

**Task Force for ASEAN Migrant Workers**  
**ASEAN Civil Society Organizations (CSOs)-Trade Unions Consultation**  
**on Protection and Promotion of the Rights of Migrant Workers**  
**12 May 2007, Jakarta, Indonesia**

A new deal is urgently required for migrant workers in ASEAN, based on a collaborative effort to develop and effectively implement a new ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers.

Recognizing the importance of developing pro-active measures to deal with the challenge of migration in the ASEAN region, the Leaders of the ASEAN nations set out a provision in the Vientiane Action Plan (adopted in November 2004) which called the “elaboration of an ASEAN instrument for the protection and promotion of the rights of migrant workers.” The Singapore Working Group on the ASEAN Human Rights Mechanism was requested to take this work forward. To ensure a transparent and consultative process that will develop the best possible recommendations to ASEAN, the Task Force on ASEAN Migrant Workers (TF-AMW) was established at a consultation held in Singapore in April 2006. This TF-AMW is composed of civil society organizations, trade unions, and migrant worker associations.

The TF-AMW is committed to engage with civil society groups and trade union bodies to discuss the policies and issues raised in the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. In line with ASEAN’s Vientiane Action Plan, the TF-AMW will study and offer recommendations for practical steps forward to implement the ASEAN Declaration by drafting an ASEAN Framework Instrument for the Protection and Promotion of the Rights of Migrant Workers.

The TF-AMW holds as a central principal that regardless of migrant workers’ origin or current documented or undocumented status, migrant workers in ASEAN shall be guaranteed non-discriminatory ‘national treatment’ in both their conditions of work and their life outside of work.

The TF-AMW believes that developing the ASEAN Framework Instrument must and will complement the Initiative for ASEAN Integration (IAI) and the ASEAN Framework Agreement on Services (AFAS). Quite clearly, significant differences in the levels of economic development among ASEAN member states and the continued persistence of poverty in some nations prompts migration for the purposes of seeking better economic opportunities and livelihoods. Not surprisingly, then, labour mobility has increasingly become a component of integration as barriers are being removed to facilitate freer movement of capital, goods, services and technology. If handled properly through an ASEAN Framework Instrument that promotes best practices in managing migration and protecting migrant workers, the TF-AMW believes labour mobility can help reduce the development gap now present in ASEAN. By providing much needed labour to the economy of countries receiving migrant workers, and enabling those workers to earn wages which are sent back to their home country as remittances, migrant workers provide

direct benefits that assist in the development of both countries, and help reduce gaps in the level of economic development within ASEAN.

Therefore, the civil society and trade union participants of the CSO-TU Consultation Workshop on the Protection and Promotion of the Rights of Migrant Workers, held on May 12, 2007 at the Millennium Hotel in Jakarta, Indonesia, make the following recommendations to ASEAN, and to the Government of Indonesia:

### **Recommendations to Member States of ASEAN**

1. The TF-AMW urges the Member States of ASEAN to immediately ratify all eight core ILO Conventions<sup>1</sup>, and ensure that their national labour laws, especially those laws governing migrant workers, are harmonized with the standards contained in those core ILO Conventions.
2. The TF-AMW further urges the Member States of ASEAN to immediately ratify ILO Conventions 97, 143 and 181 (concerning migrant workers) as well as the UN International Convention on the Protection of the Rights of Migrant Workers and Their Families (UN CMW).
3. The TF-AMW recommends the national Ministries of Labour decide that the “instrument on the protection and promotion of the rights of migrant workers” to be developed (as called for in paragraph 22 of the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers) will be a binding instrument on ASEAN Member States. The ASEAN Labour Ministers Meeting to be convened in 2008 should accept that recommendation.
4. The ASEAN Framework Instrument which is devised should have a practical, workable mechanism for solving cases of migrant workers facing difficulties, with uniform standards and transparent procedures in place to ensure quality response.
5. The TF-AMW advocates that the ASEAN Framework Instrument should have a reporting mechanism for Member States to report on their compliance with the provisions of the Framework Instrument. ASEAN is urged to create an independent Commission of senior persons from the Member States who shall be empowered to receive the States’ reports, receive information from trade unions and civil society organizations, conduct investigations and follow-up activities, report to the ASEAN Leaders, and undertake other activities to be determined. The ASEAN Secretariat could be tasked to provide technical support and services to assist the functioning of this independent Commission.
6. The Member States of ASEAN are strongly urged to establish focal points in each national Ministry of Labour, give those focal points the necessary authority, and

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<sup>1</sup> ILO Conventions 29, 87, 98, 100, 105, 111, 138, and 182.

task them to engage substantively with the TF-AMW as it develops the draft ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers.

7. To undertake the necessary work to support the protection of migrant worker rights, it is important that the Ministries of Labour (and other relevant Ministries tasked with migration issues) of the Member States of ASEAN have the most accurate and up to date information on migration possible, and personnel with the skills to carry out work to better monitor and regulate migration. Accordingly, the national Ministries of Labour should consider establishing and maintaining an effective, updated database of its nationals working overseas, and conduct the necessary capacity building for their officials to manage labour migration at all levels. Member States of ASEAN are urged to give their Ministries of Labour sufficient financial and other resources, and authority, to undertake this important work.
8. The right of citizens of all ASEAN Member States to hold their own passports and Government-issued identity documents should be considered inviolable, yet migrant workers regularly report that brokers, agents, and employers routinely and systematically seize their passports and documents. Member States of ASEAN should adopt a clear no-tolerance policy that imposes tough punishments on all persons who seize or hold migrant workers' documents.
9. The Member States of ASEAN should immediately ensure the end of all arrangements which devolve law enforcement authority over migrants to persons who are not law enforcement officials with permanent civil servant status in the Government. It is vital that the Member States of ASEAN take clear steps to protect all migrant workers from any form of human rights abuse perpetrated by civilian auxiliaries/groups.
10. The Member States of ASEAN are urged to intensify their actions against all forms of discrimination and violence against migrant workers, and set out clear policies that state that 'national treatment' in wages and working conditions shall be provided for all migrant workers, regardless of status.
11. The Member States of ASEAN are urged to ensure that migrant domestic workers are specifically included in coverage of the national labour law.
12. Since all the Member States of ASEAN have ratified both the UN Convention on the Rights of the Child (CRC), and the UN Convention on Elimination of Discrimination Against Women (CEDAW), all children born to migrant workers should be provided with birth registration and access to education and health care.
13. Recognizing that migrants in ASEAN are increasingly female, the TF-AMW believes the Member States of ASEAN should set out clear gender-sensitive

- policies on migration, and ensure that Government practices towards migrants reflect these gender specific migration policies.
14. Recognizing that quality of health of a migrant worker does not just affect the worker, but also his/her family residing in the country of origin, the TF-AMW recommends that the Member States of ASEAN create an effective scheme of high quality, portable health care insurance for migrant workers.
  15. Given the importance of migrant worker remittances to the economy of the migrant's origin country, a dependable, accessible, and low-cost system for transmitting remittances in ASEAN is vital. The Member States of ASEAN are urged to support the creation of such a remittances system, whether implemented by the private sector, trade unions and civil society organizations, or Government agencies.
  16. Recognizing the important need for increased awareness and information among migrant workers and their families, the Member States of ASEAN are urged to actively support education on and dissemination of international labour standards (especially concerning migrant workers) as embodied in the core ILO Conventions, ILO migrant worker conventions, and UN CMW to intending, current and returning migrant workers.
  17. The Member States of ASEAN should favorably consider the results of the TF-AMW's consultations of civil society organizations and trade unions (held in Singapore, April 2006; Kuala Lumpur, March 2007; Jakarta, May 2007); the CSO-TU Position Paper on an ASEAN Instrument on the Promotion of the Rights of Migrant Workers, adopted by the TF-AMW on December 6, 2006; and the TF-AMW's Statement on the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, adopted February 15, 2007.

### **Recommendation to the Government of Indonesia**

At the outset, the TF-AMW commends the Government of Indonesia for having ratified the eight core ILO Conventions, and for signing the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, the Task Force believes that much more needs to be done to ensure the practical application of these standards in a way that improves the day to day lives of Indonesian migrant workers.

1. The Government of Indonesia is strongly urged to undertake an immediate review of all labour laws related to migration, and make revisions to bring those laws into compliance with the UN and ILO Conventions to which Indonesia is a party.
2. The Government of Indonesia is requested to take the next step after its signature of the UN Convention on the Protection of the Rights of All Migrant Workers and

Members of Their Families, and immediately ratify this Convention before the end of 2007.

3. The Government of Indonesia should establish a policy to compel recruitment of migrant workers to occur in a professional, transparent, and accountable manner. The Government should recognize that it ultimately needs to remove the private sector/agents from involvement in mobilization of migrant workers, replacing the current system with a Government-to-Government system as called for by ILO Conventions 143 and 181.
4. The Government of Indonesia should seek urgent solutions for the wide set of threats to the physical and mental well-being of Indonesian migrant workers in other ASEAN nations where they have sought work. The Government could benefit from collaborating with civil society organizations and trade unions in the TF-AMW to find solutions to these problems faced by migrant workers.
5. The Ministry of Manpower and the Ministry of Foreign Affairs are urged to develop more effective mechanisms to monitor Indonesian migrant workers toiling in foreign countries, such as a database of workers, and ensure that these systems are kept up to date.
6. In countries where there are significant numbers of Indonesian migrant workers, the Government of Indonesia is urged to establish shelters to protect Indonesian migrants in crisis (especially women), staffed with personnel with appropriate counseling and other support skills. Systems could also be established to provide support to injured workers. For this work, it is important that the Government of Indonesia provide clear authority, and adequate budgetary and personnel support to the effort of Embassies to reach out to and protect Indonesian migrant workers.
7. The Government of Indonesia is urged to support the establishment of “migrant help desks” in countries where Indonesia migrants work, composed of all key stakeholders such as Embassy officials and/or Indonesian labour attaches, representatives of trade unions, civil society organizations, and migrant worker associations.
8. Indonesian migrant workers, regardless of their status, deserve nothing less than the full support of the Embassy of Indonesia in the country where they work. The Government of Indonesia should make it clear that Indonesian diplomats caught colluding with brokers, agents, or employers to cheat or otherwise harm a migrant worker will be immediately investigated, and if their involvement is found, they will be terminated from Government service. Such diplomats should be held accountable to face appropriate criminal and civil proceedings.
9. The Government of Indonesia should consider setting up a “one stop service center” at both the district and provincial levels, placing under one roof personnel from all the relevant Ministries, with all the required forms and applications

- needed for a worker to go overseas. Costs for required procedures could therefore be kept at a reasonable, affordable level.
10. The Government of Indonesia is urged to set up a system to provide low-interest, 'soft credit' loans to intending migrant workers to help defray the costs of going overseas and prevent them from having to incur high levels of debt to secure an overseas placement.
  11. The Government of Indonesia should earnestly consider developing job creation, social protection, and decent work programs that will have the effect of promoting sufficient livelihoods that allow Indonesians to remain in their homes, thereby reducing the need for migration to survive economically.
  12. The Government of Indonesia would benefit from establishing a comprehensive capacity building program for migrant workers, concentrating on building of skills and competence, teaching language, and providing information about basic laws, culture, and working/living practices of the destination country where the migrant worker is going to work. It is also important that information be provided that ensures that workers more thoroughly know their rights.
  13. The Government of Indonesia must immediately take action against the monopolistic abuse of power and corrupt practices in the Terminal III at the Sukarno-Hatta International Airport, and close Terminal III. The system at Terminal III should be replaced with an inter-Ministerial/agency "one stop service center" with adequate monitoring and safeguards to prevent the kind of abuses seen at Terminal III from re-occurring.
  14. The Government of Indonesia is urged to expand its partnership with the Task Force on ASEAN Migrant Workers, the ILO, UNIFEM and other relevant international agencies supporting the implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, and the establishment of a comprehensive, rights-based ASEAN Framework Instrument.
  15. The Government of Indonesia is requested to raise the findings and conclusions of this Jakarta Statement of the TF-AMW for discussion at the forthcoming meeting of the ASEAN Senior Labour Officials Meeting (SLOM) to be held in Jakarta on May 16-17, and support more systematic engagement between the SLOM and the Task Force in the lead up to the ASEAN Labour Ministers Meeting in 2008.

Agreed in Jakarta, Indonesia  
May 12, 2007