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**Report on the ILO/Japan/US Regional Seminar on the ILO Declaration on
Fundamental Principles and Rights at Work and its Follow-Up**
Phnom Penh, Cambodia, 7 - 9 December 1999

INTRODUCTION

1. The annual Asian-Pacific Symposium on Standards-Related Topics was originally intended to serve as a forum for consultation among the many developing ILO member States in Asia and the Pacific on the substantive standards-related items on the International Labour Conference's agenda. It evolved into a regular opportunity for governments and employers' and workers' organizations to familiarize themselves with procedures and, accordingly, to enhance their participation in the whole standard-setting process. The ILO thus organized in 1986 two sub-regional symposia, one for South Asia, and one for ASEAN. Twelve regional symposia were subsequently convened in Pattaya, Thailand (1988), New Delhi, India (1989), Kuala Lumpur, Malaysia (1990), Phuket, Thailand (1991), Colombo, Sri Lanka (1992), Beijing, China (1993), Bangkok, Thailand (1994), Jakarta, Indonesia (1995), Pattaya, Thailand (1996), New Delhi, India (1997), Manila, Philippines (1998), and Bangkok, Thailand (1999).

2. With the financial assistance of the Governments of Japan and the United States, the ILO continued the tradition of organizing standards-related symposia in Asia and the Pacific with this regional seminar focusing on the Declaration on Fundamental Principles and Rights at Work and its Follow-Up. In 1998, the International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work and its Follow-Up, a solemn instrument highlighting the importance of fundamental principles at work in ensuring that workers can claim freely their fair share of the wealth which they help to generate in an increasingly global economy. The most recent symposium, organized in early 1999, had sought to analyze and discuss the various aspects of the Declaration, to familiarize the ILO constituents with the substance and procedures related to the Conventions elaborating fundamental principles at work, and to provide them with a first opportunity for exploring positive measures to realize member States' commitment to the fundamental principles at work. The December 1999 regional seminar aimed to consider the promotion of ratification and application of fundamental ILO Conventions, learning from the experience of Indonesia, Cambodia and Bangladesh. In the course of 1999, Cambodia and Indonesia had both achieved ratification of seven fundamental ILO Conventions with ILO assistance, while Bangladesh, also with ILO assistance is taking positive steps to realize the fundamental principle of the effective abolition of child labour.

PARTICIPATION

3. The Seminar brought together 80 participants comprising:

- (a) Government officials from 19 countries and one special administrative region, viz: Bangladesh, Cambodia, China, Fiji, Indonesia, the Islamic Republic of Iran, Japan, the Republic of Korea, Malaysia, Mongolia, Nepal, Pakistan, Papua New Guinea, the Philippines, Singapore, the Solomon Islands, Sri Lanka, Thailand, the United States and Hong Kong, China ;
- (b) Employers' representatives from 19 countries and one special administrative region, viz

- : Bangladesh, China, Fiji, India, Indonesia, Japan, the Republic of Korea, Lao PDR, Malaysia, Mongolia, Nepal, Pakistan, Papua New Guinea, the Philippines, the Solomon Islands, Sri Lanka, Thailand, Viet Nam, the United States and Hong Kong (China);
- (c) Workers' representatives from 18 countries and one special administrative region, viz : Australia, Bangladesh, China, Fiji, India, Indonesia, Islamic Republic of Iran, Malaysia, Mongolia, Nepal, New Zealand, Pakistan, the Philippines, Singapore, the Solomon Islands, Sri Lanka, Viet Nam, the United States and Hong Kong, China;
- (d) Government observers from Cambodia (4), Worker observers from Lao PDR and the Philippines, and international observers from the Asian Development Bank and ICFTU-APRO.
- (e) ILO Governing Body members from the Governments (2), Employers and Workers

A list of participants, observers, resource persons and ILO officials at the Seminar is appended (Annex 1).

ORGANIZATION

4. The Seminar was directed by Mr. Winston Rueben Dudley, Deputy Regional Director for the Asian-Pacific Region, in consultation with K. Tapiola, ILO Executive Director responsible for Standards and Fundamental Principles and Rights at Work. Technical inputs were provided by the Director of the ILO InFocus Programme on the Declaration, standards specialists from the ILO multidisciplinary advisory teams based in Bangkok (ILO/EASMAT) and New Delhi (ILO/SAAT), and Japanese academia. A programme of the Seminar is attached as Annex 2.

5. The Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation extended various facilities and hospitalities. The secretariat and financial services were undertaken by the ILO Regional Office for Asia and the Pacific, the Bangkok Area Office, and the ILO project office in Phnom Penh.

OPENING CEREMONY

6. The seminar opened on 7 December 1999 with a welcome address by H.E. Ith Sam Heng, Minister In-Charge of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (MOSALVY) of the Royal Government of Cambodia. The Minister In-Charge reminded the participants that adopting legislation is not enough to build a country upholding a degree of democracy and respect for human rights acceptable to the international community : international standards need to be ratified, and law and practice adjusted accordingly if they are to benefit the process of construction of democracy and respect for human rights. Cambodia's adjustment effort was greatly supported by assistance from the ILO and donor countries to strengthen the capacity of the tripartite partners. The full text of the welcome address is attached as Annex 3.

7. Ms. Mitsuko Horiuchi, ILO Regional Director for Asia and the Pacific characterized the Declaration as the framework for ILO's primary goal today : the promotion of *decent work* for all women and men, in conditions of freedom, equity, security and human dignity. She noted a more widespread respect for human rights and democratic institutions, epitomized by 23 ratifications of ILO core Conventions since the start of the universal ratification campaign in

1995, as the Asian crisis' silver lining. In the wake of the unanimous adoption of the Worst Forms of Child Labour Convention (No. 182) last June, she appealed to all countries to follow the example of the Seychelles, Malawi and the United States and ratify the Convention. The full text of Ms. M. Horiuchi's address is attached as Annex 4.

8. Mr. Kari Tapiola, ILO Executive Director Responsible for Standards and Fundamental Principles and Rights at Work, congratulated the Kingdom of Cambodia on the recent ratifications of the fundamental ILO Conventions, and for joining Indonesia in achieving ratification of seven core Conventions. He observed that with the unanimous adoption of a new Convention on immediate action against the worst forms of child labour, the campaign now covered eight fundamental ILO Conventions. He encouraged those countries, which had already ratified the more comprehensive Minimum Age Convention, 1973 (No. 138), to take early action on the new Worst Forms of Child Labour Convention, 1999 (No. 182). The fact that they had ratified the Minimum Age Convention should make it easier to ratify the new one. And those who had not yet ratified Convention No. 138, might make use of possibilities of Convention No. 182 to take action which, in due time, would also help in ratifying and implementing the more comprehensive standard. He recalled that the ratification campaign for the fundamental Conventions was launched by the ILO Director General after the Copenhagen Social Summit called for worldwide respect for basic workers' rights. At the Ministerial Meeting of the World Trade Organization in Singapore, in 1996, it was clear that the ILO - whose mandate covers the setting, promotion and supervision of labour standards - should take new action on these rights. The result was the adoption, in June 1998, of the Declaration on Fundamental Principles and Rights at Work and its Follow-Up. Mr. Tapiola stressed that the Declaration is based on the recognition that all ILO member States have the responsibility to respect and promote these principles and rights at work. As more and more countries ratify, the questions of implementation will increasingly be covered by the regular supervisory mechanism of the ILO. The activities of the ILO to promote the Declaration, through technical cooperation, can be of much help when, following ratification, problems of implementation occur. In due time, the ILO will have promotional plans of action, based on technical cooperation, for all four categories of the fundamental principles and rights at work. On one of them, child labour, the ILO's International Programme on the Elimination of Child Labour (IPEC) already has features of such an action plan. These programmes should look at the relationship between the principles and rights, on one hand, and the strategic objectives of the ILO standards - employment, social protection, and social dialogue. Mr Tapiola thanked the two donors, Japan and the United States, and the Governments and employers' and workers' organizations of the region with which the ILO had practical cooperation, particularly on the elimination of child labour. The full text of Mr. K. Tapiola's address is attached as Annex 5.

9. Ms. Kimie Iwata, Assistant Minister of Labour of Japan and ILO Governing Body member, explained that the governments of Japan and the United States had decided to jointly fund this seminar as a token of their complete agreement on the goal of improving the core labour standards in the world as economic development, by itself, is insufficient to ensure this goal. To this end, all parties involved must have a clear understanding of the content and spirit of the Declaration. She expressed her deep respect for the Cambodian Government's energetic commitment to realizing the core labour standards, and the Prime Minister's keen interest in integrating people with disabilities into mainstream society. The full text of Ms. Iwata's address is attached as Annex 6.

10. H.E. Samdech Hun Sen, Prime Minister of the Royal Government of Cambodia, formally inaugurated the seminar. The Prime Minister saw three reasons for Cambodia to join 47 countries that have ratified seven fundamental ILO Conventions. First, the ratification consolidates the fact that Cambodia faces no major problems in any of the fundamental rights areas. Secondly, on the eve of the millennium of peace and culture, the ratification marks a break with a genocidal regime that forced even children, the sick and elderly to work. Thirdly, the past has left Cambodia with a relatively high number of women and young persons who should be protected by proper labour standards, and against forced labour in particular. A full text of the inaugural address is attached as Annex 7.

TECHNICAL SESSIONS

Session 1 : Review of the Seminar programme, introduction to the ILO Declaration on Fundamental Principles and Rights at Work and presentation of the Follow-Up to the Declaration

11. Ms. M. Horiuchi, chairing this session, gave the floor to Mr. Andrew J. Samet, United States Deputy Under-Secretary of Labor and ILO Governing Body, whose arrival had been delayed. Mr. Samet said globalization provided opportunities for growth, but also presented challenges to the world of work, which need to be confronted by building proper institutions : a well-functioning labour administration; trade unions and employers' organizations at the national level; and a global governance structure with certain responsibilities for a more centrally situated ILO. This is not possible without shared values, translating into basic rules at the workplace to provide a minimum of decent work. Globalization and technological change should not divert us from these values, but inspire us to reinvent them, because labour issues will remain central. Mr Samet said the United States supports a more vibrant, proactive ILO in the global economy, and will provide funding correspondingly. It also supports the Declaration, and the universal ratification campaign for Convention No. 182, which it ratified only a few days earlier. The United States' reliance on the ILO was the reason for President's Clinton travelling to Geneva to address the International Labour Conference, the first US President to do so. The United States expects all participants to be fully supportive, irrespective of whether the issue is related to human rights or employment.

12. Mr. K. Tapiola, Executive Director Responsible for Standards and Fundamental Principles and Rights at Work, offered some topical reflections on the Declaration and its Follow-Up. He stressed that the Declaration is not so much a legal instrument, but a statement of intent, which has elicited an ever growing consensus since its adoption. Its methodology is one of promotion through cooperation, instead of judgement, one of emphasizing what is right instead of what is wrong. As such, it complements the regular supervisory machinery. Eminent lawyers had wondered whether the Declaration entails any new legal obligation, and that question had to be answered in the negative - the Declaration was rather a tool for promoting what had been commonly agreed all along. Looking ahead, Mr. K. Tapiola felt the Declaration might well influence the way in which international law is developed. Declaration principles and r are developed in Conventions. The Copenhagen Summit in 1995 had delivered a clear message from one of the largest gatherings of world leaders ever: countries that have ratified fundamental ILO Conventions should live up to them, those that have not yet ratified these Conventions should abide by their underlying principles. Without a legal instrument all international organizations could foster their own interpretation of core labour standards, so

the need for a common point of reference was obvious. A group of expert-advisers was now working on a compilation of about half the reports requested, suggesting which points warrant a discussion by the ILO Governing Body next March. Mr Tapiola reminded participants that the reports were due on 1 November, but that those countries that had not replied would have other opportunity next year. Prominent in those reports should be the scope for improvement in realizing the fundamental principles at work, and an indication of the technical assistance required. A global report would be discussed at the International Labour Conference, starting next year with freedom of association. It would reflect a dynamic picture of developments noted through a variety of mechanisms, including assistance by the Office, and examine how effective the Organization has been. The global report concerns both countries that have ratified fundamental Conventions, and those that have not. It will include examples of the kind of issues confronted in real life, rather than painting an abstract picture. In due course, the ILO will have promotional plans of action, based on technical cooperation, for all four categories of the fundamental principles and rights at work. In the meantime, the ILO is proud to observe an increasing interest in core labour standards: in the last few weeks alone, for example, not less than three countries boosted their tally of ratifications of fundamental ILO Conventions from none to all. Another interesting new development is the fact that ratifications increasingly represent the beginning, rather than the end, of the full implementation process. Increasingly, the Declaration emerges as an entry point into a whole range of activities, as a truly developmental tool.

13. Questions during the ensuing general discussion referred to assurances (e.g. penalties) for effective implementation of the principles, the legal basis and binding character of the Declaration, and the nature of new resources for implementation. Mr. K. Tapiola clarified that it had never been the ILO's intention to make the Declaration a legally binding document, as such an instrument could not superimpose legal obligations which emanate already from the Conventions. For the same reason, the existing supervisory mechanisms remain unchanged, and the Declaration grafts itself onto the existing processes as an exercise in assistance. In fact, if national law stipulated that the Declaration is henceforth law, then that might raise questions as to the status of Conventions. As to the resources, the United States, France, and the Netherlands had so far made commitments under the Declaration, and other countries were preparing theirs, but the actual programme was still being developed. It could be anticipated that most of the funding interest would focus on national activities where ownership is shared between national constituents.

14. Mr. Z. Shaheed, ILO Director for Promotion and Technical Cooperation of the InFocus Programme on the Declaration, outlined the developmental perspective of the four fundamental principles at work enunciated in the Declaration. He defined development as growth in four areas: the economy, social integration, institutions and morality. Practically, development required the generation and efficient allocation of capital and labour, the application of technology, and the creation of skills and institutions. Higher productivity is needed to maintain innovation, to work better, and to create better work, but could never be achieved without an enabling framework. He distinguished hard productivity factors (i.e. those within the control of enterprises, such as natural resources, machinery etc.), and soft productivity factors (such as people, organizations, management styles, and cooperation patterns). The ability to attract investment was determined by positive factors (returns on investment, regulatory and legal frameworks and political and economic outlook) and negative factors (corruption, red tape, and the availability of low cost, unskilled labour). Policy changes that could favourably affect the investment climate include political and macro-economic stability,

an increased scope for private initiative, and measures to facilitate business. Not all forms of government regulation influence investment appeal to quite the same extent: while government regulation is, overall, moderately important, import regulations are highly important, foreign exchange, tax and licensing regulation moderately, and labour, price and export regulations negligible. The emergence of a more competitive global economy has clearly had a social impact : it has put a premium on equal access to education and training, on social safety nets, on protective labour regulations, and last but not least, core labour standards. Education must meet the needs of innovation, new technology and product markets, and of demands for skilled labour with increasingly transferable, general skills. The Republic of Korea went through a remarkable transformation of its labour market structure as a result of changes in education: the 1960s brought universal access to secondary education; tertiary education doubled in the second half of the 1970s, and since then the number of high-school graduates and college graduates has multiplied further. Social safety nets, including unemployment benefits, training, and public assistance were required to ensure fair distribution of the gains and costs of globalization, and to strengthen workers' support for reform. Mauritius has been economically successful with social expenditure being as high as 40 per cent of total government expenditure. Social dialogue and labour regulations were indispensable for both numerical and functional adjustment of employment, numerically, functionally, to guarantee fundamental rights and standards, and to allow for "flexible rigidities" (such as extending the scope of collective agreements with exemptions). Standards were the pillars of the cooperative society, i.e. a society where firms no longer externalize environmental and labour problems, but where market risk is socialized, and thus a cooperative balance maintained. Core labour standards helped to confront the challenges of globalization: freedom of association nurtures an environment in which innovation, productivity, and foreign direct investment thrive; equality of opportunity removes economic inefficiencies; the elimination of child labour produces a better educated, better skilled next generation workforce; the elimination of forced labour ensures proper valuation of economic activity. Mr. Shaheed underlined his admiration for Cambodia which, despite its difficult economic circumstances, had decided to ratify the Conventions and through that decision, to express its determination to achieve realization of the fundamental principles – even though it recognized that this would not be attained overnight.

15. A substantive general discussion followed Mr. Shaheed's presentation. The Employer representative of Pakistan observed that in the required follow-up action on the Declaration the importance of developing human capital had not been emphasized forcefully enough. What provision did the ILO make for this, particularly in countries where trade unions are not educated and have not contributed to development? Promoting the Declaration was futile, as long as this situation continued. Mr. S. Ito, Governing Body Worker representative of Japan, stressed that the Declaration is about human rights, not about working conditions or wage levels. Trade unions initially shared the fears of protectionism, but were reassured by the consensus, reflected in the Declaration, that violation will not lead to economic sanctions. He called for a strong follow-up mechanism enabling the ILO to put a maximum of resources for technical assistance at the disposal of member States. The Workers' representative of Pakistan felt that implementation was the most important aspect of the Declaration, and that it was essential that ILO could continue to censure governments which take away rights, as has been the case in Pakistan with the WAPDA. The Employer representative of Pakistan retorted that this would not have happened, if the trade union had consisted of well-educated people. The Employer representative of India warned to keep the developments at Seattle separate from the promotion of international labour standards. The Employer representative of the

Philippines felt that the core issue was not to become a global community applying one single standard, but to become more competitive. To be able to compete, employers needed the support of trade unions. In short, one could no longer be complacent about job security. The representative of ICFTU - APRO found the presentation had been too clinical, and in emphasizing the need for productivity had concentrated too much on labour as a production factor. Social dialogue and social development are worthy causes in themselves: what is good for society, is good for workers and vice versa. The link between trade and international labour standards had to be discussed further: labour standards had to be dealt with in a contemporary context, not in the past. The Employer representative of Sri Lanka underscored a point made earlier concerning security of tenure. The Employer representative of Indonesia concurred with the basic premise of workers' rights and freedoms, but warned that such freedoms were not unlimited, and that governments had a duty to set parameters. The Employer representative of Bangladesh called for more promotional activities to increase general understanding that agreeing to the four principles entails an obligation to ratify all eight fundamental ILO Conventions. Mr. Shankar, Worker representative from Fiji, welcomed a certain change in attitude on the Employers side, while some appeared to continue to live in the past. Contributing again to the discussion, Mr. Shaheed thought that labour standards had to be linked to changes in the world of work, rather than to trade. The development of human capital was clearly a need which went beyond upgrading a mere production factor. However, seeking the correct balance between competitiveness and employment security had to happen in a concerted fashion. Mr. Tapiola distinguished the Declaration from the ratification campaign: ratification could pose more and different problems to federal states than it did for unitary states. He also cautioned against assuming that ratification guarantees a perfect reality, or conversely, that absence of ratification signals permanent violations. On the question of the enforcement of ILO standards, he explained that the supervisory machinery assesses the facts, and recommends change and ILO assistance, independent from the Declaration. The Declaration might have a role to play in offering remedies, as it would gradually develop methodologies on how to put one's house in order. If a government did not respond, then the regular mechanism would look at the case again, express the Organization's disappointment, and go as far as establishing a Commission of Inquiry with straightforward recommendations. The ILO Constitution does not provide real sanctions, but at a certain point, the regular machinery will expose countries that do not act in good faith. The Declaration recaptures common values from the Convention, and adds a mechanism to identify countries that are struggling to uphold these values, and increases the joint capacity to assist. ILO standards have played an important role in Eastern Europe, South Africa, and in Asia. The ILO can be proud of a number of recent success stories.

Session 2: Learning from national experiences: Indonesia, Cambodia, and Bangladesh

16. Mr. H. Bomer Pasaribu, Minister of Manpower of the Republic of Indonesia, related the Indonesian efforts to ratify and implement all of the fundamental ILO Conventions. He identified three main elements that helped the realization of these efforts. First, the political will and commitment of the Government, which became evident in the letter of intent signed between the Government of Indonesia and the ILO, and will take further form with the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), the refinement of the Manpower Act and the adoption of labour relations legislation. Secondly, the

effectiveness of ILO assistance including technical advice related to the ratification of fundamental ILO Conventions and the drafting of implementing legislation, awareness-raising workshops to promote wider understanding and acceptance of the fundamental ILO Conventions, and the preparation and distribution of promotional materials. Thirdly, the effectiveness of tripartism and social dialogue in building agreement and consensus. Trainers from various ministries, the armed forces and police, employers' and workers' organizations, NGOs and other interested groups were thoroughly familiarized with the concept and contents of fundamental ILO Conventions. These master trainers subsequently conducted over 70 workshops attended by more than 1,800 tripartite participants. These workshops have proved an invaluable forum for social dialogue about labour law reform in the context of international labour standards.

17. ILO standards specialist Mr. Noriel congratulated the Minister of Manpower of Indonesia on aptly presenting the remarkable and historic experience of his country, which had made enormous progress in promoting fundamental principles and rights at work within a span of only one year. He reiterated the three main elements to which the Minister attributed the success of Indonesia's efforts. First, the political will of the government as the *reformasi* movement gained momentum in mid-1998. Credit should also be given to the support of social partners and civil society in general. Second, was the technical assistance of the ILO. Indonesia and the ILO had built a real partnership right from the beginning in 1998 when the ILO was given a window of opportunity to make a contribution. The ILO as a whole (the ILO Jakarta Office, the multidisciplinary teams and in particular SEAPAT, Regional Office for Asia and the Pacific and Headquarters) extended the necessary technical assistance to Indonesia using its own resources as well as those of donors including the Netherlands Government. Third, the role of social dialogue, in particular the typically Indonesian "tripartite-plus" approach, encompassing the traditional social partners as well as various civil society groups. The train of events started with the change of the country's political leadership in May 1998. Ratification of the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), quickly followed, ending trade union monopoly and allowing workers to organize freely. Labour activists were also released from prison. An ILO direct contacts mission visited the country, and measures were taken to implement its recommendations. Respect for freedom of speech and of the press was established. Ratification of three additional ILO core Conventions made Indonesia the first country to ratify seven ILO core Conventions in the Asian Pacific Region; it also expects to ratify shortly the newest Convention on the Elimination of the Worst Forms of Child Labour, 1999 (No. 182). Finally, Indonesia conducted free, democratic and orderly elections in 1998 which produced the country's first democratically elected leaders. Indonesia succeeded in preparing drafts of various new pieces of labour legislation, relating to trade unions, dispute settlement and conditions of work. A first draft of a proposed new migrant workers' Act has been prepared, and action has been taken to formulate of a revised social security Act. The Minister of Manpower must be commended on this determined work towards the approval of the new legislation by Parliament within the year 2000. The process includes subjecting all the existing drafts to a final tripartite-plus review. Mr. Noriel observed that Indonesia has shown exemplary resolve in its efforts to secure respect for fundamental rights at work through the ratification of all the core Conventions, and working towards for early adoption of legislation. Difficult as the challenges of successful implementation will be, Mr. Noriel assured that Indonesia can count on the assistance of friendly countries and organizations like the ILO, as the realization of the fundamental principles and rights at work is crucial in bringing about decent work in conditions of freedom, equality, security and human dignity.

18. In the course of the ensuing discussion, several participants asked the Minister how he expected the ratification of all fundamental ILO Conventions would affect the investment climate. Some also asked if he was aware of the consequences of ratification, particularly the potentially negative effect of the ratification of freedom of association Conventions on decisions by foreign and local investors alike. The Minister replied that it was essential that both employers and workers joined the reform process, both at the national and the provincial level. Strengthening employers' and workers' organizations, however, was of primary importance, as Indonesia had presently 26 national trade union centres, but only a handful of grassroots organizations, and no strong confederation. The government's role would be to strengthen the social partners and outline an effective framework for social dialogue, as regulator and facilitator, rather than to curb the multiplicity of unions. The effect on investment would only become clear in a few years' time, but in the meantime the positive effect on perceptions of the Government's legitimacy should not be disregarded. Indonesia was fully aware of the consequences of the Trade Union Act: it had experienced a trade union monopoly for a long time, and so far only a limited number of trade unions were registered compared to, for example, the Philippines, where thousands of unions had been operating without any noticeable negative effect. The Employer representative of India expressed the hope that the Minister would succeed in this endeavour. He asked the Minister to clarify whether the trade union Bill provided for trade union rights for public servants. The Worker representative of Pakistan asked for the total number of ratifications in Indonesia. The Minister replied that all public servants and public undertakings would be given the right to organize, and that Indonesia had now ratified 13 Conventions, including seven core Conventions, and that ratification of Convention No. 182 would follow soon. The Worker representative of Cambodia wanted to know how the workforce had benefitted from the awareness-raising workshops. The Employer representative of Fiji wondered about the Minister's role in creating a facilitating environment. The Worker representative of Hong Kong, China wondered how soon the Bills could be adopted and how an effective consultation could be organized given the involvement of civil society. The Worker representative of Indonesia wondered if the adoption of the new Bills did not represent reratification. The Minister replied that the law governing trade unions had to be drafted in accordance with the ratified Conventions, and that a new Trade Union Act was, therefore, necessary. The Worker representative of the Solomon Islands observed that it made sense for Indonesia and Cambodia to ratify first and then bring their law into conformity, as they did not have the benefit of an established legal system, as in the Solomon Islands, for example.

19. Mr. Keo Borent, Deputy Director of the Labour Inspection Department of MOSALVY, recalled that the Kingdom of Cambodia has been a member of the ILO since 1969, but that the regime of Pol Pot, in spite of the ratification of the ILO Forced Labour Convention, 1930 (No. 29), had denied the people all fundamental rights. A new Constitution for the Kingdom was adopted in 1993, guaranteeing all fundamental rights. The Labour Law was revised with the help of France and the AFL-CIO, in line with the Constitution and the ILO's Declaration of Philadelphia. Mr. Borent equally outlined a number of reasons for Cambodia's successful ratification of six fundamental ILO Conventions. First, the Government's resolve to respect and promote workers' rights as befits a good member State of the ILO. Secondly, the Constitution and the Labour Law already contain the principles set out in the fundamental ILO Conventions. Thirdly, the timely technical assistance from the ILO on three fronts: drafting the Labour Law, disseminating the contents of the Labour Law and the fundamental ILO

Conventions, and a targeted awareness-raising campaign among senior government officials and members of the National Assembly just prior to ratification. This assistance has greatly helped Cambodia to realize the fundamental principles at work, although not all difficulties have been solved yet. Since the first registration of an occupational organization in April 1997, employers' and workers' organizations have mushroomed. At present, no less than 73 trade unions and four national centres are registered, mostly in the garment sector. Notwithstanding the increase in numbers, there is room, on either side, to improve mutual understanding and respect. Forced labour in garment factories is forcefully countered by strict enforcement of overtime regulations. Discrimination in remuneration between men and women is confronted by fixing a minimum wage for workers throughout the country after tripartite consultation. Poverty does not permit all 600,000 working children to definitively change the workplace for school, but a combination of legal measures and practical activities have built a capacity for the social partners to tackle the worst forms of child labour first. The start that has been made with consultations with the social partners before adopting even executive and ministerial decrees augurs well for the future of tripartism in Cambodia. Finally, the Government will speed up the formulation and adoption of legislation establishing a labour court system, which in turn will lead to a smoother settlement of labour disputes.

20. Mr. J. Grimsman commended Mr. Borent for a detailed and exhaustive report on national developments in the recent past. The ILO was proud to be closely associated with the developments in Cambodia, aimed at furthering respect of human rights in a period when the country was just emerging from a decades-long civil war. Since the early 90s, an employment generation programme has promoted the ILO's fundamental principles in its daily work in Cambodia. The ILO was also closely involved in the genesis of the Labour Code of 1997. Discussions with the Ministry responsible for labour showed a consensus that, considering the legal framework in CMB, ratification of all ILO fundamental Conventions was possible. After a year-long information campaign which also targeted members of Parliament, ratifications of fundamental Conventions were registered in August of this year. However, as Minister Ith Ham Seng had said, there was still a long way to go. First, the ongoing series of workshops on all fundamental Conventions had to be continued in order to analyze all problems. Workshops focusing on the freedom of association Conventions and industrial relations, and on the child labour Conventions, had already provided valuable insights. It emerged that Cambodia's trade unions were not very developed, they were mostly enterprise-based, and they experienced difficulties exercising their functions. Neither they, nor employers, are fully aware of the roles that both of them have to play in a market economy. The borderline between the promotion of workers' interests and political activities is not always entirely clear. Therefore, the ILO has already started to strengthen the trade unions, and is looking into the possibility of doing the same for the employers' organizations. In the area of child labour, the participants at the third national workshop on child labour found legislation to be essentially in line with ILO Conventions. In practice, however, child labour remains a serious problem. Since 1997, IPEC has been helping the country to combat this evil, with initial success in establishing an institutional framework: a National Steering Committee on Child Labour has been established and a special unit in the Ministry of Labour has been set up; a national action plan to eliminate child labour was designed; child labour surveys were carried out to gain an insight into the magnitude of problem; numerous individual projects to combat child labour (specifically the worst forms, such as prostitution) have been launched, and will continue to expand. The exercise also created a consensus that Cambodia was in a position to ratify Convention No. 182. The media, members of the bar association and the law faculty, and members of Parliament were invited to separate workshops to discuss the contribution they

might make to the fight against child labour, producing sometimes astonishing new ideas. Workshops on forced labour at the end of this year, and on equality at work next year, will complete the series. To tackle the more daunting problems in practical application, enforcement, and proper institutional framework, the ILO helped to set up a national tripartite labour advisory which will steer action across the entire spectrum of labour matters. In an attempt to strengthen MOSALVY's administrative capacity, Cambodia ratified the Labour Administration Convention, 1978 (No. 150), and ILO labour administration specialists are helping the Government reshape the administration, and improve labour inspection services. The ILO is determined to further assist Cambodia on its way ahead.

21. The Employer representative of the Philippines expressed deep respect for the gargantuan efforts made by the Cambodian Government, but wondered whether centring a child labour elimination strategy on a minimum age for the country as a whole did not do an injustice to the importance of efforts to alleviate poverty, and establish free education. Mr. Borentr agreed with this premise, but stressed that the minimum age in Cambodia was not absolute: Cambodian law had established the minimum age at 15 years, but since it might not be possible to achieve this right away, 14 years had been declared the minimum age at the time of ratification of the Minimum Age Convention, 1973 (No. 138). This meant, in practice, light work from 12 years onwards, with exemptions from work for schooling. Ms. K. Iwata thanked Mr. Borentr for an informative paper, from which she retained three essential elements: the importance of ILO assistance, going back a long way to the earlier employment generation programme; the emphasis on strengthening the capacity of the Government with the adoption of new labour law; and sustained effort to analyze the relevance of core labour standards.

22. Mr. P. K. Chakraborty, Senior Assistant Chief of the Ministry of Labour and Employment, pledged Bangladesh's full respect for international labour standards and its commitment to the gradual implementation of fundamental ILO Conventions and principles and rights at work, taking into account the level of development and the specific circumstances within the country. He noted that the ILO adopts Conventions and Recommendations based on ideal premises, but that Bangladesh could not ratify all Conventions adopted because of the prevailing social and economic conditions, and because the pace of adoption exceeds the pace of ratification by member States in Asia Pacific. The Minimum Age Convention, 1973 (No. 138) is the only fundamental ILO Convention not yet ratified by Bangladesh, although its provisions are reflected in various national laws. A draft Labour Code seeks to bring uniformity in the minimum age for admission of children to employment by projecting a minimum age of 14 years. Further, Mr. Chakraborty outlined Bangladesh's practical strategy to confront child labour. A start has been made with efforts to create a wider awareness that child labour harms children and national socio-economic development alike. The incidence of child labour is being mapped through a National Sample Survey on Child Labour conducted by the Bangladesh Bureau of Statistics. Ratification of Convention 182 will follow the normal tripartite consultation procedure, but scarce resources are at any rate already allocated to combat the worst forms of child labour (such as trafficking of girls and boys and the protection of particularly vulnerable children under 12 years of age) as a priority. The Government and ILO-IPEC concluded a Memorandum of Understanding, giving rise to institution-building (a number of tripartite bodies strengthening the capacity of constituents to deal with the problem) and practical action (no less than 72 action programmes so far). The Bangladesh Garment Manufacturers' and Exporters' Association, the ILO and UNICEF signed a Memorandum of Understanding to remove all child workers below 14 years from garment factories, and place

them into schools (instead of simply pushing them into even more hazardous work elsewhere). Finally, to give effect to the basic constitutional right of education, the Government has granted public servant status to teachers, has gradually extended compulsory education to the entire country, and has recently extended free education for girls in rural areas.

23. Ms. P. Boonpala of ILO/IPEC, Geneva, said Bangladesh's National Plan of Action managing to set priorities promptly in spite of scarce resources, and setting an example for other countries in the region. The BGMEA project deserved to be congratulated for securing the cooperation of so many partners, including civil society and UNICEF. The concept has been replicated in other countries, and was, for example, well received in Pakistan. Ms. Boonpala also commended the Government for its willingness to cooperate with other countries in South Asia to combat trafficking. ILO member States had proven their readiness to provide resources for technical programmes, but most encouraging was the resolve of Bangladesh itself to earmark USD 250 million, raising an expectation that other countries can follow suit. In only eight years, IPEC had expanded to bring together 20 donor countries and 70 recipients, and more growth was expected if countries were willing to work together. IPEC allocated 50 % of its resources in Asia alone. Asia was the foremost region where IPEC looked for impact in terms of providing an alternative to victims. IPEC's hope was to soon start drawing lessons and come up with a stronger strategy, so that 6 years from now, a significant number of countries could present results in the fight against the worst forms of child labour. ILO Governing Body Employers member, Mr. R. Thüsing drew three conclusions from a very encouraging report. First, although final results even in eliminating the worst forms of child labour were still far away, the approach was correct and success stories could be discerned. Second, the question of banning garments products from markets was not on the agenda, nor was the entire social clause for that matter. The best method of continuing along this path was to demonstrate that ILO constituents could work together to produce solutions. Third, effective efforts were common efforts, obstacles could not be removed by one group alone. Child labour was a complex problem, and its elimination needed to be accompanied by facilities for education. Dialogue at the national level was the responsibility of the government, and employers had to make an effort to participate. The process was painstaking and slow, but it was the only way to produce results. The ILO would continue to support the process. The question was not whether Conventions were ratified or not, but whether the principles could be promoted. Mr. S. Ito felt that, in spite of the Bangladeshi example, child labour was a deplorable phenomenon. The Workers could not accept the view that poverty had to be abolished before child labour could be eliminated. Child labour had to be eliminated within the shortest possible period of time, and action had to be promoted among competing powers in a global economy. Convention No. 182 had to be ratified and enforced, as it was based on the principles of Convention No. 138. All ILO action, including IPEC should be promoted, and it was felt most necessary that the tripartite representatives were called upon for consultation. He was confident that direction, rather than cooperation was the problem. Trade unions also needed to make every effort to contribute.

24. In the course of the ensuing discussion, the Government representative of Pakistan took the floor to stress the many measures his Government had taken to do away with child labour, to combat poverty, and to implement the Convention on the Rights of the Child. He said the Constitution of Pakistan reflected the same spectrum of fundamental rights. The Government had established mechanisms for communal involvement, and believed strongly in parental support and the positive role of NGOs. Its resolve was rooted in religion. Child labour was a centuries-old challenge, but required new relationships to confront it, and in this respect the

renewed interest of UNICEF was warmly welcomed. He warned against the myths surrounding child labour : that child labour could be eliminated without sustained support for development and eradication of poverty; that most child labour is confined to sweatshops producing for the rich world; and that trade sanctions are a simple solution. Pakistan had experimented successfully: it has been cited by the ILO as an example for the world to emulate, and has only been able to do so with the support from ILO and the international community. Pakistan's strategy was to seek the active cooperation from families, communities, employers , workers, and NGOs, and to become active partners of ILO-IPEC. Pakistan had strengthened the application of protective legislation, conducted a situation analysis in various sectors, spared no effort to raise awareness throughout society, strengthened institutions throughout the country, set up child resource centres, involved the social partners in policy design, strengthened vigilance committees against bonded labour, established monitoring bodies, increased the capacity of inspection services and the relevant department, and outlawed bonded labour in 1992. At present, core activities are concentrated on networking with the social partners and the academia, and a programme of prevention in sectors with a proclivity towards child labour. Data collection structures are being strengthened. In terms of Sector, programmes focused on the soccer ball, surgical and carpet industries. Pakistan was determined to do away with child labour, but felt that achieving this goal alone would not do enough for the many people in search of jobs. Population pressure added to the need for development and a sound educational infrastructure. The Workers' representative of Bangladesh acknowledged that IPEC had accomplished a great deal illustrated by the fact that the number of children dismissed from the garment factories before and after the Government signed the Memorandum of Understanding had sharply decreased. Nonetheless, it should not be forgotten that many children were now rickshawpullers, a fact which flouted Convention No. 182's requirement that children are provided with tangible opportunities to make a living. The Employer representative of Pakistan cautioned against what he called the political character of his Government representative's statement. The Government representative of the Solomon Islands wondered what the ILO could do to combat traditional practices in domestic child work. Mr. Tapiola addressed the question of sustainability of ILO programmes. He stressed that people will never eliminate child labour with programmes, they can only chip away at the wall and learn what works. Only when programmes team up with political will and better know-how may tangible results be expected. Child labour is on the increase, and is unacceptably high, but the good news is that our understanding and methodology have improved. Only the last few years, it has started to be acknowledged that one cannot eliminate first and then determine what to do with the children removed from the workplace. It must also be noted that only a small number of children work in export-oriented sectors, and that this work is not always categorized as a "worst form".

Session 3 : Presentation of the four principles, the corresponding elaborated in fundamental ILO Conventions, and their relationship with each other

25. Mr. Tim De Meyer, Specialist on International Labour Standards from the ILO South Asia Multidisciplinary Advisory Team, presented the main provisions and development principles of the Freedom of Association and Protection of the Right to Organize Convention (No. 87), 1948, the Right to Organize and Collective Bargaining Convention (No. 98), 1949, the Equal Remuneration Convention (No. 100), 1951 and the Discrimination (Employment and Occupation) Convention (No. 111), 1958.

26. Mr. Joachim Grimsman, Senior Specialist on International Labour Standards from the ILO East Asia Multidisciplinary Advisory Team, presented the main provisions and development principles of the Forced Labour Convention (No. 29), 1930, the Abolition of Forced Labour Convention (No. 105), 1957, the Minimum Age Convention (No. 138), 1973 and the Worst Forms of Child Labour Convention (No. 182), 1999.

27. Professor Shinichi Ago, Professor of International Economic Law, Faculty of Law, Kyushu University, Japan presented a paper, *International Financial Institutions and Labour Standards*. Due to time constraints following the extensive plenary debate on the previous day, Prof. Ago had to shorten his presentation, and discussion of the speakers' presentation had to be cancelled. He argued that there is a general trend towards closer co-operation between Bretton Woods institutions and the ILO. However, the seemingly good relationship between these two groups of international institutions does not necessarily mean that there is a complete understanding between the two groups and that they approach the question in the same spirit. Conflicts of interests can even be observed in certain cases. In order for both of them to obtain maximum benefits from co-operation, they should mutually recognize their respective mandates and should not operate in such a way that their respective goals are undermined. International financial institutions, in particular, should not utilize their financial power to influence the social policies of loan receiving countries in a detrimental manner. The ILO, on the other hand, must not use financial institutions with a view to strengthening its own supervisory mechanisms. In reality, there are a number of cases, in which international financial institutions have incorporated labour components into their activities, perhaps unknowingly. A more positive and explicit incorporation is needed on the part of international financial institutions, while the ILO, in its turn, should make more of an effort to stress the positive aspects of labour standards in economic development projects. In order to achieve closer co-operation, a closer relationship is being sought, and free exchange of information must be ensured. If co-operation between the ILO and international financial institutions can be ensured in a positive way, synergies effect can be achieved.

Session 4 : The relationship between development efforts and the promotion of fundamental rights at work

28. Mr. Zafan Shaheed introduced the first group exercise. The objective was to reflect upon the presentations and discussions of the first day, and to draw lessons on how the four sets of principles and rights could be better implemented. Four groups would be constituted: two would examine certain “development efforts” relating to employment creation, and one each would explore efforts to enhance social protection and to strengthen social dialogue. Each group would address the manner and the extent to which the development effort in question has been successful in giving effect to one or more of the principles and rights (namely freedom of association and collective bargaining ; abolition of forced labour; elimination of discrimination ; elimination of child labour), the obstacles encountered, and the way forward. Each group would learn from the different country experiences of the mixed members of the group.

29. Each of the four working groups presented their findings in the plenary. [A written record of the findings is attached as Annex ?]

Session 5 : Practical means of giving effect to the principles/rights in national contexts to develop draft outlines of work plans

30. Mr. Shaheed introduced the second exercise. The object of the exercise was to identify potential measures of national action plans for employment creation, social protection and social dialogue that would give better effect to the four principles and rights. Participants would sit together on a national tripartite basis, and develop, on the basis of their own national experience, measures that would promote decent work and fundamental rights at work at the same time. Participants had to concentrate on two issues in particular: identifying of obstacles and overcoming them, and identifying actors at the national level who would need to be mobilized (actors within as well as outside the sphere of labour and social affairs).

31. Some national working groups were not fully tripartite, because at least one of the partners was absent from the seminar. In spite of this, all groups presented a national plan in various formats and in varying degrees of length and detail to the plenary. [As an example, one action plan each from four subregions in Asia Pacific (South Asia, North East Asia, South East Asia, and the Pacific islands) is attached].

CLOSING SESSION

32. Mr. Hector R. Hatch, spokesperson for the Employers' group, stressed that while the fundamental principles at work should be better implemented, the promotional character of the Declaration should be respected, and labour standards should not be linked to trade. The effective and sustainable implementation of the principles of the core Conventions is the reason for the existence of these Conventions, and not their mere ratification. He noted the ingredients of true progress on the road to successful ratification: first, the political will and commitment of the government; second, the effectiveness of ILO technical assistance; and third, the effectiveness of tripartite and social dialogue.

33. Mr. S. Ito, spokesperson for the Workers' group, felt that efforts to increase the number of ratifications of core Conventions needed to be stepped up, even if their implementation is sometimes difficult and equally important. Among the core labour standards, freedom of association is the most important because respect for other fundamental principles and rights hinges on the existence of trade unions. However, Convention No. 87 is not ratified by many countries in Asia and the Pacific, and is sometimes violated even when ratified. The ILO has a lead role to play in urging the International Monetary Fund and the World Bank to pay attention to freedom of association, the right to bargain collectively and other fundamental principles at work in formulating their policies. Additionally, the Asian Development Bank should cultivate the social dimension of its work. Trade unions and employers of the United States and Japan have a great responsibility to promote core labour standards in multinational enterprises operating in developing countries. The ILO must not relent in contributing to the economic and social development of countries through its technical cooperation activities. While the Declaration clearly stresses that labour standards should not be used for protectionist trade purposes, human rights should be respected by all countries irrespective of the degree of economic and social development.

34. Ms. Brenda L. Villafuerte, spokesperson for the Governments' group, underlined that the principles in the four fundamental rights areas supported the development process, as they point the way to a better society. There are differences in the level of acceptance, ratification and implementation of the fundamental principles, but all governments share the same vision, dream and commitment to a better world of work, for men, women and children to work in conditions of freedom, security and dignity. Governments are committed to realize this principle.

35. Ms. M. Horiuchi thanked the participants, the donors (the Governments of Japan and the United States) for making the seminar possible, and Cambodia for hosting the seminar. She felt that the efforts that had gone into the national action plans represented an encouraging first step, which had underlined the importance of practical implementation, the need for an integrated approach, and the need for partnership with the ILO.

36. Mr. K. Tapiola thanked the participants, and apologized for the time constraints and imperfections, which were an inevitable part of the learning process. The seminar showed that much more than legislation alone is needed to reach the real ground, and that achieving fundamental rights at work cannot be promoted in the abstract, but requires solutions for many practical issues. This can only happen through a tripartite dialogue that does justice to different views and expectations; the legitimate interests of different groups must be recognized to ensure viable policies. The creation of employment and the respect for fundamental rights at work were equally essential in pursuing decent work for all women and men, and thus the pursuit of both had to be integrated. The political will to achieve this was the primary prerequisite; only then could ILO assistance make a valuable contribution. He reiterated a vote of thanks to Japan, the United States, and Cambodia.