



Labour Bulletin

Job vacancies but firms not hiring locals

THE STAR, MONDAY 20 APRIL 2009

Applicants in manufacturing sector think it's a ploy to get foreign workers

SEREMBAN: Employers, particularly those in the manufacturing sector, are advertising vacancies but not hiring, claim job seekers and the MTUC.

They said this was a ploy to hoodwink authorities into believing that they were unable to get locals to fill the vacancies.

They would then use this to justify their case to get foreign workers.

Several individuals contacted *The Star* to complain about such practices.

S. Ajay, who was a quality controller at a factory in the Senawang Industrial Area but retrenched three months ago, said he had not been able to secure a job although he had several years' experience.

"It is strange that I am not considered although I agreed to a lower salary interview after interview," he said.

However, when he drove past some of the companies where he had gone for interviews, vacancy signs were still displayed outside the premises.

"When I called the managers and asked them why there were still vacancies, they told me that they could not find someone suitable.

"Are they telling me that foreign workers are better than locals?" he said.

Another caller, who only wished to be known as James and who had been working as a quality assurance supervisor in a factory in Nilai, said he also could not get a job despite many openings in the factories there.

"A friend working in a plant where I went for

»The authorities cannot keep track of this as no one makes reports«

G. RAJASEKARAN,

an interview told me that the company has been promoting its foreign workers from operators to quality assurance supervisors," he said.

When he called the management, James said he was told that they did not have any record of his application.

"They just refused to entertain me," said James, who has been unemployed since January.

MTUC secretary-general G. Rajasekaran said the congress was aware of this and urged complainants to contact him directly.

"The problem is that the authorities cannot keep track of this as no one makes reports.

"Those who feel they have been duped by such companies must report so action could be taken against them," he said.

Rajasekaran said he would raise the matter during the national retrenchment council meeting at the Human Resources Ministry today.

Datanglah beramai-ramai
ke
**Perhimpunan
Hari Buruh
1 Mei 2009
8.30pagi-11.00pagi
Kompleks Sukan
MPSJ
USJ Subang Jaya**

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Dismissal of foreign workers- no notice to the claimants

Dismissal of two migrant workers for not turn up to work. Both the claimants' letters of employment says that the company should be provided with "free accommodation" complete with water and electricity and basic furniture during their period of employment.

Both of them were working as General Workers with minimum salary of RM700 and provided with free accommodation.

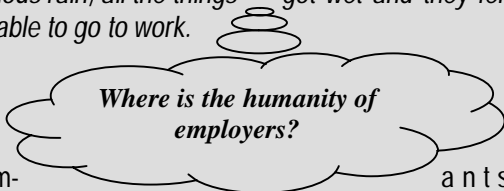
Issues:

- Company had terminated both the claimants based on the terms of their employment contracts and for being on leave without permission for more than 48 hours.

An incident occurred at the company's premises, which involved another migrant worker alleged that Ah Poh (management) had punched him. A police report was lodged by the claimants and due to a feeling of unhappiness over the said incident, the Nepalese workers together with the other foreign workers stopped work.

Subsequently the roof of the hostel that had been housing the foreign workers especially the claimants' were taken down and the electricity and water supply to the hostel was cut. The claimants' had to sleep under the open sky and due to continuous rain, all the things got wet and they fell sick. And not able to go to work.

Fact and finding



- The claimants not able to go to work due to the fact that the roof of their hostel had been removed, it had cause rained and all their clothing got wet.
- Secondly the water and electricity supply to the hostel had been cut off which prevented them from cooking. They also had no money and had been sick and could not attend work.

Court finding;

- *The purported notice of dismissal of the claimants had been sent to the Pejabat Buruh and not the claimants and neither had it been copied to them.*
- In fact, the company in dismissing the claimants had failed to comply with the said notice requirements in their employment contract.
- After looking at the totality of the evidence, the court came to a conclusion that there had not been a wilful breach by the both claimants.

Source: Award No. 210 of 2009 [ILR 465-684]

Chairman: Jalaldin Hussain

Company: Perabut Chip Hong Sdn. Bhd

Dismissal : no discussion with the claimant on medical condition

Issue:

- The company terminated the claimant on the grounds that the claimant was unable to perform his normal duties as a Senior Kiln Operator which involved bending and lifting heavy objects, due to his medical condition and;
- **he was carrying out non work related tasks.**– During the period that the claimant had been on medical leave, the non-work related tasks that he had done- to sit on the SOCSO Appeal Board in his capacity as a union official.

Court findings

- The management of the company had not discussed the claimant's medical condition with him upon receipt of the medical report.
- The management of the company had harassed the claimant by certified that the claimant had been fit to perform light duties. Upon receipt of the medical certificate (had certified as such) the company had requested to grant the claimant medical leave as it had not had any work for the claimant which entailed light duties. **After his supervisor had given the claimant medical leave, the management of the company had issued notices to the claimant for taking excessive medical leave and carrying out non-work related task and;**
- *The claimant also been suspended from work and had not been allowed to enter the company's premises during his period of suspension.*
- **According to the court the performance of the claimant's duties as a member of the SOSCO Appeal Board had been a public duty.**
- **It had been the management of the company that not able to accommodate him by giving him light duties and**
- **it had been at the behest of the management of the company that his supervisor had given him medical leave.**
- The court felt that the claimant had not committed to any misconduct after analyzing all those evidences.

Source : Award No. 118 of 2009 [ILR 465-684]

Chairman: Susila Sithamparam

Company : Johan Ceramics Berhad

ILO Decent Work Agenda for Domestic Workers

MTUC Strategies to get Decent Work Agenda Through

MTUC organized a one day National Consultation on laws and practices related to domestic work as part of the ILO Decent Work Agenda for Domestic Workers on 23rd April 2009 at the PJ Hilton. This consultation was attended by Ministry Officials – Industrial Relations Department Director General, En. Mohd Yunus Razzaly, Deputy Director General of the Labour Department, En. Sabri Karmani, MEF Executive Director Tuan Hj Shamsuddin Bardan, Embassy Officials, Bar Council, Suhakam and many other human rights defenders. A total of 60 participants attended this consultation.

Panel discussion topics included Critical View of Exploitation, Abuse and Work Conditions of Domestic Workers in Malaysia, Protection Mechanism for Domestic Workers in Malaysia, Right to Redress, Protection Mechanism of Domestic Workers within MOUs and Contracts between Source Countries and Malaysia and ILO Convention on Domestic Workers.

The objective of this consultation was to bring together government, trade unions, NGOs, employers and other stakeholders to critique existing laws and regulations in protecting rights of domestic workers and to develop proposals for standard setting for the development of the ILO Convention.

Secretary General Mohd Yunus Razzaly in his keynote address at

the opening said that the ministry is considering making it mandatory for employers to credit the wages of domestic workers into banks to prevent abuse. The Ministry was also studying proposals to amend the Employment Act 1955 to ensure domestic workers are not victimized and deprived of their remunerations. He further added that there were gaps which led to the abuse of domestic workers such as the high cost of recruitment.

Worker's Consultation on Decent Work for Domestic Workers – Geneva 2009

It is almost 60 years that the International Labour Organisation was taking steps to adopt a convention to safeguard this group of workers, who were deemed "most vulnerable".



Ms. Lotte Kejser, ILO, Dr Irene Fernandez – Director of Teenaganita and Mr G. Rajasekaran, Secretary General of MTUC participated at the National Consultation workshop

At the global level, the ILO has finally recognized the need for a new Convention that will give focus to domestic workers and set standards to recognize the rights of domestic workers who have so far remained invisible as workers.

As part of the preparation of this major discussion by the ILO Conference, MTUC attended a consultation of workers' representatives in Geneva on 20-21 April 2009.

The ILO has recently sent a report analyzing the current worldwide legislation and practice on domestic work to Member States. Together with this report, constituents are being asked to reply to a questionnaire in preparation for the discussion at the ILC.

It is therefore important to ensure that the Workers' Group is well prepared for this major discussion and in a position to fully contribute to the development of standards that are key to address the concerns of a category of workers who suffer severe abuses to their labor rights.

The ILO Convention on the rights of domestic/household workers will be a landmark development for domestic workers and other household workers.

MTUC reiterates call for Foreign Domestic Workers Association

MTUC had sent a report to the International

Labour Organisation (ILO) on Denial of Freedom of Association for Migrant Domestic Workers by Malaysian Government on 10th April 2008. In its letter, MTUC had stated that Malaysian government had ratified Convention 98 on the Right to Organize and Collective Bargaining. But government's refusal to allow the migrant domestic workers to form an association to take care of their working conditions is a breach of the provisions of Convention 98.



Statistic on Retrenchment

PEMBERHENTIAN PEKERJA DARI 1/10/2008 - 19/04/2009

JENIS TINDAKAN	BIL. MAJIKAN	TEMPATAN		ASING		JUMLAH
		LELAKI	PEREMPUAN	LELAKI	PEREMPUAN	
PEMBERHENTIAN TETAP	776	8,688	7,748	4,063	3,104	23,603
PEMBERHENTIAN SUKARELA (VSS)	175	3,796	3,217	559	229	7,801
JUMLAH	951	12,484	10,965	4,622	3,333	31,404
PEMBERHENTIAN SENTARA (LAY-OFF)	19	3,221	5,094	714	1,374	10,403
PENGURANGAN GAJI (PAY-CUT)	317	10,346	11,450	4,373	4,145	30,314
JUMLAH	336	13,567	16,544	5,087	5,519	40,717



NEW STRAITS TIMES TUESDAY, DECEMBER 23, 2008 PRIME NEWS

4,700 to lose jobs as electronics sector takes a hit

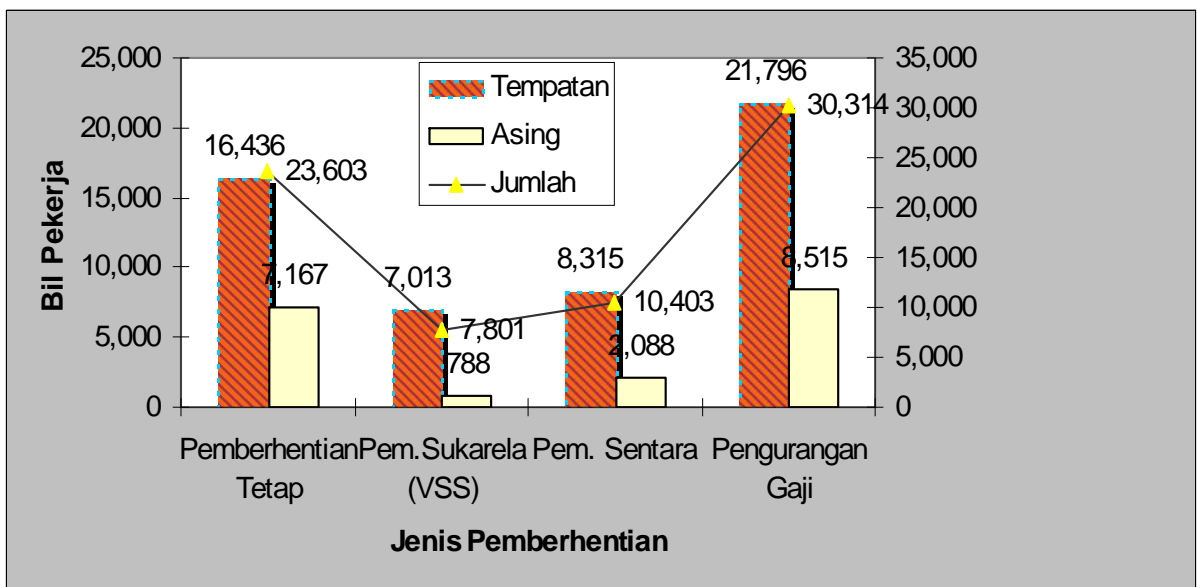
Manufacturing plunges 26% in February

Statistik-statistik ini telah dibentangkan oleh pegawai Kementerian Sumber Manusia hasil pungutan data-data dari 80 bilik gerakan yang beroperasi diseluruh negara. Jadual di atas menggambarkan pemberhentian pekerja tempatan dan asing sehingga bulan April. Pemberhentian tetap mencecah ke 23,603 dengan melibatkan 776 majikan. Manakala pemberhentian sementara menunjukkan angka yang agak tinggi iaitu 30,314 dan lebih kurang 40,000 pada bulan lepas. (pekerja-pekerja ini mengalami pemotongan gaji yang agak signifikan dan menghadapi pelbagai masalah memandangkan tiada apa-apa bantuan sehingga kini dari kerajaan).



Jadual di muka surat 5 pula menunjukkan pemberhentian mengikut sektor. Sektor pembuatan adalah yang paling kuat menerima tekanan ekonomi global dan diikuti oleh sektor-sektor informal(self employed/pekerja sendirian dan perniagaan kecil-kecilan). Mereka ini tidak dilindungi oleh sebarang jaringan keselamatan sosial yang menyokong sara hidup mereka dan keluarga mereka. Kenyataan-kenyataan akhbar jelas mengunjurkan bahawa lebih banyak pekerja akan diberhentikan dalam sektor pembuatan terutama di Johor dan Pulau Pinang.

JUMLAH PEMBERHENTIAN PEKERJA TEMPATAN DAN PEKERJA ASING

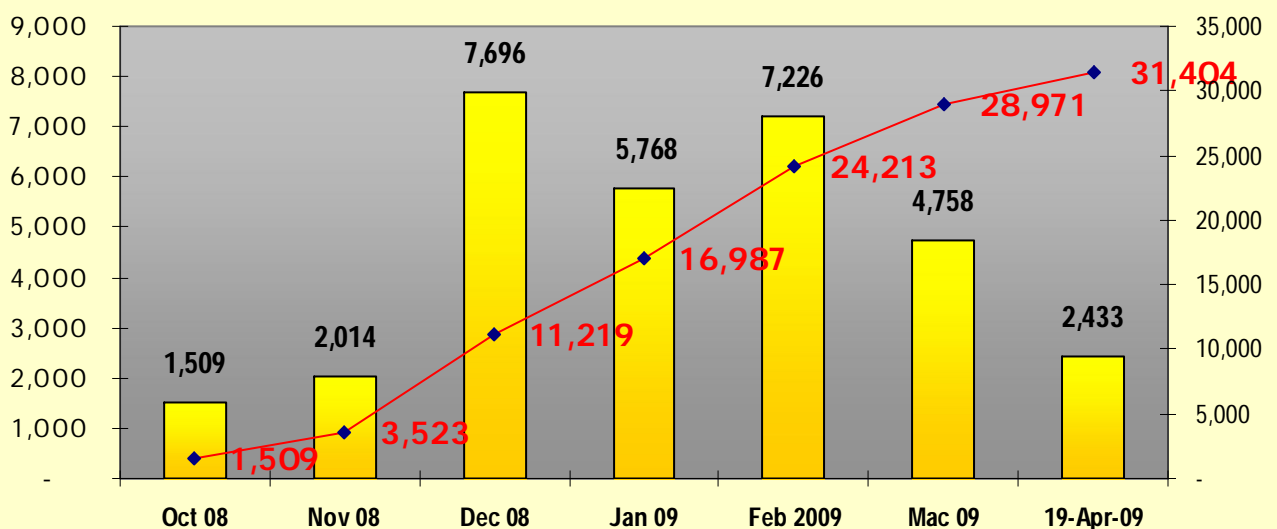




Number of Employers and Employees involved by Sector from 01/10/2008 - 9/04/2009

SEKTOR	PEMBERHENTIAN PEKERJA		PEMBERHENTIAN PEKERJA SECARA SUKARELA		PEMBERHENTIAN PEKERJA SEMENTARA		PENGURANGAN GAJI	
	MAJIKAN	PEKERJA	MAJIKAN	PEKERJA	MAJIKAN	PEKERJA	MAJIKAN	PEKERJA
AKTIVITI HARTANAH, PENYEWAAN DAN PERNIAGAAN	118	1,268	12	195	2	26	33	635
AKTIVITI PERKHIDMATAN KOMUNITI, SOSIAL DAN PERSENDIRIAN LAIN	38	1,361	7	146	0	0	5	376
BEKALAN ELEKTRIK, GAS DAN AIR	2	5	1	1	0	0	1	38
HOTEL DAN RESTORAN	10	427	1	5	0	0	3	47
KESIHATAN DAN KERJA SOSIAL	2	8	0	0	0	0	0	0
KEWANGAN	21	124	11	116	0	0	11	126
ORGANISASI DAN BADAN DI LUAR WILAYAH	0	0	0	0	0	0	1	190
PEMBINAAN	33	197	6	74	0	0	10	74
PEMBUATAN	352	18,174	108	6,974	17	10,377	193	27,614
PENDIDIKAN	4	11	0	0	0	0	1	2
PENGANGKUTAN, PENYIMPANAN DAN KOMUNIKASI	49	509	10	132	0	0	23	234
PENTADBIRAN DAN PERTAHANAN AWAM, KESELAMATAN DAN SOSIAL WAJIB	7	63	1	0	0	0	2	6
PERDAGANGAN JUAL BORONG DAN JUAL RUNCIT; KENDERAAN BERMOTOR, MOTOSIKAL, BARANGAN PERSENDIRIAN, ISI RUMAH	109	1,210	15	120	0	0	31	861
PERLOMBONGAN DAN PENGKUARIAN	12	71	2	32	0	0	2	109
PERTANIAN, PEMBUJUAN DAN PERHUTANAN	19	175	1	3	0	0	1	2
JUMLAH	776	23,603	175	7,801	19	10,403	317	30,314

PEMBERHENTIAN TETAP DAN PEMBERHENTIAN SUKARELA DARI 1 OKTOBER 2008 HINGGA 19 APRIL 2009



	Oct 08	Nov 08		Dec 08		Jan 09		Feb 2009	
Total	1,509	2,014	33.47%	7,696	282.13%	5,768	-25.05%	7,226	25.28%
Jumlah Kumulatif	1,509	3,523	133.47%	11,219	218.45%	16,987	51.41%	24,213	42.54%

Eaton Electric Switchgera Sdn. Bhd replace locals with migrant labour

Eaton electric Switchgera Sdn. Bhd had terminated 94 of the senior workers due to economic crisis. Subsequently just after 18days later the company employed 14 foreign workers. How it could happened?

The Electrical Industry Workers' Union felt that the company's action is clearly unfair labour practice, a betrayal of trust placed upon the company by the union and the workers and only a pretext and excuse to employ foreign workers.

What is surprising is that, how did the Human Resource Ministry responsible for authorizing recruitment of foreign workers gave the company the permission to employ foreign workers just after 18 days of terminating Malaysian workers. At the time where many Malaysian workers were losing jobs, the company should behave as a responsible corporate citizen in keeping jobs to Malaysians instead of terminating the services of Malaysian and on the contrary employing foreign workers.

If it's the policy of the government that locals will be given priority in job place placements, then how could this foreign workers recruitment agencies continued to be given permits to bring in foreign workers and employers continue to employ foreign workers after terminating local workers?

Source: EIWU-Prai

SUHAKAM Meeting on the impact of economic crisis

22 April 2009

Due to global economic crisis Suhakam organised round table discussion with MTUC and other stake holder from Malaysian employer Federation(MEF), Federation of Malaysian Manufacturing(FMM) and Ministry of Human Resources(MHR), Economic Planning Unit(EPU) and other stake holder to get their feedback on how to overcome the crisis.

Official from EPU highlighted on the distribution of the stimulus package and how it will be used to stabilised the Malaysian Economy. Subsequently officer from MHR explained numbers of plans and measures taken by the ministry to help retrench workers.

MTUC welcome ministries effort to overcome economic crisis and wish the ministries will ensure that local workers will be given more priority.



Bro Mustafar Maarof, Vice president of MTUC presented views of MTUC

Kos cuti bersalin RM1.57b setahun ???

Majikan Malaysia membelanjakan kira-kira RM1.57 billion setahun untuk cuti bersalin 60 hari kepada kakitangan wanita, demikian seminar mengenai persamaan gender.

Naib Presiden Persekutuan Majikan Malaysia (MEF), A Ramadass dalam kertas kerjanya mengenai perlindungan bersalin dan tolak ansur kerja dan tanggungjawab keluarga, berkata kajian MEF menunjukkan bahawa jumlah kos bagi setiap kakitangan adalah sekitar RM7,500 setiap kali bersalin, membabitkan RM3,000 gaji dan RM4,500 elaun lebih masa.

Sumber: BH 22, April 2009

Sejauh manakah benar?

- *Persoalan adakah semua kaum wanita terlibat dengan cuti bersalin?*
- *Berapa wanita yang mengambil cuti bersalin dalam setahun?*
- *Adakah kesemua wanita yang mengambil cuti bersalin ini mendapat gaji RM3000 dan selebihnya?*
- *Kerja lebih masa adakah itu dikategorikan sebagai kos?*
- ***Apa salah majikan membiayai kos tersebut sedangkan pekerja adalah sumber utama yang menyokong perniagaan untuk industri tersebut.***
- ***Bukanlah KEBAJIKAN IBU DAN ANAK itu penting...***
- *Adakah majikan tidak sedar bahawa pekerja yang produktif boleh menjana ke arah peningkatan produktiviti syarikat itu sendiri...*
- *Cuti 3 bulan bukanlah satu alasan yang boleh dikaitkan oleh majikan dengan kos. Majikan boleh menelaraskan kos dengan pelbagai strategi lain bukannya memangsakan kaum pekerja...*



MTUC very much regretted the recent quote in newspapers, by MEF Representative – Mr Ramadass on the cost of each Maternity Leave which includes – wages, overtime etc, as the cost had been heavily refuted by many participants to the Seminar on “Work, Income and Gender Equality in Malaysia” pada 20&21/4/09 which was organized by ILO/Kementerian Sumber Manusia Malaysia, simply because the cost was not rationalised. He quoted example of a women worker’s wages being RM7,500 for the two months, in reality, a worker might only earn RM750-1,500 per month, so why generalize on maybe a mid-management employee’s salary?

Women workers are already expected to become “Superwomen”- balance reproductive and household responsibilities, at the same time become an efficient and productive worker. If women are expected to continuously contribute towards her family, company and nation’s economy, shouldn’t she be assisted by:

-provision of an affordable and aplenty child care centres, as most of the time, women are expected to care for the children?

-paid maternity leaves that will allow her to recuperate from child birth, at the same time, nurture her baby with breast feeding so the child could be nourished naturally, for a decent period

-receive empathy from community, which include the state, Employers and male/female family members with household chores and family responsibilities so welfare of the family is not burdened onto her shoulders alone?

MEF claimed many Employers had championed many Corporate Social Responsibilities - by sponsoring events that give free publicity to their companies for doing so. It is high time, that MEF looks at providing a more decent Maternity Protection package as their most important Corporate Social Responsibility to humankind as they would in fact, be “investing” in the future workforce-CEOs, production operators, clerks, nurses, teachers etc!! Workers are not commodity that profits and costs could be enumerated from, and women workers especially, are part of the working society that need a little help from everyone so she could balance work and life!

Are Employers and Government only willing to improve Maternity Protection package when there is low child birth like in Singapore, Japan, Korea and Europe where women workers are emphasizing on their career development than family’s? Or is Malaysia planning to spend more to import migrant workers in the future rather than spend a little more to invest in good and healthy childhood through taking care of the women workers – NOW? Sis Noorlaila, Chairperson of Women Committee MTUC

International news

Burma: Five FTUB members released

Brussels, 15 April 2009 (ITUC OnLine): The ITUC welcomed the release of the five members of the Federation of Trade Unions of Burma (FTUB) who had been arrested on 1 April, after their return from the first FTUB Congress ever. It has now been confirmed that they returned safely to their homes in Rangoon on 10 April, albeit after having been warned to cease any dealings with the FTUB.

It was through international solidarity that the five were released. The ITUC therefore wants to acknowledge the rapid intervention, following its own request, of the Office of the ILO Director General, which resulted in this positive outcome. The FTUB extended its heartfelt thanks to the international labour movement as well, which had been very quick in mobilising itself and reacting to the arrests. *Source: ITUC OnLine, 150409*

Burmese teacher and other unionists detained

A Burmese teacher activist and four other trade unionists were arrested earlier this month after taking part in the historic first National Congress of the Federation of Trade Unions of Burma (FTUB).

FTUB General Secretary Maung Maung said: "The fact that our members were arrested just after returning from participating in the 1st National Congress of the FTUB speaks for itself." The three-day FTUB Congress was held in a border area inside Burma, and the fact that courageous Burmese trade unionists conducted democratic proceedings inside the highly repressive country is historic.

Source: Education International, 22 Apr 2009

G20 London: Detailed Evaluation of Summit Statement

The ITUC and the Trade Union Advisory Committee to the OECD (TUAC) have released [a detailed evaluation](#) of the Statement issued by last week's G20 meeting in London, pointing to the high profile given to jobs and social issues by the Summit, and the support for discussion of a new charter to achieve a new global consensus on the key values and principles for sustainable economic activity.

The evaluation also dissects all the key elements in the Summit Statement including on financial regulation, action against tax havens, new funding for the International Monetary Fund and the development, trade and environment aspects of the Statement as well as the scope for further action to combat the jobs crisis over the months ahead. *Source: Brussels, 7 April 2009 (ITUC OnLine):*

IMF: Global financial losses could reach \$4.1 trillion

At a press conference to launch the latest "Global Financial Stability Report", the IMF once again increased its estimate of losses resulting from the financial meltdown that began in the US in 2007 and intensified last year, and made its first global estimate of aggregate financial losses. Two-thirds of the estimated total actual and potential write-down of \$4.1 trillion concern US-originated financial assets.

IMF officials emphasized that additional state support for bank recapitalization is needed and endorsed temporary nationalizations. They highlighted the particular vulnerabilities of countries in Central and Eastern Europe to new banking crises. Overall, the report predicts that private capital flows to emerging markets will be negative in 2009 as foreign banks and investors withdraw from these countries.

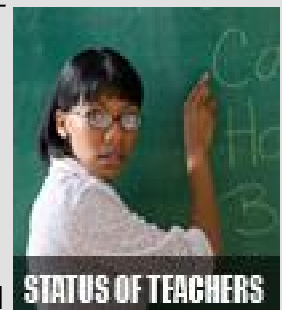
Source: 22 April 2009, ITUC/Global Unions-Washington Office

"Investment in Quality Public Education For All is the Key to Recovery"

"We must go on the offensive. In every country, in every region and globally. We must turn crisis into opportunity. For we have a powerful case to make, and to show that investment in quality public education for all is the key to recovery, the key to eradicate poverty, and the key to democratic development."

This was the key message delivered by EI General Secretary Fred van Leeuwen at the second congress of the Teachers' Union of Nepal (TUN) on April 21.

Source: Education International, 22 Apr 2009



STATUS OF TEACHERS