

## Good practices on the role of trade unions in protecting and promoting the rights of migrant workers in Asia



GMS TRIANGLE and ASEAN TRIANGLE projects, ILO Regional Office for Asia and the Pacific and the Bureau for Workers Activities (ACTRAV)

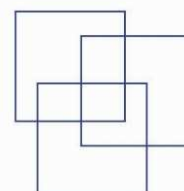


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## **Preface**

Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation (the GMS TRIANGLE project) and Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE project) are working with trade unions in countries of origin and destination within ASEAN to enhance their role in promoting and protecting the rights of migrant workers.

Trade unions in countries of origin and destination have important roles to play in providing protection to migrant workers. There are many instances where trade unions in the Asia and Pacific region have been proactive in promoting a rights-based migration policy by participating in legislative reform processes; engaging in bilateral and regional cooperation between trade unions in sending and receiving countries; building trade unions' capacity to respond to migrant worker issues through education and training; and reaching out to migrant workers by providing support services. Through this broad scope of actions, trade unions in the region are increasingly able to successfully represent the rights and interests of migrant workers in the enterprise, in the community and in policy dialogue.

This report documents selected good practices of trade union actions taken place in Cambodia, Hong Kong (China), Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, Republic of Korea, Taiwan, China, Thailand, and Viet Nam. The activities outlined in this report have been conducted with the International Labour Organization (ILO), through ILO technical cooperation on labour migration and with technical support from the Bureau for Workers' Activities (ACTRAV). Some cases independent of ILO technical assistance are included in the report for the purpose of information sharing. By sharing these practices among trade union partners and other organizations, the report aims to encourage their replication; and in doing so, highlight the relevance of trade unions and further advance their role in the effective governance of labour migration.

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## Acronyms and abbreviations

ACTRAV	Bureau for Workers' Activities, ILO
AFFM	Agriculture and Farmer Federation of Myanmar
ASEAN	Association of Southeast Asian Nations
ASEAN TRIANGLE	Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region
ATUC	ASEAN Trade Union Council
CCTU	Cambodian Confederation of Trade Unions
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CLA	Council of Labour Affairs, Taiwan, China
CLC	Cambodia Labour Confederation
CSO	civil society organization
CTUC–M	Cambodia Trade Union Committee on Migration
DOLAB	Department of Overseas Labour (Viet Nam)
FADWU	Federation of Asian Domestic Workers
FKTU	Federation of Korean Trade Unions
FNV	Federatie Nederlandse Vakbeweging (Federation Dutch Labour Movement)
FTUM	Federation of Trade Unions - Myanmar
GEFONT	General Federation of Nepalese Trade Unions
GMS TRIANGLE	Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation
HRDF	Human Rights and Development Foundation
IDWN	International Domestic Workers' Network
IETO	Indonesia Economic and Trade Office
ITUC	International Trade Union Confederation
KCTU	Korean Confederation of Trade Unions
KFTU	Korean Federation of Trade Unions
LCT	Labour Congress of Thailand

LFTU	Lao Federation of Trade Unions
MOFA	Ministry of Foreign Affairs (Lao People’s Democratic Republic)
MOLSW	Ministry of Labour and Social Welfare (Lao People’s Democratic Republic)
MOLVT	Ministry of Labour and Vocational Training (Cambodia)
MOU	Memorandum of Understanding
MOPS	Ministry of Public Security (Lao People’s Democratic Republic)
MRC	Migrant Worker Resource Centre
MTUC	Malaysian Trades Union Congress
MWG	Migration Working Group
MWRN	Migrant Worker Rights Network
MMTU	Myanmar Maritime Trade Unions (Formerly Seafarers’ Union of Burma)
NACC	National Union Alliance Chamber of Cambodia
NCPE	National Congress of Private Industrial Employees (Thailand)
NGO	non–government organization
PDOLVT	Provincial Department of Labour and Vocational Training (Cambodia)
SBMI	Serikat Buruh Migran Indonesia (the Migrant Worker Trade Union)
SERC	State Enterprises Workers’ Relations Confederation (Thailand)
TLSC	Thai Labour Solidarity Committee
TTUC	Thai Trade Union Congress
UNHCR	United Nations High Commissioner for Refugees
UNI–MLC	Union Network International
VGCL	Viet Nam General Confederation of Labour

## **Trade union activities under the scope of the ILO GMS TRIANGLE project and the ASEAN TRIANGLE project**

Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation (the GMS TRIANGLE project) and Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE project) are working with the trade unions at national, bilateral and regional levels to more effectively manage migration and protect the rights of migrant workers. Tripartite constituents (government, workers' and employers' organizations) are fully engaged in each of the three ILO GMS TRIANGLE project objectives – strengthening policy and legislation, building capacity of stakeholders and providing support services to migrant workers. The ASEAN TRIANGLE project aims to promote stronger regional legal and policy frameworks to more effectively govern labour migration and protect the rights of women and men migrant workers; enhance the capacity of governments to oversee the enforcement of labour and migration laws and regulations; and increase the capacity of social partners to influence labour migration policy.

Trade unions in countries of origin and destination in South-East Asia are crucial partners for the ILO GMS TRIANGLE project and the ASEAN TRIANGLE project. A range of activities have been carried out at all levels together with the Specialist on Workers' Activities in the Decent Work Technical Team for East and South-East Asia. While the approach may vary across countries, trade unions have been encouraged and supported to broaden the scope of their efforts to include migrant workers. This began with a workshop with trade union national centres on their role in the protection of the rights of migrant workers. This training was grounded in the 'In Search of Decent Work: Migrant Workers' Rights' manual that was developed by the ILO's Bureau for Workers' Activities (ACTRAV). Examples from these initiatives are included in this document.

Engagement with trade unions was strengthened at a Sub Regional Seminar on Improving Trade Union Cooperation between Labour Sending and Receiving Countries in ASEAN, held in Hanoi in July 2013. At the seminar participants discussed good practices and put forward a number of country-level, bilateral and subregional strategies for union actions. The focus of these strategies was on strengthening cooperation among sending and receiving country trade unions, and on documenting and sharing good practices among trade unions.

It should be noted that several of the initiatives documented in this report have been carried out independently of support from the ILO or the TRIANGLE projects. They are nevertheless included here as good practices for other trade union partners to consider in their efforts to promote and protect the rights of migrant workers.

## The four pillars approach

The four pillars approach put forward in the 'In Search of Decent Work: Migrant Workers' Rights' manual, developed by the ILO's Bureau for Workers' Activities (ACTRAV) outlines the four areas of action in which trade unions can have an impact on protecting and promoting migrant workers' rights. These four areas are: promoting a rights-based migration policy; creating alliances with trade unions; educating and informing union members; and reaching out to migrant workers.

### **Pillar 1: Promoting a rights-based migration policy**

A fair deal for all migrant workers requires a rights-based approach, in accordance with existing international labour standards and ILO principles. This goal requires a commitment to adopt national policies aimed at the equal treatment of migrant workers with nationals in respect of national labour laws and access to applicable social protections; and the promotion of basic labour rights for all migrants. Good practices of trade unions working to promote rights-based migration policy through lobbying government; participating in legislation and policy development; and documenting migrants' working conditions as evidential support for reform, are outlined below.

## Participation in the development of policy and legislation

1. Representatives from the Cambodia Confederation of Trade Unions (CCTU), the Cambodia Labour Confederation (CLC), and the National Union Alliance Chamber of Cambodia (NACC) participated in the Technical Working Group tasked with drafting eight *prakas* (ministerial orders) supporting Sub Decree 190 on the Management of Sending Cambodian Workers Abroad through Private Recruitment Agencies. The *prakas* strengthen the existing protection mechanisms for migrant workers, and set standards for private recruitment agencies, the recruitment process, pre-departure orientation training and on site services, inspection and complaints. The *prakas* were officially launched by the Ministry of Labour and Vocational Training (MOLVT) on 16 December 2013, ahead of International Migrants Day.
2. The Viet Nam General Confederation of Labour (VGCL) has been involved in the formulation of policy regarding migrant workers, including consultation to provide inputs to the circular on standard contracts, the circular on a ceiling deposit fund, and the amendment to the Prime Minister's decision on the overseas employment fund. The VGCL also plans to conduct a legislative analysis that will feed into a review of the law on Vietnamese Contract-based Overseas Workers.
3. In several countries, trade union action on the rights of migrant workers is enshrined in national law. In the Philippines and Viet Nam, law requires trade union participation in policy boards.

## Policy advocacy

4. In Nepal, the General Federation of Nepalese Trade Unions (GEFONT) has played a role in parliamentary procedures and legislation-making processes. In April 2013, GEFONT submitted a memorandum to the Ministry of Labour and Employment regarding the protection of domestic workers at home and abroad. The memorandum advocated for numerous measures to increase the protection of Nepalese migrant domestic workers, including the ratification and implementation of the ILO Domestic Worker's Convention,



2011 (No. 189); for domestic work to be covered under labour law; for social security protection to be extended to domestic workers; to establish Nepalese Embassies in Gulf countries; to appoint female labour attachés in destination countries; and to establish a women's unit in the Department of Foreign Employment.

5. In Thailand, the State Enterprises Workers' Relations Confederation (SERC) has been vocal in advocating for migrant workers' rights, including the right to freedom of association, and equal compensation for accidents at work, in line with the ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), which Thailand has ratified. SERC's 'Informal and Migrant Workers' Unit' made submissions to the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) regarding discriminatory practices against migrant workers in Thailand.



The State Enterprises Workers' Relations Confederation (SERC) protest for migrant workers' rights in front of the UN building in Bangkok

6. In pursuing greater protection for migrant domestic workers, the Malaysian Trades Union Congress (MTUC) has conducted national consultations on laws and practices to bring together government, trade unions, NGOs, employers and other stakeholders to review existing laws and regulations on domestic workers. In December 2012, MTUC submitted a memorandum to the Secretary General of the Ministry of Human Resources (MOHR) urging the Government to ratify the ILO Domestic Workers Convention, 2011 (No. 189).
7. In Indonesia, Serikat Buruh Migran Indonesia (the Indonesian Migrant Worker Trade Union) has been a strong advocate for greater protection for migrant workers, particularly in the years running up to the adoption of the Domestic Workers Convention, 2011 (No. 189) and the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) in 2012. The trade union formed a coalition with civil society organizations to advance these aims, and continues to lobby for greater protection of migrants.

#### Information collection and documentation

Trade unions have also been active in investigating and documenting cases of migrant workers' rights violations. This documentation represents an important source of information and evidence to lobby government in support of policy change.

8. The International Trade Union Confederation/MTUC Project on the Protection of Migrant Workers (2009) collected and documented cases of abuse and unfair practices and produced a report that was used as evidence to support policy recommendations submitted to the Ministry of Human Resources and Immigration Department on how to improve compliance with Malaysian labour legislation.
9. The MTUC/FNV Mobilizing Action for the Protection of Migrant Domestic Workers in Malaysia project has publicized cases involving abuses, poor working conditions and the

absence of occupational safety and health standards in the workplace. The project has also conducted a survey on wages and working conditions, the findings of which have been submitted to the Minister for Human Resources in order to encourage appropriate changes to labour laws, guidelines and practices.

10. In Thailand, in high profile cases, SERC and the Thai Labour Solidarity Committee (TLSC) collaborated in an investigation of recruitment practices and working conditions at specific enterprises. The trade unions interviewed workers who were previously employed at the factories and used their findings to make recommendations regarding migrant workers' rights to both the factories and the Thai Government.

## **Pillar 2: Creating alliances with trade unions**

The ILO supports the building of relationships between trade unions within and across countries. Many trade unions are working towards cross-border agreements, including MOUs and other joint activities to coordinate efforts to protect migrant workers. Trade unions are also strengthening their relationships with government and civil society organizations to collaborate on migrant worker issues. Through activities such as collaboration in service provision, information sharing, study tours and workshops, trade unions are facilitating national and international cooperation to strengthen labour rights for migrants.

### **Union collaboration within countries**

11. In Thailand, trade unions have collaborated in the running of Migrant Worker Resource Centres (MRCs). In Samut Prakan, the Thai province with the highest concentration of industry, an MRC is jointly run by the Labour Congress of Thailand (LCT), National Congress of Private Industrial Employees (NCPE) and the Thai Trade Union Congress (TTUC). The MRC's main objectives are to promote the trade union policy on the protection of migrant workers and to provide direct assistance through support services for migrant workers. The trade unions are also signatories to the aforementioned MOU with Cambodian trade unions.



**ILO Director General Guy Ryder meets with Myanmar migrant workers at the MRC in Samut Prakan and heard their stories about their fight to receive compensation and social security with support from the MRC.**

12. Cambodia, the CCTU, CLC and NACC have formed the Cambodia Trade Union Committee on Migration (CTUC-M) – an informal network to share information and put forward issues of common concern. Some of the objectives of the CTUC-M are to hold regular meetings; organize training workshops on the role of trade unions in the protection of migrant workers; and contribute to the process of monitoring recruitment agencies. The members of

the CTUC–M have developed a Memorandum of Understanding with trade unions in Cambodia, and trade unions in Thailand (Annex 3).

13. The Federation of Asian Domestic Workers (FADWU) was founded in Hong Kong (China) in November 2010 and aims to bring together domestic workers of different nationalities. FADWU consists of six domestic workers unions including the Indonesian Migrant Workers Union, the Hong Kong Domestic Workers General Union, the Filipino Domestic Workers General Union, the Union of Nepalese Domestic Workers in Hong Kong, the Overseas Domestic Workers Union – Hong Kong, and the Thai Migrant Workers Union.

### **Bilateral relationships**

Together with the International Trade Union Congress (ITUC) and regional trade union organizations and with the support of national trade union centres from countries of origin of migrant workers and those in the countries of destination, ACTRAV developed a model MOU “[Trade Union Agreement on Migrant Workers’ Rights](#)”, in Amman, Jordan in 2008. The model MOU aims to articulate the role of trade unions in both origin and destination countries in protecting migrant workers. The text of the agreement, which can be adapted to fit specific situations, contains key trade union principles, proposals for joint actions and campaigns, and covers a wide range of practical suggestions for activities aimed at promoting the rights of both migrant and non-migrant workers. A number of trade unions in sending and destination countries in Asia have developed MOUs for mutual cooperation using this model agreement. Some examples are outlined below.

14. In October 2012, the Malaysian Trades Union Congress (MTUC) organized a mission for a delegation from the VGCL (Viet Nam General Confederation of Labour) to visit regular and irregular Vietnamese migrant workers, meet several government departments and NGOs, and to meet with the Labour Management Section of the Vietnamese Embassy in Malaysia. The mission also identified several areas in which to strengthen cooperation among MTUC, VGCL, and the Embassy. Suggestions for future cooperation included: (i) MTUC to share information on Malaysian laws, procedures and trends for VGCL to disseminate; and (ii) the establishment of a focal point to collaborate on resolving disputes by providing information, translation services, and building confidence among Vietnamese workers. MTUC then later participated in a training workshop in Viet Nam to discuss the situation of migrant workers in Malaysia. This experience has enabled VGCL officers to participate in policy dialogue in a more active and informed manner.
15. In May 2013, a Lao Federation of Trade Union (LFTU) delegation conducted a study tour to Thailand to meet with and discuss cooperation with Thai trade unions. A workshop on the “Promotion of Bilateral Cooperation between Lao Federation of Trade Unions and Thai Trade Unions on the Protection of Migrant Workers” was held. The event was attended by the LFTU delegates, and representatives from LCT, NCPE and TTUC. The workshop developed a draft MOU between LFTU and the Thai trade unions to provide a framework for improved cooperation. During the study tour, the LFTU delegates also met with Laotian migrant workers and visited the MRC in Samut Prakan to learn how Thai trade unions provide support services to migrants. The findings from the study tour on the situation of Laotian migrant workers in Thailand were presented at several meetings and training sessions in Lao People’s Democratic Republic, with participating officials from the Ministry of Labour and Social Welfare (MOLSW), the Ministry of Foreign Affairs (MOFA) and the Ministry of Public Security (MOPS).

## Regional cooperation

16. The ASEAN Trade Union Council (ATUC) is an apex body of 18 national trade union centres in ASEAN. ATUC began work on migrant labour in 2009, and initiatives have included participation in the ASEAN Forum on Migrant Labour, and in the drafting of the Civil Society Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers. A 2013–2014 work plan was developed in collaboration with the ASEAN TRIANGLE project. Proposed activities in the work plan include:
- Research on evaluation of trade union cooperation among migrant sending and receiving countries, including MOUs. This research will be presented at a regional seminar and will lead to the development of regional guidelines on trade union bilateral agreements on unionization and services for migrant workers;
  - Research on what is preventing the ratification of ILO core conventions in ASEAN; and research on gaps in the application of ratified conventions, including national laws and regulations passed or under consideration, and cases brought to the ILO on non-applications of ratified conventions. This research will inform the development of recommended strategies and national-level actions to accelerate the ratification and application of conventions. This research will also feed into the development of a campaign to promote ratification and application of priority ILO conventions; and
  - Strengthening trade union services for migrant workers, including training of ATUC affiliates' focal points; and the sharing of good practices on complaints mechanisms and evaluation of standard complaint forms.
17. The South Asian Regional Trade Union Council (SARTUC), with ILO support, adopted the SARTUC Migrant Labour Charter and Kathmandu Plan of Action in December 2013. Some of the key priorities under the action plan include:
- Reform trade union Constitutions and structures to be fully conducive to the active membership and involvement of migrant workers.
  - Build the capacity of trade unions to provide information and support to new migrant worker members and non-members.
  - Actively monitor recruitment agencies and develop a system of voluntary accreditation.
  - Promote the ratification of key ILO Conventions including the Convention on Freedom of Association and Protection of the Right to Organization, 1948 (No. 87), the Migration for Employment Convention (Revised), 1949 (No. 97), the Convention on the Right to Organize and Collective Bargaining, 1951 (No. 98), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the Domestic Workers Convention, 2011 (No. 189).
  - Support each SARTUC country to reach agreement on national minimum wages, working conditions, social protections and reduced migration costs.

## Cooperation with non-government organizations (NGOs) and civil society organizations (CSOs)

18. In Thailand, relationships and cooperation have also been developed between trade unions and NGOs. Often, cases are referred to trade union MRCs by NGOs and CSOs. The Federation of Trade Unions - Myanmar (FTUM) work with Human Rights and Development Foundation

(HRDF), a NGO in Mae Sot, to train migrant leaders as paralegals to provide legal assistance to the migrant community and referrals to the Labour Law Clinic.

19. In Thailand, SERC and TLSC, collaborate with NGOs including the Migrant Worker Rights Network (MWRN) and HRDF to reach out to government concerning issues relating to migrant workers. In August 2013, they collectively circulated a press release that made a direct request to the Thai and Myanmar governments for clarification on policy and practice regarding migrants' access to social security and health protection and the nationality verification process.

### **Pillar 3: Educating and informing trade union members**

In countries of origin and destination, the ILO and trade union partners have been active in promoting the protection of migrant workers' rights as a key trade union policy and priority. This is achieved through training workshops on labour migration trends and issues, the development of trade union action plans, and strengthening the capacity of trade unions to participate in the shaping of migration policies and to respond migrant worker issues. A key document in the promotion of the role of trade unions in protecting migrants' rights is the 'In Search of Decent Work: Migrant Workers' Rights' manual, developed by the ILO's Bureau for Workers' Activities (ACTRAV), which has been translated into Vietnamese and Khmer.

20. The ILO GMS TRIANGLE project has supported the development and implementation of trade union action plans in six countries, including Thailand (LCT, TTUC, NCPE and SERC), Malaysia, (MTUC), Viet Nam (VGCL), Lao People's Democratic Republic (LFTU), Cambodia (CLC, NACC and CCTU), and Myanmar (AFFM). The four pillars' approach, presented in the ILO ACTRAV manual provides the framework for the action plans. The Viet Nam and Thailand trade union action plans are presented in Annexes 1 and 2, respectively.

21. A workshop was held in Cambodia in February 2012 to promote the role of Cambodian trade unions in the protection of migrant workers and to draft a trade union action plan. The 30 attendees included trade unionists from CCTU, CLC and NACC. At the workshop, trade unionists made two major suggestions: (i) to support the establishment of a working mechanism whereby several national trade unions can conduct joint activities; and (ii) to build a network between Cambodian trade unions and Thai trade unions to monitor the process of migration and protect labour and trade union rights. The trade unions drafted an action plan using the framework of the four pillars outlined by the ACTRAV training



**Cambodian trade unions meeting with migrant workers during a study tour of Thailand**



manual on migration.

22. In August 2012 and February 2013, VGCL held two training workshops on enhancing the role of trade unions in promoting safe and legal migration. The workshops were held in Bac Ninh and Thanh Hoa, with a total of 88 participants. The workshops aimed to build and strengthen the capacity of trade union officials at central, provincial, district and communal levels; to promote the role of trade unions in supervising and protecting the rights and interests of overseas workers; and to propose a means by which trade unions can offer support, supervision and protection to overseas workers. The workshops also discussed migration trends, the difficulties faced by workers during overseas employment, and current laws and legislation on dispatching contract-based workers for overseas employment in a legal and safe manner. Provincial plans of action were developed to strengthen the role of local trade unions in monitoring and supervising the implementation of the law as well as to raise awareness for migrant workers on their rights.
23. In June 2013, a consultation and planning meeting for the ILO's Thailand Trade Union Project (2013–2014) was organized. Attendees included representatives from TTUC, LCT, NCPE, SERC and TLSC. The project outlined three key actions: (i) advocacy for the principles of freedom of association and the right to collective bargaining; (ii) direct action projects on access to justice and livelihoods for vulnerable groups; and (iii) in paying special attention to youth and migrant workers, the establishment of trade union youth leadership programmes. These actions are to be achieved through improving the understanding of the principles of freedom of association and the right to collective bargaining among workers and trade unionists; mobilization of support for the ratification of ILO Convention on Freedom of Association and Protection of the Right to Organization, 1948 (No. 87) and ILO Convention on the Right to Organize and Collective Bargaining, 1951 (No. 98); the training of trade union leaders on their role in defending migrant workers' rights; and enhancing the capacity of trade unions through research and study tours.

#### **Pillar 4: Reaching out to migrant workers**

Trade unions are reaching out to migrant workers to inform, organize and support them. Trade union outreach activities have included conducting training and seminars on labour rights and national laws and regulations; establishing migrant information hotlines; facilitating the unionization of workers and the establishment of support groups; and providing legal assistance and case management.

#### **Information dissemination and training activities**

24. Assistance is provided to migrant workers directly through the ILO GMS TRIANGLE project-initiated Migrant Worker Resource Centres (MRCs), or drop-in centres that provide information, counselling and legal assistance. MRCs also conduct a variety of outreach, information dissemination, training, and organizing activities. In Cambodia, the Cambodia Labour Confederation (CLC) runs a MRC in Prey Veng. In Lao People's Democratic Republic, the Lao Federation of Trade Unions (LFTU) runs an MRC in Savannakhet. In Thailand, the unions jointly run an MRC in Samut Prakan, and MTUC runs MRCs in Kuala Lumpur/Selangor,

Johor and Penang. Annexes 4 and 5 provide more detail and case studies from two MRCs run by trade unions in Malaysia and Cambodia.

25. At the MRC run by the TTUC in Samut Prakan, eight Mobile Educational Seminars have been conducted for Myanmar and Laotian workers. These seminars covered the regulations concerning work permits, the rights and responsibilities of workers in Thailand, and the Social Security Fund regulations and benefits.



**A group of young Laotians receive counseling on safe migration and employment opportunities abroad at the MRC run by LFTU in Savannakhet**

26. MTUC has held several one-day education programs for migrant workers. Topics included the fundamental rights of migrant workers and migrants' rights under Malaysian law. At a session held in February 2013, MTUC nominated two migrant workers from selected companies, and advised them on how to organize unions at their workplaces. MTUC has also held several meetings and workshops specifically for Vietnamese migrant workers in Penang, Port Klang, Selangor, Malacca, and Johor on the topic 'Workers Rights are Human Rights.'
27. The Korean Confederation of Trade Unions (KCTU) and Federation of Korean Trade Unions (FKTU) provide legal services and a phone line for migrant workers. The FKTU has provided cultural programs, training and legal services to migrant workers.

### Organizing and unionizing migrant workers

28. GEFONT established a Migration Committee in its office in 2004. The Committee has established support groups in Republic of Korea, Malaysia, United Arab Emirates, Saudi Arabia, Israel, Hong Kong (China) and India. The GEFONT support groups provide assistance to their members who migrate and connects them with other migrant networks in destination countries, for example, the 'Nepalese Migrant Worker Association' in Malaysia. Since 2008 GEFONT group leaders in Malaysia have met with officials from the Nepali Embassy 2–3 times per year to discuss migrant worker issues.
29. At a factory in Samut Prakan, Thailand, the MRC managed by TTUC assisted with the formation of a sub committee representing approximately 300 Myanmar migrant workers (87 men, 213 women) in 2013, under the organizational framework of the Labour Union of the factory. The Labour Union negotiated with company management on behalf of the Myanmar employees so that they would receive the same benefits as their Thai co-workers: the legal minimum wage for Thailand, an annual increase in wages, punctuality incentives, annual leave, enrolment in the Social Security Fund, company housing and free uniforms. The factory provided good cooperation during the formation of the sub committee, and has continued to show support for their organizing activities – which the workers fund through payment of membership dues.
30. In Taiwan, China in May 2013, following new legislation allowing freedom of association for migrant workers, the first trade union founded by migrant workers was formed: the 'Yilan

County Fishermen's Trade Union.' The union is composed of 89 Filipino migrant fishermen, and has registered with the county government's Labor Affairs Department. It aims to strengthen the voice of migrant fishers working in Taiwan, China, and to collectively negotiate with employers on longstanding issues such as excessive working hours and unpaid overtime wages. Following in the example of the Yilan County Fishermen's Trade Union, other migrant worker associations in fishing towns such as Kaohsiung and Pingtung have expressed interested in forming their own trade unions.

31. MTUC has guidance and strategies on organizing migrant workers. For example, certain MTUC affiliates have introduced strategies such as waiving membership dues until a collective bargaining agreement has been signed as a means of encouraging migrants to join the union, particularly if workers are warned of a threat of dismissal for joining a union. In Malaysia, migrant workers are often needed to secure '50 per cent plus one' membership to trigger an enterprise level ballot to claim for recognition of a union. MTUC affiliates have faced legal challenges to its organizing activities, including long-running cases that have gone to the Industrial Relations Department or the High Court to adjudicate on whether employers have illegally interfered with a fair voting process. Despite these challenges MTUC affiliates have achieved some successes in organizing migrant workers. In Penang, at an electronics manufacturing company in which the majority of employees are migrants, MTUC helped to organize 500 workers to join the Electronics Union. MTUC also provides legal rights awareness training on the role and support of the trade union for migrant workers.

#### **Providing support services and legal assistance**

Many trade unions are also involved in direct interventions with migrant workers. These may include providing legal assistance and case management, issuing complaints against employers, and rescuing migrant workers.

32. MTUC has been active in pursuing complaints against companies for labour rights abuses such as unpaid wages, no rest day, inadequate accommodation, unfair dismissal, medical insurance issues, compensation for injury, and the withholding of identity documents. In 2012–2013, MTUC provided legal assistance to migrant workers in which 22 complaint cases involving 122 claimants (118 male, 4 female) were handled, and approximately USD 55, 990 in compensation was received. This was achieved through action in labour courts, the industrial relations courts, and through direct negotiations.
33. Following the Thai floods in 2011, SERC, along with TLSC and the Migrant Working Group (MWG) worked together to provide relief supplies and respond to the specific needs of migrant workers. A temporary tripartite working group, composed of TLSC, TACDB (a Thai NGO), Thai trade unions, government authorities and employers, was established to provide early emergency assistance. The number of male and female migrant workers who were provided assistance totalled 1,500 people from October to December 2011. Assistance took the form of distribution of rescue packages to both Thai and migrant workers, and legal consultation and assistance to migrant workers. SERC and TLSC subsequently held a tripartite workshop for social dialogue on the re-entry and re-employment of migrant workers. The workshop was attended by the Ministry of Labour, the Social Security Office, employers' representatives, and NGOs.
34. During the period of 2012–2013, the MRC run by Thai trade unions in Samut Prakan provided legal, educational and social case management in 24 cases, which has amounted to assistance being provided to 284 beneficiaries. Legal assistance was provided on cases



including dismissal without compensation, workers not being paid, a case in which a worker was sold to a fishing boat, accidents and injuries at work, a worker who was detained by police for a long period for time, and a request for access to social security benefits. In terms of social support, the MRC was also able to provide assistance to workers wishing to return home, passport assistance, and information regarding marriage certification.

35. GEFONT, Union Network International (UNI-MLC), Building and Wood Workers International (BWI) and MTUC jointly established a SMS Helpline service for Nepali migrant workers in 2011. The helpline is a channel to provide essential services for migrant workers in Malaysia. The SMS helpline has resulted in negotiations between migrant workers and their employers; and referrals to partners, including UNHCR and Embassies. After receiving a case, the helpline staff discuss with the Nepalese Embassy, usually on a weekly basis. The group also runs training on labour rights and the SMS hotline.

## Annexures

### Annex 1: Viet Nam General Confederation of Labour (VGCL) Policy and Action Plan

#### Background

The Viet Nam General Confederation of Labour (VGCL) and the International Labour Organization (ILO) jointly organized a workshop in Hanoi on 20–21 November 2011 to identify the role of the trade unions in the promotion and protection of the rights of Vietnamese migrant workers as well as foreign migrant workers in the country. An estimated 500,000 Vietnamese are working in more than 40 countries and territories around the world. The Government of Viet Nam has a clear policy to promote labour migration as an employment generation and poverty reduction strategy. The VGCL has a mandate to deal with labour issues and initiate the development of labour laws in order to protect the interest and rights of workers, including migrant workers.

The workshop was hosted by the Policy Division of the VGCL, with the participation of union representatives from 10 provinces across Viet Nam, and with the support of the ILO TRIANGLE project and the ILO Senior Specialist on Workers' Activities (ACTRAV) based in Bangkok. The 'Four Pillars', outlined in the "ACTRAV Trade Union Manual: In Search of Decent Work – Migrant Workers' Rights", served as a framework for the VGCL Policy and Action Plan on the Protection of Rights of Migrant Workers.

#### Pillar 1: Promoting a Rights–Based Migration Policy

1. Participate in regular stakeholders' meetings at central and local levels to review the law, policy and regulations to better protect migrant workers throughout the migration process and to enable their successful return and reintegration;
2. Propose revisions of laws, policies and regulations (e.g. the Constitution, the Trade Union Law and the Law on Vietnamese Guest Workers) to comply with international standards (the Migration for Employment Convention (Revised), 1949 (No. 97); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the Domestic Workers Convention, 2011 (No. 189); and the eight core conventions), in consultation with the VGCL.
3. Promote trade union rights and extend protections to foreign workers in Vietnam, in line with the draft Trade Union Law and international standards.
4. Monitor the activities of licensed recruitment agencies and other recruitment actors by placing union representatives in the agencies and through the existing VGCL network at all levels.

#### Pillar 2: Networking

5. Establish and strengthen bilateral cooperation with trade unions in major destination countries and territories with a high number of Vietnamese migrant workers through the development of a MOU and carrying out follow-up activities.
6. Appoint local trade union contact persons in the major destination countries and territories to network with Vietnamese workers, the Vietnamese Embassy and the VGCL. The honorarium of these contact persons will be paid through a joint fund of the VGCL/ILO.
7. Hold regular meetings with the Department of Overseas Labour (DOLAB) and the Vietnam Association of Manpower Support (VAMAS) at central level, and local authorities to monitor migration processes and the situation of migrant workers.

**Pillar 3: Organizing and Outreach**

8. Disseminate contact details of the trade unions in Malaysia and other destination countries to migrant workers and potential migrants as a source of information and support.
9. Provide information and support services to Vietnamese migrant associations in destination countries.
10. Organize return migrant workers into VGCL affiliates or new unions.

**Pillar 4: Advocacy and Education**

11. Participate in the monitoring pre-departure training of recruitment agencies.
12. Provide inputs to training modules, with a focus on English language, vocational skills, labour law and rights at work.
13. Organize capacity-building workshops for VGCL staff at provincial level with the participation of employment promotion centre and local authorities.
14. Disseminate information to potential migrant workers on safe migration and rights at work at local levels and on the VGCL website.
15. Deliver training and employment services for return migrants to enable them to smoothly reintegrate into society.

## Annex 2: Thailand Trade Unions Policy and Action Plan

The Labour Congress of Thailand (LCT), Thai Trade Unions Council (TTUC), National Congress of Private Industrial Employees (NCPE) and the State Enterprises Workers' Relations Confederation (SERC) have been active in promoting labour rights protection for all workers in Thailand, regardless of their nationality.

On 20–21 February 2012, these unions and the ILO held a workshop on the role of trade unions in the protection of the rights of migrant workers. The workshop served as a forum to raise awareness on issues faced by migrant workers, including child labour and forced labour; and to promote cooperation with trade unions in countries of origin and other countries of destination. The main outcome of the meeting was the development of an Action Plan for 2012–2013 based on the four pillars established by the ILO Bureau for Workers' Activities (ACTRAV). The Action Plan will be implemented with the support of the ILO TRIANGLE project,<sup>1</sup> the IPEC project<sup>2</sup> and the ILO Regional Specialist on Workers' Activities.

### **Development of a Joint Policy on the Role of Trade Unions in the Protection of Migrant Workers:**

The Phuket Declaration, adopted by the trade unions in 2005, will be updated in line with the group discussions at the workshop.

#### **Pillar 1: Promoting a Rights–Based Migration Policy**

1. Play a proactive role in the Committee Considering Alien Workers under the Alien Employment Act 2008 and the National Committee on the Elimination of the Worst Forms of Child Labour.
2. Submit joint proposals to amend laws and policies on labour migration, child labour, labour rights, social protection for migrant workers, etc.
3. Promote ratification of ILO Convention 87 and Convention 98, and the freedom of association and the right to collective bargaining for migrant workers.
4. Promote ratification of the migration conventions (ILO Convention 97, ILO Convention 143, UN Convention on the Rights of All Migrant Workers and Members of their Families).

#### **Pillar 2: Networking**

1. Build networks between Thai trade unions and unions of countries of origin,<sup>3</sup> by signing an MOU, sharing information, putting forward joint approaches to migration management and rights protection, and holding regular meetings and ad hoc meetings on specific issues.
2. Use the internet and social networking to enhance communication among the trade unions in Thailand and also with trade union in countries of origin.

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<sup>1</sup> ILO Tripartite Action to Protect the Rights of Migrant Workers within and from the Greater Mekong Subregion. The project is a five–year initiative (2010–2015) funded by the Australian Government.

<sup>2</sup> Combatting the Worst Forms of Child Labour in the Shrimp and Seafood Processing Areas in Thailand. The project's target areas include Samut Sakhon, Surat Thani and Songkhla. The project runs from 2010 to 2014.

<sup>3</sup> Beginning with the Lao Federation of Trade Unions (LFTU), Federation of Trade Unions – Myanmar (FTUM), Myanmar Maritime Trade Unions (MMTU) (Formerly Seafarers' Union of Burma), and later with the Cambodian trade unions.

3. Build links between trade unions and NGOs working with migrant community in order to improve the responsiveness of unions to the needs of migrant workers, and promote trade union membership.
4. Promote greater regional cooperation on migration and migrant worker issues through the ASEAN Forum on Migrant Labour and the ASEAN Trade Union Council (ATUC).

### **Pillar 3: Organizing and Outreach**

1. Provide support services to women, men and child migrants through the Migrant Worker Resource Centre (MRC) in the LCT/TTUC office in Samut Prakan.
2. Establish mobile help-desks and hotlines to provide information and assistance to workplaces in which migrant workers are present.
3. Identify and train women and men migrant leaders to improve outreach to migrant communities.
4. Organize migrants and Thais in enterprises without trade union presence.
5. Form sub committees of migrant workers within TTUC/LCT and NCPE to more effectively represent migrant workers and respond to their specific needs.

### **Pillar 4: Advocacy and Education**

1. Provide education and knowledge for migrant workers and union members about migrants' rights, safety at work, child labour, forced labour, etc.
2. Support a campaign for occupational safety and health and Safe Work for Thai workers, migrant workers with special attention on the protection of young workers.
3. Organize special events for migrant workers, including cultural events – e.g. on May Day and International Migrants Day (18 December).
4. Mobilize and train young Thai trade unionists on migration, child labour, forced labour, OSH and other relevant issues.
5. Advocate with employers and others to set up child care centres within the workplace – a common cause for migrants and Thai workers.
6. Collaborate with vocational training centres to provide language and skills training to migrant workers.

## **Annex 3: Memorandum of Understanding between Trade Unions in Cambodia and Trade Unions in Thailand on Protection of Migrant Workers' Rights**

### **PREAMBLE**

The Trade Unions in Cambodia undersigned and the Trade Unions in Thailand undersigned, are hereinafter referred as “the parties”.

The parties agreed to develop a Memorandum of Understanding (MOU) with a view to facilitating joint activities on protection of migrant workers' rights. The MOU promotes a rights-based policy when dealing with issues related to the protection, education and organizing of migrant workers.

The outline of this MOU is guided by the ACTRAV trade union manual, “In Search of Decent Workers – Migrant Workers' Rights”, which aims at assisting trade union organizations to carry out activities based on the ILO instruments (C97 and C143) and various resolutions concerning labour migration, adopted by the international and regional trade union movement.

### **By signing this MOU, the parties are:**

AFFIRMING the importance of migration for employment between Cambodia and Thailand and its positive contribution to the economies of both countries;

CONVINCING that the benefits of labour migration can be maximized through the effective governance system and respect for workers' human and labour rights, enshrined by ILO Fundamental Principles and Rights at Work adopted at International Labour Conference, 1998 as well as within the concepts of ILO decent work;

ASCERTAINING that the situation of migrant workers should be addressed through the principles of international trade union solidarity, social justice, equal treatment, equal opportunity, and gender equity;

REAFFIRMING that freedom of association and the right to collective bargaining are a central and non-negotiable principle.

### **KEY PRINCIPLES**

**Both parties have agreed on the following key principles in addressing issues related to the rights of migrant workers:**

- The Provisions of the ILO Constitution and the Philadelphia Declaration, proclaiming that labour is not a commodity;
- The ILO Multilateral Framework on Labour Migration which, affirming that all ILO Conventions apply equally to migrant workers, regardless of their status;
- The principles of ILO Conventions No.97 on Migration for Employment, 1949, and No.143 on Migrant Workers (Supplementary Provisions), 1975, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990;

- Provisions of national and international laws and jurisprudence to the effect that once an employment relationship has been established, all workers should enjoy the full panoply of labour rights.

## **TRADE UNION CAMPAIGNS AND ACTIONS**

### **The parties have agreed to carry out joint trade union campaigns as following:**

- Action 1: To raise awareness for potential and migrant workers in both sending and receiving countries concerning labour rights. To provide pre-departure training in the sending country concerning the subject of basic labour rights, culture and tradition and orientation programme in the receiving country concerning the subject of occupational health and safety and helpline contact numbers including the migrant resource center;
- Action 2: To cooperate on the promotion, ratification and implementation of ILO Conventions No. 87 (freedom of association), No. 98 (the right to collective bargaining), No. 97 (migration for employment) and No. 143 (migrant workers (supplementary provision)) as well as the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 1990 and to revise the legislation in line with the international instruments;
- Action 3: To raise the specific concerns of migrant workers in their national tripartite labour committees and encourage affiliated unions to integrate migrant workers in their collective bargaining agreement with the employers;
- Action 4: To take specific measures to address occupational health and safety concerns of migrant workers, particularly in hazardous, dangerous working conditions, as well as to promote special protection for the vulnerable workers in domestic, fishing and agricultural sectors;
- Action 5: To make joint efforts to lobby the concerned governments to revise the laws hindering the rights and benefits of migrant workers, especially with regard to the OSH Act, the Workmen's Compensation Act and the Alien Working Act;
- Action 6: To set up a migrant workers' consultative body and a special migrant workers' desk, within their respective organization to provide protection to the case of abuses and violation of labour rights and to reach out and organize migrant workers in both countries;
- Action 7: To encourage affiliated unions in both countries to build up cooperation in areas of registration of migrant workers as union members and selection of migrant workers' representatives in order to timely respond to the problems facing migrant workers and their communities; to encourage the migrants' communities to affiliate the existing unions;
- Action 8: To propose the Ministry of Labour in Thailand to organize a national contest for the "Prize of Best Employers of Migrant Workers" in the sectors where the majority of migrant workers are employed (the similar event shall be held with the recruitment agencies in Cambodia) and the awards will be presented at the International Migrants' Day on 18 December;

Action 9: To organize annual cross–border meetings and joint evaluation of progress made in the implementation of this MOU and for improvements as appropriate;

Action 10: To jointly initiate with the recruitment agencies’ association(s) and the concerned government authority to develop a model employment contract for migrant workers, based on the principles of international labour standards and national legislations in both countries;

Action 11: To lobby the Thai government to change a policy to hire Cambodian translators who can help provide translation services to the migrant workers who are in need; to develop visualized advocacy materials (like cartoons) in Khmer for migrant workers;

Action 12: To actively engage in tripartite consultation and decision–making mechanisms to address the concern of migrant workers on social protection and assure that all migrant workers who are insured have full rights and benefits of social protection as equivalent as Thai workers; and

Action 13: To work together to set up a referral mechanism and reintegration activities for return migrant workers in the sending country.

IN WITNESS WHEREOF, both parties have signed this MOU in English with the technical assistance of the ILO Bangkok. The MOU will be translated into Thai and Khmer.

Prior to the revision or nullification of the MOU, both parties will discuss and agree on it. The MOU shall be effective upon signature.

**On November 11, 2013 in Rayong, Thailand**

**With representatives of the undersigned trade unions**

Chuon Mom Thol, President

Thavee Techateeravat, President

Cambodian Confederation of Trade Unions  
(CCTU)

Thai Trade Unions Council (TTUC)

Som Aun, President,  
National Union Alliance of Chamber of  
Cambodian (NACC)

Hussachai Phayaban, Executive Committee for  
Organizing,  
Labour Congress of Thailand (LCT)

Ath Thorn, President

Tawatchai Pholcharoen, Vice–President

Cambodian Labour Confederation (CLC)

National Congress of Private Industrial Employees  
(NCPE)



## Annex 4: Case studies from the Malaysian Trades Union Congress (MTUC) Migrant Worker Resource Centre (MRC)

The unions affiliated to MTUC represent all major industries and sectors, with approximately 500,000 members. The MTUC has been recognized by the Government as the representative of workers in Malaysia and is consulted on major changes in labour laws through the National Joint Labour Advisory Council. MTUC also represent workers at ILO Conferences and meetings. In recent years, MTUC has proved an active and respected partner in promoting fair and equal treatment for migrant workers.

The ILO GMS TRIANGLE project has supported the MTUC in running Migrant Worker Resource Centres (MRCs) in Kuala Lumpur/Selangor and Penang. The MRC office in Kuala Lumpur/Selangor has handled numerous cases in labour and industrial relations courts resulting in compensation for claimants. The Kuala Lumpur/Selangor MRC has also been successful in seeking compensation through supporting migrant workers in direct negotiations with employers. The MRC office in Penang has been involved in providing assistance to migrants, and also organizing workers, mostly in factories producing electronics. Awareness raising activities and outreach meetings have also been organized with migrant workers to provide them with more information about their rights and how to protect them. A selection of case studies from the MTUC MRC are outlined below.

### Case Study 1 – Garment factory workers in Kedah (Viet Nam/Malaysia)

Ms N contacted her family in Viet Nam from her work place in Malaysia, a garment factory in Kedah, claiming that she was not receiving all of her wages, was working without overtime payment, and was being forced to work on her day off. The family contacted the ILO Country Office for Viet Nam and the case was referred to the Malaysian Trades Union Congress (MTUC). The MTUC committed to assisting in this case and went to investigate Ms N's claims.

As the address of the factory was no longer correct, MTUC had to search for and locate the workplace but were not able to access the workers. The MTUC representative decided to follow the bus that took the workers to their hostel and again was not allowed access to the workers. Eventually, the MTUC hired a translator and gained access by claiming to be a personal visitor of the workers. Ms N was initially wary of the MTUC coordinator until it was explained that the coordinator was there as a direct result of the complaint by her family in Viet Nam. After that, she was keen to cooperate, and claimed that she was being paid wages lower than promised and did not have access to her personal documents as they were kept by the factory management.

The MTUC coordinator went to the Department of Labour to make a general complaint about conditions at the factory and arranged a visit between the Department of Labour and factory management. Ms N's identity was kept secret from the authorities but the details of her claim (no overtime paid, forced work on rest days, long working hours, lower pay than promised, and restriction of movement) were outlined. The Human Resource Manager claimed that none of these abuses were taking place but the Labour Department stated that further investigation would be undertaken by the MTUC. The Human Resource Manager then produced the employment contract (broadly supportive of the claims of the workers) and proceeded to explain the deductions that were made to the accounts of the workers. The Labour Department asked the Human Resource Manager to follow-up on the claim and departed.

Shortly after the meeting, the Human Resource Manager contacted the Labour Department indicating that they would rectify the errors that had been made and agreed to pay compensation to the workers. The Human Resources Manager produced documents for the Labour Department showing that the deductions had been reversed, overtime was paid for the last year, working hours were fixed, rest periods were established, and overtime was voluntary. These payments and improved conditions seem to have benefitted not only Ms N but also the 74 other workers at the factory of Vietnamese, Cambodian, Indonesian, and Nepalese origin.

After this settlement, the hostel moved, so the current conditions for the workers have not been verified. Challenges encountered in this case included language barriers and translation costs, access and building trust with workers, and understanding the specifics of the claim (given that workers did not have access to their contracts). The unsettled nature of the workplaces hosting migrants also meant that time was required simply to find the factory and investigate the case. Ms N has now returned home to Viet Nam.

#### Case Study 2 – Compensation and reinstatement for garment factory workers (Myanmar/Malaysia)

After being contacted by members of the Myanmar migrant worker community in Kuala Lumpur, MTUC provided assistance to two migrant worker women who had been unfairly dismissed and their wages subject to unlawful deductions. Following various wage changes in Malaysia around the implementation of the minimum wage at the beginning of 2013, the Myanmar women were told to no longer attend work. Despite being provided with valid work permits (after some delays post-arrival), the workers were never provided with a contract of their employment. Neither of the women spoke any Bahasa or English, making them especially vulnerable to exploitation.

Negotiations began with the employers as part of an industrial relations process to recover the deductions made to the salaries of the workers. Evidence of deductions were clear from the payslips and indicated that workers were paying back unlawful debts, including for air ticket costs, the levy and agency fees. The levy was (at the time) legislatively the responsibility of the employer, not the employee. As per documents provided by the company, the total debt held by each worker was around US\$850, a figure that would take four months of full time work to repay. MTUC demanded the repayment of the unlawful deductions, the difference between the wages paid and the minimum wage and reinstatement in the position, in accordance with the migrant workers wishes.

With MTUC support, a case was filed in the labour court in Bangi for unfair dismissal, with the MTUC representative claiming that though targets were not being met by the workers, the short length of time they had been working indicated a probationary period during which time targets should not be expected.

After several mediation hearings at which the workers were represented by MTUC and intervention from a large sportswear multinational purchasing from the factory involved in this dispute, the workers were repaid and reinstated. The Labour Court claim was dropped in acknowledgement of the settlement and the workers identification documents returned to them when they returned to work. Systemic issues of the factory sending employees unable to negotiate outcomes to mediation hearings was encountered during the resolution of this case.

### Case study 3 – Organizing migrant workers at an electronics factory in Bandar Baru Bangi, Malaysia

In early 2014, The Malaysian Trades Union Congress (MTUC) initiated organizing activities with workers at an electronics factory based in Bandar Baru Bangi. It is estimated that there are about 800 workers employed by the manufacturer. About 50 per cent of these are sub-contracted workers who are ineligible to join the electronics union because the manufacturer is not legally considered to be their employer. In terms of nationality, approximately 300 factory employees are migrant workers from Myanmar, Indonesia and other countries.

For the secret ballot on joining the union, 396 workers were declared eligible to vote, including 39 migrant workers from Myanmar. Polling was held on 6 and 7 February at the factory premises, with monitoring by officials from the Industrial Relations Department. In total, 253 workers cast their ballots, seven of whom were Myanmar workers. 64 per cent voted in favour of joining the union, and thus the secret ballot was successful. However, the process and outcome were far from ideal. MTUC was informed that prior to voting, workers were threatened against participating in the process – particularly migrant workers. During the aftermath, the seven Myanmar workers who voted were immediately terminated from their positions without notice. All seven were escorted to the airport by the company's human resource personnel and repatriated within 24 hours, offering no opportunity for MTUC to provide consultation or file a complaint demanding reinstatement.

On 17 April 2014, the Minister of Human Resources confirmed union recognition for the factory workers, with the next stage of organizing to be negotiating a collective bargaining agreement. The electronics union has decided not to impose any membership fees until an agreement has been concluded – a good practice in encouraging migrant workers to organize – to show the union's commitment toward promoting and protecting the rights of all workers regardless of nationality.

## Annex 5: Support services provided by the Cambodia Labour Confederation (CLC) Migrant Worker Resource Centre (MRC) in Prey Veng, Cambodia

The Cambodian Labour Confederation (CLC) was established on 9 April 2006 and has 61,754 members from seven federations and associations. As an implementing partner of the ILO GMS TRIANGLE project, CLC has run the Migrant Worker Resource Centre (MRC) at Prey Veng province since 2011. The MRC's services include dissemination of information on safe migration; counselling migrants, potential migrant workers, returned migrant workers, and their family members; and providing legal assistance with complaints in collaboration with the Provincial Department of Labour and Vocational Training (PDOLVT), local authorities and NGOs. Counselling and training is provided through MRC office consultations, through outreach activities and trainings on safe migration in villages and communes, and through a phone line.

The MRC managed by CLC was officially recognized by the Governor's Office in March 2012, which led to a notable improvement in their working relationship with local labour authorities. The increased cooperation between CLC, PDOLVT and NGOs has meant that the trade union is able to provide better follow-up on complaints received and fully document the outcomes – increasing the knowledge base on delivery of effective legal assistance to migrant workers. In addition, capacity building and information dissemination among village heads and other key persons in order to create a communications network in seven communes has had an important trickle-down effect, contributing to both increased awareness of safe migration practices and requests for direct support services among villagers. Vital to maintaining the leadership's engagement with the issue has been through provision of follow-up training and on-going technical support in the target sites.

In the twelve-month period between December 2012 and January 2014, 1,030 potential migrants, including 491 female beneficiaries received counseling from the MRC. During this period there were also 31 complaints cases involving 261 people (including 121 female) handled through mediation and court procedures. A selection of cases are outlined below:

- On 27 May 2013, a group of five complainants from Svay Antor District in Prey Veng Province sought assistance from the MRC regarding malpractice by a recruitment agency. They had heard about the MRC through community networks and other NGOs. The complainants had paid a recruitment agency for a passport in order to migrate to Thailand for work. However the recruitment agency did not produce the passport, and did not provide a clear date of departure to Thailand. The case was resolved through mediation between the group and the recruitment agency, who agreed to pay the group back US\$50 each.
- On 3 September 2013, the MRC assisted a family whose son, along with nine other individuals, had been imprisoned for two months in Thailand after attempting to migrate across the border from Cambodia to Thailand without documents. The MRC attempted to contact the Cambodian Embassy and coordinated with other NGOs and specialized agencies. Eventually the prisoners were freed and returned in Cambodia.
- During an outreach activity in Sitherkandal District, Prey Veng Province on 13 May 2013, the MRC staff were approached by a woman who had returned home from Malaysia after working as a domestic worker. The woman described abuse and labour exploitation at the hands of her employer, including violence, excessive working hours, and non-payment of wages. She requested help to demand three years of salary from her recruitment agency. The MRC coordinated and was able to remunerate her owed wages of US\$3,000.

## Annex 6: The role of migrant worker associations

Migrant worker associations can play a similar role to trade unions in environments that are restrictive towards migrant workers' involvement in trade union activity, or in which there are barriers to migrants' effective participation in union activities.

- In Thailand, HomeNet (an NGO) provides coordination on policy advocacy and support for domestic workers (both migrant and Thai). The NGO provides training on labour rights in Thailand for domestic workers; campaigns to promote labour standards and social protection; and holds dialogue with government, academics and international organizations to advocate for policy. In 2012, HomeNet established the first Domestic Workers Association in Thailand, which welcomes both Thais and migrants as members. HomeNet is also a member of the International Domestic Workers' Network (IDWN).
- In Taiwan, China KaSaPi, a Filipino migrant worker association disseminates information to Filipino migrant workers, hosts lectures on understanding employment contracts, and organizes sightseeing trips. The Institute of Indonesia Workers in Taiwan (IPIT) is active in presenting the views of Indonesian migrant workers to the Indonesia Economic and Trade Office to Taipei (IETO) and the Council of Labour Affairs (CLA), and it aims to influence policy decisions in Taiwan, China and Indonesia.
- In February 2011, the MAP Foundation, a Thai NGO based in Chiang Mai, organized the Migrants Movement Consultation – a gathering of Myanmar migrants working in Thailand. At the consultation, migrant workers were able to meet and share experiences with representatives of labour movements from Cambodia, India, Malaysia and Thailand. Migrant workers (representing workers associations and community-based organizations) also met with trade unionists to share information and strategies.

## **Good practices on the role of trade unions in protecting and promoting the rights of migrant workers in Asia**

Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation (the GMS TRIANGLE project) and Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE project) are working with trade unions in countries of origin and destination within ASEAN to enhance their role in promoting and protecting the rights of migrant workers.

Trade unions in countries of origin and destination have important roles to play in providing protection to migrant workers. There are many instances where trade unions in the Asia and Pacific region have been proactive in promoting a rights-based migration policy by participating in legislative reform processes; engaging in bilateral and regional cooperation between trade unions in sending and receiving countries; building trade unions' capacity to respond to migrant worker issues through education and training; and reaching out to migrant workers by providing support services. Through this broad scope of actions, trade unions in the region are increasingly able to successfully represent the rights and interests of migrant workers in the enterprise, in the community and in policy dialogue.

This report documents selected good practices of trade union actions taken place in Cambodia, Hong Kong (China), Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, Republic of Korea, Taiwan, China, Thailand, and Viet Nam. The activities outlined in this report have been conducted with the International Labour Organization (ILO), through ILO technical cooperation on labour migration and with technical support from the Bureau for Workers' Activities (ACTRAV). Some cases independent of ILO technical assistance are included in the report for the purpose of information sharing. By sharing these practices among trade union partners and other organizations, the report aims to encourage their replication; and in doing so, highlight the relevance of trade unions and further advance their role in the effective governance of labour migration.

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