

Labour Bulletin

MIGRANT WORKERS PENALISED NO EFFORT TO PUNISH THE REAL CULPRIT

43 migrant workers are under detention at the Foreign Workers detention centre in Pekan Nenas, Johore since 17 January 2009. The 43 were among the 51 workers originally recruited by a Malaysian Company Silvertrade Sdn. Bhd in Johore. They entered the country legally to work here from July 2005 to July 2008.

On completion of their 3 year contract all the workers informed the company they would like to be repatriated as required under the law. The employer ignored their request and demanded that they remain in service but did not make any effort to renew their work permit.

Fearing that they will be penalised, on 17 January 2009, 51 workers boarded a bus to Kuala Lumpur to seek help from the Indian High Commission. Unfortunately police, may be based on information from the employers, stopped the bus midway and arrested 43 of them and locked them up at the Pekan Nenas Detention Centre. Eight workers who were not arrested lodged a complain with MTUC.

The detention is unjust and unwarranted. They have done nothing wrong. They entered the country legally. It is the employer who has breached the law by failing to repatriate them but the Immigration authorities did not take any action against the employer.

We have received reports from the workers that the employer was allowed to enter the detention camp and intimidate the workers to give signed declaration to absolve the employer from any fault for their predicament.

We want the Director General of the Immigration Department to carry out an indepth investigation and take action against Silvertrade Sdn. Bhd. The company should be blacklisted so that no new permits for recruitment of foreign workers are issued.

G.Rajasekaran
Secretary General

Job hunting?

Find it on JTK

website:

www.jobsmalaysia.gov.my

or at any of JTK operation centre set up throughout the country

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Landmark rulings by Industrial Court

nature of conducting investigation is a principal of natural justice

Dismissal: Breach of company rules and policies-dishonesty-claimant putting in transfer claims-Human Resources advising her to re-submit claims-claimant complying- whether the claimant had been honest with the bank on the information regarding her claims-behaviour of bank thereafter-whether bank treated 1st claim as false claims-claimant not being queried on 2nd claim-whether she had been led to believe that her claims had been in order-whether bank had proven they had informed her that she was not entitled to claim for spouse meals-Whether it had been in breach of the rules of natural justice-conduct of the claimant during the interview.

Issues: the claimant was dismissed on the ground making false claims.

- The claimant was transfer to bank in Kulai from Kluang in Johor. Even though to appealed to remain in Kluang as she had been at the crucial stage of her pregnancy but the bank acceded to her request.
- *The claimant after the birth of her child she reported to Kulai and submitted a transfer claim. She had claimed for meal allowances for herself, her husband and her child for a period of 14 days.*
- *The disputes arose on the meal claims for her child (first claim/charges) and her husband(second claim/charges) as false claims.*

Bank's contention:

She would not entitled to make a claim for her child, as her child had not been with her.

Therefore the claimant duly re-submitted her claims with the necessary omissions after realising that it's a mistake/incorrect for the first claim.

Judgement:

By allowing her to resubmit, she had indeed been led to believe that it had been all right for her to re-submit the claim. It had thus been in-

consistent of the bank to have allowed her to resubmit her first claim omitting the meal allowances for her child and later accuse her of making a false claim in the first claim.

- The company failed to inform the claimant that she had not been entitled to claim for her husband's meal allowance infact bank failed to prove its contention.
- The bank had deemed it fit to issue her show cause letter without even checking to see how many days her husband had been with her at the hotel which entitled her to make 14 days meal allowance claim for her husband.
- ***The way interview conducted***– she had been placed under continues pressure during the interview which had been held for 4 hours without regards to her mental and physical health condition (claimant had been 3 months pregnant) she had not been given notice of this interview nor had she been informed of its purpose.
- She had only been informed of it about a half an hour prior to it and there was no break in between.
- ***Secondly***, at the interview, the bank had not appeared to treat the issue of her husband's meal allowance as a false claim as could be seen. If the days he had been with her had been an issue, then the bank should have questioned her on this in order to be specific in the 2nd allegation.
- ***Thirdly***, a Group staff meeting was held without her presence and decided to dismiss her, based on the report prepared by IR Department.

The court found that the termination was flawed and it was not based on the full facts of the matter and finally ruled in favour of the claimant.

Chairman: Yamuna Menon

Award No: 2048 of 2008 , Maybank Berhad
ILR [2009] 1 ILR 1-232

Current National News

Seagate cuts 200 jobs in Penang

THE move by US maker of hard-disk drives, Seagate Technology, to cut its global employee headcount by 6 per cent has resulted in some layoffs in Penang. Business Times learnt that the California-based company parted ways with around 200 of its employees this week via a voluntary separation scheme

Industry sources said those affected ranged from management staff to production operators. Seagate's investment presence in Malaysia dates back to 1988 and its gross fixed assets in the country are currently in excess of RM2.6 billion. Apart from Penang which serves as home to Seagate's biggest recording heads production site, its plant in Senai, Johor, assembles printed circuit board. The company hires around 4,000 people at its Malaysian plants and around 3,000 are based in Penang.

Source: Business Times, 25 Feb 2009

UCM Corporation Shah Alam juga akan menutup operasi syarikatnya pada bulan March 2009 yang melibatkan 120 orang pekerja

MTUC wants pay cut for ministers

The Malaysian Trades Union Congress (MTUC) president Syed Shahir Syed Mohamud has proposed that all ministers take a pay cut if the economic situation in the country warrants it.

To start the ball rolling, MTUC president Syed Shahir Syed Mohamud said companies which intended to lay off their workers, should first have the salaries of their bosses, including that of their chief executive officers, general managers and directors slashed.

Syed Shahir however, did not specify the quantum to be deducted. He said workers should not be the only ones victimised following the current global economic slowdown. "All ministers and bosses should walk the talk and jointly share in the workers' burden. This is only fair," Source: NST 14 Feb 2009

**900,000 orang memohon mengisi kekosongan jawatan yang ditawarkan SPA
BH, 19/02/09**

RM800-Per-Month Proposal for Axed Workers

MALAYSIA'S second stimulus package should total at least US\$14 billion (RM51.24 billion), if the federal government is serious about looking after the interest of those who have been retrenched. Penang Chief Minister Lim Guan Eng said assistance to retrenched workers should be a priority for the government and the necessary allocations must be made in the soon-to-be-unveiled stimulus package.

"What we are experiencing now is a global economic issue and it is not the fault of the workers. Malaysia must emulate Western countries in giving unemployment benefits to those affected," he told a press conference in George Town, Penang. Lim proposed that RM800 per month be paid to retrenched workers nationwide until the economic crisis ends.

"Even if it takes a year for the economy to stabilise, we are only talking about RM1 billion and this amount is nothing compared to the RM5 billion used by the government to bail out several public-listed companies," he added.

Source: NST, 19 Feb 2009

**PLUS bakal naikan kadar tol 5 peratus mulai bulan Mac.
BH, 14 Feb 09**

Tenaga: Lower electricity tariff will benefit industrial sector

The reduction of electricity tariff from March 1 is meant to benefit the industrial sector, Tenaga Nasional Bhd (TNB) president and chief executive officer Datuk Seri Che Khalib Mohamad Noh said.

"The 5% reduction is a big boost to that sector as it will help it save quite an amount with the slowdown in the economy," he told a press conference yesterday. The new tariff will see industrial consumers getting an average reduction of 5%, commercial consumers 2.7% and domestic/household consumers 2.54%.

Khalib said the reduction in electricity tariff was in support of the Government's efforts to introduce an economic stimulus package to mitigate the impact of the current economic slowdown.

"The industrial sector, such as steel and cement, uses a huge amount of electricity. If we help the industrial users, it will ease their burden of paying too much for electricity. With this, they can create more job opportunities and boost the economy," he said. Source: theStar, 13 Feb 2009



Retrenchment Statistics

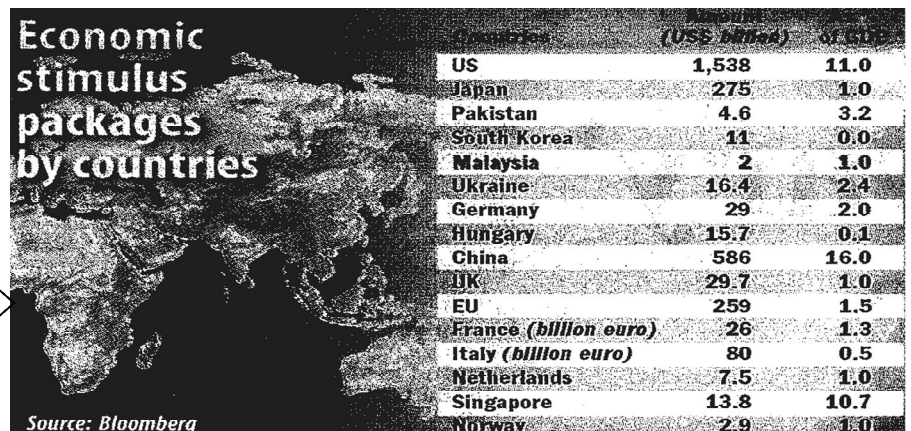
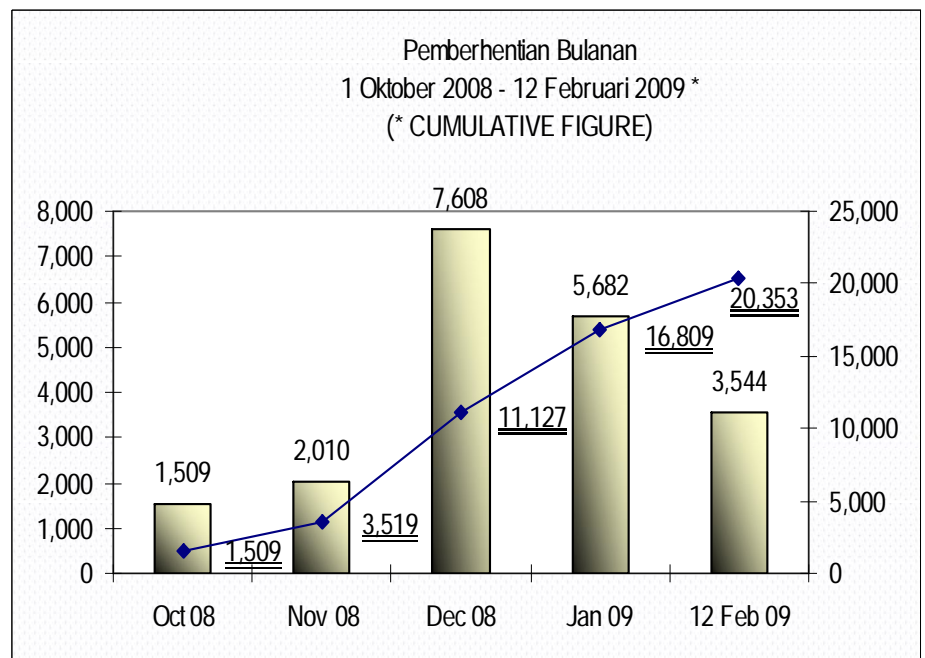
NUMBER OF RETRENCHED WORKERS 1/10/2008 – 18/02/2009

ACTION	No. of Employers	LOCALS		TOTAL	FOREIGN		TOTAL	TOTAL
		M	F		M	F		
Permanent Retrenchment	521	5,594	5,027	10,621	3,304	2,686	5,990	16,611
Voluntary Retrenchment (VSS)	102	2,290	2,318	4,608	251	195	446	5,054
TOTAL	623	7,884	7,345	15,229	3,555	2,881	6,436	21,665
Lay-off	122	16,178	22,643	38,821	2,573	4,220	6,793	45,614
Salary Cut	194	7,322	9,111	16,433	2,705	4,021	6,726	23,159
TOTAL	939	31,384	39,099	70,483	8,833	11,122	19,955	90,438

Negeri/ (Okt -Jan 09)	*Pemberhentian Biasa
JOHOR	3,541
KEDAH	382
KELANTAN	43
MELAKA	1,190
NEGERI SEMBILAN	388
PAHANG	93
PULAU PINANG	2,557
PERAK	731
PERLIS	0
SELANGOR	2,581
TERENGGANU	48
W.P. KUALA LUMPUR	796
W.P. LABUAN	0
SABAH	77
SARAWAK	1,949
Jumlah	14,376

Sumber: Kementerian Sumber Manusia

Berikut adalah peratusan daripada KDNK yang diperuntukkan untuk pakej berangsang ekonomi oleh negara-negara terpilih



Forum on Economic Crisis

MTUC telah mengadakan forum khas pada 19 Februari bagi membincangkan krisis ekonomi sejagat yang menular di peringkat global untuk kesatuan gabungannya di Wisma MTUC. Lebih kurang 50 pemimpin dan ahli kesatuan telah menyertai forum penting ini.

Pegawai dari Kementerian Sumber Manusia(KSM) membentangkan kertas kerjanya berkaitan langkah-langkah yang telah dan sedang diambil oleh(KSM) dalam menangani permasalahan pemberhentian pekerja di seluruh Negara.

Mengikut sumber KSM(statistik ms 4) pemberhentian kerja(yang dilaporkan) sehingga ke hari ini adalah agak tinggi pada bulan Disember iaitu 7,608 dan bulan Januari berjumlah 5,682 orang. Pemberhentian ini melibatkan warganegara Malaysia dan juga warga asing(boleh dilihat pada jadual). Mengikut beliau KSM menyediakan pelbagai latihan dan KSM juga cuba sedaya upaya untuk menempatkan semula mereka yang telah menjalani latihan dengan kerja yang sesuai. Majikan adalah diwajibkan untuk mendaftar dengan KSM sekiranya ingin memberhentikan pekerjaanya.

Manakala **Prof Dr. Rajah Rasiah** pula berpendapat bahawa ekonomi Malaysia sememangnya telah melalui pengucupan sebelum dilanda krisis ekonomi sejagat. Tafsiran ini dibuat berdasarkan kepada

penelitian terhadap statistik-statistik ekonomi Malaysia yang dilihat. Kenyataan ini agak jelas apabila melihat pada:

Dampak keatas ekonomi benar – barangan dan perniagaan:

- **Pengecutan jualan perkilangan pada Disember 2008 – 20.8%**
- **Pengecutan eksport perkilangan pada Disember 2008 – 14.9%**
- **Pengecutan gunatenaga perkilangan pada Disember 2008 – 1.9%**

Malahan KDNK bagi sektor perkilangan adalah:

1990-94	1995-99	200-07
11.7	5.9	4.8

Beliau berpendapat bahawa meskipun sektor perkilangan Malaysia sudah pun mula mengecut sebelum tercetusnya krisis kewangan sedunia terbaru ini dan kesan kemelesetan ekonomi negara yang paling serius akan timbul daripada pengecutan eksport. Ekonomi negara dijangka akan terus mengecut sehingga hujung tahun 2009. Malahan, pemberhentian firma dan pembuangan pekerja sudahpun bermula.

Cadangan utama beliau ialah:

- sebahagian daripada pakej pemulihan ekonomi harus di tuju kepada pembayaran elaun pembuangan kerja dan pengangguran pekerja.

Apa pula pandangan Ahli Parlimen Klang YB Charles Santiago?

Beliau juga berpendapat bahawa:

- High possibility of lay-offs, weak employment opportunities, negative wealth effect, fear of plunging asset prices.

Apakah cadangan beliau:

- Make 2008 a tax-free year? (to ease the people's burden)
- decreasing the price of utilities such as electricity, water, health cost
- reducing toll charges
- Set up Retrenchment fund, to be used for :
- Introduce a cash-bonus system for middle and low-income workers, families with school-going children, and farmers.
- Cash handouts retrenched workers (especially those 45 years+)

Pakej memberansang ekonomi harus mengambilkira:

- Timing /masa
- Targets and /kumpulan sasaran
- Coordination at different levels

Sebarang pakej perlu berdasarkan konsep ketelusan yang boleh mencapai matlamatnya kearah menjana pertumbuhan ekonomi Negara.



President MTUC Sdr. Syed Shahir dan Setiausaha Agung Sdr. G. Rajasekaran turut serta dalam forum ini



The Effects of Economic Downturn

By **Jasmine Loke**

Principal Physiotherapist of Enviro Health Synergyz Sdn Bhd

A recent study has found that the financial crisis is causing symptoms of severe stress in employees. Stress caused by financial debt, fear of retrenchment and an increasing obligation to fill extra roles vacated by former employees is having a severe impact on the bottom lines of companies.



In fact, **STRESS** is the primary cause of lost working days in Malaysia and is costing industries billions of dollars according to HSE statistics.

Out of Sight – Out of Mind

Clearly, the priority in today's workplace is to keep your job. In a recession, performance will be one of the most important factors in evaluating employees. Recession does not mean zero demand in the market – only that demand is lower.

As a result, employees will be expected to improve their efforts in terms of productivity and efficiency in order to prove their worth, both to the employer, as well as to potential clients.

However, with stress being the main cause of lost days, employees cannot help but be affected by medical absence. Even if they do force themselves to go to work,

the quality of their work is adversely affected.

Altogether – stress, financial debt, fear, long hours at work, sleepless nights – this makes for a deadly combination for overall employee health.

The Effects of Stress

The importance of counteracting stress due to the physical diseases it can cause is vital. The most common manifestation of stress is muscle pain. This then leads to tense neck and shoulder muscles which lead to stiffness, headaches and becomes a vicious circle leading to even more stress.

Stress also increases the risk of:

- Severe headaches
- Back pain
- Upper body pain
- Musculoskeletal disorders
- Work-related injuries

Physiotherapy & Stress Management

Physiotherapists offer a number of stress management techniques and treatments which can help to improve employee health and well-being.

Physiotherapists use an initial assessment to clarify the nature of the problem and develop strategies and treatment which are acceptable to the individual.

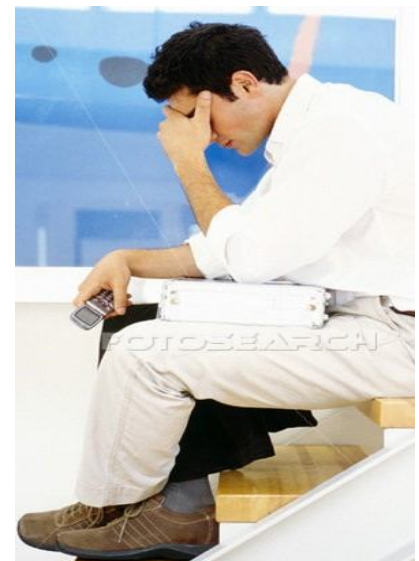
In stress management, physiotherapy can offer many different types of relaxation therapy including progressive muscle relaxation, breathing techniques, stretching,

massage and general fitness advice.

Research continues to indicate a positive correlation between a person's ability to cope with stress and the likelihood of disease in their lifetime.

Together with your physician, Physiotherapy and with their specific, guided exercises can assist by:

- Reducing muscle tension
- Increasing vitality and decreasing lethargy
- Improving concentration span
- Improving feeling of general well-being
- Decreasing blood pressure
- Reducing the risk of cardiovascular disease
- Improving attitude to work and leisure activity
- Reducing pain states such as headache, chronic pain syndromes and work-related anxiety.



gs175027 www.fotosearch.com



Malaysia: UN Review Should Challenge Rights Record End Preventive Detention, Investigate Abuses

(Geneva, February 9, 2009). Malaysia will undergo its first Universal Periodic Review (UPR) on February 11, 2009, at the Human Rights Council in Geneva. Under the process, the rights record of each member state will be reviewed once every four years.

"A long, hard look at Malaysia's performance on fundamental human rights, including its detention practices, is in order," said Elaine Pearson, deputy Asia director at Human Rights Watch. "Countries should call Malaysia to account for failing to address abuses against migrants and refugees, and for its continuing use of preventive detention."

Under Malaysia's draconian Internal Security Act (ISA), anyone deemed to be a threat to national security can be detained indefinitely without charge or trial, violating international due process standards. In its submission for the human rights review, Malaysia characterizes the ISA as "essential to peace, stability, and security" and describes the procedures under which a detained person can challenge the detention.

On September 12, 2008, the Malaysian government arrested two journalists and an opposition politician under the ISA. All have since been released. But one of the journalists, Raja Petra Kamarudin, founder and editor of Malaysia Today, Malaysia's most popular website, is now on trial for sedition. In December 2007, five leaders of the Hindu Rights Action Force (Hindraf) were charged under ISA after the organization staged a demonstration to draw attention to education and economic policies that discriminate against Malaysia's Indian population. These five remain in detention.

"Malaysia uses the pretext of national security to invoke the ISA and lock up critics and political opponents indefinitely," Pearson said. "UN member states should challenge Malaysia to repeal the ISA, and either to charge or to free all those currently detained under its provisions."

In its report to the Human Rights Council, Malaysia fails to address the problems faced by migrant workers, but suggests that a Malaysia-Indonesia Memorandum of Understanding provides necessary protection. Human Rights Watch has long documented abuses suffered by domestic workers – physical abuse, unpaid wages, excessively long working hours, and lack of rest days. The memorandum with Indonesia still fails to establish minimum labor protections or to guarantee the rights of domestic workers to hold their own passports, which sometimes are confiscated by employers to maintain control over an employee.

Human Rights Watch said that UN member states should especially raise concerns about Malaysia's failure to address abuses by the People's Voluntary Corps (Ikatan Relawan Rakyat or RELA), the government-backed force that apprehends irregular migrants and provides security for Malaysia's immigration detention centers. In 2008, Human Rights Watch documented a pattern of abuse by members of RELA, including physical assault, intimidation, threats, humiliating treatment, forced entry into living quarters, extortion, and theft perpetrated against migrants, asylum seekers and refugees).

One detained migrant told Human Rights Watch how RELA members treated them "like animals" and would punch and kick detainees for no apparent reason. Another migrant described a beating by RELA officers that left him so sore that he could not walk for days. The government consistently denies that abuses by RELA are widespread, and instead of disbanding RELA, wants to upgrade it into a fully-fledged enforcement agency.

"RELA officers have beaten, tortured, and extorted money from migrants, but instead of punishing them, the government wants to reward their bad behaviour by giving them more powers," said Pearson. "In reviewing Malaysia's record, states should be asking why Malaysia won't conduct impartial investigations into the involvement of RELA and immigration officers in abuses against migrants."

Malaysia has not signed major international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention Relating to the Status of Refugees and its optional protocol, and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Malaysian government has repeatedly stated that the Universal Declaration of Human Rights will only be given effect where it is compatible with Malaysia's constitution.

To read Human Rights Watch's submission to the UN Human Rights Council for the UPR of Malaysia, please visit: <http://www.hrw.org/en/news/2009/02/04/universal-periodic-review-malaysia>



International news

Thailand: Unemployment payment extended

The cabinet agreed to extend the unemployment compensation period for laid-off workers from six months to eight months, said by the Deputy Government Spokesman Phutthipong Punnanan.

Previously, laid-off workers were to be paid for six months or 180 days, as proposed by the Ministry of Labour. However, the government decided to extend it to eight months or 240 days after knowing that about 51,000 people were discharged in December last year.

The cabinet also endorsed a 120-million-baht budget for the Office of the Permanent Secretary to organise workshops to enhance the competencies of people without jobs, according to Deputy Government Spokesman Phutthipong Punnanan.

Furthermore, the government approved a supplementary budget of 1.955 billion baht for more than 990,000 people who have registered for the Universal Health Insurance project.

Another 607-million-baht was also approved to buy back farmlands, which were previously auctioned, for 1,187 farmers. 1,140 of those farmers had their lands seized by financial institutions and banks. However, each piece of land must not cost more than 2.5 million baht.

By: BangkokPost.com

Published: 28/01/2009

Korea: The government announces employment contingency measures one after another, including raising the incentive to encourage new employment by 20%.

As employment situation is getting rapidly deteriorated due to deepening economic recession, the government unveils emergency measures to be braced for employment crisis. These measures include extending the unemployment benefit recipient period up to 11 months and increasing the new employment-encouraging incentive by 20%, which is granted to businesses that hire youths or long-term job seekers.

On February 13, Labor Minister Mr. Lee Young-Hee had a press conference at the Gwacheon Government Complex and said, "Although the number of the unemployed falls short of one million, employment is getting worse, especially for SMEs and the socially disadvantaged class. Therefore, taking step-by-step emergency plans is growing necessary to counter employment crisis." He added, "The individual extension benefit, which can be extended up to 60 days currently, will be extended for 30 more days."

The individual extension benefit is a kind of unemployment benefit, which can be granted to job losers with a low possibility of getting a job even after their unemployment benefit recipient period (90 ~ 240 days) expires. Currently, the benefit can be extended up to two months. If the benefit recipient period extends to three months, unemployment benefit can be given maximum 330 days (11 months). *KOILAF 17 Feb 2009*

Dialogue among social partners including labor and management activates and the government sets out various assistance measures.

Social dialogue to overcome employment crisis derived from the global economic recession is gaining speed as workers and employers agree on "job sharing" to maintain employment and the government is expanding financial assistance measures.

The Ministry of Labor released on February 10 that the number of enterprises that avoided shedding jobs by resorting to suspension of work or contraction of work hours and thus, were granted the government's employment maintenance subsidy soared from 380 in last November to 467 in last December and 1,327 in this January.

Executives of large corporations such as Samsung Electronics and SK Telecom return their full or part of bonus voluntarily to reduce the financial burden of their companies and contribute to employment security of lower-level employees. In the case of state-run corporations, new recruitments are increasingly made with the money saved from the voluntary return or cut-down of wages. *KOILAF*