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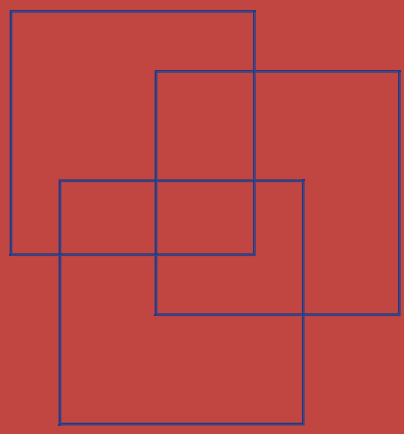
# Report of the Fifth Regional Seminar on Industrial Relations in the ASEAN Region

**27-28 February 2013**

**Hanoi, Viet Nam**



ASEAN-ILO/Japan Industrial Relations Project

**ILO Regional Office for Asia and the Pacific**

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First published 2013



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Report of the Fifth Regional Seminar on Industrial Relations in the ASEAN Region, 27-28 February 2013, Hanoi, Viet Nam / ASEAN-ILO/Japan Industrial Relations Project ; ILO Regional Office for Asia and the Pacific.- Hanoi: ILO, 2013

v, 24 p.

ISBN: 9789221280057; 9789221280064 (web pdf)

ASEAN-ILO/Japan Industrial Relations Project, ILO Regional Office for Asia and the Pacific; Regional Seminar on Industrial Relations in the ASEAN Region (5th : 2013 : Hanoi, Viet Nam).

conference report / labour relations / social dialogue / labour contract / labour law / comment / ASEAN countries

13.06.1

*ILO Cataloguing in Publication Data*

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Printed in Viet Nam

## Foreword

The Ministry of Labour, Health and Welfare (MHLW) of Japan has provided funds for the implementation of a project, through the ASEAN-ILO/Japan Project on Industrial Relations-AIJPIR (2012-2014) with an overarching theme of Building Better Industrial Relations for ASEAN Integration. The project is being implemented jointly by the ASEAN Secretariat and the ILO bringing together representatives of governments, workers' and employers' organizations.

An important element of this project has been a series of tripartite seminars providing a forum for a robust exchange of views on good practices and implementation of industrial relations policies among the tripartite constituents of the ASEAN countries. The first seminar, held in 2009, focused on social dialogue and collective bargaining trends in member states. The second in February 2010 looked at the use of social dialogue and collective bargaining in formulating national policy against the backdrop of the global financial crisis. The third in November 2010 provided opportunities for ASEAN member countries to discuss and share good industrial relations practices in the context of legal framework and practice for labour dispute and settlement. The forth in February 2013 focused on the mechanism and the impact of setting minimum wage and wage guidelines in the context of good industrial relations practices throughout Asia.

With the support of the Ministry of Labour – Invalids and Social Affairs (MOLISA), and the ASEAN Secretariat, the fifth Regional Seminar in Industrial Relations focused on Social Dialogue and Labour Law Reform was organized on 27 – 28 February 2013 in Hanoi, Viet Nam.

The seminar comprised six sessions. In the opening session, the representatives from the ILO, Japan's MHLW, and Viet Nam's MOLISA delivered their speeches detailing the rationales and objectives of the seminar, as well as relevant points for further deliberation during the course of the seminary. Session 1 discussed ILO perspective on contract formation and termination. Session 2 considered employment contract types with presentations from Cambodia, Japan and Singapore. Session 3 was dedicated to the issues of recent labour law reform efforts with presentations from Lao People's Democratic Republic, Myanmar and Viet Nam. Session 4 looked at future labour law reform challenges with presentations from Indonesia, Malaysia, Philippines and Thailand. In Session 5 the participants were engaged in three discussion groups: a workers' group, an employers' group, and a governments' group, with each group presenting its views of the points contained in a series of questions set as a guideline for their discussion. Session 6 discussed future directions and proposed possible future topics for the next seminar. Finally, the seminar was closed with no formal closing remarks. The organizing committee thanked all the participants for their contributions, and bade them all a safe journey home.

## Contents

## Acronyms and abbreviations

| | |
|---|---|
| ALMM | ASEAN Labour Ministerial Meeting |
| APINDO | Employers' Association of Indonesia |
| ASEAN | Association of Southeast Asian Nations |
| CAMFEBA | Cambodian Federation of Employers and Business Associations |
| CB | collective bargaining |
| CBA | collective bargaining agreements |
| CCU | Cambodian Confederation of Unions |
| DOLE | Department of Labor and Employment |
| EA | employment agency |
| ECOP | Employers Confederation of the Philippines |
| ECOT | Employers' Confederation of Thailand |
| GMAC | Garment Manufacturers Association in Cambodia |
| ILO | International Labour Organization |
| ILS | international labour standards |
| IR | industrial relations |
| IRA | Industrial Relations Act |
| JCC | Joint Consultative Committee |
| JTUC-RENGO | Japanese Trade Union Confederation |
| KSBSI | Confederation of Indonesian Prosperity Trade Union |
| LFTU | Lao Federation of Trade Unions |
| LNCCI | Lao National Chamber of Commerce and Industry |
| MEF | Malaysia Employers Federation |
| MHLW | Ministry of Health, Labour and Welfare |
| MLSW | Ministry of Labour and Social Welfare |
| MLVT | Ministry of Labour and Vocational Training |
| MOHR | Ministry of Human Resources |
| MOL | Ministry of Labour |
| MOLISA | Ministry of Labour, Invalids and Social Affairs |
| MOM | Ministry of Manpower |
| MTUC | Malaysian Trade Union Congress |
| NCPE | National Congress Private Industrial of Employees |
| NTUC | National Trades Union Congress |
| OECD | Organisation for Economic Co-operation and Development |
| SLOM | Senior Labour Official Meeting |
| SMEs | small and medium-sized enterprises |
| SNEF | Singapore National Employers Federation |
| TUCP | Trade Union Congress of the Philippines |
| UMCCI | Union of Myanmar Chamber of Commerce and Industry |
| VCCI | Viet Nam Chamber of Commerce and Industry |
| VGCL | Viet Nam General Confederation of Labour |
| VSS | voluntary separation scheme |

## 1. Welcome and opening remarks

*Mr Nguyen Thanh Hoa, Vice Minister, Ministry of Labour, Invalids and Social Affairs, Viet Nam*

Mr Nguyen Thanh Hoa welcomed all participants to the Seminar. He recalled that at the last 21st ASEAN Labour Ministerial Meeting (ALMM Meeting) which was held in Hanoi, Viet Nam in May 2010, ASEAN Labour Ministers emphasized the importance and priorities of ASEAN in establishing harmonized industrial relations. This seminar will serve as the opportunity for all representatives to share good practices in IR in each country with the focus on legal regulations on labour contract, dismissal and labour outsourcing.

Following the opening remarks of the MOLISA, the representatives from the Ministry of Health, Labour and Welfare of Japan and the ILO also highly appreciated the theme of this seminar as all ASEAN nations are now facing new challenges in industrial relations. Furthermore, the Japanese representatives committed to offer some recommendations to the Seminar with the hope that they could contribute to supporting ASEAN in this field.

## 2. Introduction: The Fifth Regional Seminar

The Fifth Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project was held from 27 to 28 February 2013 in Hanoi with the thematic title "Social Dialogue and Labour Law Reform on the Legal and Regulatory Framework on the Employment Relationship".

The Seminar was conducted with the following strategic objectives:

- for governments and social partners to share experiences of the foundation of sound industrial relations, the legal and regulatory framework as well as the process for amending it; and
- to provide valuable lessons through that sharing of experiences, for countries undergoing or planning to undergo legislative reforms industrial relations in.

The two-day seminar was hosted by the Ministry of Labour, Invalids and Social Affairs (MOLISA) of Viet Nam and organised by the ILO/Japan Multi-bilateral Programme, Regional Office for Asia and the Pacific (RO-Asia and the Pacific) in Bangkok, in collaboration with the ASEAN Secretariat. The Seminar was supported by the Ministry of Health, Labour and Welfare of Japan.

The Seminar was attended by tripartite partners' representatives of the government, workers' and employers' organisations of Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam and Japan (except Brunei Darussalam).

## 3. ILO perspectives on contract formation and termination

*Presenters: Mr Tim De Meyer, Senior Specialist on International Labour Standards and Labour Law, ILO DWT for East and South-East Asia and the Pacific*

Mr Tim De Meyer presented an overview of the relevant international labour standards (ILS) and ILO perspectives on the employment contracts to the participants that an employment contract is an agreement between a worker and an employer for providing services and paying regularly agreed wages and observing conditions of work, ensuring that it follows market principle of free choice, organizes social protection and promotes the foreign investment as well as prevents disputes by creating clarity upfront about what both parties expect from their employment relationship.

Mr De Meyer mentioned that the typology of employment contracts is diverted to serve different purposes, from individual or collective, permanent or temporary, full-time or part-time, oral or written to special categories of workers. He added that the law of employment provides not only the contents but also the boundaries of the employment contract, particularly to make up for the reduced individual leverage of workers. The types of laws of employment include employment contract law, employment protection law and employment promotion law.

Mr De Meyer also presented the main relevant international labour standards: i.e. Termination of Employment Convention, 1982 (No. 158) and Termination of Employment Recommendation, 1982 (No. 166) with a few key notions, including retrenchment (collective dismissals) (Article 13-14), justification for dismissal (Article 4), unjustified dismissal (Article 5 and 6), and severance pay (Article 12); wages and dismissals in the event of bankruptcy (Protection of Wages Convention, 1949 (No. 95)); permanent and temporary contracts in which permanent contracts are superior at least as long as the law does not hamper workers to smoothly transit form less to more productive jobs; institutions that are involved in dispute settlement on employment contracts including trade unions and employers' organizations, labour inspection services and courts. Small and medium-sized enterprises (SMEs) should also be subject to employment protection standards such as having to negotiate employment contracts with the workers for services they render.

He added that we should be constantly concerned with employer insolvency and wages (Protection of Wages Convention, 1949 (No. 95) and Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)), domestic workers and migrant workers, training contracts and job mobility, maternity protection, non-competition clauses, and suspension contracts.

In the second part of the presentation, Mr De Meyer further presented on the employment contracts and the erosion of the employment relationship. In the market economy, work must be obtained on the basis of a contract. Labour law (which deals with rights, social protection and social dialogue systems) are often designed against the backdrop of a traditional employment relationship (1-1; long-term; full time). However, as the business cycles become shorter and the product markets become more temporary, labour needs to be reallocated more frequently and there is an increasing demand for temporary work; the traditional employment relationship is eroded as 1-1-1 replaces the 1-1.

In closing, he questioned that what are the applicable standards or relevant approaches to such trends? They are part-time work (Part-Time Work Convention, 1994 (No. 175) and Part-Time Work Recommendation, 1994 (No. 182)); disguised employment relationship

(Employment Relationship Recommendation, 2006 (No. 198)); use of fixed-term contracts; subcontracting/outsourcing; temporary work agencies (Private Employment Agencies Convention, 1997 (No. 181) and Private Employment Agencies Recommendation, 1997 (No. 188)); and labour-only contracting which is defined as an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal.

**Plenary discussion**

- A participant from Cambodia asked Mr De Meyer for more information about the flexibility of the employment contract and the Organisation for Economic Co-operation and Development's (OECD) study on long-term contracts? As the temporary contracts are reasonable, so why does the ILO encourage long-term/permanent contracts? Mr De Meyer responded that the OECD study examines different types of employment contracts from labour productivity perspectives. Long-term/undefined duration/permanent contracts can discourage labour productivity, which could lead to the operation of temporary contracts.
- A participant from Indonesia said that referring to the outsourcing; it should be reported to the government. Please tell us more about this employment practice which has not existed in Indonesia yet. Unfortunately, due to the time limitation, the presenter could not reply to this question.
- A representative from Thailand asked that in which country in the world has regulations to ensure employment contract in SMEs? Thailand has the Fund of ensuring the minimum wage and income security. When policies of minimum wage are promoted, it would be difficult for some SMEs to follow them. Mr De Meyer replied that the extension of the labour law and the views of politicians on minimum wage will decide how/ how much the minimum wage is.

## 4. Employment contract types: Finding solution through bipartite and tripartite dialogue

### 4.1 Country's approaches to outsourcing and the Singapore Tripartite Advisory on Best Sourcing Practices

*Presenter: Mr Ng Wai Hung, Senior Labour Relations Consultant, Ministry of Manpower of Singapore, Mr Lee Jun Chieh, Manager, Singapore National Employers Federation (SNEF), and Ms Lan Peishan, Senior Consultant, National Trades Union Congress (NTUC)*

Representatives from Singapore presented that currently, there is no legal framework in place for the outsourcing of contracts in Singapore. However, if needed, the government will step in to introduce certain legislative frameworks for certain industries or sectors to put things in place. The Singaporean situation illustrates the general problems that outsourcing brings about – main challenges, initiatives taken to tackle the problems arising from outsourcing, and a case study on cleaning and security industry.

Regarding problems with the outsourcing in non-core essential services, this may lead to stagnant wages for the low income groups, or make it more difficult for employees under the outsourcing contracts to get the terms that are better than the provisions provided for in the employment agency (EA), or workers may face job insecurity and lack of career progression path.

In addition, there are some challenges Singapore has to face: particularly, prevalent market practices of cheap sourcing for certain outsourcing contracts, especially for the cleaning, security and landscaping contracts.

To tackle the problem of cheap sourcing, Singapore also has undertaken some initiatives. The union has been actively pushing for the adoption of best sourcing to both the public and private sector. The Government has come out to support the adoption of "best sourcing". In addition, the Government had stressed that outsourcing should not just focus on price and must also have an emphasis on the quality aspect as this is one key area to ensure that low-wage workers can potentially benefit from the Singapore growth. In particular, the government will further tighten the regulatory framework for the cleaning and security industry to allow the low- wage workers enjoy better terms of employment.

**Plenary discussion**

- A participant from Indonesia asked about some examples of outsourcing in information service. However, there is no response on this because of the time limitation.
- The ILO representative noted the importance of the tripartite advisory and asked about member of tripartite parties as well as the best outsourcing practices. It is responded that there is no law on labour outsourcing but Singapore emphasis on a tripartite mechanism. The tripartite advisory consists of the government, workers' and employers' representative which was established in March 2008.
- A representative from Viet Nam further asked about legal documents to form the basis on which industrial disputes are settled or any assessment scheme. Due to the fact that Singapore uses a tripartite advisory mechanism, as there is no law on outsourcing. It is responded that regarding complaints, companies and trade unions shall follow the procedures of complaint. Outsourced workers should also follow the specific working standards that apply to them.
- The participant further asked Singapore on the legal documents to form the basis on which industrial disputes may be settled or any assessment scheme as there is no law on outsourcing but has tripartite advisory mechanism.
- Regarding the real ownership of employment, a participant questioned Singapore on the experiences to identify the roles of each party in this kind of employment relationship and who shall be responsible for the conduct of outsourcing (service provider or service user)? The response was that some companies hire external workers to fulfil the regular functions of the companies. To Singapore, outsourcing is not a key area for the country's general development
- A participant from the Philippines questioned about the labour transfer on how we can deal with the situation when two companies merge into one. The Philippines could let the two trade unions of the two companies work together in order to develop a common protective mechanism for workers. What is the measure Singapore takes to deal with this situation? It is replied that if two companies merge, it would be good to have cohesion in the duty/task, but it would be bad if this cohesion does not exist. Thus, these two companies have to take into account the core responsibilities of the new company, and then identify the company's measures for employment protection.

## 4.2 Employment contract types: A case study in Japan

*Presenters: Mr Koichi Harada, Director, International Information Division, Ministry of Health, Labour and Welfare, Mr Tomohiro Kanemaru, Official, International Affairs Division, Ministry of Health, Labour and Welfare and Mr Ryuichi Ikota, International Division, Japanese Trade Union Confederation (JTUC-RENGO)*

Mr Harada started by introducing the various types of labour contracts and corresponding laws. There are three types of labour contracts, namely: (1) indefinite term or fixed term; (2) full time or part-time; and (3) direct employment or labour dispatch. The Labour Standards Act and the Labour Contract Act apply to all labour contracts, while the Part-Time Workers Act and the Worker Dispatching Business Act apply to each worker's contracts.

The disputes arise related to respective contracts which are solved through bipartite dialogue. A mechanism is to provide advice, guidance or mediation upon request from a worker and/or an employer. Basically, it supports the bilateral voluntary resolution. If the violations of the labour standards occur, the Government will enforce mandatory corrective measures.

In the case of disputes surrounding different types of contracts or changing labour policies, it is important to have bi-partite and tripartite dialogue engaged in the formulation and implementation. A study group composed of experts from university professors and physicians submit a proposal of important policy to the Council. It will be discussed by tripartite dialogue. The different interests are harmonized on the basic of the actual social situation. Without the approval of tripartite parties, the Ministry of Health, Labour and Welfare will not be able to submit any legislation to the Diet. The Council has extensive discussions among three representatives to deliberate policies. It is leaded thoroughly to create feasible laws, smooth enforcement, and to facilitate bilateral resolution of disputes. The process of establishment and amendment of the Labour Contract Act, the Part-time Workers Act and the Worker Dispatching Business Act have been changed gradually with mutual agreement of the tripartite party.

Recently, some countries in ASEAN have raised the minimum wage and legal retirement age. The direction of these policies is similar to Japan's, but the fact is that it is difficult to implement these reforms in their countries because of the short timeframe between their enactment and enforcement or their substantial raise in minimum wage or legal retirement age without proper consultation with social partners. For example, in Japan, the employment security of the elderly up to 65 years old is legally enforced in April this year. This issue has been discussed since 1986. The feasible steps have been implemented in phases, while the needs of the continuing employment are addressed in response to the aging society and considered the situations of employers. This is also a good example of how policy-making at the tripartite level effectively functioned.

It is a long process to accumulate the ideas of the decision-makers both employers and workers. However, it is proved to be feasible measures for implementation of policies, smooth and secure manner.

**Plenary discussion**

- A participant from Cambodia asked about the proportion of part-time employment in Japan. It is responded that about one-third of the total employees are so-called non-regular employees and most of them are part-time employee.

- A representative from Philippines questioned about the necessity of raising the retirement ages. Mr Tadashi Nakamura said that the rate of ageing in Japan is quite high - 25 per cent, posing critical challenges on employment for the elderly. In general, workers want to continue to work despite their high ages. Under the seniority system, wages increase as age goes high and high posts tend to be occupied by high age workers Therefore, we need to increase the retirement age slowly so that companies could adjust wage and personnel management system in such a way that wage cost would not grow excessively and young workers would not be deprived of opportunities for promotion. In the last 40 years, employment of older workers were encouraged through mixture of campaign, subsidy and enactment up to 60, then 65 years old, by moral, then legal obligation. In 2004, the law was revised to oblige companies to continue to employ workers up to 65 if they so wish by any form including, of course, extension of retirement age with minimum of 60 years old.
- He further added that non-regular employment has been on increase as women's participation grows, tertiary industries expand and business environment fluctuates. Non-regular workers now amount to one-third of working population. Short-term repetitive contract and low pay compared to regular workers are the major concern. Laws were introduced and revised at several occasions to protect non-regular workers in terms of job security and working conditions in response to economic and social environment.

## 4.3 Employment contract types: A better understanding in Cambodia

*Presenters: Mr Kheng Sambo, Deputy Director, Department of Labour Dispute, Ministry of Labour and Vocational Training (MLVT), Mr Van Sou Ieng, President, Cambodian Federation of Employers and Business Associations (CAMFEBA) and Mr Kourch Ngourn, Executive Committee Member, Cambodian Confederation of Unions (CCU)*

Representative from Cambodia began the presentation by giving a brief introduction of the movement of economy from a central planned economy to a market economy. He stated that Cambodia's economic landscape has undergone dramatic changes over the past two decades. The development challenges are to sustain growth, to reduce poverty, to maintain balance in equality and to accelerate the reform agenda. Over the past decade, the annual average population growth rate was 1.5 per cent. This affects some challenges for job creation in expanding labour force. However, the rate of youth labour force is decreasing slightly which is reflected a positive trend of youth staying longer in the education system. Female youths are in the labour force at an earlier age than male. As a result, the economic activity rate for female is slightly higher than male. Overall, the labour productivity levels in Cambodia are still lower than the other countries in ASEAN.

In terms of legal framework for employment contracts and termination, Cambodia's legislation on labour is still at its early developing phase. Many legal concepts need clarification and the laws are still improving at a slow pace.

Firstly, Cambodia uses employment contract as a primary legal framework, scope and source of employment relations for the parties since it is a flexible tool designed by parties in line with the laws. Cambodia's laws do not prohibit parties to practice different formula in governing their employment relation as long as such practice is beneficiary to the worker than that of the law.

Collective bargaining agreements (CBA) are contracts signed for a larger number of workers and thus have a lager scope of implementation than the individual employment contracts in terms of governing the employment relations between workers and an employer in an establishment or enterprise.

There are two main types of employment contract: i.e. contracts of unfixed duration and contracts of fixed duration. Parties are free to decide on the type of contract that suits their situation. The law does not interfere in the will of the parties.

For the dispute resolution procedure over this issue, it depends on the type of dispute in question: whether it is an individual dispute or collective labour dispute. An individual dispute can be negotiated by will of the parties before the Labour Ministry before being taken to the court. But if it is a collective labour dispute, parties shall negotiate first at the Labour Ministry, and if the negotiation fails, the dispute shall be transferred to the Arbitration Council for arbitration. Within 15 days from the receipt of the case, the Council shall issue an award.

In principle, Cambodian Labour Law does not prohibit outsourcing. The Labour Law has a provision regarding labour contractors.

Regarding the reform of legislation governing contracts, Cambodia now is working on the review of Article 67 and Article 73 of the Labour Law which regulate contracts of fixed duration and unfixed duration. The Labour Ministry recently issued a *Prakas* on the establishment of a task force to discuss the issue of employment contract. This task force is a tripartite body composed of representatives from unions, employers and the Labour Ministry. As of the date of this country presentation, the result of such effort is yet to be seen.

**Plenary Discussion**

- A representative from the Philippines asked about the Arbitrators' decisions obligatory for only some certain fields. It is responded that whether the decision of an Arbitrator is obligatory is regulated by the law. It is not obligatory when the two sides are against the Arbitrator's conclusion; in other words, the conclusion is not legitimate. If the two sides are not satisfied with the conclusion, they could appeal at the Court for a verdict.
- A participant from Viet Nam noted a minimum wages; that there are 2,500 trade unions in Cambodia. Who will negotiate with whom about the minimum wages? Do they come to a consensus on how to negotiate the minimum wages? A presenter responded that Combodia does not have statutory minimum wages but collective bargaining agreements on minimum wages in textiles are concluded once every four years. The minimum wages determined in collective bargaining agreements could affect other industries or sectors in determining their own minimum wages.

## 5. Recent labour law reform efforts: Sharing experience, process and lessons learned

### 5.1 Labour law reform efforts sharing experience from Lao People's Democratic Republic

*Presenters: Mr Somchit Aminthalath, Deputy Head, Labour Protection Division, Ministry of Labour and Social Welfare (MLSW), Mrs Daovading Phirasayphithak, Chief, Employers'*

*Bureau Activities, Lao National Chamber of Commerce and Industry (LNCCI), and Mr Khamchan Sivanthong, Deputy Head, Labour Management Division, Lao Federation of Trade Unions (LFTU)*

Mr Somchit stated that the Lao People's Democratic Republic has a population of 5,818,447 people with the total labour force of 3,121,768 workers. There were a total of primary economic units in 2006 with 126.913 units – 345.723 persons. Main industries in the country include: agriculture; mining; electricity generation; construction; manufacturing industry which produces goods for local consumption and export such as garments; cement; hydropower; and the service sector. Transportation and telecommunication systems have strongly improved in recent years.

The Labour Law was adopted on 3 March 1994 and it is the legal foundation to determine principles, regulation and measures on labour building and developing worker skill, job placement, use of labour, adjustment of the labour relationships and administration of labour in order to increase the quality and productivity of the workforce in the society to ensure the transformation to modern industry, contributing to national socio-economic development so that the Lao People's Democratic Republic could integrate into the regional and international world rapidly and effectively. In 2012, the Labour Law has continuously been improved and further revisions are currently being undertaken. The reasons for the labour law reform include economic growth and the fact that the existing regulations no longer match with the current situation.

The tripartite mechanism on labour consists of three bodies, namely: Ministry of Labour and Social Welfare (MLSW – representative of the Government); Lao Federation Trade Unions (LFTU- workers' representative) and Lao National Chamber of Commerce and Industry (LNCCI- employers' representative).

Required procedures for the labour law reform are: (1) establishment of Labour Law (Drafting) Committee; (2) brainstorming meeting on Labour Law; (3) First Labour Law Committee meeting; (4) Second Labour Law Committee meeting; (5) Labour Law Committee meeting with Ministry of Justice; (6) Labour Law Committee meeting with Government Office; and (7) Submission of the draft labour law to the National Assembly for approval.

**Plenary Discussion**

- A participant asked Mr Somchit on the rate of the minimum wage in Lao People's Democratic Republic. It is responded that the rate is gradually increased and it is now raised to US$78 per month.

## 5.2 Labour law reform efforts sharing experience from Myanmar

*Presenters: Mr Thein Naing, Assistant Director, Department of Labour, Ministry of Labour, Employment and Social Security and Ms Khine Khine Nwe, Joint Secretary General, Union of Myanmar Chamber of Commerce and Industry (UMCCI)*

Ms Khine Khine Nwe presented a brief overview of Myanmar. She said that a population is 60.38 million with annual growth rate of 1.01 per cent, working age population of 37.44 million, total labour force of 31.39 million. There are three main industries in Myanmar, namely: agricultural sector (64.5 per cent); industrial sector (14.0 per cent) and services sector (21.5 per cent).

In Myanmar, a number of labour laws have been enacted to ensure the legitimate rights of workers including: the Employment and Training Act, 1950; the Employment Restriction Act, 1959; the Employment Statistics Act, 1948; the Workmen's Compensation Act, 1923; the Dock Workers' (Regulation of Employment 1948); the Dock Labourers Act, 1934; the Oilfields Act, 1918; the Factories Act,1951. the Leave and Holidays Act, 1951; the Shop and Establishments Act, 1951; the Payment of Wages Act, 1936; the Minimum Wages Act, 1949; the Law relating to Overseas Employment, 1999; the Labour Organization Law, 2011; the Settlement of Labour Dispute Law, 2012; and Social Security Law, 2012.

Major achievements in recent years:

- Issuing Labour Organization Law, 2011: enacted on 11 October 2011 with the aims: to protect the rights of the workers; to have good relations among the workers or between employers and workers and to enable workers to form and carry out the labour organizations systematically and independently.
- Enacting the Settlement of Labour Dispute Law on 28 March 2012 and rules of this law also issued on 26 April 2012. Under this Law, the various levels of Conciliation Bodies are formed. Until 2012, the numbers of labour dispute cases that have been settled are 946 involving 71,937 workers.

In Myanmar, a process of settling a labour dispute could be undertaken with the following steps:

If a party brings an individual dispute relating to his grievance to the Conciliation Body, the relevant Conciliation Body shall carry out its functions as follows: (1) conciliating so that the dispute will be settled within three days, not including the official holidays, from the day of knowing or receipt of such dispute; (2) concluding a mutual agreement if the conciliation was successful; (3) The Conciliation Body shall refer the collective dispute which was not settled to the relevant Arbitration Body and inform the persons relating to the dispute and shall handover the case file to the relevant Arbitration Body within two days, not including the official holidays, with detailed report including its opinion on the facts which cannot be settled in carrying out conciliation and also submit the summary report in respect of the collective dispute to the relevant Region or State Government. The relevant Arbitration Body shall make decision on the collective dispute handed over by the Conciliation Body under section 26, within seven days, not including the official holidays, from the day of receipt of such dispute and send the decision to the relevant parties within two days, not including official holidays. If it is a decision which concerns with an essential services or public utility service, the copy shall be sent to the Minister and relevant Region or State Government.

In Myanmar, no party shall proceed to lockout or strike without accepting negotiation, conciliation and arbitration by Arbitration Body in accordance with this law in respect of a dispute.

The Parliament approved the Employment and Skills Development Law on 26 January 2013 with the following objectives: (i) to promote employment and training of the workforce; (ii) to strengthen the employment services; (iii) to promote skills training of workers based on national occupational competency standards; (iv) to establish national level certification of skills of workers; and (v) to establish training fund for financing skills training of workers.

A new Social Security Law was adopted in 2012, providing more social protection including the rights of medical care, cash benefit, free medical care after retirement, family assistance, superannuation pension benefit and unemployment benefit, invalidity benefit, employment injury benefit, funeral benefit, survivor's benefit and benefits of social security housing project.

**Problems and challenges:**

- Lack of capacity and know-how of labour officials and labour inspectors.
- Need to promote social dialogue at various levels, at the work place, enterprise, industry as well as at the wider society.
- Need to promote transparency among stakeholders.
- There is a need for more awareness and training for officials, employers and workers' organizations on the process of negotiation and collective bargaining.

## 5.3 Lesson learned on labour law reform efforts from Viet Nam

*Presenters: Mr Mai Duc Thien, Deputy Director General, Ministry of Labour, Invalids and Social Affairs (MOLISA), Mr Phung Quang Huy, Director General, Viet Nam Chamber of Commerce & Industry (VCCI) and Ms Tran Hang, Officer, Viet Nam General Confederation of Labour (VGCL)*

Mr Mai Duc Thien opened his presentation with a brief overview of Viet Nam. The population of Viet Nam in 2012 was 88.78 million people, in which 43.92 million were males (49.47 per cent), females were 44.86 million (50.53 per cent); urban population was 28.81 million (32.45 per cent) rural poplulation was 59.97 million (67.55 per cent). The workforce above 15 years old was 52.58 million, of which 51.3 per cent were males; 48.7 per cent were females. The workforce in their working age was 46.95 million, an increase of 0.87 per cent, of which 53.3 per cent were males and 46.7 per cent were females. The total number of workers over 15 years old in 2012 was 51.69 million people.

Existing legal documents on labour contracts include the revised Labour Code of 2012, which amends the the Labour Code of 1994 (as amended in 2002, 2006, 2007). Under the revised Labour Code:

- A labour contract is concluded either in written or oral forms. The written form is recognized as the major one; the oral agreement can apply only to temporary jobs with duration of less than three months or apply to domestic work.
- The types of labour contracts are defined by the terms of validity of the labour contract and the revised Labour Code specifies three types of labour contracts including (Article 22): Indefinite term labour contract – a contract in which the two parties do not determine the term and the time at which the contract terminates (Article 22.1(a)); definite term labour contract – a contract in which the two parties agree to fix the term of the contract of from 12 months to 36 months (Article 22.2(b)); and seasonal/specific contract for certain kind of job with duration of less than 12 months.

<u>Termination issues:</u>

*Termination of labour contract for individuals*

In general, the current law of Viet Nam strictly regulates terms and conditions for termination of a labour contract to protect the rights and benefits of workers, by providing for both conditions/reasons for termination and advance notice period. The termination of labour contracts can be divided into three categories: (i) termination is made by mutual consent of the concerned parties or by the will of a third party; (ii) termination happens when the employer unilaterally terminates the labour contract or dismisses the employee who committed violation of company labour regulations; and (iii) termination is allowed when the employee unilaterally terminates the contract. For indefinite term contracts, the employee has to inform the employer 45 days prior to the intended date of termination, without being required to provide the reasons for termination. However, the termination of definite term contract is permitted only under cirtain circumstances as provided by the law (Article 37.1).

*Termination of labour contract with group of workers*

The revised Labour Code specifies cases of termination of labour contracts of multiple employees by the employer including: (i) the enterprise changes its structure or technology; (ii) merging/spliting or changing ownership, management or property right transfer; and (iii) shutdown or bankcruptcy. In such cases, the Labour Code specifies detailed procedures for collective dismissal of workers.

*Contract termination allowance*

The current Labour Code specifies two types of allowances for employee in the case of dismissal. If the employer or employee unilaterally terminates the contract for just reasons (Article 37 and 38), the employer will pay a severance; if the employer dismisses multiple workers, for example, in case of: (i) restructuring/technology change; and (ii) merging, spliting up, property right transfer, management transfer, or property use transfer, the workers are entitled to a job-loss allowance.

*Compensation upon illegal dismissal of employee by the employer (illegal dismissal)*

Where the employer dismisses the employee illegally, the legislation stipulates that the employer shall pay the wage, allowance (if applicable) for the period during which the worker was not allowed to work and additionally at least two-month salary in accordance with the employment contract; Where the employee does not wish to return to work, in addition to the compensation stipulated as above, the employer shall pay the severance allowance of half of the monthly wage salary for every working year of the employee. Where the employer does not wish to reinstate the employee, and the employee agrees, the two parties shall negotiate for an additional compensation for termination of the contract.

**Legal framework on outsourcing:**

The labour market data indicates that outsourcing started in Viet Nam from the year 2000 in many different localities, particularly in the economic zones. However, before 2012, the legal framework on outsourcing in Viet Nam had been unclear with the old Labour Code having only Article 65 stipulating the tripartite relations: the main employer/ hiring party; leasing enterprise/middle-man; and employees. In the revised Labour Code, the National Assembly added an entirely new section on outsourcing in the Chapter on Employment Contract (from Article 53 to Article 58). According to the Government plan, the Government will issue an implementation Decree stipulating in details to guide the implementation of the Labour Code on outsourcing.

**Application of social dialogue in labour law reform in Viet Nam**

The collection of comments/inputs from the social dialogue parners in reforming legislation in Viet Nam is a mandatory process according to the Law on Issuance of the Legal and Regulatory Documents. For the revision of the Labour Code, which concerns employment contract and outsourcing, there was a wide participation of social dialogue partners starting from 2008 in reviewing the law after 13 years of implementation of the old Labour Code, and they participated in drafting the revised Labour Code.

**Plenary discussion:**

- A participant from the Philippines asked about the involvement or intervention of the third party in contract termination. It is responded that the third party can involve in contract termination in two cases: (i) business bankruptcy; and (ii) the death of workers.
- The ILO representative questioned about challenges or opportunies in implementation of the revised labour code in relation to the outsourcing. The response was that it is a great challenge to revise labour code 2012. The Government of Viet Nam is planning to implement two main activities: (1) draft and issue legal documents under the law, for example, implementaion of decrees; and (2) propagandize the law to be more effectively applied. This is also including the outsourcing which may pose many hidden risks in the future.

## 6. Future labour law reform challenges: How to achieve bipartite agreement on use of different types of employment contracts, termination and severance provisions, and outsourcing regulations

### 6.1 Labour law reform challenges in the case of Indonesia

*Presenters: Ms Iftida Yasar, Vice Secretary General, Employers' Association of Indonesia and Mr Saut Pangaribuan, Chairperson, Advocacy and Lobby Committee, Confederation of Indonesian Prosperity Trade Union*

Ms Yasar stated that the Industrial Relation Constellation in Indonesia drives all components of the nation in rendering careful considerations to employment policies. Employers' Association of Indonesia summarized the Meeting on Indonesian dispute challenges which includes: (1) outsourcing; (2) terminations process and severance payment; (3) minimum wages; (4) social security premiums; (5) politicization on labour issues; and (6) tripartism.

Outsourced labour is an issue in Indonesia. The trend is that enterprises prefer to hire employees from other company, so the government must stipulate the minimum wage. The implementation of outsourcing requires a process and must be reported to the government.

Some issues concerning the outsourcing were presented, which include: continuous use of temporary contract by different vendors (employers); workers performing the same job get different treatment (salary benefit); outsourcing is used as a cost reduction on cheap labour;

The government, employer, outsourcing vendors and unions are main actors which contribute to reaching solution. For example, the government ensures that the regulations or laws can be enforced.

Finally, the presenter offered some recommendations including: tripartite partners should adopt professionalism; government should be competent and firm on evaluating and controlling the implementation of outsourcing; district governments should change their mindset about core business strategy and its proper implementation; to move form labour supply contract to business contract; and for the tripartite partners to establish long term partnerships on the spirit of mutual benefit.

**Plenary discussion:**

- A participant from Malaysia noted that there are many trade unions and employers in Indonesia. The employers preserve the unity, but why the trade unions are still fragmented.
- A representative from the ILO added that in Indonesia, there are many trade unions in provinces that the ILO has not reached yet. In the near future, the ILO will conduct a research on this matter and inform every party. It is necessary to have unified trade unions which represent and follow the majority. For example, in India, trade unions are united to give regulations on strikes in provinces. It is necessary to identify issues among trade unions to find out resolution.
- A participant from Cambodia added an important point about the corruption. When trade unions are establised, they will have a source of income and they do not want to merge with other unions. There are 2,800 trade unions in Cambodia. It is necessary to review the mechanism to license trade unions' establishment, and consider tackling the corruption. It should be avoided that trade unions are organizations working for profit. The ILO should pay attention to this problem.
- A presenter responded that in Indonesia, activities are mainly between the two parties – employers and workers – than among the three parties. The activities of the three parties must be reported to the Government. However, developing law is the responsibility of the Government. The two parties worked together many times on this topic. However, some trade unions' opposed.

## 6.2 Labour law reform in Malaysia

*Presenters: Mr Kamal Bin Pardi, Director, Selangor State Manpower Department, Ministry of Human Resources (MOHR) and Mr Prem Kumar, Executive Council, Malaysian Trade Union Congress (MTUC) and Mr Shamsuddin Bardan, Executive Director, Malaysian Employers Federation (MEF)*

A representative from Malaysia informed the Seminar that the settlement of labour disputes in Malaysia can be divided into four stages including: (1) negotiation; (2) conciliation; (3) mediation; and (4) arbitration.

In Malaysian context, there are two main statutes which regulate employment contracts and termination: Employment Act, 1955 and Industrial Relations Act, 1967. The Employment Act, 1955 provides for the basic and the minimum terms and conditions of employment. While the Industrial Relations Act (IRA), 1967 places emphasis on the direct negotiation between employers and employees and their trade unions to settle their differences, to regulate their collective relationships and to settle any disputes (including termination and outsourcing) arising therefrom, through their own effort and through mutually agreed procedures with minimal government intervention.

The main methods with which to achieve bipartite agreement on termination and outsourcing provisions in Malaysia include the IRA, 1967, Joint Consultative Committee (JCC), Collective Bargaining (CB), the Code of Conduct for Industrial Harmony, 1975 and Voluntary Separation Scheme (VSS). The JCC in the Malaysian context is in fact a consultative body, representing both the employer's and employee's interests. In Malaysian context, collective bargaining is defined as a negotiation with a view to concluding a collective agreement. The Code of Conduct for Industrial Harmony, 1975 is an agreement made between the Malaysian Council of employers' organizations and the Malaysian Trade Union Congress and endorsed by the Ministry of Human Resources which promotes resolution of trade disputes through bipartite agreement. Finally, VSS is a scheme under which employees are allowed to resign voluntarily from companies or organizations by receiving fair compensation in exchange for the execution of a waiver and general release of legal claims against the employer.

Under the IRA, there are provisions enabling a workman to make representations within sixty days of dismissal, providing opportunity for such workman to appeal directly to his employer against the dismissal: Section 13 (5), Section 18 (4), and Section 20 (1) of the IRA 1967.

The Malaysian Government strongly encourages settlement of labour dispute or trade dispute at the enterprise level between the parties through their own effort and through mutually agreed procedures with minimal government intervention.

**Plenary discussion:**

- A participant from Cambodia asked about the history of the development of trade unions in Malaysia, number of trade unions. Is there any enterprise which does not have a trade union? If so, why? The two party-dialogue mechanism is very important which requires focal points to participate in collective bargaining. I highly appreciate the operation of the Malaysian trade union system. Cambodia should learn from these experiences in Malaysia. It is really necessary to have a common ground between the employers' organizations and employees' organizations.
- Malaysia has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). However, the presentation mentioned that in Malaysia citizens have the right to freedom of association.
- A representative from the ILO asked about the requirement of a tripartite consultation on amending the Labour Code.
- The response was that the Employment Act, 1955 and the Law on Trade Unions. Unions in Malaysia want to provide job security for employees.

## 7. Group discussion – road map for moving forward

Core questions for three groups discussion:

i. The presentations and discussions in the plenary sessions focused on the laws relating to labour contracts, contract termination and the employer. Please discuss the gaps between law and practice in the country that you represent.

ii. What would be the first three priorities for reform in this area? Please specify by the country.

iii. Please specify the specific steps to take to achieve these reforms. Please also state the difficulties.

### 7.1 Group A : Employers

The conclusion of the group A would be able to derive the following key issues:

A participant from the Philippines noted that there is no gap between law and practice, but we should clarify the legal framework. Trade unions need to know and understand more about the Labour Law.

A participant from the Malaysia propounded that the outsourcing is a very difficult issue to deal with. Every country has laws to protect workers. We also need to be careful about the political aspect of the problem of strikes.

Related to the employer, there exists a gap between law and practice. We need to clarify whether it is important or not important; maybe it is more important for this country, but not for other countries.

### 7.2 Group B : Workers

There are not enough legal provisions on trade unions to talk about the gap between law and practice. Trade unions want to their countries to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) to facilitate the trade unions to organize. If 80 per cent of the workforce cannot join the trade union, the participation rate of only 20 per cent shows the weakness of trade unions.

**Priorities:**

- The weak law enforcement needs to be strengthened;
- Limitations in the number of outsourcing workers in the tripartite mechanism need to be addressed;
- There should be a mechanism for informal workers to unionize.

### 7.3 Group C : Governments

All countries in this group have a gap between law and practice in the field of labour contract and outsourcing. In terms of the steps to be taken for the law reform, there are several meetings before going to the draft law. There is a need to emphasize the importance of developing two-parties and three-parties labour relations.

## 8. Summary and way forward

*Presenter: Mr John Ritchotte, Industrial Relations Specialist, ILO DWT for East and South-East Asia and the Pacific*

**Conclusions**

1. The Seminar attracted the participation of the representatives of the Ministry of Labour, Invalids and Social Affairs of Viet Nam, the Ministry of Health, Labour and Welfare of Japan, the ILO Country Office for Viet Nam and the representatives from tripartite partners from other ASEAN countries. This showed the concern of ASEAN and other partners in promoting industrial relations, linking between labour issues and labour

cooperation enhancement, ASEAN comparativeness, commitments and activities stated in the ASEAN Labour Ministers' Work Program 2010-2015.

2. The theme of this Seminar, which is "Social dialogue and labour law reform on the legal and regulatory framework on the employment relationship", was emphasized in all country reports and in all presentations and all sessions by the representatives of ASEAN countries, Japanese partners and the ILO.

3. The need to develop procedures for the conclusion and termination of labour contracts was deeply discussed. The discussions covered the basic rights of workers and the legal challenges, which included labour contract types, contract signing procedure, labour contract termination, the participation of all parties in labour relations, population ageing, special groups of workers including domestic workers, compliance with the ILO regulations, and types of labour contracts in the region and in partner countries.

4. The Seminar identified some good lessons that all the countries can learn from in reforming their labour laws. Those lessons include: the development and adoption of labour contract law in China as a model; the Indonesian experiences in analyzing and defining the reasons for labour contract termination including wage cutting/decreasing, reconstructing or dismissal of outsourced workers; the use of multiple types of labour contract in the light of each country's national circumstances; or prevention of labour disputes.

5. The Seminar also identified some solutions for promoting and reforming labour law in relation to labour contract, which include incorporating ILO Conventions into national legislations in particular Conventions No.95 and No.73; Conventions on domestic workers and migrant worker; training contract and job arrangement; maternity leave exclusive of comparative provisions; and on contract suspension or delay. Accordingly, the Employment Relationship Recommendation, 2006 (No. 198) and the Private Employment Agencies Convention (No.181) and Recommendation, 1997 (No.188) need to be studied. The country experiences and concerns related to temporary and definite-term labour contracts, the flexibility of labour contracts, outsourcing contracts, or the labour contracts at the small and mediate enterprises of some countries in the region such as the Philippines, Cambodia, Indonesia and Thailand were discussed and shared at the Seminar.

6. The issue of outsourcing attracted lots of concern from some countries (Singapore, Japan and Cambodia). Accordingly, some issues associated with outsourcing such as employment dispute settlement, types of outsourcing, good practices and good regulations in labour law reform were also discussed; but there was still a need for more in-depth discussions. The challenges related to population ageing were also discussed.

7. The Seminar discussed the procedures and roadmaps for labour law reform and the challenges and solutions for the law enforcement. The topics related to contract termination and dismissals, and the need to strengthen the role of trade unions were debated. All presentations and discussions entirely focused on legislation related to labour contract, contract termination and outsourcing.

8. Group discussions focused on the gap between legislation and practice as well as on the specific steps to be implemented in reforming legislation. From the employers' perspectives, outsourcing is very difficult to regulate, and every country should have

its own law to protect the workers. The workers' group prioritized the strengthening of law enforcement. From the governments' perspectives, there is a gap between law and practice in labour contract and outsourcing; and thus the importance of developing bipartite and tripartite relationship needs to be prioritized.

9. At the Seminar, one video clip about fair and harmonized industrial relations was shown. The video clip concluded that industrial relations should be better if the trade union and the employer can develop good relations.

10. The delegates gave sincere thanks to the hospitality of Viet Nam and the support of Japan to host this Seminar.

**Recommendations**

1. There needs to be an in-depth comparative research among ASEAN countries on labour contract, labour contract termination and outsourcing, as well as on the challenges and the approaches to the ILO Conventions.

2. The outcomes of this Seminar at the national and regional levels need to be shared, as well as the achievements and lessons from the previous phases of this project.

3. What was shared and discussed at this Seminar required in-depth deep research. Therefore, it would have been better had all country reports been distributed to all delegates prior to the Seminar.

4. The next Seminar will be held either in Myanmar, Cambodia or Lao People's Democratic Republic.

5. Agenda for the next Seminar could be:
   - Outsourcing as a new commercial style for Asia.
   - Issues related to labour relations – comparing good practices.
   - The labour contract- identifying the duration of the labour contract.
   - Labour law - tripartite mechanisms to increase the participation of representatives of the employers and workers organizations in policy-making.
   - Tripartite relations related to outsourcing (first four years of implementation of law and policies and experience sharing).
   - Bilateral relations not needing the government involvement – comparing laws regulating outsourcing in ASEAN countries.

All conclusions and recommendations of this Seminar will be reported at the next Seminar as well as at the Senior Labour Official Meeting (SLOM) in Semarang in May 2013.

# Annex I. Seminar agenda

*Fifth Regional Seminar on Industrial Relations in the ASEAN Region on Social Dialogue and Labour Law Reform on the Legal and Regulatory Framework*

*Prestige Hotel Hanoi, Viet Nam, 27–28 February 2013*

| Time | 27 February 2013 | 28 February 2013 |
|---|---|---|
| 08.00 – 08.30 | **Registration** | |
| 08.30 – 09.30 | **Group meetings** : Workers, Employers, and Governments to review the agenda and discussion points | **Session 4**: Future labour law reform challenges: How to achieve bi-partite agreement on use of different types of employment contracts, termination and severance provisions, and outsourcing regulations<br><br>*Presentation: Indonesia and Malaysia* |
| 09.30 – 10.15 | **Opening session**<br><br>○ ILO Representative<br>○ Ministry of Health, Labour and Welfare, Japan<br>○ Ministry of Labour, Invalids and Social Affairs, Viet Nam | *Plenary discussion* |
| 10.00 – 10.15 | *Coffee/Tea break* | *Coffee/Tea break* |
| 10.45 – 12.00 | **Session 1**: ILO Perspectives on contract formation and termination. Overview of the challenges in the region. Linkages between employment protection and employment promotion.<br><br>*Presentation: ILO Specialist*<br><br>*Plenary discussion* | **Session 4**: continue<br>*Presentation: Philippines and Thailand*<br><br>*Plenary discussion* |
| 12.00 – 13.30 | Lunch | Lunch |
| 14.00 – 15.00 | **Session 2**: Employment contract types: Finding solutions through bi-partite and tripartite dialogue<br><br>*Presentation: Singapore, Japan and Cambodia*<br><br>*Plenary discussion* | **Session 5**: Structured discussion – roadmap for moving forward |
| 15.00 – 15.15 | Coffee/tea break | Coffee/tea break |
| 15.15 – 17.00 | **Session 3**: Recent labour law reform efforts: Sharing experience, process, and lessons learned<br><br>*Presentation: Lao People's Democratic Republic, Myanmar and Viet Nam*<br><br>*Plenary discussion* | **Session 6**: Summing up and conclusion |
| 19.00 onward | Welcome dinner | |

## Annex II. List of participants

*Fifth Regional Seminar on Industrial Relations in the ASEAN Region on Social Dialogue and Labour Law Reform on the Legal and Regulatory Framework*

*Prestige Hotel Hanoi, Viet Nam, 27–28 February 2013*

### Cambodia

1. Mr Kheng Sambo
   Deputy Director
   Department of Labour Dispute
   Ministry of Labour and Vocational Training (MLVT)

2. Mr Van Sou Ieng
   President
   Cambodian Federation of Employers and Business Associations (CAMFEBA)

3. Mr Kourch Ngourn
   Executive Committee Member
   Cambodian Confederation of Unions (CCU)

### Indonesia

4. Ms Iftida Yasar
   Vice Secretary General
   Employers' Association of Indonesia (APINDO)

5. Mr Saut Pangaribuan
   Chairperson of Advocacy and Lobby Committee
   Confederation of Indonesian Prosperity Trade Union (KSBSI)

### Lao People's Democratic Republic

6. Mr Somchit Aminthalath
   Deputy Head of Labour Protection Division
   Ministry of Labour and Social Welfare (MLSW)

7. Mrs Daovading Phirasayphithak
   Chief of Employers' Bureau Activities
   Lao National Chamber of Commerce and Industry (LNCCI)

8. Mr Khamchan Sivanthong
   Deputy Head of Labour Management Division
   Lao Federation of Trade Unions (LFTU)

### Malaysia

9. Mr Ahamad Kamal Bin Mohd Nor
   Director of Legal Division, Industrial Relations Department
   Ministry of Human Resources (MOHR)

10. Mr Shamsuddin Bin Bardan
    Executive Director
    Malaysian Employers' Federation (MEF)

11. Mr Prem Kumar
    Executive Council
    Malaysian Trades Union Congress (MTUC)

Myanmar

12. Mr Thein Naing
    Assistant Director, Department of Labour
    Ministry of Labour, Employment and Social Security

13. Ms Khine Khine Nwe
    Joint Secretary General
    Union of Myanmar Chamber of Commerce and Industry

Philippines

14. Ms Shirley Pascual
    Deputy Executive Director IV
    Department of Labor and Employment (DOLE)
    National Conciliation and Mediation Board

15. Mr Antonio H. Abad, Jr.
    Governor
    Employers' Confederation of the Philippines (ECOP)

16. Mr Rodolfo Capoquian
    National President
    Trade Union Congress of the Philippines (TUCP)

Singapore

17. Mr Ng Wai Hung
    Senior Labour Relations Consultant/ Conciliator
    Ministry of Manpower (MOM)

18. Mr Lee Jun Chieh
    Manager
    Singapore National Employers' Federation (SNEF)

19. Ms Lan Peishan
    Senior Consultant
    Singapore National Trades Union Congress (NTUC)

Thailand

20. Mr Mukhtar Panakor
    Labour Specialist Professional Level
    Ministry of Labour (MOL)

21. Ms Siriwan Romchatthong
Secretary General
Employers' Confederation of Thailand (ECOT)

22. Mr Tawachai Pholcharoen
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National Congress Private Industrial of Employees (NCPE)

## Viet Nam

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27. Ms Tran Thi Lan Anh
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Viet Nam Chamber of Commerce & Industry (VCCI)

28. Ms Hang Tran
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Viet Nam General Confederation of Labour (VGCL)

## Japan

29. Mr Shinichi Takasaki
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Ministry of Health, Labour and Welfare (MHLW)

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ILO Decent Work Team for East and South-East Asia and the Pacific

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43. Mr Shinichi Ozawa
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## Resource person

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Employers' Association of Indonesia (APINDO)

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Employers' Association of Indonesia (APINDO)

50. Mr Bob Azam
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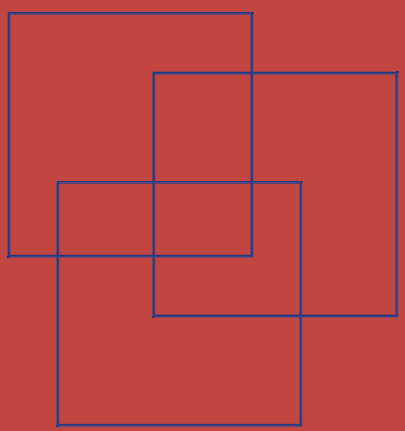
Ministry of Foreign Affairs

# Report of the Fifth Regional Seminar on Industrial Relations in the ASEAN Region

This volume contains the report of the Fifth Regional Seminar on Industrial Relations in the ASEAN Region, under the ASEAN-ILO/Japan Industrial Relations Project. The theme for this seminar is "Social Dialogue and Labour Law Reform on the Legal and Regulatory Framework". The seminar was attended by tripartite representatives from the ASEAN Member Countries and Japan, taking place in Hanoi, Viet Nam on 27 and 28 February 2013.



The Regional Seminar on Industrial Relations is one of the project's main activities. It is held annually. The project spreads over a three-year period, with the overarching theme "Building Better Industrial Relations towards ASEAN Integration". The project seeks to promote constructive industrial relations among ASEAN countries based on uniformity of basic norms and good practices, social partnership, tripartism and social dialogue.

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DECENT WORK
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ISBN: 978-92-2-128005-7
978-92-2-128006-4(web pdf)