

## Overview about ASEAN Regional Economic Integration: “Inclusion for Workers and the Unions”

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### Summary:

This paper offers ideas for the roadmap to ASEAN economic integration to achieve decent work, by securing the inclusion of workers and their voice through the unions. The first sections provide an analysis of efforts to achieve regional integration in ASEAN, along with the emerging web of regional, bilateral and multilateral free trade agreements. The paper then identifies potential impacts of these efforts on labor, and the representation of workers voice through unions in the ASEAN. Finally, recommendations are offered to overcome the deficit in worker voice in ASEAN.

### Key points:

- ASEAN economic integration moves on, but workers and their unions need to be on board. Bilateral and multilateral FTAs are promoted by government, think tanks and some business sectors to achieve limited economic union by 2015. Workers and their organized voices need to be heard on issues affecting their jobs, health and safety, security, and welfare. Decent work is a key element needed to achieve a regional community. Decent work cannot be sacrificed as a means to achieve economic integration. Without the voice of workers to promote decent work and improvements in living standards, regional economic integration will not be sustainable. The marginalization of the voice of workers and unions fuels social unrest and political instability.
- Business and professional organizations, and civil society groups are accredited with ASEAN, but workers’ organizations and unions are not. ASEAN employers and governments need to recognize the contribution of workers and their unions – by reducing wage and income inequality, ensuring worker participation and motivation, and creating conditions to raise productivity. Unions promote opportunity, security, and fundamental fairness. ASEAN unions continue to be an important voice for some of society’s weakest and most vulnerable groups in the region.
- Many business and government leaders in ASEAN lack awareness, confidence or trust of workers’ organizations and their leaders, and lack an appreciation of unions as a force for social and political democracy. Unions in ASEAN perform a variety of roles, with clear contrasts in the role of unions in older ASEAN member countries and the new CLMV countries.

- Promotion of workers' welfare needs more organized mechanisms for dialogue. A viable program to implement the goals for decent work in the ASEAN roadmap will boost confidence in ASEAN's capacity to realize a sharing community.
- There is a need to harmonize and respect the diversity in national frameworks on freedom of association and collective bargaining, and a strong political will is required to improve labor laws, policies and procedures, especially in the CLMV and Brunei Darussalam.
- The focus should be on how to achieve a common understanding to serve as a framework for industrial relations between workers, employers and government in ASEAN.
- Diversity in the nature and role of ASEAN unions and employer organizations provides advantage and flexibility in negotiations. But there are risks of diffused, disunited voices.
- Capacity development is needed for a network of experts in industrial relations, among worker and employer organizations, as well as government and academe.
- A reinforced ASETUC could be an inclusive voice for workers in ASEAN. There is need for an enhanced agenda and self-genesis through the improvement of organized efforts.
- ASETUC's action programs require recognition of new emerging realities and patterns on work and employment in ASEAN through research, the exchange of information through study meetings and stronger resolutions with clearly defined outcomes.
- It is proposed that ASETUC take the initiative to invite ASEAN employers and governments to a series of dialogues in order to achieve a common framework and identify the key elements needed to promote decent work as provided in the ASEAN roadmap. ASETUC needs to build confidence with ASEAN employers and governments, and achieve a common understanding about the role of unions in society. Key result areas include: adherence to international norms and standards on freedom of association, workers rights, collective bargaining, health & safety, social security, disputes settlement, and social dialogue.

#### **About the preparation of this paper**

This think paper benefits from discussions with colleagues and friends from the ASETUC and the FES. This paper however does not represent their views and opinions. The paper was compiled from various published and internet sources by *Dr. Maragtas S.V. Amante*, professor at the College of Economics and Business Administration, Hanyang University Erica campus in Ansan, Korea. Previously, he was a professor at the University of the Philippines, Diliman, specializing in labor and industrial relations. He has done consultancy work with various worker organizations, companies, employers groups, and the International Labor Organization (ILO). He was also a consultant with the ASEAN Secretariat and the Japan Ministry of Health, Labor and Welfare on the *ASEAN – Japan Program on Industrial Relations* (2002 to 2007). He graduated from the University of the Philippines' School of Economics in 1983; and finished a master's degree at the University of Illinois in Urbana Champaign in the US in 1986. He finished his Ph.D. in 1993, from Keio University in Tokyo. He had research fellowships with the Japan Institute of Labor (1994), Cardiff University, UK (2002 to 2004); and the Institute of Developing Economies (IDE) – JETRO, Tokyo (2007). Emails: amante2008@hanyang.ac.kr, maragtas2001@yahoo.com

## PART ONE: ASEAN Economic Integration

In 2009, member countries ratified the *ASEAN Charter* – 40 years after its inception -- strengthening further “...the bonds of regional solidarity to create a community that is...cohesive, economically integrated and socially responsible”. Earlier in 2007, the ASEAN leaders agreed on a roadmap to guide action plans and programs, accelerating integration to the year 2015, instead of 2020.

The *ASEAN Charter*, ratified by all ASEAN members, will act as the firm foundation in ASEAN's move to become “a rules-based, people-oriented and integrated union” of 10 countries with a combined population of 560 million, land area of 4.48 million square kilometers, and a combined Gross Domestic Product (GDP) of US\$ 1,506,807million in 2008 . There is great diversity in the population, land area, and size of the economies of the 10 member countries , with Brunei and Singapore having GDPs of more than US\$ 35,000 per person, in contrast to Myanmar's per capita GDP, measured at \$465 per person. Singapore is the richest in per capital GDP, while it is also the smallest in land area.

Between 2005 and 2015, ASEAN's total population is expected to grow by 67 million (or 12.1 per cent) to around 620 million. Most of this growth, 43.5million, will occur in the prime-age population, aged 25-54 years. Projections indicate the population aged 55 years and older will grow by 27.1 million (44 per cent), while the child and youth population younger than 25 years is expected to shrink by about 3.6 million (2.5 per cent).

ASEAN's labor force is large and growing. In 2005, it stood at about 275.8 million and it is expected to increase by around 55 million, or 19.8 per cent, between 2005 and 2015.

**Table 1. Land, population and GDP of ASEAN (2008)**

Country	Total land area	Total population	Population density	Annual population growth	Gross domestic product at current prices	Gross domestic product per capita at current prices	
	km <sup>2</sup>	Thousand	persons per km <sup>2</sup>	percent	US\$ million	US\$	US\$ PPP
Brunei Darussalam	5,765	397	69	1.8	14,146.7	35,622.6	50,234.8
Cambodia	181,035	14,656	81	2.0	11,081.6	756.1	1,794.0
Indonesia	1,860,360	228,523	123	1.3	511,174.4	2,236.9	3,705.0
Lao PDR	236,800	5,763	24	2.8	5,289.0	917.8	2,237.3
Malaysia	330,252	27,863	84	2.3	222,673.6	7,991.7	13,192.1
Myanmar	676,577	58,510	86	1.7	27,182.0	464.6	1,082.9
Philippines	300,000	90,457	302	2.1	166,772.8	1,843.7	3,421.1

Singapore	707	4,839	6,844	5.5	184,120.4	38,046.1	50,347.1
Thailand	513,120	66,482	130	0.7	273,666.1	4,116.4	7,889.7
Viet Nam	331,212	86,160	260	1.2	90,700.8	1,052.7	2,595.2
<b>ASEAN (total)</b>	<b>4,435,82</b> 7	<b>583,651</b>	<b>132</b>	<b>1.5</b>	<b>1,506,807.</b> 4	<b>2,581.7</b>	<b>5,007.1</b>

Source: ASEAN Secretariat, 2008 Note: PPP = purchasing power parity.

What is the basic motive behind regional economic integration? In theory, mutual benefits in the exchange of products, capital and labor between nations are based on classical ideas and assumptions about comparative advantage. Economic relations between ASEAN member countries provide a good case for the potential advantages as well as limits of what regional economic integration could bring about. National economies face constraints through domestic pressures as well as from demands of the global economy, which determine capacity to promote economic growth and social development.

There are other venues for regional integration. Continuing summits between ASEAN and plus three countries -- China, Japan and Korea – is further giving impetus to the idea of an *East Asia Economic Community*. In October 2009, a summit between the heads of states of Japan, China and Korea will formally propose an East Asia Community. Meanwhile, ASEAN economic ministers commissioned studies and held discussions in Bangkok in August 2009 regarding the creation of this proposed economic bloc. Workers and their unions need to be on board in the design and architecture of the emerging East Asia Economic Community.

ASEAN economic integration is working, and with increasing speed. Despite the global financial crisis in 2008, ASEAN's total trade in goods managed to grow by 6.2 percent, from US\$ 1,610.8 billion in 2007 to US\$ 1,710.4 billion in 2008, albeit a marked slowdown from the previous year's growth of 14.7 percent. Total ASEAN exports expanded by 2.3 percent, from US\$ 859.8 billion in 2007 to US\$ 879.3 billion in 2008, while total ASEAN imports increased by 10.7 percent, from US\$ 751.0 billion in 2007 to US\$ 831.2 billion in 2008. Intra-ASEAN trade expanded by 14 percent, from US\$ 401.9 billion in 2007 to US\$ 458.1 billion in 2008.

The top five trading partner countries of ASEAN in 2008 were Japan, the European Union (EU), China, the U.S., and Korea. The share of ASEAN trade with these countries increased to 50.6 percent of total ASEAN trade from 47.8 percent in the previous year. The top source of investment was the European Union.

ASEAN also aims to be one socio-cultural community. There are significant similarities and contrasts between the economies of the original six ASEAN countries (Brunei, Indonesia, Malaysia, Philippines, Thailand and Singapore), and the four latecomers in the group (Cambodia, Laos, Vietnam, and Burma/Myanmar). ASEAN's political and social systems diverge: many are republican democracies with elected parliaments, but there is also a "people's democracy", a socialist republic, a military junta, as well two royal kingdoms with parliaments and a Malay-Muslim Sultanate. Political diversity may be a reason for, or a consequence of social structures and historical incidents. The economic and social structure has given rise to a workforce which

is mainly agrarian and rural, but with bursting cities overflowing with formal and informal market activities.

Continuing summits between ASEAN and plus three countries -- China, Japan and Korea – is further giving impetus to the idea of an *East Asia Economic Community*. On October 10, 2009, a summit in Beijing between the heads of states of Japan, China and Korea confirmed their commitment “to the development of an East Asia community based on the principles of openness, transparency, inclusiveness as a long-term goal”.<sup>1</sup> Meanwhile, ASEAN economic ministers commissioned studies and held discussions in Bangkok in August 2009, regarding the creation of this proposed economic bloc.

In addition, aside from commitments to a regional free trade area, ASEAN member countries are enmeshed in an "udon soba" - a mixed noodle bowl -- of bilateral and multilateral free trade agreements with Europe, the United States, Australia, and other countries. Economic partnership agreements (EPAs) became major foreign policy instruments for many countries, and even more so after the WTO talks collapsed in Hong Kong in 2005, amidst attempts to revive the Doha round of global trade negotiations and to prop up the severely weakened WTO. In meetings, leaders and officials of ASEAN navigate the complexities of trade agreements and a diversity of advice from experts with ambiguous loyalties and interests.

The ASEAN economic ministers' Bangkok meeting on August 13 & 14, 2009 examined the progress of the various *ASEAN Plus 1* agreements. The ASEAN-China Free Trade Area (ACFTA) and the ASEAN-Korea Free Trade Area are on track to take effect by 1 January 2010. The ASEAN - Korea Investment Agreement was signed in June 2009, while the ASEAN-India Trade in Goods Agreement was signed at the 7th AEM-India Consultations in August 2009. The ASEAN-China Investment Agreement will also be signed soon.

There is continuing debate on the direction and impact of the ASEAN and its institutions. All the ASEAN member countries ratified the ASEAN Charter, creating a greater level of expectations as well as frustrations of ASEAN being a “talking shop”, or “long on talk, short on action”. Demand is strong for ASEAN to deliver on its promises.

### **ASEAN Free Trade Agreements (FTAs)**

At the 12th ASEAN Summit in January 2007, ASEAN leaders affirmed their strong commitment to accelerating the establishment of an ASEAN Community by 2015 as envisioned in the ASEAN Vision 2020 and the ASEAN Concord II (2003). The leaders agreed to the *Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community* by 2015. The summit leaders agreed to bring forward the establishment of the ASEAN Economic Community by the year 2015 (instead of year 2020) and to transform ASEAN into a region with free movement of goods, services, investment, skilled labor, and freer flow of capital.

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<sup>1</sup> Xinhua News Agency, “China, Japan, ROK issue joint statement on sustainable development”, October 10, 2009 Website: [www.chinaview.cn](http://www.chinaview.cn)

The roadmap declares that the foundation of the AEC is the *ASEAN Free Trade Area (AFTA)*. Its pillar is a common external preferential tariff scheme to promote the free flow of goods within ASEAN. The ASEAN Free Trade Area (AFTA) has origins in an agreement by member nations concerning local manufacturing in all ASEAN countries. The AFTA agreement was signed on 28 January 1992 in Singapore. When the AFTA agreement was originally signed, ASEAN had six members -- Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand. Vietnam joined in 1995, Laos and Myanmar in 1997, and Cambodia in 1999. The leaders recognized that the new members are not yet prepared to comply with all of AFTA's obligations. The new ASEAN member countries are however officially considered part of the AFTA, as they were required to sign the agreement upon entry into ASEAN. The new members were given longer deadlines to meet AFTA's tariff reduction obligations.

ASEAN has concluded free trade agreements with China, Korea, Japan, Australia, New Zealand and most recently India. In addition, it is currently negotiating a free trade agreement with the European Union. Taiwan has also expressed interest in an agreement with ASEAN but needs to overcome diplomatic objections from China.

In addition to AFTA, there are other business agreements which reflect the busy pace of regional integration in ASEAN.

#### **ASEAN Comprehensive Investment Area**

The ASEAN Comprehensive Investment Area (ACIA) will encourage the free flow of investment within ASEAN. The main principles of the ACIA are as follows:

- All industries are to be opened up for investment, with exclusions to be phased out according to schedules
- National treatment is granted immediately to ASEAN investors with few exclusions
- Elimination of investment impediments
- Streamlining of investment process and procedures
- Enhancing transparency
- Undertaking investment facilitation measures
- Full realisation of the ACIA with the removal of temporary exclusion lists in manufacturing agriculture, fisheries, forestry and mining is scheduled by 2010 for most ASEAN members and by 2015 for the CLMV (Cambodia, Lao PDR, Myanmar, and Vietnam) countries.

#### **ASEAN Framework Agreement on Trade in Services (AFAS)**

An *ASEAN Framework Agreement on Trade in Services* was adopted at the ASEAN Summit in Bangkok in December 1995. Under AFAS, ASEAN Member States enter into successive rounds of negotiations to liberalise trade in services. The strategy is to provide flexibility to member countries, allowing them to individually submit increasingly to higher levels of commitments. The negotiations result in commitments that are set forth in schedules of specific commitments annexed to the Framework Agreement. These schedules are often referred to as packages of services commitments. At present, ASEAN has concluded seven packages of commitments under AFAS.

#### **East Asia Community**

ASEAN is also in the midst of discussing a viable economic architecture for regional integration in East Asia. In the ASEAN Economic Ministers meetings in Bangkok in August 13 & 14, 2009, there were discussions on the way forward based on the findings of two major studies for an East Asia Free Trade Area (EAFTA) and a *Comprehensive Economic Partnership for East Asia (CEPEA)* under the *ASEAN Plus Three* Process and a *Comprehensive Economic Partnership Agreement in East Asia (CEPEA)* under the EAS.

### **ASEAN Economic Community (AEC) Roadmap to 2015**

The ASEAN Economic Community (AEC) roadmap is the end goal of economic integration as declared in *Vision 2020*. The *Roadmap for an ASEAN Community 2009 – 2015* is a wish list of the “convergence of interests” of ASEAN member countries. The main wish is to deepen and broaden economic integration through initiatives with clear timelines. The leaders committed themselves to “act in accordance to the principles of an open, outward-looking, inclusive, and market-driven economy consistent with multilateral rules as well as adherence to rules-based systems for effective compliance and implementation of economic commitments.”

The goal is to transform ASEAN into a single market and production base. There is a commitment to use new mechanisms and measures “to strengthen the implementation of its existing economic initiatives; accelerate regional integration in the priority sectors; facilitate the movement of business persons, skilled labor and talents; and strength the institutional mechanisms of ASEAN.”

At the same time, the AEC will address the development divide by accelerating the integration of Cambodia, Laos PDR, Myanmar and Vietnam (CLMV) with the older member countries.

With external trade as the main consideration, the AEC’s goals in the *Roadmap* are: (a) a single market and production base, (b) a highly competitive economic region, (c) a region of equitable economic development, and (d) a region fully integrated into the global economy. Elimination of non-tariff barriers and liberalization of tariffs are the main goals by 2015. A section of the statement by economic ministries in Bangkok on August 13 & 14, 2009, shows some specific plans to achieve the goals of the AEC:

- “Enhance transparency by abiding to the Protocol on Notification Procedure and setting up an effective Surveillance Mechanism;
- Abide by the commitment of a standstill and roll-back on NTBs;
- Remove all NTBs by 2010 for ASEAN-5 by 2012 for the Philippines, and by 2015 with flexibilities to 2018 for the CLMV, in accordance with the agreed Work Programme on Non-Tariff Barriers (NTBs) elimination;
- Enhance transparency of Non-Tariff Measures (NTMs); and
- Work towards where possible having regional rules and regulations consistent with International best practices.”

What has been achieved so far? How did the global financial crisis of 2009 affect the ASEAN? In its Bangkok meeting<sup>2</sup> on August 15, 2009, ASEAN economic ministers discussed the status and accomplishments in economic integration. Despite the current global economic woes, ASEAN's total trade in goods managed to grow by 6.2 percent from US\$ 1,610.8 billion in 2007 to US\$ 1,710.4 billion in 2008, albeit a marked slowdown from the previous year's growth of 14.7 percent. Total ASEAN exports expanded by 2.3 percent, from US\$ 859.8 billion in 2007 to US\$ 879.3 billion in 2008, while total ASEAN imports increased by 10.7 percent, from US\$ 751.0 billion in 2007 to US\$ 831.2 billion in 2008.

**Table 2. Top ten export markets and import origins, 2008**

Export market			Import origin		
Country of destination <sup>1/</sup>	Value of exports	Share to total	Country of origin <sup>1/</sup>	Value of Imports	Share to total
ASEAN	242,460.4	27.6	ASEAN	215,579.8	25.9
European Union-25	112,948.3	12.8	Japan	107,116.4	12.9
Japan	104,871.8	11.9	China	106,976.6	12.9
USA	101,457.5	11.5	European Union-25	89,554.7	10.8
China	85,556.5	9.7	USA	79,735.8	9.6
Republic of Korea	34,937.5	4.0	Republic of Korea	40,783.9	4.9
Australia	33,682.1	3.8	Australia	17,907.7	2.2
India	30,082.8	3.4	India	17,329.1	2.1
Hong Kong	16,456.8	1.9	Taiwan, Province of China	14,116.3	1.7
Taiwan, Province of China	9,838.4	1.1	Saudi Arabia	11,712.4	1.4
Total top ten destination countries	772,292.2	87.8	Total top ten origin countries	700,812.6	84.3
Others <sup>2/</sup>	106,850.4	12.2	Others <sup>2/</sup>	130,416.5	15.7
Total	879,142.6	100.0	Total	831,229.1	100.0

Note: value in US\$ million; share in percent

Source: ASEAN Secretariat, www.aseansec.org, accessed August 25, 2009

Intra-ASEAN trade expanded by 14 percent, from US\$ 401.9 billion in 2007 to US\$ 458.1 billion in 2008 -- same as in 2007. Its share of total ASEAN trade increased from 25.0 percent to 26.8 percent in the same period. However, such an increase was mainly due to the 0.9 percent

<sup>2</sup>Joint Media Statement of the 41st ASEAN Economic Ministers' (AEM) Meeting Bangkok, 13-14 August 2009  
Retrieved: <http://www.aseansec.org/JMS-41st-AEM.pdf>, accessed September 10, 2009.

decline in the extra-ASEAN exports and the slowing down of extra-ASEAN imports. The 14 percent growth in total intra-ASEAN trade was driven mainly by sustained growth in imports.

The top five trading partner countries of ASEAN in 2008 were Japan, the European Union (EU), China, US, and Korea. The share of ASEAN trade with these countries increased to 50.6 percent of total ASEAN trade from 47.8 percent in the previous year (*Table 2*).

What is the status of ASEAN trade integration? Tariffs in the region have been reduced to the current levels of 0-5% for the ASEAN-6 countries of Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand. The rates are expected to decline to zero by 2010, and by 2015, for the rest of the countries in the ASEAN. In addition, six rounds have been concluded to carry out progressive liberalisation of trade in services. The economic ministers declared that “soon, trade and investment in ASEAN will become more attractive with the signing of the *ASEAN Trade in Goods Agreement* and the *ASEAN Comprehensive Investment Agreement* by the end of 2009.” In the area of finance, capital markets are in a process of being linked-up and increasingly deepened, in addition to other important initiatives to foster the region’s monetary and financial integration, such as capital account liberalisation, financial services liberalisation, Chiang Mai Initiative and Asian Bond Markets Development.

With respect to trade in goods, a major achievement in 2009 is the full implementation of the 2009 CEPT commitments by all member countries. Almost all products are now included -- 99 percent. Of these products included in the list, 97 percent have tariffs as low as 0 to 5 percent among ASEAN. Tariffs were eliminated for about 70 percent of the products, with the average tariff brought down from 1.95 percent in 2008 to 1.65 percent in 2009.

Thus far, only Malaysia and Thailand have submitted a list of specific non-tariff barriers (NTBs) to be eliminated under the *Work Programme on the Elimination of NTBs*. Most of the ASEAN countries have yet to do so.

ASEAN integration efforts could also be measured in terms of intra-ASEAN investment flows. Trade and investment policies promote intra-ASEAN liberalization through strengthened rules for trade in goods and services. In value terms, intra-ASEAN FDI flows have tremendously increased. Yet, the European Union remains ASEAN’s biggest investor. For the cumulative value for 2006 to 2008, the EU continued to hold the position as the single largest investor in ASEAN, with a share of 24 percent or investment amounting to US\$44 billion, followed by intra-ASEAN investment at 15 percent, or US\$ 28 billion. Japan comes in third place at 14 percent or US\$ 26 billion. The United States places fourth, with a share of 7 percent or US\$13 billion (*Table 3*).

FDI flows continued to predominate in the services and manufacturing sector, accounting for 49.5 percent and 29.1 percent of total FDI flows into ASEAN, or US\$29.8 billion and US\$17.5 billion in 2008 respectively. The mining and quarrying sector is also becoming more important, with a share of 7.3 percent or US\$4.4 billion in 2008. However, FDI flows to the agriculture sector fell by 83.7 percent in 2008 to US\$437 million. This may reflect an FDI shift towards services and industry sectors.

The ASEAN economic ministers are now giving more emphasis to beyond-the-border measures – such as the elimination of non-tariff barriers, strengthening of trade facilitation measures, and harmonisation of standards, laws and regulations. These are considered subsequent logical steps in broadening and deepening the region’s economic integration to achieve an ASEAN Economic Community. For example, in order to encourage cross-border capital flows that are needed for trade and investment liberalisation, equal tax rates and other tax provisions throughout the region are critical, in addition to regulations and policies that govern transfer pricing and payments. The *ASEAN Roadmap for Integration of the Logistics Services Sector* will be significant in integrating ASEAN into “one seamless market for goods, services and investment, and encourage the establishment of more production networks in the region”.

To ensure that AEC is achieved by 2015, ASEAN will strengthen the implementation of programs at the national level. ASEAN states are being urged to ensure that regional commitments are translated into national commitments. Indonesia, for example, included implementation of AEC commitments in the *Presidential Instruction No 5/2008 on the Focus of the 2008-2009 Economic Programmes* as part of the national effort towards achieving AEC by 2015. The new ASEAN mechanisms continue to engage the stakeholders of the AEC, including the business community, and engage in capacity building to support implementation of regional commitments at the national level.

**Table 3. Top ten sources of FDI inflow to ASEAN, 2006 to 2008**

	<i>US\$ million</i>	<i>Percent</i>
European Union (EU)-25	43,987.3	23.5
ASEAN	28,080.6	15.0
Japan	26,205.7	14.0
USA	12,921.4	6.9
Other Central & South America <sup>2/</sup>	6,744.9	3.6
Bermuda	5,848.4	3.1
Republic of Korea	5,656.8	3.0
Cayman Island	5,501.1	2.9
China	3,680.9	2.0
Hongkong	3,520.6	1.9
Total top ten sources	142,147.7	75.9
Others <sup>3/</sup>	45,117.5	24.1
<b>Total FDI inflow to ASEAN</b>	<b>187,265.2</b>	<b>100.0</b>

Note: cumulative value from 2006 to 2008.

Source: ASEAN Secretariat, [www.aseansec.org](http://www.aseansec.org) accessed August 25, 2009

**Box. Key elements of ASEAN economic integration towards 2015**

**A. Single Market and Production Base**

9. An ASEAN single market and production base shall comprise five core elements: (i) free flow of goods; (ii) free flow of services; (iii) free flow of investment; (iv) freer flow of capital; and (v) free flow of skilled labor. In addition, the single market and production base also include two important components, namely, the priority integration sectors, and food, agriculture and forestry.

**A.1. Free flow of goods**

10. Free flow of goods is one of the principal means by which the aims of a single market and production base can be achieved. A single market for goods (and services) will also facilitate the development of production networks in the region and enhance ASEAN's capacity to serve as a global production centre or as a part of the global supply chain.

**A.2. Free flow of services**

20. Free flow of trade in services is one of the important elements in realizing ASEAN Economic Community, where there will be substantially no restriction to ASEAN services suppliers in providing services and in establishing companies across national borders within the region, subject to domestic regulations. Liberalization of services has been carried out through rounds of negotiation mainly under the Coordinating Committee on Services. Negotiation of some specific services sectors such as financial services and air transport is carried out by their respective Ministerial bodies. In liberalizing services, there should be no back-loading of commitments, and pre-agreed flexibility shall be accorded to all ASEAN Member Countries.

21. In facilitating the free flow of services by 2015, ASEAN is also working towards recognition of professional qualifications with a view to facilitate their movement within the region.

Actions:

- i. Remove substantially all restrictions on trade in services for 4 priority services sectors, air transport, e-ASEAN, healthcare and tourism, by 2010 and the fifth priority services sector, logistics services, by 2013;
- ii. Remove substantially all restrictions on trade in services for all other services sectors by 2015;
- iii. Undertake liberalization through consecutive rounds of every two years until 2015, i.e. 2008, 2010, 2012, 2014 and 2015;

Source: ASEAN Secretariat (2009), *Roadmap for an ASEAN Community 2009 - 2015*

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Is ASEAN regional economic integration a means to an end, or vice versa? ASEAN leaders recognize that regional integration is but one of the many policy instruments that could achieve development goals. Greater macroeconomic and policy coordination would definitely be required to make the AEC a reality. Trade, investment and financial policies need to be coordinated -- both financial and trade integration goes hand in hand. To facilitate trade, financial instruments are needed to hedge the risks of trade and investment flows. Financial integration to facilitate specialization and exploitation of economies of scale complements trade. Significant integration of the region's financial systems will be required to support trade and full economic integration.

**Some Doubts on Integration**

There are doubts surrounding regional integration, and the viability of the East Asia Community (EAC). Many observers look at the ASEAN plus Three (Korea, Japan and China) as some sort of an European-style economic union. This is still a very unrealistic expectation, given that

three-way trade among Korea, Japan and China is still far lower than trade within the European Union or even the North American Free Trade Agreement. In 2007, imports and exports between the big three North East Asian countries accounted for only 22 percent of their total trade. In contrast, 68 percent of trade by EU countries was with other EU members. Europe is still a major trading partner and investor of ASEAN – far more significant than Japan, Korea or China.<sup>3</sup>

ASEAN's enthusiasm for bilateral agreements is due to the need to increase intra-regional trade. The growth of global supply chains means that parts made in one country from raw materials imported from another are re-exported to a third for final assembly. Who would most benefit from the supply chain facilitated by the FTAs? It is known that the most specialized, technically concentrated component of the product supply chain will have the highest value added, and thus benefit that supplier most. These countries hope that more bilateral agreements will enable more specialization. India, for example, hopes that its new FTA will allow it to become a hub for Korean electronics companies seeking to exploit lower labor costs to make goods destined for markets in the Middle East.

Asia's big economies are set to provide the world with most of its growth this year, and emerging Asia will continue to be the world's fastest-growing region for several years. Given that trade barriers in ASEAN and other Asian countries are already relatively low, the benefit of a further reduction in barriers in one market is tiny. The proliferation of FTAs is unlikely to do wonders for the region's trade.

Bilateral deals comes with thick, complicated and often opaque rules about where products originate—rules which impose substantial costs of labelling and certification on firms. The more overlapping deals there are, the more complex the rules and the higher the costs. Those who follow the courtship rituals and dances behind the scenes of Asia's FTA refer to this as the “noodle bowl”. No wonder few firms actually want to use FTAs. An ADB survey<sup>4</sup> of exporters in Japan, South Korea, Singapore and Thailand in 2007 found that only 22 percent took advantage of them. Certainly, the huge rise in trade deals seems to have done nothing to boost the share of the continent's trade that is intra-Asian.

Finally, FTAs erode the motivation to push for a final deal on the WTO's Doha round. Countries worry that a multilateral deal would erode their advantage of preferential terms in a global agreement, when compared to the benefits from a bilateral FTA. Bilateral deals may have come at the expense of a world trade agreement. China and India may have decided that it is more advantageous to have a bilateral FTA than make the necessary concessions towards a final agreement in the Doha round of negotiations in the WTO.

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<sup>3</sup>*The Economist*, “The noodle bowl: why trade agreements are all the rage in Asia”, September 3, 2009

<sup>4</sup>Daisuke Hiratsuka, Hitoshi Sato and Ikumo Isono (2009), *Impacts of Free Trade Agreements on Business Activity in Asia: The Case of Japan* Manila: Asian Development Bank (ADB)

## Impact on Workers

The impact on workers arising from efforts to achieve economic integration in ASEAN are significantly influenced by many internal and external factors -- such as demography, labor force trends, rapid technological change and global competition. National policy responses are also important, in response to the speed adjustments in economic integration and other external “shocks”.

Projections regarding population growth, labor force participation, employment, and labor supply are relatively straightforward, though margins of error increase with more long-term estimates. Given an increasingly interdependent global economic environment, assessing economic growth and productivity improvements and their impact on labor markets requires more systematic data and other resources. It is important to understand these limitations when making an assessment of the impact of regional economic integration on workers.

The socio-cultural blueprint on human development declares that “ASEAN will enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to human development opportunities by promoting and investing in education and lifelong learning, human resource training and capacity building, encourage innovation and entrepreneurship, promote the use of English language, ICT and applied science and technology in socio-economic development activities.”<sup>5</sup>

In 2007, the ILO published an extensive analysis<sup>6</sup> of the demographic structure and labor force growth in the ASEAN in relation to other social trends and regional economic integration. The following paragraphs are some of the highlights of the ILO study. It must be emphasized that these findings were made in 2007, and require validation in the run up to 2015.

On the supply side, between 2005 and 2015, ASEAN’s total population is expected to grow by 67 million (or 12.1 per cent) to around 620 million. Most of this growth, 43.5 million, will occur in the prime-age population, aged 25-54 years. Projections indicate the population aged 55 years and older will grow by 27.1 million (44 per cent), while the child and youth population younger than 25 years is expected to shrink by about 3.6 million (2.5 per cent).

ASEAN’s labor force is large and growing. In 2005, it stood at about 275.8 million and it is expected to increase by around 55 million, or 19.8 per cent, between 2005 and 2015.

The projected increase in the relative share of ASEAN’s prime-age population from 39.9 per cent in 2005 to 42.1 per cent in 2015, together with the expected decline in the proportion of economic dependents in the region, can result in a “demographic dividend”. A potentially larger labor force presents a window of opportunity, and the demographic dividend could be translated into higher rates of savings and greater investment. Rising investment, in return, can lead to capital deepening, an increase in economic growth potential and productivity growth in terms of output per worker.

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<sup>5</sup>ASEAN Secretariat (2009), *Roadmap for an ASEAN Community 2009-2015*, p. 68.

<sup>6</sup>International Labor Organization (2007), *Labor and Social Trends in ASEAN 2007 Integration, Challenges and Opportunities* Geneva: ILO.

Within ASEAN, demographic projections vary significantly by country. Between 2005 and 2015, Cambodia, Indonesia, the Lao People's Democratic Republic, Myanmar, the Philippines, and Viet Nam will all see an increase in their share of population aged 25-54 years – an opportunity to reap the benefits of their demographic dividends. Where labor force participation among women is relatively low, for example in Indonesia, the benefits are likely to be smaller. Some countries have limited time remaining; for instance, the window of opportunity is closing rapidly in Indonesia and Viet Nam, since the prime-age share of their total populations will stop growing after 2015.

In Brunei Darussalam and Malaysia, the share of prime-age population will remain relatively stable between 2005 and 2015, while in Singapore and Thailand it will decline. The latter countries are ageing relatively rapidly – a trend that will probably accelerate in the decades to come. Both countries are expected to see a nearly 100 per cent increase, between 2005 and 2025, in the number of people aged 55 and older. In these countries, in line with demographic trends, labor supply will decline while demand for services and products for older workers may increase, creating labor shortages in institutional, social, and home health-care services catering for the elderly.

The ILO 2007 report predicts that most of ASEAN's population increase will occur in urban areas. Aside from natural increases, rural-urban migration is expected to continue or even escalate. Between 2005 and 2015, the region's urban population is expected to grow by 76.1 million, while the rural population will shrink by 9.4 million. By 2015, an estimated 51 per cent of ASEAN's population will live in urban areas, compared with about 44 per cent in 2005. More than 80 per cent of the increase in the urban population will occur in Indonesia (35.9 million additional urban dwellers), the Philippines (15 million), and Viet Nam (8.3 million). Countries experiencing explosive urban population growth will face the challenge of job creation in their bulging cities and metropolises. Yet Cambodia, the Lao People's Democratic Republic, Myanmar, Thailand, and Viet Nam are projected to remain predominantly rural even beyond 2025.

Whether in the context of regional integration or other multilateral and bilateral trading agreements, greater trade liberalization through FTAs or other means will have an impact on labor markets. It is an open question whether ASEAN industry sectors and their workers will benefit or become victims of such liberalization. It has provided opportunities for export growth, which in turn have brought millions of people from low-productivity agriculture into higher-productivity manufacturing, fuelling economic growth and employment creation. The social costs need to be considered – particularly the displaced workers made redundant by the entry and exit of new firms in very competitive industries, as well as “fly by night” business.

Export growth in ASEAN has been accompanied by the growth of intermediate and other imports, reflecting the increasing integration of ASEAN firms into global and regional production networks. Nevertheless, while consequent competition with cheaper imports has led to productivity growth in some sectors, it has also led to plant closures and employment losses, heightened job insecurity, and the spread of atypical forms of work including subcontracted work, which do not offer many of the rights and benefits that apply to regular employees.

In addition, trade liberalization drives structural transformation, resulting in increased labor market turnover and adjustment costs. This is evident in employment trends by sector in ASEAN. While all countries have experienced changes in the sectoral share of employment – in particular, a shift from agricultural employment to employment in industry and services – countries such as Cambodia and Viet Nam, which opened their economies to trade at a later stage than did other ASEAN Member Countries, are now experiencing greater changes in the composition of employment, and are hence likely to suffer significant adjustment-related issues. The declining share of employment in industry for most high- and middle tariff income ASEAN countries also suggests that workers in these countries are moving to service-sector jobs. These types of employment shifts are neither automatic nor without concomitant difficulties, and thus require the attention of policy-makers.

In recent years, demand for highly skilled labor has increased in ASEAN. As a result, the level of employment and wages for skilled workers also increased, widening the wage gap between low-skilled and high-skilled workers. Using industry-level wage data as a proxy for skill levels, average wages in the finance and business services sector in Indonesia, for example, increased by 90 per cent between 2000 and 2006, while average wages in the agriculture and fishery sectors increased by 62 per cent.

## **PART TWO: ASEAN Processes and Activities on Labor**

Workers need to be on board the processes of ASEAN integration. While there are meetings and workshops on various themes of worker's welfare, these were organized mainly as short term projects initiated by donors in cooperation with the ASEAN Secretariat who set the agenda and pace of discussions. The workers' voice needs to be heard and engaged on a sustained basis, from start to finish, including evaluation of the results or outcomes.

### **The ASEAN Charter and Labor**

The preamble of the *ASEAN Charter* enshrines as key principles, among others, “adherence to the principles of democracy, rule of law and good governance, respect for and protection of human rights and fundamental freedoms”. These noble ideas are repeated throughout the document, specifically in objectives 5 & 7:

“5. To create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labor, and freer flow of capital;

“7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and freedoms ...”

In many declarations and statements, ASEAN leaders recognize the need to join forces in order to prepare the region's workforce for regional integration and more intensified trade liberalization. The *ASEAN Labor Ministers' Vision and Mission* statements<sup>7</sup> underscored the importance of such preparations. The emphasis is to build the capacity of the labor ministries in the region to develop a productive, competent workforce who could take advantage of the knowledge-based network economy, and to minimize if not eradicate marginalization (*see Box. ASEAN Cooperation in Labor*).

### **The ASEAN - Japan Program on Industrial Relations**

The objective of the *ASEAN – Japan Programme on Industrial Relations* is to assist and facilitate efforts of ASEAN countries in promoting sound industrial relations, industrial harmony, higher productivity and social justice as essential elements of development. In the regional and national seminars, sharing of knowledge, experience and information results in stronger capacity for employers, workers and government to promote decent work through sound industrial relations.

In *Phase I* of the project, regional workshops and national seminars in the first phase of the program took place from 2002 to 2004, and provided valuable opportunities to exchange information and share experiences in industrial relations on the following themes: (a) Fundamental framework of industrial relations and labor legislation; (b) Wages and productivity; and (c) Globalization, regional integration and technical innovation. Phase I and II of the “ASEAN Programme on Industrial Relations” was implemented with technical assistance and funding from Japan. *Phase III* (2008 to 2010) is undertaken in cooperation with the ILO and Japan.

The Ministers also noted the *ASEAN – Japan Programme on Industrial Relations* which assists and facilitates efforts of ASEAN in promoting sound industrial relations, industrial harmony, higher productivity and social justice as essential elements of development. Phase II of the “ASEAN Programme on Industrial Relations” was implemented with technical assistance and funding from Japan. Phase III (2008 to 2010) is undertaken in cooperation with ILO and Japan.

Participants in the regional and national seminars were officials of employers and workers organizations, and government officials in charge of, or with experience and expertise on industrial relations, disputes settlement and design of labor legislation. Announcements, processing of nominations and selection of the participants were entrusted to the host ministries of labor, through national contact officers in charge of ASEAN matters on labor and industrial relations.

### **ASEAN - ILO Cooperation Agreement (2007)**

The ASEAN and the ILO agreed on the following:

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<sup>7</sup>The ASEAN Labor Ministers Statements from 1975 to 2008, including the *Vision and Mission* could be accessed in the following webpage of the ASEAN Secretariat: <http://www.aseansec.org/20908.htm> accessed July 15, 2009.

- “ ...Exchange of relevant information, documentation, books, studies, research results and good practices, as a means to promote cooperation and complementation in their work;
- Cooperation in the implementation of programmes and projects, including but not limited to occupational health and safety, HIV/AIDS and the workplace, employment implications of trade agreements, labor market reforms and industrial relations, youth employment, vocational training, social security and labor migration;
- Research studies, including gathering statistics, on matters of mutual interest;
- Representation at specified meetings of each organization based on formal invitation;
- Mutual cooperation in all other aspects that is consistent with the objectives of both organizations ...”.

The ASEAN and ILO Secretariats agreed “to continue and develop dialogue established through participation in meetings”, such as the ASEAN Senior Labor Officials’ Meeting (SLOM) and in workshops convened by the ILO on employment and labor issues. These meetings and workshops serve as the mechanism for reporting on progress of activities under the agreement. The agreement also provided that “invitations to such meetings and workshops shall be subject to the procedures of the respective organizations and participation shall be at each organization’s own expense. Part of the agenda of the ASEAN Labor Ministers’ Meeting is to select the representative, and discuss a common position on issues brought before the ILO General Assembly and Governing Board.

### **ASEAN Secretariat**

The ASEAN Secretariat coordinates, provides technical support, and documents the official results of the meetings. In many cases, workshops and seminars are projects outsourced to qualified institutions or individuals, including consultants and facilitators with expertise on topics taken up in the meetings. Labor related meetings are organized under the heading “functional cooperation”. In the ASEAN Charter of 2009, worker concerns are classified with the “socio-cultural community”, but business and employer matters which affect employment are with the “economic community”. An ASEAN Secretariat director or head reports to the deputy secretary general on the progress and results of these meetings. They work with the designated project consultant or expert.

### **ASEAN Labor Ministers Meeting (ALMM)**

The ASEAN Labor Ministers started to meet in 1975. They now meet every two years: first within the ten ASEAN member countries, and in a separate session, with the labor ministers from the *ASEAN plus 3* countries (Japan, Korea, and China). The communiqués are published in the ASEAN Secretariat website. In 2000, the labor ministers agreed on the vision and mission of the ALMM, as follows:

- “To set the appropriate policy environment that fosters employment creation;
- To promote the development of a productive, competent and capable workforce by investing in their training, education and skills upgrading;

- To share knowledge on labor market policies and information, skills standards, experiences and best practices on lifelong learning, innovative schemes of employment generation, social protection and social security practices;
- To enhance national capacities to assess and effectively deal with the social impact of trade and investment liberalisation and globalisation;
- To share experience on skills training, trainers' training, human resources development planning through close coordination of work programmes in each country; and
- To promote and foster regional cooperation and collaboration in HRD and skills upgrading so that capacities in ASEAN could be strengthened to achieve sustained economic growth and social progress.”

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**Box. ASEAN cooperation on labor: what has been done**

ASEAN recognizes challenges to workers, such as access to productive employment while at the same time enjoying social protection. ASEAN is also faced with the challenge of universal coverage of social security and protection for its labor force considering that most of the insurance schemes cover the formal sector only and are built on a narrow membership base. Lack of social security coverage is largely concentrated in the informal economy which provides significant employment in the region.

Since 2000, ASEAN’s work on labor and human resources has been guided by the ASEAN Labor Ministers (ALM) Work Programme, to prepare the region’s labor force to face the challenges of globalization and trade liberalization. The five broad priorities initially set in the Work Programme are in the areas of employment generation, labor market monitoring, labor mobility, social protection, and tripartite cooperation. In May 2006, the ASEAN Labor Ministers agreed in their Joint Statement of 2006 to add a sixth priority area, occupational safety and health (OSH), in the ALM Work Programme. From the six priorities under the ALM Work Programme, two were given priority by the ASEAN Senior Labor Officials as priority: tripartite cooperation and OSH.

Apart from the priorities set in the ALM Work Programme, ASEAN made a groundbreaking move to address the issue of migrant workers on 13 January 2007, when its Leaders signed the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The Declaration mandates ASEAN countries to promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers. As a follow-up to the Declaration, an ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers was established in July 2007.

In collaboration with its Dialogue Partners, a number of activities and various studies have been completed, are on-going or being prepared by ASEAN. These activities and studies are under the ASEAN Senior Labor Officials Meeting (SLOM). The ASEAN Labor Ministers’ Meeting (ALMM), meets every other year and oversees the work under the ASEAN cooperation on labor. In addition, the *ASEAN Plus Three* Labor Ministers’ Meeting (ALMM+3) was established in 2001 under the framework of cooperation with China, Japan, and the Republic of Korea.

Source: ASEAN Secretariat, *ASEAN Cooperation on Labor: An Overview*, <http://www.aseansec.org/21009.htm> accessed August 25, 2009

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Some important issues and projects in the agenda of the ASEAN labor ministers meeting:

- Implementation of the *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007)*, in particular a committee to implement the declaration.

- *Occupational Safety and Health (OSH) Policy Dialogue* on “National OSH Framework” by Singapore in early 2007 and the follow-up Policy Dialogue on the “OSH Management System” in late 2007, supported by Japan which convened experts from all ASEAN Member States, the Peoples’ Republic of China, Japan, and the Republic of Korea.
- *HIV Prevention and Control* held in Jakarta in December 2007, with the support of the ILO, providing a platform for the sharing of information on good practices on HIV/AIDS approaches, tools and legislation concerning HIV/AIDS in the world of work among Member States’ focal points.
- Cooperation Agreement signed between the ASEAN Secretariat and the ILO in March 2007 -- ILO has provided exchanges of knowledge and expertise in various areas related to labor cooperation.
- Skills recognition: adoption of an incremental approach based on prior establishment of national skills frameworks, before discussing how regional skills recognition arrangements can be established.
- *ASEAN-China High Level Seminar Series on Social Security*, on the topic of employment injury insurance on 21– 23 June 2006.
- *China-ASEAN High-Level Seminar on Human Resource Development* in Kunming, Peoples’ Republic of China, in September 2007, which sought to establish a ‘China-ASEAN Information Exchange on Human Resource Development’ as a platform for future collaboration between China and ASEAN in a broad spectrum of areas including skills training, labor migration and social protection.
- Study on “Progressive Labor Practices to Enhance the Competitiveness of ASEAN”.

New governments mean new ministers and officials, with new priorities. Since 2000, ASEAN’s work on labor and human resources has been guided by the ASEAN Labor Ministers (ALM) Work Programme, to prepare the region’s labor force to face the challenges of globalization and trade liberalization. The five broad priorities initially set in the Work Programme are in the areas of employment generation, labor market monitoring, labor mobility, social protection, and tripartite cooperation. In May 2006, the ASEAN Labor Ministers agreed in their Joint Statement of 2006 to add a sixth priority area, occupational safety and health (OSH), in the ALM Work Programme. From the six priorities under the ALM Work Programme, two area-specific work programmes have been adopted by the ASEAN Senior Labor Officials for priority areas on tripartite cooperation and OSH capacities and standards in ASEAN.

Apart from the priorities set in the ALM Work Programme, ASEAN made a groundbreaking move to address the issue of migrant workers on 13 January 2007, when its Leaders signed the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.

### **ASEAN Senior Labor Officials Meeting (SLOM)**

The senior labor officials are deputy or senior ministers who meet to thrash out technical details, approve project reports or project proposals for recommendation to the ASEAN Labor Ministers Meeting (ALMM). The SLOM meets every year. A change in government usually means new ministers, and new senior officials, which may result in gaps of continuity in agreed priorities.

The communiqué of the ALMM is usually based on the summary of the SLOM meeting. For instance, the latest 2008 ALMM meeting in Bangkok “noted with satisfaction the report of the Senior Officials on the progress of ASEAN Cooperation in the area of labor, in particular the decisions on the following: (1) The reconstitution of the Ad-Hoc Working Group as a "SLOM Working Group on Progressive Labor Practices to Enhance the Competitiveness of ASEAN" (SLOM-WG), which would be a permanent group reporting to SLOM. The Chairmanship of the SLOM-WG would coincide with that for the ALMM, while the outgoing Chair could serve as the Vice-Chair; (2) The follow-up to the implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers”; (3) The adoption of an incremental approach to skills recognition that is based on prior establishment of national skills frameworks, before discussing how regional skills recognition arrangements can be established. The technical working group comprising the relevant experts would continue to drive the initiatives on skills recognition. ...”.

### **PART THREE: The Labor Dimension of ASEAN Integration**

The labor dimension refers to the norms and standards expected of people at work. Global labor standards represent what civilization has achieved against human exploitation. All of the ASEAN countries are members of the International Labor Organization (ILO), one of the bodies in the UN system. All ASEAN countries are therefore obliged to uphold ILO’s fundamental principles and standards on labor. In addition, most ASEAN countries have a rich variety of constitutions, labor laws and procedures on the fundamental framework of industrial relations, to promote decent work.

Eight core ILO Conventions were identified by the ILO as fundamental to the rights of human beings at work, irrespective of levels of development of individual member states. Only four of the ASEAN countries ratified the core labor dimensions concerning freedom of association (*ILO Convention 87*) and the right to organize and collective bargaining (*ILO Convention 98*). With the exception of Brunei Darussalam, all ASEAN countries have ratified *ILO Convention 29* on the abolition of forced labor; but only four ASEAN member countries ratified the convention for its abolition (*ILO Convention 105*). Only two ASEAN countries (Brunei and Myanmar) did not ratify prohibition of discrimination in employment (*ILO Convention 100*); half the members ratified equal pay for equal work (*ILO Convention 111*). With the exception of Myanmar, all countries have pledged to eliminate the worst forms of child labor (*ILO Convention 182*) (see Box).

Singapore and Malaysia denounced *Convention 105* on forced labor. It is not known how national legislation and policies in these countries comply with global labor standards against forced labor. It is also not known whether workers and employer organizations in both Singapore and Malaysia are taking steps to reconsider their denunciations, and rejoin the international community against forced labor.

Brunei Darussalam, a new member of the ILO, has ratified only one core labor convention against child labor, *ILO Convention 182*. The government has committed to ratifying the other core conventions.

Capacity to implement the conventions is needed among the countries which ratified them. In some of the countries which did not ratify the core conventions, national labor laws and regulations are in place to partially provide for workers' rights and other provisions of decent work, such as health and safety.

Effective ratification depends upon the capacity to devote resources to implement the observance of core labor standards. Ratification also depends upon the circumstances of the relevant government instrumentality mandated to ratify international commitments. In addition, the ILO in June 1998 adopted the *Declaration on Fundamental Principles and Rights at Work*, which defined the core conventions on decent work. The ILO declared that <sup>8</sup>

“all [member countries], even if they have not ratified the [fundamental] Conventions, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those [fundamental] Conventions”.

Capacity to implement the conventions needs to be developed among the countries which ratified them. In some of the countries which did not ratify the core conventions, national labor laws and regulations are in place to partially provide for workers rights and other provisions on decent work, such as health and safety.

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**Box. The 8 core global labor conventions**

*Freedom of association*

1. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
2. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

*Abolition of forced labor*

3. Forced Labor Convention, 1930 (No. 29)
4. Abolition of Forced Labor Convention, 1957 (No. 105)

*Non discrimination in employment*

5. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
6. Equal Remuneration Convention, 1951 (No. 100)

*Elimination of child labor*

7. Minimum Age Convention, 1973 (No. 138)
  8. Worst Forms of Child Labor Convention, 1999 (No. 182)
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<sup>8</sup> ILO 1998 *Declaration on the Fundamental Principles and Rights at Work* Geneva: : : : : ILO.

In ASEAN, there is common recognition of the fundamental framework of industrial relations, i.e. freedom of association and collective bargaining through changes in legislation which may enhance, or reduce workers' rights. In almost all of the ASEAN countries, basic laws on industrial relations have been introduced in the 1950s or earlier. With the exception of Thailand, these labor laws had their origin in the rule of the colonial authorities -- Great Britain in the case of Myanmar, Malaysia, Singapore and Brunei; The Netherlands in the case of Indonesia; France in the case of Laos, Cambodia and Vietnam; and the United States in the case of the Philippines - in the context of controlling labor unrest as nationalism flourished and the cold war started between the Soviet Union and the East Bloc, versus the United States and the western powers.

By the 1970s, Cambodia, Lao PDR, Myanmar and Vietnam (CLMV) ventured into central planning and socialism, and labor relations were subordinated to the state. In the 1990s, the CLMV reopened their economies, and re-established laws on labor relations in part to respond to the need to regulate the labor market in the period of transition.

**Box. Ratification of core labor conventions by ASEAN countries**

<b>1. Abolition of Forced Labor    2. Freedom of Association</b>				
	<b>Con. 29</b>	<b>Con. 105</b>	<b>Con. 87</b>	<b>Con. 98</b>
<b>Brunei Darussalam</b>				
<b>Cambodia</b>	<b>24/02/1969</b>	<b>23/08/1999</b>	<b>23/08/1999</b>	<b>23/08/1999</b>
<b>Indonesia</b>	<b>12/06/1950</b>	<b>07/06/1999</b>	<b>09/06/1998</b>	<b>15/07/1957</b>
<b>Lao PDR</b>	<b>23/01/1964</b>			
<b>Malaysia</b>	<b>11/11/1957</b>	<b>Denounced</b>		<b>05/06/1961</b>
<b>Myanmar</b>	<b>04/03/1955</b>		<b>04/03/1955</b>	
<b>Philippines</b>	<b>15/07/2005</b>	<b>17/11/1960</b>	<b>29/12/1953</b>	<b>29/12/1953</b>
<b>Thailand</b>	<b>26/02/1969</b>	<b>02/12/1969</b>		
<b>Singapore</b>	<b>25/10/1965</b>	<b>Denounced</b>		<b>25/10/1965</b>
<b>Vietnam</b>	<b>05/03/2007</b>			

	3. Prohibition of discrimination in employment		4. Effective elimination of child labor	
	Con. 100	Con. 111	Con. 138	Con. 182
<b>Brunei Darussalam</b>				<b>09/06/2008</b>
<b>Cambodia</b>	<b>23/08/1999</b>	<b>23/08/1999</b>	<b>23/08/1999</b>	<b>14/03/2006</b>
<b>Indonesia</b>	<b>11/08/1958</b>	<b>07/06/1999</b>	<b>07/06/1999</b>	<b>23/03/2000</b>
<b>Lao PDR</b>	<b>13/06/2006</b>	<b>13/06/2008</b>	<b>13/06/2005</b>	<b>13/06/2005</b>
<b>Malaysia</b>	<b>09/09/1997</b>		<b>09/09/1997</b>	<b>10/11/2000</b>
<b>Myanmar</b>				
<b>Philippines</b>	<b>29/12/1953</b>	<b>17/11/1960</b>	<b>04/06/1998</b>	<b>28/11/2000</b>
<b>Thailand</b>	<b>08/02/1999</b>		<b>11/05/2004</b>	<b>16/02/2001</b>
<b>Singapore</b>	<b>30/05/2002</b>			<b>14/06/2001</b>
<b>Vietnam</b>	<b>07/10/1997</b>	<b>07/10/1997</b>		<b>19/12/2000</b>

Items are dates of ratification: day/month/year

Source: <http://www.ilo.org/ilolex/english/docs/declworld.htm> Accessed July 30, 2009

In contrast, the older members of ASEAN have had several decades of experience with the fundamental framework of labor-management relations, with clear precedents on decisions on labor disputes accumulated through the years. Labor laws had their roots in the 1950s at the start of the cold war, designed to control social unrest and national liberation movements, and in the transition from colonial rule to national independence. A common theme in labor law reform is the need to respond to changing needs in the 21st century, such as demands for labor market flexibility as a consequence of globalization.

Ambiguities and gaps exist in the fundamental framework of industrial relations. Labor laws provide for the right to organize and bargain collectively, but workers observed to be covered by collective bargaining agreements are very few. Labor laws prohibit discrimination on the basis of gender, political beliefs or other basis, but the implementing rules are unclear and ambiguous with regard to sanctions. Labor laws are also unclear on the status of union shop stewards and their election. Due to lack of training in their expected roles, worker representatives at the work unit, or enterprise level are unable to contribute effectively to the improvement of working conditions and the processing of disputes at the workplace.

There is a common recognition in ASEAN that workplace conflict, a situation which all parties seek to avoid, presents itself in two forms: *disputes of rights* and *disputes of interests*. *Disputes of rights* arise from different interpretation or fulfilment of what is provided by the constitution or labor laws, which may include the law on employment, trade union rights, social security, collective bargaining, or collective action. A rights dispute also involves the interpretation, application, administration, or alleged violation of an existing collective agreement or award. Third parties may settle the dispute of who is right or wrong through arbitration or court procedures. *Disputes of interests* arise over differences in opinion with respect to the conclusion, negotiation or revision of an individual or collective agreement. An interest dispute is about deciding on the terms of a new collective agreement. The parties may settle the interest dispute themselves, through negotiations and consensus, or through third parties. Interest disputes could also be settled through use of power and strategy. The strong party wins.

There are three generally recognized means of conflict resolution: conciliation, mediation, and arbitration. Arbitration could be voluntary, through third parties and through compulsory arbitration by the State in judicial or quasi judicial processes. In many countries, the highest court decides on appeals on labor disputes. Often, the lack of expertise, particularly of third party arbitrators of labor disputes, is a serious problem in industrial relations in many countries, including ASEAN.

Although the right to strike is enshrined in some of ASEAN's labor laws, and the law protects workers from reprisals due to strike action, there are cases of workers being forced out of employment as a result of collective action such as strikes, pickets, slowdowns and demonstrations. There is a need to encourage the exhaustion of alternatives through mediation, conciliation, dialogue, and negotiations before concerted action is carried out. The availability of authoritative third parties for mediation, either outside or inside government and the development of mediation and negotiation skills is expressed very clearly as a need by many ASEAN countries.

Cambodia and Vietnam, in the CLMV group of countries re-established some fundamental laws on industrial relations. The main problem concerns limited resources and know-how of officials, which constrain the effective implementation of labor laws. The country reports from the CLMV also recognize other common problems and issues. The enforcement of procedures to recognize trade union rights by the government is inadequate, due to lack of resources, experience and skills of officials, trade union leaders and employers in resolving disputes. As a consequence, tripartism does not operate properly, as expected.

There is diversity in the accepted concept, level of acceptance and practice of unions in ASEAN. There are gaps in the capacity, and role of both national and regional affiliates of global unions as inclusive voice of workers in ASEAN. The gap indicates an urgent demand for a regional trade union body to represent the workers in appropriate regional meetings, where labor issues and concerns are at stake.

There is a sizable number of global unions with regional offices and affiliates in the Asia and the Pacific, including or perhaps, overlapping with the ASEAN. There is a need to coordinate the global level concerns, raise awareness in the regional level, and provide specific inputs to

national action plans. Even within the national scope of issues, there are significant variations on the significance and applicability to local, or provincial issues concerning workers and the unions. Global concerns of workers in unions may reflect regional, national, local or industry specific concerns.

## **PART FOUR: Freedom of Association and Unions in ASEAN**

This section provides a summary of industrial relations, focusing on freedom of association, workers organizations, and collective disputes. The discussion is provided separately for older ASEAN countries – Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand (BIMPST), and the younger member countries – Cambodia, Lao PDR, Myanmar and Vietnam (CLMV). The information is collected from various sources: the summary record of the ASEAN regional workshop on industrial relations in 2007 and 2008; country reports presented in regional workshops or meetings on industrial relations; the 2008 *Report of the ILO Committee of Experts on the Application of Conventions and Recommendations*; the *ILO Country Baselines for the ILO Fundamental Declaration Annual Review*; the US State Department *Report on Human Rights (2008)*, which includes sections on freedom of association and collective bargaining; and published news reports.

The UN Declaration of Human Rights, and the ILO conventions on freedom of association (C87) and collective bargaining (C98) provide part of the core global norms in sound industrial relations, and the promotion of decent work. All workers and employers have the right to establish and to join organizations of their choice to promote and defend their respective interests, and to negotiate collectively with the other party. They should be able to do this freely, without interference by the other party or the State. Freedom of association is a fundamental human right and, together with collective bargaining rights, is a core ILO value. The rights to organize and to bargain collectively are enabling rights that make it possible to promote democracy, sound labor market governance and decent conditions at work.<sup>9</sup>

In ASEAN, there is common recognition of providing the fundamental framework of industrial relations, i.e. freedom of association and collective bargaining through legislation. In almost all of the ASEAN countries, basic laws on industrial relations have been introduced in the 1950s or earlier. With the exception of Thailand, these labor laws had their origin in the rule of the colonial authorities -- Great Britain in the case of Myanmar, Malaysia, Singapore and Brunei; the Netherlands in the case of Indonesia; France in the case of Laos, Cambodia and Vietnam; and the United States in the case of the Philippines -- in the context of controlling labor unrest as nationalism flourished and the cold war started between the Soviet Union and the East Bloc, versus the United States and the western powers.

By the 1970s, Cambodia, Lao PDR, Myanmar and Vietnam (CLMV) ventured into central planning and socialism, and labor relations were subordinated to the state. In the 1990s, the CLMV reopened their economies, and re-established laws on labor relations in part to respond to the need to regulate the labor market in the period of transition.

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<sup>9</sup>ILO (1998) *Declaration on Fundamental Principles and Rights at Work* Geneva: ILO

In contrast, the older members of ASEAN had several decades of experience on the fundamental framework of labor-management relations, with precedents on decisions on labor disputes accumulated through the years. Labor laws had their roots in the 1950s at the start of the cold war, designed to control labor and social unrest, in the transition from colonial rule to national independence. A common theme in labor law reform is the need to respond to changing needs in the 21st century, such as demands for labor market flexibility as a consequence of globalization.

Common ambiguities and loopholes exist in the fundamental framework of industrial relations. Labor laws provide for the right to organize and bargain collectively, but workers observed to be covered by collective bargaining agreements are very few. Labor laws prohibit discrimination on the basis of gender, political beliefs or other basis, but the implementing rules are unclear and ambiguous on the sanctions. Labor laws are also unclear on the status of union shop stewards and their election; due to lack of training on their expected role, stewards are unable to contribute effectively to the improvement of working conditions and the processing of disputes at the workplace.

Although the right to strike is enshrined in the labor laws, and the law protects workers from reprisals due to strike action, there are cases of workers being forced out of employment as a result of collective action such as strikes, pickets, slowdowns and demonstrations. There is a need to encourage the exhaustion of alternatives through mediation, conciliation, dialogue, and negotiations before concerted action is carried out. The availability of authoritative third parties for mediation, either outside or inside government and the development of mediation and negotiation skills is expressed very clearly as a need by many ASEAN countries.

There is a sizable number of global unions with regional offices and affiliates in the Asia and the Pacific, including or perhaps, overlapping with the ASEAN. There is a need to coordinate the global level concerns, raise awareness in the regional level, and provide specific inputs to national action plans. Even within the national scope of issues, there are significant variations on the significance and applicability to local, or provincial issues concerning workers and the unions. Global concerns of workers in unions may reflect regional, national and local concerns; in some cases, they may be irrelevant.

Global unions are engaged in developing transnational labor regulation through corporate codes of conduct, and industry framework agreements. However, many national and local unions have been peripheral in this process, and remain ambivalent about its potential effects. Some unions worry that these codes could have legitimizing effects on companies that don't actually live up to good practices, and that companies could use codes to excuse or distract attention from the repression of unions.

**Box Labor law and freedom of association in ASEAN**

*B I M P S T*

Brunei Darussalam	Under the Trade Unions Act, unions are legal and must be registered with the government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions.
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Indonesia	Law No. 21 (2000) provided the right to unionize with the immediate effect of a rapid increase in unions. The law provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender
Malaysia	Most workers have the right to form and join trade unions, but the Trade Unions Act (TUA) and the Industrial Relations Act (IRA) restrict this right. Other laws also may restrict freedom of association. For example, the Malaysian Penal Code requires police permission for public gatherings of more than five persons. Those restricted by law from joining a union include public sector workers categorized as "confidential, managerial, and executive," as well as defense and police officials.
Philippines	The Philippine Labor Code (1975) provides for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the government. Unions have the right to form or join federations or other labor groups. In May 2007 a new labor law lowered the requirements for union registration. On November 8, the DOLE issued the implementing rules and regulations for this law.
Singapore	In 1960, Singapore enacted an Industrial Relations Act. The constitution provides all citizens the right to form associations, including trade unions; however, parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations. Under these laws any group of 10 or more persons is required to register with the government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The Trade Unions Act restricts the right of trade unions to elect their officers and to choose whom they may employ.
Thailand	The Labor Relations Act (1975) and subsequent laws and guidelines provide for workers rights, and employers prerogatives. Freedom of association to state enterprises was enacted in 2007. The law allows all private sector workers to form and join trade unions of their choosing without prior authorization; however, enforcement of the law was ineffective. In addition, the Labor Relations Act and Labor Protection Act provide inadequate protection to workers who participate in union activities. The law allows unions to conduct their activities without government interference. The law also permits workers to strike, and this right was exercised in practice.
<i>C L M V</i>	
Cambodia	The labor law provides only private-sector workers in the formal economy the right to join the trade union of their choice without prior authorization; however, the government's enforcement of this right was selective. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations, although a few unions attempted to intimidate workers who wanted to withdraw.

Lao PDR	In 1991 the first labor law was issued and entered into force, which is one of 18 laws of the government aimed at promoting and serving better climate for local and foreign investment, together with the Decree on the implementation of labor law. The law does not allow workers to form and join independent unions of their choice; they may form unions without previous authorization only if they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. In addition the law does not permit unions to conduct their activities without government interference. Strikes are not prohibited by law, but the government's ban on subversive activities or destabilizing demonstrations made strikes unlikely, and none were reported during the year.
Myanmar	Myanmar ratified ILO conventions on freedom of association in 1955. The basic rights of citizens including freedom of association will be included in the new constitution. The law permits workers to form trade unions with the prior consent of the government; however, no free trade unions existed in the country. Domestic and internationally affiliated unions are not allowed, nor are individual membership in unions.
Vietnam	The roles and functions of the trade unions are stipulated in the Union Law 1990 and Labor Code 1994. Workers may chose whether or not to join a union and at which level (local, provincial, or national) they wish to participate; however, every union is affiliated with and controlled by the nation's only trade union, the Vietnam General Confederation of Labor (VGCL). The VGCL, an umbrella organization controlled by the CPV, approves and manages a range of subsidiary labor unions organized according to location and industry. Workers are not free to join or form any union independent of the VGCL.

Source: Country reports, ASEAN Industrial Relations Regional Workshop, Bangkok, August 23 to 25, 2007; US State Department *Human Rights Report 2008*.

## Older ASEAN: BIMPST Countries <sup>10</sup>

### *Brunei Darussalam*

Brunei Darussalam became a member of the ILO in 2007 and has so far ratified only one ILO core convention on child labor (Convention 182). The Government reported that it is considering ratification of Convention 87 and Convention 98, in consultation with the employers' and workers' organizations. The government reported the following unions: (a) the Brunei Oilfield Workers Organization (BOWU); (b) the Brunei Government Subordinates Officers' Union; and (c) the Royal Brunei Customs Workers' Union. Employers are organized with the National Chamber of Commerce and Industry (NCCI).<sup>11</sup>

There is no provision in the laws that underpin the right to collective bargaining. An individual contract is required between an employer and a worker, and trade union activities are not allowed to violate these individual labour contracts. Under Brunei Darussalam's Trade Unions Act

<sup>10</sup>This section is compiled mainly from the following sources: unpublished country reports and summary records of the *ASEAN-Japan Project on Industrial Relations* (2007 and 2008); the *ILO Committee on Experts Report* (2007 and 2008); and the US State Department *2008 Report on Human Rights*

<sup>11</sup>ILO (2008) *Country Baseline Annual Review: Brunei Darussalam* Retrieved October 5, 2009 Website: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_decl\\_facb\\_bnr.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_facb_bnr.pdf)

(1955), unions are legal and must be registered with the government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions; however, in practice trade union activity was minimal. The government did not encourage unions or facilitate their formation, and employers in the industrial sector did not encourage foreign workers to form unions. The three registered trade unions were in the oil sector and had a total membership of less than 5 percent of the industry's total work force. There were an estimated 88,000 foreign workers, including almost 6,000 garment industry workers, none of whom were members of any trade union.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the home affairs minister and Department of Labor (DOL). The law makes no explicit provision allowing the right to strike.

With respect to unions and collective bargaining, Brunei's law prohibits employers from discriminating against workers in connection with union activities but provides no legal framework for collective bargaining. There was very little union activity in the country, and employer discrimination against union members was not reported. There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ). Labor laws are fully applicable in the MEZ.

Labor disputes, mostly individual cases, are taken care by the government through the Department of Labor under the Ministry of Home Affairs. There is no national and local institution to coordinate 'Social Dialogue' between workers, employers and government. However, the government provides a hot line number for the workers and employers seeking information about labor regulation. Workers are also encouraged to file anonymous complaints to the government about their grievances. Given this, Brunei Darussalam, which currently has only one labor union, sees no urgent need to encourage the establishment of more unions.

Brunei Darussalam has hardly faced major labor issues, except for the work stoppage in 2001 and 2002 in the garments industry, due to discrimination in employment. Workers from outside the ASEAN region, especially those from Bangladesh and India who account for the majority of foreign workers, were paid less than those of other nationalities. The problem was solved through negotiations between workers representing different nationalities and employer representatives, mediated by the government.

### ***Indonesia***

Indonesia ratified all 8 of the ILO's core conventions. The number of labor federations in Indonesia reached 91 in 2007, twelve of which are nationally-recognized. Many collective agreements currently exist. The problem is that collective labor agreements can only be initiated if the union is represented by 50 percent of the workers. Minimum wage is determined by the local government and evaluated on an annual basis. However, this has led to a perception that wages can be paid below the minimum standard.

In dispute settlements, Indonesia has applied a new regulation with the establishment of Labor Courts at the district level comprising ad-hoc Judges representing the employer and workers. Four types of disputes are recognized, namely, (a) workers' rights, (b) interest disputes, (c)

disputes arising from termination of employment, and (d) intra-union disputes within the same enterprise. The method of mediation can be used for all types of disputes, while conciliation and arbitration are limited to interest disputes, termination of employment and intra-union disputes. All disputes, except for disputes of interest can be brought to the Labor Court through the submission of an appeal to the Supreme Court.

The number of strikes reduced significantly from 175 cases in 2001 to 96 in 2005. This could be an indicator that industrial relations improved in Indonesia. Main reason for strikes include: wages and union recognition.

Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Ministry of Manpower and Transmigration records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. During the year some unions reported local ministry offices prejudicially recommended denial of registration. The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees.

The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology or the constitution.

Workers must give written notification to the authorities and to the employer seven days in advance for a strike to be legal, specifying the starting and ending time of the strike, venue for the action, reasons for the strike, and including signatures of the chairperson and secretary of the striking union. A ministerial regulation declares illegal all strikes at "enterprises that cater to the interests of the general public or at enterprises whose activities would endanger the safety of human life if discontinued." In practice strikes were prohibited in the public sector, in essential services, and at enterprises that served the public interest.

The law provides for collective bargaining and allows workers' organizations that register with the government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA. The Manpower Act, which regulates collective bargaining, the right to strike, and general employment conditions does not apply to SOEs. Some unions claimed that the law contains inadequate severance benefits and protection against arbitrary terminations and does not sufficiently restrict outsourcing and child labor. At year's end no implementing regulations had been issued.

Company regulations, permitted under government regulations, substituted for CLAs in the vast majority of enterprises, many of which did not have union representation. The Manpower Act requires that employers and workers form joint employer/worker committees in companies with 50 or more workers, a measure to institutionalize communication and consensus building.

The law prohibits anti-union discrimination by employers and others against union organizers and members and provides penalties for violations; however, the government did not effectively enforce the law in many cases. There were credible reports of employer retribution against union organizers, including dismissals and violence that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized.

### *Malaysia*

Malaysia ratified ILO Convention 98 on collective bargaining, but not ILO Convention 87 on freedom of association. In 1957, Malaysia denounced ILO Convention 105 on forced labor. Malaysia also ratified ILO Convention 144 concerning tripartite consultations. Freedom of association, pluralism and unitarism are well expressed through legal rights given to the workers to form and associate themselves with trade unions. Non-unionized workers are protected by the Industrial Relations Act 1967. Section 4(1) of the Industrial Relations Act 1967 (IRA) clearly stipulates that “no person shall interfere with a workman’s right to join or to form or assist the formation of a trade union...”. Section 4(3) of the IRA stipulates that “no employer or trade union of employers and no person acting on behalf ... by financial or other means ... control or influence of such employer or such trade union of employers.” Despite having these provisions in the IRA, there are still cases of union busting.

Business restructuring and changes in job titles ‘transformed’ some employees into executives. This caused them to lose their rights to join labor unions.

Malaysian union leaders had complained about delays in the settlement of union recognition disputes. There are also long delays in the treatment of union claims to obtain recognition for collective bargaining purposes. While the IRA requires that an employer respond to a union's request for recognition within 21 days of application, it was not uncommon for such applications to be refused and unions to go unrecognized for one to four years. Under the amendments, if an employer does not respond to the union application within 21 days, the union must submit a written appeal to the director general of trade unions within 14 days. If the union fails to submit the appeal within the stipulated period, the union automatically is not recognized. The amendments also deny the right of unions and individuals to hold strikes protesting the lack of recognition of their union.

According to the 2006 government report, the cause of the delay is mainly due to the time taken by legal proceeding lodged either by trade unions or an employer against the decision of the Director-General of Trade Unions (DGTU) on issues of competency or membership verifications.

The International Trade Union Council (ITUC)<sup>12</sup> has observed that 2.6 million migrant workers in Malaysia are prevented by law from organizing or applying to register a trade union and are barred from serving as officers of a trade union. The system for registering migrant workers discourages them from asserting their rights because it grants total discretion to employers to terminate workers for virtually any reason. According to the government, foreign and local workers enjoy equal rights; migrant workers can join a union but cannot be elected as trade union officers.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry, because it has "pioneer status," which affords certain investment incentives. The government stated that establishment of national unions in the electronics sector would impede foreign direct investment and negatively affect the country's international competitiveness in the sector; government leaders stated that enterprise-level unions were more appropriate for the electronics industry. According to MTUC officials, 150,000 electronics workers were unable to organize, and only eight in-house unions existed in the electronics industry.

Malaysia's labor regulation encourages women participation in the labor force. For instance, women may take up to two years of unpaid leave for childcare and thereafter return to work. The regulation does not provide for 'menstruation leave' as menstruation is not considered a sickness. However, women may go on medical leave and take a rest during menstruation under a doctor's recommendation.

There is concern that Malaysia does not intend to ratify Convention 87. There are restrictions on the right to organize certain categories of workers in Malaysia such as migrant workers, and workers in the informal economy. Government authorization is required to establish employers' or workers' organizations.

### *Philippines*

Freedom of association is well entrenched in the Philippines, in both the Constitution and labor laws. Strikes were significantly reduced, from 63 in 2000 to 3 incidents in 2008. Statistics show a registration of 1,545 public sector unions and 15,318 private sector unions. The union members represent 5 percent of the labor force. Trade union representatives sit in governing tripartite bodies such as the Social Security Commission, the National Labor Relations Commission, the National Wages & Productivity Commission, the Occupational and a few others.

In the settlement of disputes, both parties, the workers and the employers, are empowered to analyze and solve their problems at the enterprise level through bipartite mechanisms. Should settlement fail, parties generally avail themselves of third party interventions which utilize conciliation and mediation processes. Social dialogue and tripartism are promoted through tripartite meetings and consultations both at the national and regional areas, including provincial and local government consultations. Voluntary arbitration is an option, where employers and workers choose from a list of accredited qualified experts. The National Labor Relations

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<sup>12</sup>ILO (2008) Committee of Experts on Application of Conventions and Recommendations, pp. 115 to 116.

Commission (NLRC), on the other hand, serves as an independent body handling compulsory arbitration cases and acts on policies in coordination with the Department of Labor and Employment.

Labor law applies uniformly throughout the country, including in special economic zones (SEZs)<sup>13</sup>; however, local political leaders and officials who governed the SEZs attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. The International Trade Union Council (ITUC) in its *2007 Annual Survey* maintained that the DOLE was unable or unwilling to enforce labor law in the SEZs. A conflict over interpretation of the SEZ law's provisions for labor inspection further obstructed the enforcement of workers' rights to organize.

In September 2009, the Philippine government agreed to receive an ILO high-level mission to identify areas needed for support and technical assistance for effective application of the convention on freedom of association and collective bargaining.<sup>14</sup> The Philippines was among 25 countries under investigation for alleged trade union complaints and other labor-related cases. In its closing statement, the ILO emphasized the need to provide for: “coordinated training of the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) on freedom of association and its linkages to civil liberties; freedom of association and collective bargaining training focused on implementation within special economic zones; training of judges and lawyers on international labor standards and their use in the judiciary; continuing education for Department of Labor and Employment (DOLE), Civil Service Commission (CSC) and the Public Sector Labor Management Council (PSMLC) on international labor standards; and the promotion of social dialogue at all levels with special outreach to the tripartite peace councils.”

The mission was confronted with “contradictory statements concerning violence against trade unionists and the sufficiency of the efforts made by the government“ to ensure that workers may exercise their trade union rights in a climate free from fear. Among others, the ILO encouraged a statement from “the highest level of the Government instructing all government actors to make special efforts to ensure that their actions do not infringe upon the basic civil liberties of trade unionists”. The ILO encouraged the government to provide its full support for the rapid adoption of bills pending in Congress to “bring labor legislation into greater conformity with freedom of association and collective bargaining.” The Philippine government accepted the ILO recommendations.<sup>15</sup>

### ***Singapore***

Singapore has ratified ILO Convention 98 but not Convention 87. The government has said that “although Singapore has not ratified the Freedom of Association and Protection of the Rights to

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<sup>13</sup>Also called “export processing zones” in the Philippines.

<sup>14</sup>Press Statement of the Philippines High-Level Mission on Freedom of Association and the Protection of the Right to Organize Convention, October 1, 2009. Retrieved October 5, 2009. Website: [http://www.ilo.org/asia/info/public/pr/lang--en/WCMS\\_114275/index.htm](http://www.ilo.org/asia/info/public/pr/lang--en/WCMS_114275/index.htm)

<sup>15</sup>Department of Labor and Employment Press Release, October 6, 2009, “RP welcomes ILO recommendations; to cooperate with ILO, social partners in implementation” Retrieved October 15, 2009. Webpage: <http://www.dole.gov.ph/news/details.asp?id=N000002378>

Organise Convention, 1948 (no. 87). The principle and right (PR) is enshrined in Singapore's laws.

Singapore has indicated that in contrast to current national regulations, which requires formal registration of trade unions, with prescribed rules on union administration and activities, C87 requires a de-regulated approach in the management of trade unions. Under this Convention, trade unions are generally unrestricted in their roles and activities, which is not in line with the national existing laws based on the development of responsible trade unions and enlightened employers. Ratification would require the Government to make major amendments to the laws, which have been functioning well and benefited the economy, employers and workers over the past decades. Singapore declared that "amending these laws would undermine the harmonious industrial relations and strong tripartite relationship that the country has developed. Singapore has abolished the requirement for government approval of the content of agreements."<sup>16</sup>

Singapore is currently facing two major issues in its labor management, i.e. ageing workers and low-skilled low-income workers. The mandatory retirement age is 62 while life expectancy is 80. The unions are working together with the government to establish a re-employment policy which would give an opportunity for the retired workers to be re-employed on a yearly basis. The re-employment programme will give flexibility to the retired workers to remain longer in employment and to fulfil their retirement needs. Singapore does not apply minimum wage standards, but has created a Job Re-creation Programme as a way to raise an added value to the job, which will raise the wage of workers. Mandatory certification after training for a certain job allows workers to gain a wage increase. In other words, wage increase is not determined by the legislation but by the improvement of the worker's capacity/skill. The Trade Unions Act restricts the right of trade unions to elect their officers and to choose whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, the minister of manpower may grant exemptions. The Trade Unions Act limits the objectives for which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. In 2007 the national labor force consisted of approximately 2.9 million workers, nearly 500,000 of whom were represented by 69 unions, or 17 percent unionization rate. Almost all of the unions (which represented virtually all union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. NTUC officials hold concurrent positions in the executive branch of government. Young PAP MPs with no union experience were often elected to leadership positions in the NTUC or a member union. NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC is financially independent of the PAP, the two shared a common ideology and work closely with management in support of more cooperative labor relations. The NTUC is free to associate regionally and internationally.

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<sup>16</sup>ILO 2008, Country Baselines on the ILO Fundamental Declaration Annual Review. Website accessed October 3, 2009: [http://www.oit.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_decl\\_facb\\_sgp.pdf](http://www.oit.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_facb_sgp.pdf)

Collective bargaining was a normal part of labor-management relations in the industrial sector. The Industrial Arbitration Court (IAC) must certify collective agreements before they go into effect. The IAC may refuse certification at its discretion on the ground of public interest. Union members may not reject collective agreements negotiated between their union representatives and the employer. Transfers and layoffs are excluded from the scope of collective bargaining. However, in practice employers consulted with unions on both issues, and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs.

Because of a domestic labor shortage, approximately 600,000 foreign workers were employed legally, constituting approximately 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination; however, they were concentrated in low-wage, low skill jobs and were often required to work long hours.

Although the great majority of the approximately 180,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) work under clearly outlined contracts, their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment, abuse, and labor conditions that in some cases could amount to involuntary servitude. Public debates continue about how to prevent abuse of maids.

### ***Thailand***

A new Constitution was promulgated in August 24, 2007, which provides freedom for association for all persons including Government and State officials. The Constitution of the Kingdom of Thailand provides for freedom of assembly and association, except by virtue of a law specifically enacted for “protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly (section 45). “

Thailand provides for freedom of association and collective bargaining in the following laws: (a) Constitution of the Kingdom of Thailand, B.E. 2540 (1997), (Chapter 8, sections 199 and 200); (b) Labour Relations Act, B.E. 2518 (1975); (c ) State Enterprise Labour Relations Act (SELRA), B.E. 2534 (1991) and its amendment (in 2000); (d) Establishment of the Labour Court and Labour Court Procedure Act, B.E. 2522 (1979); (e) Code of Practice for the Promotion of Labour Relations in Thailand, B.E. 2539 (1996).

Lobbying for Thailand’s ratification of ILO Convention 87 and Convention 98 continues, expressed in 2001. Currently, Thailand has 12 Employers’ Federations and 12 Workers’ Federations. The occurrence of labor disputes decreased from 100 incidents in 2002 to 52 incidents in 2006. In 2007, Thailand came up with a Labor Relations Plan as the operational framework and guideline for every department. The roles of the Plan are as follows: (1) to promote harmony in every part of the labor economy; (2) to formulate strategies to develop potential and positive attitudes in the labor force; (3) to promote development and legal provision for the protection of workers; and (4) to develop a management system for occupational safety and health, and the environment.

The State Enterprises Labor Relations Act (SELRA) restricts affiliations between state enterprise unions and private sector unions; however, union confederations can affiliate. The restriction against union affiliation effectively divided the trade union movement along state enterprise and private sector lines. However, unofficial contacts at the union level between public and private sector workers continued, and the government did not interfere with these relationships. Unions in state-owned enterprises generally operated independently of the government and other organizations. Internal conflicts, corruption, and a lack of leadership weakened the labor movement.

The law prohibits anti-union actions by employers; however, it also requires that union officials be full-time employees of the company or state enterprise, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions. It also serves as a prohibition against permanent union staff, thus limiting the ability of unions to organize and be politically active. The Labor Relations Act allows only two government licensed outside advisors to a union, and the Ministry of Labor often blocked the registration of labor advisors whom it deemed too activist. Union leaders and outside observers complained that this interfered with the ability to train union members and develop expertise in collective bargaining, leading to rapid turnover in union leaders.

Trade union leaders can be dismissed for any reason, provided severance payment is made. In such circumstances the law does not provide for reinstatement, and the requirement for severance pay was not always respected. The labor court reinstated employees in some cases where dismissal resulted from union activity and was illegal. However, because the reinstatement process was lengthy and costly for the employee, most cases were settled out of court through severance payments to the employee, and there were no punitive sanctions for employers.

In 2008, there were 87 labor disputes and two legal strikes involving more than 48,000 workers. In addition, three lockouts were reported. Most of the conflicts involved wages, the failure of employers to deliver services as agreed, the transfer of employees to new assignments, and the number of work days and hours. There were also protests against mass layoffs without proper severance pay and the closure of factories.

Union leaders and academic observers reported that employers often discriminated against workers seeking to organize unions. The law does not protect workers from employer reprisal for union activities prior to the registration of the union, and employers could exploit this loophole to defeat efforts at union organization. Employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions. During the year, there were several reported cases of workers being dismissed from their jobs for engaging in union activities. In some cases the court ordered workers reinstated if grounds for their dismissal were proven inaccurate.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there was documented abuse in the system, including evidence that awards to workers were ignored or not paid in full.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs), in which wages and working conditions were often better than national norms.

However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization in the EPZs.

### **New ASEAN Members: CLMV**<sup>17</sup>

The CLMV countries re-established some fundamental laws on industrial relations. The main problem concerns limited resources and know-how of officials, which constrain the effective implementation of labor laws. The country reports from the CLMV also recognize other common problems and issues. The enforcement of procedures to recognize trade union rights by the government is inadequate, due to lack of resources, experience and skills of officials, trade union leaders and employers in resolving disputes. As a consequence, tripartism does not operate properly, as expected.

#### ***Cambodia***

Industrial relations is relatively new in Cambodia. The new Constitution was adopted only in 1993, and a new Labor Law introduced in 1997. However, concerns were expressed that the procedures put in place for the official registration of unions are too complicated and hampered by excessive bureaucracy. Government officials should exert more efforts in the conciliation of labor disputes. Collective disputes are addressed at the Civil Court as there is currently no labor court in the country. Individual disputes can also be brought to the Civil Court if they cannot be settled at the company level. A Labor Advisory Committee (LAC) oversees minimum wages, extension of collective bargaining agreements, and changes in working conditions. In general, the enforcement of procedures to recognize trade union rights by the government is inadequate, due to lack of resources and inexperience of officials. For example, it was reported that labor ministry officials accepted the registration of one union that requires workers to obtain permission before they can withdraw their membership. Both junior and senior level labor officials are poorly motivated, and needs a nurturing environment to promote their professional development.

Cambodia enacted labor laws in 1997, which gave workers the right to form and join unions without requiring prior permission. Union density is still very low. Less than 3 percent of the 8.4 million labor force is unionized, although in certain sectors such as the garment industry, density could be as high as 10 percent.

Under its tripartite framework, Cambodia currently has two employer representatives, the Cambodian Federation of Employers and Business Association (CAMFEBA), which represents the business chambers and the Garment Manufacturers Association of Cambodia (GMAC), which represents garment manufacturers. The latter is a very significant association as garment exports make a significant contribution to Cambodia's economy. GMAC provides legal advice, handles negotiations including minimum wage negotiations on behalf of employer members.

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<sup>17</sup>This section is compiled mainly from the following sources: unpublished country reports and summary records of the ASEAN – Japan Project on Industrial Relations (2007 and 2008); the ILO Committee on Experts Report (2007 and 2008); the ILO (2008) Country Baselines on the ILO Declaration Annual Review; and the US State Department 2008 Report on Human Rights.

The number of unions has been brought down for efficiency purposes since most unions represent workers from the same sector, the garment industry. As such, workers do not see the need for many unions to represent them in negotiations.

Through a bilateral textiles trade agreement in 1999, the United States and Cambodia engaged in one successful experiment in which economic leverage was tied to systematic verification of a trading partner's compliance with labor rights. The United States agreed to give Cambodia a significant increase in its annual quota of exports to the United States if Cambodia adhered to enumerated measures of compliance with labor rights. The agreement ended when the global quota system expired in 2005.

The U.S. garment workers union, UNITE, was largely responsible for the political initiative for the Cambodia program, and for its innovative design. The AFL-CIO also strongly supported the program. While free-traders sometimes denounce global labor rights as disguised protectionism by U.S. labor unions, the Cambodia program shows the opposite: bilateral trade would increase, Cambodia would have more jobs, and the jobs would be better.

Cambodia's compliance was monitored continuously by inspection teams supervised by an ILO official, who formulated hundreds of specific criteria for measuring compliance with domestic and international law. The ILO inspectors generated the information used by the United States to decide whether Cambodia had actually complied with labor rights and thereby earned the annual bonus in export quota.

An analyst<sup>18</sup> argued that a weakness of the US Cambodia agreement was that the economic leverage was not as well-targeted as it might have been. While Cambodia's garment industry as a whole would forego additional exports if labor rights compliance was inadequate, the individual offending employers might still maintain their export volumes if they were politically well-connected. That is, sanctions were not well-targeted to create high-powered incentives directed at the actors responsible for violations. Second, the inspectors lacked sufficient resources to maintain the kind of intensive monitoring and remediation carried out by the WRC investigative teams described above.

The Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) has alleged "a campaign of systematic violence and repression ... in one factory, comprising vicious attacks on union leaders by gangs outside the factory; the violent dispersal of a rally, in which one worker was shot in the back by the police and 16 trade unionists were arrested and detained; the dismissal of 1,500 workers following the protest, virtually all of whom were FTUWKC leaders or members; and the subsequent blacklisting of the dismissed individuals by the management, which had distributed their names and photos to other factories." The FTUWKC also asserted that the authorities have done little to investigate the serious injuries inflicted on union leaders, and in fact have been regularly involved in the violent suppression of worker protests, strikes and marches at various factories.

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<sup>18</sup>Barenberg, Mark (2009). *Sustaining workers' bargaining power in an age of globalization*. American Enterprise Institute. Retrieved September 30, 2009. <http://www.epi.org/publications/entry/bp246/>

The International Trade Union Council (ITUC) also said that in many factories, trade unionists continue to face repression of all kinds with virtually no intervention from the authorities. Anti-union acts include beatings from hired thugs, death threats, blacklisting, bringing trade unionists before the courts on false charges, wage deductions and exclusion from promotion. The ITUC also refers to the continued obstruction of the activities of the Cambodian Independent Teachers' Association (CITA), which the government does not recognize as a trade union and whose demonstrations and protests have often been prohibited. Another organization, the Cambodian Independent Civil Service Association (CICSA), is also not recognized as a trade union.<sup>19</sup>

### ***Lao PDR***

Like its counterpart in Vietnam, the Lao trade unions have a historic role in the war of national liberation. Workers belong to only one national labor center, the Federation of Lao Trade Unions (FLTU) controlled by the ruling Lao People's Revolutionary Party (LPRP). The Lao PDR promulgated its labor law in 1990. It was amended in 1994. Lao PDR has not ratified the ILO Conventions on freedom of association and collective bargaining; for several years, it has confirmed intentions to ratify but has not yet done so. In the absence of a Labor Court, all labor disputes are channelled to the General Court. There is a tripartite framework consisting of the Ministry of Labor and Social Welfare, the Lao Federation of Trade Unions and the Chamber of Commerce and Industry. There are no strikes in the official records.

In Lao PDR, the substance of some articles of the labor law was modified and improved in 1994-95 "in order to meet the requirements of economic growth, thus making the substance of the said law more strict and comprehensive". There are efforts to update labor laws to comply with core conventions on freedom of association, unions and collective bargaining.

Lao PDR has not yet ratified ILO core conventions on freedom of association (ILO Convention 87) and collective bargaining (ILO Convention 98). In 2007, Lao PDR's national parliament ratified ILO convention 100 on equal pay for equal work, and ILO Convention 111 on non-discrimination in employment.

On 27 December 2006, the National Assembly of Lao PDR replaced its labor law enacted in 1994. The purpose of this new law is "to regulate employment relationships, to make the best use of workers' abilities to ensure national social and economic development, to enhance the efficiency and productivity of society and to improve workers' living conditions." The new law has provisions on employment, skills development, as well as disputes settlement. The new law also defines the role of trade unions and the protection of the rights of workers to health and safety, employment security, wages and working hours.

The National Assembly is also preparing a new trade union law, to provide for freedom of association and collective bargaining, to be approved by December 2007. The new law will be able to fill the gap, together with Constitutional guarantees freedom of association, freedom of speech and other freedoms. However, penal provisions remain which infringe on freedom of association and concerted activities.

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<sup>19</sup>International Labor Organization (ILO) (2008) *Report of the Committee of Experts on the Application of Conventions and Recommendations, 98<sup>th</sup> Session of the International Labor Conference*. Geneva: ILO pp. 69 to 70.

Article 5 of the amended Labor Law provides for the role of the trade unions: “Trade unions or workers’ representative shall be responsible for promoting solidarity, training and mobilization of workers with regard to labor discipline; work performance according to production plans established by the labor unit; presentation of any claims regarding compliance with labor regulations and contracts and participation in the settlement of labor disputes.” In addition, trade unions are established in each labor unit. Any labor unit in which trade union is not established yet shall have workers’ representative. Employers must provide trade unions or workers’ representatives with facilities and appropriate premises during working hours to enable them to carry out their activities.

However, the new labor law approved in December 2006 has *Article 65*, on the prohibition of work stoppage, which may or may not be consistent with the provisions of ILO Convention 87 and 98 on freedom of association and collective bargaining. There is no provision on public sector unions.

The LFTU admitted that the main challenges are the following: “(a) the exclusive union is controlled by the only political party legally authorized; (b) all the unions must be affiliated to the LFTU; (c) the workers’ organizations are not able to apply their own internal regulations; (d) the right to strike is restricted through dissuasive sanctions; (e) labour inspection services and labour courts are not able to enforce national labour laws; (f) the legal obligation of employers to bargain is lacking and (g) freedom of association for civil servants is being prejudiced.” The Government admitted lack of capacity of both employers and trade unions in collective bargaining and negotiations.<sup>20</sup>

Worker, employer and government participants in the workshops agreed that, among others there should be “coordination between the appropriate bodies such as conciliation, safety & health committees, including committee to address the problem of migrant workers.” There should be clear responsibilities, and no overlaps in the appropriate government offices, the chambers of commerce as well as worker associations. The government sometimes does the task of the trade unions and the chamber of commerce, and vice versa.

In addition, public sector industrial relations in state owned enterprises, national government agencies and local or provincial governments need to be provided for. There was also a call for “equal representation for employers in local and foreign owned, as well as state-owned enterprises in the chamber of commerce.”

### ***Myanmar***

Myanmar ratified ILO Convention 87 on Freedom of Association in 1955. The fundamental framework of labor management laws and regulations in Myanmar are provided in various laws, employed in industries: Factories Act (1951), Leave & Holidays Act (1951), Payment of Wages Act (1936), Social Security Act (1954), Workmen’s Compensation Act (1932), Employment and Training Act (1958), Employment Restrictions Act (1958), Trade Disputes Act (1929).

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<sup>20</sup>ILO (2008) *Country Baseline Annual Review: Lao PDR* Retrieved October 5, 2009. Website: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_decl\\_facb\\_lao.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_facb_lao.pdf)

Myanmar has introduced changes in employment contracts, particularly requiring employers to provide social security (no details were given to explain how the requirement is actually fulfilled). The mechanism to settle labor disputes start at the workplace. It then goes to the local government (township), and finally to the Central Trade Disputes Committee (CTDC). The Trade Disputes Act of 1929 provided for disputes settlement. If conciliation is not possible, a case is submitted to the CTDC for arbitration. The Chairman of the CTDC is the Minister of Labor and the judgement of the committee is final.

Myanmar officials stressed that regardless of the absence of trade unions in Myanmar, workers' rights have never been denied. This has been pointed out as contradictory to the workers' freedom of association. But Myanmar officials explained the existence of workers' welfare associations which help management and workers to discuss matters of mutual interest.

Myanmar has been the focus of global news reports concerning infringement of freedom of association of workers and forced labor, among other infringements of ILO conventions.

Over the years, the ILO's *Committee of Experts on the Application of Conventions and Recommendations* noted the prohibition of trade unions and the absence of any legal basis for freedom of association in Myanmar (repressive anti-union legislation, obscure legislative framework, military orders and decrees further limiting freedom of association, a single trade union system established in the 1964 Law and an unclear constitutional framework); the Federation of Trade Unions of Burma (FTUB) forced to work underground and accused of terrorism; "workers' committees" organized by the authorities; and the repression of seafarers even overseas and the denial of their right to be represented by the Seafarers' Union of Burma (SUB) which is affiliated to the FTUB and the International Transport Workers' Federation (ITF).

In Myanmar, there are preparations to transform the current workers' associations into trade unions, to implement the new constitution, ratified in May 2008. Myanmar government officials argue that as a consequence of these provisions, a legislative framework has been established and the initial steps are being taken for the establishment of trade unions at the basic level, aimed at free and independent workers' organizations. Basic workers' organizations have already been formed in 11 industrial zones. Furthermore, work is now beginning at the respective Committees on amending, reviewing and revising the provisions of the various labor laws adopted on the basis of the 1964 law defining the "Fundamental Rights and Responsibilities of the People's Workers". Moreover, the issues raised by the Committee on the Trade Disputes Act 1929 and Trade Union Act 1926 are addressed in the new constitution.

However, the ILO Committee observed that "there is currently no legal basis to the respect for, and realization of, freedom of association in Myanmar and that the broad exclusionary clause of section 354 of the Constitution subjects the exercise of this right to the laws enacted for State security, prevalence of law and order, community peace and tranquility or public order and morality". There are serious doubts as to whether the "trade unions" referred to by the Government actually reflect the free choice and interests of workers within the current framework of a total absence of an enabling legislative framework and recurrent violations of freedom of association in practice.

The ILO's approach of engagement and mobilization of shame against Myanmar has drawn some criticism. It is argued that Myanmar is a small, powerless country, one among many governments who "repudiated the basic ILO norm against forced labor. It is unimaginable that the ILO, as currently constituted, would authorize member states to take action against a powerful country for violations of freedom of association, discrimination, or workplace health and safety".<sup>21</sup>

### ***Viet Nam***

*Tong Lien Doan Lao Dong* or the Vietnam General Confederation of Labor (VGCL) was established in 1929 as the "Red Federation of Trade Unions", with a historic role in the national liberation wars against colonial powers. VGCL is the voice of the workers as the sole national trade union center. All trade unions in Vietnam are required to affiliate with the VGCL, and the VGCL is one of the mass movements of the *Vietnamese Fatherland Front*. The Communist Party of Vietnam (CPV) is the "vanguard of the working people and the whole nation, [and] represents the interests of the working class and the nation." The VGCL president is a member of the Communist Party of Vietnam central committee. Vietnam's Constitution defines VGCL's role as follows:<sup>22</sup>

"The trade unions, being the socio-politic organization of the working class and the labouring people, in cooperation with government agencies, economic and social entities, take care of and safeguard the rights and interests of cadres, workers, employees and other labouring people; participate in State administration and social management, in the control and supervision of the State agencies, economic and social entities; educates cadres, workers, employees and other labouring people to do their utmost for national construction and defense".

Vietnam has not yet ratified ILO Conventions 87 and 98, and for several years has declared intentions for ratification. Progress on the removal of legal obstacles to ratification need to be sustained. Some of the obstacles identified by the VGCL: (a) employers still violate the rights of workers; (b) enforcement and monitoring of the law are still weak and (c) there is a lack of training of the workers moving from the rural to the urban areas. In addition, the ICFTU raised the following challenges: (a) there are still no independent unions; (b) workers are not free to organise or join unions of their choosing; (c) the right to strike is recognized by law but there are several restrictions: very heavy pre-strike procedures and prohibition of strikes in the public sector; (d) the VGCL does not defend workers' rights in practice; (d) lack of collective bargaining agreements in the private sector.<sup>23</sup>

The law provides VGCL affiliated unions the right to bargain collectively on behalf of workers, but there are discussions on recognizing independent trade unions. Collective labor disputes over rights must be routed through a conciliation council and, if the council cannot resolve the issue, to the chairperson of the district level people's committee. Amendments made to the labor

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<sup>21</sup>Barenberg (2008), p. 8.

<sup>22</sup>The Vietnam General Confederation of Labor (VGCL) has an English website. Website visited September 30, 2009: <http://www.congdoanvn.org.vn/english/default.asp>

<sup>23</sup>ILO (2008) *Country Baseline Annual Review: Vietnam* Retrieved October 5, 2009 Website: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/)

law in 2008 divide such disputes into those over rights (compliance with the law) and those over interests (demands beyond what the law provides), setting out different procedures for both. The law stipulates an extensive process of mediation and arbitration that must be followed before a strike may take place.

Since the adoption of “socialist oriented market mechanism” through *Doi Moi* in the mid 1980s, and economy has undergone rapid fundamental changes. Private enterprises and businesses with foreign investment rapidly increased. The growth of the foreign owned enterprises has led to increasingly diversified and complicated labor relations, resulting in a rise in labor disputes and strikes.

Vietnam recognizes the following employer organizations: Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam Cooperatives Alliance of Small and Medium Enterprises (VCASME), the Viet Nam National Council of Cooperatives (VNC).

As a new member of World Trade Organization (WTO), Vietnam has made efforts to comply with the commitment of the WTO. More jobs are created in private sectors. The differentiation of two minimum wages for Vietnamese enterprises and foreign enterprises has been abolished in compliance with WTO’s non-discrimination principle. This has also been identified as one of the major causes for the increasing number of strikes happening mainly in areas where intensive industries are located. Led by individuals, not labor unions, the strikes were very well-organised but are considered unlawful.

Vietnam is committed to promoting peaceful dialogue, to reduce the incidence of strikes. There are efforts to improve the capacity of the unions at the grassroots level.

Between 2002 and 2006, the US Department of Labor (DoL) provided significant funding technical assistance to develop Vietnam’s capacity in industrial relations. The project resulted in “stronger capacity of the partners in promoting workplace cooperation, an operational plan for workplace cooperation and dispute prevention in selected enterprises in some provinces, and a more coherent industrial relations policy.”<sup>24</sup>

Collective agreements are insignificant in Vietnam since these don’t deal with wages and working conditions. Officials agree that “collective bargaining agreements(CBA) should not copy or repeat what is already provided in labor laws, but should provide for distinct terms of employment and working conditions, since there are significant variations in industry conditions. Many CBAs are too general, and hence insignificant to the workers or employers since there are no specific provisions for wages and working conditions. There is a need to shift to the thinking that “unions role should be to negotiate better pay with employers, and improve working conditions. Workers will appreciate the importance of the union to represent them. There is a need for an essential change in thinking about the role of the unions in the evolving market economy in Vietnam.”

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<sup>24</sup>International Labor Organization (ILO) (2008) *Freedom of association in practice: Lessons learned. Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. Report of the Director-General* Geneva: ILO pp. 94 – 95.

Vietnam's officials recognize that trade union leaders need to have negotiating skills, develop capacity to negotiate, and define strategies to negotiate with employers. Employers have no proper understanding of their role in dialogue. Representatives of employers do not know how to design a collective agreement. Many enterprises do not have a dialogue mechanism with workers. There is also no mechanism to protect trade union leaders. Union officers get their salary from employers while officers and staff of the VGCL, as well as the employer organizations receive government salaries. If the enterprise fails, the trade union officers will also lose their jobs. There is need to have specific language to protect union activity at the workplace. Currently, employers can always have the option of retaliation against union leaders. Union leaders could not just depend on protection from the law, but also solidarity support of workers at workplace.”

There are mandatory union dues for union members of 1 percent of salary, and employers must contribute 2 percent of payroll. While these dues are intended to support workers and union activities, there was little transparency in how they were used. The vast majority of the workforce was not unionized and did not pay union dues, as almost 34 million of the 45.3 million total laborers lived in rural areas and engaged in activities such as small scale farming or worked in small companies and the informal private sector.

Union leaders influenced key decisions, such as amending labor legislation, developing social safety nets, and setting health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not always prosecute violations of the law. The Ministry of Labor, Invalids and Social Affairs (MOLISA) acknowledged shortcomings in its labor inspection system, emphasizing that the country had an insufficient number of labor inspectors. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent against law violations.

Strikes are illegal if they do not arise from a collective labor dispute or if they concern issues that are outside of labor relations. Before a legal strike can be held, workers must take their claims through a process involving a conciliation council (or a district level labor conciliator where no union is present); if no resolution is obtained, the claims must be submitted to a provincial arbitration council. Unions (or workers' representatives where no union is present) have the right either to appeal decisions of provincial arbitration councils to provincial people's courts or to go on strike. Individual workers may take cases directly to the people's court system, but in most cases they may do so only after conciliation has been attempted and has failed. The amendment also stipulates that workers on strike will not be paid wages while they are not at work.

The labor code prohibits strikes in 54 occupational sectors and businesses that serve the public or that the government considers essential to the national economy and defense. A decree defines these enterprises as those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety.

**Box The status of unions in ASEAN: 2008**

*B I M P S T*

Brunei Darussalam	Trade union activity is minimal. The government did not encourage unions or facilitate their formation, and employers in the industrial sector did not encourage foreign workers to form unions. The three registered trade unions were in the oil sector and had a total membership of less than 5 percent of the industry's total work force. There were an estimated 88,000 foreign workers, including almost 6,000 garment industry workers, none of whom were members of any trade union. While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the home affairs minister and Department of Labor (DOL). The law makes no explicit provision allowing the right to strike.
Indonesia	The vast majority of union members belonged to one of three union confederations. There were nearly 3.4 million trade union members in 2005-06, representing about 10 percent of the formal sector, or about 3.6 percent of the total workforce of 112 million.
Malaysia	Trade unions represent 8.9 percent of the 11 million labor force, a decrease from 9.3 percent in 2005. The Congress of Unions of Employees in the Public and Civil Service (CUEPACS), a federation of public employee unions registered under the Trade Unions Act. CUEPACS is an umbrella organization that included 127 distinct civil servant unions with approximately 300,000 members out of one million civil servants, represented by an estimated 160 unions. Teacher unions accounted for 140,000 of CUEPACS' 300,000 members.
Philippines	There are 141 registered labor federations and 15,537 private sector unions. The 1.9 million union members represented approximately 5 percent of the total workforce of 36.45 million. The number of firms using contractual labor, primarily large employers, continued to grow. There were 1,693 public sector unions, with a total membership of 352,182 or approximately 20 percent of the total employed persons in the public sector.
Singapore	In 2007 the national labor force consisted of approximately 2.9 million workers, nearly 500,000 or 17 percent of who were represented by 69 unions. Almost all of the unions (which represented virtually all union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the government.
Thailand	The labor force consists of 36.9 million persons. Less than 4 percent of the total work force but nearly 11 percent of industrial workers and more than 50 percent of state enterprise workers were unionized. At the end of 2007, there were 43 state enterprise unions with 170,630 members and 1,243 private labor unions with 331,250 members.
<i>C L M V</i>	
Cambodia	Less than 3 percent of the labor force, estimated in 2007 to be 8.4 million persons, was unionized. Unions were concentrated in the garment and footwear industries, where approximately 70 to 75 percent of the estimated 337,000 workers were union members. The Cambodian Tourism and Service Workers Federation reported that it represented approximately 2,300 hotel, casino, and airport workers. There were more than 1,500 factory-level unions and 48 union federations and associations, the majority of which were aligned with the government, and five of which were independent.

Lao PDR	According to the Federation of Lao Trade Unions (FLTU), there were 4,610 trade unions nationwide, including in most government offices. These included 16 provincial trade unions, one municipal trade union, 36 ministerial trade unions, and 2,772 permanent trade unions. Total FLTU membership was 12,111 -- significantly less than 1 percent of the total workforce. Most FLTU members are in the public sector.
Myanmar	The government maintained its 2006 ruling that criminalizes contact with the Federation of Trade Unions – Burma (FTUB), claiming it is a "terrorist group." The government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from having contact with the Seafarers' Union of Burma (SUB)--affiliated to the government-banned FTUB--and the International Transport Workers' Federation, and the government often refused to document seafarers who were abroad, which made it impossible for a seafarer to find regular employment.
Vietnam	According to the Vietnam General Confederation of Labor (VGCL) total membership was more than 6.2 million, or an estimated 39 percent of the country's approximately 16 million wage earners. Union members represent 13 percent of the 47 million workforce. Of the VGCL members, 36.5 percent are in the public sector, 33.1 percent in state owned enterprises, and 30.4 percent in the private sector. Membership represent 95 percent of public-sector workers and 90 percent of workers in state owned enterprises. Approximately 1.7 million union members are in the private sector, including in enterprises with foreign investment (more than 700,000 persons). There are mandatory union dues for union members: 1 percent of salary, and employers contribute 2 percent.

Sources: Country reports, ASEAN Industrial Relations Regional Workshop, Bangkok, August 23 to 25, 2007; US State Department *Human Rights Report 2008*.

## PART FIVE: Conclusions and Recommendations

The increasing speed of efforts to achieve ASEAN regional economic integration shows an urgent need for a platform for organized workers to be on board. There is a demand for ASEAN to establish a mechanism to provide a clear, organized voice to promote and sustain commitment to decent work. At the same time, ASEAN workers need to be organized, for them to exercise their rights to freedom of association and collective bargaining, to improve wages, health and safety, job security and other working conditions. ASEAN leaders need to sustain efforts to achieve a collective political will to harmonize national labor laws, to provide for equal opportunities for employment, fair procedures for dismissal of workers, and settlement of labor disputes. This is a continuing global challenge.

The G20 leaders emphasized adherence to decent work and fundamental rights at work. These commitments were made in the G20 meeting in Pittsburgh, on September 24 & 25, 2009.<sup>25</sup> As a way forward, the ASEAN + 3 (China, Korea & Japan) leaders, where at least 4 of the G20 summit leaders are regular members, need to put muscle and especially teeth to these commitments. A new social contract for ASEAN workers and employers is important, to build strong and durable economies. Strong economies are built on shared values and expectations of

<sup>25</sup> G20 Leaders Statement Pittsburgh Summit, September 24 & 25, 2009. Retrieved September 27, 2009. Website: <http://www.pittsburghsummit.gov/mediacenter/129639.htm>

both workers and employers that hard work is rewarded with better jobs, higher incomes, security and improved lives.<sup>26</sup>

In the wake of global recessions and the financial crisis, as well as shocks such as natural disasters and pandemics, ASEAN needs to organize a stronger social sector window. Workers need continuing labor market adjustment assistance, especially vulnerable groups. Workers need severance pay and access to retraining. The creation or strengthening of labor institutions to ensure harmonious and productive industrial relations is a priority.

Global economic and business paradigms are shifting, with calls to redesign economic management models away from export orientation, to balanced growth, with stronger domestic markets. For instance, the G20 meeting in September 25, 2009 in Pittsburgh called for a *Framework for Strong, Sustainable and Balanced Growth*, and a “reform of the global architecture to meet the needs of the 21st century”. In the words of Amartya Sen<sup>27</sup> the fundamental recognition of workers’ rights calls for a truly global approach: “[the] increasingly globalized world economy calls for a similarly globalized approach to basic ethics and political and social procedures. ...A universalist understanding of work and working relations can be linked to a tradition of solidarity and commitment.”

Many ASEAN economies provide greater financial resources to strengthen education and training programs, develop social safety nets for workers who lose their livelihoods due to competitive pressures, and invest in intellectual capacity to provide more current and reliable labor market information, so that policies can be appropriately targeted and efficiently implemented.

ASEAN regional integration is in search of a cohesive and inclusive social model. A new architecture will definitely emerge from the wealth of political, economic, socio-cultural arrangements in the region. A key pillar in this new architecture is a strong recognition, documented in many summits and ministerial meetings, of the link between economic growth and social progress as desirable outcomes. There is a strong consensus to promote competitive enterprises in a social market economy -- not as an end in itself, but as a means to raise the living standards of people, and serve the welfare of everyone.

ASEAN workers toil and work hard to realize the prosperity from regional economic integration. It is rational to expect that ASEAN people who work hard should have adequate, fair living wages, basic health and retirement security, new skills and other means to prosper in a new regional economy. ASEAN workplaces and employment practices should support healthy and secure families rather than make workers choose between being productive workers or to raise a family who will supply young, fresh workers needed for regional integration to prosper. With unpredictable global and regional shocks including natural disasters, workers must have an adequate safety net that supports workers and families as they move across jobs, across national

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<sup>26</sup> Thomas Kochan and Beth Shulman (2007), *A New Social Contract: Restoring Dignity and Balance to the Economy* Retrieved December 15, 2008. Website: <http://www.sharedprosperity.org/bp184.html>

<sup>27</sup> Amartya Sen (2000) Work and rights. *International Labor Review*, Vol. 139, No. 2 pp. 119 to 128.

boundaries, as well as in or out of the labor force as their life and job circumstances change over time.

The processes of ASEAN economic integration could be used as opportunities to develop human resources through education or skills training which matches emerging job requirements required by new technology, create decent work conditions, provide for health care and social safety net support. Good industrial relations in ASEAN could be a tool to reduce, if not eliminate poverty, identify and raise awareness against discrimination in work and society, and raise living standards.

ASEAN will also need to address growing inequalities, both within and between countries. Sound labor market institutions are required to reduce inequalities, and to support both high-skilled and low-skilled workers. Moreover, ASEAN countries need to build the capacities of local firms, both to compete more effectively with MNEs and to absorb spillovers associated with FDI. These measures must ensure that the promotion of FDI does not create an uneven playing field to the disadvantage of domestic investors and domestic enterprises, and support firm competitiveness through decent and productive workplaces.

ASEAN workers and their unions need to address the bandwagon of the *East Asia Economic Community*, proposed by its leaders. Leaders of worker organizations need to be aware of the provenance, and the history of efforts to achieve a “greater East Asia co-prosperity sphere”, and sensitivity to both the potentials and dangers of the idea based on geopolitics. Workers’ organizations need to ensure that decent work, including freedom of association, collective bargaining, health and safety, and workers’ welfare is included in the emerging architecture of the East Asian Economic Community.

It is not enough to put noble statements declaring adherence to “human rights” or “decent work” in the ASEAN Charter, the ASEAN Roadmap, and summit declarations, including free trade agreements. It is important for workers and their unions to ask: how will business and government officials implement these commitments? Some of the bilateral free agreements in ASEAN’s regional integration leave the enforcement and settlement of disputes or disagreements to the discretion of the executive branch and to panels of international arbitrators. To improve the lives of real workers, international institutions must be well-designed to reflect national and local laws and regulations, using the available tools and instruments with the practices, norms, and knowledge of workers and workers’ organizations, and the document compliance of business enterprises. Specific criteria for compliance and performance must be backed up with the credible threat of immediate potent sanctions for non-compliance or the credible promise of immediate potential benefits for compliance in promoting decent work.

### **Recommendations: Urgent Issues for Dialogue**

ASEAN economic integration, and the proposed *East Asia Economic Community* are bold, ambitious ideas. To be strong and durable, the new regional architecture cannot miss out on one key pillar – the workers and their voice, through the unions. The motivation for workers to work hard to achieve economic integration is premised on a share in the prosperity, achieved through workers’ bargaining power to negotiate improvements in working and living conditions. To be

inclusive and progressive, ASEAN economic integration should advance not only the interests of investors and business enterprises but also the core, fundamental rights of workers. This should be achieved not only on paper, but also in real, measurable gains for the region's workers: better wages and incentives, among others. ASETUC must also be *bold, speedy, pro-active and creative* in responding to the speed of ASEAN regional economic integration. The most appropriate, equally bold response would be to achieve a common ASEAN labor policy and institutions, short of an *ASEAN Labor Secretariat*, which is most ideal in the likely event of a decision to develop joint regional capacity.

**How to ensure that workers and their unions are on board the ship of regional economic integration?** The proposals recognize the need for bold, innovative, organized and speedy engagement with employers and governments, and for ASETUC to be the inclusive voice of the ASEAN workers. In summary, the critical, strategic points are as follows:

- Develop confidence and build trust with ASEAN employers and governments to promote the ASEAN road map on decent work.
- ASETUC accreditation and coordination with the ASEAN Secretariat as the inclusive voice of ASEAN workers, especially in sectoral and industry concerns, during regional meetings and conferences.
- Organize and provide resources for an ASETUC think tank.
- Define a focused agenda, and strengthen ASETUC capacity for sustained, organized dialogue with ASEAN employers and governments.

*First* on the agenda is for worker organizations, through the ASETUC, to **develop confidence and build trust with ASEAN employers and governments**. Due to the history of the anti-colonial struggles in many ASEAN countries, organized workers and union leaders have been part of various revolutionary and national liberation movements. Unions are also in the forefront of raising awareness and political action to promote fair globalization, to mitigate the impact of unregulated flow of investments which damage local economies. There are also prevailing misconceptions about the right of workers to collective action through strikes, demonstrations and rallies, portrayed in media as disruptive to public services and provoking social unrest. ASEAN workers' organizations need to correct these negative public images through improvements in union methods and strategies to take into account the public impact of collective action, as well as improvements in communications strategy with the public, through media. Union leaders also need to develop confidence with business leaders and government officials through formal and informal methods.

Many business and government leaders in ASEAN lack awareness of and confidence in workers' organizations and their leaders, nor do they trust them, and lack appreciation of unions as a force for social and political democracy. Unions in ASEAN perform a variety of roles, with clear contrasts in the role of unions in older ASEAN member countries, and the new CLMV countries.

The *second* item on the agenda is to strengthen ASETUC for **inclusive representation of ASEAN workers**, who need to strongly register their unified voice in regional summit meetings and discussions on sectoral concerns and issues. Worker organizations must promote protection by fully recognizing the right of workers and trade unions – already provided in the fundamental labor laws of many, but not all ASEAN countries -- to strive for the protection of existing

standards as well as to negotiate improvements in the living and working conditions of workers. Variations in economic performance and social conditions mean that negotiations could be achieved beyond the lowest existing standards. Workers organizations need to address issues regarding unfair competition on wages and working conditions, and non discrimination, meaning equal treatment of workers regardless of nationality, race, gender, creed or other relevant criteria.

*Third*, there is a need for workers, through the unions, to continue an **organized engagement, and dialogue with employers and government on the emerging regional architecture for economic integration**. In hindsight, Amartya Sen (2000) pointed out that the failure of Asian economies in the Asian financial and economic crisis in 1998, was “closely linked with the lack of transparency in business, in particular the lack of public participation in reviewing financial and business arrangements. The absence of an effective democratic forum has been consequential in this failing.”<sup>28</sup> The very same reasons are now advanced in the G20 Pittsburgh summit in 2009, to explain the recent global and economic crisis. Future crisis will certainly recur, if recommendations on transparency and regulation are again ignored. Unions certainly have a significant role to play.

*Fourth*, workers and their organizations in the ASEAN need to **develop clear, coherent and substantive agenda** to help union leaders define their positions with respect to the following issues:

- ASEAN national economic and sectoral or industry recovery plans must provide for decent work, alongside the preservation or preservation of employment, alongside the creation of new jobs, whether stimulus-related, temporary or regular in nature.
- Financial and economic recessions must not be used as an excuse to disregard or weaken fundamental principles and rights at work.
- Clear, accessible provisions for income, social protection, and training support for the unemployed and those at risk of unemployment; flexible but secure jobs (flexicurity).
- Proposals on how to fill the gap, and help develop the capacity of ASEAN countries, especially in the CLMV, for a clear agenda of reforms in labor law and other legislation to provide for the core dimensions of decent work: freedom of association, collective bargaining, health and safety, social security, social dialogue, among others.
- Mobilization of assistance to provide technical expertise in helping ASEAN governments draft reforms in labor laws and organize social dialogue to promote these reforms in labor policy and legislation; research on workplace conditions; educating managers, unions, and workers on labor rights; partnering with local institutions and organization to promote factory improvement programs, and other supportive human-resource development projects.
- ASEAN central banks and financial institutions are in dialogue with the ASEAN + 3 (Japan, China and Korea) over an “East Asia Economic Community. In the summit discussions among the leaders, there must be clear commitment to decent work, balanced growth and full employment, not just price stability and financial stability.
- National economic recovery and expansion programs need to provide for decent, quality jobs, protect employment in key industries, to invest in new, sustainable technologies, and to maintain vital public services.

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<sup>28</sup>Amartya Sen (2000), op. cit. page 126.

- More inclusive social security systems to ensure better wages and salaries, pension, and stability in consumer prices to protect the purchasing power of wages.
- Greater attention and serious implementation of occupational safety and health in the workplace.
- No discrimination: equal treatment and equal pay for both local and migrant workers.
- Harmonization of ASEAN regulations of financial markets to ensure protection of worker pension funds, worker deposits and remittances, transparency and publication in executive and managerial pay linked to performance, sanctions against risky behavior in financial transactions including stock markets, and uniform accounting standards.
- Development of multiple skills for organizing, leadership, negotiations, facilitation, coordination, monitoring, follow up and social dialogue.
- Improvements in the capacity for disputes settlement involving rights and interest disputes; as well as collective and individual disputes, in the areas of mediation, conciliation, and arbitration.

In addition, the ASEAN roadmap has identified key issues which require the attention of workers and their organizations, and to enter into dialogue with the employers and government.

- Enhance capacity of governments, workers and employers to jointly monitor labor markets and human resource indicators, and design social impact policies;
- Establish national skills frameworks as an incremental approach towards an ASEAN skills recognition framework;
- Endeavour to build an ASEAN network of experts in industrial relations to assist in promoting sound industrial relations, industrial harmony, higher productivity and decent work by 2010; and
- Implement the Plan of Action on National Occupational Safety and Health Frameworks for ASEAN as affirmed by the ASEAN-OSHNET.

The ASEAN Labor Ministers meeting in 2008 also mentioned the implementation of the *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers* in particular the convening of the *ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers*. For instance, with respect to labor law, ASEAN countries need to provide for the freedom of association of migrant workers to join unions and other such workers' associations, to negotiate improvements in work contracts, among others.

1. To what extent do ASEAN labor laws allow foreign employees to join unions?
2. To what extent do unions in ASEAN allow foreign employees to join, as provided in the internal rules and regulations on membership?

### **Building Capacity for Dialogue in ASETUC**

The promotion of decent work is in the ASEAN roadmap. ASETUC needs to tap this rich vein of intentions, and breathe new life into the stream of decent work in the region. There is a need to define a focused agenda, and strengthen ASETUC capacity for sustained, organized dialogue with ASEAN employers and governments. ASETUC could develop better internal procedures

for consultations with member organizations, as well as disseminate information on commitments and agreements with employers and government. It should be able to monitor gaps, and document efforts and intentions for improvements through social dialogues.

While human rights, democracy and decent work are prominently mentioned in the ASEAN Charter, the ASEAN Roadmap and other declarations, a common understanding is needed among workers, employers and government. In the ASEAN roadmap, the strategic goal is to “incorporate decent work principles in ASEAN work culture, safety and health at work place”. The roadmap will likewise ensure that the “promotion of entrepreneurship becomes an integral part of ASEAN’s employment policy to achieve a forward-looking employment strategy”. Furthermore, ASEAN will build “a network of experts in industrial relations to assist in promoting sound industrial relations, industrial harmony, higher productivity and decent work by 2010.”

ASETUC’s role will be crucial in bringing a common understanding of decent work within ASEAN. Knowledge gaps exist for both employers and government, and even among unions, on what decent work is all about. ASEAN’s roadmap on decent work need to be harmonized with what is globally understood: work is central to people's well-being. In addition to providing income, work can pave the way for broader social and economic advancement – for individual workers, their families and communities. Such progress, however, depends on work that is decent. Decent work sums up the aspirations of people in their working lives. Decent and productive work could only happen under conditions of freedom, equity, security and human dignity. In ASEAN, gaps must be bridged to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues.

It is important for ASEAN workers, employers and government to develop capacity for fruitful dialogue on sectoral issues. Dialogues and meetings need to be prepared in advance, with technical papers providing updated information, positions, and items for discussion and negotiation. ASETUC needs to call on its member unions to include an ASEAN perspective for regional worker solidarity agenda in their action plans and programs. This could be done by raising awareness for ASEAN regional integration and the roadmap to decent work , by inviting competent speakers on the subject in union seminars and meetings, giving feature articles and news releases in national and local media, and other similar steps.

Business and professional organizations, and civil society groups are accredited with ASEAN, but worker organizations and unions are not. ASEAN employers and government need to recognize the contribution of workers and their unions:

- ASEAN unions give employees a voice in the workplace, allowing them to complain, shape operations, and push for change, rather than simply quitting or being fired. That leads to reduced cost from lower turnover.
- ASEAN unions reduce wage and income inequality, workplace democracy, and create conditions to raise productivity.
- Union employees feel freer to speak up about operations, leading to improvements that increase productivity. Employment security promotes labor-management cooperation and information sharing, leading to higher productivity.

- Unions promote due process, equal opportunity, security, and fundamental fairness.
- Higher pay pushes employers to find other ways to lower costs – with new technology, increased investment, and better management.
- Union employees get more training, both because they demand it and because management is willing to invest more to get a return on their higher pay.
- ASEAN unions continue to be an important voice for some of society’s weakest and most vulnerable groups.

It is proposed that ASETUC take the initiative to invite ASEAN employers and governments to a series of dialogues to achieve a common framework and identify the key elements to promote decent work as provided in the ASEAN roadmap. ASEAN employers and governments need to build confidence with worker organizations, and eliminate misunderstanding about the role of unions in society. A key result area is adherence to international norms and standards on freedom of association, workers rights, collective bargaining, health & safety, social security, disputes settlement, and social dialogue.

Specific areas of action both in the short term and long term need to be discussed and coordinated, given the multiple venues for dialogue in the biennial *ASEAN Labor Ministers’ Meeting (ALMM)*, the annual *Senior Labor Officials Meeting (SLOM)*, the *ASEAN – Japan Program on Industrial Relations*, as well as conferences, meetings and projects in the ASEAN – ILO cooperation agreement.

To prepare for fruitful cooperation and dialogue, it is important for ASEAN organized workers, employers and government to have a common recognition of the strengths and weaknesses of the national framework of industrial relations provided in a variety of laws, policies and procedures as well as institutions, with a view to identify specific targets for improvement to promote decent work.

Social dialogue on ASEAN regional integration calls for an “*ASEAN Labor – Industry Project Committee on Worker Concerns*” to focus on urgent sectors: finance / banking services, health services, telecom and construction. The maritime seafarer sector may be considered in the future. The dialogues will involve ASETUC union leaders, employers, and relevant government officials (labor ministry, and the relevant ministries on finance, health, telecom, and construction), on agreed issues regarding the workers in these sectors. Technical support and assistance will be needed to help design, support, organize and follow up these dialogues, as well as to disseminate the results. While the ASEAN Secretariat coordinates these dialogues by providing technical support, expertise on sectoral concerns are often outsourced. The ASETUC as proponent could take the lead in the mobilization of support, including financial, material and technical expertise.

### **Coordination and Consultation with the ASEAN Secretariat**

Coordination and consultations between ASETUC and the ASEAN would be required to convince other key players to “buy in”, and jointly own the idea, including ASEAN government officials in the appropriate ministries, and the employers. To achieve a fruitful dialogue,

coordination is required not just with the labor ministries, but the appropriate sectoral or industrial ministries, and employers or business associations.

*(Example: In the ASEAN process, the usual mode in the design of an ASEAN social dialogue project is for one member country to act as proponent and “champion”, with the support of the other countries. For example, the ASETUC may lobby with the Malaysian head of state, through perhaps the appropriate ministers of human resources, finance and trade, to develop the idea. Then the specific ASEAN member head of state, through the appropriate minister, formally invites two or three more member countries to join the project committee (perhaps Singapore, Vietnam and the Philippines or Thailand). Working with the appropriate bureau director is essential, to gaining their support. Then, when the proposal is clearly detailed, including the source of funds and organization, and with the support of the European partners through the FES, the project could then be formally presented to the ASEAN Secretariat, for inclusion in the agenda. The ideal situation is for one country (such as Malaysia’s Labor Minister), as project proponent, to Chair the project committee, with the European Union donor country as Co-Chair. )*

Examples of better coordination and consultation with the ASEAN secretariat:

- ASETUC’s formal accreditation with the ASEAN – as an inclusive voice of workers in the region, as an essential pillar in the social dialogue. It should be noted that business, professional and civil society organizations are accredited with ASEAN, but not unions.
- ASETUC mobilizes support and projects with potential donors to enable the ASEAN Secretariat to strengthen capacity, including professional staff posts to work on sustained activities in industrial relations and labor issues, including social dialogue.
- Propose formal channels of cooperation and communication with the ASEAN Secretariat, such as: union requests for access to documents, data, and information such as record of discussions, improvements on positions by business, employers and ASEAN organizations on labor issues; analyze and disseminate results of workshops and seminars related to labor, human resources, employment relations particularly in relation to: (a) activities, schedules, participation and documents related to “Phase III of the ASEAN Project on Industrial Relations”, and (b) activities, schedules, participation and documents in the ASEAN – ILO Cooperation.
- Promote transparency and accountability in the outcomes of workshop discussions and seminars, concerning positions taken by employers, workers organizations, and government, for dissemination, feedback and follow up.
- Representatives of workers organizations participating in ASEAN labor workshops and seminars are chosen by the national focal points of ASEAN, through the international affairs office of the labor ministries. ASETUC should request the chance to nominate worker representatives to ASEAN meetings related to labor; and to develop a protocol for worker representatives to consult other worker organizations to solicit inputs to prepare positions and statements for discussions with business leaders, employers and government. ASETUC should request for feedback on the results of the discussions on labor related issues in ASEAN.
- Workers’ representatives are requested to undertake prior consultations with other workers’ organizations in preparing statements and positions on behalf of workers, and

consider the variety of ideas before these are finalized for presentation in the ASEAN meetings.

- Funding support for ASEAN workshops and conferences is courtesy of the donors. Participants are provided air fare, accommodation and per diem allowance –with equal opportunity and status for workers, employers and government delegates.

### **Building ASETUC Capacity**

Among the key points which ASETUC must address are questions on the capacity of its “inclusivity” as a voice of the workers in ASEAN:

1. How can ASETUC be the “most representative umbrella organization of workers” in all the 10 ASEAN countries? There are no member unions of ASETUC in Myanmar and Brunei. Union members in Vietnam and Lao PDR are part of the government.
2. How can the ASETUC deal with the variety of unions in ASEAN, all claiming to represent the workers? How will ASETUC promote concerted representation of the competing union organizations, with diverse politics and interests?
3. How will ASETUC build capacity, to eventually include and represent all the worker organizations in ASEAN, and speak with one strong capable voice for the workers?

These questions indicate some of the urgent gaps to be addressed by ASETUC, and its partners. One solution: to mobilize resources, including funds and technical support to develop ASETUC capacity to engage employers and government ministers / officials in the four sectors – finance / banking, health services, construction, and telecom -- on the following:

1. Achieving a common understanding about decent work as a key pillar stated in ASEAN’s roadmap. Decent work in ASEAN means a coherent framework among diverse national laws to provide for freedom of association, collective bargaining, health and safety, disputes settlement, social security and social dialogue. In this regard, ASETUC needs to invite employers and government to identify gaps which need to be filled through reforms in labor law and policy among the ASEAN countries. Amendments or improvements in policy instruments are needed to bring national, domestic or local labor laws and procedures in compliance with international norms on decent work, including freedom of association and collective bargaining.
2. Promotion of decent work in the sector – freedom of association, disputes settlement, social dialogue on labor market issues arising from regional integration in these industries, etc.
3. Focused research on related sectoral issues concerning industrial relations in these sectors, to help understand, explain and improve the key dimensions of decent work -- workers rights, collective bargaining, disputes settlement, health and safety, and social dialogue.
4. Training seminars and a formal education program to develop competencies and skills to address industrial relations in the industry sectors.
5. Additional projects such as a web-based IR network in cooperation with the Europe IR Observatory as portal for information exchange; study visits on best practices between IR institutions in ASEAN and Europe, academic exchanges, publications, symposia, and

participation in significant conferences to support fellowships for the training of young labor leaders.

6. The ideal is the establishment of an independent web-based ASEAN Labor Leadership Institute (ALLI) to help train young union leaders on skills and competencies for trade union organizing, leadership, negotiations, collective bargaining, disputes settlement, and social dialogue. The training program could combine on-site and web-based learning tools, and serve the needs for advanced and continuing open university type of education for leaders of worker organizations. Funding is needed to establish the physical center, learning module development, faculty recruitment and development, scholarships / fellowships for students, remuneration, related academic activities such as symposia and meetings, and other operations.

### **Other Proposed ASETUC Initiatives**

Decent work, including health and safety in the workplace is a priority in the ASEAN roadmap to build a socio-cultural community. Raising awareness of the idea and tools of decent work could serve as a strategic theme for ASETUC's advocacy and engagement with ASEAN employers, government and accredited associations. Engagement and dialogue could be done through joint research, policy meetings, symposia and roundtable discussions, to achieve a common understanding and joint action on the various areas of decent work, harmonious industrial relations, fair treatment and hiring, gender sensitivity, non-discrimination in employment, social security, occupational safety and health, and disputes settlement. This could be done through research backed policy meetings, focusing on specific industry sectors.

Engagement and dialogue is proposed with partners accredited with ASEAN:

- Employer and business associations
- Civil society groups and professional associations
- Research think tanks and academic institutions
- ASEAN University Network: for instance, on how to mainstream ideas of decent work, respect for workers rights, collective bargaining, good employment relations, disputes settlement and global labor standards in business courses.
- ASEAN Trade Union Council (ATUC): for coordination and mutual support on worker representation in key issues.
- The proposed ASEAN / East Asia Industrial Relations Network: to ensure worker perspectives and inputs from unions.
- ASETUC dialogue on the status of the promotion of decent work as a key measure in improved living standards with multilateral institutions such as the ADB, the regional office of the World Bank and the IMF, and think tanks such as the ERIA.
- Other emerging organized groups cross-cutting with worker issues.

### **Need for an ASEAN IR Think Tank**

There is need to develop the capacity, and promote the ASETUC as an inclusive, credible voice of workers in the ASEAN. To ensure this result, worker organizations urgently need a regional

think tank as a resource for unions on concerns and issues affecting workers, jobs, health & safety, security, and welfare. This task is best done by a “think tank”, mandated to prepare studies and develop strategies for ASEAN workers and unions. The think tank is needed to undertake research, prepare and train leaders for effective negotiations and dialogue to maximize positive aspects, and mitigate the impact of regional integration on labor -- including employment, wages, health and safety, disputes settlement, and improvement in living standards.

There is a need for worker organizations to have a reliable and up-to-date source of research, analysis, news and comparative information on industrial relations developments and trends for the key actors in the field of ASEAN industrial relations. ASEAN employers, trade unions, and governments need common, objective and quality information as a basis for discussion, negotiations and agreement. There is need to collect updated data and other information, undertake research and disseminate findings on the following:

- Population and labor market trends
- Employment and unemployment
- Wages and salaries
- Consumer prices and inflation
- Productivity improvements
- Gender sensitivity
- Health and safety in the workplace
- Fact finding on infringements of workers’ rights
- Unions and worker organizations
- Collective bargaining trends in the region
- Labor disputes resolution
- Work and life balance
- Stress and psycho social problems
- Cultural sensitivity in the workplace
- Public awareness of labor issues

In addition, the ASETUC may use the think tank as a research or investigative body to document complaints on infringements of labor rights in ASEAN. The think tank could support the ASETUC in petitions or requests to the ASEAN to bring into the agenda of future meetings or dialogues these allegations of violations on labor rights, for appropriate action by employers or government through mediation, conciliation or arbitration through third parties or courts.

There were previous efforts to establish such a regional industrial relations think tank, but these efforts failed due to a lack of funding commitments, despite available expertise in the region. Other regional think tanks focus on economic, or specialized sectors such as health, agriculture, or political issues. An option will be to develop close or complementary relations, programs and projects with existing regional socio-economic think tanks, such as the ERIA, ADB ARIC, and other academic institutions.

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## **Appendix 1. ASEAN roadmap on the promotion of decent work**

### **A.3. Promotion of decent work**

13. *Strategic Objective:* Incorporating decent work principles in ASEAN work culture, safety and health at work place and ensuring that the promotion of entrepreneurship becomes an integral part of ASEAN's employment policy to achieve a forward-looking employment strategy.

*Actions:*

- i. Enhance capacity of governments to monitor labor markets and human resource indicators, and design social impact policies;
- ii. Establish national skills frameworks as an incremental approach towards an ASEAN skills recognition framework;
- iii. Endeavour to build an ASEAN network of experts in industrial relations to assist in promoting sound industrial relations, industrial harmony, higher productivity and decent work by 2010; and
- iv. Implement the Plan of Action on National Occupational Safety and Health Frameworks for ASEAN as affirmed by the ASEAN-OSHNET.

Source: ASEAN Secretariat. (2009). *Roadmap for an ASEAN Economic Community 2009 – 2015*, page 70.

## **Appendix 2. An industrial relations “think tank” -- European Industrial Relations Observatory (EIRO)**

The European Industrial Relations Observatory (EIRO) remains a reliable and up-to-date source of news and comparative information on industrial relations developments and trends for the key actors in the field of European social dialogue. The information that EIRO publishes is supplied by a network of correspondents in each Member State, in Norway and at EU level. This annual review examines the developments in 2008 in the 27 EU Member States and Norway, as well as EU-level industrial relations, with a particular focus on restructuring and the global economic crisis, as well as on self-employed workers.

The European Industrial Relations Observatory (EIRO) is a monitoring instrument offering news and analysis on European industrial relations. A project of the European Foundation for the Improvement of Living and Working Conditions, EIRO began its operations in 1997. Its aim is to collect, analyze and disseminate high-quality and up-to-date information on key developments in industrial relations in Europe. It aims primarily to serve the needs of national and European level organizations of the social partners, governmental organizations and EU institutions.

EIRO is based on a network of leading research institutes in the EU, acceding and candidate countries and Norway. There is also a centre covering developments at the EU level. As part of the tripartite nature of the Foundation, an Advisory Committee supervises EIRO, together with the other projects in the Industrial Relations Area. This Committee, composed of representatives of employers, trade unions, member state governments and the European Commission, ensures the objectivity and quality of the information provided. EIRO also co-operates with other international institutions, such as the International Labor Organization (ILO) and the Organization for Economic Co-operation and Development (OECD). In order

to complement the coverage of industrial relations developments in Europe, EIRO has been collaborating with experts in Japan and USA in the production of an annual comparative overview of industrial relations since 2000.

The EIRO database contains more than 8,000 records, dating from 1997 to the present:

- News and feature articles
- Comparative studies
- Annual reviews
- Annual updates on key issues as pay and working time
- Thematic and sectoral analyses
- EIRObserver bulletin (1997-2004)

Source: Eiro online website, accessed Sept 9, 2009,  
<http://www.eurofound.europa.eu/eiro/structure.htm>

### **Appendix 3. Lessons from the social clause debate of 1992**

In 1992, the statement of the ASEAN Labor Ministers referred to the debate on the social clause, which means the inclusion of labor standards in trade. in relation to the establishment of the World Trade Organization (WTO). The statement read in part:

7. “ The Ministers expressed their grave concern over the move by some developed countries and International Trade Secretariat (ITSs) to introduce social clauses into international trade agreements, and to use this as a condition for gaining market access by developing countries. The Ministers also expressed their concern that some ITSs are using local trade unions as their proxies to force compliance with ILO labor standards. Such attempts would undermine the competitiveness of developing countries and erode their comparative advantages thereby hurting their economies. Poor economic conditions in the developing countries would have detrimental effects on the social well-being and living standards of their people. This in turn would have adverse consequences on the economies of the developed countries. The Ministers therefore urged the ILO to strongly resist any attempt to introduce new conditionalities that link social clauses and ILO labor standards with market accessibility.
8. The Ministers emphasised that they are not opposed to the application of labor standards and are committed to improving the economic and social well-being of workers. However, they are concerned with the rigid imposition of laborstandards and the use of rigid standards to stifle free trade and economic development which constitutes a new form of protectionism.”

Source: ASEAN Secretariat, Joint Communique of the 10th ASEAN LaborMinisters Meeting Singapore, 16-17 May 1994 <http://www.aseansec.org/8647.htm> accessed September 16, 2009

### **Appendix 4. Global union coordination: case of the ITF *Flags of Convenience* (FoC) campaign**

The International Transport Workers’ Federation (ITF)’s *Flag of Convenience* (FoC)campaign shows possibilities on how global maritime issues could be linked to regional and national interests. In the ASEAN most countries are key maritime stakeholders in shipping, seafarers/crewing, and fishing. It is important for the ASETUC to engage the

seafarer unions, the shipping and crewing employers, and the maritime authorities in ASEAN. In the ASEAN, there are urgent issues such as maritime crew health and safety, piracy, fishers, and trafficking which need regional coordination.

The goal of the ITF's FOC Campaign is to eliminate the flag of convenience system by achieving global acceptance of a genuine link between the flag a ship flies and the nationality or residence of its owners, managers and seafarers. The campaign cuts across maritime sectors, across continents, and within the industry.

The FOC campaign is designed to ensure that seafarers who serve on flag of convenience ships, whatever their nationality, are protected from exploitation by shipowners. Over the past 60 years the ITF's maritime unions have developed a set of policies that seek to establish minimum acceptable standards for seafarers working on FOC vessels. These standards form the basis of the ITF's Collective Agreements, which set the wages and working conditions for crews on FOC vessels irrespective of nationality.

Around a third of all FOC vessels are currently covered by ITF agreements, thus giving direct protection to well over 150,000 seafarers. Compliance with ITF agreements is monitored by a network of over 130 ITF Inspectors in ports throughout the world. The FOC Campaign is the joint responsibility of the ITF's seafarers' and dockers' unions. Both groups are represented on the Campaign's decision-making body, the Fair Practices Committee (FPC).

The involvement of the dockers' unions, whether through direct action or through co-operation with seafarers' unions, continues to be vital to the success of the Campaign. While the political campaign has not so far succeeded in preventing the growth in ships using FOC registers, the industrial campaign has succeeded in enforcing decent minimum wages and conditions on board thousands of FOC ships.

In addition, the ITF has become the standard-bearer for exploited and mistreated seafarers throughout the world. Every year the ITF and its affiliated unions recover millions of dollars in back pay and in compensation for death or injury on behalf of seafarers who have nowhere else to turn.

Source: ITF website, [http://www.itfseafarers.org/FOC\\_campaign.cfm](http://www.itfseafarers.org/FOC_campaign.cfm). Accessed August 12, 2009

## **Appendix 5. ADB Asia Regional Integration Center (ARIC)**

Website: <http://aric.adb.org/aboutus.php>

“The vision of an integrated, poverty-free, prosperous, and peaceful Asia and Pacific underlies initiatives to support regional cooperation and integration (RCI) in the region. Changing world economic realities have highlighted the importance of closer economic cooperation in the region and the need within ADB for a coherent and strategically focused approach to RCI.

Building on its previous initiatives on regional cooperation, ADB has developed a coherent RCI strategy by consolidating its efforts since the early 1990s. On 25 July 2006, the ADB Board of Directors endorsed the RCI Strategy, in which ADB plays an active role as catalyst,

coordinator, and knowledge leader of RCI in Asia and the Pacific. The RCI Strategy has four pillars:

- (i) Regional and Subregional Economic Cooperation Programs (Cross-border Infrastructure and Software)
- (i) Trade and Investment Cooperation and Integration
- (i) Monetary and Financial Cooperation and Integration
- (i) Cooperation in Regional Public Goods

Established in 1 April 2005, the Office of Regional Economic Integration (OREI) facilitates and coordinates ADB's efforts in RCI and raises ADB's profile in key RCI events. OREI coordinates RCI activities by serving as a knowledge center on RCI as well as a key player in policy consultation and institutional capacity building for developing member countries and regional/sub regional groups.

Among knowledge products, the Integration Indicators Database is a user-friendly and flexible statistical tool that features a set of integration indicators to monitor progress on RCI. ARIC also houses the only online database that tracks free trade agreements (FTAs) in Asia and the Pacific. The FTA Database contains all bilateral and plurilateral agreements globally with at least one Asian country as signatory. It covers all agreements at all stages of development, from those under study or consultation to those in force. This database also provides users agreement texts to easily compare FTAs.

The **Working Paper Series on Regional Economic Integration** provides in-depth analysis of major topics relating to RCI. Other related papers and books by ADB staffs are included. The **Seminar Series on Regional Economic Integration** brings together key people involved in regional integration for strategic discussions on emerging issues.

The **Asian Macroeconomic Developments** covers an array of resources on selected Asian countries. These include economic and financial data, economic reports, policy researches, as well as the Asian Economic Monitor which provides a semiannual review and outlook on growth and development in emerging East Asia. “

#### **Bilaterals.org News resource on global FTAs**

Website: [http://www.bilaterals.org/rubrique.php3?id\\_rubrique=78](http://www.bilaterals.org/rubrique.php3?id_rubrique=78)

“News and analysis of sweeping developments that affect the overall push and pull towards FTAs and bilateral investment treaties. This means major trends relating to bilateralism, often with global consequences, and other cross-cutting issues. New developments coming out of US politics, the WTO or South-South alliance-building, for instance, are often reported here as they tend to have systemic impacts.”

## **Appendix 6. Economic Research Institute for ASEAN and East Asia (ERIA)**

Website: <http://www.eria.org/>

Main office: IDE JETRO, Chiba, Japan

Annex office: ASEAN Secretariat, Jakarta

“ERIA is a new international organization that supports the ASEAN Secretariat by making policy recommendations at regional governmental meetings, such as the East Asia Summit (EAS), aimed at furthering East Asia’s economic integration.

The idea of ERIA was first proposed by Japan at the 2nd EAS in Cebu in January 2007. ERIA’s establishment was agreed by leaders of all 16 countries at the EAS in Singapore in November 2007. The institute was officially established on June 3rd 2008, when it began full-scale activities. ERIA is temporarily accommodated in the ASEAN Secretariat. The 16 members of the EAS: Australia, Brunei, Cambodia, China, India, Indonesia, Japan, Korea, Laos, Malaysia, Myanmar, New Zealand, Philippines, Singapore, Thailand and Vietnam. The inaugural meeting of the ERIA was held on 3 June 2008 in Indonesia. Until its own administration is established the ERIA will be located with the ASEAN secretariat.

ERIA will intellectually contribute to the regional efforts for East Asian Economic Integration in wide-ranging policy areas from Trade/Investment to SMEs, Human Resource development, Infrastructure, Energy, etc. ERIA's main task will be to provide the policy analyses and recommendations to Leaders/Ministers in strong partnership with the ASEAN Secretariat and existing research institutes. Capacity building aims at strengthening policy research capacities especially in the less developed countries is another important issue for ERIA.

ERIA Governing Board, the supreme decision-making body of ERIA, comprised the Secretary-General of ASEAN and 16 members from the East Asia Summit countries with various backgrounds such as business, academia and policy makers. Dr. Dinh Van An, President of Central Institute for Economic Management of Vietnam, was elected to be the Chairperson of ERIA Governing Board.

ERIA will provide a solid intellectual foundation for cooperation, for coordination and for development in ASEAN and in the entire East Asian region. It will contribute to the economic integration within ASEAN and in East Asia. It will reinforces ASEAN’s role as the driver in fostering greater cooperation with its major dialogue partners namely, Australia, China, India, Japan, Republic of Korea and New Zealand. ERIA will also strengthen the research capacity and capability of the ASEAN Secretariat

ERIA will undertake policy analyses, provide policy recommendations for the leaders and ministers in the region and serve as a tripartite-type forum for policy dialogue and interactions among policymakers, researchers, and business/civil community and improve policy research capacities especially in the less developed countries.”

## **Appendix7.**

### **Creating East Asian Industrial Relations (IR) Network**

Source: accessed October 5, 2009

<http://www.ilo.org/public/english/region/asro/bangkok/japanmb/ir.htm>

“Deepening regional economic integration and globalization accelerates structural changes in products and labor markets in East Asia. It also accelerated economic and social changes

which make it imperative that the government and social actors should be able to manage this dynamic process of changes.

Some industrial relations system has proven to be an essential social and economic institution to manage this dynamic change. Each country in East Asia has developed unique systems of industrial relations, and gained rich experiences of institutional innovations in their efforts to cope with the challenges posed by industrialization, crisis and transition. At the same time, each country with unique values, practices and institutions of IR is striving to cope with the common challenges associated with deepening regional and global economic integration.

The aim of this project is to create an East Asian Knowledge Base for Industrial Relations Innovations and Mutual Learning. It will serve as a powerful tool for industrial relations through mutual learning and sharing of unique industrial relations experiment from each other. The sharing of experiences and innovations will help form a common vision for sound industrial relations in East Asia with a full recognition of diversity of industrial relations system of each country as well as the universal principles embodied in the ILO Standards.”

### **Activities**

- ASEAN-Japan IR project meeting in May 2006, Singapore
- Research & development of a Regional report & National reports on IR
- Development of East Asian IR Website

### **Collaboration with ASEAN - Japan IR Project**

In order to coordinate and collaborate with ASEAN – Japan IR project, ASEAN-Japan IR web has been developed in this first stage through the initiative of Government of Singapore supported by ILO/Japan Programme. The web will eventually be incorporated into ILO/Japan East Asian IR Web in its final development.

### **IR Asia Network**

<http://keenhosting.net/ir-asia/>

Retrieved October 9, 2009 (The last activity posted was in 2007. Website seems inactive.)

“IR-Asia.net is an ILO initiative, endorsed by the ASEAN Secretariat and sponsored by the Government of Japan, to create common knowledge base on industrial relations developments in East Asia.

IR-Asia.net aims at becoming an industrial relations portal in East Asia, which offers a timely, relevant and comprehensive information and analysis of industrial relations and labour market issues in East Asia. IR-Asia.net is conceived as a contribution to the building of a community of industrial relations practitioners in the countries of East Asia committed to development of social dialogue, both at the national and regional level.

IR-Asia.net is served by a group of national experts who contribute national papers and analysis on regular basis. The tripartite advisory process of the IR-Asia.net ensures that common and diverse views of industrial relations actors in East Asia are fully reflected in the management and content development.

IR-Asia.net will initially focus on the ASEAN+3 countries (Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam, China, Japan, and Korea). IR-Asia.net will regularly update information and knowledge on IR developments in East Asia and also offer useful tools and knowledge produced by ILO and other organisations.

The maintenance of the host server for the website is supported by the Ministry of Manpower, Singapore.

## **Appendix 8. Engagement with employer groups**

### **ASEAN business forum (ABF)**

Source: <http://www.aseanbusinessforum.com/about/>

“The Board of Trade of Thailand, Thailand Management Association (TMA), the Thai Institute of Directors Association (IOD), in association with the International Chamber of Commerce Thailand, initiated an international conference, the **ASEAN Business Forum**, in conjunction with the ASEAN Leaders Summit, to provide opportunity for ASEAN business leaders as well as their business partners around the world to learn and share of what, in 2015, ASEAN will become, and what should be done in preparation for the new competitive landscape to be able to fully realize emerging opportunity from the AEC.

On March 1, 2009, on the occasion of the 14th ASEAN Summit in Cha-am, Thailand, the Heads of State or Government of the Association of Southeast Asian Nations (ASEAN) reaffirmed their commitment to accelerate the establishment of the ASEAN Community comprising three pillars **political-security community, economic community, and socio-cultural community** by 2015. The Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015) was signed, adopting the blueprints of the three pillars as the roadmap for an ASEAN Community, and pledging the member nations resolve and commitment to promote ASEAN peoples to participate in and benefit fully from the process of ASEAN integration and community building.

As 2015 is approaching, it is crucial that business leaders from all over ASEAN be prepared for the changing landscape especially of that related to doing business, the **ASEAN Economic Community (AEC)**. The AEC is the realization of the end goal of economic integration, under which the ASEAN will be established as a single market and production base to make ASEAN more dynamic and competitive. To accomplish, action plans have been outlined in five core elements: 1) free flow of goods; 2) free flow of services; 3) free flow of investment; 4) freer flow of capital; and 5) free flow of skilled labor. In addition, priority integration sectors are also targeted.”

### **ASEAN CONFEDERATION OF EMPLOYERS**

Source: <http://aseanemployers.org/aboutace.htm>

“The ASEAN Confederation of Employers (ACE) was established and represented by Employers’ Organisations in ASEAN, to optimize liaison, co-operation and representation in the fields of labor and social legislation, industrial relations and practices.

On 25th November 1978 in Singapore, the 5 founding member Employers' Organisations from Indonesia, Malaysia, Philippines, Singapore and Thailand, firmly supporting the fundamental objectives of ASEAN in its pursuits of effective measure for regional economic co-operation, declared their agreement to unite and establish the ASEAN Confederation of Employers (ACE). The objectives of ACE are to optimize liaison, co-operation and representation in the fields of labor and social legislation, industrial relations and practices.

The founding member Employers’ Organisations are: Employers’ Association of Indonesia (APINDO), Employers Confederation of The Philippines (ECOP), Employers Confederation

of Thailand (ECOT), Malaysian Employers Federation (MEF) and the Singapore National Employers Federation (SNEF). On 16 February 2004, the Cambodian Federation of Employers & Business Associations (CAMFEBA) became a member of ACE.

The affairs of ACE are governed and administered by a Board of Directors comprising a duly authorized representative from each member.

- (A) To foster the solidarity and development of Employers' Organisations in the region.
- (B) To safeguard and promote the interests of ASEAN employers.
- (C) To collate and disseminate information on legislative changes and general developments in the fields of labor, social and economic matters, which are likely to affect the interests of employers.
- (D) To foster closer relations and co-operation between and among the members, and to render mutual assistance in matters of common interest.
- (E) To maintain closer relations and co-operation with regional and international organizations having similar aims and objectives.
- (F) To promote harmonious industrial relations, help maintain peace, and encourage improved productivity.
- (G) To co-ordinate the views of members and to represent their views at regional and international levels.

At the 34th ACE meeting held at Bangkok on 3 April 2009, the ACE members discussed about the stimulus plan in their respective countries. “

The ACE has no permanent address or secretariat.

### **ASEAN Business Advisory Council (ABAC)**

“The establishment of the ASEAN Business Advisory Council was a decision of the ASEAN Leaders at the 7th ASEAN Summit held in Bandar Seri Begawan, Brunei Darussalam, in 2001. The idea is to engage business people from the ASEAN region so that the private sector’s input can be factored into the policy-making process.

Injecting a private-sector perspective into the economic development and integration process in ASEAN is important. All the intra-regional as well as extra regional initiatives – as reflected in AFTA, AIA, AFAS, and the FTAs and CEPs within ASEAN and between ASEAN and its Dialogue Partners – are targeted at creating a pro-business environment in ASEAN. It is essential that the economic policies of the ASEAN Member Countries and their Dialogue Partners address the needs and concerns of their respective business communities.

Private-sector representation is increasingly a part of ASEAN’s economic cooperation with its Dialogue Partners. We already have the AFTA-CER Business Council (ACBC). We are working on a proposal for an ASEAN-India Business Council. The ACBC has contributed to economic cooperation between ASEAN and the CER countries (Australia and New Zealand) by coming up with a number of recommendations to help double trade and investment flows between ASEAN and the CER by 2010, and reducing transactions costs in the process. The establishment of the ASEAN Business Advisory Council is, of course, another key

component of the overall strategy of increasing the private-sector's presence in ASEAN's economic policy deliberations.”

The ABAC has no permanent address or secretariat. It has no website, and no information on recent activities except as reported by the ASEAN Secretariat.

Source: Opening Address ASEAN Secretary General Ong Keng Yong, Inaugural Meeting of the ASEAN Advisory Business Council (ABAC), 10 April 2003 at the ASEAN Secretariat in Jakarta Retrieved on September 27, 2009

<http://www.aseansec.org/14686.htm>

## **Appendix 9. ASEAN Trade Union Council (ATUC)**

Source: ATUC website, <http://www.aseantuc.org/> accessed September 30, 2009

The ATUC website has not posted significant new activities. There is a need to study ATUC's history, record and capacity as an inclusive voice of workers in ASEAN. In the end, a decision is needed on how ASETUC and ATUC relations will complement each other. Ideally, ATUC will focus on coordination with national trade union centers; while ASETUC focus on sectoral or industry concerns of workers. Coordination most crucial in the ASEAN – ILO activities, and other forum. The ASEAN Trade Union Council (ATUC) is a regional grouping of national trade union centres of ASEAN countries which aims to improve the quality of relations between and within countries in ASEAN. The ATUC at the moment has active collaborative links with the national trade union centres in Malaysia, Singapore, the Philippines, Indonesia, Thailand, Lao People's Democratic Republic and Vietnam.

### **Principal Objectives**

- To represent the collective interests of workers in ASEAN countries at all appropriate policy-formulating and decision-making forums;
- To function as a collective and cohesive body to promote the well-being of workers in ASEAN countries.
- To network and interact with ATUC affiliates with regards to common issues affecting workers;
- To undertake research, education and training programmes for labor activists from ATUC affiliates;
- To help ATUC affiliates increase their membership levels through mutual cooperation and assistance;
- To hold periodic meetings with a view to identifying common problems, challenges and issues and finding solutions for them in the true spirit of unity and solidarity.

The first meeting of the ATUC was held in Cebu City, the Philippines in April 1994 which adopted the Cebu Declaration. The second meeting of the ATUC was held in Kuala Lumpur, Malaysia in May which adopted the Revised Cebu Declaration. The third meeting of the ATUC was held in Bali, Indonesia in November 1997 which adopted the Bali Declaration. The fourth meeting of the ATUC was held in Hanoi, Vietnam in July 2000 which adopted the Hanoi Declaration.

In addition to these General Meetings, the ATUC, in collaboration with the international Labor Organization (ILO), has periodically conducted several seminars, conferences and workshops from time to time on important labor issues.

### **Organizational Structure**

President: Bro. Syed Shahir bin Syed Mohamud  
Malaysia President, MTUC

Secretary General: Atty. Democrito T. Mendoza  
Philippines President, TUCP

The serving principal officials of other ATUC affiliates are co-opted as Vice Presidents

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