

SURAC 7 REPORT

The 7th Session of the Sub-Regional Advisory Committee (SURAC) Meeting

ILO Tripartite Action to Protect Migrant Workers from Labour Exploitation (TRIANGLE Project)

15 – 16 December 2011

Bangkok, Thailand

The SURAC (Sub-regional Advisory Committee) meeting has served as an ILO platform for tripartite constituents to share information, experiences and provide guidance on anti-trafficking and migration management for ten years. The SURAC was first established in 2001 as an informal meeting between senior advisors, to provide guidance on anti-trafficking interventions and to stimulate thinking on sub-regional initiatives. At the 3rd SURAC meeting in September 2005, the meeting was reconstituted as a tripartite labour mechanism to coordinate country-specific action on human trafficking. The primary objective of the 6th SURAC meeting in November 2009, was to provide feedback on the design of Tripartite Action to Protect Migrant Workers from Labour Exploitation (TRIANGLE project).

The TRIANGLE project began in June 2010, and has launched a number of policy consultations, capacity building initiatives, support services and research activities in five participating countries, with activities in China to follow. The objective for the 7th session of SURAC is to share experiences from national developments and project activities, and promote greater in-country, bilateral and regional cooperation between tripartite constituents and project partners. A total of 67 representatives from governments, employers' and workers' organizations, civil society organizations and research institutions participated in the meeting.

The SURAC meeting contributes to the TRIANGLE output: *Regional tripartite cooperation and influence increased to support implementation of bilateral and multilateral commitments*. At the meeting, several examples of bilateral and multilateral cooperation, particularly at the ASEAN regional level, were showcased. A session was dedicated to fostering cooperation between and among countries, and many of the ideas that emerged were triggered from the presentations and information shared at the meeting.

This report provides a summary of the main topics covered in each session and presentation. The main discussion topics were summarized in the Closing Session. The full presentations are in Annex 3. In addition, other key documents are annexed as follows:

Annex 1: Agenda

Annex 2: Participants list

Annex 3: Presentations

Annex 4: Summary of constituent group discussions

Session 1: Opening Session

- The session was chaired by Ms Thetis Mangahas, ILO Deputy Regional Director for Asia and the Pacific. She gave a brief history of SURAC and outlined the objectives for the meeting (see above).
- Ms Songsri Boonba, the Deputy Permanent Secretary from the Ministry of Labour, Royal Thai Government spoke about migration trends in the region, and specifically acknowledged the need to regulate recruitment and employment practices to better protect outbound and inbound migrants. This requires close cooperation amongst countries in the Greater Mekong Sub-region, and is central to the shared regional objective of Decent Work for All.
- Ms Bronwyn Wex, Senior Regional Program Officer for Human Security at the Australian Government Aid Program (AusAID), spoke about the three main strategic areas of Australia's partnership with ILO and TRIANGLE: (1) to tackle poverty especially for the most vulnerable populations, including migrant workers; (2) to promote sustainable economic development by engaging governments on employment promotion; and (3) to enhance human security and access to justice for the most vulnerable.
- Ms Gloria de Pascual, Director of the ILO's International Labour Migration Unit, based in Geneva, provided an overview of today's migratory movements, which have gained a lot of attention in the international agenda. She underlined ILO's mandate in this context, namely making sure that migrant workers' rights are respected and that such flows produce the best possible effects in sending and receiving countries. Ms de Pascual highlighted the key role that employers must play, since they are the ones creating the demand; and how trade unions can help to ensure that the rights of migrants are protected.

Session 2: Overview of Key Developments in the Region and within the TRIANGLE Project

Mr. Nilim Baruah, ILO Senior Regional Migration Specialist for Asia and the Pacific

- To set the scene, economic, employment and demographic data were presented to demonstrate how labour migration is and will continue to be an established feature of the economies of the Greater Mekong Sub-region and Malaysia. The aim and approaches of the TRIANGLE project were reviewed to show the project is well-placed to address many of the challenges involved in labour migration.
- Since the start of the TRIANGLE project, considerable progress has been made under each objective. For example, in terms of policy and legislation, ministerial regulations will be developed in Thailand to strengthen labour protection in domestic work and fishing; in Cambodia on sending workers abroad through recruitment agencies; and in Vietnam on formulating standard labour contracts and caps on deposits.
- To enhance capacity in Cambodia, Lao PDR and Vietnam, an assessment of institutional capacity was conducted and a training needs plan is under development. In these three 'sending' countries, pre-departure training materials have also been drafted. An Operational Manual on the management and protection of migrant workers was drafted in Lao PDR, and the Cambodian Ministry of Labour and Vocational Training has requested assistance in developing a similar tool. Workshops on the role of trade unions in protecting migrant workers have been held in Lao PDR, Malaysia and Vietnam, which resulted in the

drafting of action plans and the establishment of relations between trade unions in sending and receiving countries. Tools have been developed for monitoring the recruitment agency Code of Conduct in Viet Nam, and a similar process is underway in Cambodia. The project has also been active in its support to ASEAN regional cooperation on the protection of migrant workers.

- Support services to women and men migrants are being provided through 15 partners (government, employer, trade union and CSOs). Support includes information, counseling, legal assistance, organizing, OSH training, etc. This is provided through Migrant Worker Resource Centres (MRCs) and through outreach activities. As the flood crisis in Thailand had a negative impact on many migrant workers, specific activities were designed with partners to ensure greater access to relief supplies and services; labour and human rights protection; and re-entry and re-employment.
- Research work for project evaluation purposes has been conducted in the five partner's countries. The project has provided capacity building of governments, trade unions, employers and regional organizations (4 countries), workshops to strengthen the role of trades unions (Lao PDR, Malaysia and Vietnam) and tools to better monitor recruitments agencies.

Session 3: Summary of Research and Analysis Conducted by the TRIANGLE Project

Mr. Max Tunon, Technical Officer, ILO TRIANGLE Project

- In this session, key findings of the primary research conducted by the project was presented, as well as the two assessments that were carried out in the three sending countries, that will shape a lot of our work in the coming year.
- The baseline surveys are primarily for project monitoring and evaluation purposes. The surveys in Cambodia, Lao PDR and Vietnam revealed that knowledge about safe and legal migration is limited – though there were some important distinctions between provinces and countries. In the two destination countries, the baseline survey samples were controlled for a number of factors (age, gender, nationality, sector, legal status, location), and cannot be said to reflect the situation at the national level. Nevertheless, the findings do show the vulnerabilities and abuses faced by different types of migrants. The TRIANGLE survey on public attitudes towards migrants conducted in destination countries (Malaysia, Thailand, Singapore and South Korea) revealed limited knowledge and misconceptions about migrant workers, in line with similar studies conducted in other parts of the world.
- Two assessments were conducted by international experts in Cambodia, Lao PDR and Vietnam. The first looked at the capacity of the institutions responsible for labour migration, which will lead to the development of a training-needs plan to upgrade the administration, operations and support services provided. The second, on pre-departure training, looked at existing training priorities, materials, trainers' methodology and skills, etc. A Facilitators' Manual and a Migrant's Handbook will be drafted, that contains practical, country-specific guidance that is better suited to the learning profile of migrant workers.

Session 4: Regulating Recruitment Practices

DOE-ILO Cooperation on Recruitment Practices and Migrant Protection

Ms Piengpahp Withyachumnarnkul, Department of Employment, MOL, Thailand

- In 2011, a Letter of Understanding was signed between the DOE and ILO to enhance cooperation on recruitment practices and migrant protection, to facilitate the provision of technical advisory services from two ILO projects on a number of issues related to both inbound and outbound migration. This has resulted in the setting up of a technical working group; a Forum on Preparation for the Registration of Migrant Workers; and an Assessment of Complaints Mechanisms.
- Activities are also being conducted to better protect Thai workers going overseas. A Migration Monitoring and Assistance System in Petchabun province has been developed to monitor and protect the rights for returned migrants and establish awareness on safe migration for job seekers and returned migrants. To date, 117 people have benefited from this intervention.



Regulation of Recruitment Practices in Cambodia

Mr. Chuop Narath, Department of Employment and Manpower, MOLVT, Cambodia

- Sub Decree No. 190 on the 'Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies' provides a new framework on the supervision of recruitment agencies and practices. However, further detailed legislation is required to supplement and facilitate its implementation, essentially through Ministerial Orders on, for example, the qualification of training centers; procedures for use of the guarantee deposit; standard contracts; setting pre-departure training standards; etc. Another recent development is the temporary ban on sending domestic workers to Malaysia.

- Labour migration issues will continue to be prominent in 2012, with legislative development and efforts to improve knowledge on safe migration. As Cambodia will be the Chair of ASEAN, the MoLVT is going to host the 5th ASEAN Forum on Migrant Labour, as well as a number of other relevant meetings.

Monitoring and Evaluation of the Implementation of the Code of Conduct for Recruitment Agencies

Mr. Nguyen Luong Trao, Vietnam Association of Manpower Supply (VAMAS), Vietnam

- Under the framework of TRIANGLE, VAMAS has developed a mechanism to monitor and evaluate the implementation of their Code of Conduct. This includes very detailed M&E (Monitoring and Evaluation) process and procedures, contents and methods for collecting information, criteria for scoring and ranking, and procedures for the M&E Panel. A scoring system will be used to rate recruitment agency performance in a systematic and objective way. The M&E Panel will collect and verify information and feedback from a variety of sources.
- In early 2012, these tools will be disseminated among agencies as well as staff of provincial departments of labour, and piloting will begin with 20 recruitment agencies in the first year.

Session 5: Strengthening Protection in Employment

Role of Ministry of Human Resources in Protecting Migrant Workers and Anti-Trafficking

Mr. Wan Ismail Bin Wan Ibrahim, Ministry of Human Resources, Malaysia

- The situation of the migrant workers and the main laws protecting their rights were presented, as well as the organizational frameworks of the MOHR and the Anti-Trafficking in Persons (ATIP) Council. In November 2010, the ATIP Act 2007 was amended to include the Ministry of Human Resources as an enforcement agency in combatting labour trafficking. The MOHR is responsible for supporting and protecting trafficked persons; raising awareness among employers, employees and the general public; working closely with the enforcement agencies and NGOs.
- Limitations faced by the MOHR in carrying out their responsibilities under the ATIP Act include a lack of funds, a shortage of manpower, limited knowledge and skills, and limited collaboration from embassies.

Revision of Ministerial Regulations on Work in Fishing and Domestic Work

Mr. Ananchai Utaipatanacheep, Department of Labour Protection and Welfare, MOL, Thailand

- Ministerial Regulation No. 10 on work in fishing, issued under the Labour Protection Act (1998), is being revised. The main changes proposed by the DLPW include its application to

any sea fishery work employing one or more fishers; covering sea fishery work both in and outside the Kingdom of Thailand; and establishing the minimum age of a fisher to 18 years old.

- The DLPW is also drafting a Ministerial Regulation on the labour protection of domestic workers. At this stage (with the Committee to Consider Draft Legislation of Ministry of Labour), the draft includes the following additional protections: employer to provide a weekly holiday; entitlement to holiday pay; prohibition to employ a child under 15 years of age; wages committee; etc.

Efforts to Strengthen the Promotion of Rights and Respect of Domestic Workers

Ms Poonsap Tulapan, HomeNet, Thailand

- The presentation first reviewed the situation of domestic workers in Thailand, in terms of figures and the vulnerabilities and abuses faced. To respond to these problems, HomeNet is advocating that the Ministerial Regulation on Domestic Work also include provisions ensuring access to the minimum wage, protection from unfair dismissal; access to social welfare; set working hours; the right to organize; etc.
- HomeNet's main activities consist of organizing Thai domestic workers in memberships based organizations (MBOs) and building the capacity of domestic worker leaders. A network of domestic workers has been established called Domestic Workers in Thailand Union (DO IT). In the future, HomeNet plans to strengthen DO IT, continue advocating for policy change and ratification of ILO C.189, educate and raise public awareness, and network with International Domestic Workers Networker (IDWM).

Efforts to Strengthen the Protection of Workers in the Fishing Sector

Mr. Kamolsak Lertpaiboon National Fisheries Association of Thailand

- A detailed overview of the process for recruiting fishers and their working conditions was provided, including details of wages for different types of fishers. NFAT is developing a model of recruitment and employment onto fishing vessels through a NFAT centre, which would remove brokers from the process.
- The NFAT - ILO TRIANGLE agreement has three main objectives: to develop a code of conduct for employers on the protection of all workers; to study good practices in recruitment, employment and protection of migrant workers in the fishing sector; and develop occupational safety and health modules in the fishing sector.

Session 6: Strengthening the Role of Trade Unions in the Protection of Migrant Workers



Policy and Action Plan of Lao Federation of Trade Unions on the Protection of Lao Migrant Workers

Mr. Khamchanh Sivanthong, Lao Federation of Trade Unions (LFTU)

- An LFTU Action Plan on Protecting Migrant Workers was adopted at the LFTU-Workshop in 2011, consisting in 21 areas of intervention. The Action plan is arranged under five broad thematic areas including the registration of migrant workers with the LFTU; the establishment of Migrant Worker Resource Centers (MRCs) in target provinces (beginning with Savannakhet); the collaboration with trade unions in destination countries (namely Thailand); the promotion of tripartite dialogue on labour migration at national and sub-national levels; and awareness raising of labour migration issues among migrant workers and potential migrant workers, LFTU staff and the general public.

TRIANGLE: MTUC-ILO Collaboration

Mr. Moses Singham, Malaysian Trade Union Congress (MTUC)

- The MTUC has a clear policy on the need to organize migrant workers and demand equal protection for them. Despite making up a significant proportion of the workforce, migrants are subject to a range of labour rights abuses. The MTUC and IL O are collaborating to establish MRCs, provide labour rights education, dispute resolution and legal assistance to

migrant workers, and to organize them into migrant associations and/or to joins unions. Currently 16 cases of unpaid wages for a total of 71 workers are being handled by the MTUC.

- The MTUC have established relationship with migrant worker leaders and in the future will look to strengthen relations with trade unions in sending countries, with the embassies of the Mekong countries, and with employers.



State Enterprise Worker's Relations Confederation (SERC)

Mr. Chalong Raksasri, State Enterprise Workers Relations Confederation (SERC), Thailand

- SERC has established an Informal and Migrant Workers' Unit, which is working on policy and law campaigns, such as petitions letters submitted to the ILO regarding discriminatory practices against migrant workers in Thailand, and advocacy for ILO Convention 189 on Domestic Work.
- During Thailand's flood, SERC has worked with the Thai Labour Solidarity Committee (TLSC) and Migrant Working Group (MWG) to provide relief supplies and respond to the specific needs of migrant workers. In this regard, the SERC-ILO Agreement (Dec 2011 – May 2012) is providing assistance to migrant workers during the crisis and recovery phase in terms of rights protection (e.g. recovering due wages) and the facilitation of re-entry and re-employment. SERC will also engage in policy dialogue with the government and employers on these issues.

Session 7: Providing Support Services for Potential Migrants and Migrant Workers

MAP Foundation, Thailand, TRIANGLE project

Ms Jackie Pollock, MAP Foundation, Thailand

- MAP is working to reduce workplace exploitation of migrants through increased access to justice, the empowerment of migrant communities and increased representation and social inclusion. To achieve these goals, MAP, with support from the TRIANGLE project, is disseminating information on labour laws, training para-legal advocates in migrant communities and providing counseling, organizing migrant workers and improving national level responses through advocacy.
- MAP supports a weekly radio phone-in show. Most call in to ask about unpaid wages, low wages, change of employer, temporary passport procedure, new round of registration for migrants and dependents, social security, driving license, loss of documents, and the radio broadcasters responded to their calls either on air or off air. The total number of workers who called in to the radio station (FM 99) during the past six months was 281 people (158 men and 123 women).
- In Chiang Mai, 122 Shan migrant workers have received counseling from MAP lawyers and in Mae Sot, Tak, 118 Burmese migrant workers were provided legal counseling.

Support to Workers on Overseas Employment and Pre-departure Orientation

Ms Hoang Kim Ngoc, Ministry of Labour, Invalids and Social Affairs (MOLISA), Viet Nam

- Following an overview of the labour migration situation in Vietnam, MOLISA presented a summary of their role in overseas employment, including the monitoring and supervision of recruitment agencies, promotion of labour markets, protecting the rights and interests of migrants, etc.
- MOLISA stipulates the content, program and materials for pre-departure training and orientation. The total training time is 74 sessions (45 minutes each). However, there is a need to build the capacity for trainers, to regularly check that agencies are providing the orientation and to establish strict requirements on issuing certificates of attendance.
- MOLISA has established Labour Management Sections in nine countries and territories. Their role is to promote the labour market; to protect the legal rights and interests of workers during their overseas employment; verify labor supply contracts and the conditions of the workplaces; etc.

Session 8 & 9: Bilateral and Multilateral Cooperation

Group work and plenary feedback

- In this session, project partners broke into four groups (governments; trade unions; employers' organizations and industry associations; and civil society organizations) to explore areas in which bilateral and multilateral cooperation can be strengthened under the TRIANGLE project to better protect migrant workers. The groups provided responses to a set of questions (Annex 4) and reported back in a plenary session. The outline/notes of their presentations are in Annex 4 – and some of the main discussion topics below:
- The **Government** group identified a number of areas in which the TRIANGLE project could play a role in facilitating greater bilateral and multilateral cooperation between governments. This included support in the development of a bilateral agreement on cross-border and seasonal workers; bridging the divergence in the law between sending and receiving countries (e.g. the Cambodian Government's ban on recruiting their nationals into the Thai fishing sector); sharing good practices on migrants' inclusion into social security schemes; promoting greater sensitivity to the culture of the destination country in pre-departure training; etc. In addition, the need for greater information exchange was noted, especially in terms of identifying skills requirements in receiving countries and migration data. The TRIANGLE project will gather information on cross-border (border pass) schemes.



- The **Trade Union** group first identified areas in which trade unions needed to strengthen their capacity within a country, e.g., in terms of greater cooperation between migrant associations of different nationalities or ethnic groups; building the knowledge base on the laws of different countries. It was suggested that the unions should follow the example of SERC and establish a unit dedicated to migrant workers issues. To strengthen bilateral cooperation, focal points should be nominated to engage with trade union partners in other countries; information materials for workers should be shared prior to departure and

on arrival (e.g. MTUC passport); and perhaps trade unions can play a role in the verification of employment contracts, prior to departure.

- The **Employers and Industry Associations** group proposed strengthening admissions policy and closer cooperation between employers and government in establishing labour market needs, in terms of sectors and numbers. Harmonization is required in terms of a policy on skills, competencies and accreditation, not only bilaterally, but at the ASEAN regional level. On recruitment, they called for greater flexibility – allowing workers to change employers in certain circumstances. Within countries, employers need to play a greater role in migration policy, in cooperation with the tripartite constituents; but links should also be strengthened between agencies and employers' organizations, and agencies in sending and receiving countries.
- The **CSO** group called for interstate/ASEAN regional mechanisms and standard operating procedures to strengthen protection, and for the implementation of these should be monitored and evaluated. They also identified several areas in which CSOs should work with different partners, and how the TRIANGLE project can facilitate this cooperation. For example, CSOs can link local authorities with migrant associations; provide information to governments/embassies on the situation of migrants; build the capacity of migrant associations; etc.



Session 10: Country Work-Planning

- In this session, the participants formed groups by country, and drafted country work plans reflecting the work carried out in 2011, the project priorities, and the discussions held at the SURAC meeting. The draft workplans will be presented at the next Project Advisory Committee (PAC) meetings in each country, for review and endorsement.

Session 11: Closing Session

Mr. Nilim Baruah, ILO Senior Regional Migration Specialist for Asia and the Pacific

Mr. Baruah summarized the main points of discussions and outlined areas in which the TRIANGLE project will focus attention in the coming year:

- Session 3 - Research
 - It was noted in the discussion that the campaign to generate a positive image of migrants, following the research, should include the media, administrators, and employers amongst others.
 - A baseline survey in fishing (Thailand) will be done. (The sector was not included in the first survey). The baseline survey in Malaysia will be complemented by other sources.
- Session 4 - Recruitment:
 - Support to monitoring the implementation of the Code of Conduct for recruitment agencies in Cambodia and Vietnam
 - Technical assistance in the development of Ministerial Orders in Cambodia
 - Documentation of apparent emergence of sub-contracting practices, and assistance in the revision of the Recruitment and Job-Seekers Protection Act in Thailand
 - Advocate improvements in the Malaysian policy on recruitment through sharing experiences and good practices from within and outside the region
- Session 5 - Protection:
 - Examine the constraints to implementation of the Anti-TIP Act in Malaysia, with a focus on building understanding of the labour dimensions of trafficking
 - Technical assistance in the revision of the Ministerial Regulations on Fishing and Domestic Work in Thailand, taking into account the recommendations from the HomeNet presentation
 - Build the knowledge base on the fishing sector, by acting on the recommendation from the Thailand PAC and conducting a survey on employment and working conditions, in collaboration with NFAT (also referred to under Research)
 - Help organize a fact-finding mission to Ambon, Indonesia, where there are reportedly several hundred stranded and trafficked fishers from Myanmar and Cambodia that fled from Thai fishing boats. This will be discussed in more detail with several partners, including LSCW, who are providing assistance to a group of trafficked persons that recently returned from Ambon
- Session 6 – Trade Union Action:
 - Assist in the implementation of the Trade Union Action Plans that have already been developed in Lao PDR, Malaysia and Vietnam. The policies and plans in Thailand and Cambodia will be developed in Q1 of 2011
 - Within these policies, trade unions will be asked to clarify what protection should be extended to irregular migrant workers
- Session 7 – Support Services:

- It was emphasized that pre-departure training in countries sending workers to Malaysia should include some language and cultural awareness
- More clarity is required on the provision of social security to migrant workers, the deductions and entitlements. In this regard, the scope for developing bilateral agreements on social security should be explored (consider ILO Convention 118)
- Session 8 – Bilateral and Multilateral Cooperation:
 - In addition the results of Session 8, reflected earlier, the following points were made:
 - Reforms in labour migration policy and mechanisms in destination countries, and in the first place the development of a coherent migration policy, following wide consultations, should be considered. The issue of job mobility is closely linked to migrants' legal status, and there should be flexibility in this regard. If there is a shortage in a sector, employees should ideally be able to change employers within the sector.
 - There is interest in sending and receiving countries in the sub-region in the development of seasonal and cross-border schemes
 - Migration research and data collection remains a priority, and the ILO is looking to work with the Scalabrini Institute in Manila on the collection, maintenance and sharing of data for use in policy research
- In conclusion, the SURAC meeting has provided a valuable opportunity to discuss national and regional developments and project progress, and also share ideas on how to move forward in the coming year. The draft work plans will be finalized at the PAC meetings in each country, to be held within the first quarter of 2012. The TRIANGLE team will also look to carry out a number of the bilateral and multilateral activities that were proposed. The next SURAC meeting will be held in 18 months.