

ASIA-EUROPE MEETING
TRADE UNION STATEMENT FOR THE
SENIOR LABOUR OFFICIALS' MEETING,
YOGYAKARTA, 11-13 SEPTEMBER 2007¹

Trade Union Recommendations for an ASEM social agenda

1. Adopt a formal consultative status for trade unions comparable with the arrangements made available to the Asia Europe Business Forum ;
2. Establish an ASEM cooperation framework to exchange views on, promote and strengthen national decent work plans with full participation of the social partners ;
3. Organise an ASEM tripartite conference (Labour Ministries and Workers and Employers' representative organisations) to define common strategies on employability and life long learning ;
4. Coordinate international support for the design and implementation of systems for universal coverage of social security, with full use of the ILO's expertise on issues related to social protection ;
5. Exchange best practices on how to adapt national law and regulations concerning the employment relationship, on the basis of implementing the 2006 ILO Recommendation on the employment relationship (No 198) to adequately respond to emerging patterns in the world of work ;
6. Develop a rights-based approach for managing migration within ASEM countries, facilitate information sharing between receiving and sending countries and establish concrete cooperation mechanisms, including on the portability of social security rights across ASEM countries ;
7. Use ASEM as a platform to promote and exchange information on labour inspectorates in line with the ILO Labour Inspection Convention (No 81) ;
8. Ensure that the IPAP (Investment Promotion Action Plan) focuses on those investments that effectively contribute to the creation of decent work, including by establishing a formal mechanism to promote and monitor the observance of internationally recognised social principles such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration on Multinational Enterprises and Social Policy ;
9. Promote the ratification and full application of ILO fundamental workers' rights Conventions with the active participation of social partners and the ILO, and ensure that all bilateral trade relations between ASEM countries refer to the respect of fundamental workers' rights ;

¹ This statement will also be brought to the attention of the regional government institutions in the EU and ASIA, including the EESC in Europe, and to employers organisations on both continents.

10. Build all possible political and economic pressure to force the government of Burma to respect fundamental human rights including freedom of association and the elimination of forced labour.

Introduction: Implementing the conclusions of the 1st Labour and Employment Minister Conference through an ASEM social agenda

Trade unions welcome the conclusions of the Helsinki 6th ASEM Summit which emphasised the need for a social dimension to be added to the ASEM process. ASEM Leaders agreed that effective policies need to be implemented at all levels in order to address the challenges posed by adjustment to globalisation. Trade unions support this view and call upon ASEM governments to exercise more active governance to ensure that the benefits of globalisation are shared more equitably with workers in both developed and developing countries.

We further support the Conclusions of the first Labour and Employment Ministers Conference (Potsdam, September 2006), in particular the recognition that appropriate policy responses towards achieving decent work for all, social cohesion and the enforcement of workers' rights are all key elements to maximise the benefits of globalisation and extend its benefits to all.

Since the creation of ASEM in 1996, trade unions have been calling for social and employment issues to be given the attention they deserve. We are gratified that Ministers have now agreed to a regular ASEM dialogue and cooperation on employment and social policy. The political orientation given by ASEM Leaders and Labour Ministers in Helsinki and Potsdam needs to be translated into a meaningful social agenda. Trade unions believe that the ILO should be fully included in this process and recommend that the ILO Director General takes part in the coming meeting of Labour Ministers in Indonesia. Trade unions are willing to contribute to this process and this Declaration elaborates trade unions' ten recommendations for the setting of an ASEM social agenda.

1. Granting trade unions a consultative status within the ASEM structure to enhance the quality of the dialogue

In Helsinki, Leaders highlighted the “*need to sustain substantive ASEM dialogue and cooperation in this field [labour and employment], including with social partners*”².

The involvement of workers' and employers' organisations is indispensable if ASEM is to deal successfully with social and employment issues. Yet the ASEM structure remains unbalanced. Since the London Summit nine years ago, trade unions from Europe and Asia have urged ASEM members to endorse a trade union consultative mechanism that would provide a counterweight to the Asia Europe Business Forum (AEBF). As of this date ASEM has failed to achieve legitimacy with working people, notwithstanding the fact that workers have contributed the most to the economic growth of both regions and have been the most affected by adverse changes. Granting trade unions an official consultative status would also bring substantial knowledge on and experience of the challenges that ASEM is dealing with in relation to labour.

Just as the AEBF enjoys the privilege of a dialogue with all ASEM Leaders, so should their trade union counterparts be granted similar rights. ***It is therefore a matter of urgency for ASEM Leaders to adopt practical measures so as to give trade unions a formal consultative status comparable with the arrangements made***

² Chairman's Statement of the Sixth Asia Europe Meeting Helsinki, 10-11 September 2006

available to the AEBF. Such status should be granted through a forum, which would include all representative trade union centres in the ASEM region.

2. Establishing an ASEM cooperation framework to exchange views on, promote and strengthen national decent work plans with full participation of the social partners

Most ASEM countries would agree that the economic growth of the last decades has failed to meet expectations for job creation. Today an estimated 500 millions Asians are either unemployed or underemployed, and Asian labour markets will have to deal with 245 million newcomers by 2015. In Europe, unemployment remains a structural problem which poses an extra burden on EU welfare systems already contending with the financing of an ageing population. An extremely preoccupying feature is the high level of unemployment among young people of both regions, with young people in Europe generally two times as likely to be unemployed as adults, and young people in many Asian countries up to 4 times as likely to be unemployed as other adults. Furthermore, the majority of jobs available to youth are generally low paid and insecure with few benefits or prospects for advancement. Indeed, where youth employment is addressed it is often in ways that make young people appear as second class citizens when it comes to rights at work. Women's employment situation also remains far inferior to that of men in both Asia and Europe. This manifests itself in continuous lower pay for women for work of equal value, the inferior career prospects that many women have, and the general concentration of women in low-paying, indecent jobs.

In this context, the impact of globalisation on employment, labour markets and wages has become a key factor accounting for rising inequality. If globalisation has created jobs in certain regions and countries, it has also contributed to a process of downsizing industries, triggering increasing layoffs and involuntary displacement from permanent jobs. Globalisation has had an impact on job quality. The increased flexibility of global labour markets characterised by a growing number of atypical forms of employment has put millions of workers in a precarious and insecure work situation.

Achieving the objective of decent work for all requires an integrated approach based on four pillars which mutually reinforce each other, namely full and productive employment, respect for workers' rights, access to universal social protection and facilitation of social dialogue as a way to promote consensus building.

In order to ensure that the benefits of growth are spread broadly and workers get a fair share, ASEM Labour and Employment Ministers should be guided by the ILO decent work agenda. It is indeed crucial that ASEM serve as a mechanism for information sharing on country specific experiences to attain common decent work goals. ***At the national level ASEM governments should implement decent work action plans as some members already have. At the ASEM level, a cooperation framework should be established for the promotion of decent work, particularly aimed at youth and women, among members with full participation of the social partners. Such a framework should also address how social dialogue can be strengthened in the many ASEM countries where this still remains a weak concept rather than a practical reality.***

3. Stepping up employability and life long learning measures to enable workers' move to better work opportunities and to enhance social cohesion

In today's world full employment depends upon high quality labour, and investment in human capital is therefore crucial. Yet there are still large numbers of workers trapped in precarious low-skilled and low-paid jobs, unable to grasp better work opportunities and improve their living conditions. Among this group, women are overrepresented. It is important that low skilled workers are not excluded from employability measures and that life long learning schemes should not be the privilege of high-skilled workers.

Increasing workers' employability through life long learning schemes is an effective response to the challenges posed by globalisation provided it is based on a solid tripartite social dialogue. It is the joint responsibility of public authorities, workers' and employers' organisations to make employability measures a success.

State and local authorities hold the overall responsibility to provide adequate training and retraining programmes for all, including women, the unemployed, those seeking to enter or re-enter the labour market and people with special needs. They must foster learning opportunities with the ultimate goal of reducing and preventing unemployment and increasing social cohesion. They must pursue policies that strengthen equal opportunities and close gender gaps and other forms of discrimination in education, training and employment.

Workers and their organisations, through their insights and experience, are key actors in identifying training needs and ensuring the success of training programmes. Trade unions need to have rights that enable them to provide guidance to workers on these issues and ensure that life-long learning remains an item for in depth social dialogue at the national, sectoral and company levels.

Employers must make the development of its employees' abilities and skills crucial for the success of their company and refrain from transferring risks and costs to their employees. Human resources and production strategies based on low-cost approaches offer scant opportunity to upgrade labour productivity and business competitiveness. The business sector must invest more resources in education and training programmes from which it directly benefits.

A tripartite conference of ASEM Labour Ministries, workers' and employers' organisations should be organised at the earliest possible opportunity to discuss and define common strategies on employability and life long learning.

4. Achieving universal social protection to effectively fight poverty and inequality

Making globalisation a success for all requires social policy to work in tandem with economic policy. Growth oriented strategies based upon the so-called Washington Consensus are not credible to reduce inequality. ASEM governments must ensure that all workers including the most vulnerable, such as rural and migrant workers, atypical, informal and unprotected workers, are covered by social protection schemes.

Social protection must not be kept as a residual category in government policy. Instead, it is urgent to put the objective of universality of coverage at the heart of economic and structural policies in all ASEM countries. Three major elements sustain trade unions' call for universal coverage. Firstly, it is urgent to tackle the rise in unprotected jobs resulting from the trend toward the casualisation and informalisation of labour markets. Universal coverage ensures that basic safety nets are available to all workers, irrespective of their status on the labour market. Secondly, experiences in low and medium income countries have proven that universal coverage is an effective instrument to alleviate poverty. Thirdly, universal coverage in social protection contributes to greater policy coherence between social and macro economic policies.

Universality of access to formal systems of social protection is more likely to become a reality if implemented through a universal, tax-financed (basic) social security system for which the state provides the regulatory framework and holds the ultimate responsibility. Contributory schemes' objectives must remain to complement and not replace universal basic coverage. In relation to this, it is relevant to look at the present tax system in many ASEM countries, as many of these have recently developed along regressive lines, with the wealthy and high profit making business contributing less and less.

To succeed, reforms of social protection systems must rely on nationwide consensus and must be negotiated with the trade unions. Blanket prescriptions should be avoided as there is no one system of social protection applicable to all countries. ***ASEM can play an important role by coordinating international support for the design and implementation of democratically agreed concepts of social security. ASEM should ensure that full use is made of ILO expertise on social security both in ASEM policy debate and in the technical cooperation made available to ASEM countries.***

5. Strengthening legislation on the employment relationship to make sure workers are granted adequate protection

Recent statistics show that a substantial part of new jobs created have been in informal, unrecognised and unprotected work, with particularly workers in the so-called informal economy, in which the majority of Asian workers toil, facing a series of serious problems.. In both Asian and European regions, there is a growing pattern of ultra-flexible employment. Both the rise and the diversity of new forms of employment leave workers with increased uncertainty regarding their employment status. As a result, they are often left outside the scope of the protection normally associated with an employment relationship. A significant number of workers in informal employment relationships, (sub) contracted workers, agency workers or self-employed are abusively deprived from the rights, protection and security they are due. Last but not least, there are serious gender concerns associated with atypical workers.

In order to cope with the rapid evolution of labour markets in both Europe and Asia, it is crucial that ASEM governments regularly clarify and adapt the scope of their laws and regulations so as to make sure that those workers performing their activities in the context of an employment relationship are duly protected. The adoption of clear and relevant criteria, indicators, means and instruments in national legislation is crucial in order to help distinguishing self employed from dependent workers. Social partners have to be closely associated in this process.

To redress the unequal bargaining position between the two parties to an employment relationship (i.e. the employer and the workers), trade unions' experience points to the importance of introducing a legal presumption concerning the existence of an employment relationship in national legislation.

The ILO Recommendation on the Employment Relationship (No 198) adopted by the 2006 International Labour Conference contains a number of instruments and suggestions particularly relevant to help government in these tasks. ***ASEM governments should review, adapt and exchange information on their legislation concerning the employment relationship along the lines of this ILO instrument.***

6. Protecting and promoting the rights of migrant workers to prevent abuses

In the era of globalisation, the number of people crossing borders to work, live or unite with their families abroad has reached an unprecedented level. Labour migration has brought about new risks and opportunities for both receiving and sending countries, requiring an appropriate policy framework to respond adequately to the situation. Women are often the particular victims of this situation, frequently trapped in situations of abuse as in the case of many of the women engaged as domestic workers.

At the international level, efforts should be directed to developing a rights-based approach for managing migration. ASEM should serve as a platform to facilitate the exchange of information between receiving and sending countries and to elaborate concrete cooperation mechanisms so as to enhance the positive effects of migration

and mitigate the negative ones. Participation of trade unions and migrant workers' organisations in this process is indispensable.

It is striking to note that few ASEM governments have ratified either the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families³ or the relevant ILO Conventions Nos. 97⁴ and 143⁵. Trade unions are ready to contribute to governments' initiatives in this area, whether at the national, bilateral, regional or global level. ***ASEM governments must include the protection of migrants' rights in the ASEM work programme and develop the necessary measures to protect migrant workers and their families from any form of discrimination, exploitation and maltreatment, including human trafficking on the basis of the principles enshrined in these Conventions. In relation to remuneration, it must be ensured that migrant workers receive the same wages as other workers performing similar work in the same national or local context. ASEM should also serve as a platform to discuss the portability of social security rights among its members.***

7. Strengthening labour inspection to enhance law enforcement

Labour inspection is essential to facilitate the implementation of decent work including the enforcement of labour law and social protection rights. Labour inspection is central to tackling the problems related to workers' health and safety, and to millions of children of school-age working under disastrous and inhumane conditions.

Those ASEM governments that have not yet ratified the ILO Labour Inspection Convention (No. 81) should do so. This priority Convention within the ILO is a key instrument to ensure respect for the protection of workers in the exercise of their duties. ***ASEM should serve as a vehicle to promote and exchange information between labour inspectorates from Asia and Europe.***

8. Ensuring respect of fundamental workers' rights by multinational enterprises

The processes of globalisation require that ASEM governments upgrade their regulatory role and to ensure better economic governance at global level. Full and productive employment should be put at the top of ASEM economic, industry and finance Ministers' agendas. Indeed, achieving sustained growth of decent work requires an enabling macroeconomic framework responsive to labour market realities, shifting policy approaches from market-oriented structural reforms to employment-centred policies. It requires strong systems of collective bargaining, based on social dialogue involving government, trade unions and employers.

ASEM governments should cooperate in creating an atmosphere whereby employers in all economic activities, including those in Export Processing Zones (where 90% of the workers are women), fully recognise trade unions and respect the right to collective bargaining, in order to ensure that profits of industries and enterprises are reflected properly in wages and working conditions, and to arrest and reverse the "social" race-

³ The Convention, adopted by the UN General Assembly resolution 45/158 of 18 December 1990, only came into force on 1 July 2003 after ratification by a 20th country. It has been ratified by the Philippines alone among ASEM countries, while Cambodia and Indonesia have signed it.

⁴ Migration for Employment Convention (Revised), 1949 (No. 97) has been ratified by Belgium, France, Germany, Italy, Malaysia Sabah, Netherlands, Portugal, Slovenia, Spain and the United Kingdom among ASEM countries.

⁵ Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), has been ratified by Italy, Philippines Portugal, Slovenia and Sweden among ASEM countries.

to-the-bottom. Where National Contact Points for the OECD Guidelines for Multinational Enterprises exist, these should be strengthened and more education on the Guidelines themselves should generally be promoted.

The ASEM Trade Facilitation Action Plan (TFAP) and its Investment Promotion Action Plan (IPAP) must aim at developing a model of globalisation that works for the people, rather than merely seeking to increase trade and investment through business-driven regulatory reforms which may result in a lowering of social standards. **The IPAP⁶ needs to be rewritten so as to incorporate broader social concerns, with reference to the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises.**

9. Ensuring respect for fundamental workers' rights to avoid social dumping

Trade unions welcome the Chairperson's conclusions of the first Labour and Employment Ministers Conference which explicitly refers to core labour standards. Leaders agreed that to make globalisation a success for all, *"It also requires policies to respect and promote human and social rights, particularly those set out in the ILO Decent Work agenda and in the ILO 1998 Declaration on Fundamental Principles and Rights at Work, which cover the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, the elimination of discrimination in respect of employment and occupation, the freedom of association and the effective recognition of the right of collective bargaining."*

Yet, these Conventions still remain un-ratified by several ASEM countries (see Table 1). **An ASEM initiative should be taken at the ASEM and national levels to promote ratification and full application of fundamental workers' rights, in cooperation with the ILO and with the active participation of social partners. Further work should also be initiated to ensure ratification and implementation of other ILO Conventions.**

TABLE 1: Ratifications of the ILO Fundamental Conventions by ASEM Governments (as of 21 July 2007) (showing only those governments that have not ratified all 8 core conventions)

	Forced Labour		Freedom of Association		Discrimination		Child Labour	
	C	C	C	C	C	C	C	C
	29	105	87	98	100	111	13	182
Brunei Darussalam*								
Burma	R		R					
China (PRC)					R	R	R	R
Japan	R		R	R	R		R	R
Republic of Korea					R	R	R	R
Laos	R						R	R
Malaysia	R	D		R	R		R	R
Singapore	R	D		R	R		R	R
Thailand	R	R			R		R	R
Vietnam	R				R	R	R	R

⁶ As part of the work of IPAP, in 1999 ASEM produced a list of Most Effective Measures (MEM) contributing to inward investment flows, which included the absence of strikes as an effective investment incentive.

R – ratified; D – denounced.

* Brunei Darussalam become an ILO member state in 2007.

Nevertheless, even when governments have ratified these ILO Conventions, fundamental workers' rights may still be violated in a race to increase trade and investment. In today's economy, those developing countries pursuing a model of export-led growth that violates workers' rights have increased competitive pressures on markets worldwide and undermined labour standards in many other developing countries. Trade unions are deeply concerned about the export orientation of growth which is based upon the suppression of workers' core rights, all in order to obtain labour-cost advantage.

It is therefore of utmost importance that all bilateral and sub-regional trade agreements between ASEM partners incorporate a strong social dimension, including a reference to fundamental workers' rights, and rules for their effective implementation.

10. Ending forced labour in Burma to stop the oppression of the Burmese population

Forced and slave labour is unacceptable anywhere in the world. Yet in one ASEM member country – Burma – the use of widespread forced labour was the subject in 1995-1998 of an International Labour Organisation (ILO) special Commission of Inquiry concerning massive violations by the Burmese authorities of the Forced Labour Convention, 1930 (ILO Convention n° 29). The Burmese junta's continuous refusal to implement the recommendations of the ILO Commission of Inquiry let the ILO Conference to adopt a special Resolution in June 2000. That resolution is still in force. It calls, amongst other things, on all ILO Constituents (Governments, Employers' and Workers' Organisations) , as well as all intergovernmental organisations and agencies, including international financial institutions, to review any relations they may have with Burma and cease any such relations which may have the direct or indirect effect of perpetuating the use of forced labour in Burma.

In this context, trade unions condemn the decision taken by the 5th ASEM Summit to admit Burma (Myanmar) as a member of ASEM despite the massive and continued human rights violations taking place in that country. Trade unions note that the ILO's scrutiny of forced labour in Burma is still in process, with several important recent developments. In particular, they note that the ILO Governing Body in March 2007 noted the signing of a Supplementary Understanding between the Burma Government and the ILO, aiming at securing the rights and personal safety of forced labour victims seeking redress from the authorities and at strengthening the role and effectiveness of the ILO's presence in the country. Trade unions welcome in that respect the appointment of a senior ILO official as the new ILO Liaison Officer as well as the strengthening of the Liaison Office. At the same time, trade unions note that the issue of a possible referral of the Burmese authorities by the ILO to the International Court of Justice is still pending before the ILO Governing Body, which may activate that procedure at the appropriate time.

Trade unions welcome the increased attention devoted amongst ASEM countries to the situation of human and workers' rights in Burma. Recalling the 1997 suspension of Burma's export benefits under the EU Generalised System of Preferences (GSP) and the various elements of the EU Common Position on Burma, including restrictions on arms sales and travel to the EU by members of the junta, they call on the European Union to take strong additional measures in order to effectively force Burma's military leaders to abide by its obligations under international human rights and labour law.

Such measures should include the banning of business relations between EU-based companies and companies controlled by Burma's military rulers or their proxies in key hard-currency earning sectors, particularly in the oil, gas, timber and mining industries, including gems. Any meaningful improvement in the EU Common Position should also include a ban on new investments in Burma by EU-based companies.

Trade unions salute the efforts of the ASEAN Inter-Parliamentary Myanmar Caucus (AIPMC) to exert regional peer pressure on Burma's authorities with a view to securing democratisation and respect for fundamental rights in the country. They note with interest and welcome plans to establish a similar mechanism in the SAARC region, as well as the first international conference on Burma held jointly last May in Tokyo by AIPMC and a similar structure established by a bipartisan coalition of Japanese Diet Members (Minshuka Giren).

Despite international demands in countless fora, including by ASEM Leaders, the junta has shown no real willingness to put an end to its practices. ***ASEM governments must build all possible political and economic pressure to force the government of Burma to respect fundamental human rights including freedom of association and the elimination of forced labour. They should strongly support all efforts aimed at the above within the international community, at international and/or regional level, including by taking or supporting relevant action in the UN Security Council, the ILO and the International Court of Justice.***
