

Labour Development and Actions in Thailand 2005



Bundit Thanachaisethavut

**FRIEDRICH
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by

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Foreword
By
Resident Director of Friedrich-Ebert-Stiftung, Thailand Office

The Friedrich-Ebert-Stiftung (FES) in collaboration with the Arom Pongpa-ngan Foundation have produced an annual summary of events and activities on labour development and issues. The prime objective of this is to review and analyze labour situation during the previous year, recording what happened and what were the vital issues faced by the labour movement and other concerned parties. In addition, it also has documented all the key demands set by the labour movement in Thailand as well as the responses of the competent agencies and their effectiveness. In principle, it is our belief that a report of this nature contributes to the overall efforts of concerned organizations or groups' interested in labour issues and the current situation.

We do hope that our efforts in this regard may help keep these groups and the general public better informed of the cost and effect of such issues. In this regard, it should lead us, in following years, to adopt a better and more objective approach to tackling the issues in much more effective ways. Furthermore, the editorial staff also wishes this publication to serve as a historical chronicle of labour development, contributing to more in-depth studies of labour issues and the movement in the future.

Due credit must be accorded to Mr. Bundit Thanachaisethavut, Senior Researcher at the Arom Pongpa-ngan Foundation, and his research team, who have consciously worked throughout the previous year to compile, edit and analyze the labour situation and the issues involved. The Friedrich-Ebert-Stiftung, Thailand Office wishes to express its sincere appreciation to Mr. Bundit Thanachaisethavut and the members of his research team for their commitment and continuous dedication to their work over many years.

This year's annual Labour Situation Report is published in two versions, one in Thai and the other in English. The English version in your hand contains less detail than the Thai one, which included selected articles and references to key labour developments of previous years. This is why the Thai version is more voluminous while this English copy is a more concise version with a summary of activities and mobilizations. Despite the summarized content, this version also contains vital statistics on important labour situation.

The reason why we decided to publish an English version is due to the fact that very few foreigners have access to vital labour facts and figures and related developments in Thailand. The editorial team subsequently decided that an English version would offer most beneficial information to the international community, so that labour issues and development in Thailand may attract increasing attention from the international community. For the same reason, this English version is also posted on our website at www.fes-thailand.org.

Last but not least, the Friedrich-Ebert-Stiftung, Thailand Office sincerely hopes that this Report "Labour Development and Action in Thailand 2005" may be of some benefit to all readers and may contribute to genuine effort to address the issues and the renewed efforts to deal with problems in more focused and efficient ways in 2006.

Vesna Rodic'
Bangkok/January 2006

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Section 1

Summary of 2005 Labour Activities

This annual report is not meant to cover labour mobilizations on every issue during 2005, but rather on selected issues deemed to be crucial as listed below:-



- (1) Forum on political parties and labour policies organized during the 2005 general election campaign.
- (2) Urgent demand for the government to provide emergency relief and assistance to workers affected by the Tsunami tidal wave on December 26, 2004.
- (3) Mobilization to demand for the government to control prices of consumer products.
- (4) Submission of a set of demands for the benefit of women workers in celebration of International Women's Day on March 8th.
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- (11) Demand for the Thai government to ratify ILO Conventions No. 87 and 98.
- (12) Closing of ranks to demand for the total elimination of the lump sum wage system.
- (13) Closing chapter of the protracted demand to establish an Institute for Occupational Health and Safety and Environment in Workplaces.
- (14) Total failure in the demand for a minimum wage of 233 baht per day.

(1) Forum for political parties and labour policies organized during 2005 general election campaign.

The *Thai Labour Solidarity Committee (TLSC)* in close collaboration with the *State Enterprise Relations Confederation (SERC)* and the *American Center for International Solidarity (ACILS)* jointly organized a public forum on Sunday, January 16, 2005 for representatives from various political parties to present their policies on labour. This public forum was staged before the general election scheduled for February 6, 2005. Invited to speak on their parties' labour policies were representatives from the 4 major parties; Thai Rak Thai, Chat Thai, Democrat and Mahachon (Mass) as listed below: -



Dr. Premsak Pier-Ura, former Chairman of the House Commission on Labour, representing the Thai Rak Thai party, said that the policy of the TRT party would promote employment across the board and would cooperate with all concerned agencies as mentioned below:-

- Promotion of job placement across the board;
- Collaboration with all concerned agencies in skills development programs;
- Transforming work experiences into academic credits;
- Promotion of vocational education to be more responsive to the needs of the labour market;
- Tackling the pressing problem of huge commissions taken from workers seeking employment abroad,
- Seriously penalizing job placement agents who collected handsome fees but failed to secure jobs abroad for prospective workers,
- Comprehensive programme to tackle problems of foreign migrant workers, i.e. categories of job permitted for foreign migrant workers, taxation, and the establishment of a specific welfare fund and repatriation process, etc.; and
- Establishment of a special bank for the purpose of promoting labour welfare and benefits as well as occupations.

Dr. Sanksit Piriya-Rangsan, representative of the Mahachon (Mass) Party, proposed a number of key policies as listed below:-

1. **Policy on Wages.** Wages shall be duly adjusted to correspond with the ILO Standards as well as the economic situation.
2. **Policy on Sub-Contracted Workers.** The Mahachon (Mass) Party shall not permit any double standards in hiring practices, with equal wages, welfare and benefits, regardless of the types of employment.

3. **Policy on Setting up Childcare Centres in Industrial Areas.** The Party should provide necessary funds for the establishment and the joint administration and management of childcare centres with workers in the areas.
4. **Policy on Occupational Health and Safety at Workplace.** The Party shall work towards the establishment of an “*Institute of Occupational Health and Safety at Workplaces*”, which shall take the form of independent organization mandated to oversee a comprehensive OHS program, including preventive measures, medical treatment, rehabilitation programmes and due compensation. The organizing structure shall be quinquartite composed of representatives of government, employer, employee, OHS patients or victims and experts/academics. In addition, the *Compensation Fund* and the *Office of the OHS* shall also be transferred to this Institute.
5. **Social Policy.** The Party is committed to carrying out social security reform to achieve more transparency, accountability and efficiency including the extension of coverage to workers in all trades.

Mr. Pongsak Plengsang, representing the Democrat Party, proposed the following:-

1. **Policy on Labour Relations.** The Democrat Party shall promote cooperation between employers and employees to:
 - increase labour productivity;
 - increase administrative/management skills for union development as well as collective bargaining;
 - have full-time staff for labour unions;
 - improve labour relations legislation to provide comprehensive coverage to all sectors of the labour force;
 - ratify ILO Conventions No. 87 and 98.
2. **Policy on Additional Benefits from the Social Security Fund.** Benefits will be extended to cover vision examinations and prescription glasses for insured workers, while drawing necessary funds from the SS Fund to finance housing for insured workers to rent or to provide housing loans for workers to buy such houses on instalment plans.
3. **Policy on Setting up Daycare Centres for Preschool Children.** The Democrat Party is committed to laws enabling the Social Security Fund to provide support to daycare centres with unions or workers participating in the supervision of such centres.

A summary of the results of having listened to the labour policies set forth by the 4 political parties, would be that the Mahachon (Mass) Party seemed to have adopted a type of labour policy most responsive to the needs of workers and their unions, while the Thai Rak Thai Party had proposed the labour policy least relevant to labour organizations.

The nation-wide general election on February 6, 2005, resulted in the Thai Rak Thai Party gaining the highest number of seats in the House, winning a majority of 377 seats (from a total of 500 MPs). Meanwhile, the Democrats won 96 seats, Chat Thai Party 25 seats and the Mahachon Party only 2 seats. Thus, the TRT Party formed the first ever single-party cabinet in the political history of Thailand. Subsequently, the newly formed government duly announced its policy on March 23, 2005, but failed to come up with a clearly defined labour policy as did the last cabinet.

(2) Urgent demand for the government to provide emergency relief and assistance to workers affected by the Tsunami tidal wave on December 26, 2004.

When the Tsunami tidal wave first hit the 6 southern provinces along the Andaman coast on December 26, 2004, assistance and emergency aid began to pour into the worst hit areas. The Federation of Hotel and Service Workers in Phuket, in close cooperation's with the Friedrich Ebert Stifting (FES) and the Thai Labour Solidarity Committee (TLSC), promptly set up Relief Centres for workers affected by the Tsunami disaster by organizing a Mobile Assistance Center for Affected Workers (MAC) in the area, conducting an immediate survey to assess the extent of the hardships faced by workers there, and providing necessary relief to various groups of workers. In addition, an emergency forum was organized to solicit and gather ideas and concerns and subsequently classify affected workers into 4 groups or categories as:-



- 1) workers in the formal sector;
- 2) workers in the informal sector;
- 3) Burmese migrant workers; and
- 4) local fishing folk.



Based on the results of the abovementioned forum, problems and issues were subsequently compiled into a packet of proposals submitted to the government as described below:

(2.1) **Workers in the Formal Sector:** Workers employed in the hotel and tourism sector faced the following pressing problems:-

1. Some workers died, were injured or were reported as missing, while many hotels and beachfront businesses suffered great loss and were forced to close down, resulting in employees become unemployed.
2. Many corpses had not been positively identified or claimed by relatives.

3. Although some businesses were not directly affected by the tidal wave, the number of tourist was reduced to only 10 %, resulting in part of the workforce being laid off, were suspended or faced wage reduction.
4. Some enterprises forced their employees to sign formal resignations or decided to terminate the employment in order to avoid having to pay due compensation as required by labour protection laws
5. Despite the fact that some workers were entitled to social security benefits, their employers had contributed, with ill intent, to the social security fund less than the actual wage. This resulted in workers receiving less benefit from the Social Security Fund.
6. Some workers were neither organized nor aware of their labour rights and benefits as well as the Social Security Act, so they decided to return home to their respective provinces without claiming any rights or benefits as granted to them by labour laws.



Recommendations:

1. The government must publicize labour rights and benefits as stipulated by labour laws as well as government-funded relief projects so that affected workers shall be properly informed and accurately aware of their rights.
2. The government should come up with adequate and effective measures to prevent employers from taking advantage of workers.
3. Any government rehabilitation assistance granted to a business shall include the condition that no workers in their employ shall be dismissed or have their employment terminated without justification.
4. Workers affected by the Tsunami disaster shall be supported by programmes designed to help them organize into mutual assistance groups.
5. Insured workers shall be entitled to take out emergency interest-free loans from the Social Security Fund while waiting to be reinstated or pending the business rehabilitation of their employers.

(2.2) *Workers in the Informal Sector:* The workforce employed in construction, fishery and fishing trawlers, small enterprises, and the agricultural sector have faced serious problems; lacking basic means for their survival. For example, they lack living quarters, means of living, tools and equipment for their occupation, benefit from both the state and their employers, opportunity to continue the education of their children, ability to repay loans, etc.

Recommendations:

1. The government must provide labour protection to this group of workers in a manner equal to that for other labour groups.
2. Competent government agencies should work in coordination with concerned labour organizations to campaign for fair and just treatment of workers affected by the Tsunami disaster.
3. The government must be urged to accelerate relief efforts in providing emergency assistance in terms of living shelter, tools and equipment and necessary, adequate initial capital for affected workers, fishing folk and craftspeople.

(2.3) Migrant Workers from Burma. The most pressing problems faced by this group of workers are described below:-



1. Despite the fact that there is no systematically compiled report by any government agency on Burmese migrant workers who died, were injured or went missing, surviving Burmese migrant workers have estimated at least 400 deaths.
2. All personal migrant workers registration identification of and other vital identification papers of survivors and those missing are kept by their employers, who have made no conscientious efforts to identify their remains of those killed or the whereabouts of those who have survived.
3. Some Burmese migrant workers have already fled the affected areas, simply because they were in the state of shock after the Tsunami disaster. Some wanted to return to their jobs but had lost their Temporary Working Permits. Some of them were afraid to seek medical treatment from government-run hospitals for they have lost all their identification papers and do not have any money to pay for anything.
4. A number of migrant workers have been accused of theft and, suspected of looting, due to a total lack of systematic assistance in terms of, basic necessities and food. Because of hunger, many resorted to any means to survive.

Recommendations:

1. The authorities should stop making arrests of migrant workers on a temporary basis, while issuing new identification cards for those who have lost their papers in the Tsunami disaster.
2. The registration of migrant workers should be verified as accurate while providing basic welfare for migrant workers, especially health care, shelter and food.
3. The remains of Burmese migrant workers must be identified, so that their relatives back home may be informed and appropriate funeral services can be arranged according to their religious faiths.

4. Job placement and appropriate vocational training should be promptly arranged and implemented for migrant workers.
5. Knowledge and understanding of the rights and benefits of migrant workers must be given to employers as well as those involved in their cases. In addition proper coordination must also be put in place to provide emergency assistance to Burmese migrant workers as given to other Tsunami victims.

(2.4) Workers employed in Small-Scale Fishery.

1. Unlike other employees, Burmese migrant workers were entitled neither to labour protection nor to due compensation and benefits from the Social Security System.
2. No government compensation was given for damaged houses and fishing gears, especially to migrant workers, who worked on fishing trawlers not registered with the Department of Fisheries.
3. Workers employed in fishery-related industries also felt the impact of the Tsunami. For example, workers employed by aquaculture operators along the coast, by salted fish producers, and by sun-dried fish producers have become unemployed because of a lack of raw materials coming in from the sea or fishing trawlers.



Recommendations:

1. In the case of fishing trawlers lost at sea, the government shall arrange for a replacement as soon as possible for both registered trawlers and those not registered with the Department of Fisheries.
2. In the case of damaged fishing trawlers, the government shall arrange for prompt repairs, enabling the repaired fishing boats to become seaworthy and be used to make a living once more.
3. Fishing folk affected by the Tsunami must be provided with fishing nets and fishing gear or with low-interest loans enabling them to regain their livelihood.
4. For long-term assistance, a special fund shall be established to provide financial assistance to the fishing folk affected by Tsunami.



(3) Mobilization to demand for the government to control prices of consumer products.

One of the demands submitted to the Ministry of Labour and Social Welfare (MoL&SW) on various issues by the *Thai Labour Solidarity Committee (TLSC)* on March 24, 2005, was a demand for the government to step up its control on prices of consumer products in a more serious manner. Consequently, the MoL&SW decided to coordinate with the Ministry of Commerce on this matter.



The Ministry of Commerce (MoC) later responded to the demand in writing by categorically stating as a matter of policy that the Ministry closely controlled and monitored the consumer price index, especially items necessary for the livelihood of the people. The Ministry had adopted measures to ensure that prices were appropriate and fair, to prevent opportunistic increases in consumer product prices without justifiable cause, as well as to ensure that the essential goods were available in the market to meet rising market demand. Unfortunately, oil prices had risen and were liable to continuing sharp increases, and strict measures had to be imposed to control the prices of consumer products. The 5 measures designed and implemented to minimize the economic hardship of consumers were outlined as follows:-

1. Management of Consumer Product Measures.

1.1 Setting criteria for the calculation of the impact of rising diesel prices on basic essential consumer products. The Ministry of Commerce closely monitors the prices of 100 items, and uses the medium prices to consider and set the most appropriate prices.

1.2 Soliciting co operation from entrepreneurs in imposing consumer price controls. The impact on consumer product prices from the adjusted price of diesel was currently minimal due to the fact that there were still goods and raw materials in stock. This was due to price control measures up to June 30, 2005. In the event of any increase of consumer prices, the Department of Internal Trade, Ministry of Commerce, must be properly informed together with the justifying evidence prior to distribution.



1.3 Price regulating system. The system must be adjusted to be more accurate in identifying the actual cost of goods. By studying the impact of various factors on the costs of products, the concerned agencies should be more efficient in monitoring consumer prices based on the actual costs of goods.

2 Measures to promote popular participation /entrepreneurs.

2.1 People's participation. A campaign was launched with the establishment of a nationwide Hotline network specifically aimed at housewives to promote people's participation in voicing their complaints and concerns on any unfair business practices against consumers.

2.2 Entrepreneur participation. Simultaneously, entrepreneurs and producers of consumer products were also urged to closely supervise and control the production and distribution of goods, while preventing any opportunistic hoarding of consumer goods and unfair pricing.

3. Market Inspection Measures.

Competent officials shall be assigned specifically as market inspection units to monitor and conduct on the spot daily inspections of any unfair pricing both in the capital and provinces. The inspection shall be carried out to prevent any opportunistic practices against consumers in terms of pricing and unit quantities.



4. Legal Measures (as concrete situations require)

4.1 Strict control of price-tagging. Products must have price-tags clearly showing price/unit/weight or quantity with sufficiently large letters or numbers.

4.2 Extending timeframe for penalty imposed for failure to show price tags. With new and stricter controls on price tagging, larger and heavier penalties shall be imposed; a normal fine of 1,000.-Baht shall be doubled while the timeframe extended by 90 days starting from March 27, 2005 to June 24, 2005.

5. Measures to ease the rising cost of living.

5.1 A programme soliciting cooperation from department stores and large outlets serving cooked foods in food courts in maintaining prices was implemented since March, 2005.

5.2 Promotion of scheduled street markets, community markets, and “Blue Flag” fresh markets was launched to ensure proper quantities and fair prices. This program was

conceived as an alternative for consumers, both in Bangkok and all regions of the country.

Initially, it was scheduled for 3 months involving approximately 200 markets, started in April 2005.

5.3 “Blue-Flag” corners selling discount-priced items were organized in department stores, shopping malls and/or big outlets in selected locations. Emphasis was placed on items of basic necessity. For example, pork, fresh chicken eggs and consumer products were distributed both in Bangkok and all regions, totaling 262 outlets throughout the country. This particular programme was launched from October 2004 to September 2005 and could be extended if deemed necessary.

5.4 Roving markets were organized under the “Blue-Flag” scheme, promoting big savings at densely populated, low-income communities around Bangkok and selected provinces in all regions offering daily items, such as rice, vegetable oil, freshly cut pork, chicken, eggs, seasonal fruits and other basic daily consumer products. In total, 32 roving markets were organized from October 2004 to September 2005, and additional locations can be added on demand.



(4) Submission of a set of demands for the benefit of women workers in celebration of International Women's Day on March 8th.

The Organizing Committee of International Women's Day on March 8th, led by the Women Workers Unity Group (WWUG), organized a march starting from the Democracy Monument to Government House. Thousands of workers from both state enterprises and the private sector joined the march. The objective was to submit a set of demands to the government.



The 7-point demand submitted to the government was as follows:-

1. The government should accelerate its efforts in legislating the establishment of the Occupational Health and Safety and Environment in Workplace agency. This particular organization shall be established as an independent agency free from any intervention from the government. In terms of administration, this agency shall be tripartite in structure and mandated to oversee the Workers' Compensation Fund to be transferred to this new agency.
2. As a matter of policy, the government should work towards the eventual enactment of new laws for the promotion, support and allocation of appropriate funds for the establishment of childcare centres, specifically designed for pre-school children. These centres should be set up in industrial areas and communities with the active participation of workers' organizations or unions or communities in their administration.
3. The government and the Office of Social Security should accelerate their common efforts to work towards the eventual legislative amendment of Article 39 of the Social Security Act so that the workers are required to contribute only 1 portion of the total fund. In addition, social security benefits and labour protection should be extended to provide coverage for workers in the informal sector. Also urgently needed is for the government to adopt unconditional standardized benefits for workers with HIV.



4. The government shall revoke any practices of subcontracting or lump sum wage systems in workplaces as well as more strictly enforce labour protection laws. This demand is based on the fact that these 2 types of payment schemes are considered to be blatant exploitation and to represent a total lack of respect for human dignity.
5. The government must cease all efforts to sell or privatize state enterprises in any form.



6. The government must adopt a clear policy towards the promotion and development of occupational skills for woman workers, enabling them to participate meaningfully in decision-making processes at all levels. This demand is truly justifiable by the fact that woman workers form a vital workforce in the socio-economic advancement of the country. Ironically, the woman workforce has not been given enough chance to voice their opinions on the formulation of policies affecting their livelihood. They have not been adequately and accurately informed of the development of many policies, thus their self-determination has been denied.

6. The government must earnestly embark upon the task of adjusting the minimum wage by adhering to the labour standards adopted by the International Labour Organization (ILO). The minimum rate must not be lower than the

monthly income or salary of the lowest rank of government officer at 7,000.-Baht per month, to ensure due respect for labour and human dignity across the board.

(5) Demands submitted on Labour Day 2005.

The Thai Labour Solidarity Committee (TLSC) in concerted action taken with the *State Enterprise Relations Confederation (SERC)* took the initiative, with their own meagre resources, in organizing a march from the Democracy Monument to Government House to submit a 11-point demand as itemized below:-



1. **The government shall cease its continuous efforts to sell and/or privatize key state enterprises** considered to be vital to the livelihood of the people, by putting them on the stock market. In fact, the government must welcome public opinion through public hearings in accordance with Article 214 of the constitution.
2. **The government must exercise strict consumer price controls**, recognizing the fact that people have to shoulder a constantly increasing cost of living, and face extreme economic hardships due to the skyrocketing price of consumer goods.
3. **The government must raise the minimum wage to ensure fair and just wages for the working masses.** This can be done by acting in full compliance with the International Labour Standards adopted by the ILO regarding minimum wage, earning not less than the minimum salary of 7,000.-Baht per month on the standard pay scale of government officials. This demand is based on the principle that workers must be treated with equal respect and human dignity as others in the same society (233 Baht per day).
4. **The government must expedite its efforts in working towards the eventual establishment of Occupational Health and Safety and Environment in Workplace Act**, in the version proposed by the labour movement as opposed to the version proposed by the Ministry of Labour and Social Welfare and endorsed by the government. According to the workers' version, this particular agency must be
 - a) independent from any intervention from government;
 - b) organized under a tripartite structure; and
 - c) mandated to oversee the Workers' Compensation Fund to be transferred to this new institute.
5. **The government must be urged to ratify ILO core conventions no. 87 and 98 to ensure that labour legislation is in full conformity with international labour standards.** In this way, the Labour Relations Act shall fully safeguard and protect the rights of workers of all types and categories, including migrant workers employed in Thailand. If eventually promulgated, all migrant workers, regardless of where they came from, shall enjoy the right to organize and to collective bargaining, without any discrimination or government intervention.



6. **The government must do its utmost to ban any practice of employing subcontracted workers and lump sum wage systems in all workplaces.** Together with this demand, the government is also urged to strictly enforce the labour protection laws. These demands are in response to inhuman and undignified hiring practices as follows:
 - subcontracted workers;
 - lump sum wage earners;
 - taking a cut or commission from workers;
 - paying workers less than the minimum wage;

- paying lower benefits than to regular workers;
- lack of job security; and
- denial of any right to complain or deprivation of any right to organize.

7. **The government is strongly urged to promote the workers' version of the Labour Relations Act** and subject it to the legislative process. It must be noted that the labour movement in Thailand has been trying to lobby and push for its own version for the past 10 years without the commitment of any government to this cause.

8. **The government and the Office of Social Security must accelerate their common efforts to make amendments to the aforementioned 2 key labour laws** undeniably proven to be problematic to the cause of labour. The case in point is Article 39 requiring workers to pay twice as much as they should be contributing, whereby only one portion should be paid instead of two as at the moment. In addition, the coverage of labour legislation should be extended to include workers in the informal sector, workers employed in the agricultural sector, as well as workers with HIV without any conditions.

9. **Any bilateral or multilateral Free Trade Agreement (FTA)** concluded with the other countries with repercussions or negative impacts on Thai society or the country as a whole, must be subjected to public hearings prior to the signing of such agreements as stipulated in the current constitution. Also related is the demand calling for revocation of legislation on Special Economic Zones. The nature and substance of the said legislation is deemed to amount to violations of the rights and civil liberties of the people, while losing the social, economic, political, environment and cultural sovereignty of the nation. Most importantly, such agreements are duly considered unconstitutional.

10. **An urgent demand is submitted to the government to accelerate its actions to provide necessary and urgent assistance and relief to workers affected both directly and indirectly by the Tsunami tidal wave in December 2004.** In concrete form, the Social Security Fund must immediately approve a special fund earmarked for emergency loans to affected workers, similar to the loan approval process granted to employers. At the same time, the Ministry of Labour and Social Welfare must adopt special measures to give serious assistance to affected workers, including strict and equal enforcement before the law.



11. The government must promote and support the setting up of pre-school childcare centres, specifically in industrial areas and worker communities. To accomplish this, specific legislation and adequate budget are needed, enabling labour and community organizations to meaningfully take up in the administration and management of such childcare centres in an active participatory manner.

The National Labour Day Organizing Committee.

The NLDOC-2005 was composed of representatives from 10 national labour centres mandated to organize the annual event with the blessing of a 1.6 million baht budget granted by the government. The NLDOC-2005 led the workers' march from the Royal Plaza near Parliament House to the Phra Meru Ground next to the Royal Palace. At the May Day rally, the Prime Minister was invited to give a speech inaugurating the event. For the record, this loosely organized NLDOC-2005 Committee submitted a 9-point demand as itemized belows:-

1. The government is requested to make amendments to the Labour Protection Act, B.E. 2541 (1998), specifically Articles 5 and 15, to ban the exploitative lump sum wage system.
2. The government is also urged to ratify ILO core conventions No. 87 and 98.
3. The government must do its utmost to amend the Social Security Act, focusing on Article 39, enabling workers to pay only one portion, instead of 2, as their contribution to the Social Security Fund.
4. The government is requested to make amendments to the Workers' Compensation Act, B.E. 2537 (1994), specifically Article 18 (1), to make it possible for any worker victimized by an occupational accident during working hours and forced to take sick leave to claim full compensation for the loss of wages while on sick leave.
5. The government is duly requested to revoke any income tax collected from all types of employment benefits provided by employer.
6. The government is also requested to revoke any income tax deducted from compensation money paid by employers when employees are discharged or terminated from employment, according to the Labour Protection Act, B.E. 2541 (1998).
7. The government is, in principle, urged to change the proportion of representation to a tripartite structure for every single committee, so that each party has equal numbers and voting right.
8. The government is hereby urged to amend the Contingency Reserve Fund Act, making it mandatory for all parties concerned to make contributions to it, while disbursements from the fund to contributors shall take the form of a pension plan.
9. The government is respectfully urged to take the necessary steps to introduce a course on labour as part of the general curriculum starting from Secondary School level and higher.

A point of observation can be made about the above set of demands submitted by the National Labour Day Organizing Committee. There are 3 points, where collaboration with other sectors of the labour movement can be identified:-

1. The demand that the government do away with the lump sum wage system.
2. Urging the government to ratify ILO core conventions No. 87 and 98.
3. The demand that the government make necessary amendments to Article 39 of the Social Security Act, making it possible for workers to contribute only one portion or one part of the share to the common fund.

(6) Mobilization to propose amendments to the Social Security Act.

The Thai Labour Solidarity Committee against Legislative Amendments without Transparency.

On May 18 2005, the Thai Labour Solidarity Committee (TLSC) submitted a protest letter to Mr. Sora-Arth Klinprathum, Minister of Labour and Social Welfare, demanding that the government stage a public forum for all concerned parties to participate and contribute to the overall efforts to amend the Social Security Act. This demand was based on the fact that the Office of Social Security, Ministry of Labour and Social Security, had, in several printed media, invited employers, employees and the public in general to contribute ideas and concerns about the possible legislative amendments. The forum had been scheduled for May 23 2005 without disclosing the proposed amendments to all parties concerned.



As a result of submitting the said demand to the Labour Minister on May 18 2005, the Office of Social Security was compelled to urgently organize a public forum to solicit ideas and comments from concerned parties on possible amendments to the Social Security Act. The venue was set at the Chao Phraya Park Hotel on May 25 2005, with approximately 150 participants attending.

Mr. Somboon Muang-Klam, legal advisor to the Social Security Committee, summarized the attempt to amend the current Social Security Act, which involved 45 Articles, and 30 core content items with key issues to be amended as listed below:-

1. With regard to the definition of “*disability*”, the qualifying phrase “*unable to work*” must be deleted to give insured workers more flexible grounds for claiming social security benefit.

2. In claiming unemployment benefits, workers 55 years old or older can draw old age benefit or become pensioners and shall not be entitled to any unemployment benefit. This is obviously unfair to insured workers. They should not be required to contribute their share of the contribution to the common fund once they have reached 55 years of age.

3. In the case of an insured worker or person qualified to claim benefit, but limited to only one (1) year starting from the first day of becoming qualified, the benefit must be extended to five (5) years, to be fair to the insured worker.

4. An insured worker or person shall not be entitled to any compensation due to accident, illness, disability or death, if this was a result of a self-inflicted act or an act of ill intent. The term “*death*” must be deleted so that benefit in a form of funeral expense and benefit for family members can be drawn.

5. As regards the rates of compensation, if an insured worker is entitled to insurance benefits from other sources, i.e., private insurance coverage, he or she shall receive a sum of compensation as determined by the Medical Committee. This is set as a preventive measure against any attempt to draw more benefit than necessity calls for. This is a matter of principle that no one should make any profit from being sick or ill.

6. In the case where an insured worker is entitled to claim compensation for old age, the law stipulates that the beneficiary shall be only legitimate offspring, husband or wife, or father and mother. To extend that, the law should be amended so that any other person can also be “beneficiary” if specified in writing by the insured worker to claim his/her old age pension.



7. In the case of unemployment insurance, if an employee resigns from his/her job on a voluntary basis, he or she is entitled to claim 30% of the benefit. An amended formulation is proposed to read “he or she shall not be a person who voluntarily resigned from employment”, in cases where a worker did not voluntarily resign from job or was forced to resign, for example:

- the employee was forced to sign a resignation letter in advance, when applying for the job; or
- the employee was forced to work in an unhealthy or unhygienic environment or in hazardous conditions, or his/her employer decided to relocate the workplace.

8. The Social Security Fund was originally established as one single common fund to provide due compensation to insured persons, but was later divided into 3 smaller common funds as categorized below:-

- Short-term fund;
- Long-term fund; and
- Unemployment benefit fund.

The reorganizing and restructuring of the Social Security Fund was to manage the fund in proportions according to international practice.

To maximize the benefit for Thai workers, the *Thai Labour Solidarity Committee (TLSC)* proposed the following amendments to the Social Security Act:-

1. To restructure the Social Security Fund Committee in a more meaningful way, democratically elected representatives of insured workers at all levels must have genuine participatory roles in the administrative and supervisory structure of the Social Security Fund Committee. In other words, genuine workers' representatives elected from the rank and file and from the shop floor levels must be in a position to truly represent and safeguard the hard-earned money of contributions to the Fund.
2. The Social Security Fund must provide extended benefit to cover not only the insured person, but also his/her family members as well, the same as the benefits granted to government employees and/or state enterprise employees.
3. Workers must have representatives on the Medical Committee to conduct on the spot qualification inspection of medical clinics or facilities.
4. The insured person as stipulated in Article 39 of the Social Security Act shall be required to pay only one portion of the contribution to the Social Security Fund.
5. In case of emergency, an insured worker shall be entitled to receive medical treatment at any hospital or clinic without having to pay for the treatment in advance and claim reimbursement at much later date.



6. As regards dental care and treatment, an insured person must be entitled to full coverage and benefit according to the actual cost and/or expense.
7. Social Security Benefit shall be extended to cover workers affected with HIV without discrimination.
8. In the case of an insured person who has never claimed any medical benefit, the Social Security Office shall grant him/her some form of special privilege as an incentive.
9. Article 78 of the Social Security Act shall be revoked due to unfair preconditions set for an insured person to draw unemployment benefit.
10. The Social Security Office must establish a special or contingency fund to provide necessary relief and assistance to workers affected by the Tsunami tidal wave in December 2004.

11. Social Security Benefit must be extended to cover workers employed in the informal sector and workers engaged in all types of occupation or employment, regardless of being hired by an employer or not, including workers in the service sector, free-lance workers, and self-employed persons including those employed in agricultural sector. This demand is aimed at creating a social welfare system deemed to be more responsive to the actual needs of working people.

In addition, the *Thai Labour Solidarity Committee (TLSC)* also filed a formal complaint against the Office of Social Security for accelerating its efforts to amend the Social Security Act in a non-transparent way. At the same time, the TLSC voiced its categorical opposition to any effort to hijack the Social Security Fund and combine it with the Health Insurance Fund. This formal written complaint was submitted to the Prime Minister as well as the Senate Committee on Labour and Social Welfare. Subsequently, many quarters and organizations took up the issue, bringing the issue to the public at large for further scrutiny.

(7) Demands for the improvement of social security benefits.

In 2005, several sets of demands deemed to be vital and urgent by a coalition of concerned organizations; the *Democratic Labour Alliance (DLA)*, the *Thai Labour Solidarity Committee (TLSC)* and the *Organizing Committee for National Labour Day*, decided to submit a proposal to the government on improving or granting more rights and benefits to insured workers within the framework of the Social Security System. The four (4) points of concern are described below:-



1. The unemployed or insured worker as stipulated in Article 39 of the Social Security Act shall be required to pay only one (1) portion of the contribution or only one flat rate of 192 Baht per person. The current rate of 432 Baht is considered too high by the labour force. The proposed new rate is calculated from the new calculation formula.
2. Childbirth Benefit shall be increased from 6,000 baht to 10,000 baht per child while doctor's fees for pre-natal care shall also be claimed as part of the maternal care and benefit.
3. Child/Dependent's Benefit shall be increased from 200 baht to 300 baht per month while Child Support, currently granted up to age 6 years, shall be extended to 12 years.
4. Medical benefit shall be increased and extended to cover not more than 2 children or dependants of insured workers.

As part of an on-going campaign on the above-mentioned improvements in benefits, on September 28 2005, the ***Thai Labour Solidarity Committee (TLSC)*** together with the ***Democratic Labour Alliance (DLA)*** duly submitted to the government a formal letter following up on progress in response to the demands presented on May Day of the same year. To enforce the position taken by the labour movement, the coalition also announced that workers would stage a huge rally on October 14, 2005 to take stock of what the government may have or not have done in response to the voice of labour movement.

On October 6 2005, the Minister of Labour and Social Welfare decided to organize a meeting with the administrators of the Office of Social Security to discuss the workers' demands for adjustments of social security benefits.

The subsequent results from the said meeting can be summarized as follows:-

1. Demand for Reduction of Worker's Share of Contribution as referred to in Article 39.

As regards the reduction of worker's share of contribution to one (1) portion or 360 Baht per month, it is allowed for only the first 4 cases. In case of pensioners, it is considered the pensioners' own saving, thus it cannot be reduced. Therefore, an additional contribution is required at the rate of 6% of the total wages, while the first 4 cases have to pay an additional 1.5% or an equivalent of 7.5 % of the basis wage of 4,800 baht

2. Maternity Benefit.

Previously, maternity benefit could be drawn at the rate of 6,000 baht per delivery. Now it is changed to the actual expenses incurred ***for both maternal care and delivery*** provided that the insured person arranges for maternal care and delivery at a specific hospital as specified in the Insured Person's Identification Card. If any insured person chooses to exercise her right and claim the benefit at any hospital not part of the medical network of the Office of Social Security, the insured person can draw the benefit at the rate of 6,000 baht only. This new scheme commenced from November 1 2005 onward.

3. Child or Dependent's Benefit.

Previously, an insured worker could draw the benefit for his/her child(ren) at only 200 baht per month per child. But now he or she can claim the benefit at 350 baht per month per child. However, the same condition is still imposed, that the benefit can be drawn for children up 6 years old. This new and adjusted benefit took effect from November 1 2005 onward.

4. Only two (2) Dependents Entitled to Medical Benefit.

According to an announcement made by the Minister of Labour and Social Welfare, the Ministry was committed first to conduct a comprehensive study based on facts and figures and all related data. It was aimed at creating a form of guarantee for the stability of the Fund as well as to ensure that insured persons and their family members would get the maximum benefits from this scheme. (Matichon Daily, October 7, 2005, p.15)

Regarding the above developments, *Mr. Pairoj Sooksamrith*, the Secretary-General of the Office of Social Security, offered his opinion on this effort: ***“Regarding the increase of benefits for the 3 categories, it is expected that between 860,000 to 1,000,000 people would benefit from this new scheme, where the Office of Social Security must increase the child benefit payments from 3,500 million to 5,500 million baht per annum, dental care and treatment payments from 230 million to over 300 million baht per annum, almost 600 million baht in total. Payments of maternal care and deliver benefits would also increase by 1,000 million baht, from 1,300 to 2,300 million baht in total. On top of this, in 2004 alone, there were 1.12 million insured persons claiming social security benefits, with 260,000 claiming maternity or delivery benefits and 783,000 claiming child or dependent benefits”.***

(8) Demand for extended social security coverage for workers in the informal sector.

One of the demands submitted on Labour Day 2005 was for the Government to extend social security coverage to workers employed in the informal sector as well as in the agricultural sector, in conformity with the policy set forth by the government under the leadership of Pol. Lt. Col. Thaksin Shinawatra and duly announced in Parliament on March 23, 2005. According to the policy on poverty alleviation, it was clearly stated that ***“social security benefits shall be extended to cover those employed in the informal sector as well as in the agricultural sector”***



In response to the point raised by the Thai Labour Solidarity Committee (TLSC), the Ministry of Labour and Social Welfare clarified that the Labour Protection Office had duly set up a Sub-Committee to study feasible extension of social security coverage to workers in the informal sector. This was part of the overall detailed preparation regarding appropriate formats, criteria, conditions and implementation to achieve the objectives. In addition, it was envisioned that public hearings and adequate public relations must also be conducted, ensuring that all concerned parties are accurately

informed and understand the issues and limitations. Initially, informal sector workers are by definition workers or people in employment earning income, but not an employer, who has not yet been granted due coverage or protection by the social security system. These workers can be classified into two (2) groups as below:

1. People earning income from doing work or being hired to perform any type of task but who do not have any regular employer, i.e., home-workers, people hired to produce certain products, seasonal workers (specifically those employed in agricultural sector) and workers hired to work on fishing trawlers, etc.
2. Freelance professionals in general, i.e., taxi or truck drivers for hire, agriculturists both working their own or rented land, street vendors or hawkers, beauticians, barbers, shoe-repairers, watch-repairers, grocery store owners, lawyers, physicians, etc.

According to the survey on the needs for social security benefit conducted in 2006 by the National Office of Statistics, it was summed up that there were approximately 24.9 million informal workers, with 23 million aged between 15-59 and 1.9 million aged 60 and older.



At the seminar organized on October 6 2005 for labour leaders and trade unionists, Ministry of Labour and Social Welfare and administrators of the Office of Social Security, the **Implementation Plan for Labour Protection and Social Security Benefit for Informal Sector Workers** was officially clarified as follows:

- Geographical area: Nationwide.
- Application: On voluntary basis.
- Contributions: One (1) Flat Rate across the board.
- Registration: To commence in October, 2006 (Depending upon the time required to complete the legislative process)

Nine Main Groups of Workers in the Informal Sector are listed below:-

1. Homeworkers.
2. Hired hands working outside their homes.
3. Worker employed in fishery industry or fishing trawlers.
4. Domestic workers.
5. Contract or subcontract workers.
6. Public vehicle drivers, i.e., motorized 3-wheel taxi drivers, truck drivers, motorcycle taxi drivers, regular taxi drivers.
7. Peasants and farmers engaged in rice farming, vegetable farming, fruit farming, produce farming, cattle raising, etc.

8. Professionals engaged in specific occupations are classified into 3 groups as below:-
- 8.1. Highly skilled professionals, i.e., engineers, architects, pharmacists, physicians, lawyers, etc.
- 8.2. Middle-level professionals, i.e., computer programmers, musicians, singers, performers or actors, etc.
- 8.3. Professionals with general vocational skills, i.e., tour guides, receptionists, beauticians, barbers, etc.
9. Others engaged in independent vocations, i.e. street vendors, hawkers, roving peddlers, etc.

Qualified Insured Persons:

1. Wage earner or income earner.
2. 15 years old but not over 60.
3. Not being an insured person of any current social security scheme.
4. Not being an invalid on the day of submitting the application.
5. Not being a severe case of contagious disease as classified by the Office of Social Security, i.e., tuberculosis at a dangerous stage, alcoholism, any type of serious illness requiring strict treatment or close monitoring and medical treatment or under life-saving procedures.

Six Types of Benefits are Available:

1. Illness or hospitalization.
2. Childbirth
3. Disability
4. Old age
5. Death
6. Dependant

**Alternative Package of Benefits and
Contribution Rates
Proposed by the Office of Social Security**

Package of Benefits	Rates of Contribution
Old Age	150 baht/month
Old Age & Death	200 baht/month
Illness, Disability & Child-Birth	200 baht/month
Illness, Disability, Child-Birth & Death	250 baht/month
Illness, Disability, Child-Birth, Death and Old Age	300 baht/month
Illness, Disability, Child-Birth, Death, Old Age & Dependant	350 baht/month

(9) Opposition to attempts to use the social security fund for investment in foreign countries.

Recent developments prompted grave concerns among beneficiaries of the Social Security Fund when the Social Security Committee approved in principle on September 9 2005, the proposal to use the Social Security Fund earmarked for old age benefits of not more than US \$200 million or about 8,000 million baht for speculative investment abroad. The Thai Labour Solidarity Committee (TSLC), together with other allied organizations, promptly reacted to this move by submitting a letter of protest opposing the idea to the Minister of Labour and Social Welfare.

In response, the Minister of Labour and Social Welfare called a meeting on October 6, 2005, attended by labour leaders and high-ranking officials from the Office of Social Security. The meeting was meant to clarify the issues with the mass media and concerned groups. Later, on May 4, 2005, a subsequent event was organized in the form of public seminar aiming at:

1. Clarifying the administration of the Social Security Fund.
2. Soliciting comments from insured persons.

It must be noted that among the attendants was the Minister of Labour and Social Welfare, who appeared to be very attentive throughout the meeting, and who finally stated publicly that such an investment scheme should be halted or shelved until the workers adequately understood the reasons behind it.

The rationale for the strong opposition expressed by the labour movement can be summarized as follows:-

1. The proposed fund for investment abroad should instead be used and managed as a loan fund available for workers, because after all it represents the hard-earned money contributed by workers themselves. Thus, workers should be the first to benefit from this fund, by giving the priority to loans to improve the quality of their lives. They would then not have to turn to high-interest commercial loans from financial institutions or, worse still, loans from numerous loan sharks, who charge illegal and astronomical interest rates.
2. Domestic investments can still be highly profitable with many forms of attractive investments, such as government bonds, saving deposits, stocks and shares of state enterprises now listed in the local stock market. In principle, investment from workers' hard-earned money and savings should not aim at maximum profit or highest return from investment as the sole objective or ultimate aim.
3. Foreign investments seeking huge interest from various types of investment funds carry the risk of political instability, turmoil or even intervention.

Having duly stated the abovementioned concerns, the National Tripartite Committee authorized to oversee the Social Security Fund was again closely scrutinized by workers, for lacking a true and genuine mandate of the majority of the workers throughout the country, since this committee was not democratically elected by workers from all trades and professions.

The following data on the management of the Social Security Fund was submitted by the Office of Social Security to trade union leaders, the Senate Committee on Labour, and the House Committee on Labour.

Basic Data: Proportionate Contributions made by Insured Persons to the Social Security Fund and the Accumulated Fund as of August 31, 2005.

(Note: The Accumulated Fund is from accumulated unused budget funds)

Benefit/ Compensation	Employer	Insured Person	Govt.	Accumulated Fund
1.Accidents/Sickness 2.Childbirth 3.Disability 4.Death	1.50%	1.50%	1.50%	Fund for the first 4 categories established in 1991, currently accumulated to 49,493 Millions Baht
5.Dependant Benefit 6.Old Age	3%	3%	1%	Fund for the two (2) additional categories started in 1999, currently accumulated to 252,720 Millions Baht
7. Unemployment	0.50%	0.50%	0.25%	Unemployment Benefit Fund started in 2004, currently accumulated to 9,738 Millions Baht
Total	5%	5%	2.75%	311,951 Mill. Baht

Decision-Making Structure for Investments

- The Social Security Act and the Office of Social Security set the objectives and criteria and oversee investments.
- The Social Security Committee sets policy on making investment with the SS Fund as well as its control on implementation so that it would be in line with its investment policy.
- The Sub-Committee on Investment Administration is authorized to screen investment proposals / projects and duly advise the Social Security Committee.
- The Office of Investment Administration (OIA) sets investment strategy and makes necessary strategic adjustments deemed most appropriate to changing investment conditions/environment within the policy framework.

Making investment abroad

The result of the studies conducted by the consulting firm, William M. Mercer, can be summarized as follows:

1. The Social Security Fund was obviously too big while Thailand lacked adequate or large enough investment opportunities for a fund of such an increasing size.
2. To invest solely in Thailand is considered unjustifiably risky. If another financial crisis occurred (as happened in 1997), such a huge fund would definitely be affected.

Put simply, 100 baht invested exclusively in Thai stocks or shares in 2004, would, by the end of the year, be reduced in value to only 87 baht. If the whole amount had been invested in foreign stocks or shares, the value would have increased to 112 baht. If the investment had been made in a risk-distributed way, investing 50 baht in Thailand and another 50 baht in foreign markets, the result or the return at the end of the year would be 100 baht.

As a result of the opposition mobilized by the leadership of the Thai Labour Solidarity Committee (TLSC), the Minister of Labour and Social Welfare eventually decided to shelve the idea of using the Social Security Fund to invest in foreign stocks.

(10) Struggle waged by Thai workers in Kao-hsiung City in Taiwan.

On September 7, 2005, a delegation from the Thai Labour Solidarity Committee (TLSC) paid a visit to the Minister of Labour and Social Welfare and duly submitted its grave concerns regarding the spontaneous riot staged by the Thai construction workers in Kao-hsiung City in the Republic of Taiwan. The angry uprising of Thai workers was reportedly caused by the oppressive working conditions to the point that Thai workers found insufferable with no choice but to take spontaneous action. This historic incident also brought public attention to the fact that there were only two (2) labour officials posted in Taiwan, an obviously inadequate level of staffing to serve and safeguard the welfare and interests of approximately 40,000 Thai workers there.

To tackle this problem, the Ministry of Labour and Social Welfare should adopt an urgent policy to address this pressing issue as recommended below:

1. The Thai government should urge the government of Taiwan to grant an amnesty to the Thai workers involved in the spontaneous uprising, and most importantly, to allow them to continue working there. This is basically due to the fact that the workers were still under employment contracts. In addition, most Thai workers earned only about 19,000 baht per month and had to save up enough to repay 200,000 baht commission to the recruitment agent. It is a known fact that every single Thai worker has to borrow this huge sum of cash to pay the commission before they could be sent to work in Taiwan.

As a result of the facts reported by the mass media in Taiwan, enough sympathy and support for Thai workers in Taiwan from the general public as well as the government of Taiwan led the authorities to decide to drop all criminal charges against the workers. It must be noted also that the Minister of Labour in Taiwan subsequently decided to resign from her post.

2. The government should conduct a thorough investigation and take legal action, both civil and criminal, against politicians accused of having been involved in unscrupulous labour recruitment practices. This is due to the fact that politicians or elected officials should represent and work for the best interests of the people, and not be involved in any type or form of modern day slave trade. In addition, any recruitment agency proved to be involved in sending Thai workers to the Republic of China to work under the extremely oppressive conditions that resulted in the riot, must be duly penalized without further delay, bearing in mind that the Thai workers had been living and working under enormous pressures and in substandard living conditions, i.e., inadequate living quarters, sleeping in rotating shifts in make-shift and overcrowded quarters, suffering in many forms of discrimination, and often treated inhumanely, as reported by the media.

3. The government or a competent agency should be fully authorized to handle the recruitment, screening and supervision of job placements abroad. The responsibilities shall include job training, placement and labour protection in a more proactive, efficient, comprehensive system

4. The government should seriously engage in negotiations with the government of Taiwan to allow Thai workers employed in Taiwan to organize and establish their own labour unions as a proper means of protecting their own labour rights and benefits to meet international labour standards and practice. If achieved, the tasks and responsibilities of the Ministry of Labour and Social Welfare can be reduced considerably.

The causes of the “Workers’ Riot” staged by Thai workers in Taiwan.

After the uprising in Kao-hsiung, Republic of China, the Ministry of Labour and Social Welfare compiled and published an official *“Report on Addressing Problems and Issues faced by Thai Workers in Taiwan”* and duly submitted this to the House Committee on Labour. The core content of this report covered the Thai labour force working for the *Kao-hsiung Rapid Transit Corporation (KRTC)* in Taiwan is described chronologically below:

1. On August 21, 2005, at around 22.00 hours, about 1,500 KRTC workers staying at the campsite at Kao-hsiung, Kangsan District, staged a spontaneous protest. As a result, the Camp Manager was assaulted and part of the camp was burned, forcing the Manager and some employees to flee the work camp. Meanwhile, about 80 Thai workers, who had just returned from their worksite, could not enter the work camp because the striking workers inside were throwing stones and other objects and barring people from entering.

2. According to the camp manager, the cause of this spontaneous uprising stemmed from violations of camp rules and regulations by a group of Thai workers drinking, smoking and using mobile phones in living quarters. When the camp manager ordered them to stop and called off the party, that particular group of workers instantly vented their anger by assaulting him. The angry workers then went on a rampage destroying camp property, i.e., breaking windows of the office building and mess hall, breaking light bulbs and torching some buildings in the campsite.

3. The subsequent inspection, investigation and interview with workers on the living conditions of Thai workers at the Kao-hsiung work camp revealed that *the employer had failed to pay adequate attention to the living conditions of Thai workers, namely inappropriate and inadequate living space, bad ventilation, insufficient toilets and showers and many other unhygienic conditions. These conditions had lead to the eventual protest and demand for the employer to make prompt improvements.*

4. On September 5, 2005, the Taiwan police began to question 18 workers allegedly involved in the camp riot, by questioning them 3 persons at a time in the presence of an attorney. All 8 denied any involvement in illegal acts, while one worker, Mr. Beng Kaewkong, admitted to throwing rocks at street lamps along the road in the camp. In this case, the police managed to produce a videotape recording him in the act.

5. On September 8, 2005, a progress report on the response to the set of demands submitted by the Thai workers there was filed and summarized as follows:-

- 7 demands had been met;
- 10 demands were pending action;
- 5 demands had not yet been acted upon; and
- 1 demand had to be responded by the employer, which was that *Thai workers shall not be arbitrarily sent home and any termination of employment contract shall be subject to prior fair screening from the Local Labour Authorities.*

In response to the demands, the employer formally announced that the Company shall manage the work camp in place of Hua Pan Company from October 1, 2005, onward. In addition, the 530 Thai workers shall be moved into a new work camp. Later on, representatives from the *Office of Trade and Economic Representative (OTER)* based in Taiwan visited the proposed new work camp and subsequently requested necessary improvements and additional facilities to meet the needs of Thai workers.

6. On September 26, 2005, a seminar was held on ***“Thai Labour in Taiwan - The case of Thai Workers Working for Kao-hsiung Electric Train Project”*** attended by the ***Committee for Thai Labour in Taiwan (CTLT)*** and representatives from ***OTER***, representatives of labour recruiting firms in Taiwan, representatives from the labour force, NGOs and academics. At the venue, a representative from Ministry of Labour and Social Welfare stated that the Ministry had from the start proposed that recruitment of Thai labour to work for the Kao-hsiung Electric Train Project should be done through a state-to-state system, but the employer decided to recruit Thai workers through both Thai and Taiwanese private recruiting agencies. Thus, the Ministry flatly denied any claims made by the Company to some mass media after the labour protest as baseless. The Company claimed that it had intended to hire Thai workers based on the state-to-state system, but some high-ranking officials at the Ministry in Thailand instead asked the Company to recruit Thai workers through private recruitment firms. Subsequently, when the Ministry of Labour and Social Welfare formally requested the Company to disclose the names of these high-ranking officials, the Company failed to identify such officials upon request.

Important actions taken by the Ministry of Labour and Social Welfare can be listed as follows:-

1. A labour inspector and his team were dispatched by the Ministry of Labour and Social Welfare to conduct necessary negotiations with the employer of Thai workers at Kao-hsiung as well as to liaise with competent local agencies to render appropriate assistance to Thai workers there. The results of this shall be duly submitted to the Cabinet for acknowledgement.

2. The Minister of Labour and Social Welfare subsequently appointed a committee to establish a system for supplying Thai labour to foreign countries. The two (2) key tasks are:

1) to scrutinize and structure the labour recruitment system for sending Thai workers abroad. This includes possible improvements or changes to rules, regulations and requirements, practices of both private and public agencies to modernize the system and to be fair and transparent; and

2) to scrutinize all the facts and figures regarding unfair exploitation and malpractice of numerous unscrupulous recruiting agencies, which have exploited Thai workers for many years.

3. Ministerial orders must be issued to all provincial labour offices to arrange with local post offices to distribute mail containing the telephone and fax numbers of local labour offices including the mobile phone numbers of competent local labour officers. This is to ensure that vital information will be extensively distributed to workers while workers would know how and who to contact for urgent assistance or to report any gross violation of labour laws.

4. The Employment Department shall conduct a necessary fact-finding enquiry on about 800 prospective workers previously scheduled to leave the country to work for the KRTC at Kao-hsiung in Taiwan. Their trip was suddenly cancelled because the licenses had been temporarily suspended for unscrupulous practices. These agents were subject to serious investigation if they were charged any kind of illegal and unjustifiable fees for arranging the trip. If proved to be true, the agents have to return such fees to each and every worker.

5. The Employment Department shall issue direct and urgent orders to the 3 recruiting agencies in Thailand responsible for sending Thai workers to Kao-hsiung to liaise with their counterparts in Taiwan to conduct necessary inspections and verifications on the disputes there. The 3 agents were under specific orders to rectify the situation for the Thai workers employed by the KRTC and report back without delay.

6. Ministerial orders shall be issued to Thai labour officials in Kao-hsiung to closely monitor the improvement of working and living conditions of Thai workers there. The Thai officials in Kao-hsiung were under specific instructions to provide necessary and timely assistance to the 18 Thai workers facing charges or accused of serious offenses and report back directly to the Minister of Labour and Social Welfare, the House Committee on Labour and the Prime Minister.

(11) Demand for the Thai government to ratify ILO Conventions No. 87 and 98

ILO Conventions No. 87 on the Right to Association, 1948, and No. 98 on the Right to Collective Bargaining, 1949, are the two (2) key ILO conventions which the labour movement in Thailand has been demanding the government to duly ratify for more than 10 years. A documented survey of demands submitted on previous labour days, from at least since 1992 up to present, there has been a consistent demand for the Thai government to duly ratify the said two conventions.



In response to the demands submitted for many years on May Day by the labour movement, the Ministry of Labour and Social Welfare in 2005 has come up with a written response clarifying and summarizing the pending issues, limitations and differences in ideas and conceptual framework adopted by the competent agencies and employees due to followings:-

1. The Department of Welfare and Labour Protection is still in the process of submitting the results of studies to the Ministry of Labour and Social Welfare, which in turn would subject it to the scrutiny and screening of a special committee on the two ILO Conventions. This committee is entrusted with the task of prioritizing the ILO Conventions, which Thailand should ratify.
2. Concerned parties (namely employees, employers, state enterprise employees, government employees and the members of general public) still lack the necessary understanding of the aforementioned ILO Conventions. It is thus deemed most appropriate to publicize them or to educate concerned parties by disseminating information in various forms, ensuring that all concerned parties acquire the necessary knowledge, understanding and due consideration for the possible impact on the public in general.

3. Relevant laws enforced in Thailand still have some legal provisions which are not yet in full compliance with the principles adopted for the said ILO Conventions. It is thus imperative to assign competent agencies to scrutinize and review all related legislation, in order to seek ways and means to adopt the most appropriate measures to amend any act to be in compliance with the two ILO Conventions. Most importantly, any eventual legislative amendments must take into account the concrete situation and the security of the nation.

Considering the position and conceptual framework of the Ministry of Labour and Social Welfare, existing labour relations legislation, and the concept and content of the two key ILO Conventions No. 87 and 98, the differences in perspectives and preparedness to ratify the said conventions can be stated as follows:-



Labour Relations Legislation and the Provisions of ILO Conventions No. 87 and 98.

A comparison of the two ILO Conventions with the two (2) labour laws currently still in effect; the *Labour Relations Act, B.E. 2518 (1975)* and the *State Enterprise Relations Act, B.E. 2543 (2000)*, indicates that some provisions and scope of enforcement are not compatible as identified below:

1. In terms of scope of enforcement, Thai labour relations laws are applicable to only those employed in the private sector and state enterprises.
2. The right to organize under Thai labour relations laws is subject to legal provisions permitting Thai government to intervene in the following cases:
 - (1) Restrictions on the qualifications of labour organizers and the right to organize.
 - (2) Strict legal provisions requiring “labour unions” or “employer associations” to be legally registered with the authorities.
 - (3) Strict legal requirements on the minimum number of Union Rules and Regulations in order to qualify for proper registration.
 - (4) The Registrar is fully authorized to exercise his/her authority in expelling any democratically elected union official or any official of an employer association, including the authority to order the dissolution or suspension of activities of a union or employer association.
 - (5) The status as a legal entity of an employer association and employee association is subject to formal approval of the Registrar and certification issued accordingly.
 - (6) Penalties and legal actions can be imposed on strikes called by workers or their union.

Key Issues of Concerned for the Ministry of Labour and Social Welfare.

ILO Convention No. 87 is deemed to problematic for the Ministry of Labour and Social Welfare for the reasons below:

1. Labour rights to be granted to foreign workers in Thailand.

In considering possible ratification of ILO Convention No. 87, prudent consideration must be given to a provision that foreign workers employed in Thailand shall enjoy the rights and legal protection granted by this particular convention. The question is whether or not the granting of this right to foreign migrant workers shall invite negative repercussions on national security, or the socio-economic and political stability of the country. Especially, within the context of present free trade era, it is expected that ratification of ILO Convention No. 87 would attract more foreign workers to the Kingdom of Thailand. There are particular concerns about a growing influx of foreign workers leading to foreigners taking full advantage of the situation in terms of trade, business, investment and other vested and/or veiled interests not within the legal framework of labour right and benefits.

2. The right granted by the said ILO Convention for public sector employees to organize.

The key issue is the preparedness and readiness on the part of the government and competent agencies to grant the right to organize to all those employed by government agencies and/or state enterprises, taking into account the following rules and regulations on the public administration of the country.

- (1) Regulations on the central administration, meaning those employed in ministries, bureaus, departments, etc.
- (2) Regulations on provincial administration, meaning those employed at the provincial and district levels.
- (3) Regulations on local administration, meaning those employed by provincial administrations, municipalities, sanitary administrations and other local administrative bodies as stipulated by law.

In addition, ILO Convention No. 98 also poses some problems as described below:-

1 Preparedness and feasibility in granting the right to organize and to collective bargaining to those employed in the public sector. Within this context, the term “public servant” adopted in this particular convention covers an extensive and wide range of workers, including government officials, bureaucrats, government employees and every single worker employed by a government agency, independent agency, public institution and other types of organizations classified as state agencies.

2 This convention does not cover “officials authorized to provide state services”. This must be subject to careful consideration for proper and accurate understanding of the term. More importantly, each and every state agency must have the same understanding of the term, especially with regard to the scope and extent of the term, who is covered and up to what levels, etc.

Results from seminars and conferences conducted on the issue.

Starting from fiscal year 2003-2004, the Department of Welfare and Labour Protection duly organized a series of public seminars on the issue, aiming at dissemination of knowledge and understanding of the pending issues, while soliciting ideas and comments from labour groups and organizations. As a result, comments and concerns expressed by various labour groups and organizations have been summarized. At the same time, it has noted that grave concerns expressed by government agencies and competent officials appeared to be quite different from the views expressed by the labour movement regarding the long overdue ratification of the two ILO Conventions as categorically described below:-

Labour perspective and position on the issue

1. The government must ratify the ILO Conventions, so that the government is in full compliance with the said 2 conventions. Once a state-party to the said conventions, the government would have to change the legislative framework and make appropriate amendments to a number of labour laws to be in full compliance with and consistent with the ILO Conventions.

2. As far as the labour movement is concerned, legislative amendments are too time-consuming, and even ministerial rules and regulations also take too long to achieve. To wait for Thailand to be ready and prepared for the necessary changes, workers would have to wait for decades to be blessed with the rights to organize and to collective bargaining at par with international labour standards.

3. The government must endorse the workers' version of the new Labour Relations Act, B.E. based on the fact that this draft is consistent with the ILO Conventions No. 87 and 98 granting right to right to organize and collective bargaining according to the internationally recognized principle.

Perspective of the Public Sector

1. To grant workers or employees in the public sector the right to organize and to collective bargaining is a huge task and big issue, simply because it would affect the overall organizational structure of personnel management and require systematic changes to the rules and regulations of the entire bureaucracy. On top of this, every single law governing public administration must be amended accordingly, which is extremely difficult and, even if possible, could not be accomplished within the foreseeable future.

2. On the whole, government officials, employees and those working for various government agencies or the public sector have not yet been informed of the principles and conceptual framework for granting the right to organize and to collective bargaining. Moreover, they have never made any demand for such rights. It has never occurred to them that government officials or employees of government agencies should be allowed to organize as a labour union to demand and engage in any type of collective bargaining and call for a strike. Identifying themselves as part of the government bureaucracy, strikes, demands for higher wages and collective bargaining with employers would only create public confusion, social disturbance and economic hardship to the people. On top of this, they consider themselves as enjoying a higher status than employees in the private sector or workers in general, for they seem to be happy with their own rules and regulations and act accordingly.

3. Those workers demanding that the government ratify the two ILO Conventions are acting in their own self-interest without due regard for the impact on all other sectors of society, particularly those employed in the public sector.

4. Allowing foreign workers to enjoy the rights and liberties of organizing labour unions or to have the right to association might be a threat to the national security and the public peace and order of the country.

(12) Closing of ranks to demand for the total elimination of the lump sum wage system.

On May Day 2005 at the Phra Meru Ground next to the Temple of the Emerald Buddha right in the heart of Bangkok, Prime Minister Thaksin Shinawatra delivered his speech for the occasion. This said, in part:

“Regarding those of you, who have demanded a ban on the sub-contracting system, allow me to tell you that in this new world era, we adopt the term “outsourcing”. That is we assign some part of the production work to sub-contractors or subcontracting companies. The actual method is to assign some parts of the production to other production units belong to other companies, but not to another production line set up in the same factory. In such a case, we call it “zigzagging” to avoid the laws. We must “stretch or straighten it” it to deal with such a practice. Keeping in mind that outsourcing is not zigzagging because they are totally different methods. So the Ministry of Labour and Social Welfare must have a clear policy and take a clear position to differentiate outsourcing from zigzagging so that we would not have to amend the laws. We should be able to talk and convince people to do the right thing, if they understand it, they would understand it. But if they don’t, they don’t, period. Therefore, we shall not any more tolerate this type of zigzagging”

The Labour Protection Act, B.E. 2541 (1998), Article 5 (3), stipulates that an entrepreneur hiring employees with a lump sum wage system, by assigning any individual or company to supervise the production and to be responsible for paying the wages to workers, or assigning one or more agents to recruit workers without being legally registered as a recruiting agency to work in a production line or any part of the production process or engaging in any type of business considered to be part and parcel of the entrepreneur, shall be considered as being an entrepreneur functioning as employer by the said legal definition.

In addition, the Ministry of Labour and Social Welfare has attempted to address the problems by proposing a legislative amendment and have come up with a Labour Protection Bill, B.E.(No.....) as cited in part below:

“Article 12/1: In the case of an entrepreneur having assigned any individual to recruit workers to engage any type of work, without being an employment or job placement agent, to work in any part of the production process or assembly line or in any part and parcel of the business under the responsibility of an entrepreneur, by which the said individual assumes a supervisory role over the workforce regardless of being responsible for the payment of wages or otherwise, shall be construed as an entrepreneur who hires workers to work for him/her”

The same Bill also stipulates:

“The entrepreneur shall equally treat employees as referred to in the first paragraph and employee under direct hiring contract, excepting only if by nature and condition of work to be performed do not allow employer to treat them as such”

During 2005, the Working Committee for Labour Protection against the Lump Sum Wage System of the Law Society, in close collaboration with a coalition of labour unions and labour federations, jointly organized a special seminar to address the pending issues of unfair labour practices, violations of labour rights and possible solutions for workers hired under lump sum wages. Later on, a series of meetings on the subject was held in Bangkok, Chonburi, Nakhon Pathom and Saraburi provinces. Consequently, a plan of action was adopted to submit a set of demands to the Prime Minister, Minister of Labour and Social Welfare, and governors of provinces where such practices were deemed to be rampant. It is noted that the Regional Office of ILO in Bangkok was also informed of this activity.

On August 20, 2005, the Ministry of Labour and Social Welfare staged a tripartite conference for the *first time* on “*Addressing the Issue of the Lump Sum Wage Practice*” at the Emerald Hotel in Bangkok with about 300 people attending.

Also, the Thai Labour Solidarity Committee (TLSC) organized a huge conference attended by representatives of many labour unions on Sunday, November 20, 2005, essentially to follow-up on the progress and development of efforts by the government to tackle the problem of the lump sum wage system. At the conclusion of the conference, the conference participants decided to march to Government House and stage a rally in front of it.

In principle, the TLSC does not agree with the draft Labour Protection Bill, No.....,B.E. Thus, it decided to submit a formal request to the Prime Minister urging him to revise the said draft legislative for it would not address the issue of lump sum wage system currently affecting many workers. The concern was based on the fact that the lump sum wage contract is normally related or linked to the employment contract concluded between the lump sum wage contractor and the management of the workplace as well as the contract made between the lump sum wage contractor and recruited workers or employees. These contracts were obviously responsible for the unfair labour recruitment affecting many rights and fringe benefits, the right to organize, the right to collective bargaining and job security as categorically described below:

1. Workers hired under this scheme are grossly denied rights and benefit they would enjoy if hired directly by the entrepreneur operating the workplace. Despite the fact that they are hired to work in the same workplace and perform the same or similar type of work or even in the same assembly line, they are not entitled to the same benefits as those hired by the same management. The only argument is that subcontracted workers are not classified as employees of the entrepreneur but rather employees of the lump sum wage contractor.

2. These workers are not legally qualified to exercise their rights to organize and to collective bargaining, simply because they are classified as lump sum wage earners. If they wish to organize and establish their own union or to engage in collective bargaining together with other workers employed to work in the same factory, they would be transferred to work in other workplaces as clearly stated in their contract made with the subcontractor.

3. Lack of job security is another key issue of great concern, simply because the lump sum wage subcontractor has concluded an agreement with the management of the workplace with a fixed period of employment, for example one (1) year contracts. Thus, the contract must be concluded with a maximum of one (1) year. Under these unfair conditions, whenever the management of workplace decides to get rid of any workers hired through the subcontractor earning a lump sum wage for whatever reason, the said workers would immediately be sent back to the subcontractor without any issue to be discussed. Once this has happened, the subcontractor would place them to work in other factory designated by the subcontractor. Any worker who is not prepared to work in a new workplace as re-assigned, would be forced to resign.

4. There are repercussions on workers at the same workplace and the impact on the house union. Apparently, the bargaining power of the house union would be drastically undermined due to complicated arrangements regarding hiring practices through subcontractors for the same workplace. Under the subcontract system, employers or operators of the workplace can hire as many as subcontracted workers as he/she deems necessary without any standard obligations and commitments. Meanwhile, the regularly employed or full-time workers employed directly by the management of the workplace and/or the rank and files shall be reduced or, if lucky, be maintained at the same numbers. It must be noted that having two different types of workers enjoying different rights and benefits in the same workplace undermines any union attempt to consolidate their common position to wage the same struggle for the same rights and benefits.

5. Arrangements between subcontractors, employers and entrepreneurs can conveniently cut labour costs, production costs and management burdens without having to consider a fair and just recruiting and hiring method.

6. Many subcontractors publicly advertise that hiring workers through their agencies, the employer would be free from encountering any case where workers decided to organize and submit their demands. With the help of such a subcontracting system, the employer or management would be free from strikes, problems stemming from layoffs, payment of compensation, supervision as well as imposing penalties on workers. In fact, many of these claims are illegal practices and contravene international labour standards to which Thailand is a state-party. Actually, hiring through subcontractors can only invite more violations of labour codes, e.g. any sick leave would need formal approval of the supervisor; pay would be deducted in the case of business or personal leave; and even sick leave or minor violations of the rules would call for a pay reduction. Another point of concern is when the employer fails to submit the full and proper sum of workers' contributions to the Social Security Fund via the Office of Social Security. As a result, workers were unfairly denied full benefits or compensation to be drawn from the Social Security Fund or Unemployment Benefit Fund, etc.

When a formal letter, expressing grave concerns on this particular issue, was submitted to the Prime Minister at the Ministry of Labour and Social Welfare on November 24, 2005, the Prime Minister himself confirmed that fact that the lump sum wage system was highly exploitative and taking too much advantage of workers. Cases where companies or employers decide to avoid legal obligations by setting up a company to recruit workers on subcontract basis for the purpose of cutting labour costs are deemed to be clear cases of inhumane practice against workers to be totally abolished.

(13) Closing chapter of the protracted demand to establish an Institute for Occupational Health and Safety and Environment in Workplaces.

The Establishment of an Institute for Occupational Health and Safety and Environment in Workplaces Bill was drafted by a committee representing almost hand-picked concerned parties, and was completed since June 1998. The Drafting Committee was actually appointed by the Ministry of Labour and Social Welfare and composed of representatives from selected concerned parties, namely the Council of Employers' Organizations (CEO), the Industrial Council of Thailand (ICT) and the Office of Social Security (OSS) of the Ministry of Labour and Social Welfare (with a great deal of time and efforts wasted during the process of selecting and appointing members of the Drafting Committee). Representation on the said Drafting Committee was based on four (4) criteria as specified below:-

1. Representative(s) from organization or agency with independent administration, but under the direct supervision of the Ministry of Labour and Social Welfare.
2. Representative(s) from organization or agency mandated to place great emphasis on the comprehensive program on prevention and protection of occupational health and safety in the workplace, covering prevention, treatment and rehabilitation, compensation and on-site inspection.
3. The proposed OHS Institute shall adopt a participatory approach and principle in the management of the Institute based on a quinpartite system representing employers, employees, government, workers affected by OHS at workplaces, and academics or experts.
4. The tasks and responsibility of the current OHS Institute and the Workmen's Compensation Fund (WCF) shall be transferred to this new Institute (yet to be established).

At this point in time, we may conclude that the government has denied any possibility of establishing a genuinely mandated Occupational Health and Safety agency based on the conception of workers. This observation is based on the actual process of drafting and submitting the Draft Occupational Health and Safety and Environment in Workplaces Bill, B.E....., which the Office of Judicial Council (OJC, or the Council of State) had already scrutinized and screened since the beginning of 2005.

In fact, the OJC has combined and merged the content of the two (2) proposed bills:

- One from the joint collaborative efforts of workers' organizations, with the specific stipulation that the Workmen's Compensation Fund shall be transferred to this new organization within five (5) years of this law coming into force;
- The other from the draft Occupational Health and Safety and Environment in Workplaces Bill, B.E., which is the draft based on the Cabinet Decision adopted on August 13, 2005.

In addition, attempts had also been made to solicit ideas, comments and recommendations from the National Advisory Board on Social and Economic Development (NABSED), the Industrial Council of Thailand (ICT) and compile them for further consideration and action to be taken by respective concerned government agencies.



As regards comments on the proposed Draft as duly submitted to the Cabinet for approval, the Workmen's Compensation Fund under the present admin-management of the Department of Welfare and Labour Protection, the Ministry of Labour and Social Welfare, is deemed to be most appropriate. Thus, to transfer the Workmen's Compensation Fund to be under the supervision and control of the proposed Institute for Occupational Health and Safety and Environment in Workplaces would grossly contravene the aims, objectives and original intent of the Fund. Therefore, it would seem to be more appropriate to allocate some part of the interest earned annually from the said Fund for the purpose of supporting activities to be carried out by the newly proposed Institute for Occupational Health and Safety and Environment in Workplaces. It can even be designated and managed as an evolving fund for the Institute.

It must also be noted that the draft Establishing Occupational Health and Safety and Environment in Workplaces Bill, which has been subject to due scrutiny of the Office of Judicial Council (OJC or the Council of State) includes Article 52 which states: "An Institute for Occupational Health and Safety and Environment in Workplaces shall be directly established by virtue of a Royal Decree as stipulated in the Public Organization Act", which is mandated to promote and address issues and problems regarding safety in workplaces, developing and supporting any efforts to promote and establish Occupational Health and Safety standards. This effort shall also be made in close collaborations with other agencies involved in Occupational Health and Safety and Environment in Workplaces, both public and private agencies.

To urge the government to work towards the eventual promulgation of a Royal Decree on the establishment of such a Public Organization, an Institute mandated to promote Occupational Health and Safety, would mean the aforementioned Workmen's Compensation Fund (WCF) would never come under the auspices of the newly proposed institute. Recognizing the fact that this new and proposed institute has to assume the role of supporting and promoting due cooperation to address issues involving Occupational Health and Safety without assuming any role of labour protection and inspection or enforcing any relevant labour laws. Also, the management of this proposed Institute is tripartite in structure.

The Ministry of Labour and Social Welfare has subjected the said Draft to careful scrutiny and has already submitted its comments to the Office of Judicial Council (or the Council of State) on March 16, 2005. Presently, the proposed legislature is still pending due process before passing on to the House Coordinating Committee on Parliamentary Affairs prior to final submission to the House of Parliament.

(14) Total failure in the demand for a minimum wage of 233 baht per day

On May Day 2005, the Thai Labour Solidarity Committee submitted a set of demands to the Prime Minister at the Ministry of Labour and Social Welfare. Labour leaders seized the opportunity when the Premier presided over a meeting of officials at the permanent secretary level at the Ministry of Labour and Social Welfare on November 24, 2005. The TLSC submitted a 2-point demand to the Prime Minister as cited below:-

1. The government must adopt international labour standards promoted by ILO.
2. The nation-wide minimum wage must be 7,000 baht per month or 233 baht per day to be consistent with the latest salary scale adjustment for civil servants in full compliance with the policy set forth by the Prime Minister as well as equal respect for human dignity.

On this occasion, the Prime Minister responded by saying that the Minimum Wage needs to be adjusted gradually because if adjusted too much it may have repercussions on employment and some businesses may not survive. We should strike a balance so that all parties can co-exist. The National Wage Committee is mandated to handle the issue.

The Wage Committee of the Ministry of Labour and Social Welfare also responded to the demands of the labour movement submitted on May Day to raise the minimum wage to 233 baht per day and to act in full compliance with ILO standards as described below:

1. The Labour Protection Act, B.E.2541 (1998) stipulates that the National Wage Committee, a tripartite body representing employers, employees and government appointed by Cabinet Resolution, shall have the power and duty to set minimum wages for different part of the country. The main objective of setting minimum wages in Thailand is to provide due protection for unskilled workers entering into labour market for the first time, ensuring that they receive sufficient wages to live on. These workers are mostly young and single as opposed to married ones who have worked for a number of years and have acquired skills and experience. In principle, workers should be given due consideration for wage adjustment on an annual basis, based on the development of their skills and productivity.

2. ILO Convention No. 131 on Minimum Wage Fixing requires that any state-party must set a minimum wage system for various groups of wage or income earners deemed to be most appropriate with due consideration of the basic needs of *the wage or income earner and his/her family, financial capacity of employer, level of socio-economic development of each country, etc.*

Despite the fact that Thailand has not yet ratified this particular ILO Convention, Thailand has attempted to apply the criteria and principle to the labour situation in the country. Subsequently, three (3) categories have been set to comply with the ILO principle as listed below:

1. Basic Needs of Employees (Cost of Living Index, Inflation Rate, Living Standards and Consumer Price Index).
2. Financial Capacity of Employer (Production Costs, Business Capacity and Labour Productivity).
3. Overall Social and Economic Situation (Gross National Product and socio-economic conditions) shall be duly considered on a province-by-province basis together with the overall socio-economic development of the country. This is due to differences in the cost of living and socio-economic development of different provinces.

3. It is not possible to set a minimum wage based on *data of the basic cost of living of employees* alone, but also the financial capacity of employers and the overall socio-economic situation of the country. Nonetheless, the National Wage Committee has attached great importance and given more weight to the cost of living of employees than other factors, simply because if the minimum wage adjustment was too high, it would inevitably affect the wage scale for workers employed more than 1 year. It would also affect the cost of living, which is likely to rise sharply. Eventually, the people would bear the consequences and the competitive position of Thailand in the world market would also be affected.

4. As regards the demand to adjust the minimum wage of workers to be not less than 7,000 baht per month, the lowest salary scale of civil servants, on the principle of equal value and human dignity, the Ministry takes a clear position by stating as follows:

As of May 2005, a worker employed by a government agency with educational qualification of Mathayom 6 (Secondary School Graduate) earns a salary of 4,640 baht only.

Civil servants/government employees with a vocational certificate (Por Wor Chor), recognized as semi-skilled workers, earn a salary of 5,260 baht per month.



The lowest pay scale for civil servants and government employees with Bachelor Degree is 7,266 baht per month.

Comparing the above-mentioned pay scale with the current minimum wage of 175 baht per day for workers in Bangkok and vicinity or 4,500 baht per month (175 baht x 26 days), this minimum wage is almost the same as the salary earned by civil servants and government employees with secondary school qualifications.

However, the economic situation indicates that the cost of living and prices of basic consumer goods have increased due to cost of fuel and raw materials, etc. This higher cost of living has actually forced workers to mobilize and put pressure on the government to accelerate its efforts to consider wage adjustments. This is basically why in 2005, the National Wage Committee decided to announce new minimum wages twice. The first adjustment was announced on July 18, 2005, and based on the decision and approval of minimum wage adjustment as follows:

Effective since August 1, 2005, the minimum wage was raised by 2 to 6 baht a day, with the one exception of Narathiwat province in the South where the minimum wage remained at 139 baht a day. The only province with an increase of only 2 baht a day is Amnat Charoen province, from 139 to 141 baht a day, while most provinces enjoy a raise of 3-5 baht per day (see New Wage Adjustment Chart announced on August 1, 2005).

Later the National Wage Committee called a meeting on November 28, 2005 and subsequently approved a new Minimum Wage Adjustment Chart, effective from January 1, 2006, raising the daily minimum wage by 1 to 3 baht per day for workers in 17 geographical areas as listed below:-

- (1) 184 baht for Bangkok, Nakhon Pathom, Nonthaburi, Pathum Thani, Samut Sakhon and Samut Prakan provinces.
- (2) 181 baht for Phuket province.
- (3) 166 baht for Chonburi province.
- (4) 163 baht for Saraburi province.
- (5) 158 baht for Nakhon Ratchasima province.
- (6) 155 baht for Chiang Mai, Phang-nga, Phra Nakhon Sri Ayutthaya, Ranong and Rayong provinces.
- (7) 153 baht for Chachoengsao province.
- (8) 151 baht for Krabi, Kanchanaburi and Lopburi provinces.
- (9) 150 baht for Chanthaburi, Phetchaburi and Samut Songkhram provinces.
- (10) 148 baht for Ang Thong and Trang provinces.
- (11) 147 baht for Prachuab Kiri Khan, Prachinburi, Rajburi, Sa Kaew and Singburi provinces.
- (12) 145 baht for Chumphon, Trat, Lampang, Lamphun, Suphanburi, Sukhothai and Udon Thani provinces.
- (13) 144 baht for Kalasin, Khon Kaen, Nakhon Phanom, Nakhon Si Thammarat, Narathiwat, Buriram, Pattani, Yala, Loei, Songkhla, Satun and Nong Khai provinces.
- (14) 143 baht for Kamphaeng Phet, Tak, Nakhon Nayok, Nakhon Sawan, Patthalung, Phitsanulok, Phetchabun, Surat Thani and Uttaradit provinces.
- (15) 142 baht for Chainat, Chaiyaphum, Chiang Rai, Mahasarakham, Mukdahan, Yasothon, Roi Et, Si Sa Ket, Sakon Nakhon, Nong Bua Lamphu and Uthai Thani provinces.
- (16) 141 baht for Phichit, Mae Hong Son, Surin, Amnat Charoen and Ubon Ratchathani provinces.
- (17) 140 baht for Nan, Phayao and Phrae provinces.

Section 2

Summary of Core Content of New Labour Laws promulgated in 2005

1. Core Content of the Ministerial Announcement on Hourly Minimum Wage.

The Ministry of Labour and Social Welfare duly issued a Ministerial Announcement on Hourly Minimum Wage, dated May 9, 2005, *effective May 18, 2005, at the rate of 25 baht per hour* with the core content as follows:-

1. Hourly minimum wage at 25.-baht per hour.
2. Scope of enforcement covers pupils and university students employed on part-time basis.
3. Minimum age of students to be employed part-time at 15 years.
4. Part-time employment permitted for students shall be considered safe and free of risk as below:
 - (1) Merchandising and customer service.
 - (2) Marketing research.
 - (3) Restaurant or food shop.
 - (4) Department store.
 - (5) Service assistant in convenience store.
 - (6) Stock and inventory.
5. Limit of working hours:
 - During regular school term not more than 4 hours per day.
 - During school recess between school terms not more than 7 hours a day.

2. Core Content of the Ministerial Announcement on Criteria and Procedures for Health Examination of Employees and Submission of Report to Labour Inspector, B.E. 2547 (2004)

By virtue of Articles 6 and 107 of the Labour Protection Act, B.E. 2541 (1998), the Minister of Labour and Social Welfare duly issued a Ministerial Decree on “*Criteria and Procedures for Health Examination of Employees and Submission of Report to Labour Inspector, B.E. 2547 (2004)*”, publicly announced on December 29, 2004, and *effective as of April 13, 2005*.

This Ministerial Decree aims at providing proper labour protection regarding the health of workers by requiring that the employer shall arrange for adequate health inspections and examinations as part of the overall monitoring and prevention of occupational health and safety cases. Once any conditions hazardous to health are found and filed, the employer is under an obligation to immediately arrange for medical examination and treatment. Also the employer must investigate and identify the causes and take preventive measure against any spread of such disease. The following are strict procedures required by law:

1. Criteria and Physical Examination Procedures for Employees.

1.1 Types of employee requiring mandatory physical examination.

Legal provisions require that employer shall arrange for proper physical examinations for employees working under hazardous conditions as categorized by the said Ministerial Announcement as itemized below:

1.1.1. Dangerous chemicals as specified and in the Ministerial Announcement

1.1.2. Poisonous microbes, which may be viruses, bacteria, fungi or other biological substances as determined by the Ministerial Announcement.

1.1.3. Radioactive substances or materials.

1.1.4. Extreme heat, refrigerated or extremely cold working spaces or workstations, pressurized conditions, extreme exposure to light, sound or other working conditions deemed to be hazardous and dangerous to workers as determined and specified in the Ministerial Announcement.

Based on the above-listed conditions, other employees, whose functions are not related to the above 4 categories, such as administrative staff, management personnel, accounting staff, finance staff, etc. are exempted from mandatory health examinations as required by the Ministerial Announcement. Thus, any hospital or company qualified to provide such medical or health examinations must have an Occupational Health and Safety Specialist or Safety Officer of the workplace to determine and formulate proper plans for health examinations relevant with risk factors and working conditions, under which each employee has to work.



1.2 Qualifications of Physician

This particular Ministerial Announcement sets the qualifications of physicians who conduct physical examinations and check the health conditions of workers, as practitioners of modern medicine, 1st Class, with qualifications in occupational and safety science. These qualifications are deemed necessary for conducting physical

examinations, risk assessments and offering medical opinions on the health condition of workers, as to whether the job and physical environment of the work area or workstation are appropriate or to what extent a worker would be affected by such working condition.

1.3 Scheduling for Physical Examination.

This Ministerial Announcement sets a systematic schedule for physical and health examinations for employees working under risk factors, as a monitoring and preventive scheme against any occupational health hazardous and disease.

2. Health Examination Records.

The employer is required to arrange for and keep proper records of health examinations on employees as specified below:

2.1 Only the physician conducting physical or health examinations of workers shall record the results of such examinations.

2.2 The **Health Status Book** for workers shall be produced by employer according to the form and size set by the Director General. At each visit for physical examination, the physician shall record the results and medical opinions in the Health Status Book.

2.3 The medical examination results and related data on health status of workers shall be kept by employer at his/her office, readily available for inspection at all times upon request of the Labour Inspector. Such vital records must be systematically conserved for at least 2 years starting from the day employment is terminated. An exception is made in cases of formal complaints filed or court decisions on disputes regarding health status or condition of workers. In such a cases, employers must maintain the records under ordered otherwise or the court case has come to a conclusive end.

3. **Notification of Health Examination Result.**

The employer is under an obligation to duly inform his/her employee of the results of physical or health examination according to the following timeframes:-

3.1 When the health examination shows negative results or a health condition is detected, the employee must be properly notified within 3 days, starting from the day employer is informed of the examination result.

3.2 When the result of a health examination is normal, employer shall inform his/her employee within 7 days from the day he/she is informed of the result.

(Health Records are considered strictly confidential, thus notification shall not be posted or disclosed publicly, but has to be made in a private setting or personally informed and has to be accurately dated).



4 When properly informed of the negative health condition of an employee or a case of an occupational health condition, the employer shall be obligated to take proper course of actions as described below:

4.1 Arranging for immediate or urgent medical attention and treatment.

4.2 A serious investigation to positively identify the real cause and take necessary preventive measures.

4.3 Prompt submission of the results of the health examination or medical records of treatment together with preventive measures to the competent Labour Inspector as attached to the Official Form as set by the Director General within 30 days, starting from the day of acknowledgement of the medical condition or the occupational health case of an employee. The report shall only cover cases where medical examiners have clearly identified as abnormal conditions or clear occupational health problems.

5. Reassignment of employees issued with medical certificate.

When an employee is issued with medical evidence or a certificate issued by a government hospital or any medical clinic certified by the government proving that he/she is medically unfit to continue working at the same workstation or same type of job, the employer shall be obligated to reassign him/her to a new post or position deemed to be more healthy and appropriate, taking into account of occupational health and safety as of paramount importance.

(It must be noted that the above formulation does not impose direct or strict requirement for employer to exercise his/her discretion in considering the occupational health and safety of his/her employee as of paramount importance).

6. Handing over the Health Status Book to the employee.

Once the term of employment is ended or employment is terminated, the employer must duly hand over the Health Status Book to the employee.

(The above formulation can be construed that only the Health Status Book shall be given to employee, while the physician's notes, medical opinions and details of medical examination must still be kept by the employer for a period of time as aforementioned under 2.3)

7. Penalty.

Any employer refusing or failing to act in full compliance with the Ministerial Decrees issued by virtue of Article 107 shall be liable to a penalty as specified in Article 144, with a maximum term of 6 months imprisonment or a maximum fine of 100,000 baht or both.



3. Core Content of Ministerial Decree on Welfare Provided at Workplace.

On March 8, 2005, the Ministry of Labour and Social Welfare duly issued a Ministerial Decree on Welfare provided at the Workplace, B.E.2005 by virtue of the Labour Protection Act, B.E.2541 (1998) requiring the employer to provide certain welfare to employees as itemized below:

1. Drinking water and toilets.

Clean drinking water must be made available to employees in the workplace with at least 1 point for a maximum of 40 workers with additional points for each further 40 workers. Where the additional number of workers is more than 20, an additional water drinking facility must be also provided.

Toilet and shower facilities shall be provided based on specifications and requirements set by the Ministry, by separating facilities for male and female workers and for disabled workers if any. These facilities must also be constantly kept clean on a daily basis.

2. First-Aid Station and Primary Treatment

2.1 Any workplace employing 10 workers or more, must provide medicine and medical supplies for first aid, such as scissors, medicine cup/glass, safety pins, drinking water cup/glass, thermometer for measuring temperature, basic medical instruments, bandages, etc.

2.2 Any workplace employing 200 workers or more shall provide the following:

(a) A stock of medical supplies and medicines for first aid treatment as specified in 2.1.

(b) A nurse station or first aid room equipped with at least one (1) patient bed.

(c) At least one (1) professional nurse must be posted and stationed there during working hours of the workplace.

(d) One (1) first class physician must be present to provide medical examinations and treatment at least twice a week.

2.3 Any workplace employing 1,000 workers or more shall provide the following:

(a) Medical supplies and medicines for first aid treatment as specified in 2.1.

(b) A nurse station or first aid room equipped with at least two (2) patient beds.

(c) At least two (2) professional nurses must be posted and stationed there during working hours of the workplace.

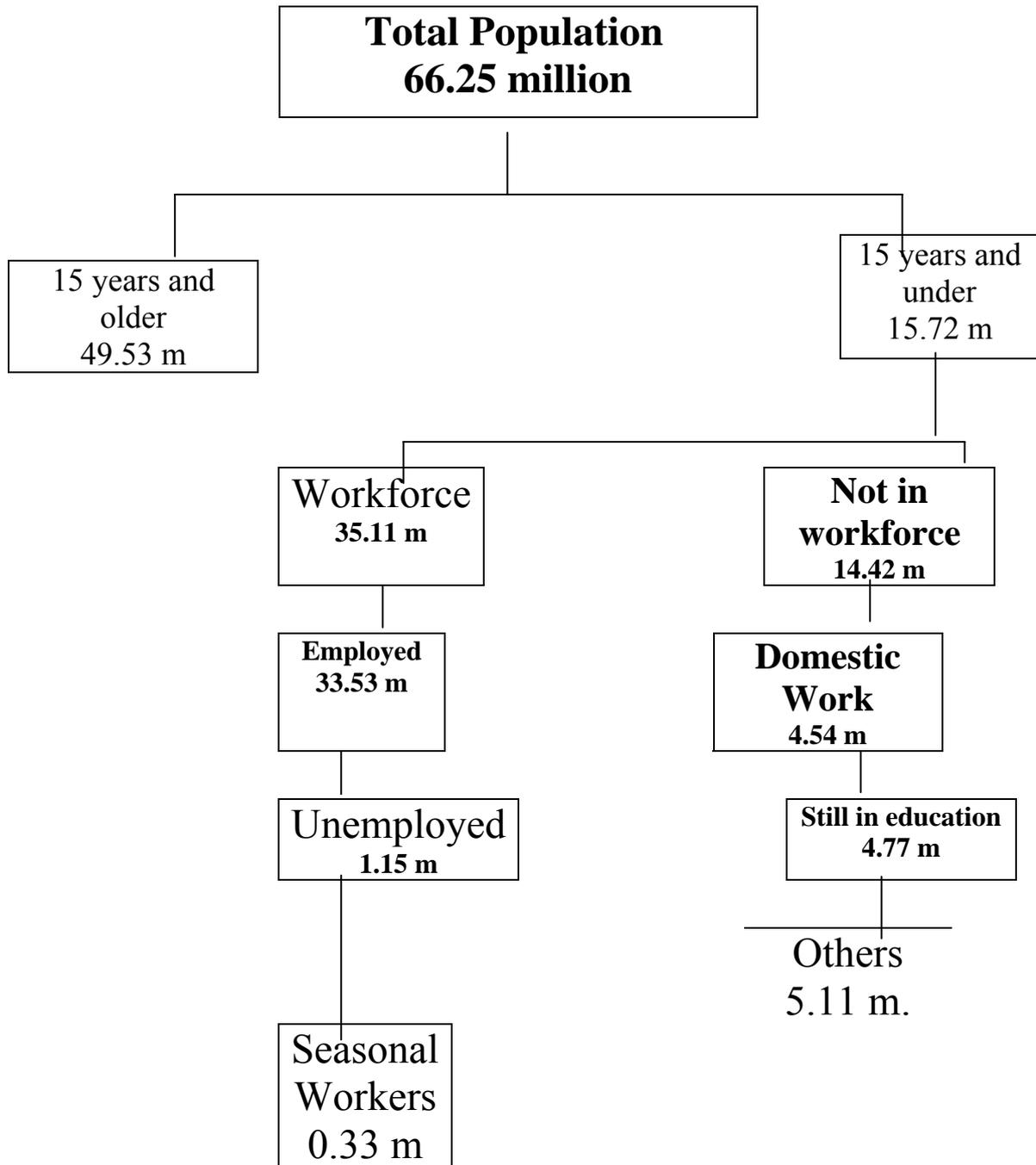
(d) At least one (1) first class physician must be present to provide medical examinations and treatment at least 3 times a week.

(e) Vehicle or transportation for emergency cases to hospital.

3. As alternative arrangements, instead of hiring any physician to visit the factory, employers may secure commitment from a medical facility or hospital for a 24-hour service, if approved by the Director General. This alternative arrangement shall enable employers to send any employee for treatment 24 hours a day instead of having to hire a physician to visit the factory at least twice a month.



Section 3
Labour Statistic
Chart 1
Classification of Population by Labour Status
Based on a Survey
conducted in January 2005



Source: National Statistics Office, www.nso.go.th, dated March 20, 2005

Chart 2: Demand for Foreign Migrant Workers and Considerations for Extension of Work Permits of Illegal Entries from Myanmar, Laos and Kampuchea nation-wide in 2005, classified by types of enterprise during the period June 1, 2005 – August 30, 2005.

Business	Activities									
	<i>Demand for Foreign Migrant Workers</i>					Permit Extensions				
	Employer	Total	Burmese	Laos	Cambodian	Employer	Total	Burmese	Laos	Cambodian
Total	240,297	1,881,529	1,354,309	288,314	238,906	205,562	705,293	539,416	90,073	75,804
1. Fishery	6,290	101,807	59,807	5,607	37,173	5,671	36,141	20,920	1,903	13,318
1.1 Marine	4,478	90,162	50,944	3,768	35,450	4,073	31,033	17,244	1,231	12,558
1.2 Fresh Water	1,812	11,645	8,083	839	1,723	1,598	5,108	3,676	672	760
2. Fishery related	3,108	156,757	141,419	6,334	9,004	3,056	68,333	64,136	882	3,315
3. Agriculture & Livestock-	50,193	348,047	266,371	38,854	42,822	42,239	138,419	116,128	11,685	10,606
3.1 Agriculture	44,172	303,988	232,394	32,921	38,673	37,473	122,172	103,118	10,111	8,943
3.2 Livestock	6,021	44,059	33,977	5,933	4,149	4,766	16,247	13,010	1,574	1,663
4. Rice Mills.	913	12,997	11,411	948	638	819	5,675	5,307	186	182
5. Brick-Making	848	12,486	9,871	1,903	712	799	4,440	4,003	346	91
6. Ice-Making	782	9,229	7,068	1,243	918	652	4,157	3,336	385	436
7. Water Transport	255	8,388	4,858	139	3,389	195	3,093	1,251	101	1,741
8. Construction.	13,412	351,611	241,790	41,821	68,000	12,093	99,422	77,164	7,623	14,635
9. Mines/Quarries	191	3,382	2,737	438	207	162	1,178	1,155	14	9
10. Domestic Help	102,395	190,031	116,387	60,226	13,418	83,932	104,306	67,759	27,305	9,242
11. Others	61,910	686,796	493,370	130,801	62,625	55,944	240,129	178,257	39,643	22,229

Data updated as of September 21, 2005

Chart 3
Return on Investment made by the Office of Social Security
2001 – September 2005

Year	<i>4 Cases</i> (million baht)	2 Cases (million baht)	Unemployed (million baht)	Total (million baht)
2001	4,750.27	1,919.06	Contribution from workers to unemployment fund not yet required	6,669.33
2002	4,071.36	3,012.26		7,083.62
2003	4,184.91	4,299.40		8,484.31
2004	3,966.71	5,521.49	34.8	9,523.0
Jan –Sept 2005	1,811/99	6,930.63	158,65	8,901.27
<i>Total</i>	18,785.24	21,682.84	193.49	40,661.57

Source: Office of Social Security, Ministry of Labour and Social Welfare.

Notes: 4 cases: Illness, Death, Disability and Childbirth.

2 cases: Child Benefit and Old Age Benefit.

Chart 4
**Funds allocated by the Social Security Committee
Earmarked for**

The Administration of the Office of Social Security

Annual Budget for 2001 – 2005

<i>Year</i>	Allocated Amount	Expenditure	%	<i>Comparing with Contributions (10%)</i>	
				<i>Amount</i>	%
2001	1,872,364,870.00	1,029,252,923.19	54.97	34,009,949,772.70	5.51
2002	1,683,476,793.00	1,064,937,326.53	63.26	38,881,057,160.78	4.33
2003	1,617,185,837.00	1,141,785,725.73	70.60	52,250,000,000.00	3.10
2004	1,387,267,604.25	1,198,987,100.23	86.43	75,083,940,000.00	1.85
2005	2,051,622,010.00	1,020,412,129.06	49.74	82,978,000,000.00	2.47

Source: Office of Social Security, Ministry of Labour and Social Welfare.

Chart 5
Data on Labour Organizations in Thailand
2004 – 2005

Labour Organizations	2004	2005 (Jan.-Sept., 2005)	Membership
Employers' Organizations (Total)	391	431	1,042 Companies
Employers' Associations	377	416	13 Associations
Employers' Federations	3	3	222 Federations
National Employers' Councils	11	12	
Employees' Organizations (Total)	1,417	1,437	317,815 Workers
Labour Unions in Private Sector	1,340	1,364	168,620 Workers
Labour Unions in State Enterprises	46	45	444 Unions
Labour Federations	21	18	780 Unions
National Labour Councils	10	10	
Total	1,808	1,868	

Source: Labour Relations Bureau, Department of Welfare and Labour Protection.

Chart 6
Names and Nos. of Employers & Employees' Organizations
(by Province)

No.	Provinces	Employees' Organizations				Employers' Organizations		
		Labour Unions in Private Sector	State Enterprises Labour Unions	Labour Federations	Labour Councils	Employers' Assoc.	Employers' Federations	Employers' Councils
1.	Bangkok	396	45	10	9	218	2	12
2.	Krabi	-	-	-	-	5	-	-
3.	Kalasin	1	-	-	-	-	-	-
4.	Kamphaeng Phet	-	-	-	-	1	-	-
5.	Khon Kaen	1	-	-	-	3	-	-
6.	Chanthaburi	-	-	-	-	2	-	-
7.	Chachoengsao	18	-	-	-	1	-	-
8.	Chonburi	50	-	-	-	5	-	-
9.	Chaiyaphum	1	-	-	-	-	-	-
10.	Chiang Rai	3	-	-	-	-	-	-
11.	Chiang Mai	1	-	-	-	4	-	-
12.	Tak	-	-	-	-	1	-	-
13.	Trat	-	-	-	-	1	-	-
14.	Nakhon Pathom	14	-	-	-	-	-	-
15.	Nakhon Phanom	3	-	-	-	-	-	-
16.	Nakhon Ratchasima	9	-	-	-	2	-	-
17.	Nakhon Si Thammarat	2	-	-	-	4	-	-
18.	Nakhon Sawan	1	-	-	-	-	-	-
19.	Nonthaburi	17	-	1	-	5	-	-
20.	Buriram	1	-	-	-	-	-	-
21.	Pathum Thani	127	-	1	1	30	-	-
22.	Prachinburi	5	-	-	-	-	-	-
23.	Pattani	-	-	-	-	1	-	-
24.	Phra Nakhon Si Ayutthaya	41	-	-	-	-	-	-
25.	Phayao	1	-	-	-	1	-	-
26.	Phang-nga	-	-	-	-	2	-	-
27.	Pitsanulok	1	-	-	-	1	-	-
28.	Phetchaburi	2	-	-	-	-	-	-
29.	Phuket	29	-	1	-	25	-	-
30.	Maharakham	3	-	-	-	3	-	-

No.	Provinces	Employees' Organizations				Employers' Organizations		
		Labour Unions in Private Sector	State Enterprises Labour Unions	Labour Federations	Labour Councils	Employers' Assoc.	Employers' Federations	Employers' Councils
31.	Ranong	1	-	-	-	3	-	-
32.	Rayong	31	-	-	-	2	-	-
33.	Ratburi	1	-	-	-	-	-	-
34.	Roi Et	-	-	-	-	1	-	-
35.	Lampang	2	-	-	-	1	-	-
36.	Loei	-	-	-	-	4	-	-
37.	Si Sa Ket	1	-	-	-	-	-	-
38.	Songkhla	7	-	-	-	11	-	-
39.	Samut Prakan	535	-	5	-	36	1	-
40.	Samut Sakhon	36	-	-	-	18	-	-
41.	Sa Kaew	1	-	-	-	-	-	-
42.	Saraburi	24	-	-	-	-	-	-
43.	Singburi	2	-	-	-	-	-	-
44.	Surat Thani	1	-	-	-	2	-	-
45.	Nong Khai	3	-	-	-	2	-	-
46.	Ang Thong	3	-	-	-	-	-	-
47.	Udon-Thani	4	-	-	-	21	-	-
48.	Uthai Thani	1	-	-	-	-	-	-
	Total	1,380	45	18	10	416	3	12

Source: Labour Relations Bureau, Department of Welfare and Labour Protection (as of October 2005)

Chart 7
Labour Unions as Classified by the Labour Relations Act.

Type of Unions	Bangkok	Regions	Total
Same Employer	137	336	473
Same Line of Business	259	648	907
Supervising /Executive	21	37	58
Operational	375	947	1,322

Source: The Labour Relations Bureau, Department of Welfare and Labour Protection.