

ANNEX H

TALKING POINTS FOR 2ND ASEAN FORUM ON MIGRANT LABOUR
30 – 31 JULY 2009
BANGKOK

TOPIC: ASEAN STAKEHOLDERS: WHAT SHOULD BE THEIR ROLES?

(Subtheme One will be a sharing forum for ASEAN communities including worker and employer organizations to express their ideas, suggestion and recommendation on what should be their role and responsibility and how to move forward in order to realize the Declaration goals)

In this globalized economy, ASEAN economic integration recognizes the need for the mobility of goods, services, professionals and workers across the borders. The ASEAN Declaration on the Protection and Promotion of Rights of Migrant Workers in Jan 2007 and the establishment of the ASEAN Committee on Migrant Workers are major steps taken by ASEAN in recognizing the increasingly important role of the region's mobile workers, both professionals (PMS) and workers in the regional economy and their responsibility in ensuring the protection of migrants' rights.

As such, UNI Apro and ASETUC wish to commend and express our support for the ongoing efforts of the ASEAN Committee on Migrant Workers (ACMW) currently in the process of drafting an instrument on the protection and promotion of the rights of migrant workers for ASEAN. Thus, we welcome such recognition and steps to ensure real participation of trade unions, migrant rights' group and migrant associations in the discussion of labour migration in ASEAN so that these groups will have ownership of both the process and the substance of the Declaration.

We are confident that the ASEAN regional economic integration will give the ASEAN a competitive advantage in this age of globalization by spurring economic growth, providing greater job opportunities and promote overall socio-economic development in the region. However, trade unions are also concerned that this rapid economic integration within ASEAN could also bring with it unintended consequences due to the lack of a social dimension to the process and in particular, an absence of a trade union voice in contributing to its development.

Given especially the current context of the financial crisis, joblessness, precarious employment and unprotected forms of unprotected work are on the rise everywhere in the region especially in the export oriented ASEAN economies. In times of economic boom, migrant workers are welcomed and needed but during an economic crisis, migrant workers are targeted. Migrant workers are the first to be terminated forcing them to either return to their home countries, where there is little economy development and hence fewer job opportunities, or become part of the irregular work force facing further discrimination and exploitation.

The present global economic crisis has no gender prejudice; however, the reality is that because of the existing gender dynamics within our society, the economic crisis impacts women workers more severely than men. During period of economic depression, women are particularly vulnerable to poverty and unemployment due to the marginalized political, economic, and social status. In addition, with women being pushed into greater poverty, it becomes more probable that women and girls will resort to or are forced into sex work as well as become victims of trafficking.

ON PMS MIGRATION AND AFAS/ GATS MODE 4

ASEAN has become a major area of increasing international migration in recent years. While much of this movement has been of less skilled workers, opportunities for regional cooperation lie mostly in the area of skilled and professional migration. In fact, as outlined in the ASEAN Framework

Agreement on Services (AFAS), the movement of business peoples, professional i.e. (PMS) is deemed as one of the key strategies for the region to achieve a single market by 2015.

The greater movement of PMS associated with FDI has been of increasing interest to ASEAN planners as member states (and its + 6 counterparts) seek to expand trade and investment with each other. Such labour movements are regulated under the Mode 4 (movement of natural persons) in the multilateral agreement in services, GATS (General Agreement on Trade in Services). Labour movements have been promoted at a regional level through the same mechanisms – agreement on services trade – through AFAS.

Unlike less skilled migrant workers, most (almost 80%) of the PMS migrant workers came from outside the ASEAN region. They tended to accompany FDI or were targeted by the destination country as an area of national need. Thus, for example, Japanese PMS were prominent in accompanying FDI projects in the flows into Malaysia, Philippines and Thailand and to a lesser extent Indonesia. Indians, including IT workers, were the second largest group of PMS migrants to Malaysia whereas Koreans were important in the Philippines. Singapore accepts PMS from many countries and Brunei seems to follow a similarly open policy.

Foreign labour employment agencies have consistently been identified as the key agents responsible for the appalling socio-economic conditions at which unskilled migrant workers end up in host societies. The presence of employment agencies in the process of contemporary labour migration has longed been institutionalized often in collaboration with nation-states and businesses.

Applying the concept and practice of employment agencies to a similar industry—the temporary work industry—the latter has in recent years experienced significant growth especially in the Asia region. Among the 'big five' companies with a significant global presence in this temporary work agency industry are: Adecco, Manpower, Randstand, Vedior and Kelly Services, originating from the West Europe, America and Japan. The annual turnover of the temporary work agency amounted to 228 billion pounds in 2006. According to a directive presented by the European Commission to the European Parliament and Council in Brussels 2002, job quality among temporary workers is less desirable than permanent workers. For instance, temporary agency workers in Germany might earn between 22% and 40% less than the average wage received by 'other workers'; in Spain, wages paid by agencies may have been between 10% and 15% lower than user enterprises¹ in the UK, a national report conducted by Dublin Foundation shows that the average weekly income of full-time agency workers is 68% of the average weekly income for all employees (*Commission of the European Communities*, 2002:6). Temporary workers are also reported to take part in far less continuing vocational training (approximately 20%) than workers with permanent contract (36%) (ibid).

Because of the increasing presence of such global temporary work agencies which often operates in manners similar to that of the employment agencies for migrant labour, and against the background of ASEAN Economic Blueprint (GATS Mode 4), these elements combined should pose concern for the future in relation to conditions for migration of skilled workers. Although currently the majority of contemporary migrant workers consist of low-skilled workers, the potential for the movement of professional and technical migrant workers, cannot be underestimated, even if they are often better positioned when compared to their lower skilled counterparts.

¹ This is before the law stipulating wages of agency workers to be equal to the ones laid down in the collective agreement in user firm of 1999 was put in place.

What are UNI Apro and ASETUC already doing to support migrant workers in ASEAN?

Noting that trade unions have a role and responsibility to protect the rights of migrant workers regardless of their country of origin, UNI Malaysia Liaison Council (UNI MLC) has since 2006 launched a full fledged operations on servicing migrant workers who reside and work in Malaysia also known as UNI MLC Helpdesks. There are currently 19 helpdesks, in addition to the main office of UNI MLC, which are available and open to service migrant workers. Its initial plan was to service the significant Indonesian migrant worker population in Malaysia but has since increasingly been offering its assistance to migrant workers from all over the world as more advocacy and reaching out campaigns are being done in the country. More importantly, it is crucial to point out that these helpdesks are mostly mend by UNI MLC union member volunteers.

This program has become so successful that trade unions from the sending and receiving countries, between UNI MLC and Aspek Indonesia, have now signed an MOU, committing themselves to work even closer together to assist and protect Indonesian migrant workers in Malaysia. This would mean that Aspek will conduct pre-departure information seminars to Indonesian migrant workers and their membership in Aspek are automatically transferred to UNI MLC. Should they need assistance and information during their stay in the host country, they then know where to go for assistance all over Malaysia. Upon their return home, Aspek would also know when their members return home and facilitate their return when necessary.

There are at least FOUR broad areas that global unions can do for migrant workers:

1. Serve as an organizing centre where migrant workers can be recruited into the unions as members thereby enabling them to participate and/or lead in union action such as collective bargaining and to help service other migrant workers
2. Serve as a resource center for the purpose of accessing important data and analysis on migration issues and trends
3. Serve as a help centre for migrant workers especially for legal and counselling needs
4. Serve as an advocacy centre so that migrant workers can be represented effectively in public policy making – at national and ASEAN levels. (Promote fair and appropriate employment protection, payment of wages and adequate access to decent working and living conditions for all workers including migrant workers)

It is with these harsh economic realities that working families are confronted with growing misery aggravated by the fact that most countries in the region do not yet have a sustainable system of job unemployment insurance and effective social protection/security.

For this end, trade unions in the ASEAN region can therefore play a part in shaping the regional integration process. The establishment of ASETUC, a sector based trade unions' network, was therefore to serve as a mechanism and platform at which sector focused trade unions can participate in the engagements with other ASEAN stakeholders. To be taken seriously as a recognized dialogue partner in the ASEAN process, trade unions through the mechanism of ASETUC has to officially gain accreditation as one of the organizations and stakeholders of the ASEAN Charter. This is a process that will take time and meanwhile ASETUC has to project itself as a constructive partner in the integration process.

Like the governments and employers, we, in the trade union movement are anxious to see a stable, progressive and sustainable economy at every level and in ASEAN. The truth is – like the employers, the trade unions do have a stake in sustaining the viability, productivity and profitability of businesses for this is central in creating decent, secure and sustainable jobs. Such a stable, progressive and sustainable economy requires social harmony and cooperation among the different stakeholders in ASEAN society – particularly the employers and trade unions.

The trade union movement, an integral social partner in and of ASEAN, wants to help shape a “caring and sharing” ASEAN – a truly people centred, people first ASEAN that respects workers’ core labour rights including those of migrants, where all citizens enjoy a decent standard of living. We too confirm our shared responsibility to realise a common vision for a secure and prosperous ASEAN community by improving the quality of life of its people. We also want the business community to observe true corporate social responsibility not only by abiding to universal labour standards but also by conducting social dialogue with trade unions.

The quest to socialize ASEAN is not the responsibility of governments, employers or management alone. The workers and their trade unions can and must play a role.