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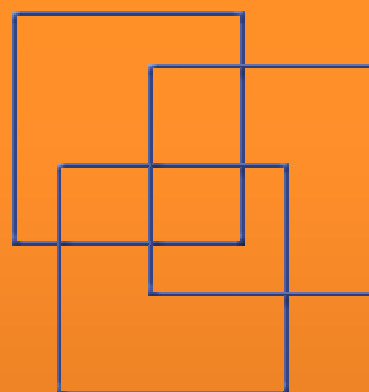
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Report of the Fourth Regional Seminar on Industrial Relations in the ASEAN Region

29 February–1 March 2012

Bangkok, Thailand



ASEAN-ILO/Japan Industrial Relations Project

ILO Regional Office for Asia and the Pacific

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Foreword

All Association of Southeast Asian Nations (ASEAN) constituents have been engaged in a drive to reform and update industrial relations practices against a backdrop of wider development as ASEAN manages the transition towards even greater economic integration in the form of ASEAN Economic Community (AEC). Despite this commonality of purposes, ASEAN nations may have attained varying levels of development, and may thus encounter different forms of challenges and issues, providing a platform for sharing views and experiences toward convergence to achieve a decent work environment. The Japanese Government has provided financial support for the implementation of a project with the purpose of improving industrial relations in the ASEAN Member States. This project is being implemented collectively by the ILO, and the ASEAN Secretariat, bringing together employees' and employers' representatives as well as government entities. An integral element of this ASEAN-ILO/Japan Industrial Relations Project has been a series of seminars providing a forum for a comprehensive exchange of perspectives on good practices and the implementation of industrial relations (IR) policies among the tripartite components. The fourth seminar, the subject of this report, deliberated upon issues and practices in relation to minimum wages and wage guidelines through tripartite action.

The Seminar comprised ten sessions. In the opening session four representatives from ILO Regional Office for Asia and the Pacific, Ministry of Health, Labour and Welfare, Japan, Ministry of Labour, Thailand and the ASEAN Secretariat delivered their speeches detailing the rationales and objectives of the seminar, as well as relevant points for further deliberation during the course of the seminary. Session 2 examined global wage trends and the ILO advice on wage setting. Session 3 considered mechanisms and institutions for wage setting with presentations from Thailand and Malaysia. Session 4 was dedicated to the issues of criteria and data for wage setting with presentations from Indonesia, and the Philippines. Session 5 looked at wage setting in terms of mechanisms and trends with a presentation on an overview of Japan's minimum wage scheme and a presentation on wage setting in Republic of Korea. Session 6 was allocated to a summary of issues and observations from day 1, and a presentation on recent trends in China's wage fixing. Session 7 was on wage setting through collective bargaining in Cambodia and Singapore, while session 8 was dedicated to a review of minimum wage systems in Viet Nam, Lao People's Democratic Republic, and the Philippines. During session 9, the participants were engaged in three discussion groups: a workers group, an employers' group, and a governments' group, with each group presenting its views of the points contained in a series of questions set as a guideline for their discussion. Subsequently, all the participants discussed future directions and proposed possible future topics for the next seminar. Finally, the seminar was closed with no formal closing remarks.

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Acronyms and abbreviations

ACE	ASEAN Confederation of Employers
ACFTU	All-China Federation of Trade Unions
AEC	ASEAN Economic Community
ALM	ASEAN Labour Ministers
AMS	ASEAN Member States
APINDO	Employers' Association of Indonesia
ARMM	Autonomous Region in Muslim Mindanao
ASCC	ASEAN Socio-cultural Community
ASEAN	Association of Southeast Asian Nations
ATUC	ASEAN Trade Union Council
BMBEs	Barangay Micro Business Enterprises
CAMFEBA	Cambodian Federation of Employers and Business Associations
CB	collective bargaining
CBA	collective bargaining agreement
CEC	China Enterprise Confederation
CEDA	China Enterprise Directors Association
CLA	collective labour agreement
CLC	Cambodian Labour Confederation
CPI	consumer price index
DES	Dialogue concerning Employment Strategy
DLPW	Department of Labour Protection and Welfare
DOLE	Department of Labour and Employment
ECOP	Employers Confederation of the Philippines
ECOT	Employers' Confederation of Thailand
FDI	foreign direct investment
GDP	gross domestic product
GMAC	Garment Manufacturers Association in Cambodia
IAC	Industrial Arbitration Court
ILO	International Labour Organization
IR	industrial relations
JILAF	Japan International Labour Foundation
JTUC-RENGO	Japanese Trade Union Confederation
KEIDANREN	Japan Business Federation
KSBSI	Confederation of Indonesian Prosperity Trade Union
LFTU	Lao Federation of Trade Unions

LNCCI	Lao National Chamber of Commerce and Industry
MEF	Malaysia Employers Federation
MEL	Ministry of Employment and Labour
MHLW	Ministry of Health, Labour and Welfare
MLSW	Ministry of Labour and Social Welfare
MLVT	Ministry of Labour and Vocational Training
MOGAHA	Ministry of Government Administration and Home Affairs
MOHR	Ministry of Human Resources
MOL	Ministry of Labour
MOLISA	Ministry of Labour, Invalids and Social Affairs
MOM	Ministry of Manpower
MOMT	Ministry of Manpower and Transmigration
MTUC	Malaysian Trades Union Congress
NCPE	National Congress Private Industrial of Employees
NCR	national capital region
NESDB	National Economic and Social Development Board
NGO	non-governmental organization
NPCEC	National Productivity and Continuing Education Council
NTUC	National Trades Union Congress
NWC	National Wages Council
NWCC	National Wages Consultative Council
NWPC	National Wages and Productivity Commission
RA	Rationalization Act
RTWPBs	Regional Tripartite Wages and Productivity Boards
SIEU	Singapore Insurance Employees' Union
SMEs	small and medium-sized enterprises
SNEF	Singapore National Employers Federation
TAM	trade agreement method
TTUC	Thai Trade Union Congress
VCCI	Viet Nam Chamber of Commerce and Industry
VGCL	Viet Nam General Confederation of Labour
WIS	workfare income supplement scheme

1. Welcome and opening session

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

1.1 Welcome address by the ILO, the MHLW, the MOL and the ASEAN representatives

Ms Alcestis Abrera-Mangahas, Deputy Regional Director for Policy and Programmes, ILO Regional Office for Asia and the Pacific

Ms Mangahas noted that previously the focus of the ASEAN tripartite seminars was on the more traditional areas of industrial relations such as collective bargaining (CB), conciliation and arbitration, and tripartism. The scope of this seminar was expanded to put an emphasis on the issue of wages – a key issue in collective bargaining – which are at the centre of the relationship between workers and employers, as well as industrial relations. Minimum wages and the wage guidelines for annual wage increases are set through intensive tripartite dialogue. One of the leading causes of collective disputes in the region is wages and minimum wage fixing as there is a very close link between wage fixing and the industrial relation institutions.

The ILO has taken interest in wage issues since its founding as portrayed in its Constitution (1919), the ILO Declaration of Philadelphia (1944), the ILO Declaration on Social Justice for a Fair Globalization (2008), a Global Jobs Pact, and Global Wage Report 2008/09. The subsequent updates and reports highlighted the issues of wage stagnation, wage inequality, and the decreasing share of gross domestic products going to wages. The findings of these reports draw conclusions on the relationship between fixing wages through minimum wage mechanisms, and fixing wages through collective bargaining. In discussing wages, the ILO does not consider only minimum wages and minimum wage fixing, but also wage fixing through collective bargaining, or unilaterally by the employer, or based on skills, experience and productivity.

In ASEAN, wages constitute a major topic of debate and conflict. Widespread industrial action is put in place and minimum wage fixing mechanisms are being reviewed, revised or newly introduced. Certain countries are substantially increasing minimum wages to increasing workers' purchasing power, or exploring other ways of increasing wages to attract native workers into the labour market, in order to reduce reliance on migrant workers. The ILO has been working with the Philippines and Viet Nam on the reform of their wage fixing systems, helped to facilitate the first bipartite negotiation over minimum wage fixing in Cambodia in 2006, and is working with the Lao People's Democratic Republic on legal reform, including the framework for wage fixing. The ILO is assisting constituents in China, Mongolia, and Fiji. Recognizing the enormous challenges involved in a bid to re-shape wage policies, the ILO will recruit a full-time wages specialist in 2012 based in Bangkok Office to better respond to the needs of the region. All the Member States share a great deal of common characteristics with regard to wage outcomes in the region, despite differences in their levels of economic development, and shall collectively work toward a common goal in this regard.

Mr Yoshiro Senoo, Assistant Minister for International Affairs, Ministry of Health, Labour and Welfare, Japan

Mr Senoo remarked that this seminar is part of the Japanese Government's project called "Industrial Relations in the ASEAN Region". The current theme should enable all parties concerned to examine the roles of workers and employers in setting minimum wages, drawing on other nations' experiences, and study the systems adapted to respective

countries. This notion was reaffirmed during the 15th ILO Asia and the Pacific Regional Meeting. “Social dialogue and cooperation between workers and employers” were noted as a key element for the “Asia and Pacific Decent Work Decade”. Based on the concept of social dialogue and cooperation, all parties concerned should continue to implement this project for the achievement of decent work in this region. He made reference to the Japanese notion of “*kizuna*” (solid bonds within families, communities, and societies) among nations and tripartite partners, and encouraged all the ASEAN member nations to further foster this notion accordingly.

Mr Pakorn Amornchevin, Inspector-General, Ministry of Labour, Thailand

Mr Amornchevin remarked that although Thailand has not as yet ratified the Minimum Wage Fixing Convention, 1970 (No. 131), its principles have been adopted as an underlying principle in the country’s minimum wage fixing mechanism. Thailand’s minimum wage setting can be traced back to 1956, when the first labour law was enacted allowing the establishment of trade unions and collective bargaining. In 1972, the Ministerial Notification on Minimum Wage Setting and a Wage Committee was announced, and the minimum wage took effect in 1973. Authorized by the Labour Protection Act, B.E.2541 (1998), the tripartite wage committee serves as the focal entity for the fixing of minimum wages. Since 1973, the Government has paid greater attention to labour issues, employment and wages. The National Economic and Social Development Board (NESDB) Plan, 1974 stated that job creation, improving relation between employers and workers constituted the country’s major agenda. A Labour Relations Act was enacted in 1975 and the Government also set forth better wages. In 2008, the wage committee adopted a remuneration recommendation for hourly wages for students and part-time workers (not legally binding). Last year, the wage committee also introduced workmanship standard wages, covering 22 careers. A daily 300 baht (THB) minimum wage has been set for Bangkok and six other provinces. Minimum wages in the remaining provinces will be raised to THB300 as from 1 January 2013. The Government has also raised the monthly minimum wage of public sector civil servants and employees with bachelor’s degrees to THB15,000 as from 1 January 2012. The Government also encourages the private sector to raise the starting monthly salary of their workers accordingly.

Ms Kay Soe, Senior Officer, Social Welfare, Women, Labour and Migrant Workers Division, ASEAN Secretariat

Ms Kay Soe noted that this Seminar is in line with the ASEAN Labour Ministers’ (ALM) Work Programme. The objective of the ASEAN labour cooperation has been designed to enable work towards the vision of a better quality of life, productive employment, and adequate social protection through enhancing workforce competitiveness and creating harmonious and progressive workplace. In achieving ASEAN Labour Ministers’ objectives, minimum wage setting can serve as an important tool in motivating workers and mitigating poverty. It is timely that ASEAN considers this topic at the regional level as three of ASEAN Member States (AMS) are currently engaged in the process of reviewing or setting minimum wages. This Seminar is also in accordance with the ASEAN Socio-cultural Community (ASCC) Blueprint, which aims at contributing to realizing an ASEAN Community that is people-centered and socially responsible by building a caring and sharing society, which is inclusive and harmonious. ASEAN’s engagement and consideration of minimum wage through social dialogue is a real testament of the upmost importance the ILO, Japan, and ASEAN Member States themselves place on tripartism in industrial relations.

2. Introduction: The Fourth Regional Seminar

The Fourth Regional Seminar of the ASEAN-ILO/Japan Industrial Relations Project was held from 29 February to 1 March 2012 in Bangkok with the thematic title “Setting Minimum Wage and Wage Guidelines: Roles of Tripartite Partners and Impact on Industrial Relations”.

The Seminar was conducted with the following strategic objectives:

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

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

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

3. Global wage trends and ILO advice on wage setting

Presenter: Mr Sangheon Lee, Senior Research and Policy Coordinator, ILO Geneva

Mr Lee postulated that the overall global wage trends are as follows: (1) wage growth has been positive but lagged behind labour productivity growth; (2) this smaller share of income has been more unequally distributed among workers, resulting in widening inequality; (3) the resulting shortage of aggregate demands (consumption) tends to be addressed by increasing net exports or debts; (4) there exists a need for rebalancing at all levels; and (5) this calls for the strengthening of wage policies and institutions. There are also for wage policies: (1) wage responsiveness to gross domestic product (GDP) per capita growth is higher in countries with higher collective bargaining coverage (1995/2007); and (2) collective bargaining: average incidence of low wages by union density.

The following rationales for policies and institutions serve as a starting point for wage policies: (1) a “post-crisis” world requires a better balance between wages and productivity and a more reasonable level of inequality; (2) the illusion of “deregulation as the panacea” should be overcome – a strong, effective, and targeted, rather than heavy, regulatory framework is essential in achieving good labour market outcomes; (3) this does not mean that all of the existing regulation and institutions are good or effective – i.e. regulation could as well fail if it is poorly designed and implemented; and (4) there is a need for a “smart” regulation framework, anchored at specific conditions in each country in a realistic manner.

Types of minimum wages vary, and simpler systems tend to function better than complex ones. Tripartite consultation is the global standard, but methods thereof vary. In regard to regional minimum wages, different methods – i.e. centralization versus decentralization – were explored. Regional minimum wages are needed if differences in prices are considerable, and regional grouping is feasible. Both methods are applied across countries: decentralization is applied in such countries as China, Indonesia, and the Philippines, while

centralization is applied in Japan. Mr Lee also warned against the risk of competition between regions on minimum wages, for example, underbidding to attract investment, and overbidding to attract skilled workers. The use of minimum wages in either case is at odds with their main purpose for protecting the most vulnerable workers. Regarding the issue of the optimal level by looking at relative levels of minimum wages in advanced countries, and relative level of minimum wages, it was found that wage levels vary, often depending on types of minimum wage system.

As for institutional coherence, the effects of minimum wages on actual wages are determined by the extent to which relatively high wages are affected by minimum wages (“ripple” or spill-over effects). The magnitude of these effects varies across countries. The outcome depends on labour market institutions, and the effects tend to be larger when minimum wages are higher. It was found that: (1) unions matter, especially when majority of workers are covered; and (2) minimum wages matter, but only if they are not “too low” or “too high”.

Minimum wages were examined against collective bargaining and complementarity against “crowding out” elements. Institutional ‘complementarity’ is needed, with clear distinction of their specific roles (“minimum zone” and “collective bargaining zone”). If this balance is difficult to achieve due to the lack of strong institutions such as collective bargaining, a mixed system can be considered as statutory minimum wages plus wage guidelines or a two-tier system as the case in the Philippines.

Major lessons learned from the analysis of the global wage trend are as follows:

(1) Minimum wages:

- (a) Complex systems are not always good. Often, simpler ones are more effective.
- (b) Policy-makers and parties concerned should avoid “too low” or “too high” minimum wages; and should always remember the fundamental goals of minimum wages (protecting the most vulnerable and unorganized workers).
- (c) Evidence-based decisions within a tripartite framework should be the cornerstone in this matter.

(2) Minimum wages are not a substitute for wage bargaining:

- (a) Policy-makers and parties concerned should ensure complementarity between minimum wages and collective bargaining.
- (b) Policy-makers and parties concerned should always be beware of “crowding out” effects.
- (c) Policy-makers and parties concerned should aim to improve an industrial relation system to achieve/ensure such coherence.

(3) Other policy tools such as wage guidelines can be deliberated upon if wage negotiation is not easy due to low union coverage. However, this arrangement should be non-mandatory and is meant to facilitate/encourage dialogue and negotiation.

Plenary discussion

- Based on an examination of wages in the ASEAN region many of the points made in the presentation are reflected in the reality despite the varying levels of economic development and widely differing labour markets in the region.
- All the wages and productivity can be estimated in nominal terms and real terms. Therefore, one may discuss nominal labour productivity and real labour productivity, as well as nominal wages and real wages.

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- There are various types of workers and members of each group of workers earn different levels of income. One should not simply lump different types of workers and divide their earnings by the total number of any lumped mass to achieve an average figure. However, this study covers only ‘wage and salary workers’, and as this is a global trend, it is not practical to treat/disaggregate classified earnings according to occupations or industries. There is an interesting correlation between falling wages and increasing wage inequality. This does not have to be the case at all. This state of affairs is attributable to institutions and policies, and deserves further investigation.
 - Mr Sivananthan Arumugam argued that minimum wages should not be linked to labour productivity, and there should be a way in this collective bargaining arrangement to get workers out of poverty zone through minimum wages. Collective bargaining is pertaining to how much workers actually earn, rather than simply dealing with vulnerable groups.
 - Regarding the relevance of an applicable poverty level in any income determination, Mr Lee argued that in determining minimum wages, a range of factors are considered in this connection. The real issue is how much weight will be attributed to each of these elements. In the case of minimum wages, different priorities may be taken into consideration; prices and living standards are more important than the overall labour productivity. Confusion starts in a situation where minimum wages are almost equivalent to average wages. Determining average wages is naturally linked to labour productivity. However, one could well be in a situation where one is setting minimum wages, but one is actually determining reference wages and average wage. The game is more difficult. One has to consider both poverty and labour productivity simultaneously, a rather complex situation. In principle, this is not the way it should be. In considering minimum wages and poverty, one also has to take into account economic situations.

4. Mechanisms and institutions for wage setting

4.1 Wage setting in case of Thailand

Presenter: Mr Pakorn Amornchewin, Inspector-General, Ministry of Labour (MOL), Mr Ukrish Kanchanaketu, Consultant, Employers’ Confederation of Thailand (ECOT), Mr Thawatchai Pholcharoen, Secretary General, National Congress Private Industrial of Employees (NCPE) and Mr Vorawut Aumsiri, Representative, Thai Trade Union Congress (TTUC)

Mr Amornchewin propounded that Thailand’s minimum wage setting involves three mechanisms: (1) minimum wage setting; (2) standard workmanship wage setting; and (3) other mechanisms. The country’s wage system comprises three components: (1) minimum wages; (2) workmanship standard wages; and (3) market mechanism and collective bargaining. Minimum wages are the daily wage rates prescribed by the wage committee. These minimum wage arrangements cover about 10 million workers. Self-employed members of the public, public servants, state enterprise workers, farmers, and domestic workers, *inter alia*, are not included.

The national wage committee is a tripartite body chaired by the Permanent Secretary, Ministry of Labour and comprises four other government representatives, five employers’ representatives, five workers’ representatives, and one secretary from Ministry of Labour. The other mechanisms comprise include 76 provincial minimum wage sub-committees, and technical and screening sub-committees. The latter sub-committees examine factors affecting wages, and make recommendations to wage committees. Similar technical and screening sub-committees and wage committees determine three levels of standards wages for each career field: a threshold-skilled group, a semi-skilled group, and a highly skilled

group. Minimum wages and workmanship standard wages are legally binding. The implementation and supervision of any wage provisions is carried out by the Department of Labour Protection and Welfare (DLPW).

Thailand's wage fixing is a prolonged process with continuous negotiation and compromising, and is a single annual action/decision, starting from the provincial level. Minor revisions, reverse referrals and adjustments are possible and forthcoming. These possibilities are either accommodated at one particular level when raised or referred back to an earlier step for revision or improvements. The provincial-level process involves three entities: (1) a tripartite wage sub-committee; (2) a technical and screening sub-committee; and (3) a provincial wage committee. Proposed rates approved will be submitted to the national wage committee in charge of reviewing, setting minimum wage rates, preparing minimum wage rates announcements, and submitting them to the labour permanent secretary for an eventual submission for cabinet consideration and approval.

Minimum wages in seven provinces have recently been increased to THB300 as from 1 April 2012 and in the remaining provinces as from 1 January 2013. This new rate will remain effective for three years. As yet, no national or industry-wide wage/collective bargaining agreements exist in Thailand. Any existing agreements are concluded at the enterprise level or the conglomerate level.

Mr Kanchanaketu expounded that Thailand's tripartite minimum wage fixing works relatively well. Yet, a recent 40 per cent increase compels employers to earmark a substantial budget line, potentially causing tense industrial relations *vis-à-vis* experienced workers whose pays had already attained the THB300 range. Also, the 2011 flood has caused both businesses and workers to earmark repair expenses. In certain localities, this increment represents a double in minimum wages. This change affects Thailand's competitiveness in export-oriented sectors and businesses' cost structure, pushes up general costs of living, and represents a deviation from the normal minimum wage arrangements. Employers are exploring ways to enhance labour productivity through skill development to make up for increased labour costs. On balance, future minimum wages should be set through tripartite action.

Mr Pholcharoen expounded that minimum wages cover only employees in the formal sector, but always have tremendous bearing on informal workers. Nominal increases do not necessarily represent any increases in real terms as the government cannot regulate costs of living. Increases in minimum wages will affect production costs as labour costs are incorporated thereunder. Society should champion the cause of social enterprises through cooperatives. Trade unions should purchase shares in firms' portfolios to allow workers to be informed of corporate information, ensure that their voices are heard, and minimize conflicts. Also, political interference without the ability to regulate costs of living could only lead to complications.

Plenary discussion

- Thailand's real wage growth has been negative with its average wage line and minimum wage line close to each other. Only 1.5 per cent of Thai private sector workers are covered by collective bargaining, meaning that 98.5 per cent of the country's private sector workers depend on minimum wages.
- In Thailand, hourly wages are issued simply as guidelines for certain groups of part-time workers. The law does not allow converting daily wages into hourly wages. In the case of Japan, the labour market was very tight. Hourly wages were applied, and a great number of housewives work part-time accordingly. A great number of workers would have been out of employment had the labour market been arranged otherwise.

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- Department of Labour Protection and Welfare serves as the main duty bearer in charge of enforcing minimum wage provisions through its 800 hundreds labour inspectors stationed at ten offices in Bangkok and offices in all other provinces.
 - Adjustments to Thailand's minimum wages over time to accommodate increases in inflation were relatively slow, and the Government is trying to make up for such delays within a short period of time. Regular adjustments to minimum wages are an integral part of the minimum wage system. Without such a mechanism, certain forms of sudden intervention might ensue, causing shocks in term of production costs.
 - The Government is of the opinion that a 40 per cent increase is justified. Thai employers have been benefitting from real wage differentials. Inflation rates and labour productivity growth rates have been higher than wage growth. In part, this is because Thailand's wage fixing has long been a tripartite process, involving negotiation across the board. Labour wages are lower than inflation rates, meaning workers' real income has been kept low in relative terms. The Government is of the opinion that resources should be distributed more evenly.
 - In response to Mr Lee's observation that the Government is capable of deciding on minimum wage issues without considering the wage committee's recommendations, and suggestion that the wage commission's jurisdiction should be re-established, the Government representative replied that although this wage increase is a political initiative, the matter was ultimately determined by the wage committee, which collectively decided on a three-year wage freeze and a two-stage increase arrangement. The Government did provide certain inputs, but did not have any direct authority in this matter.
 - The recent increase in minimum wages is a political decision. The Government has now issued measures to compensate for the increases in labour costs, for example, the reduction in company income taxes and the provision of low-interest loans.
 - NCPE representative argued that the costs of living increase due to higher costs of production as reflected in the rising minimum wages. Any time the Government introduces increases in minimum wages, the costs of living always increase accordingly, thus representing a downward trend in workers' real income.
 - Minimum wages might be used as a ceiling in minimum wage setting, leading to a complicated situation where employees with ten years' work experience might be entitled to the same pay rate as new workers.

4.2 Minimum wage setting system in Malaysia

Presenters: Mr Kua Abun, Undersecretary, Ministry of Human Resources (MOHR), Mr Shamsuddin Bardan, Executive Director, Malaysia Employers Federation (MEF) and Mr Sivananthan Arumugam, Executive Council Member and General Council Member, Malaysian Trades Union Congress (MTUC)

Mr Abun presented that there are three types of wages setting mechanisms in Malaysia: (1) the Wages Councils Act 1947 which is not operational on a national scale; (2) collective agreements (covering less than 10 per cent of employees); and (3) market forces. Minimum wages are defined as the lowest hourly, daily or monthly wages that employers shall legally pay to employees. Minimum wages also mean "basic wages" as determined by the National Wages Consultative Council (NWCC).

The NWCC Act 2011 establishes a NWCC in charge of conducting studies on all matters concerning minimum wages and making recommendations on minimum wages orders for sectors, types of employment and regional areas or on a national scale, and providing for related matters in a flexible manner.

The NWCC comprises a chairperson and a deputy chairperson, a secretary from the MOHR, at least five employees' representatives, at least five employers' representatives, at least five government representatives, and at least five other members. The number of workers' representatives and the number of employers' representatives shall always be equal. The minimum and maximum numbers of the Council members are 23 and 29 respectively. The council has established a technical committee, and a selection committee to assist it in the performance of its functions. Public consultation and data analysis are conducted before the council meets. The findings of these two processes will be collated for NWCC deliberation. Recommendations are forwarded to the Government for consideration and approval.

Based on the World Bank recommendations, the NWCC and the technical committee have determined the following two sets of criteria: (1) base criteria; and (2) adjustment criteria. The base criterion comprises of: (1) poverty line index; and (2) the median wage (for employers' reference). These two elements are combined and divided by two to achieve an average value (the base criteria). As poverty line index is household-based, it is divided by the number of workers in a household for the bottom 40 per cent. The adjustment criteria comprise three elements: (1) changes in consumer price index (CPI); (2) productivity growth; and (3) real unemployment rate. The NWCC will then arrive at a common evidence-based formula for minimum wage setting to be used for further tri-partite deliberation. The minimum wage coverage includes all sectors and private-sector employers in order to cover all private-sector workers including foreign workers in formal employment. The current levels of wages, productivity and labour market will cover: (1) peninsular Malaysia; (2) Sabah; and (3) Sarawak.

The NWCC Act 2011 provides flexibility to the NWCC to make recommendation to the Government according to: (1) sectors; (2) types of employment; (3) regional areas; and (4) one uniform rate across sectors. The NWCC shall review the order at least once every two years, and whenever necessary, on its own accord or upon the direction of the Government.

Mr Bardan propounded eight points: (1) Malaysian politicians play a pivotal role in minimum wage setting; (2) MEF would rather not have any minimum wage, and prefers that wages are set by market forces; (3) the World Bank's study showed that Malaysia wage growth grew by 2.6 per cent annually over the period from 1993 to 2007 (a figure far behind productivity growth), while MEF's study showed that Malaysia's real wage growth over the same period of time grew by 50 per cent; (4) the number of MTUC representatives and MEF representatives has each increased by one to six (out of 12), therefore the number of workers' representatives and employers' representatives should be increased by two in order to counterbalance the other 13 members; (5) workers should be remunerated commensurate to the amount of work carried out; (6) hourly wages should be put in place to enable part-time workers to work based on the monthly minimum wage; (7) micro-enterprises should be excluded from this minimum wage arrangement as paying minimum wages could present a financial challenge for them; and (8) the employers pay a substantial amount of allowances, therefore part of these should be taken as a constituent of minimum wages.

Mr Arumugam argued that MTUC champion causes of national minimum wages. MTUC has envisaged Malaysian minimum wages to be 900 ringgit (MYR) per month plus MYR300 as costs of living. CPIs for different stratified groups of income earners should be compiled to reflect the rising commodity prices borne. Malaysian salaries have been relatively low, and the minimum wage accorded is not as high as the amount demanded (MYR1,200) because less than ten per cent of the Malaysian workforce is unionized employees. There are also about 4 million foreign workers. Collective agreements (CAs) are

not readily forthcoming. However, the figure agreed upon is close to the expected number, and in a tripartite process, different perspectives have to be accommodated.

Plenary discussion

- The household-based poverty line index reflects the basic needs of workers and their families. This index is divided by the number of workers in a household, and is collated against the median wage to ensure employers' ability to pay and pre-empt unemployment as a result of enterprise closure. To this, the MEF representative pointed out that the poverty line index incorporating workers' and their families' needs are expressed in the language of international bodies.
- The exemption of micro-enterprises from the minimum wage arrangement is proposed by MEF. It is up to the Government to decide whether or not they will be exempted, but MTUC is opposed to the proposed exclusion. It was pointed out that all workers are workers. Foreign workers working in formal employment will be covered in the minimum wage announcement. Their working in micro-enterprises will be excluded from the minimum wage arrangement if the exclusion of micro-enterprises is allowed.
- On the relative role of Malaysia's Government in the determination of minimum wages, Mr Abun remarked that there are two levels of government. Government representatives in the NWCC represent public agencies such as the Treasury, MOHR, or the Public Service Department. However, politicians and ministers are the real decision-makers.

5. Criteria and data for wage setting

5.1 Criteria and data for wage setting in Indonesia

Presenters: Ms Koesprayekti Saptarina, Head of the Division of Wage, Directorate of Wage and Workers, Ministry of Manpower and Transmigration (MOMT), Ms Endang Susilowati, Member of Industrial Relations & Advocacy Sector & Division, Employers' Association of Indonesia (APINDO) and Mr Markus Saholat Sidauruk, Chairperson of Research Committee, Confederation of Indonesian Prosperity Trade Union (KSBSI)

Ms Saptarina propounded that Indonesia has a population of 250 million people with a total labour force of 109.67 million workers, the majority of whom have received only elementary education, which substantially hampers Indonesia's labour productivity. Serving as a safety net for the benefit of workers, a minimum wage is defined as the lowest monthly wage consisting of basic wage and fixed allowances. Minimum wages are determined by provincial governors based on recommendations made by provincial wage councils and/or district heads. Minimum wages consist of: (1) minimum wages in provincial level and in district/city level; and (2) sectoral minimum wages in provincial level and district/city level. Minimum wage in district/city level is higher than the amount of minimum wages set under provincial level while sectoral minimum wages is higher than the amount of minimum wages in provincial/district/city level. Factors for consideration in the determination of minimum wages are the needs for decent living, macro-productivity, economic growth, labour market conditions, and marginal employment.

Requirements for the implementation process are: (1) employers/companies may not pay lower than minimum wages; (2) workers working for a specified time or for an unspecified time, and workers working on probation shall be paid at least not less than minimum wages; (3) minimum wages shall be applied to workers working for less than one year; and (4) reviews of minimum wages for workers who work more than one year should be determined based on a written agreement between workers' bodies and employers' bodies. The operational mechanism is carried out in accordance with the following procedure: (1)

setting-up of a survey team; (2) the team agrees on places; survey time/duration; respondents; and determination of specifications; (3) survey results will be processed to determine decent living standards; (4) the wages councils submit its recommendations to governors; and (5) the governors determine minimum wages.

Sectoral minimum wages are subject to the following set of considerations:

- (1) to determine competitive sectors by considered the following factors:
 - (a) the 'homogeneity' of companies;
 - (b) the total number of companies;
 - (c) the total number of workers;
 - (d) the value of exports,
 - (e) the value added;
 - (f) companies' capabilities;
 - (g) employers' bodies; and
 - (h) workers' bodies.
- (2) an agreement between employers' and workers' bodies associated with sectors; and
- (3) at least 5 per cent higher than provincial/district/city-level minimum wages.

Plenary discussion

- The Wage Council conducts a preliminary survey itself together with representatives from the statistical body. Any such survey is to be conducted as a collective effort with all the tripartite parties agreeing on all the parameters to enhance collaboration.
- The Government, the employers' side, and the trade unions all conduct their own surveys, and discuss their findings at the Wage Council to determine a figure reflecting decent living for submission to the Government. Yet, trade unions, employers' bodies and government agencies each often conduct surveys without first reaching prerequisite common grounds, thus coming up with different figures.
- The Government determines minimum wages based on recommendations made by the Wage Council, taking into consideration economic growth and macro-productivity. Minimum wage determination is a political decision. Governors often fail to implement their legal duties. Often, rules and regulations are not followed.
- Indonesia regularly conducts surveys on poverty and living standards. It is advisable to apply national statistics as reliable guidelines incorporating both a poverty line and living standards, on which further improvements may be made by adjusting the figures to reflect reasonable changes or increases in such factor as transportation costs to ensure accuracy in regard to local requirements.
- Indonesia has the most decentralized type of minimum wage setting and the country's minimum wages serve as base wages. It also applies poverty line to its minimum wage setting. Poverty rates are regarded as a factor determining a survival level. The poverty line accounts for 73 per cent of the minimum wage figures, comprising such components as food, housing and transportation. National poverty line standards apply throughout the country, but the surveys conducted by the Wage Council take into consideration local conditions to reflect local realities. If all the factors are put in the equation, the poverty line figures and minimum wages would essentially be on a par.
- It is required that sectoral minimum wages are higher than provincial/district/city minimum wages, it follows that sectoral minimum wages will automatically be raised

each time the latter rates increase. There are currently 171 district minimum wages, 30 provincial minimum wages, and many more sectoral minimum wages.

- In Indonesia, when a minimum wage is increased, almost all other wages automatically increase. Collective bargaining agreements (CBAs) uses it as a baseline, which puts tremendous pressure on minimum wages as it has become the only mechanism for fixing wages even in the presence of CBAs or collective labour agreements (CLAs). Minimum wages serve as the reference wage for the majority of workers. Thus, the price of labour is fixed by government rather than the market.
- Sectors referred to in this presentation are economic sectors such as the food sector and the automotive sector, and are not skilled-based.
- The minimum wages determined apply in the first year. In the second year minimum wages depend on bargaining. In this regard, there are two differing statements from the Indonesian delegation: (1) minimum wages currently apply to workers who work for more than one year regardless of their marital status; and (2) minimum wages apply to single workers who work for less than one year.
- Provincial governors determine minimum wages in their jurisdictions. Act No. 2, (2004) provides for a tripartite mechanism for the resolution of industrial relations disputes. If parties concerned fail to agree thereupon, the matter shall be referred to mediators, and a court respectively.
- The Indonesian wage setting system is complicated as it is a multi-tier one, involving provincial, district and sectoral levels. Wages are adjusted annually. The trade unions have made three proposals to pre-empt delays caused to Indonesia's economic growth accordingly: (1) wages setting should be conducted through collective bargaining; (2) the private sectors implement the wage scale and structure; and (3) wage adjustments should be conducted every two or three years. This proposed arrangement is more amenable to the functioning of employers and trade unions and is designed to minimize conflict as currently all parties concerned are required to take part in annual provincial, sectoral and national debates, and monthly meetings. This new arrangement is proposed to apply the wage negotiation mechanism to wages above minimum wage levels.

5.2 Criteria and data for wage setting in the Philippines

Presenters: Ms Patricia Hornilla, Deputy Executive Director, Department of Labour and Employment (DOLE), Mr Renato Almeda, Vice President, Yasaki-Torres Manufacturing, Inc., Employers' Confederation of the Philippines (ECOP)

The Philippines' minimum wage setting is mandated by the Republic Act 6727 – the Wage Rationalization Act. Implementing the goals requires the following mechanisms: (1) a national wages and productivity commission; (2) regional tripartite wages and productivity boards; (3) equal sectoral representation in all regions; (4) relevant criteria; and (5) deliberating upon needs of workers and their families, employers' capacity to pay and requirements of social and economic development. Specific criteria in the determination of wages are the needs of workers and families, employers' capacity to pay and socio-economic development requirements. Application of the criteria involves data gaps, use of available proxy indicators, broad multi-sectoral consultations and public hearing and the guideline issuance by the Commission.

Data constitute a major issue in relation to each of all the following ten criteria: (1) demand for living wages: the indicator being family living wages; (2) wage adjustment versus consumer price index (CPI): the indicator being CPI; (3) costs of living and changes or

increases therein: the indicator being CPI; (4) needs of workers and their families: the indicator being CPI; (5) improvements in standards of living: the indicator being CPI; (6) need to induce industries to invest in the countryside; (7) prevailing wage levels; the indicator being average daily basic pay; (8) fair return of the capital invested and capacity to pay of employers; (9) effects on employment generation and family income; and (10) distribution of income and wealth reflecting economic and social development.

In terms of a wage reform involving floor wages in three main areas are of particular interest: (1) poverty thresholds; (2) average wages; and (3) region-specific conditions. Regarding the wage advisory the following three elements apply: (1) data requirements at the regional level both in levels and growth rates, total employment, and total wage and salary worker); (2) labour market conditions; and (3) business expectations.

The different regional wage boards are invested with the power to determine minimum wage levels in their own regions. These wage boards enjoy complete autonomy. CPI data are the basic factor referred to in an attempt to restore the purchasing power as a result of inflation rates. Social partners also discuss additional considerations to arrive at final minimum wage increases. Wage increases are determined after an aberration time of at least one year. Only under extraordinary circumstances substantially affecting worker's costs of living and when a petition is lodged could wage increases be deliberated upon.

Plenary discussion

- Regarding the formula for calculating minimum wages, the law specifies a series of separate criteria for reference and application in minimum wage setting. CPI data are taken as a simple starting factor to account for any loss in workers' purchasing power. The wage boards normally follow this step due to the current lack of data. The country is now undergoing a reform to ensure that minimum wages and floor wages are properly determined, and is studying a formula incorporating a poverty threshold, the average wage, and socio-economic condition indicators reflecting regional differences in standards of living.
- Regional boards study their respective regional socio-economic conditions before the start of minimum wage deliberation processes. If no overarching need for a wage increase is justified, this step may be prolonged. The boards monitor regions' socio-economic conditions. The Board's Vice Chairperson appointed from the National Economic Development Authority staff examines updated data from regional perspectives together with data from the Department of Trade and Industry to verify if there are any sudden shocks. There have never been any cuts in minimum wages. In the ECOP representative's region, the board shall determine a reasonable level of inflation as a starting point. No adjustment to the current wage(s) would be initiated if there is a slight increase in inflation rates as this may comfortably be absorbed in the economy.
- If the tripartite parties disagree on the required data, empirical economic figures on a loss to workers' purchasing power constitute a starting point for discussion *vis-à-vis* levels of adjustment needed to cover workers' basic needs.

6. Wage setting in Japan and Republic of Korea : Mechanisms and trends

6.1 An overview of Japan's minimum wage scheme

Presenters: Mr Yoshihiro Senoo, Assistant Minister for International Affairs, Ministry of Health, Labour and Welfare (MHLW), Mr Kazumi Sakashita, Labour Policy Bureau, Japan

Mr Senoo expounded that in the period prior to the enactment of the Minimum Wage Act (1947-1959), the Labour Standards Act set forth provisions on a minimum wage scheme was established in 1947 but no minimum wages were actually set there-under. With the promulgation of the Minimum Wage Act (1959), the scope of employees covered was extended mainly through “the trade-agreement method” (TAM) in the 1960-1968 period. During the 1968-1976, TAM was abolished and the applicable scope of minimum wage arrangements was extended. The Minimum Wage Act was revised and took effect in September in the same year. The collective-agreement extension method and the council method were provided in the determination of minimum wages. The MHLW undertook necessary measures to extend the applicable scope of minimum wages. Prefectural minimum wages were applied to all workers in 1976. From 1978 onwards the guideline scheme has been effective. The Central Minimum Wage Council classifies 47 prefectures into four ranks and provides guidelines on new prefectural minimum wage increases for each of the four ranks. This system is based on the agreement among tripartite members of the Central Minimum Wage Council. The Council deliberates on how to operate the scheme almost every five years. In order to address the change of socio-economic circumstances where employment has become increasingly diverse.

The tripartite agreement on medium- and long-term raise in minimum wages was established at the dialogue on labour strategy for an exchange of views, and to form consensus on important issues concerning labour strategy with trade union leaders and employers’ associations. Employer shall pay wages equal to or more than minimum wages to eligible workers. There are two different types of minimum wages under this law: 1) prefectural minimum wages (Article 9-14); and (2) special minimum wages (Article 15-19). Prefectural minimum wages are determined in each prefecture and are applicable to all industries and occupations. Each council of local minimum wages determines prefectural minimum wages based on the current situation(s), while referring to the guideline recommended by the central council of minimum wage recommends annually. Forty-seven prefectural minimum wages are determined as safety nets, and are applied to 50 million workers. The weighted average is ¥796 for special minimum wage in 2012 comparing to ¥730 in prefectural minimum wage in the same year.

Special minimum wages are set through dialogues based on initiatives proposed by social partners across industries in prefectures. Directors of local labour bureaus may determine special minimum wages to improve working conditions or securing fair competition among businesses in consultation with their social partners. In regard to the criteria for the prefectural minimum wages, they are determined in view of the cost of living and wages of employees in prefectures and the capacity of ordinary businesses to pay wages. Considering the cost of living of workers, consistency with welfare benefit policies was taken into consideration such that workers can maintain the minimum standard of ‘wholesome and cultured living’. Minimum wages set shall not be lower than the standard of welfare benefit.

Directors of the prefectural labour bureau determine prefectural minimum wages, considering the opinions of the local minimum wage council. The prefectural minimum wage council comprises the same number of members representing workers, employers and the public authorities. Surveys of wage amendments are conducted by the MHLW to clarify as to how wages of low-income employees should be amended.

The revised Minimum Wages Act exhibits certain salient features. Firstly, prefectural minimum wages must be determined in each prefecture. Regarding criteria for prefectural minimum wage setting, consideration shall be given for consistency with welfare benefit to enable all employees to maintain the minimum standard of wholesome and cultured living. Industrial minimum wages are determined through dialogues between workers and

employers. Penalties under the Minimum Wage Act are not applied to any violation of industrial minimum wages. The determination of minimum wages through the collective-agreement extension has now been repealed. Temporary workers may now enjoy prefectural or industrial minimum wages in areas where they work.

Japan's labour relations system is noted for its dialogue process governing employment strategy, which has succeeded in exhibiting many forward-looking aspects and progress. One example in support of this system is the agreement on raising minimum wages at the 4th Dialogue concerning Employment Strategy (DES) in 2010. All the constituent members agreed on goals to be attained by 2020: the minimum wages in all prefectures shall be raised to at least ¥800 as soon as possible and the average of the minimum wages would be raised to ¥1,000. The New Growth Strategy and the agreement reached at the 6th DES meeting provide support to small and medium-sized enterprises (SMEs) most likely to be affected by increases in minimum wages.

Japan has established projects to enable SMEs to increase minimum wages: (1) nation-wide support through one-stop, free consultation and support services for SMEs to achieve managerial improvements together with support from the SME Agency; (2) special training for industries affected provided by national industrial agencies and subsidies for pilot programmes on cost cutting; and (3) support provided by region to increase wages where substantial increases in relevant minimum wages are required.

Regarding criteria and data for Japan's collective bargaining, Ms Akiko Okubo, Assistant Director, Japanese Trade Union Confederation (JTUC-RENGO), postulated that Japan's collective bargaining structure involves trade unions and employers' bodies. No collective bargaining agreements have been concluded at the confederation and industrial federation levels. Collective bargaining agreements are concluded at the workplace level. Union density stands at 18.5 per cent, representing a small percentage of the Japan's total workforce, and collective bargaining agreement coverage. As there is no collective bargaining agreement extension in practice, Japan's union density is virtually equivalent to collective bargaining agreement coverage. Less than one in five workers is covered by collective bargaining agreements, workers earning minimum wages or less constitutes 2.6 per cent of the total workforce.

JTUC-RENGO members' wages are slightly higher than general workers' wages, while average minimum wages represent about one-third of the average wage. Labour productivity rose continuously and reached the highest level in 2007, and then decreased sharply. Yet, labour productivity movements have almost no influence on wages or minimum wages. JTUC-RENGO members' wages exhibit a slight downward trend. The same trend holds true for general workers' wages to a more pronounced degree. Minimum wages follow a steady and rapid upward pattern despite a general downward trend exhibited by the other two wage types as a result of a combination of factors including the 2010 DES. In general, workers support minimum wages and the determination process based on tripartite consultation.

Japan's minimum wage system is still plagued with obstacles, in particular: (1) minimum wages have long lagged behind the general wage and real-life costs of living; and (2) Japan's minimum wage system is highly complicated with its 47 prefectural minimum wages, and 250 special minimum wages. Tripartite components are involved in a total of 297 minimum wages.

Mr Sakashita pointed out that employers, workers, and the government have to be engaged in constructive consultation based on real economic situations, and the impact of minimum wage rates on SMEs. Economic globalization and international competition have become more intense. The Japanese economy is facing greater difficulty in the wake of its currency appreciation and the 2011 Great Earthquake. About 90 per cent of Japanese companies, especially SMEs, have experienced setbacks due to substantial wage increases. This could

culminate in bankruptcy and unemployment. All parties concerned must strive to pre-empt this scenario. The most important element in determining minimum wages at the central and prefectural levels is a comprehensive appreciation of the real situation.

Mr Van Sou Ieng, session chairperson, suggested that Japan's wage determination is based on research and tripartite arrangements without government intervention, reflecting Japan's mature industrial relations environment and social development, relying on its social communication process. The Government rarely interferes in wage determination. The wage guideline issued in a previously year serves as a point of reference for social partners in chartering their course of action. SMEs might have been suffering as a result of the yen appreciation crisis and then energy crisis rather than as a result of the official wage guideline.

Plenary discussion

- The tripartite components, especially social partners, would discuss not only factors affecting minimum wages, but also the country's socio-economic system in its entirety. Wages are determined by industries and the prefectural authorities based on social partner proposed initiatives. Dialogues refer to the process of discussing initiatives proposed thereby. Authorities shall decide on wages based on the information supplied by the tripartite wage councils. Discussion rarely takes place at the nationwide confederation level, or industry-wide level. Japanese workers feel comfortable in a dialogue process and do not resort to militant action as they are relatively mature and a fully developed social security is already in place. A dialogue is a process through which social partners are engaged in exchanging their views in relation to wage determination rather than trying to reaching their goals as the foremost incentive. However, Mr Arumugam pointed out that this can also be achieved through collective bargaining agreements.
- The Japanese population's commitment towards the society is relatively strong or pronounced in the context of a secure/violence-free socio-economic environment in comparison to this region. Mr Arumugam pointed out, however, that a great number of Japanese businesses have invested in this region.
- There is no specific meaning to the phrase 'wholesome and cultured living'. Rather, this phrase epitomizes a level of living beyond simple survival. It was also pointed out that there could well be certain connection between welfare policy and 'wholesome and cultured living'.
- In a country where union density is high, workers can solve obstacles related to minimum wages through collective bargaining. In a country where union density is low any such scenario does not take place. However, Japan seems to have its own specific context. The differentiation between JTUC-RENGO members and general workers lies in the fact that the 'dialogue' process applies between employers and employees. *De facto* standards for trade unions (cost of living and wage increases secured by peers and/or through preceding trade union discussion) apply as a guideline for the spring dialogue. This is how trade union manages to secure slightly higher wages than general wages.
- It was suggested that Japan's minimum wages are low relative to the average wage. Only 2.6 per cent of workers are covered by minimum wages. The employment impact of minimum wages should not be as substantial as pointed out by the KEIDANREN representative. Minimum wages in certain prefectures are even lower than social benefits unemployed individuals can get. To this, the KEIDANREN representative expounded that there are substantial wage differentials between regular workers and contingent workers. Within SMEs in prefectures other than Tokyo, a great number of workers work for wages close to minimum wage levels as part-time workers or contingent workers.

Any substantial increases in wages will affect SMEs. There is a warranted cause for employment concerns due to the current economic situation. As a result of poor performance, bankruptcy could ensue. It is thus advisable to be more prudent in pursuing public policy.

6.2 Wage setting in the Republic of Korea

Presenters: Mr Jin-Ho Jeong, Korea Labor Institute (KLI)

Mr Jin-Ho Jeong propounded that there are three types of wage-setting in the Republic of Korea: (1) the minimum wage scheme covering workers in small-sized companies in the private sector, non-standard workers, and migrant workers (603,000 workers); (2) collective bargaining covering standard workers in large private-sector companies; and (3) government/national assembly. The objective of minimum wage scheme in the Republic of Korea is to guarantee minimum levels of workers' wages, secure workers' livelihood, and improve the quality of labor. The minimum wage scheme applies to all businesses or workplaces employing paid-workers and domestic workers not directly hired by a household. Domestic workers and sailors subject to the Seamen Act are not included under this mechanism. Minimum Wages apply to almost all paid-workers. The focal institutional arrangement is the minimum wage council, membership of which comprises nine representatives of workers, employers and public interests. These members are nominated by the Minister of Employment and Labor (MEL), and are appointed by the President of Republic of Korea. This arrangement involves a variety of elements: the plenary, an expert committee on wage levels/living costs, a steering committee, a research committee.

Minimum wage setting process follows the following algorithm:

- (1) MEL requests the minimum wage council for deliberation;
- (2) The minimum wage council proposes the minimum wage to the Minister; and
- (3) The Minister requests revisions, finalizes the minimum wage for the subsequent year. The minimum wage council has *de facto* final authority as there has been no revision of minimum wage proposals since 1988.

There are different types of minimum wage which may be set by industry. In 1988, two separate minimum wage amounts were set for manufacturing. There has only been a nationwide minimum wage since 1989. There is also a sub-minimum wage (10 per cent lower) for workers in training and security workers. The minimum wage for the subsequent year is determined by 5 August each year. The minimum wage adjustment interval is one year with wage agreement effective period lasting mostly one year. Employers' are obliged to inform employees of minimum wages. There is also a labour supervision arrangement: minimum wage compliance monitoring (Guardians of minimum wages) for supervision over violators. Trade unions and non-governmental organizations (NGOs) conduct monitor compliance campaigns to enhance compliance. Still, there are as yet no incentives for minimum wage compliance.

Wage bargaining occurs once a year. The minimum wage decided by the minimum wage Council is effective from January the following year. Unorganized sectors' pays, namely small-sized firms and non-standard/migrant workers are linked to the minimum wage. Bargained wages are mostly above the minimum, hence limiting the effect of the minimum wage. The trade unions' wage premium estimated at 4.8 per cent for the 1987-2006 periods proves more beneficial for job security than as a wage premium.

Company-level bargaining is still dominant. In 2007, types of organization involved in collective bargaining are companies (52.3 per cent) and 'supra-companies' (47.7 per cent).

Bargaining occurs at the company-level (78.3 per cent), and at the supra-company level (21.7 per cent). There has been no credible national statistics regarding collective bargaining in which it has a general/regional 'binding force'. The estimated collective bargaining coverage rate was 11 per cent as of 2010. As for wage-setting in the public sector, in the case of civil servants, Ministry of Government Administration and Home Affairs (MOGAHA) coordinates views on wage increases. Subsequently, the ministerial meeting drafts budget, and the National Assembly finalizes the proposed budget. In the case of public institutions' workers, wage bargaining is undertaken within the ceiling in the Government's budget guideline (within civil servants' pay increase rates). Then, the Government's labour cost guideline will be enforced.

Mr Lee propounded that: (1) the wage setting system is a simple and evidenced-based process. Matters are deliberated upon between employers and workers and are subsequently forwarded to the government as the council's recommendation for approval, reflecting clear political dynamism within the system in term of the council members; (2) one distinctive feature of the wage-setting systems in Japan and Republic of Korea is the sequence of processes whereby collective bargaining is the initial integral part of the systems in early spring. In May or June, relevant matters are concluded, serving as a clear signal as to what minimum wages should be through collective bargaining. Subsequently, a proper deliberation process starts. In the countries discussed earlier, minimum wages are used as a basis for collective bargaining, thus minimum wage decisions become more complicated/difficult. The sequence in these two countries is reverse in the following order: (1) collective bargaining; and (2) signals, and minimum wage deliberation respectively, making minimum wages more reliable and effective.

Plenary discussion

- In the Republic of Korea, it is not easy to ascertain the civil servants' representation in the wage-setting process because the status of the civil servants' union is not clearly defined as a legal entity. Normally, the civil servants' union presents its views with the expectation that these will be reflected or deliberated upon at the civil servants' commission. As a result of a recent decision made by the Supreme Court, it is plausible for the civil servants' union to be engaged in a wage discussion process more directly or actively in the future.
- With reference to the 10 per cent sub-minimum wage arrangement for workers undergoing training, workers on probation are entitled to 90 per cent of the normal wages for a limited period of time as employers would have to cover the training costs. The security officers entitled to only 90 per cent of the minimum wages, because in the main they are over 60 years of age. According 90 per cent of minimum wages was a way to create employments for members of the public. Government efforts to increase the pays for security officers to be on a par with minimum wages met with opposition from apartment tenants. Thus, the government has initiated a programme to encourage apartment management or companies hiring security officers to account for the 10 per cent differentials. The process for the determination of a sub-minimum wage is provided in the law.
- Regarding the union density rate in the private sector, a realistic figure would lie in the range of 7 or 8 per cent, and collective bargaining agreement coverage stands at 11 per cent.
- Similar employments are referred to for reference purposes in identifying appropriate wage levels in a wage setting process. For example, in considering appropriate wages for cleaning, it is advisable to draw some compassion to domestic work employments/occupations.

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- Employers' ability to pay is taken into account in the wage-setting process as in many other Asian countries, for example, it is reflected through relative labour productivity very much in the same vein as the Japanese case. Before a minimum wage deliberation starts a detailed report will be examined covering detailed industrial statistics.
 - The minimum wages are calculated by the hour. To facilitate the administration of the hourly minimum wage payment, the government also issues tables on wage monthly, daily and hourly pays for comparison purposes. Workers are actually paid by month.
 - Part-time workers are fully covered by the minimum wage system. One of the reasons in support of a shift from the daily-pay arrangement to the hourly-pay system is to accommodate part-time workers' requirements. Also, the hourly-pay system incorporates flexibility in accounting for different types of employments on the labour market across countries.
 - The minimum wage system is easy to enforce in this country. The figures of workers working for less than minimum wages are 10 per cent. Recently, the number of non-compliance cases has been decreasing substantially. The market wage is three times higher than the average minimum wage. The compliance rate is higher in Republic of Korea than in Japan. Due to the economic crisis and different shocks, the non-compliance prospects are more likely. Increases in minimum wages in relative terms have been on the rise, but so are the non-compliance rates.
 - With a recent legal amendment, migrant workers are also entitled to minimum wages. However, no guarantee can be offered in practice. Legal migrant workers should be covered by the minimum wage arrangement to a great extent. This is less likely for illegal migrant workers to be protected thereby.
 - Despite the Republic of Korea's and Japan's low rate of unionized workers, both countries have developed a mature and consistent mechanism to address the issues of minimum wage determination and compliance. As a country is in an early stage of economic development, trade unionization might be needed. However, as the country becomes more developed economically and socially, there might be less need for unionization.

7. Recap of day 1 discussion

There are different approaches to minimum wage management: (1) the "minimalist" approach in Japan; and (2) the "maximalist" approach in Indonesia where all minimum wages are determined by local governments. The real issue is which approach would be more conducive to economic growth, productivity, and employment creation. There was general consensus regarding the importance of tripartism in minimum wage fixing. The issue is relatively complex in the following areas: (a) the structure and composition of tripartite minimum wage bodies; and (b) uncertain relationship between the government and minimum wage bodies. In the case of Indonesia and the Philippines, with their extensive geographical coverage, regional minimum wages play a vital role, and more efficient nationwide coordination is needed. The issue of what should constitute "minimum wage criteria" and ways of applying those criteria and estimating each of these criteria present challenges as there are different databases, data processing methods, and output applications, especially when there are different measures for minimum living standards, poverty, prices, and wages in minimum wage fixing. The coverage of official statistics needs to be taken into consideration. The Holidays with Pay (Agriculture) Convention, 1952 (No.101) stipulates that minimum wages refer to wages that enable workers to maintain themselves and their families, but how this principle should be applied depends on country-specific factors. The scale and speed of minimum wage adjustments constitute a major element, requiring that such components as living standards and inflation rates be factored into the equation (the

main issue is to avoid minimum wages as a “shock therapy” and avoid politicization). Minimum wages are overwhelmed and overloaded (minimum wages are supposed to achieve a mission impossible, solving basic requirements, and addressing labour market issues). The best solution is to make wage bargaining work, thereby relieving minimum wages of unnecessary requirements.

Plenary discussion

- The main point is to find out how to make wage bargaining work. Union density across the region is very low. For wage bargaining to really work, the formation of trade unions is very important. This highlights the importance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). To avoid politicization, trade unions leaders have to be disciplined. In Indonesia there are five confederations. Convention No. 87 does not give workers a license to have so many confederations. When applying Convention No. 87, one needs to be adequately cautious. The minimalist approach would allow collective bargaining to work better. What is missing in the discussions is that implementation is lacking in all countries.
- The higher minimum wages are the lower the possibility for collective bargaining to work. Workers would demand higher wages in an unrestrained manner. Collective bargaining should have a role to play in minimum wage setting.
- Mr Tadashi Nakamura, Former President, the ILO Association of Japan, remarked that although it is envisaged that Japan’s tripartite system comprises social partners and independent elements with no government representation, in actual fact the authorities function as the secretariat, thus playing a substantial role.
- There seems to be contradiction between social goals and economic goals in relation to minimum wages. Where minimum wages are increased to serve their social objectives, one would need to consider possible adverse economic impacts. If minimum wages are kept low, the social repercussions shall also have to be taken into account. As such one needs to strike a balance between the two elements. Simply driving minimum wages high constantly means that there is no such thing as economically-based industrial relation, but sheer political conflicts.
- In the Singaporean context, the Government is the largest employer in the public sector, always taking the lead in endorsing the National Wages Council’s wage guidelines as an employer to ensure that the wage guidelines are followed.
- One needs to better define wages as there are different types of wage, namely: minimum wages, market wages, and living wages. The ILO Declaration of Philadelphia (1944) regards minimum living wages as a combination of minimum wages and living wages. There has been no official or agreed definition of living wages. Recently there has been a big push towards Asia-wide living wages in the Asian region, based on the following observations: (1) the existing minimum wages in most Asian countries are not working very well; (2) the existing minimum wages are not effectively enforced; and (3) minimum wages in some countries are too low, especially in, *inter alia*, export processing zones or in the garment industry. There are two options to redressing this problem. Option 1, the governments and the social partners are encouraged to improve the existing minimum wage process. Option 2, in countries where certain elements (especially international NGOs) do not have much trust in the tripartite process, social parties concerned might as well initiate their own approaches, one of which is a move called ‘Asia’s wage floor’. The practical issue is how to determine living wages. Asia’s wage floor provides a formula for estimation purposes, thoroughly discussed by experts, trade union representatives, economists, and other parties concerned. Discussion in this regard is still on-going. It is not certain as to whether or not this formula can be easily

reproduced for practical application across the Asian region. The ILO has published reports on how to estimate living wages. It is possible to calculate living wages, but it remains technically challenging, and is also plagued with problems related to its practical applicability. The notion of living wages is highly appreciated, but practical issues remain to be addressed before one can really proceed in this direction. In regard to levels of living wages, if one compares living wages as suggested by any agencies with the existing minimum wages, living wages are apparently higher.

- Continued capacity building for social partners is very important as it shapes relationship among tripartite partners. This also has perceivable bearing on the extent of the influence the government can exert over social partners. All objectives could only be achieved through designing effective minimum wage policy, while ensuring that quality official statistics and criteria involved in wage determination are truly appreciated.
- In regard to relations between minimum wages and collective bargaining in the context where union density is very low and collective bargaining is not fully developed, basic wage guidelines should serve as a benchmark. Workers normally lack information on economic conditions, productivity, balance sheets, or comparative performance for wage negotiation. As such, wage guidelines could serve this purpose based on all the relevant information provided on average wage increases as benchmark criteria in the negotiation for all parties concerned to agree on for their appropriate wage increases. Wage negotiations can be conducted in this context even if no trade unions exist in any given sector. Trade unions can also use this scenario as a platform to engage workers in negotiation. However, union density cannot be increased overnight. As such, one may as well resort to other policy mechanisms to encourage wage negotiation.
- The minimum living wages is the wage earned by a single earner to support a family of four (two adults and two children) totalling US\$48 per week incorporating both food and non-food items. The Asia's floor wage formula proposes the food-cost category calculated on the basis of the daily standard calorie intake rate, while non-food costs include healthcare, housing, clothing, childcare, transportation, fuel, and education. Regarding the calculation of living wages, Cambodian trade unions requested \$93 as the going minimum living wage, and after a thorough tripartite deliberation process the minimum wage stands at \$61 (plus \$5 for healthcare allowance). The average Cambodian worker spends \$8 for rents and utilities, \$17 as remittances for the family, \$5 for expenses and \$31 for food. There is no money left for saving purposes. Indian trade unions request 10,000 rupee (INR) per month as the going minimum living wage, while the average monthly minimum wage is INR6,000.
- With reference to issues related to lack of information on minimum wages on the part of trade unions, low union density, low collective bargaining and wage increase campaigns, the ILO Workers' Activities staff conducted studies of minimum wages in three countries, namely: Cambodia, Lao People's Democratic Republic and Hong Kong (China) to help trade unions in the development of their strategies in relation to wage increases. Two further studies will be conducted in Thailand and Malaysia this year. Wages in these three countries are relatively stagnant as there is no major push factor, while the government and employers are not willing to pay higher wages. Trade unions have proposed to establish a minimum wage mechanism through which a tripartite process may operate to determine minimum wages. Minimum wages *per se* do not apply across all sectors to induce wages or wage increases across the board. Minimum wages serve as a parameter in determining informal wages in different sectors where no national or no sectoral wages apply. Therefore minimum wage setting is a very important mechanism where collective bargaining activity rates are low.
- The CAMFEBA President remarked that according to a four-year collective agreement the minimum wage in Cambodia is \$73. The Asia's floor wage system is based on a

different set of data and calculation method. The floor wage discussion was held in Cambodia two weeks after the wide-spread strike in which five factories were damaged and people killed. The government is required to administer minimum wages – a factor that will have substantial economic impact.

- A well-functioning tripartite system requires that all elements exhibit a certain level of maturity. In Cambodia, there are over 2,000 trade unions and eight confederations while Indonesia has five confederations. Therefore, Cambodia's industrial relations system is not as yet mature or united – a fact presenting a very complicated scenario for collective action. One enterprise may in actual fact have up to 14 trade unions. As such, if management negotiates with one particular union, the other 13 unions may strike. The best way out is to ensure that one can identify trade unions that truly represent workers.
- The tripartite committee comprising social partners and the government exists to enable deliberation on any matters related to industrial relations. Yet, Cambodian trade unions often complain that this committee lacks the capacity to conduct research and studies, and lacks necessary data on industrial relations matters. Without an adequate database and research capacity, this committee will not be in a position to forge ahead as an IR focal point.
- The word 'push' factors in Cambodia seems to be misleading as it conjures up the notions of strikes, violence, killing, and larceny. Therefore, any casual reference to the word 'push' factors, especially with reference to the Cambodian context, is not advisable.
- Minimum wages and market wages are different. Market wages are based on demand and supply – mutual consensus. Market wages could even increase up to \$93. However, if wages are distorted, eventually foreign investors could well relocate their enterprises to other countries against rising production costs, and pressure from buyers.
- Determining minimum wages involves many elements and degrees to which parties concerned play their roles. One would need to strike a balance between the role of the government and market forces, depending on the development levels of countries and the maturity level of institutions in question. In a mature society minimum wages become collectively negotiated wages or market wages. When a country is at a low level of development, minimum wages play a pivotal role, but as a country progresses minimum wages become less relevant.

8. Recent development on wage setting in China

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

Presenter: Mr Sangheon Lee, Senior Research and Policy Coordinator, ILO Geneva

The Chinese system worked from the local level up to the national level. A great majority of what developed at the national level reflect local-level developments in the context of a transition to a market economy with a very weak bargaining system, making minimum wages and wage guidelines the key pillar of wage policies.

The main features of China's minimum wage regulation are:

- (1) Decentralized harmony and a high level of coordination which encompass the following:
 - (a) All employees are even including the public sector.

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- (b) Both monthly and hourly minimum wages are applied to “flexible workers”.
 - (c) Authorities highly decentralized to local authorities, with “guidance” from the central government (as the most salient feature of all).
 - (d) Two types of formulas (the proportional method and the Engel’s Ratio Method) are proposed. However methods thereof vary in practice. According to the 2004 Regulation, minimum wages should be adjusted at least once every two years.
- (2) Tripartism does not apply in China’s minimum wage determination, but “informal” consultation does exist with employers’ and workers’ representation. The main elements are as follows:
- (e) There are no formal institutional arrangements. Minimum wages are an “administrative” issue decided by local authorities.
 - (f) Informal consultation takes place in
 - (i) Consultation occurs at the local level.
 - (ii) All-China Federation of Trade Unions’ (ACFTU) and China Enterprise Confederation/China Enterprise Directors Association’s (CEC/CEDA) views are requested at the central level; and
 - (iii) Trade unions are “expected” to supervise the implementation of minimum wages and take part in the settlement of disputes on minimum wages. As a result of relevant efforts over the past five years, all these elements culminate in rapid/considerable increases in minimum wages such as a “great push”.

China’s minimum wage administration system is characterized by frequent but unpredictable adjustments. As a result of the new requirement of the 2004 law, minimum wage adjustments are more frequent (3.8 readjustments between 1994 and 2004, 3.2 readjustments between 2006 and 2010 (with no adjustment in 2009 during the financial crisis), and by June 2011, 18 out of 31 provinces have readjusted their minimum wages).

This phenomenon may be explained in terms of the “domino” effects as follows:

- (1) Minimum wages increases in one region can spread out to other regions, given the skill shortage scenario.
- (2) The role of Guangdong’s minimum wage setting and labour market is serving as a guideline for the rest of the country due to its status as a major production hub, signaling inter-provincial economic competition.

Wages constitute a key policy issue in China. The Twelfth Five Year Plan (2011-2015) singles out wages as a key policy area to achieve a harmonious society. There are two targets: (1) at the absolute level: annual growth rate in minimum wages should be no less than 13 per cent; and (2) at the relative level: minimum wages should be no lower than 40 per cent of the average wage for local urban workers. There remains much more to be implemented. More complicated issues are in the pipeline in relation to labour relations in particular: (a) collective bargaining is being developed but only very slowly; (b) there is a need for “formal” tripartism. It remains to be seen whether or not China is gearing towards establishing a national tripartite wage council; (c) there is as yet weak coordination between regions and localities; (d) enforcement issues remain, especially for migrant workers (as main policy beneficiaries); and (e) reliable statistics on wages with full coverage still remains an issue. A pilot survey project which also includes the private sector is under way.

The resulting findings may reveal that the average wages could well be below the level currently held.

Plenary discussion

- China has experienced substantial increases in minimum wages. The current task is increasing minimum wages to a level not less than 40 per cent of market wages. The average minimum wage is approximately 40-60 per cent of the market wage. However, the main point is implementation. Social security also plays a significant role in China. Lodging and food benefits, collectively, constitute a major part in the production cost equation in China. A great number of factories have relocated out of China to other countries. The Asia's floor wage range would take Cambodia's average monthly wage up to US\$270 to be on a par with Thailand. The current wage in Thailand, a more developed country than Cambodia, is approximately \$230.
- Developments in China may serve as a point of reference for ASEAN. However, ASEAN member countries should put an emphasis on ASEAN, especially as the region is relatively diversified with different countries attaining different levels of development.
- A country can be affluent only when workers are adequately paid and social harmony is attained. China is gearing towards an economy driven by domestic demand. China is a very important rebalancing factor. China is producing much more than it can consume, while the US is consuming much more than it can produce.
- China's productivity growth is between 10 and 12 per cent annually. If the economy continues to grow, productivity growth will be sustained, and there should be no problems. The question is whether or not China's economy will grow at a rate it once used to.
- On minimum wage fixing, China's social security and housing issues factored into the deliberation process. Migrant workers should be the main beneficiaries of minimum wage setting, but are not entitled to social security, housing arrangements, children's schooling or other types of benefit as a result of the household registration system. Migrant workers have to rely on minimum wages. All the strikes and industrial disputes at China's key factories are related to migrant workers. The Government takes minimum wage issues seriously to pre-empt social unrest, and tries to strike a balance between economic pressure and social stability.
- Regarding productivity and competitiveness, labour costs have tremendous bearing on competitiveness. One might wish to keep wages relatively low to secure a certain level of comparative advantage. Rapid increases in wages would not prove healthy as far as labour-intensive industries are concerned, while keeping income low might not encourage economic operators in the long run. Providing fair wages for workers and providing incentives to economic operators are a key element. China would agree to certain factories relocating out of the country in light of industrial relations administration and economic upgrading.
- It is interesting to know an average/representative minimum wage (of about 600 minimum wages in China). In Beijing the minimum wage is about 400 Yuan Renminbi (CNY). The average figure should be CNY200. The latest minimum wage for Guangzhou is CNY1,500 per month representing 16 per cent increase.

9. Wage setting through collective bargaining

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

9.1 Wage setting through collective bargaining agreement in Cambodia

Presenters: Mr Chrun Theravong, Deputy Chief, Third Labour Dispute Office, Ministry of Labour and Vocational Training (MLVT), Mr Van Sou Ieng, President, Cambodian Federation of Employers and Business Associations (CAMFEBA), Mr Kong Athit, General Secretary, Cambodian Labour Confederation (CLC)

Cambodia started its first multiple political parties' participation in 1993. A major labour market only exists in the agricultural sector in the form of family-based agriculture. The state has been encouraging private farming to follow its free market policy. Starting in 1990s, two new sectors have exhibited stronger growth. Before 1993, there was only one state trade union through which no collective bargaining agreement arrangement was possible. Workers have now enjoyed their freedom in forming their independent trade unions through which they can negotiate specific issues or undertake collective bargaining agreements. The number of trade unions has also increased tremendously.

Ad hoc or issue-based negotiation may also take place. Workers may seek negotiation with employers relating to wage issue or working conditions with no specific duration and without MLVT endorsement. There is no common understanding and agreement on collective bargaining agreement definition and formulation, as sometimes collective bargaining agreements are equivalent to the law regarding to the benefit and worker's right. Collective bargaining agreement definition is a written agreement and its formulation shall have to take into consideration business growth, flexibility and peace, productivities and decent working condition for workers.

Collective bargaining agreement (CBA) negotiation process involves the following sub-requirements: (1) between employers and most representative union requiring participating trade unions to prove that they receive support from 50 per cent plus one member of the total members and 33 per cent of the total members actually pay membership fees; and (2) between employers and shop stewards. After negotiation completion, it shall have to be registered at MLVT. The CBAs in Cambodia only exist at the enterprise level in three sectors, namely: tourism services, the garment and shoe-production sector and the construction sector. There are many different ways through which wage increases through CBAs may be achieved the percentage base system, the lump sum base system and the position and skill-based system at the management level. Wages may also increase through other wage systems such as attendant bonus allowances, food allowances for overtime work, and seniority bonus and annual leave bonus.

Despite the legal provisions, no minimum wage fixing has been applied for the entire country. There are only sectoral collective agreements (CAs) in the textile/garment, hospitality, hotel, services, and construction sectors. These minimum wage agreements were concluded through negotiation or collective bargaining in each particular sector with trade unions. The main challenge is there are a great number of representatives of trade unions in one sector making it difficult to conclude CBAs. The employers and the ILO have been trying to enhance the negotiation process and encourage trade union consolidation. Previously, the garment and apparels sectors had more than 2,000 trade unions, which were consolidated into 36 federations and eight confederations. The garment sector is the biggest employers' sector employing approximately 500,000 workers out of 2 million workers details of whom stored on the database across the country. The core minimum wage is \$61, plus \$12 additional pay in total of \$73. The market wage rates are between \$83 and \$85,

moving towards \$90. The market rate of \$85 plus \$12 premiums comes to \$97 representing a 25 per cent different range.

Cambodia's minimum wage determination was implemented through collective bargaining, but the process was cut short under strike threats. The Government interfered to call for a labour advisory committee meeting to pre-empt any further social disturbance. Mr Van Sou Ieng expounded that the role of the Government and its last-minute interference is a normal course of action. This holds true in regard to the Government's policies *vis-à-vis* minimum wages and working conditions as they have impact on the country's economy. This mechanism lacks necessary research and information provision capacity to provide relevant information such as the costs of living and relevant economic data. The Cambodian employers have to rely on their own data on labour productivity, prices, costing, and affordability in the negotiation process. The industrial relation scenario tends to improve overtime. Establishing trade unions is a welcome move as the employers now know who to discuss with. Minimum wages provide basic protection to the poor. However, some sectors might adhere to minimum wages while keeping market wages very low as is the case in Cambodia's banking system.

It is desirable to keep minimum wages low enough to allow flexibility and high enough to protect workers' earnings. Market wages should be allowed to move based on the rule of demand and supply. Rising wages in China have induced Chinese investors to invest in Cambodia, and some of these industries would later relocate to other countries while certain industries with higher paying capacity levels would remain. All these developments are subject to demand and supply scenarios. In Cambodia, collective bargaining process and tripartite mechanism are in place for minimum wage determination and working condition administration. In terms of dispute settlements, issues are first addressed at the enterprise level, secondly by government inspectors, thirdly by labour arbitration, and finally industrial action implementation respectively. All parties are attempting to promote collective bargaining to ensure that the process is based on freedom and fairness without involving threats. Trade unions still lack information to shed light on what they really require, in which case they might demand figures from international trade unions. However, in the wake of a multitude of its existing, discussion with any of the trade unions at a particular factory could trigger trade union jealousy.

Mr Kong Athit, expounded that effective industrial negotiation requires quality leadership. The existing CBAs should serve as a stepping stone in this direction. Positive implications of collective bargaining are apparent in the case of Sabina factory where the workforce has increased from 500 workers to between 5,000 and 6,000 workers with a second factory employing 10,000 workers.

The reason for the rapid development of trade unions is the existence of monetary incentives. When they are set up, factory owners would offer monetary returns to their leaders to prevent them from making requests or put any demand on behalf of employees. These trade unions are political bases for political parties.

Market wages would work in a mature society – still not the case in Cambodia. Workers working at SMEs earn between \$25 and \$40 per month, while public employees earn between \$40 and \$50 per month. Employees working in the banking sector constitute a small percentage of the labour force and are not representative of Cambodia's labour market. The employees support representation, and recognize the importance of leadership on both sides. Also, no parties should aim to control employees' voices.

Plenary discussion

- The prescribed process requires that documents showing 50 per cent plus 1 and 33 per cent of the total members pay membership fees be submitted and presented to all the

stakeholders. If no objection is raised, then the documents will be forwarded to the ministry for approval. The requirement for proof of 33 per cent of the total members pay membership fees to be presented is a way to justify that any such trade union truly represents members, and really maintain a *bona fide* paying membership structure.

- Regarding employers' associations involved in the collective bargaining agreement process, employers' bodies became involved in its arrangements at the enterprise level, but their involvement was stopped, and no other proceedings have been initiated in this regard ever since. The CBA arrangements are basically between two major parties concerned. If no agreement is reached, further dialogues are required of all parties concerned to settle the issue. If it is reached, MLVT will endorse any such agreement as official.
- There is only a negotiated minimum wage arrangement in Cambodia. There is no nationwide minimum wage across the board. The arrangement in the garment and apparels sector is \$61 plus \$7 plus \$5. Other sectors have their own respective these arrangements. In the Cambodia's informal economy, workers may earn \$45, \$70, or \$80 as there are no sectoral negotiation arrangements in these cases. The garment and apparels sector and the government are willing to achieve economic formality by determining the SMW and creating a CBA process. The \$73 minimum wage rate is above a \$45 rate in provinces where rice supplies may be secured cheaply. This minimum wage arrangement is designed to protect the urban poor.
- Mr Van reiterated that one must differentiate between sectoral-level collective bargaining and individual negotiation at the enterprise level. There is a law on collective bargaining that sets a platform for negotiation based on the principles of freedom and honesty. If no results are achieved, the matter in question may be referred to the arbitration process. During a negotiation process, the Cambodian employers have to negotiate with eight confederations. The trade unions were on the verge of calling a general strike. This induced the government interfere to pre-empt unrest, which drew a series of criticisms. The employers need to offer monetary incentives to the trade unions to survive. The most important point is to for all parties to undergo a learning process to grow out of this state of affairs.
- Regarding the implementation of Cambodia's minimum wage arrangement, MLVT simply oversees CBA processes. The results will be registered at the ministry. If either party does not comply with any CBA agreed upon, the Government inspectors shall inquire into the matter in the follow-up and implementation process. Both MLVT inspectors and trade unions play a pivotal role in the implementation process. That is the reason why trade unions really have to truly represent workers. All the relevant matters will be dealt with pursuant to the appropriate justice process: government sanction and tribunal proceedings. Mr Kong Athit propounded that there are two systems, namely: the MLVT process and the better factory system. As the Government has limited resources, and does not have comprehensive research capacity. The trade unions have to acquire basic data on non-compliance first from MLVT. The better factory system has conducted comprehensive research. Participating factories in the better factory system do not pose any problems in this regard. However, sub-contracted companies still present some challenges as they are not part of the better factory system, and are not covered by government inspection.

9.2 Wage setting through collective bargaining agreement in Singapore

Presenters: Mr Lau Weng Hong, Deputy Director, Ministry of Manpower (MOM), Mr Chua Ker Sin, Senior Manager, Singapore National Employers Federation (SNEF) and Mr Yeo Cher Lian, Singapore National Trades Union (NTUC)

Mr Lau Weng Hong propounded that the Industrial Relations Act provides that workers or employers may invite either party to negotiate on wage increments. Wage negotiation is usually carried out on a yearly basis and at enterprise level. If negotiation reached a deadlock, either party can refer dispute to the Ministry of Manpower (MOM) for conciliation assistance. If MOM conciliation fails to resolve the dispute, it will be referred for final arbitration by the Singapore Industrial Arbitration Court (IAC).

About 1,000 companies in Singapore are unionized, and less than 1 per cent of companies settle wages through collective bargaining. Singapore-based companies use a market-based approach in setting wages for different jobs. Market salary survey findings are used as reference in wage setting. In the unionized sector, the salary ranges may be included in the collective agreements

Wage negotiation is generally guided by the National Wages Council (NWC) guidelines. At the enterprise level, the majority of unionised companies negotiate wage increments annually with their trade unions. The collective bargaining process is set by the Industrial Relations Act. Certain unionised companies negotiate annually with workers. Non-unionised companies, mainly SMEs, rely on the NWC Wage Guidelines and market survey data to help them on their annual wage increments. One such example was drawn from wage negotiation in Singapore's insurance industry. Since 1970s, 47 insurers have operated under one common collective agreement with the Singapore Insurance Employees' Union (SIEU). A group of about 20 companies will conclude a group settlement on annual wage increases as a "benchmark" for other company settlements. Variable bonus arrangements are determined by a formula based on past three years' performance.

A tripartite advisory body formed in 1972 to provide for orderly wage adjustments. The NWC guidelines form the basis for negotiations on annual wage adjustments (provided under the Employment Act, but is non-mandatory). The NWC was established to provide orderly wage adjustments. The Council functions as an advisory body to the government.

Singapore's wage policy considerations include the following: (a) to raise real wages through higher labour productivity; (b) to ensure that real built-in wage increases lag behind productivity increases; and (c) wage adjustments to take into account global economic trends, Singapore's economic conditions and company performance to maintain competitiveness. There have been four phases of wage determination guided by the NWC recommendations: (1) moderate wage increases (1972-78); (2) high wage increases (1979-84); (3) qualitative guidelines (1985-98) with wage restraint (1985-87); and (4) guidelines highlighting the need for flexible and performance-based wage system (1999-present).

A flexible and performance-based wage system offers a great deal of benefits to employees, employers, and the economy as a whole. As for workers, any such system would reward and recognition for contributions and performance. Also it should offer better job security during economic downturns, provide upside for higher rewards in good times and enhance employees' cost-competitiveness and employability. Any such arrangement proves equally beneficial to employers by enhancing companies' competitiveness, motivating employees to give their best for their companies as well as offering flexibility to make timely wage cost adjustments as appropriate. As for the economy in aggregate, a flexible and performance-based wage system makes the economy more competitive, promotes high labour productivity, lowers unemployment rates during economic downturns, and keeps the economy better prepared to ride on opportunities in upturns.

The real wages have increased in tandem with labour productivity (2001-10). In order to help enterprises remain competitive and save jobs, the NWC recommends that enterprises, whose business profitability and prospects are affected by the economic downturn, may implement a wage freeze or wage cuts in consultation with their workers accordingly. In the recent economic downturn, the management took the lead in undertaking wage freeze and

freeze cuts. The flexible wage system saves employments. Principle maintained throughout the 1997 Asian Financial Crisis and the 2008 Financial Crisis.

Mr Chua Ker Sin put an emphasis on the flexible wage system. Singapore, an open economy, is subject to economic growth variations. Wages should be flexible to ensure that employers and employees remain competitive. The determination incorporates both monthly earnings and bonuses. Even during economic downturns, the flexible wage system can provide better work security. Although Singapore does not operate a minimum wage system, the government does take low-income workers seriously. A tripartite solution is for workers who participate in skill training to enhance their earning capacity and employers who explore a work redesign process to help workers earn more as well as the government to maintain moderate costs of living, supplement workers' earnings through its contributions to the provident funds, and ensures that segments of the population earning less than the rest of the population have access to basic services.

All parties concerned have to proceed beyond collective bargaining towards productivity. The workers and employers have to discuss ways to enhance labour productivity and share productivity gains. Singapore is not concerned about how stakeholders share 'that one dollar earned', but strives towards earning more than the existing dollar. Collective bargaining agreements normally involve arrangements over two or three years. Top management has to discuss with workers in between regarding labour productivity, competitiveness, and other relevant issues based on shared financial information.

Mr Yeo Cher Lian stated that minimum wages normally apply across the board regardless of profitability scenarios. Singapore Government, by working closely with the tripartite partner implemented targeted measures such as a Workfare Income Supplement Scheme (WIS), a workfare scheme designed in helping low wage workers so long as they stay in employment. Individual trade unions and the national confederation also provide schemes such as hardship funds, schooling assistance schemes, and transport vouchers. Singaporean flexible wage model comprises: (1) annual revenue/bonus component; (2) monthly vulnerable component; and (3) salary range. The economy cannot afford to wait until the year end to start anew. Thus, the second component was introduced.

Plenary discussion

- Regarding trade union arrangements, Singapore has one confederation – National Trades Union Congress (NTUC), and 61 trade unions. The law allows the founding of additional confederations.
- Criteria for qualitative measures involve describing a particular scenario: once a company has met complete performance requirements, it may determine its own wage pattern. In the context of wage guidelines, MOM imparts information on three possible scenarios: (1) when enterprises perform well; (2) when enterprises perform all right; and (3) when enterprises do not perform well. All these contents are normally contained in national wage guidelines. Enterprises performing very well are supposed to pay very good wages. Trade unions would know whether or not enterprises fit into this qualitative scenario or not. If enterprises are performing all right or have just recovered from certain crises, trade unions would also know and would refer to NWC guidelines for recommendations, which should fall into the 'moderate wage increase range'. Moderate rates refer to rates slightly lower than the going market rates. When enterprises are not performing well, trade unions may request a lump-sum inflationary payment or a small one-off payment, rather than pay increases.
- Foreign workers in Singapore constitute 30 per cent of the work force (1 million out of 3.2 million), while Singapore's union density rate is approximately 23 per cent.

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- Interpreting qualitative wage guidelines for actual implementation is an art *per se*, whereby verbal description carries greater weight than numeric valuation. Semantic description is vital in sending the right signal to all parties. During briefings, employers develop understanding regarding unpublished ranges, and management and trade unions will try to narrow down the differences between their proposed figures to achieve reasonable targets suggested in the wage guidelines. The meeting is based on consensus and no members of the press were present. Once concluded, they become ‘tripartite understanding’.
 - Both the employers and the workers use the same set of labour productivity data for national wage guideline discussion as previous separate surveys resulted in different set of data and diverging interpretations. Enterprises also have developed their own ways to measure to value-added, incorporating the national labour productivity figures, market data, as well as their own fundamental and figures.
 - Singapore’s productivity standard has increased from one-third of the average standards in the 1970s to two-third of the same benchmark at present. The National Productivity and Continuing Education Council (NPCEC) has planned to catch up with the one-third differential in only a decade. Productivity initiatives generally come from employers through mechanization, automation, training, etc. The NPCEC has set up a 2 billion Singapore Dollar (SGD) fund in 2010 that would support productivity initiatives till 2014. The SIEU has worked with all the employers in the 16 strategic sectors to administratively facilitate the application for and the processing of funding in a proactive manner.

10. Review of minimum wage setting

10.1 Minimum wage setting in Viet Nam

Presenters: Mr Nguyen Tien Dang, Deputy Head, Wage Division, Ministry of Labour-Invalids and Social Affairs (MOLISA), Mr Than Dao Ngoc, Expert, Viet Nam Chamber of Commerce and Industry (VCCI) and Mr Pham Van Tuan, Export, Viet Nam General Confederation of Labour (VGCL)

The discussion of Viet Nam’s minimum wage setting incorporated four parts: (1) legal regulations related to minimum wages; (2) assessment of minimum wage policy; (3) orientation for the reform of minimum wages; and (4) issues for discussion and consultation with foreign experts. There are three types of minimum wages, namely: common minimum wages, regional minimum wages, and sectoral minimum wages. Legal regulations related to minimum wages apply in the following cases: (a) common minimum wages; (b) regional minimum wages in the the case of administrative units (as the lowest floor wages for employers and workers to negotiate regarding wage issues; ensuring that workers’ monthly wages are not lower than regional minimum wages); and (c) sectoral minimum wages (being piloted in the garment-textile and rubber sectors through sectoral collective bargaining agreements).

Minimum wages are determined based on four considerations: (1) workers’ minimum needs; (2) surveys on wage rates in the labour market; (3) the economy’s ability (GDP), individual consumption of the population; and (4) inflation rates. Normally, the minimum wages are adjusted once a year on 1 January. However, in 2011, they were adjusted twice due to high inflation rates and to apply the same rates for domestic and foreign direct investment (FDI) enterprises. In 2012, they will not be adjusted. Prior to minimum wage adjustment, the Government collect comments from the Viet Nam General Conferederation of Labour (VGCL) and representatives of employers. The implementation of new minimum wages will be informed to employers three months in advance. The minimum wages have been adjusted four times since year 2008. The regional minimum wage is divided into four regions. The

minimum wage of Region IV is equal to the common minimum wage, whereas the common minimum wage has been separated from the minimum wage of Region IV after 1 October 2011. Moreover, there was different rates for domestic enterprises and FDI enterprises before 1 October 2011. Furthermore, the same regional minimum wage rates are applied for domestic enterprises and FDI enterprises later on.

Viet Nam has identified the the achievements of the country's minimum wage policy as the following aspects:

- (1) The system of common, regional and sectoral minimum wages are relevant to the market economy, ILO conventions and minimum living standard of workers.
- (2) Minimum wages are fixed based on scientific methods and relevant to state budgeting and employers' paying ability, contributing to life improvement of the workers.
- (3) Common minimum wages linked to state budgeting have been separated from regional minimum wages, and have been applied to enterprises in order to ensure wages are paid according to market rules.

In shortcoming, the low rate of common minimum wage accounts at 45 per cent compares to the regional minimum wage accounts at 65-75 per cent of the minimum living needs of the workers. The linkage between the common minimum wage and the minimum wage of Region IV (the lowest regional rate) leads to low adjustment of the regional minimum wage irrelevant to workers' minimum living standard. The regional minimum wages are revised based on the adjustment of the common minimum wage and the state's budget capacity. Regions are divided based on administrative units. There are cases that the neighbouring areas apply different minimum wage rates, leading to difficulties during the implementation process. Viet Nam's database is inadequate and is not updated regularly; leading to inconsistent minimum wage fixing. The minimum wage coverage is still limited. The common and regional minimum wages are paid on a monthly basis rather than on an hourly basis. The Vietnamese system does not cover payment arrangements for non-regular or non-fulltime employments. Also, the sectoral minimum wages have just been piloted in the garment-textile and rubber sectors.

Reforming orientation in minimum wage policy by recalculating minimum wages to cover workers' minimum needs, and identifying implementation roadmap relevant to the paying ability on the part of the state budget system and employers. There is possibility to examine hourly minimum wages for non-regular and part-time employments. The examine and finalize criteria for the division of regions as a basis for the implimentation of regional minimum wages relevant to actual conditions, consumption prices, wage rates, labour supply and labour demand in each region. It provides assistance to certain sectors in concluding sectoral collective bargaining agreements in order to establish sectoral minimum wages. The policy establishes a national wage council with tripartite participation incorporating government representatives, the Viet Nam General Confederation of Labour and Employers' representatives, examine and further develop minimum wage laws.

Common and regional minimum wages are fixed and revised by the Government annually. Sectoral minimum wages are based on bargaining processes. Viet Nam is conducting a pilot collective bargaining agreement (CBA) project in the garment sector. The project has achieved certain sectoral CBAs in which workers secure higher wages than minimum wage fixed by the Government.

Plenary discussion

- Viet Nam's common and regional wages are determined by the Government. Before fixing regional minimum wages, MOLISA organize several meetings with VCCI,

VGCL, business associations, FDI enterprises, and socialist market oriented economy to collect comments on the minimum wage increases proposed by the Government. Once consensus is reached, the proposed will then be submitted for announcement. Before minimum wage increases are announced, the Government will also collect comments from major foreign investors. Common minimum wages are paid to public servants or workers working for the government. No tripartite process is involved. The state will propose rates based on the state's ability to pay.

- Any workers will be affected by minimum wage, including salary workers. Current salaries are 9.7 times the minimum wages. Social benefits and private-sector remuneration is based on minimum wages. The private sector is a factor to certain coefficient range into the equation, for example, healthcare arrangements. As soon as minimum wages are determined, workers income will be affected accordingly. Viet Nam is trying to reform the system. The private sector's wage system will be separated from the current national minimum wage system. A harmonized and effective system will be developed within the private sector.
- Common minimum wages only apply to the public sector. Regional minimum wages apply in market-regulated areas. Regional division is based on district administration. Skilled workers will receive 7 per cent more than minimum wage earners. Workers employed in dangerous conditions will receive a 5 per cent increase.
- Viet Nam's minimum wage fixing and adjustment system shares the same problem as Thailand. Minimum wages are floor wages. When they are adjusted, other workers with greater skills will automatically ask for increases.
- The regulation on minimum wages is mentioned in the 1995 Labour Code. Article 56 provides certain general basic provisions on minimum wage issues. Viet Nam plans to develop specific minimum wage law as a basis for specific and detailed guidance and provisions thereon by 2015.
- A great number of workers are still being paid lower than minimum wages. Before 2011 minimum wages were linked to the Government's ability to pay. Viet Nam's database was not updated as a result of the time lag during the publication process. The 2011 wage adjustment was based on the 2008 database. Viet Nam applies a mixture of four methodologies in its minimum wage calculation.
- The Vietnamese system is not different from Indonesia's arrangement. The country's common and regional wages are determined by the government while the minimum wages are confined to the textile and rubber sectors through collective bargaining agreements (CBAs). The Government encourages CBA parties to aim for wages higher than the regional minimum wages. These arrangements are now being piloted in the two sectors mentioned. With respect to quantitative issues in relation to minimum wages, there were four regional wages for domestic enterprises, and four different rates for FDI enterprises. In early 2010, Viet Nam concluded CBAs in the garment and textile sector. The then highest regional FDI wage was 1,340,000 Viet Nam Dong (VND), and the CBA-concluded wage was VND1,700,000.
- There are a great number of investors in the garment/textile sector. Previously, trade unions in this sector were concentrated in socialist market-oriented economy. The situation in the FDI textile sector trade unions has changed. The union density rate in the FDI sector represents one-third of the number of the companies. A CBA process mostly involves bargaining among unionized enterprises as this requires a tripartite mechanism. Non-unionized enterprises are not covered there-under. CBAs in the textile and garment sector are signed between Viet Nam's textile and garment corporations and the trade unions. Only 40 or 50 per cent of the companies took part in these CBAs.

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- In Indonesia and Viet Nam most workers will be affected by the minimum wages. A difference between Viet Nam and Indonesia still remains. The Indonesian wage system is powerful because it serves as a point of reference, while Viet Nam's minimum wages are powerful as they are wage-based. The minimum wages are a basis on which other wages are built upon. Once the Vietnamese minimum wages are increased all the remaining wages will be increased accordingly. The effect is similar, whereas the mechanisms are different.

10.2 Labour management in Lao People's Democratic Republic

Presenters: Mr Somchit Aminthalath, Deputy Director, Labour Protection Division, Ministry of Labour and Social Welfare (MLSW), Ms Sengdavone Bangonesengdet, Deputy General Secretary, Lao National Chamber of Commerce and Industry (LNCCI) and Mr Inpeng Meunviseth, Head of Occupational Safety and Health, Lao Federation of Trade Union (LFTU)

The MLSW Agreement on Application of the Tripartite Committee on Labour Relation at the Central Level (2010) determines the roles and functions of the tripartite committee on industrial relations, develops industrial relations and the protection of workers, as well as serves employers' benefits and public services. The tripartite committee comprises representatives from the following entities: (1) MLSW; (2) the Lao Federation Trade Unions (LFTU); and (3) the Lao National Chamber of Commerce and Industry (LNCCI).

The minimum wage setting process incorporates the following algorithm: (1) the first tripartite committee meeting; (2) LFTU meetings (on important issue such as costs of living and productivity); (3) the Lao National Chamber of Commerce and Industries meetings will deliberate upon corresponding issues; (4) a second committee tripartite meeting to adjust or agree on minimum wages proposed; (5) the preparation of a summary undertaken by the Ministry of Labour and Social Welfare; (6) submission of the agreed rates to the Government Office (a meeting will be held in conjunction with the Ministry of Planning, the Ministry of Finance and the Economic Institute); and (7) once the figures are approved, relevant matters will be forwarded to the Ministry of Labour and Social Welfare for promulgation. Minimum wage adjustments can be implemented at all times subject to the following four conditions: (1) the current living conditions and socio-economic situation economic growth; (2) the country's economic growth; (3) are collectively agreed upon by the tripartite committee; and (4) both workers' and employers' equally benefit in any given minimum wage adjustment.

Lao People's Democratic Republic is different from other ASEAN countries in terms of the percentage of wages increases and the duration during which Lao People's Democratic Republic has to increase its minimum wages. LNCCI has over 2,000 members, 26 associated business associations, 13 provincial member chambers, representing both major local investors and FDI enterprises. Despite the low percentage of it member presence in the total number of registered enterprises in the Lao business community (2 per cent), their presence and business proportions across the board means that this entity represent powerful voices in the country's business scenario.

The LNCCI has been working to increase workers' wages. After receiving information and data from MLSW or LFTU, the Chamber will discuss among members. When the Chamber is informed of a possible wage increase initiative, its members will be notified thereof without specific figures featured to request their comments as to whether or not possible minimum wage increases will affect their employments. LNCCI organizes a meeting among its members and invites business associations concerned affected by the forthcoming wage increases, in particular the textile industry which employs a great number of workers and export textile products to the European Union. Increases in minimum wages normally do not

affect the service sectors as remuneration in these sub-sectors belong to salary arrangements. LNCCI attempts to manage its timeline to acquire all the necessary information and perspectives from the Government and business entities, as well as impart all the relevant information on minimum wage increases.

As this minimum wage increase records a 59.9 per cent, Lao People's Democratic Republic is faced with implementation problems necessitating a tripartite solution. Certain workplaces have cut down on free accommodation.

A major practical point involves the time-consuming translation of new regulations or wage recommendations, presenting some administrative challenges in the wake of the increasing number of foreign investors. Moreover, tripartite industrial relation is operational at the central level only. Regional linkages in terms of industrial relation are still wanting, complicating certain situations where parties concerned need to reach common grounds.

LFTU's roles include providing training, awareness-raising, making its contributions to the enforcement of labour law and trade union law, as well as protecting workers' benefits and rights. LFTU operates at four levels: (1) the national level; (2) the provincial level; (3) the district level; and (4) the grass-root/workplace level. Starting from 2008, CBAs have now been established at the workplace level covering 154 workplaces with support from OXFAM. Issues included in collective bargaining are comprehensive: minimum wages, welfare arrangements, safety and health issues, as well as bonus provision. The new 626,000 Laos Kip (LAK) minimum wage has triggered challenges to employers at the workplace level. Previously, Lao workers received approximately \$1 per day. If the minimum wages had not been increased, more Lao workers would have migrated to Thailand as a result of the latter's wage increase.

Plenary discussion

- Given the number of the country's own-account workers, unpaid family members, and the aggregate number of government employees, para-state employees, and state enterprise employees, the possible number of workers potentially covered by minimum wages is very small, for example, private employees in total of 121,786 employees.
- The Lao trade union system is the same as its Vietnamese and Chinese counterparts because each country has only one trade union, for example, VCTL and ACFTU respectively.
- Lao People's Democratic Republic's wage adjustment durations vary (six years, five years, four years, and three years). Lao People's Democratic Republic sudden increases in wages are a traumatic shock for all despite the good reasons quoted, for example, as a response to inflation or economic dynamism. It is advisable to change its minimum wage adjustment period to one year to attenuate any associated shocks, and avoid sending misleading information on wage adjustment. If wages are averaged to approximately a 10 per cent increase, employers would have time to adjust themselves. This should help to avoid prompting employers to take drastic measures.
- LNCCI has made two suggestions to the government and the tripartite committee. Firstly, the tripartite committee should prepare a wage adjustment proposal on an annual basis. Lastly, there should be wage arrangement plans for specific industries, regions and provinces in the wake of the government developing different economic zones, causing cost of living to vary geographically.
- One of the reasons for LFTU not being previously involved in minimum wage adjustment is that LFTU leadership operates under a five-year tenure arrangement. Thus, it is impractical to deliberate upon major issue during a time of leadership change. Also,

the trade union did not regard minimum wage adjustment as part of its mandates, leaving the minimum wage matter in the hand of the government.

10.3 Minimum wage system in the Philippines

Presenters: Ms Patricia Hornilla, Deputy Executive Director, Department of Labor and Employment (DOLE), Mr Renato Almeda, Vice President, Yasaki-Torres Manufacturing, Inc., Employers' Confederation of the Philippines (ECOP)

The discussion of the Philippines' minimum wage system review covered three areas, namely: the current system in aggregate, outcomes and directions for reforms. A national minimum wage setting system operated in the Philippines during 1951-89. With the Wage Rationalization Act or the 1989 Act (RA 6727)¹, the system has shifted from a centralized system to a decentralized system. It provides for regional minimum wage setting to protect the most vulnerable workers in a manner that is consistent with regional socio-economic conditions. The Congress devolved minimum wage setting to the Regional Tripartite Wages and Productivity Boards (RTWPBs). The institutional mechanisms have been created in the following process:

- (1) The National Wages and Productivity Commission (NWPC) acts as the central coordinating body to formulate policies, guidelines, and rules, and act as the advisory body to the President and Congress.
- (2) The 17 Regional Tripartite Wages and Productivity Boards (RTWPBs) are in charge of setting minimum wage and conducting studies and researches on wages, income and productivity.

The criteria for minimum wage determination are the needs of workers and their families, employers' capacity to pay, prevailing wages and requirements of social and economic development. The procedural requirements are *motu proprio* – arrangements by petition, public hearing and sectoral consultations, wage deliberation, the issuance of wage orders, the issuance of implementing rules, information dissemination to advise the public on the new minimum wage rates as well as enforcement (by the regional offices of the Department of Labour and Employment, not the Board).

The history of wage setting by the regional boards in 1990-2011 found that 57 per cent of the wages orders were issued unanimously, while 34 per cent, 8 per cent and 1 per cent of wage orders were faced with dissenting voices from the labour sector, the part of the employers and faced with state reservation, respectively. There were 55 per cent of basis for adjusting minimum wages in 1990-2011 issued by *motu proprio* – arrangements by petition, and 45 per cent adjusted on the basis of petitions filed by the trade unions. Over 20 years of minimum wage setting, the 17 RTWPBs have issued 248 Wage Orders. As a result, minimum wages were increased by 337 Philippines Peso (PHP) per day in the national capital region (NCR) and by a range of PHP143 to PHP248 per day outside NCR. This benefit responded directly to three million minimum wage earners as well as more than three million workers through correction of wage distortion.

The compliance rate in NCR is 88.9 per cent. In 2009 there was only eight out of 2,522 establishments quoted minimum wage adjustment for their decisions, while the figures in 2010 were seven out of 2,314 establishments. It was representing less than 1 per cent of the total figure. The increase of minimum wage in 1990-2011 at the highest rate of PHP426 enabled NCR to economic advance regions. The outcomes of minimum wage arrangement are to increase the ratio of minimum wage to average wage at the range of 80 per cent to 120 per cent. This affects collective bargaining and may erode incentives to be engaged in

¹The Wage Rationalization Act was promulgated in June 1989 by the Congress of the Philippines.

productivity based pay schemes, poor coverage of low-paid workers due to exemption from compliance with the prescribed wage increases, the cost of living allowances and exclusion from coverage household or domestic helpers and Barangay Micro Business Enterprises (BMBEs) duly registered with the appropriate local government in accordance with RA 9178 (An Act to promote the establishment of Barangay Micro Business Enterprises), and non-compliance. Furthermore, they may induce distortion in pay structures.

The relationship between poverty rate, minimum wages and average wages in 1997-2009, there was a wide gap between minimum wages and poverty thresholds, and a narrow gap between minimum wages and average wages. It was clearly perceivable across the regions with the exception of the Autonomous Region in Muslim Mindanao (ARMM) region, where the minimum wages were in the middle of poverty thresholds and average wages.

The Philippines is working with the ILO towards a wage reform to achieve a desired structure with minimum wages slightly above poverty thresholds. It is comfortable and reasonable gap between average wages and minimum wages. This two-tier wage system incorporates a floor wage, which is clearly defined and distinguished from a productivity-based wage. The floor wage is a minimum wage. The factors used for floor wage estimation are poverty thresholds, average wages, and certain socio-economic indicators. The second tier, being tested by the regions, is the productivity-based wage or the wage advisory the objective of which is to indicate the market for each region in terms of its economic growth patterns, the extent of its economic growth, and the direction of its growth. It would also indicate possible wage increases for each region or for major industries in the region.

Mr Renato Almada postulated that the RA 6727 has not achieved its objectives regarding productivity improvement, employment generation in the countryside, and industrial competitiveness. The law has never mandated parties concerned to issue any productivity-based wage increases. The new two tier system comprises two components: (1) the floor wage/the minimum wage which deals with the real minimum living standard for ordinary workers, especially new entrants; and (2) productivity-based increases, which, at the enterprise-level, should be the source of productivity. This new two-tier system will address two basic issues, namely: labour market efficiency and competitiveness. This approach, to be started this year, should help with a 2-year transition period before the Philippines can really have a new ‘facelift’ in minimum wage fixing, inducing greater competitiveness for enterprises, and promoting productivity gains for all.

11. Summary and ways forward

Core questions for three group discussions:

- (i) The government sets wages for most workers in countries as diverse as Thailand, Indonesia, and Viet Nam, through its minimum wage setting authority. Is this an appropriate role for the government in the context of a free market economy? How can this be changed? How can the inappropriate (as opposed to appropriate) influence of the government and politicians in minimum wage setting be reduced?
- (ii) In many countries in the region, an increase in minimum wages leads to an increase for practically all workers. Is this desirable? If not, what specifically needs to be done to change the status quo?
- (iii) How can we reduce/eliminate arguments over data and criteria?
- (iv) What kind of assistance can ILO provide?

11.1 Group A : Government

As the diversity of minimum wage setting authority in many countries, the government should act as a facilitator and provides the necessary support and mechanism to ensure parity and proper representation in bargaining, as well as being a coordinator or advisor who can review or assess recommendations issued by tripartite committees, taking into consideration relevant macroeconomic conditions and the potential impact of minimum wages on the whole economy.

In response to an increase minimum wages leads to increase for practically all workers, the target should be clear identified. Minimum wages should intend to protect vulnerable workers by ensuring that they are capable to purchase commodities. In setting minimum wages, simple centrally-set minimum wages are ideal, taking into consideration enforcement and administrative difficulties. Regional and decentralized wage setting works if differences in standard of living are considerable. The more decentralized a system is, the more complexity it presents in terms of administration and enforcement.

To eliminate argument over data and criteria, the government as a facilitator should provide transparency data, build robust and reliable data sets, and disseminate to parties concerned. On the other hand, all parties should trust data provided by the government. The data is able to cross-check with other reliable sources, for example, the International Monetary Fund and the World Bank for countries with data gaps or limits. The goal of wage setting and criteria/data need to be aligned and made consistent. Timeliness of data is also a key element.

The government requires assistance from the ILO to play a pivotal role in: (1) building reliable databases in support of minimum wage determination and effectively disseminating information to social partners; (2) providing capacity building for social partners in areas such as bargaining; and (3) making available and share countries' minimum wage practices as well as lessons learned from such practices.

11.2 Group B : Employers

It is responded to an appropriate wage system that there should not be any minimum wages at all in any country. Wages should be based on and linked to labour productivity and performance. This does not mean that vulnerable groups should be left unattended. Assistance should be provided to them whenever necessary in the form of additional contributions literally by the government to contribute to social security and provident fund arrangements, etc. such that their old-age savings can be enhanced. The government can also provide health assistance as it has a moral obligation towards its citizens. If minimum wages are set at all, they should be lowest wages, and should not be equated with average wages which are determined by market forces. Market forces should determine what ought to be employees' wages, based on the equilibrium driven by supply and demand. On the role of the government, there are two schools of thoughts: one school holds that the government plays a critical role in serving as a referee in minimum wage determination; and the other school postulates that the government has no rule to play in minimum wage determination, leaving the mandate to social partners to determine the best social floor level on a bipartite basis. Regarding the inappropriate influence of the government and politicians, it is replied that politicians in some countries use minimum wages to win votes. Politicians should not politicize this system. Minimum wages should be left to parties in their setting mechanism to determine. The best way to avoid being politicized is to have an accepted formula in place for social partners to determine and also to review them. In such a scenario, politicians cannot readily manipulate or manage minimum wages as wished, thus making it more difficult for political interference.

The “domino” effect of minimum wage increasing is tied to country-specific culture and public expectations. Minimum wages should not produce domino effect on workers’ rights as they are the lowest wage possibly paid. Other workers outside the minimum wage coverage have no right to demand further increase in their existing wages. In many countries, workers expect wage revisions or increases practically when the wages are increased. The government needs to clarify that minimum wages are designed for lowest earners, and any changes to minimum wages should not have any bearing on other categories of workers. In the future, we need to reconsider a possible approach. The ILO may play an important role by underpinning that the Singaporean model of flexible wage setting is a positive source to learn from in terms of economic weathering, capitalizing on economic opportunities, and maintaining high employment levels. Greater exposure to positive leaning should be a welcome move. This highlights the importance of economic administration based on performance and labour productivity growth, reflecting the desirability of flexibility within a wage system.

Data constitute a very sensitive issue in many countries. Quality and reliable data are very important for social partners. Parties should agree in advance on the kinds of data needed, data availability, and applications for minimum wage fixing. Social partners resort to the government for data as data acquired from other negotiating partners might trigger reliability issues. Actual data, rather than prospective or forecast data, should be made available. However, forecast data can be vital in certain situations. For example, if economic forecasts envision economic downturns, then parties concerned should not expect substantial wage increases.

The employers’ group is of the opinion that the ILO should not be obsessed with wage data. Average wages are very different from minimum wages. Minimum wages are social floor wages. They should not be portrayed as average wages. The ILO can provide training for tripartite partners for capacity building purposes so that all share the same wavelengths and speak the same language when it comes to matters such as minimum wages. The ILO can play a critical role by assisting the employers to be able to pay more, for example, provide assistance to enable employers to build up sustainable enterprises in order to have greater paying capacity. The ILO may also provide skills training for workers to enhance their earning opportunities, instead of relying on minimum wages. All parties concerned may start discussing the greening of the economy, green skills, green jobs, etc. An international organization should be fair and should not be biased for or against any social partners. The ASEAN Confederation of Employers (ACE) should be formally invited to participate in an ASEAN gathering related to labour issues such as this seminar to provide representative views of a regional entity.

11.3 Group C : Workers

The role of the government in wage setting is categorized inappropriate. The government’s involvement in this mandate is not justifiable. The minimum wage determination process needs tripartite agreement for minimum wage setting at the national level and is to be endorsed by three social partners: the government; employers and workers. Employers and workers should determine wages and working conditions on an equal footing. Where a national-level configuration is not as yet practical such as in Indonesia, the same principle still holds for a sub-national configuration as minimum wages are designed to offset poverty and address workers’ basic needs in the capacity of a social floor arrangement. This may be changed through consultation, research, case studies and technical assistance, particularly from the ILO. Measures should be undertaken to concretely promote the ratification of the Minimum Wage Fixing Convention, 1970 (No. 131) among ASEAN countries. Also, active participation of social partners having undergone capacity building can reduce or eliminate politicians’ inappropriate involvement.

The workers' group agrees that an increase in minimum wages should result in an increase for all workers as wages reflect workers' basic living needs. This social protection cannot be compromised. In terms of implementation, favourable conditions are required to organize mechanisms for increased dialogue and change the legislative framework to be in line with Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). There should be regular and constant consultation among social partners. In all ASEAN countries, union density rates are very low. Workers can improve dialogue and redress basic living requirements through collective bargaining via trade unions. As such Conventions Nos. 87 and 98 should be ratified by all ASEAN countries to enable workers to participate in collective bargaining agreements in a bid to improve their minimum living standards and minimum wages. Productivity-based wage systems are not agreeable unless they have two components: (1) a fixed component to take care of workers' costs of living; and (2) a variable component. Employees' only source of income is income earned at enterprises. Income inequality should also be reduced through collective bargaining agreements whereby a balance between capital and labour is created. The organizing of labour into trade unions and the flow of collective bargaining agreements will help to develop better working conditions and wages.

Data collection and research on data collection should be conducted by equally-numbered tripartite committees, set up solely for the purposes of collecting timely data with the assistance of experts. This undertaking shall have to be based on transparency and the spirit of aiming to achieve common goals.

The ILO should continue to provide technical assistance towards the ratification of Conventions Nos. 87, 98, and 131 and assist in capacity building. Moreover, the ILO should provide case studies from other countries' minimum wage experience, organize workshops and seminars as well as disseminate data which can be used for onwards action in dealing with parties concerned. The ASEAN Trade Union Council (ATUC) should be strengthened and invited to future meetings related to industrial relations, and wage issues. Each nation should work to ratify the three core Conventions, and the ASEAN workers should collectively strengthen the ATUC to represent regional voices across these relevant issues. In all these, the ILO could play a pivotal role towards improving the quality of life for workers.

Plenary discussion

- It is difficult to set minimum wages at the national level, but the trade unions in Indonesia have been trying to set minimum wages at the provincial level. To this the MTUC representative remarked that minimum wage determination should be implemented through tripartism on an equal footing.
- Regarding ILO statistics on the average wage and minimum wage ratio – the Keitz index – was actually first developed by an economist who was against the idea of minimum wages. The International Monetary Fund and the World Bank use this index to examine the intensity/impact of minimum wages.
- In regard to the statement which goes “assistance to vulnerable groups should come from the government rather than employers,” employers pay according to their ability to pay based on the market mechanism. If the government believes what the employers are paying does not meet the required standard, then it can approach the employers and discuss the matter. The employers might wish to help these particular workers in the form of greater contributions to their provident funds rather than having increases in pay imposed on them. The government has the social obligation to assist this vulnerable group.

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- The statement – “productivity-based (wage system) is not agreeable” – the Workers’ Group noted that Singapore’s model of Productivity and Performance linked wages and it is applied together with a National Wage Guidelines as the country does not have a minimum wage system. With the exception of Singapore, the other members of the Workers Group do not see how the Singapore’s model could apply to countries that already have minimum wages.

12. Closing remarks

Mr Ozawa, Overall Coordinator of the ILO/Japan Multi-bilateral Programme, encouraged all the participants to make recommendations regarding possible topics aimed at enhancing positive working tripartite relations, especially between employers and workers. Suggested topics for the Fifth Regional Seminar on Industrial Relations are: (1) Green Economy, Green Jobs, Green Skills; (2) Ratifications of the ILO Core Conventions; (3) Ageing Workforce – income security, globalization; (4) Practical application to the wage and data collection; (5) Collective bargaining and wage negotiation; and (6) Roles of social partners in promoting productivity and competitiveness. All six topics will be discussed with the ASEAN Secretariat, and the exact topic will be decided at the Senior Labour Officials Meeting (SLOM) to be held in Cambodia in May.

Mr Ritchotte, the moderator, emphasized the rich and intensive collective learning experience shared over the past two days at the workshop. The participants were asked to express their views on the workshop. The links between wage fixing in general, minimum wage setting and IR are at the heart of employment relationship between workers and employers. Minimum wages across the region are fixed through social dialogue. The participants were assembled at the regional seminar was to learn how to redress actual gaps and flaws in this process. All the participants had learned a great deal regarding one another’s system. This was but a beginning to be followed by many more activities. He thanked all the participants, and wished them a safe journey home.

Annex I. Seminar agenda

Fourth Regional Seminar on Industrial Relations on Setting Minimum Wage and Wage Guidelines: Role of Tripartite Partners and Impact on Industrial Relations

Pullman Hotel, Bangkok, Thailand, 29 February – 1 March 2012

Time	29 February 2012	1 March 2012
08.45 – 09.00	Registration	
09.00 – 09.30	Opening Remarks Ms Alcestis Abrera Mangahas Deputy Regional Director, Policy and Programme, ILO Regional Office for Asia and the Pacific Mr Yoshihiro Senoo Assistant Minister, International Affairs, Ministry of Health, Labour and Welfare, Japan Mr Pakorn Amornchewin Inspector-General of the Ministry, Office of the Permanent Secretary, Ministry of Labour, Thailand Ms Kay Soe Senior Officer, Social Welfare, Women, Labour & Migrant Workers Division, The ASEAN Secretariat	Session 6: Wage setting in China: Mechanisms and trends Presentation by Mr Sangheon Lee, ILO Geneva Moderator: Mr John Ritchotte, DWT-Bangkok Plenary Discussion
09.30 – 10.15	Session 2: Presentation on global wage trends & ILO advice on wage setting Presentation by Mr Sangheon Lee, ILO Geneva Plenary Discussion	
10.15 – 10.45	<i>Tea/Coffee Break</i>	<i>Tea/Coffee Break</i>
10.45 – 12.15	Session 3: Mechanisms and institutions for wage setting Presentation by Malaysia, Thailand tripartite delegates Moderator: Mr John Ritchotte, DWT-Bangkok Plenary Discussion	Session 7: Wage setting through collective bargaining Presentation by Cambodia, Singapore tripartite delegates Moderator: Mr John Ritchotte, DWT-Bangkok Plenary Discussion
12.15 – 13.45	Lunch	Lunch
13.45 – 15.00	Session 4: Criteria and data for wage setting Presentation by Indonesia, Philippines tripartite delegates Moderator: Mr Sangheon Lee, ILO Geneva Plenary Discussion	Session 8: Review of minimum wage systems Presentation by Lao, Philippines and Viet Nam tripartite delegates Moderator: Mr Sangheon Lee, ILO Geneva Plenary Discussion
15.00 – 15.15	<i>Tea/Coffee Break</i>	<i>Tea/Coffee Break</i>
15.15 – 15.45	Session 5: Wage setting in Korea: Mechanisms and Trends Presentation by Dr Jin-Ho Jeong, Korea Labour Institute Moderator: Mr Sangheon Lee, ILO Geneva Plenary Discussion	Session 9: Summing up and conclusions Group meetings and discussion reflect on workshop and future direction Session 10: Closing session Summary of the two-day discussion Final remarks by representative of the ILO and the Government of Japan
18.30 -	Dinner hosted by Ministry of Labour, Thailand	

Annex II. List of participants

Fourth Regional Seminar on Industrial Relations on Setting Minimum Wage and Wage Guidelines: Role of Tripartite Partners and Impact on Industrial Relations

Pullman Hotel, Bangkok, Thailand, 29 February – 1 March 2012

Brunei Darussalam

1. Mr Haji Besar Shahrman
Assistant Commissioner of Labour
Department of Labour
2. Mr Jasni Salleh
Brunei Oilfield Workers Union

Cambodia

3. Mr Chrun Theravong
Deputy Chief of the Third Labour Dispute Office
Ministry of Labour and Vocational Training (MOLVT)
4. Mr Van Sou Ieng
President
Cambodian Federation of Employers and Business Associations (CAMFEBA)
5. Mr Kong Athit
General Secretary
Cambodian Labour Confederation (CLC)
6. Mrs Van Porphin (observer)
General Manager
Garment Manufacturers Association in Cambodia (GMAC)
7. Mr Kaing Monika (observer)
Business Development Manager
Garment Manufacturers Association in Cambodia (GMAC)

Indonesia

8. Ms Koesprayekti Saptarina
Head Division of Wage, Directorate of Wage and Workers
Ministry of Manpower and Transmigration (MOMT)
9. Ms Endang Susilowati
Member of Industrial Relations & Advocacy Sector & Division
Employers' Association of Indonesia (APINDO)
10. Mr Markus Saholat Sidauruk
Chairperson of Research Committee
Confederation of Indonesian Prosperity Trade Union (K-SBSI)
11. Mr Praditia Catra Gumelar (observer)
Staff of Directorate of Wage and Workers Social Security
Ministry of Manpower and Transmigration (MOMT)

Lao People's Democratic Republic

12. Mr. Somchit Aminthalath
Deputy Director of Labour Protection Division
Labour Management Department, Ministry of Labour and Social Welfare (MLSW)

-
13. Ms Sengdavone Bangonesengdet
Deputy General Secretary
Lao National Chamber of Commerce and Industry (LNCCI)
 14. Mr Inpeng Meunviseth
Head of Occupational Safety and Health
Lao Federation of Trade Unions (LFTU)

Malaysia

15. Mr Kua Abun
Undersecretary
Ministry of Human Resources (MOHR)
16. Mr Shamsuddin Bardan
Executive Director
Malaysian Employers Federation (MEF)
17. Mr Sivananthan Arumugam
Executive Council Member and General Council Member
Malaysian Trades Union Congress (MTUC)

Philippines

18. Ms Patricia Hornilla
Deputy Executive Director
Department of Labor and Employment (DOLE)
19. Mr Renato Almeda
Vice President, Yasaki-Torres manufacturing, Inc.
Employers' Confederation of the Philippines (ECOP)
20. Mr John Michael Torres (observer)
Special Assistant to the Assistant Vice President
Yasaki-Torres manufacturing, Inc.
Employers' Confederation of the Philippines (ECOP)

Singapore

21. Mr Lau Weng Hong
Deputy Director
Ministry of Manpower (MOM)
22. Mr Chua Ker Sin
Senior Manager, Research & Information
Singapore National Employers Federation (SNEF)
23. Mr YEO Cher Lian
position
Singapore National Trades Union (NTUC)

Thailand

24. Mr Pakorn Amornchewin
Inspector-General of the Ministry
Office of the Permanent Secretary
Ministry of Labour
25. Mr Ukrish Kanchanaketu
Consultant
Employers' Confederation of Thailand (ECOT)

-
26. Mr Thawatchai Pholcharoen
Secretary General
National Congress Private Industrial of Employees (NCPE)
 27. Mr Vorawut Aumsiri
Representative
Thai Trade Union Congress (TTUC)

Viet Nam

28. Mr Nguyen Tien Dang
Deputy Head of Wage Division
Ministry of Labour – Invalids and Social Affairs (MOLISA)
29. Mr Thanh Dao Ngoc
Expert on IR
Viet Nam Chamber of Commerce and Industry (VCCI)
30. Mr Pham Van Tuan
Expert of Department for Policy and Legal Affairs
Vietnam General Confederation of Labour (VGCL)

ASEAN Secretariat

31. Ms Kay Soe
Senior Officer
Social Welfare, Women, Labour and Migrant Workers Division
ASEAN Socio Cultural Community Department
The ASEAN Secretariat
32. Ms Ruri Narita Artiesa
Technical Assistant Labour and Migrant Workers
The ASEAN Secretariat
33. Mr Win Shein
Director-General
Factories and General Labour Laws Inspection Department
Ministry of Labour (MOL), Myanmar

Japan

34. Mr Kazumi Sakashita
Labour Policy Bureau
Japan Business Federation (KEIDANREN)
35. Ms Akiko Okubo
Assistant Director
Japanese Trade Union Confederation (JTUC-RENGO)
36. Mr Yoshihiro Senoo
Assistant Minister for International Affairs
Ministry of Health, Labour and Welfare (MHLW)
37. Mr Toyomu Nakano
Deputy Director, International Affairs Division
Minister's Secretariat
Ministry of Health, Labour and Welfare (MHLW)
38. Mr Tadashi Nakamura
Former President
ILO Association of Japan

-
39. Mr Yukihiro Kaneko (observer)
First Secretary
Embassy of Japan
 40. Mr Hisaaki Fujikawa (observer)
Professor (Labour Law)
Aoyama Gakuin University
 41. Mr Kenichi Kumagai (observer)
Deputy Secretary
Japan International Labour Foundation (JILAF)

International Labour Organization

42. Ms Alcestis Abreara Mangahas
Deputy Regional Director, Policy and Programmes
ILO Regional Office for Asia and the Pacific
43. Mr John Ritchotte
Specialist on Labour Relations and Labour Administration
ILO Decent Work Team
44. Mr Sangheon Lee
Senior Research and Policy Coordinator
International Labour Office
Conditions of Work and Employment Branch (TRAVAIL)
45. Ms Christine Nathan
Regional Specialist in Workers' Education
ILO Regional Office for Asia and the Pacific
46. Mr Pong-Sul Ahn
Senior Specialist in Workers' Activities
ILO Decent Work Team
47. Mr Dragan Radic
Senior Specialist on Employers' Activities
ILO Decent Work Team
48. Mr Shinichi Ozawa
Chief Technical Advisor and Overall Coordinator
ILO/Japan Multi-bilateral Programme
ILO Regional Office for Asia and the Pacific
49. Ms June Krairiksh
Programme Officer
ILO/Japan Multi-bilateral Programme
ILO Regional Office for Asia and the Pacific
50. Ms Celine Peyron Bista (observer)
Chief Technical Advisor
ASEAN-Unemployment Insurance Project
ILO Regional Office for Asia and the Pacific
51. Mr Shigeru Wada (observer)
Senior Specialist on Workers' Activities
ILO Decent Work Team

-
52. Ms Rakawin Leechanavanichpan (observer)
Programme Officer, Regional Unit for Partnership
ILO Regional Office for Asia and the Pacific
53. Mr Phu Huynh (observer)
Labour Economist
Regional Economic and Social Analysis
ILO Regional Office for Asia and the Pacific
54. Ms Nguyen Thi Hai Yen (observer)
Project Coordinator
Vietnam-ILO Industrial Relations Project
ILO Country Office for Viet Nam

Resource person

55. Dr Jeong Jin-Ho
Korea Labor Institute (KLI)

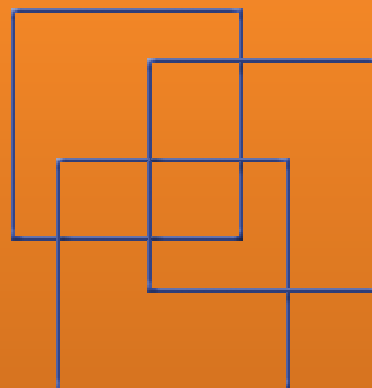
Observers from Ministry of Labour, Thailand

56. Ms Gunjanaporn Saigal
Senior Foreign Relations Officer
International Cooperation Bureau
57. Ms Ruengratt Adhikari
Foreign Relations Officer (Professional Level)
International Cooperation Bureau
58. Ms Sadudee Kittisuwan
Foreign Relations Officer (Professional Level)
International Cooperation Bureau
59. Ms Patcharin Pimtrae
Senior Foreign Relations
International Cooperation Bureau
60. Ms Narumol Jaied
Administrative Officer
61. Ms Nannapat Rerkudomsak
62. Ms Metavee Siripornprasarn
63. Ms Pangmas Wichiensin
64. Ms Sureeporn Tuppasoo

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

This volume contains the report of the Fourth Regional Seminar on Industrial Relations in the ASEAN Region, under the ASEAN-ILO/Japan Industrial Relations Project. The theme for this seminar was "Setting Minimum Wage and Wage Guidelines: Role of Tripartite Partners and Impact on Industrial Relations". The seminar was attended by tripartite representatives from the ASEAN Member Countries and Japan, and took place in Bangkok, Thailand on 29 February - 1 March 2012.

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



ASEAN-ILO/Japan Industrial Relations Project
ILO Regional Office for Asia and the Pacific
United Nations Building, 11th Floor
Rajdamnern Nok Avenue,
Bangkok 10200, Thailand
Tel.: +66 2288 1234; Fax: +66 2288 3062
Email: BANGKOK@ilo.org

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