAN countries establishing UI through ILO-Multi-bilateral cooperation scheme this year.

Case 3: An Industrial Sector Trade Union

- **Overview**
 - An industrial sector trade union facilitates mutual communications between workers and employers through **works council system**, and **provides supports and guidance** to enterprise-based unions when confront with problems.
- **Background**
 - Large scale enterprises tend to publicize and implement a re-structuring plan which is not well consulted with trade unions, before the business actually fall into red.
 - Recently focused on **EBITDA** (Earnings before interest, taxes, depreciation and amortization) than net profit
 - Some enterprises implemented re-structuring plans while they maintain dividends for stakeholders.

Case 3: Strategy

- **1. Strengthening the works council system through “Guidelines on Responding Management Issues”**
 - Confirm the “three principles of productivity” in the “productivity improvement movements”
 - Establishing works council system which is essentially different from collective negotiations. It is an opportunity to provide workers and employers to share their management information and promote mutual relationship of trust.
 - Clarified that the final decision on management issues lies on employers
 - Unions have continuous consultations emerging problems around workplaces and find concrete improvement measures to achieve improvement of productivity and working environment.

Case 3: Strategy (2)

- **2. Clarify management policies in the use of “Guidelines on Responding Rationalization”**
 - “Guidelines on Responding Rationalization” is a manual of how to respond to rationalization (workforce reduction) proposals. “Four fundamental principles for responding rationalization” include;
 1. Establishing consultation prior to implementation of proposal, and strengthening workplace discussions,
 2. Information disclosure,
 3. Preventing working condition aggravation,
 4. Securing full employment and right of school enrollment.

Case 3: Impact on IRs

- **works council system has a significant role in disclosing the management information**
 - In case of workforce reduction, employers are very cautious on disclosing company's management status.
 - However, unions need adequate information and sufficient time for dispute prevention.
 - The works council system is the useful method to resolve this dilemma.
- **Potential for up-scaling and replication**
 - Employers and workers need to recognize that mutual development leads to mutual benefits.
 - Employer's attitude which exploit workers for their profit cannot achieve sound and harmonious IRs
 - For long-term competitiveness, bipartite cooperation on improvement of productivity and skills is indispensable.

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Case 4: A Steel Production Company

- **Overview**
 - A company strives on preventing labour disputes and building long-term relationship of trust by operating the works council system and maintaining employment, even in a time of business slump. By that, the company could keep workers with high skills and knowledge.
- **Background**
 - Steel production industry had experienced several economic slumps.
 - Improved their international competitiveness, in effect, number of workers had decreased, but the company had never implemented any dismissal.
 - Some workers were temporarily transferred, or re-employed in the new category of business to sustain employment.

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Case 4: System of Dialogue

- **Three type of dialogue**
 - Collective negotiations, Works Council, Management Council
- **Three Layered process of bipartite negotiations**

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Case 4: Strategy Pursued

- **Principles**
 - Earnest dialogue is the most important for building sound and harmonious IRs
 - Avoidance of dismissals of workers.
- **Strategies**
 - Take efforts on conveying information to workers through the single designated channel.
 - Introduced performance-related incentive determination scheme to promote more trusting relationship with workers.
 - Executive members and workers actively exchange opinions in occasions, contributed to remove boundaries between the management and workers.
 - Never conducted dismissals even in an economic slump, and endeavored to maintain employment.

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Case 4: Impacts on IRs

- **Impact**
 - Since mid 1950s, there is no union strike in this company.
- **Potential Up-scaling**
 - There was a labour dispute at a company in Asia, because top managements fail to disclose sufficient information to workers.
 - An US company shows managers weigh heavily on workers. By that, the company maintains very good industrial relations.
 - The company believes that the principle of industrial relations is the same in any place in the world.



Conclusions


- **Japanese experience highlighted that**
 - (a) Consultation through works council system which deals issues other than working conditions is indispensable to create a mutual trusted relationship
 - (b) employment maintenance is vital for sound industrial relations;
 - (c) a sense of unity between the management and workers becomes a background of sound IRs, which is created by bipartite cooperation over “productivity improvement movement”.
- **The recent globalized capital market has a potential risk to aggravate industrial relations**
 - by emphasizing EBITDA, may invite workforce reduction which is not well consulted with trade unions, even before the business actually falls into red.

**Any comment from our
social partners?**

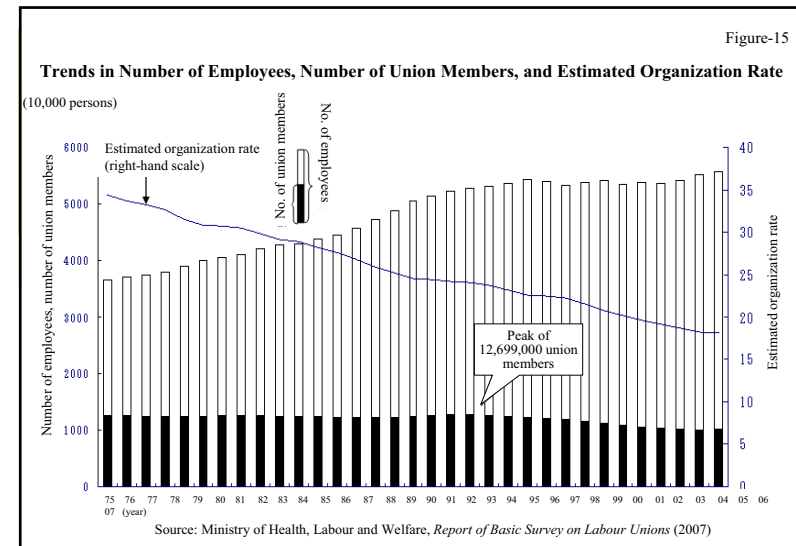
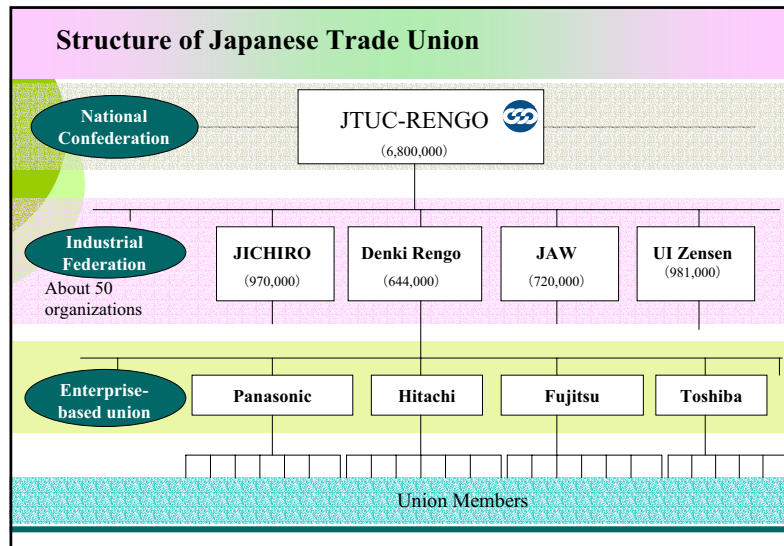
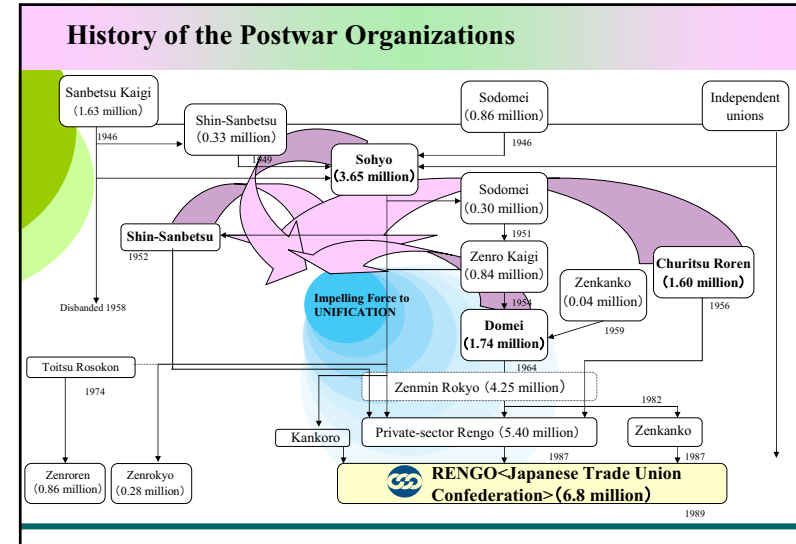


Dispute Prevention

- Japanese example -



nkjm



Historical back grand of Japanese industrial relations

Japanese industrial relations is related closely to productivity promotion activities

1945 – 1955

- * very high unemployment rate
- * so many industrial disputes

1955

- * establishment of the Japan Productivity Centre
- * aim to improve
 - low productivity of national economy
 - low standard of living

Japan Productivity Centre (JPC)

- * Established as a private, tripartite organization
- * It announced “Three Principles” for the productivity movement
- * Activity Seminar, Consulting, Publication etc.

Three Principles of Japan’s Productivity Movement

- * The first productivity Liaison Conference of JPC, held on 21 May 1955, attended by representatives from government, labour and management, adopted the **Three Principles** which summarized their understanding of the nature and purpose of the productivity movement.

Three Principles of Japan’s Productivity Movement

1. **Job security:** The government and the management must cooperate to provide suitable measures to prevent unemployment.
2. **Labour-Management Cooperation in increasing productivity:** To develop concrete measures to increase productivity, labour and management must work within existing conditions in their respective enterprises and must cooperate in determining such measures.
3. **Fair Distribution:** The fruits of improved productivity must be distributed fairly among management, labour and consumers.

Purpose of Productivity Movement

To improve People's Welfare
by making good use of limited resources
through Production and Service activities

Company: Profit making by value added
Production and Sales

Trade Union: Job security and better Working
Conditions

Concept of "Productivity"

**Productivity = Extent to which various Productivity factors*
are being utilized effectively.**

* Land, Building, Capital, Labour force, Information, Machinery,
Equipment, Materials, Energy resources

$$\text{Productivity} = \frac{\text{Output quantity (Value-Added)}}{\text{Input (Labour, Capital, Materials)}}$$

What is Value-Added?

**Newly created product value that result from
the various stages of manufacture and sales
activities.**

$$\text{Value-Added} = [\text{Sales amount}] - [\text{Outside Purchasing Expense}] \\ - [\text{Total production value}] - [\text{value of intermediate inputs}]$$

Prerequisite of Increasing Productivity

- * **Fundamental principles and rights at work**
 - International labour standards – ILO Core Conventions
- * **Employment stability and Social protection**
- * **Workers' participation – Social dialogue**
 - The Management must provide trade unions managerial info
- * **Fair distribution**
 - Faithful collective bargaining on equal foot
 - Fair and transparent personnel management

Distribution of fruits

Value-added
(fruits)

Distribution

- * Wages, welfare benefit, training etc.
→Employees (Labour share)
- * Better quality/price →Consumers
- * Interest →Bank
- * Dividend→Share Holders
- * Rent→ Leasing company, Land owner
- * Tax→ Government
(related to re-distribution)

Labour share (%)

国 Country	1990 年/Year	1995	2000	2001	2002	2003	2004	2005	
日本	JPN	67.9	73.4	73.4	74.4	73.2	72.5	71.2	70.6
アメリカ	USA	69.5	69.0	71.8	71.9	71.4	70.5	69.5	69.6
カナダ	CAN	75.5	73.3	69.7	71.2	71.3	70.3	69.0	67.9
イギリス	GBR	77.2	71.8	74.0	73.8	71.7	70.7	70.2	70.6
ドイツ ^①	DEU	83.1	72.0	72.6	72.1	71.7	70.9	68.6	67.2
フランス	FRA	69.0	69.7	68.9	69.3	70.6	70.8	70.8	70.6
イタリア	ITA	61.2	55.3	54.5	54.5	55.3	55.6	55.4	56.8
スウェーデン	SWE	84.6	70.4	76.7	80.2	79.4	77.4	76.8	76.8
ロシア ^②	RUS	—	67.3	51.8	55.1	59.5	60.5	58.5	56.5
韓国	KOR	61.0	61.3	58.8	59.4	58.2	59.7	59.1	60.4
タイ	THA	31.3	38.6	42.4	42.4	42.0	41.5	40.2	39.7
フィリピン	PHL	31.1	32.1	35.1	35.9	35.8	35.9	35.5	35.2
オーストラリア	AUS	70.6	73.1	68.8	72.3	71.7	71.6	71.8	72.2
ニュージーランド	NZL	66.8	67.1	62.1	60.6	62.1	61.8	63.0	65.7

Source: 日本・内閣府(2007)「平成19年版国民経済計算年報」、1995年以前の数値は旧経済企画庁(1997)「平成9年版国民経済計算年報」
OECD諸国: OECD(2007) National Accounts vol.1, 2007, 1990年値はOECD.Stat Extracts (<http://stats.oecd.org/wbos/>)

Factors for increasing productivity

- * Increase of Production, Sales quantity
- * Shorter Working Hours
- * Technical improvement

Management strategies

- Development of new products
- Introduction of new technology
- Find new markets

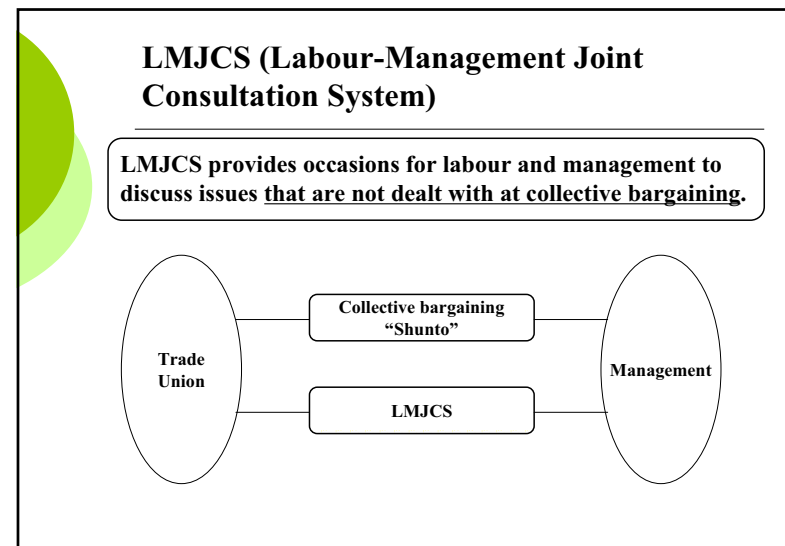
Training/Education

- OSH, Technical training

Methods (at manufacturing plant)

- TQC, TPM, IE, VA, KANBAN, ISO9000, small group activities, suggestion system

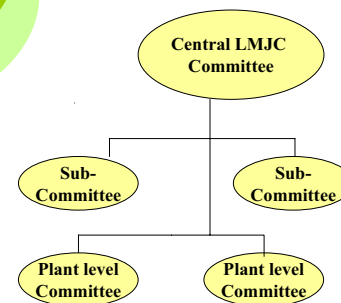
LMJCS



Differences between Collective bargaining and LMJCS

	Collective bargaining	LMJCS
Objective	Sharing of fruits	Enlargement of fruits
Topics	Working conditions	Productivity increase
Character	Conflict (negotiation)	Common interests
Legal aspects	by Labour Law	Voluntary

Example of LMJCS

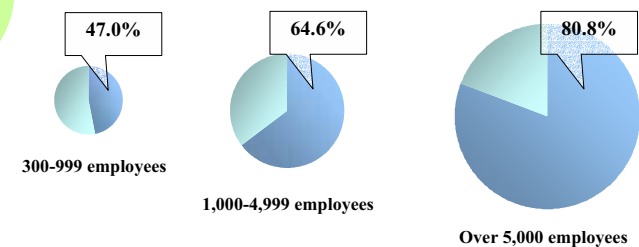


Agenda	Participant	Frequency
Management Policy/ Company's structure etc.	Top officials of labour and management	2 times/year
Production plan/ OSH etc.	Labour and management officers in charge	2 times/year
Plant Operation etc.	Top labour and management officers at plant level	1 time/month

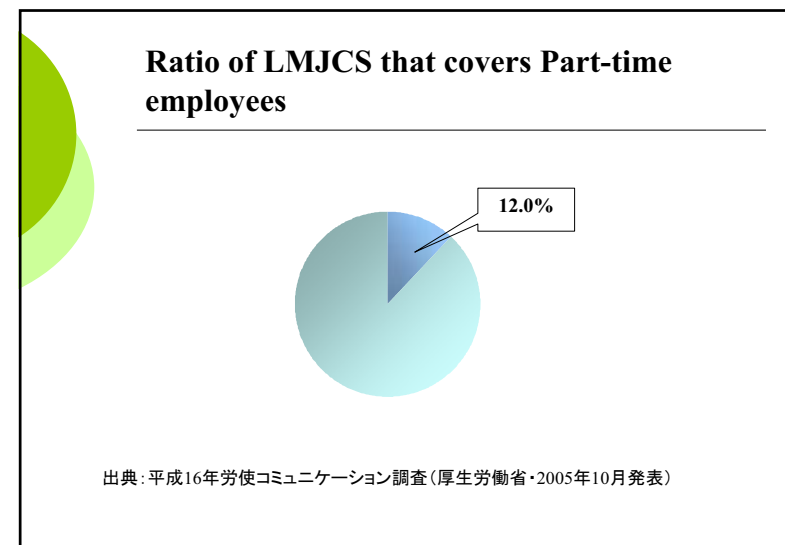
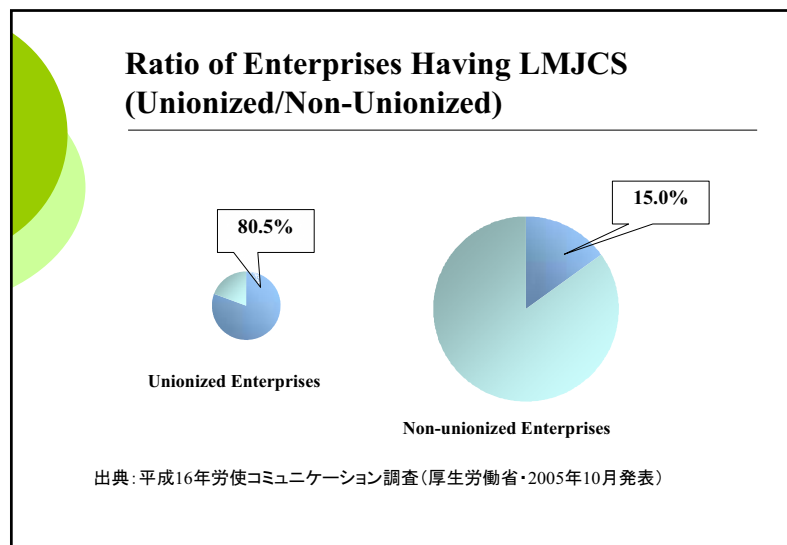
Topics of LMJCS

Topics	Submits to L. MJCS (%)			
		for information	for discussion	for agreement
Management policy	71.2%	54.9%	11.9%	4.4%
Plan of Sales/Production	67.0%	45.1%	17.4%	4.5%
Change of Company's structure	66.0%	42.8%	19.4%	3.8%
Introduction of new technology/equipment	53.1%	25.6%	22.6%	4.9%
OSH	88.2%	13.1%	63.7%	11.4%

Ratio of Enterprises Having LMJCS (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）



LMJCS - key to success

Attitude of management

- * Management provides trade unions with various managerial information
- * Management make efforts to listen labour's opinions with regards problem in management and production

Preconditions for LMJCS

- * The management recognizes the workers as partner in corporate activities
- * Relationship of mutual trust between the labour and the management
- * The labour-side recognizes that management has the final responsibility

Management style changes lead to new situation

- * **Under the Globalization:**
Labour-management relations unstabilized.
- * **The Crisis** accelerate unstable labour-management relations.
- * **Now,** it is quite difficult to call Japanese industrial relations as “matured”.
The key to success and Preconditions for LMJCS are destroyed in many companies.

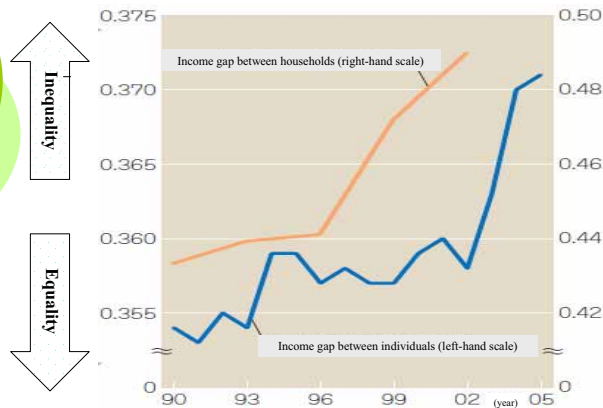
Changes of the basement of IR in Japan

Long term and full time employment
Senior based wage payment system
Enterprise based union



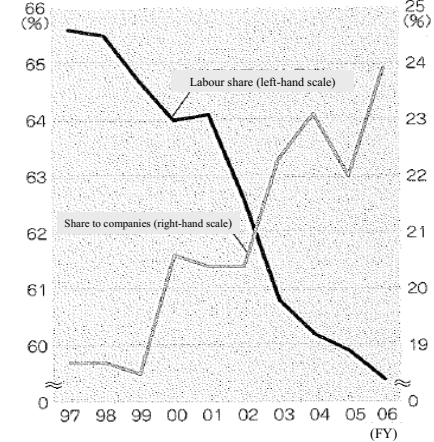
Increase non-regular workers
Performance based wage payment system
Union representation for non-regular workers

Trends in Degree of Income Inequality (Gina Coefficient) Figure-3

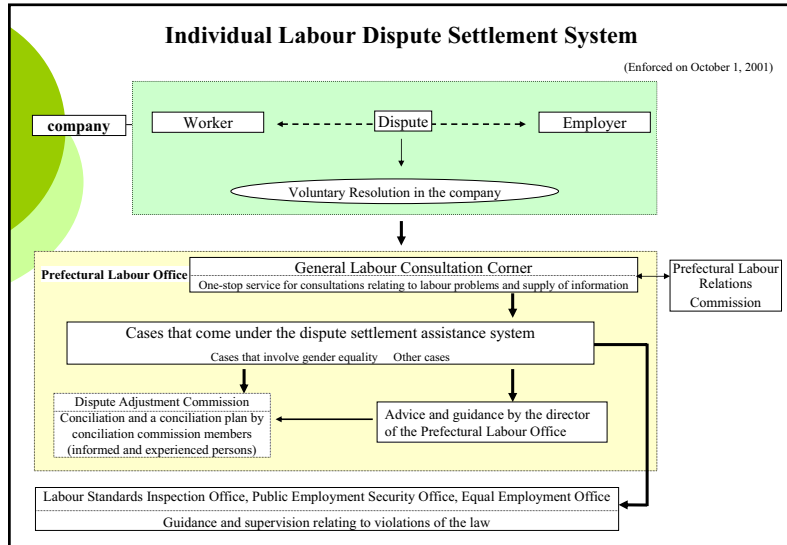
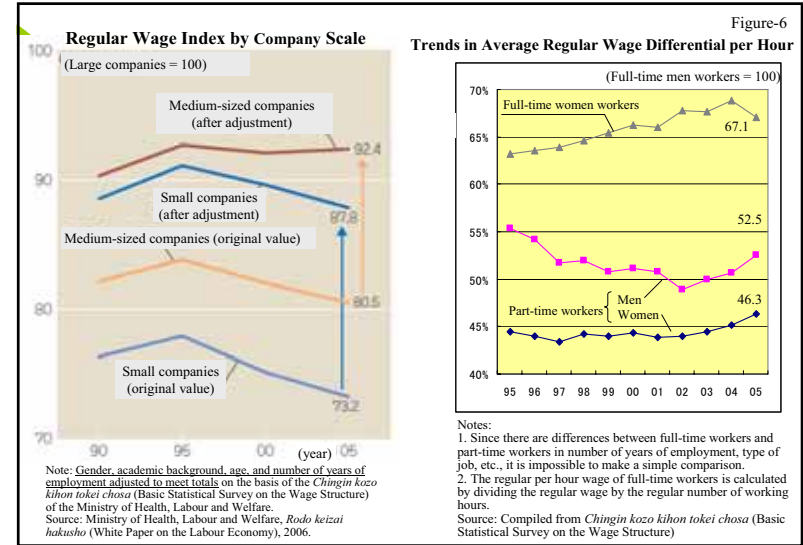
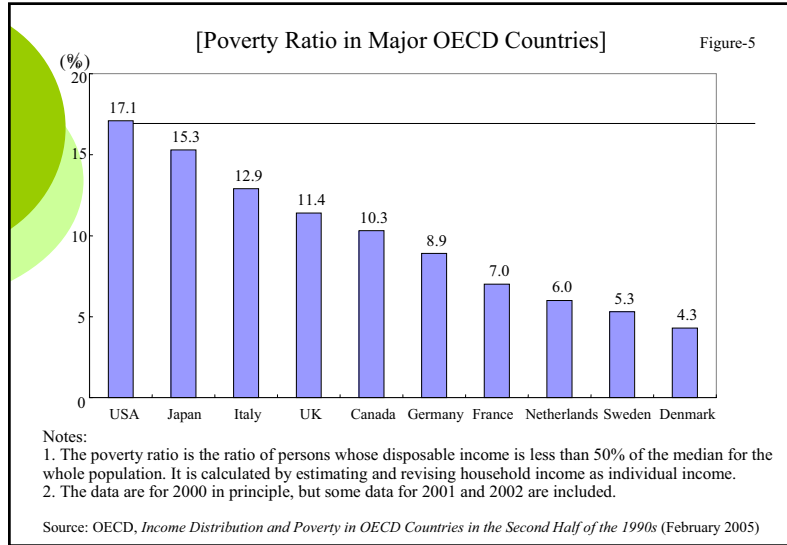


Notes: 1. Gini coefficient: This indicates the degree of inequality in the redistribution of income. The more it approaches 0, the greater the equality; the more it approaches 1, the greater the inequality.
2. Income gap between individuals: This is the disparity in the incomes of wage earners in the *Minkan kyuyo jittai chosa* (Private-Sector Wage Survey).
3. Income gap between households: This is the disparity in initial household incomes (not including taxes and social security benefits) in the *Shotoku saibantai chosa* (Income Redistribution Survey).
Source: Compiled by the Department of Working Conditions of Rengo from the Ministry of Health, Labour and Welfare, *Shotoku saibantai chosa* (Income Redistribution Survey) and the National Tax Agency, *Minkan kyuyo jittai chosa* (Private-Sector Wage Survey).

Labour Share and Share to Companies Figure-4



Note: Labour share = per capita employee income/per capita GNP
Source: Cabinet Office



ANNEX 10

CHANGING FORMS OF EMPLOYMENT/ NEW EMPLOYMENT RELATIONSHIP

**IN THE CONTEXT OF
EMERGING INDUSTRIAL RELATIONS ISSUES AND TRENDS
IN THE TIME OF FINANCIAL AND ECONOMIC CRISIS**

SINGAPORE COUNTRY REPORT

“Changing forms of employment – contract employment and vulnerable workers in Singapore”

Overview

1. Contract employment has shown a growing trend in Singapore. Businesses employ temporary workers to supplement their manpower needs and at the same time outsource more of their non-core functions to third party service providers. Contract workers on long term contracts are generally able to negotiate with employers for their employment terms. The converse is true for low wage short-term contract workers. Recognising their vulnerabilities, the Singapore government and the tripartite partners had come together to adopt various strategies and targeted measures to tackle the employment issues that are peculiar to this group of workers.

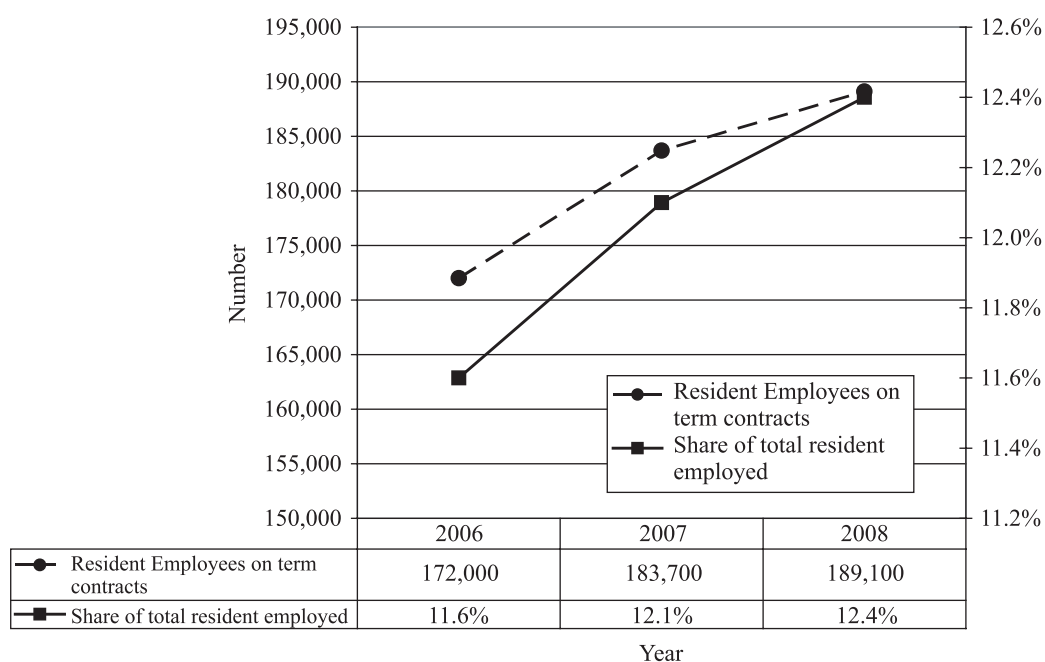
Background

More employees are on contract work

2. “Contract employment”, includes those workers on fixed-term contracts and casual/on-call employment. Since the Singapore government started collecting data on contract employment in 2006, we had observed a steady increase in contract employment among the resident employed.

3. As at June 2008, there were 183,700 residents contract workers. They made up 12.4 per cent of the total resident employed.

Figure 1. Resident Employees on term contracts



Source: Singapore Labour Force Report

Half of the contracts workers are on short term contracts (less than one year)

4. In 2008, about 96,500 resident employees, or 51 per cent of the total contract employees were on short term contracts of less than one year. What is noticeable is that 72,200, or 38 per cent of the contract workers were on less than three months contracts or on casual/on-call employment.

Table 1: Tenure of contract employees in 2008

Less Than One Year (Includes Casual/On-call)	96,500	51%
Less than 3 months (including casual/ on-call employment)	72,200	38%
3 months to less than 6 months	13,200	7%
6 months to less than 1 year	11,100	6%
1 Year or more	92,600	49%
1 year	32,600	17%
More than 1 year to 2 years	24,600	13%
More than 2 years	35,400	19%

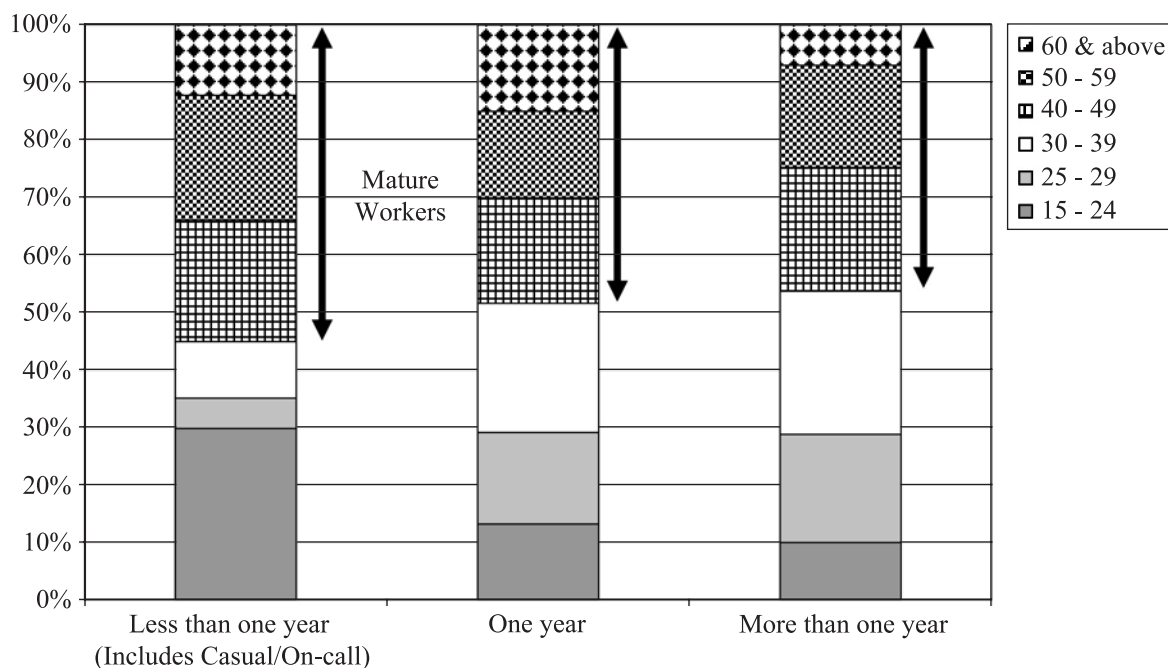
Source: Singapore Labour Force Report 2008

A significant proportion of employees on short term contracts are mature workers and less educated

5. Among the short term contract workers, a significant proportion were mature workers (aged 40 and above) (See **Figure 2**). In 2008, more than half (55 per cent) of the employees on short-term contracts were mature workers.

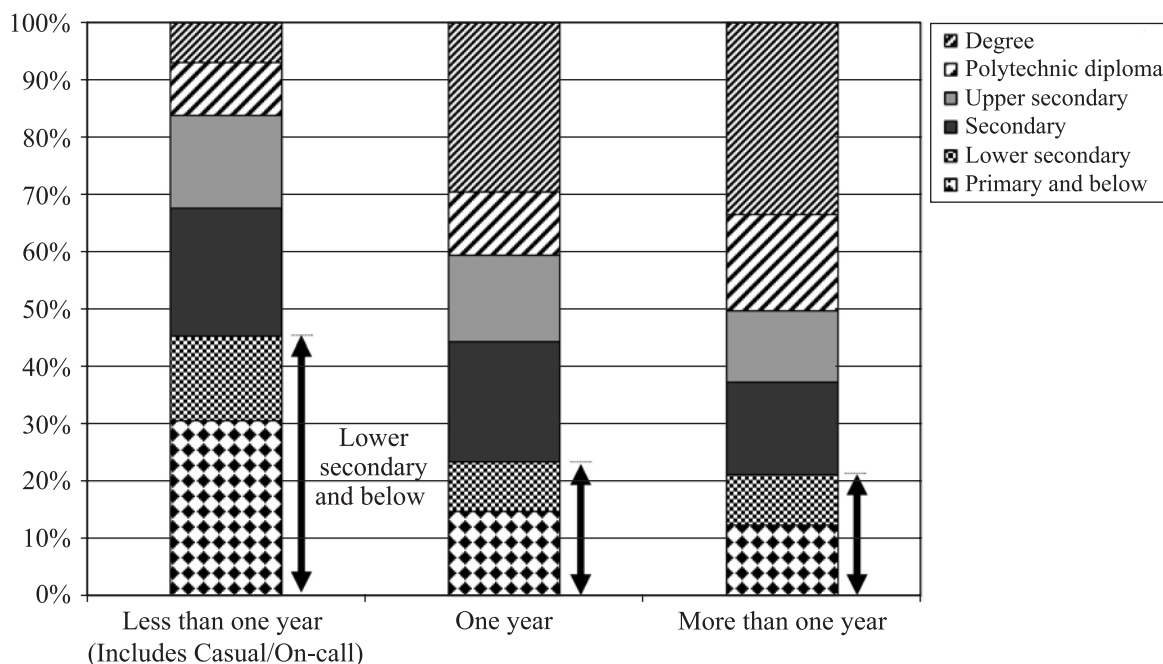
6. About 45 per cent of the short term contract workers had educational level of lower secondary and below.

Figure 2: Age distribution of contract workers by tenure of contract (2008)



Source: Singapore Labour Force Report 2008

Figure 3: Education profile of contract workers by tenure of contract (2008)



Source: Singapore Labour Force Report 2008

Majority of short term contracts are from the services sector

7. 79 per cent of the short term contracts (less than one year) jobs were in the services sector. The main occupations included cleaners and labourers (28 per cent) and service and sales workers (19 per cent).

Contract workers earn less than permanent workers. Contract workers with shorter tenures also earns less than those with longer tenures.

8. In 2008, the median income for contract employees was \$1,000 as compared to \$2,750 for permanent workers. However, for contract workers with tenures of more than one year, their median income was actually comparable to that of permanent employees. See **Table 2**.

9. Contracts workers with shorter tenures earned less than those with longer tenures. The median income for contract workers with less than three months tenure was \$950, as compared to \$1,950 for those on one year tenure.

Table 2: Median gross monthly income from work for resident employees (2008)

	Median Income (\$)
PERMANENT	2,670
CONTRACT	1,500
Less Than One Year (Includes Casual/On-call)	1,000
Less than 3 months (including casual/on-call employment)	950
3 months to less than 6 months	1,200
6 months to less than 1 year	1,400
1 year	1,950
More than 1 year to 2 years	2,600
More than 2 years	2,670

Source: Singapore Labour Force Report

Unique challenges facing contract workers

10. Contract workers in Singapore, *in particular those on short term contracts* face unique challenges at the workplace:

- a. **Outsourcing means less long-term job security and limited growth.** Outsourcing of non-core functions, such as cleaning and security, by businesses is increasingly common in Singapore. Due to the low entry barrier for these labour intensive industries, fierce competition among outsourced service suppliers could result in them cutting back on employees' wages or benefits, which is the main cost component. Moreover, as outsourced service contracts are usually short termed, the service suppliers would be less keen to invest in the growth of their employees.
- b. **Limited knowledge on employment rights and low bargaining power.** The statistics showed that a significant number of short-term contract workers were mature workers with low educational background. Some of them had limited knowledge of their rights under the employment laws, or may be afraid to come forward to report to the authorities on any wrong doings by the employers for fear of losing their jobs.
- c. **Low employability/Low value job.** Many short term contract workers were lowly educated and skilled. The low productivity and value of their jobs mean that income growth for these workers is a challenge.

Tripartite partnership to help contract workers

11. Singapore takes a tripartite approach to address the issues of low wage contract workers. A Tripartite Committee on "CPF and Work-Related Benefits for Low-Wage Workers" was set up in 2007 to address the issues facing the low wage contract workers. The committee was chaired as Mr Hawazi Daipi, Senior Parliamentary Secretary of the Ministry of Manpower, and had high level representation from the employers and the unions.

Tackling the employment conditions and employability of contract workers

12. Two key areas to be addressed for low wage contract workers were identified:

- a. **Employment conditions.** Like their permanent counterparts, contract employees are also covered under the employment laws, such as the Employment Act for salary and statutory benefits protection¹, Central Provident Fund (CPF) Act for social security contribution and Workfare income supplement, and Work Injury Compensation Act for work injury compensation. The issue then becomes making sure that the employers are in compliance with the employment laws.
- b. **Employability.** To ensure that contract workers also move up with the rest of the workforce, there is a need to improve the employability of this group of contract workers.

¹ There is a minimum qualifying period of 3 months of continuous employment for statutory benefits such as paid annual leave, sick leave and maternity leave under the Employment Act.

Three-prong strategy of education, enabling and enforcement

13. Singapore adopts a three-prong strategy, namely education, enabling and enforcement to tackle the multi-dimensional issues concerning low wage contract workers.

Educate Employees, Employers and End-user Companies

14. In 2008, the Tripartite Committee on CPF and Work-Related Benefits for Low-Wage Workers formulated and released a “*Tripartite Advisory on Responsible Outsourcing Practices*”. The Advisory encourages end-user companies to take a more proactive role in ensuring that their service suppliers provide basic employment terms and conditions to their contract workers and comply with employment laws. Since then, the tripartite partners have worked together to reach out to employers, service buyers, managing agents and service providers to adopt the Advisory and implement best sourcing practices.

15. The government works closely with the tripartite partners, for example with the Unit for Casual and Contract Workers (UCCW) from the National Trade Union Congress (NTUC) to organize forums, seminars and workshops to educate contract workers on their statutory rights under the law. The government also engages employers regularly through dialogue sessions and publications on their obligation to comply with the employment laws, including newsletters published in major newspaper to inform the public of basic employment terms under the Employment Act and enlightened workplace practices.

Enable workers and employers through training and job redesign

- a. **Training.** The Singapore government, in collaboration with various industries, develops the Workforce Skills Qualification (WSQ) system, which is an integral part of Singapore’s Continuing Education and Training (CET) framework. The WSQ system comprises of various industry frameworks, which serves to professionalise the industry, especially if the industry previously lacked recognised CET qualifications. The WSQ offers qualifications from certificate all the way to diploma. The tripartite partners in Singapore are committed to training, and worked closely together to implement the WSQ framework by providing training courses to workers and employers.
- b. **Job Redesign.** Job redesign is a national initiative to overhaul existing jobs to bigger and better jobs, so that workers would also be entitled to higher pay. Together with the NTUC, the Singapore government implemented the Job Re-creation Programme (JRP) to redesign jobs and make them appealing to Singaporeans by enhancing job worth, improving working conditions, job prospects and image of the profession through automation, re-designing processes, re-defining job responsibilities and introducing skills standards in sectors.

Targeted enforcement

16. To ensure that employers comply with the minimum standards under the employment laws, the government has identified certain industries as being more prone to non-compliance of employment laws, and has pro-actively mounted audit inspections on these industries. Severe offenders of the employment laws were brought to task. For other employers with only minor infringements, the government would provide advice for them to rectify their infringements.

17. Such enforcement actions have been effective in helping workers receive their employment benefits, CPF contributions and Workfare Income supplement due to them. As a result, we have observed better working conditions, lesser employment disputes and claims from employees of these industries.

Short case study: The private security sector

18. More businesses in Singapore are outsourcing their security services to third-party service providers and the private security industry has grown significantly over the past few years. The number of security officers employed by security guard agencies has increased from 24,000 in 2007 to 30,000 in 2009 over a span of only two years.

19. In the past, this industry was plagued by problems of poor service standards, and poor employment conditions such as very long working hours, no rest days and low basic salaries.

Improve employment terms and regulatory compliance

20. To improve employment terms and regulatory compliance, the government, through the Ministry of Manpower and Security Industry Regulatory Department (SIRD) of the Police force, worked closely with the Union of Security Employees (USE) and the trade associations. Regular briefing sessions and forums have been conducted to educate both security guard agencies and their officers on the employment laws and regulatory requirements, and to share best practices. Educational booklets on employment laws and good workplace practices that were customized for the security sector were also developed.

21. Coupled with targeted proactive enforcement by the employment inspectors, working conditions in the industry have improved over time.

Professionalise the industry

22. Since 2005, the tripartite partners had worked together to enhance the image and professionalism of the security industry, as well as to upgrade skills and productivity of the industry.

23. In 2006, the Security Workforce Skills Qualifications, or Security WSQ was introduced so that security personnel can systematically upgrade their skills and progress in their jobs. To enhance the professionalism of the security officers, all security officers are required to undergo and pass two mandatory training modules under the Security WSQ.

24. In 2009, all security officers who have passed the mandatory training under Security WSQ will be issued with the security officer identification card. This further strengthens public confidence and respect for the profession.

25. In consultation with the employers, the Union of Security Employees (USE) collaborated with the government to come up with a scheme known as the “Advantage – Security Job Re-design” to redesign the jobs and facilitate the employment of mature workers. The companies that went on board the scheme were able to adopt technology and redesign their jobs to enhance productivity, and facilitate the employment and retention of their workers.

26. The government has also introduced mandatory grading for Security Guard Agencies (SGA). This system will promote security awareness amongst buyers and also motivate SGAs to improve their professional standards.

Some results

27. The improvement in the private sector industry in the past few years is quite apparent. Besides greater compliance of the employment laws and improved employment conditions, the government is also observing less employment disputes and claims from this sector. There is anecdotal evidence that the salary levels had improved as the industry becomes more professionalized. The improved conditions had seen more female employees joining this sector as security guards. In 2007, only about 10 per cent of the guards are females. In 2009, this number had increased to 13 per cent.

28. Going forward, the tripartite partners will continue to promote job redesign, to improve the working environment for security officers, through innovative work patterns and embracing of technology etc.

Conclusion

29. With shorter business cycles, businesses opting for greater manpower flexibility and more businesses outsourcing their non-core functions, the contract workforce in Singapore will only continue to grow. The unique challenges facing vulnerable low wage short term contract workers will remain relevant. Besides ensuring that contract workers are also protected by the employment laws under our legislative framework, Singapore has adopted a tripartite approach in addressing the issues through various strategies and measures. Some positive outcomes have already been observed in some sectors, and these efforts will have to continue into the future.

Country Paper by Singapore

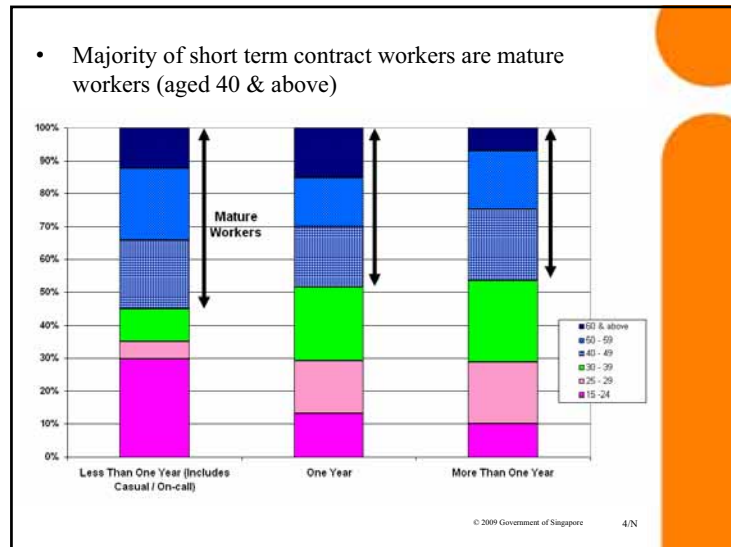
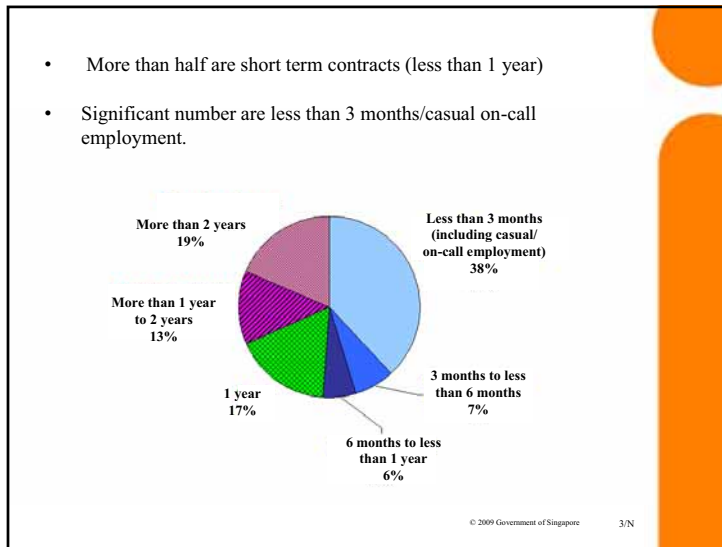
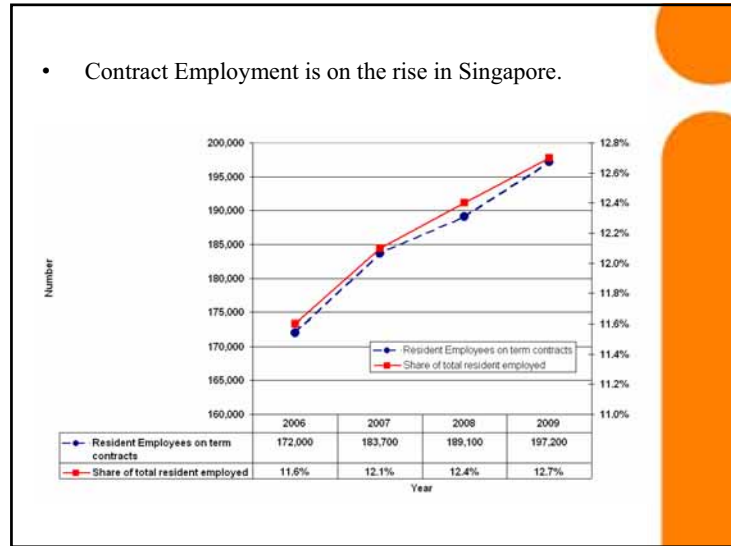


**CHANGING FORMS OF EMPLOYMENT
CONTRACT EMPLOYMENT AND VULNERABLE WORKERS
IN SINGAPORE**

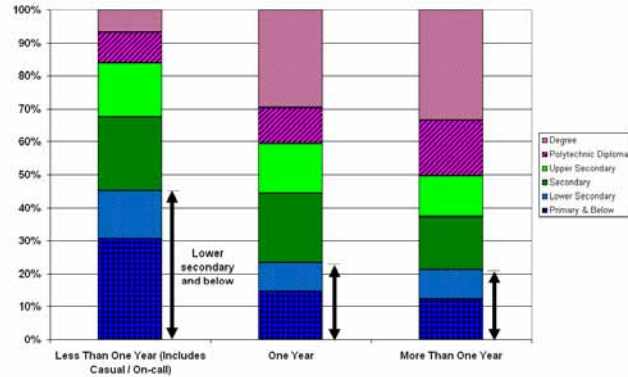
2nd Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project (AIJPIR).
3rd to 4th February 2010

Mr Daniel Yap, Head
(Operations Planning), Standards Compliance

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- At the same time, short term contract workers are also less educated.



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Short Term Contract Workers

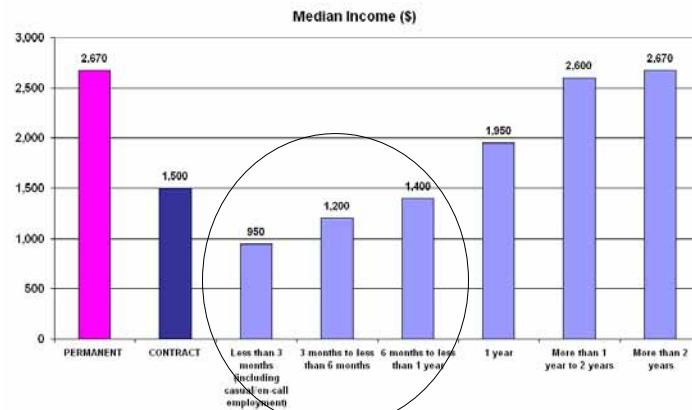
Manufacturing	11%
Construction	9%
Services	79%
Others	1%

Majority of short term contract workers are in the services sector.

- The main occupations included cleaners and labourers (28%) and service and sales workers (19%).

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- Contract workers earn less than permanent workers.
- Those on short term contracts earn less than those on longer term contracts



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CHALLENGES FACING SHORT TERM CONTRACT WORKERS

- Outsourcing.** Fierce competition between service suppliers might result in them cutting back on contract workers' salaries and benefits.
- Limited knowledge of rights under Employment Laws/Low bargaining power.** Majority of short-term contract workers are matured workers and also lowly educated.
- Low Employability/Low value job.** These workers are often lowly skilled. Low productivity and value of their jobs means income growth for them is a challenge.

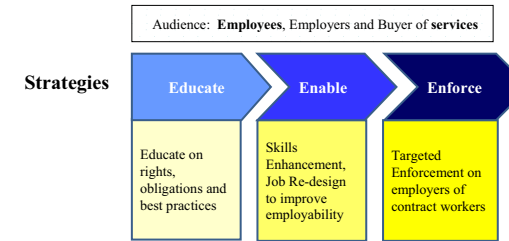
TRIPARTITE PARTNERSHIP TO HELP CONTRACT WORKERS

- Tripartite Committee on “CPF and Work Related benefits for low wage workers” was set up in 2007. High level representation from government, union and employers.
- **Key Issues to address:**
 - a) **Employment Conditions.** Ensure that employers comply with the employment laws.
 - b) **Employability.** Tackle the employability of this group of workers for long term growth.

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STRATEGIES

A Three-Pronged Strategy adopted with our tripartite partners to address the low wage contract workers issues.



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Education

- Tripartite Committee on CPF and Work related benefits issued the [Tripartite Advisory on Responsible Outsourcing Practices](#) to educate end-user companies in 2008.
- End-user companies of services can help to raise the employment standards of vulnerable outsourced contract workers by adopting responsible outsourcing practices.



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Education

- Forums, seminars and workshops to educate workers of their employment rights, and employers on their statutory obligations and good employment practices.



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Enable

- **Training.** Develop skills standards in the form of work-force skills qualifications (WSQ) for various industries to upgrade workers' skills. Offer qualifications from certificate to diploma.
- **Job-redesign.** Overhaul existing jobs to enhance job worth, working conditions and job prospects through automation, re-designing processes, re-defining job responsibilities and introducing skills standards.



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Enforcement

- Targeted enforcement on selected industries which are more prone to non-compliance of the employment laws.
- Better employment conditions, lesser disputes and claims as a result.



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**CASE STUDY:
THE PRIVATE SECURITY SECTOR**



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- More businesses in Singapore are outsourcing their security services to third party service providers.
- The industry has grown significantly over the past few years.



- Industry was previously plagued by poor service standards, poor employment conditions (long working hours, no rest days etc.) and low basic salaries.

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TACKLING THE WORKING CONDITIONS FOR SECURITY OFFICERS

- **Regular dialogues and forums.** Briefings sessions and forums to educate on employment laws and regulatory requirements attended by trade associations and union. Information booklet on employment laws customised for security officers.
- **Targeted Enforcement.** Targeted enforcement was conducted on this sector on employment standards.



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TACKLING THE EMPLOYABILITY OF SECURITY OFFICERS

- **WSQ security.** Skills standards introduced in 2006. All security officers are required to undergo training and pass two mandatory modules.
- **Security officer Identification Card introduced in 2009.** Improve image, public confidence and professionalism.



- **Job Redesign.** Some security guard agencies came on board the "Advantage – Security Job Redesign" programme to enhance productivity through adoption of technology.
- **Mandatory Grading of Security Guard Agencies (SGA).** Promote security awareness amongst buyers. Motivate SGAs to improve their professional standards.

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SOME RESULTS

- **Greater compliance of employment laws.** Less employment disputes and claims observed. Improved working conditions for security officers.
- **More females officers are joining the industry.** The improved working conditions have attracted more females into this industry.
- **Improved salaries.** Higher salaries for security officers with higher skills qualifications.

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GOING FORWARD

- Continue to promote job-redesign to improve working conditions for the security officers, such as innovative work patterns and embracing of technology.

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CONCLUSION

- Contract employment will continue to grow.
- Challenges faced by vulnerable low wage contract workers will continue to be relevant.
- Current tripartite efforts in tackling the employment conditions and employability of low wage contracts workers will have to continue into the future.

THANK YOU

**TEKS UCAPAN KETUA PENGARAH
UNTUK UPACARA PENUTUP**

**Second Regional Seminar on Industrial Relations:
Emerging industrial relations issues and trends in the
ASEAN countries in time of financial
and economic crisis**

Terima kasih Saudari Pengerusi Majlis.

- His Excellency, Mr Taro Muraki
Assistant Minister,
Ministry of Health, Labour and Welfare, Japan.
- Mr Bill Salter
Director,
International Labour Organization Subregional Office for East Asia.
- Resource Persons from the International Labour Organization (ILO).
- Members of the ASEAN Secretariat.
- Distinguished participants,
- Senior Officers, Ministry of Human Resources.
- Ladies and Gentlemen.

1. It is an honour given this privilege to speak on behalf of the Secretary General, Ministry of Human Resources at the concluding session of this Seminar on Industrial Relations which focuses on Emerging Industrial Relations Issues and Trends in the ASEAN Countries in time of Financial and Economic Crisis.

2. It is indeed very heartening to note that the two-day proceedings of this rare get-together session here had witnessed the active and productive discussion and sharing of useful knowledge and vital information among all the distinguished ASEAN delegates and valued friends from the ILO, Japan and the ASEAN Secretariat to address current and emerging industrial relations issues and trends in the ASEAN region, in the light of the current economic crisis.

3. I am pleased to learn that the varied seminar deliberations among the participants here strived to share as much pertinent views and experiences as possible within the limited space of time allotted, to impress upon parties how significant social dialogue, as a flexible instrument for consensus-building, had played its role in achieving regional sustenance of progressive economic growth.

4. We have also witnessed how ASEAN regions thrive to ensure as minimal industrial disputes as possible, to minimize labour dislocation and industrial friction which could impede persistent efforts towards economic recovery. It is also heartening to learn how ASEAN member countries respond to the needs to ensure that effective resolution of industrial disputes is persistently in place.

5. Besides giving regards to address emerging industrial relations issues in the context of our present economy, our ASEAN friends, in particular Japan and Singapore in this instance, gave stimulating insight into new trends on employment perspectives, to accord protection to workers, in particular, the vulnerable groups.

6. We have been enlightened as to the emphasis duly accorded by Singapore towards adding value, enhancing productivity and increasing the quality of their country's services sector in order that this sector remains attractive and is able to maintain its competitive position in the global market in the light of the ever present competitive pressures in the global landscape.

7. There are undeniably plenty of rooms for greater improvement in the many related aspects how we manage industrial relations in our respective region in the context of current economic realities prevalent in our region. The journey in our collective quest for excellence, for a sound and constructive industrial relations in the ASEAN region must be held in the true spirit of 'collaborative networking' among tripartite constituents in our region.

8. Let us not forget for one moment (if I may), when we strive in our integrated and concerted effort and shared sacrifices towards sustenance of excellence in managing industrial relations, at all time, we are essentially talking about the anxiety, the hopes, the aspiration of all parties concerned, the expectation of workers and their families, the business aspiration of employers, their individual enterprise sustainability, and the Government's part, ensuring the nation's economic competitiveness and sustainability for which the people had entrusted upon them.

9. In addressing and dealing with all these ensuing challenges, parties have been persistently reminded of the need to have the right attitude and the right perspective in dealing with issues as well as to be realistic in our attitude and be constantly reminded of the necessity to do so in the interest of all concerned.

Ladies and gentlemen,

10. In this regard, it is imperative for us to ensure that the achievement of economic integration as well as facing the challenges of an economic downturn requires mutual reinforcement and it is essential that there be full participation of ASEAN civil society, trade unions, professional organizations, and community based groups in all aspects of industrial relations.

11. A long standing argument in our field has been: How receptive are these social actors in responding to changes in their good environment? This argument takes on more urgency today than at any point in recent history, under the present economic circumstances. Changes in the environmental contexts in which work takes place and employment relationships are formed, are placing great pressures on employers, unions, and government to adapt and update their practices and policies. The sources of change are well known: globalization, new technologies, and changes in both workforce demographics and in the very role that workers and their human capital play in labor markets and organizations.

12. The papers presented in this seminar provide a glimpse of how the tripartite social partners in industrial relations are changing and document some of the innovations that are bringing these changes about. Given the challenges of our time, we need to continue to expand our vision of the changes in the industrial relations system and explore the effects of these

changes on the front lines of innovation. We must expand the roles of the key social actors in industrial relations systems to incorporate a more active position and their regularized involvement within the context of labor markets and industrial relations. Efforts need to be enhanced to strengthen the relationships within the tripartite framework, through constructive and regular communication, to enable us to face the unfavorable impact of a weakening economic environment.

13. Present trends in industrial relations and human resources management accords greater emphasis on employee's involvement, harmonious employer-employee relations and on mechanisms and practices which promote them. Heightening engagement between workers and employers through constant communication and consultation will keep the parties abreast of the challenges confronting the enterprise.

14. I am certain that most of us present here would agree that the pursuit for sound and quality industrial relations in today's uncertain economic environment with its wide-ranging challenges can be further enhanced through joint consultative approaches among the key actors in the industrial relations system namely the government, employers and employees.

Ladies and gentlemen,

15. For all the vital information shared and learned through the two-day proceeding in this Seminar may not have been real had it not been for the relentless support of our valued friends from the ILO. Japan and the ASEAN Secretariat as well as the productive engagement of our ASEAN colleagues. I am confident that this seminar must have immensely benefitted us to pursue with our respective development agenda in the area of industrial relations.

16. Persistent sharing and learning through get-together sessions of this nature would certainly help to facilitate continued knowledge enhancement and improvement, exploring possibilities, managing complexities, innovating newness, looking at things with new eyes, as we move forward in coping and overcoming emergent labour and industrial relation issues and pressure.

17. For all the useful knowledge and tips gained through information sharing among the experts and our ASEAN friends, let me express our deepest appreciation and special thanks and compliments, on behalf of the Ministry of Human Resources, for the technical support of the ILO, the grant of financial assistance by the Government of Japan and the coordination support from members of the ASEAN Secretariat. To all ASEAN friends, thank you indeed for your commitment and patience to be with us, in ensuring the fluid proceedings in this Seminar.

18. Thank you goes also to all staffs and officers of the Ministry of Human Resources, the hotel management and all parties concerned who have in one way or the other facilitated in ensuring the smooth running of the seminar.

19. I was driven to this impression that this seminar on Industrial Relations is perhaps the first successful effort, in the context of Malaysia, for us to be able to host distinguished delegations of tripartite social partners representing 10 ASEAN Member Countries to be gathered here in the city of Kuala Lumpur. We certainly look forward to meeting you again, through forums like this, if not here, perhaps elsewhere. We hope more projects that could help to regularize ASEAN get-together through seminars or workshops like this, could thrive among the ASEAN family. This should help to foster greater tripartite understanding and regional cooperation other than improving our human resources capability.

20. This effort could contribute to the realization of ASEAN as a favorable region for foreign investment, building inclusive and sustainable economic growth, more job creation to meet common goals, in particular so that clear trends in ASEAN member countries towards greater regional and global integrations produces benefits that are shared by all. To all our overseas guest and ASEAN friends, we wish you a pleasant and safe journey home. With that note, ladies and gentlemen, it brings us to the close of this seminar.

Thank you.

MOHD JEFFREY BIN JOAKIM
Deputy Director General of Industrial Relations
Ministry of Human Resources, Malaysia
Date: 4 February 2010

This volume contains the report of the Second Regional Seminar on Industrial Relations in the ASEAN Region, under the ASEAN-ILO/Japan Industrial Relations Project. The theme for this seminar is “Emerging industrial relations issues and trends in the time of financial and economic crisis”. The seminar was attended by tripartite representatives from the ASEAN member countries and Japan, taking place in Kuala Lumpur, Malaysia on 3 and 4 February 2010.

The annexes comprise country reports from ASEAN member countries on social dialogue, collective bargaining, dispute prevention, and changing forms of employment/new employment relations, in the context of the financial crisis.

The regional seminar on industrial relations is one of the project’s main activities. It is held annually. The project spreads over a three-year period, with the overarching theme “Building better industrial relations towards ASEAN integration”. 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.

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