



International
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Design of an employment insurance system for **Malaysia**





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Design of an employment insurance system for Malaysia

Authors: John Mark Keyes, John Carter and Michel Bédard

Reviewers: Valérie Schmitt and Celine Peyron-Bista

Foreword

Malaysia is one of the most dynamic countries in South-East Asia and has set ambitious goals for its economic growth and well-being. The New Economic Model of 2010 envisioned Malaysia would become a high-income nation by 2020, developing a skilled workforce and reducing socio-economic inequalities.

Malaysia showed remarkable resilience during the economic and financial crises of 1997 and 2009. The integration of its economy globally and regionally continues, and will be strengthened by the introduction of the Association of Southeast Asian Nations (ASEAN) Economic Community in 2015, when Malaysia holds the ASEAN Chair.

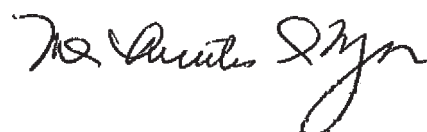
These integration processes will result in structural transformations and will ease workers into more productive industries. They therefore require enhanced, coordinated social protection coverage, including measures such as unemployment insurance (UI) benefits and suitable, active labour market policies (ALMPs) to cushion and mitigate any negative effects on working women and men.

Currently Malaysia has a low rate of unemployment. Therefore there is scope to establish an unemployment protection system at a comparatively low cost. As Malaysia progresses, achieving a higher standard of living and moving towards becoming a high-income country, an unemployment protection system will need to form an essential part of its social security system, as is the case in other developed countries.

Malaysia has taken timely action to achieve this, working with the International Labour Organization (ILO). In 2012 the ILO agreed with the Malaysian Government to provide technical expertise to the project “Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia”. The project took place in two phases. Phase 1 facilitated a national tripartite consensus building process on introducing an employment insurance (EI) system in Malaysia. In Phase 2 detailed feasibility studies for the EI system were undertaken, to determine the legal, institutional, operational and actuarial components of the proposed EI system. These studies comprise the present report.

The EI system is composed of three pillars; namely compensation for loss of income in the form of UI benefits, ALMPs to improve employability and provide protection to businesses, and a Savings Plan to acknowledge tenure of work. UI benefits linked with ALMPs form the core of the EI system.

It is hoped that additional national tripartite dialogue and decision making will move the EI system to the next stage of planning and implementation, so supporting the development of a prosperous, just and dynamic Malaysia.



Alcestis Abrera-Mangahas
Deputy Regional Director
ILO Regional Office for Asia and the Pacific

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The authors, however, are solely responsible for the contents of and especially for any opinions expressed in this document.

Bangkok, February 2015

Executive summary

Project: background and process

In early 2012, the ILO reached an agreement with the Malaysian government to provide technical expertise to the project “Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia”.

The project is coordinated by a Tripartite Project Committee (TPC) comprised of representatives from the Ministry of Human Resources (MOHR), *Pertubuhan Keselamatan Sosial* (PERKESO) or the Social Security Organization (SOCSO), the Malaysian Employers Federation (MEF) and the Malaysian Trades Union Congress (MTUC). Datuk K Selvarajah, Chief Executive Officer of SOCSO, heads the TPC and established the focus of the three studies – (i) legal; (ii) institutional and operational; and (iii) actuarial – that comprise this report. Importantly, the need to consider and incorporate stakeholder views into the three studies was highlighted, to ensure that any proposed EI system is tailored to the particular needs of Malaysia and all its citizens.

To date, the project has been divided into two phases.

Phase 1: Facilitate a national consensus on the possible introduction of an employment insurance system in Malaysia.¹

The aim of this first phase of the project was to reach a consensus on the necessity of introducing measures to improve protection for those who lose their jobs. Unemployment insurance benefits linked with active labour market policies were among the proposed measures. The objective would be to provide temporary and partial income replacement to employees who lose their employment involuntarily. Phase 1 ended with the compilation of this report.

The TPC also stressed that the existing retrenchment system had two functions – protection against loss of income in case of unemployment; and acknowledgement of tenure. These functions should be reflected in the future design of the system, to the extent possible. Building on the TPC’s consensus, several options for the design of the EI system were proposed and discussed in one national and two regional tripartite workshops with government agencies, social partners and experts.

The EI system would consist of three pillars.

- **Pillar 1. Compensation for loss of income:** UI benefits comprising a 50 per cent income replacement paid for three to six months, subject to previous contributions of at least 12 out of the previous 24 months, under strict conditions of unemployment and job search

Box 1. TPC consensus²

The TPC reached a consensus on a proposed mandatory EI system, which will embrace the following agreed objectives:

1. Provide adequate protection for those who lose their jobs and contribute to poverty eradication
2. Give flexibility to enterprises in adjusting to economic changes and in reorganizing their businesses (e.g. in the case of introduction of new technologies) – EI would therefore contribute to the protection of businesses and not only of employees
3. Facilitate mobility of the labour force through income security and re-employment measures
4. Be associated with job retention measures
5. Support job search and placement, training and retraining

Source: Carter and Bédard, 2012.

¹ In a few countries, the phrase “unemployment insurance” and the acronym “UI” are used. However, this report uses “employment insurance” and “EI” throughout to refer to protection in the event of unemployment.

² TPC consensus refers to quotes from the interim report endorsed by the TPC in July 2012.

- **Pillar 2. Employability and business protection:** ALMPs comprising services such as counselling, placement, mobility assistance, vocational training and retraining
- **Pillar 3. Acknowledgement of tenure:** a Savings Plan comprising individual savings accounts providing severance pay at the end of employment, where the employer share is only to be paid in case of retrenchment

Three scenarios were discussed for the introduction of the EI system. These are explained in Table 1 below.

Table 1. Scenarios for introducing an EI system in Malaysia

	Pillar 1: Compensation for loss of income	Pillar 2: Employability and business protection	Pillar 3: Acknowledgement of tenure
Scenario 1	UI		
Scenario 2	UI	ALMPs	
Scenario 3	UI	ALMPs	Savings Plan

Pillar 1, the UI component, has been at the core of the project and all its discussions and is thus part of all three scenarios. The TPC reached a consensus to evaluate a UI scheme comprised of the following main elements:

1. **Coverage:** all private sector salaried employees and apprentices under a contract of service of any type or duration
2. **Qualifying conditions:** 12 months of contributions in the preceding 24 months; termination must be involuntary
3. A **benefit rate** of 40 to 50 per cent for a **duration** of three to six months
4. **Entitlement conditions:** job seekers must register at the employment office upon termination and report monthly on their job search activities

Pillar 2 on ALMPs, was the second element that the TPC agreed to consider. ALMPs usually consist of measures such as employment counselling and placement, mobility assistance, vocational training and retraining. The objectives of these policies would be as follows:

- **Help enterprises adjust to economic changes and reorganize their businesses**

(e.g. in the case of introduction of new technologies) – the ALMPs and linked UI benefits would therefore contribute to the protection of businesses and not only of employees

- **Facilitate labour force mobility** through income security and re-employment measures
- **Encourage job retention** measures
- **Support job search and placement, training and retraining**

There are three types of ALMPs:

1. **Public employment services** such as job centres and labour exchanges help unemployed workers find a job, for example, by disseminating information on vacancies and providing assistance with interview preparation and writing curricula vitae (CVs)
2. **Training schemes** such as classes and apprenticeships help the unemployed improve their general education or specific skills and hence increase their employability
3. **Employment subsidies**, either in the public or private sector, seek to create or support jobs for the unemployed; these are typically short-term measures that are designed to allow the unemployed to build work experience and prevent skills from deteriorating

Pillar 3, a Savings Plan, would consist of a worker and employer funded programme to recognize tenure of service. The TPC envisaged that, under Scenario 3, such a Savings Plan might be added to the other two pillars, and accordingly requested that this possibility be studied in greater detail.

According to the Employment (Termination and Lay-off Benefits) (ETLB) Regulations under Malaysia's Employment Act 1955, minimum allowances based on past service must be paid to workers laid-off on grounds of redundancy, whether due to business closure, restructuring, reduction in production, mergers, technological changes, take-over, economic downturn or other similar circumstances. The 30 per cent or so of private sector workers who do not fall under the Employment Act can also receive retrenchment benefits either through individual or group negotiation.

The introduction of UI benefits would imply adjusting the structure of retrenchment benefits. A jointly funded Savings Plan could be one way of providing an offset to such adjustments, in addition to the very introduction of UI benefits. Under a phased approach, for example, workers could remain entitled to retrenchment benefits accrued up to the date of implementation of an EI system, but no further retrenchment benefits would accrue for work performed after this date.

In line with this concept, it was proposed that employers and workers could each contribute 1 per cent of wages to a Savings Plan. The money accumulated for each individual would be paid out when employees lost their jobs. However, the employer share would not be paid in cases of voluntary resignation or misconduct.

In September 2012, the TPC reached a consensus on the scenarios to be further studied in Phase 2 of the project. Scenario 3 was selected, which includes all three pillars. They also requested that the study consider Scenario 2, which includes Pillars 1 and 2 only.

A letter of agreement to pursue the project in Phase 2 was signed between the ILO and SOCSO in early December 2012.

Phase 2: Conduct feasibility studies to define the parameters of the three pillars based on actuarial and legal assessments, and the proposed institutional set-up for implementation; including linkages with employment and skill development programmes.

It was agreed that findings of the feasibility studies would be presented and discussed in a tripartite forum to be held in 2013. International consultants were tasked with authoring three studies on the legal, institutional and operational, and actuarial arrangements for the proposed pillars, in light of TPC decisions and relevant ILO Conventions and Recommendations.

A technical workshop was held at the beginning of October 2013. Comments and inputs on draft versions of the three feasibility studies were received from participants and noted in this report. They highlight areas requiring further clarification, tripartite discussion and consensus-building efforts.

Key findings on legal aspects of the EI system

The legal study on the proposed pillars considers the design of each scheme in light of existing Malaysian legislation, international case studies, and within the context of standards established by international legal instruments, notably the following ILO Conventions and Recommendations:

- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Employment Policy Convention, 1964 (No. 122)
- Human Resources Development Convention, 1975 (No. 142)
- Termination of Employment Convention, 1982 (No. 158)
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)
- Social Protection Floors Recommendation, 2012 (No. 202)
- Income Security Recommendation, 1944 (No. 67)
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
- Human Resources Development Recommendation, 1975 (No. 150)

- Termination of Employment Recommendation, 1982 (No. 166)
- Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176)³

While Convention No. 102 deals with coverage through monetary benefits in case of full unemployment, the later Convention No. 168 and the related Recommendation No. 176 establish a broader system of protection against unemployment. Convention No. 168 and Recommendation No. 176 move beyond the mere provision of income support and promote full, productive, and freely chosen employment. This is the kind of system envisaged in Malaysia, for the three “pillars” covering (i) income replacement or UI; (ii) employment measures and training opportunities, or ALMPs; and (iii) an additional Savings Plan as acknowledgement of tenure. Although Malaysia has not ratified either Conventions Nos. 102 or 168, the latter nevertheless represent important, internationally recognized standards and guidelines.

The legal report considers a range of issues under each pillar of the proposed system, as well as some overarching general issues.

Pillar 1: UI benefits

Existing legislations: There are several legislations and programmes that provide benefits bearing some similarity to UI or other employment benefits in Malaysia; some of them may require modification or discontinuation to avoid duplication with UI. Relevant legislations include the Employees Social Security Act 1969, the Employment Act 1955 and the Workman’s Compensation Act 1952.

Components of the law: The following components defining the legal framework of Pillar 1 should be addressed:

- contingencies covered – insurable employment and equality of treatment;
- insurable earnings;
- contributions;
- benefits (type, duration and rate);
- qualifying conditions for benefits (definition of involuntary termination of benefits, disqualification and reduction of benefits, seeking suitable employment, definition of suitable employment);
- claiming process (claim procedures, payment of benefits, liability to return overpayments);
- decisions and appeals;
- administrative provisions (administrative apparatus, e-transactions, employer and employee registration numbers); and
- enforcement (offences and penalties).

Coverage: All private sector salaried employees and apprentices under a contract of service of any type or duration. It is recommended to adopt the definition of the Employees Social Security Act 1969, while defining the term “insurable employment”.

Equality of treatment: The study recommends the inclusion of migrant and domestic workers in any EI system in respect with ILO standards, contained in the Conventions Nos. 97, 102, 111, 118, 168 and 189, that establish the principle of equality of treatment. In addition, certain categories of contracts, such as seasonal, short-term, part-time workers and apprentices require special attention, according to Convention No. 168.

Contributions: Contributions to UI benefits are usually made by both employers and employees, and in some countries, also by governments. Legislative provisions are needed to ensure that employers pay their premiums, and deduct and remit employee contributions. Legislation is also required to stipulate how contributions are to be paid and to provide for the collection of unpaid/overdue contributions.

Duration of benefits: In international case studies, the duration of UI benefits is generally limited, often through the establishment of a defined “benefit period”, that both limits the duration and establishes the periodicity

³ Available at: www.ilo.org/dyn/normlex/en/?p=1000:12000:0::NO. [accessed 6 March 2015].

of payments. This is provided for under Conventions Nos. 102 and 168. The TPC reached a consensus that benefits should be payable on a monthly basis, for a period of three to six months, which falls within the benchmark set by international labour standards.

Commencement and timing of payments:

A short waiting period should be imposed at the beginning of each UI claim. A seven-day waiting period is proposed in Malaysia, in line with the maximum recommended in ILO Conventions.

Rate of benefits: Benefit rates are generally set as a percentage of the rate of insurable earnings to a fixed maximum rate. Article 67 of Convention No. 102 provides that rates for UI benefits are to be at least 45 per cent of insurable earnings; Article 15(1) of Convention No. 168 raises this to 50 per cent. Worldwide, rates are generally above 45 per cent and reach as high as 90 per cent in some countries. The TPC decided on a benefit rate of between 40 and 50 per cent; while a minimum rate of 45 per cent would be necessary to comply with international labour standards.

Qualifying conditions for benefits: Conventions Nos. 102 and 168 both describe the circumstances in which an individual should qualify for benefits, and include criteria similar to those agreed upon by the TPC (e.g. 12 months in the past 24 months). Convention No. 168 describes an additional scenario of extending benefits in some instances of partial unemployment; countries such as Canada, France, Germany and the United States have provisions of this nature.

Involuntary termination of employment and reasons for termination: The TPC recommended that UI benefits be payable only as a result of “involuntary termination” of work such as due to end of contract, shortage of work, organizational closure, economic downturn, technological change, etc.; thus employees who decide to leave their job of their own accord would be ineligible. Benefits should also be paid for involuntary job loss when workers have no choice but to resign, also called departure with

“just cause” (as set out in Article 20 of Convention No. 168), for example, due to dangerous working conditions, unpaid wages or sexual harassment. This would be in accordance with international practice but go beyond the conditions that have applied in Malaysia since 1980 for retrenchment benefits.

Continuing entitlement, seeking suitable employment:

UI claimants must be capable of working, available at all times and actively looking for work. Benefits could be reduced or suspended for a temporary or indefinite period if two suitable job offers are rejected. Benefits should also be suspended if a person leaves the country, finds a job, goes on vacation or makes a fraudulent claim. A refusal of suitable employment (or in some cases, training) can trigger a disqualification from receipt of benefits. This requires legislative definitions of “refusal” and “suitable employment” and guidelines for establishing whether there was just cause for the refusal.

Decisions and appeals: ILO Conventions Nos. 102 and 168 provide that every claimant is to have a right of appeal in case of refusal of the benefit or complaint as to its quality or amount. Procedures for appeals may be set out in the legislation establishing the UI benefits or in other more general legislation dealing with administrative procedures. A specialized review tribunal may conduct appeals, in the manner of Malaysia’s Social Security Appellate Board.

Phasing out existing retrenchment benefits: The TPC considered the possibility that retrenchment benefits (as per Malaysia’s ETLB Regulations 1980 under the Employment Act 1955) should be phased out while the EI system is introduced. Some TPC members, however, were insistent that retrenchment benefits must be retained. According to ILO standards, retrenchment benefits (also known as severance pay) are addressed as a method of compensation that is independent of, and complementary to, the advantages granted by UI benefits. However, this should not lead to overlap in compensation for unemployment.

Pillar 2: ALMPs

Existing legislation: The report notes that Malaysia already has a robust set of active labour market programmes and legislation: JobsMalaysia provides employment services, the Human Development Act 2001, the National Skills Development Act 2006, and the Employees Social Security Act 1969 for rehabilitation of workers who sustain occupational accidents. It is recommended that amended legislation deal with the following elements related to Pillar 2:

- objectives;
- types of programmes and allowances offered;
- benefits;
- eligibility criteria;
- insurable earnings; and
- contributions.

The legal report, noting that Malaysia already has a robust set of ALMPs in operation, considered that they appear to collectively meet many of the requirements of ILO Conventions Nos. 102 and 168 and Recommendation No. 176, regarding ALMPs. A more in-depth assessment of existing ALMPs will be needed to identify well-performing programmes and institutions to build upon. On the basis of such an assessment, adjustments to existing ALMPs or implementation of new programmes may be considered, which

would have implications for existing ALMP legislation.

Pillar 3: Savings Plan

Finally, it is recommended that Pillar 3 (the Savings Plan) be dealt with separately from Pillar 1 (UI benefits) and Pillar 2 (ALMPs) on the basis of the existing features of the Employees Provident Fund (EPF) and the following elements:

- objective: contingencies covered;
- benefits;
- eligibility criteria;
- insurable earnings; and
- contributions.

Policy clashes would likely arise if an employer and worker funded Savings Plan to recognize employee tenure (as an offset to phasing out retrenchment benefits), as proposed by the TPC, were introduced. It is likely that the new Savings Plan would have different entitlement rules from those prescribed for retrenchment benefits under the ELTB Regulations 1980. As such, further legislation and regulations would need to be developed to determine withdrawal conditions for both employers and employees, once tripartite stakeholders agree on the modalities of the proposed Savings Plan.

Recommendations on legal aspects of the EI system

Table 2. Possible options to enact legislation for the EI system

Legal options	Pillar 1	Pillar 2	Pillar 3
Option 1	<ul style="list-style-type: none"> • New EI Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • Amend EPF Act
Option 2	<ul style="list-style-type: none"> • New EI Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • New Savings Plan Act
Option 3	<ul style="list-style-type: none"> • Amend Employees Social Security Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • Amend EPF Act
Option 4	<ul style="list-style-type: none"> • Amend Employees Social Security Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • New Savings Plan Act

Sub-option 1 for Pillar 1: New Act on an EI system

Although certain components of existing social insurance programmes will be required for UI benefits, two arguments may favour having a separate legislation for the EI system in Malaysia:

- existing laws, including the Employees Social Security Act 1969, serve the purposes of programmes that have different structures and purposes; and
- the EI system will rely on existing programmes (social insurance, ALMPs, etc.) that are scattered across other legislations, and modifying all of them so that they apply to an EI system, would make understanding and applying the new EI system far more difficult for employers, employees and administrative officials.

If enacted under a new Act, the EI system would require very few amendments to legislation establishing the other programmes, with the notable exception of the ETLB Regulations 1980.

Sub-option 2 for Pillar 1: Amend Employees Social Security Act 1969

The Employees Social Security Act 1969 provides for guidelines to run social insurance schemes in Malaysia, notably work injury benefits, SOCSO's Return to Work (RTW) programme and invalidity pensions. It also provides for the funding and payment, and administration of a range of benefits related to work injuries and invalidity, based on social insurance principles. It contains many elements that will be common to legislation for the EI system, notably provisions related to the governance of a social insurance scheme.

This option would involve integrating a Chapter on EI into this Act, and linking with other existing legislations and institutions needed under Pillar 2 and Pillar 3. This would require including separate provisions such as the level of contributions and payments, qualifying conditions, among other provisions specifically regulating the EI system. However, common

principles related to social insurance based management will be similar to those applied to other benefits under the Employees Social Security Act 1969.

Sub-option 1 for Pillar 2: Amend existing legislations on ALMPs

Since many ALMPs are in place backed by legislation, any new ALMPs could be introduced by amending the extant legislation.

Sub-option 1 for Pillar 3: Amend the Employees Provident Fund Act 1952

The advantage of this option is that it would require minimal legislative changes and would use the existing administrative structures established by the EPF Act (such as the Fund, Investment Panel, Board and its staff) to discharge the functions necessary to operate the Savings Plan. The legislative provisions related to paying and investing contributions would apply as well. The only substantive change would be in the provisions related to withdrawals (Part VI). These would have to be amended to include withdrawals contemplated under the new Savings Plan. This could be done by adding this basis to the existing bases. If the new basis were to include termination of employment for a broader set of reasons, or for any reason, it might also subsume some of the existing bases. However, the merits of retaining existing powers to impose conditions on some withdrawals (for example, the power in Subsection 54(2) to require a member to take up an insurance policy) would have to be considered.

Sub-option 2 for Pillar 3: New Savings Plan Act

A new Act on a Savings Plan funded by employers and workers would be more advantageous if many changes are required to the provisions of the EPF Act. However, careful thought should be given to these changes since a new Act, and corresponding new administrative structures, would entail significant expenses and implementation challenges. Also, a new Act would have to be coordinated with existing legislations, notably the EPF Act, to ensure that they operate harmoniously.

Conclusions on the legal framework: The preceding discussions suggest that any of the four options are feasible for establishing the legal framework of the proposed EI system. A review of 14 UI/EI systems in Asia and worldwide shows that five countries have included UI benefits under their Social Security or Social Insurance Laws; eight countries opted for a separate law (although some of the countries started with including UI under their Social Security Act); and one country has kept UI provisions under the Labour Law. The legislative practices in Malaysia and dialogue among different institutions involved can determine the most suitable way for the country.

Key findings on institutional and operational aspects of the EI system

Part II of this report provides recommendations on the institutional and operational arrangements for the proposed pillars of the EI system, including a monitoring and evaluation system for UI benefits in light of relevant ILO Conventions and Recommendations. It recognizes a number of functions requested by the TPC in relation to identifying appropriate government departments to carry out the required functions. Policy coordination mechanisms will be required to ensure that social security and employment laws and policies are designed and implemented effectively, and to engage social partners in the development of future reforms.

Overarching findings

Overall administrative responsibility: MOHR appears to be best placed to assume overall responsibility, supported by employers' and workers' representatives. This is largely due to its existing leadership of SOCSO on the administration of the Employment Injury Insurance Scheme and the Disability Pension Scheme. JobsMalaysia and the Department of Labour (DOL) also fall under MOHR. MOHR would thus play a major role in the adoption of an EI system and in monitoring and enforcing the provisions of the EI legislation.

Administration of the UI fund and other funds (depending on the scenario chosen): The

SOCSO fund is currently administered by a SOCSO Board, which is a tripartite body with representatives of work injury and pension invalidity benefits. A board in this model with membership reflecting the needs and interests of stakeholders (representatives from the Ministries of Human Resources, Education, Higher Education and Finance; employers' organizations; insured persons; and relevant experts) could administer the fund, as also resources generated for Pillar 2 and Pillar 3, if applicable (depending on which scenario is selected). In line with ILO Convention No. 102, a periodic actuarial assessment would be required, to review and assess the financial prospects of UI benefits.

Pillar 1: UI benefits

UI benefits: The three main functions of UI benefits are collection of contributions, processing of claims, and payment of benefits. Generally, tax authorities or social insurance bodies are charged with the responsibility of collecting contributions. In Malaysia, SOCSO is the most logical choice for undertaking these functions. SOCSO already has 46 State and branch offices throughout the country, providing full services to employers and insured persons under the work injury and pension schemes.

Record of Employment (ROE) function: When comparing the workflow of existing SOCSO insurance schemes with proposed functions of the new UI scheme, there is one entirely new function – issuance of a letter of termination or ROE. These are generally issued so that the unemployed person can apply for UI benefits. An ROE template could be made available as a downloadable application from the SOCSO website, including sections establishing the reason for separation and any additional monies paid on separation, to determine eligibility for UI benefits.

Pillar 2: ALMPs

Registration for employment services: Eligible unemployed persons will need to report to EI authorities on a monthly basis while receiving benefits, to prove continuing entitlement and to access additional employment placement

assistance. JobsMalaysia staff could take on this function, including advising the UI unit of anyone refusing work or failing to report for interviews, etc. Close linkages between SOCSO and JobsMalaysia would be necessary to conduct registration for employment and monthly follow-up interviews.

Linking between SOCSO and JobsMalaysia:

At present, the JobsMalaysia staff is co-located with DOL staff. The latter conduct investigations on compliance with the Employment Act 1955. Ideally, JobsMalaysia and SOCSO/UI services should be provided at the same location to ensure a more streamlined experience for the unemployed worker.

ALMPs and linkages with employment services:

The development of effective linkages between the institution responsible for UI benefits and the institutions implementing ALMPs will be critical to success. The primary linkages will need to be with JobsMalaysia (registration for employment and conducting monthly interviews), DOL (mobility assistance), the RTW programme (selection and referral of prospective trainees), and the Department of Skills Development (DSD, approved training providers and courses).

Relevant linkages required will include those between:

- SOCSO and JobsMalaysia for purposes of registering a worker who has been terminated from employment, as seeking employment. Exchange of information agreements would be necessary so workers could register via the JobsMalaysia portal and SOCSO could access this data.
- JobsMalaysia and the UI administration for purposes of accessing a person's employment and unemployment history while they are receiving UI benefits, to determine continuing eligibility and relevant job assistance.
- JobsMalaysia and SOCSO RTW for purposes of referral to relevant training opportunities.
- JobsMalaysia and DOL for purposes of referral to mobility assistance.

Training: Institutional arrangements will be required to link the proposed UI benefits with existing training activities and programmes. The cost, number of people involved and implementation of such linkages will be affected by the duration of UI benefits, the characteristics of UI claimants, and the experience of training providers (which will be limited, initially).

Job placement and counselling activities:

JobsMalaysia currently provides free services to job seekers, such as counselling, and conducts workshops on effective job search and writing of CVs. JobsMalaysia also has a job matching portal on their website. The organization is thus well placed to administer job matching and other employment services. Improvements would be needed in many areas, such as to the job matching service, and these would have to be addressed prior to implementation of the overall programme.

Mobility assistance: The DOL is experienced in evaluation and assessment of compensation claims, and these skills could be utilized for Pillar 2 functions, such as evaluating and assessing the needs of individuals applying for mobility assistance (assisting individuals in obtaining suitable jobs in other parts of the country).

Selection and referral to training:

The DOL has coordinated its work with the SOCSO RTW unit, to assist persons with disabilities to return to permanent work. The RTW programme is a comprehensive rehabilitation scheme, using personalized case management, to assist employees suffering from disability due to injury or illness, to recover and join the workforce as soon as they can. The work and goals of the RTW unit are similar in many respects to those of the proposed programme. The unit could potentially be delegated responsibility for selection and possible referral of unemployed workers who are interested in attending training or retraining to increase their employability, assuming that the unit will receive proper staff training for addressing the needs of unemployed workers. The unit would need to be linked to DSD, which would assist with the selection of training providers and approved courses.

Scenario 2: Pillars 1 and 2

Additional staffing would likely be required within SOCSO for administration of the EI contributions (dividing the shared financing of Pillar 1 and Pillar 2) and front-end services, as register clerks, insurance officers, workers in the accounting department and the SOCSO call centre. At JobsMalaysia, some additional staffing would be required to register unemployed workers, conduct monthly job-seeking interviews and enhance the job-matching service. Some additional resources may be required at the DOL to establish a mobility assistance unit, as well as for the SOCSO RTW unit to process selection and referrals to appropriate training institutions. It is estimated that a total of 1,185 new staff would be needed across SOCSO, SOCSO RTW, DOL, JobsMalaysia and DSD.

Discussions were held with SOCSO staff to investigate the potential costs of developing a new information and communications technology (ICT) system for UI benefits separate from the SOCSO ICT system; an integrated system based on Scenario 2; and an integrated system based on Scenario 3. SOCSO ICT indicated that for expanding the current system and integrating both the existing programmes with the EI system, the total cost would be MYR145 million. The cost of maintenance of the computer system every five years is part of the administration cost included in the contribution rate paid by employers and employees. The starting costs for Scenarios 2 and 3 would be relatively similar. For other partners e.g. JobsMalaysia and the DOL, new business requirements would require installing or updating some ICT applications and functions.

The addition of new staff and a requirement for unemployed workers to report in person to the SOCSO district offices would significantly impact on the physical location of offices and the need to expand premises or obtain new locations. There may also be a need to expand existing or locate new premises for JobsMalaysia staff, to carry out the responsibility of registering unemployed workers. Additional computers would also be required at front-end offices to accommodate persons registering as job seekers.

Scenario 3: Pillars 1, 2 and 3

If SOCSO is accepted as the appropriate institution to administer Pillar 3, the unit responsible for administering Pillar 1 would also be utilized for Pillar 3. This streamlined process would require fewer additional staff than if another institution were designated responsibility.

As noted above, SOCSO ICT personnel indicated that there is little difference between the costs of Scenarios 2 and 3.

Monitoring and evaluation system

For the proposed EI system in Malaysia, the monitoring and evaluation (M&E) system should relate to the effectiveness of service delivery. Infrastructure to supply M&E information will be critical to successful M&E, particularly the ICT system. Key performance indicators (KPIs) will need to be compiled to set the primary objectives of the system, and it will be important for the necessary resources and funding to be allocated to the designated institution, likely SOCSO, to establish an effective M&E system. KPIs could include: speed of service; accuracy of payments; number of new registrations; percentage of employers paying contributions on time and correctly; number of contributions collected; percentage of appeals heard on time; and the number of UI payments made under each pillar.

Recommendations on institutional and operational aspects of the EI system

Overall, the institutional and operational analysis recommended that any new programme should utilize existing services and systems to the greatest extent possible, with upgrades where necessary, rather than attempting to introduce an entirely new system. The report advocates keeping the new system as simple and straightforward as possible. ALMPs need to be linked to new UI benefits; however the report strongly suggests that the overarching programme should be implemented methodically and gradually, allowing time for maturation, to ensure its

sustainability in the long-term. The main recommendations relating to institutional responsibilities are explained below.

Pillar 1: UI benefits

- MOHR: responsible for policy development, development of legal requirements and overall leadership in administration of the EI system
- A new EI Fund Board (or UI Fund Board, if Scenario 1 is chosen): created to manage the EI system, with representatives of the government, employers and beneficiaries, including transparent reporting to the Malaysian government and public
- SOCSO: carry out the majority of the functions of Pillar 1, like collection of contributions, processing of UI applications, payment of benefits
- JobsMalaysia: responsible for registration of unemployed workers as job seekers and for conducting monthly job-seeking interviews

Pillar 2: ALMPs

- JobsMalaysia: responsible for job placement and counselling activities
- DOL: responsible for mobility assistance
- SOCSO RTW: responsible for selection and referral for vocational training and retraining
- SOCSO: responsible for compensating job seekers (who accept to return to work on a part-time basis) for their loss of income, under the UI scheme, (linking Pillar 1 and Pillar 2)
- SOCSO: responsible for work sharing (linking Pillar 1 and Pillar 2).

Pillar 3: Savings Plan

- SOCSO: responsible for administrative and operational functions of the employer and worker funded Savings Plan. As an alternative, the Employees Provident Fund could assume this responsibility given their expertise in employer and worker savings accounts. Much will depend on more precise information and decisions on several

issues, such as qualifying conditions and withdrawal provisions.

Key findings on actuarial aspects of the EI system

To conduct a financial assessment of the three proposed pillars in Malaysia, the actuarial study used two main sources of data, namely SOCSO and the Department of Statistics (DOS) Malaysia. Data from MOHR, EPF, the Public Service Department, the *Pembangunan Sumber Manusia Berhad* (PSMB) or Human Resources Development Corporation, JobsMalaysia, and other sources were also used. The initial valuation of an EI system is necessarily built on multiple assumptions, in line with the quality and type of data available. In this case, the actuary found the statistics available to be sufficient to allow for reasonable cost estimates.

Pillar 1: UI benefits

There were three key steps involved in the actuarial valuation of the UI benefits:

1. estimating the number of insured persons, and their contributory earnings;
2. estimating the projected number of claims for UI benefits, their duration, the average benefit per claim, and ultimately the total amount of benefits to be paid; and
3. estimating the ratio of total benefit costs to total contributory earnings to provide the combined contribution rate, to be shared equally between employers and workers.

Number of persons insured for UI and their contributory earnings: The actuarial study collected and considered the following data:

- number of persons currently insured under SOCSO;
- number of paid employees, obtained from the Labour Force Survey (LFS);
- number of paid employees in the private sector;
- number of workers whose first earnings on joining the workforce did not exceed MYR3,000 per month; and

- possible number of employees whose employers have failed to register with SOCSO.

It was estimated that at present, the contributor base for UI benefits is 5.8 million annual contributors.

Potential claims for UI benefits and benefit costs: The number of UI claims would reflect the number of individuals terminating employment each year after having previously contributed for at least 12 of the preceding 24 months. Using data from the LFS on the number of unemployed workers who worked before becoming unemployed, the study found that the average duration of unemployment is 4.74 months per unemployed individual. Further calculations on the basis of LFS data found that the number of workers becoming unemployed each year is approximately 695,000 individuals.

Using these figures, LFS statistics and SOCSO data on the number of contributors to existing social security schemes and the average wages of unemployed persons, the average monthly benefit was calculated to be 50 per cent of MYR1,330 or MYR665. At current unemployment levels and with a 50 per cent benefit rate, the annual cost of UI benefits was estimated at between MYR142 million and MYR230 million, on the basis of claims which, at maturity of the UI scheme, could reach between 137,000 and 215,000 annually.

Ratio of total benefit costs to total contributory earnings: The combined employer and employee contribution rate needed to pay for these benefits and the administration costs of the EI system was calculated by dividing the estimated benefit costs by the aggregate insured earnings. It was estimated that with a benefit rate of 50 per cent, a total contribution rate varying between 0.15 per cent and 0.24 per cent, shared equally between employers and workers, should be enough to fund UI benefits and cover the administration costs.

Pillar 2: ALMPs

The actuarial study found that Malaysia is already implementing substantial dynamic active labour market policies, programmes and measures, currently estimated by the Malaysian government to cost MYR3.7 billion. As a point of comparison, the actuarial study considered ALMP spending in Organisation for Economic Co-operation and Development (OECD) and other similar countries, relative to gross domestic product (GDP). In Chile, which has a similar per capita GDP as Malaysia, spending on ALMPs amounts to 0.43 per cent of GDP (compared with an average of 0.61 per cent in OECD countries). If Malaysia were to spend a comparable amount as Chile, it would amount to approximately MYR4.3 billion.

The study found that the primary task of the proposed scheme, in relation to ALMPs, will be to effectively link the UI benefits with ALMP tools and instruments, so that job seekers can secure suitable employment at the earliest opportunity.

Pillar 3: Savings Plan

The nominal contribution rate under the proposed Savings Plan in recognition of employee tenure was tentatively placed at 2 per cent of wages, shared equally between employees and employers (i.e. 1 per cent each), presumably applied to the same persons and wages as the UI benefits. It was also proposed by the TPC that these savings would not be taken into account when paying UI benefits, since they would be accumulated for past service and are thus akin to personal funds. Accumulated contributions in savings accounts would be deducted from any retrenchment benefits otherwise payable. In the case of voluntary departure (retirement, resignation, misconduct), workers would only be entitled to their own savings; employers would recover their contributions.

The actuarial study found that the accumulated savings produced by a 2 per cent contribution on wages would be modest, being equivalent to about 25 per cent of a month's wages for each year of contributions. They would amount, for example, to only about 2.5 months wages after ten years of service. Current retrenchment benefits after ten years of service amount to 2.6 times this result. In addition, under the proposed rules (if the current retrenchment rules were to prevail when the time comes to consider a possible payment), most employer contributions (over 95 per cent) would be expected to revert to employers.

The actuarial report thus found that the proposed scheme would not be of significant value to employees, nor would it be an attractive or practical option due to its separate administration from UI benefits. Furthermore, given long-standing employer apprehensions about the costs of implementing stand-alone UI benefits, the debate around Pillar 3 was likely to be counterproductive and detrimental to the adoption of the modest, low-cost proposal currently being considered in regards to UI benefits.

Recommendations on actuarial aspects of the EI system

Pillar 1: UI benefits

Coverage: Inclusion of migrant workers as contributors to UI benefits should be accompanied by specific arrangements to secure their rights. One possibility would be to provide departing migrant workers (upon the end of employment), who will therefore not be able to report monthly to the employment services, with a refund of their UI contributions or a flat benefit.

Amount of benefits: Monthly benefits should be set at 50 per cent of previous average contributory wages, in accordance with ILO Convention No. 168.

Minimum/maximum monthly benefits: Minimum UI benefits could be considered if

deemed appropriate – for example, at 75 per cent of the applicable minimum wage in the region where an individual works. Since benefits would depend on average contributory wages, the maximum monthly UI benefits would automatically be limited to 50 per cent of MYR3,000.

Financing: UI benefits would be fully self-financed, with funds coming from equal employer and worker contributions. In line with ILO Convention No. 102, the government would cover any deficits, either through repayable loans or outright grants.

Benefit costs and contribution rate: The estimated contribution rates for UI benefits are very low, between 0.15 per cent and 0.25 per cent. The combined employer and employee contribution rate should not exceed 0.30 per cent to 0.40 per cent, so that employers and workers would each contribute no more than 0.20 per cent of wages earned. The higher rate of 0.40 per cent could be chosen if a safety margin is desired, and to provide for start-up costs.

Contributory wages: Contributions would be charged on wages as set out in the Employees Social Security Act 1955, up to the current SOCSO wage ceiling of MYR3,000 per month.

Qualifying conditions: Workers should be required to have made 12 months of contributions (matched by their employer) within the 24 months preceding unemployment.

Frequency and duration of payments: Payments should occur on a monthly or fortnightly basis, on the anniversary of the first benefit payment. Benefits should be paid for a maximum of three to six months. In Malaysia, it is recommended that a three-month minimum apply to workers who have worked the required minimum of 12 months, and that each additional four months of work provide one additional month of benefits, up to six months of benefits after 24 months of work. Within these limits, benefits would be payable for as long as an individual is unemployed.

Earnings while receiving benefits: Income from other employment could be permitted as long as

the earnings do not exceed a set percentage – around 50 per cent – of benefits being paid.

Duplication of social security benefits: If the claimant receives any other social security benefit, they may choose the higher benefit but cannot accumulate social benefits from multiple sources.

Administration: SOCSO will bear overall responsibility for the UI scheme, its management and financing. All contributions will be deposited into a separate UI fund and all benefits and administrative charges will be paid out of the same fund.

Pillar 2: ALMPs

Any additional investment, financed through employer and worker contributions for ALMP measures, does not appear necessary and should, if deemed expedient, be kept at a very low level, no more than 0.1 per cent or 0.2 per cent of contributory wages.

Pillar 3: Saving Plan

The actuarial study does not recommend establishing the proposed scheme, given its limited value for employees and the attendant design and administrative issues. Such a scheme would also be redundant with the EPF.

Conclusions on the proposed design of the EI system

The findings and recommendations of the three technical reports are generally complementary and point to the feasibility of proceeding with the implementation of Scenario 1 of the proposed EI system (Pillar 1 on UI benefits) as a priority, and linking it with existing ALMPs.

Pillar 1: UI benefits

The points of consensus already reached by the TPC in relation to UI benefits – namely those relating to coverage, qualifying conditions, benefit rate and duration, and entitlement conditions – are all generally supported by the findings and recommendations of the three reports.

The legal report offers two options for the legal architecture of UI benefits, presenting clear advantages and disadvantages for each option. Moreover, some areas of concern were identified and will require further tripartite discussion and consensus-building efforts. For example, while the TPC decided on a benefit rate of between 40 per cent and 50 per cent, the legal report notes that a minimum rate of 45 per cent would be necessary to comply with international labour standards. In the same vein, the TPC proposed that UI benefits be payable only as a result of “involuntary termination” of work, making employees who decide to leave their job ineligible. In line with international labour standards, this stipulation should be supplemented to include voluntary departure with “just cause”, to protect workers who have no choice but to leave their employment (for example, due to sexual harassment or dangerous working conditions). An additional area of concern is the exclusion of migrant and domestic workers from the EI system, which would be difficult to reconcile with ILO standards. Finally, employees reaching their “end of contract” date should be entitled to receive UI benefits (not provided for under existing retrenchment provisions).

The institutional and operational report recommended that the majority of administrative functions should be delegated to existing government bodies, with overall administrative responsibility assigned to SOCSO. Some additional resourcing (human, financial and ICT) would be required, with the main challenge being establishing required linkages between relevant government departments and bodies to ensure data-sharing and streamlined claims processing.

The actuarial study found that the proposed design of UI benefits in Malaysia is a conservative, prudent and low-cost option. Benefits are modest, the maximum duration is low and entitlement requirements are sensible. The low prevailing unemployment rate is a major reason why the costs of implementing the scheme will be low for Malaysia at present. Furthermore, as Malaysia moves up the productivity ladder, achieves a higher standard of living and becomes

more open to global economic currents, there may be greater risks associated with its participation in the global economy. It would appear pertinent that a country moving towards high-income status should adopt a UI scheme which is congruent with that status, and which most other countries in that group have adopted.

Pillar 2: ALMPs

Each of the technical reports highlighted the substantial range and variety of established ALMPs in Malaysia. The legal report noted that existing ALMPs collectively meet many of the requirements under relevant international instruments. The actuarial report, furthermore, found that additional investment for ALMPs financed out of contributions would likely not be necessary, and any extra costs could be kept very low.

The primary consideration raised in each of the studies is the manner in which existing ALMPs can be effectively linked to and integrated with UI benefits, in order to enable job seekers to secure suitable training opportunities and employment at the earliest opportunity. The operational and institutional report outlines the range of linkages that would be required and the potential human, ICT and financial costs that would be involved in implementing Pillar 2 and thereby, linking ALMPs to UI benefits.

The conclusions drawn by the respective technical reports indicate that a gradual introduction of Pillar 2, subsequent to the implementation of UI benefits, may be the most feasible option. This would allow time for the capacity and effectiveness of existing ALMPs and training providers in Malaysia to be properly assessed (as recommended in the legal report), so that the policy, legislative and administrative adjustments necessary to adequately link these to UI benefits can be understood and planned for.

Pillar 3: Savings Plan

The efficacy of designing and implementing a Savings Plan to acknowledge tenure (Pillar 3) is generally not supported by any of the technical

reports, and thus Pillar 3 is not recommended for Malaysia. The legal report finds that policy and legislative clashes would likely emerge from the introduction of the proposed Savings Plan, and the actuarial study notes that debate over Pillar 3 may detract unnecessarily from on-going discussions on introducing any scheme on income protection.

Though the institutional and operational study found that few additional staff or financial resources would be required to implement the Savings Plan (compared with implementing Pillars 1 and 2) as assuming administrative responsibility rests with SOCSO (as with the other two pillars), the actuarial study found that the scheme is unlikely to offer significant value to employees, and may be an administratively impractical and thus an overall unattractive option.

On-going TPC dialogue

On the basis of feedback received from TPC stakeholders on the three technical studies (discussed in Parts I to III), at this stage it is clear that further dialogue and decisions are necessary to move forward to the next phase of planning and implementation. One of the most pressing issues is the lack of consensus between employer and worker organizations regarding retrenchment benefits. At the very least, if retrenchment payments are retained in whole or in part, or even during the phase-out, the payment of UI benefits should happen after the payment of retrenchment benefits.

On-going dialogue within the forum of the TPC is also necessary to ensure that all stakeholders have a clear understanding of the proposed scheme parameters and the relevant assumptions upon which actuarial estimates have been made.

Several other issues have been raised through the stakeholder comments on the technical studies. These are outside the scope of the respective analyses and require continued dialogue as well as direction from the Malaysian government. These issues, such as labour market flexibility, skill training, and others, demand further

discussion and may require the initiation of additional studies or measures on the part of the government or other relevant stakeholders.

Some stakeholders point to Malaysia's low unemployment rate and question the need for any scheme that provides income protection at the time of unemployment. However, as noted above in this report, the experiences of other

countries (such as the Republic of Korea) confirm the logic and pragmatism of implementing such a scheme when unemployment rates are low, rather than waiting for a crisis. As it continues to integrate with the global economy, Malaysia will be increasingly vulnerable to global economic downturns and in need of systems that protect its workers and employers in case of domestic or global shocks.

Abbreviations and acronyms

ALMP	active labour market policy
ASEAN	Association of Southeast Asian Nations
CAD	Canadian dollar
CV	curriculum vitae
DOL	Department of Labour
DOS	Department of Statistics
DSD	Department of Skills Development
EI	employment insurance
EPF	Employees Provident Fund
EPU	Economic Planning Unit
ETLB	Employment (Termination and Lay-off Benefits)
FCLB	<i>Faedah Caruman Lewat Bayar</i> (interest on late contributions)
FMM	Federation of Malaysian Manufacturers
FT	Federal territory
GDP	gross domestic product
GLC	Government Linked Company
GNI	gross national income
HRDF	Human Resources Development Fund
ICT	information and communications technology
ILO	International Labour Organization
IMF	International Monetary Fund
INVITE	International Technical Education and Vocational Training Programme
ISO	International Organization for Standardization
KPI	key performance indicator
LFS	Labour Force Survey
LMP	labour market policy
M&E	monitoring and evaluation
MEF	Malaysian Employers Federation
MIMOS	Malaysian Institute of Microelectronic Systems
MITI	Ministry of International Trade and Industry
MOF	Ministry of Finance
MOHE	Ministry of Higher Education
MOHR	Ministry of Human Resources
MTUC	Malaysian Trades Union Congress
MyCoID	My Company Identification
NEAC	National Economic Advisory Council
NEM	New Economic Model
NGO	non-governmental organization
NUBE	National Union of Bank Employees
OECD	Organisation for Economic Co-operation and Development
OSH	occupational safety and health
PEMANDU	Performance Management and Delivery Unit
PERKESO	<i>Pertubuhan Keselamatan Sosial</i> (Social Security Organization)
PPP	purchasing power parity
PSMB	<i>Pembangunan Sumber Manusia Berhad</i> (Human Resources Development Corporation)
PTPK	<i>Perbadanan Tabung Pembangunan Kemahiran</i> (Skills Development Fund Corporation)
MYR	Malaysian Ringgit

ROE	Record of Employment
RTW	Return to Work
SIKAP	<i>Sistem Imejan Kaedah Automasi PERKESO</i> (Imaging Systems Automation Method PERKESO)
SLIM	<i>Skim Latihan 1Malaysia</i> (1Malaysia Training Scheme)
SME	small and medium-sized enterprise
SOCSO	Social Security Organisation
SPF	social protection floor
SSM	<i>Suruhanjaya Syarikat Malaysia</i> (Companies Commission of Malaysia)
TEP	Temporary Employment Pass
TPC	Tripartite Project Committee
UI	unemployment insurance
UN	United Nations
UNITAR	<i>Universiti Tun Abdul Razak</i>
US\$	United States dollars
UTC	Urban Transformation Centre

Introduction and background

In early 2012, the ILO reached an agreement with the Malaysian government to provide technical expertise to the project “Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia”. The project is coordinated by the TPC, which comprises representatives from MOHR, SOCSO, MEF and MTUC. It comprised three studies (legal; institutional and operational; actuarial) on establishing the proposed EI system in Malaysia. These three studies are outlined in this report.

To date, the project has been divided into two phases.

Phase 1: Facilitate a national consensus on the possible introduction of an employment insurance system in Malaysia.

The objective would be to provide temporary cash benefits to employees who lose their employment involuntarily, and help them seek new employment opportunities. Several options for the design of the EI system were proposed and discussed in one national and two regional tripartite workshops with government agencies, social partners and experts. The EI system would consist of three pillars, namely (i) unemployment insurance benefits; (ii) ALMPs; and (iii) a Savings Plan. Three scenarios were built around these pillars, as summarized in Table 3 below.

Table 3. Scenarios for introducing an EI system in Malaysia

	Pillar 1: Compensation for loss of income	Pillar 2: Employability and business protection	Pillar 3: Acknowledgement of tenure
Scenario 1	UI		
Scenario 2	UI	ALMPs	
Scenario 3	UI	ALMPs	Savings Plan

Pillar 1, the UI component, has been at the core of the project and all its discussions and is thus part of all three scenarios. The TPC reached a consensus to evaluate a UI scheme comprised of the following main elements:

1. **Coverage:** all private sector salaried employees and apprentices under a contract of service of any type or duration

2. **Qualifying conditions:** 12 months of contributions in the preceding 24 months; termination must be involuntary
3. A **benefit rate** of 40 to 50 per cent for a **duration** of three to six months
4. **Entitlement conditions:** job seekers must register at the employment office upon termination and report monthly on their job search activities

Pillar 2 on ALMPs, was the second element that the TPC agreed to consider. ALMPs usually consist of measures such as employment counselling and placement, mobility assistance, vocational training and retraining. The objectives of these policies would be as follows:

- **Help enterprises adjust to economic changes and reorganize their businesses** (e.g. in the case of introduction of new technologies) – the ALMPs and linked UI benefits would therefore contribute to the protection of businesses and not only of employees
- **Facilitate labour force mobility** through income security and re-employment measures
- **Encourage job retention** measures
- **Support job search and placement, training and retraining**

There are three types of ALMPs:

1. **Public employment services** such as job centres and labour exchanges help unemployed workers find a job, for example, by disseminating information on vacancies and providing assistance with interview preparation and writing CVs

2. **Training schemes** such as classes and apprenticeships help the unemployed improve their general education or specific skills and hence increase their employability
3. **Employment subsidies**, either in the public or private sector, seek to create or support jobs for the unemployed; these are typically short-term measures that are designed to allow the unemployed to build work experience and prevent skills from deteriorating

Pillar 3, a Savings Plan, would consist of a worker and employer funded programme to recognize tenure of service. The TPC envisaged that, under Scenario 3, such a Savings Plan might be added to the other two pillars, and accordingly requested that this possibility be studied in greater detail.

According to the Employment (Termination and Lay-off Benefits) Regulations under Malaysia's Employment Act 1955, minimum allowances based on past service must be paid to workers laid-off on grounds of redundancy, whether due to business closure, restructuring, reduction in production, mergers, technological changes, take-over, economic downturn or other similar circumstances. The 30 per cent or so of private sector workers who do not fall under the Employment Act can also receive retrenchment benefits either through individual or group negotiation.

The introduction of UI benefits would imply adjusting the structure of retrenchment benefits. A jointly funded Savings Plan could be one way of providing an offset to such adjustments, in addition to the very introduction of UI benefits. Under a phased approach, for example, workers could remain entitled to retrenchment benefits accrued up to the date of implementation of an EI system, but no further retrenchment benefits would accrue for work performed after this date.

In line with this concept, it was proposed that employers and workers could each contribute 1 per cent of wages to a Savings Plan. The money accumulated for each individual would be paid out when employees lost their jobs. However, the

employer share would not be paid in cases of voluntary resignation or misconduct.

In September 2012, the TPC reached a consensus on the scenarios to be further studied in Phase 2 of the project. Scenario 3 was selected, which includes all three pillars. They also requested that the study consider Scenario 2, which includes Pillars 1 and 2 only. A letter of agreement to pursue the project in Phase 2 was signed between the ILO and SOCSO in early December 2012.

Phase 2: Conduct feasibility studies to define the parameters of the three pillars based on actuarial and legal assessments, and the proposed institutional set-up for implementation; including linkages with employment and skill development programmes.

It was agreed that findings of the feasibility studies would be presented and discussed in a tripartite forum to be held in 2013. International consultants were tasked with authoring three studies on the legal, institutional and operational, and actuarial arrangements for the proposed pillars, in light of TPC decisions and relevant ILO Conventions and Recommendations.

In March 2013, a fact-finding mission was conducted, to meet stakeholders and government departments and elaborate on their potential roles in implementing each of the proposed pillars. A technical workshop was held at the beginning of October 2013. Comments and inputs on draft versions of the three feasibility studies were received from participants and noted in this report. They highlight areas requiring further clarification, tripartite discussion and consensus-building efforts.

Geography

Malaysia is composed of two distinct regions, i.e. (i) Peninsular Malaysia to the west; and (ii) East Malaysia, situated at 650 to 950 kilometres across the South China Sea. The country's land mass is about 330,290 square kilometres, 40 per cent of which lies in Peninsular Malaysia, where close to 80 per cent of the population lives. Peninsular Malaysia is located to the south of Thailand and

Figure 1. Map of Malaysia



east of the Indonesian island of Sumatra. East Malaysia is located in the northern part of the island of Borneo, which is shared with Brunei and Indonesia as well. Figure 1 shows the country's map.

Malaysia has a tropical and mainly maritime climate characterized by stable and moderate temperatures, with high humidity, thus providing favourable conditions for agriculture. It has a high level of biological diversity, including many animal species that are unique to the country, especially on the island of Borneo. Malaysia's natural resources include oil, gas, timber, palm oil and fertile land, which the country has harnessed for its economic development.

The geography and climate of the country have influenced its economy, which gradually expanded from agriculture and primary commodities into mining, and then into manufacturing (Jomo and Wee, 2009). Regional incomes and labour market outcomes may also be tied to geography, with the sparsely populated states of East Malaysia i.e. Sarawak and Sabah, ranking 12th and 16th out of the 16 regions of Malaysia, in mean median wage income (see Table 5) as well as posting higher unemployment rates than all other Malaysian states in 2011 (see Table 11 for data and discussion).

Population

At the beginning of 2014, the population of Malaysia was estimated at about 30 million, which is an increase from 28.6 million at the time of the 2010 Census. As seen in Table 4, the population is diverse. Malays make up just over half the total population; citizens of Chinese origin form 22 per cent of the population; persons of indigenous ancestry ("others") comprise about 12 per cent of the population; and Indians represent 7 per cent of the population. The remaining 8 per cent are non-Malaysian citizens.

Excluding non-Malaysian citizens, the unemployment rate is highest amongst indigenous groups and persons of Indian origin, close to average for those of Malay origin and lowest amongst persons of Chinese origin. Wage differences, on the basis of the monthly median for each ethnic group, are also notable.

From 1980 to 2012, the Malaysian population increased from 13.8 million to 29.4 million, registering an average annual growth rate of 2.4 per cent. The annual rate of growth has slowed in recent years to about 1.5 per cent. Population projections anticipate further reductions in the population growth rate (DOS, 2013a).

Table 4. Population, labour force and wages by ethnic group in Malaysia

	Population (Census 2010)		Labour force (‘000)	Employed persons (LFS 2012) (‘000)	Unemployed persons (LFS 2012) (‘000)	Unemploy- ment rate (%)	Median monthly wages and salaries (2012) (MYR)
	(‘000)	Distribution (%)					
Malaysian citizens	26 264.1	92	11 374.7	11 005.6	3.2	368.1	1 500
<i>Bumiputera</i> ¹	17 676.8	62	7 443.3	7 175.9	3.5	258.6	1 400
Malay	14 322.1	50	6 001.9	5 814.5	3.1	183.7	1 500
Other	3 354.7	12	1 441.5	1 361.4	5.2	74.9	1 000
Chinese	6 430.4	22	2 987.8	2 926.3	2.2	66.0	1 900
Indians	1 924.9	7	864.9	827.0	4.4	37.9	1 400
Others	232.0	1	78.6	76.3	7.1	5.6	900
Non-Malaysian citizens	2 324.5	8	1 744.9	1 717.6	1.6	28.2	800
Total	28 588.6	100	13 119.6	12 723.2	3.0	396.3	1 400

Source: DOS, 2013b; DOS, 2013c; DOS, 2014.

¹*Bumiputera* refers to Malays and indigenous groups.

States and territories

Malaysia is a centralized federation with thirteen states and three federal territories (FTs). One quarter of the country’s population lives in the prosperous Klang Valley conurbation, around the capital city of Kuala Lumpur and the surrounding state of Selangor. Johor to the south, with 12 per cent of the population, and Perak to the north, with 8 per cent of the population, are the two other most populated states of Peninsular Malaysia. The state of Sarawak in East Malaysia is the country’s largest state but holds only holds 8.7 per cent of the country’s population, while neighbouring Sabah has 11.5 per cent of the population (see Table 5).

Income disparities persist within the country and are reflected in employment outcomes. Based on the Salaries and Wages Survey 2012, five of the 16 regions, namely Putrajaya, Kuala Lumpur, Selangor, Johor and Penang, surpassed the national average of median monthly salaries and wages. At the other end of the spectrum, the northern states of Peninsular Malaysia (excluding

Penang) all had incomes below the national average, as did Sarawak and Sabah on the island of Borneo.

Economic trends

Malaysia has been classified as an upper middle income country since 1992. According to the World Bank’s calculation of gross national income (GNI) per capita, which uses the Atlas⁴ conversion method, Malaysia ranked 87th in the world in 2012. Malaysia aims to reach a GNI that would classify it as a high-income nation by 2020. The current lower limit for GNI for countries in the ‘high-income’ classification is US\$12,616 (exceeded by 75 countries in 2012). By 2012, Malaysia’s GNI had reached 78 per cent of the World Bank cut-off (see Table 6).

Since 1965, Malaysia has produced ten 5-year plans to map its medium-term to long-term development. The Tenth Malaysia Plan covers the period from 2011 to 2015. Its goals are (i) to move the country’s economy towards high-income status; (ii) to develop a skilled and

⁴ The Atlas method is described by the World Bank as follows: “The Atlas conversion factor for any year is the average of a country’s exchange rate (or alternative conversion factor) for that year and its exchange rates for the two preceding years, adjusted for the difference between the rate of inflation in the country, and through 2000, that in the G-5 countries (France, Germany, Japan, United Kingdom and the United States). For 2001 onwards, these countries include the Euro Zone, Japan, United Kingdom and the United States. A country’s inflation rate is measured by the change in its GDP deflator.”

Table 5. Area, population and wages by state

States and territories (in geographical order)	Area	Population (2012)		Median monthly salaries and wages	
	(square kilometres)	('000)	Distribution (%)	(MYR)	Rank
Peninsular Malaysia	131 846	23 327.7	79.5		
Perlis	795	239.4	0.8	1 000	13
Kedah	9 425	1 996.8	6.8	1 000	13
Penang	1 031	1 611.1	5.5	1 450	5
Perak	21 022	2 416.7	8.2	1 200	9
Kelantan	15 105	1 640.4	5.6	1 000	13
Terengganu	12 956	1 092.9	3.7	1 100	11
Pahang	35 965	1 548.4	5.3	1 200	9
Selangor	7 930	5 650.8	19.3	1 800	3
Kuala Lumpur (FT)	243	1 713.4	5.8	1 900	2
Putrajaya (FT)	49	79.4	0.3	2 540	1
Negeri Sembilan	6 657	1 056.3	3.6	1 300	7
Melaka	1 652	842.5	2.9	1 300	7
Johor	19 016	3 439.6	11.7	1 500	4
East Malaysia	198 444	6 009.1	20.5		
Sarawak	124 450	2 545.8	8.7	1 080	12
Sabah	73 902	3 371.7	11.5	800	16
Labuan (FT)	92	91.6	0.3	1 328	6
Total	330 290	29 336.8	100.0	1 400	

Source: DOS, 2013c; DOS, 2013d.

States are ordered north to south for Peninsular Malaysia, and west to east for East Malaysia.

Table 6. GNI per capita (Atlas method, current US\$)

Year	Malaysia		World Bank cut-off*		Ratio of Malaysia to World Bank cut-off	Year	Malaysia		World Bank cut-off*		Ratio of Malaysia to World Bank cut-off
	Value	Annual growth (%)	Value	Annual growth (%)			Value	Annual growth (%)	Value	Annual growth (%)	
1990	2 370		7 620		31	2002	3 760	7.1	9 075	-1.4	41
1991	2 530	6.8	7 910	3.8	32	2003	4 130	9.8	9 385	3.4	44
1992	2 850	12.6	8 355	5.6	34	2004	4 700	13.8	10 065	7.2	47
1993	3 200	12.3	8 625	3.2	37	2005	5 240	11.5	10 725	6.6	49
1994	3 560	11.3	8 955	3.8	40	2006	5 810	10.9	11 115	3.6	52
1995	4 010	12.6	9 385	4.8	43	2007	6 600	13.6	11 455	3.1	58
1996	4 450	11.0	9 645	2.8	46	2008	7 500	13.6	11 905	3.9	63
1997	4 570	2.7	9 655	0.1	47	2009	7 590	1.2	12 195	2.4	62
1998	3 600	-21.2	9 360	-3.1	38	2010	8 130	7.1	12 275	0.7	66
1999	3 340	-7.2	9 265	-1.0	36	2011	8 800	8.2	12 475	1.6	71
2000	3 420	2.4	9 265	0.0	37	2012	9 800	11.4	12 615	1.1	78
2001	3 510	2.6	9 205	-0.6	38						

Source: World Bank.

* World Bank cut-off is the threshold used to classify countries as high income, revised on 1 July every year.

knowledgeable workforce; (iii) to reduce socio-economic inequalities; (iv) to improve living standards; and (v) to strengthen the country's institutional framework. In conjunction with this Plan, Malaysia adopted the New Economic Model in 2010, which is a blueprint to transform Malaysia from a middle-income nation to a high-income nation by 2020.

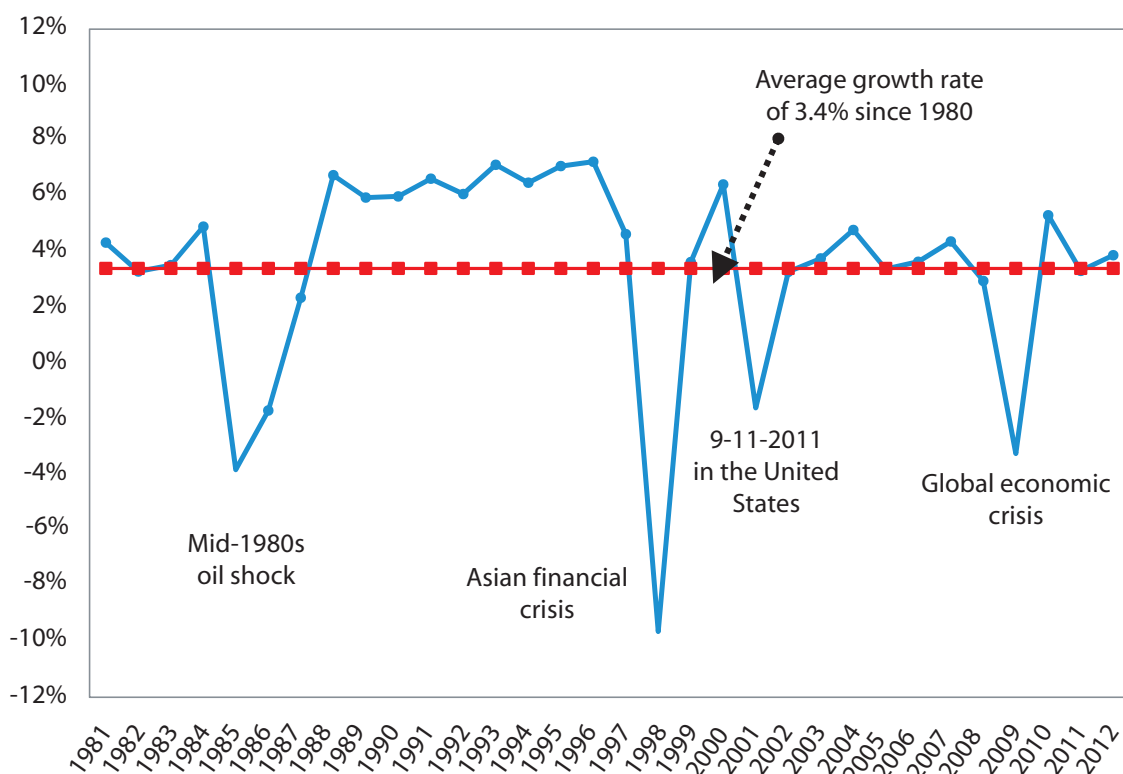
As illustrated in Figure 2, Malaysia's economy was negatively impacted by the worldwide recession in the mid-1980s, the result of falling oil prices. It rebounded between 1988 and 1996, however, growing at rates between 6 per cent and 7 per cent. The 1997 Asian financial crisis again caused real GDP growth to slow in 1997 and then decline sharply in 1998. A government-initiated recovery programme showed positive results during 1999, and stronger growth was recorded in 2000. A decline in growth rate in 2001 was soon overcome by modest but steady growth rates till 2009. While the 2009 global economic crisis again caused negative real GDP growth, the Malaysian economy quickly recovered and resumed its growth in 2010. Overall, Malaysia's

annual real growth since 1980 has averaged at 3.4 per cent, despite the setbacks that have occurred from time to time.

In recent decades, Malaysia has experienced low unemployment and low inflation. The national unemployment rate has been below 4 per cent since 1995 and the inflation rate has also been held in check (except in 2008 due to increases in commodity prices). The national savings rate has remained high at about 35 per cent over the last 20 years, much higher than the world average of about 20 per cent. Key economic indicators for Malaysia are provided in Table 7.

While a large shock and consequential increase in unemployment, such as that which occurred in the last half of the 1980s, seems unlikely, Malaysia's growing exposure to global markets will bring some measure of economic vulnerability. For now, the Economist Intelligence Unit projects that that the overall economy of Malaysia will expand by 5.1 per cent in 2014 and by 5.5 per cent in 2015, as compared to 4.7 per cent in 2013. The outlook

Figure 2: Trends in GDP per capita (PPP conversion, constant 2005 international US\$)



Source: World Bank.

Table 7. Key economic indicators for Malaysia, 1982 to 2012

Year	Annual growth in real GDP per capita (%)	Unemployment rate (%)	Inflation (%)	Savings rate (% of GDP)	Year	Annual growth in real GDP per capita (%)	Unemployment rate (%)	Inflation (%)	Savings rate (% of GDP)
1982	3.3	3.4	5.7	20.3	1998	-9.6	3.2	5.2	39.8
1983	3.5	3.8	3.7	22.2	1999	3.6	3.4	2.8	38.2
1984	4.9	5.0	3.6	25.3	2000	6.4	3.0	1.5	35.9
1985	-3.8	5.6	0.5	22.8	2001	-1.6	3.5	1.4	32.3
1986	-1.7	7.4	0.5	23.0	2002	3.3	3.5	1.8	32.7
1987	2.3	7.3	0.8	28.8	2003	3.8	3.6	1.2	34.9
1988	6.8	7.2	2.6	28.8	2004	4.8	3.5	1.5	35.1
1989	5.9	5.7	2.9	29.0	2005	3.4	3.5	3.0	36.8
1990	6.0	4.5	3.1	30.5	2006	3.6	3.3	3.6	38.8
1991	6.6	N.A.*	4.2	29.3	2007	4.4	3.2	2.0	38.8
1992	6.1	3.7	4.8	31.7	2008	3.0	3.3	5.4	38.5
1993	7.1	4.1	3.6	34.7	2009	-3.2	3.7	0.6	33.4
1994	6.5	N.A.*	3.9	35.1	2010	5.3	3.2	1.7	34.2
1995	7.1	3.1	3.5	33.9	2011	3.3	3.1	3.2	34.6
1996	7.2	2.5	3.5	37.0	2012	3.9	3.0	1.6	N.A.
1997	4.6	2.4	2.5	37.0	2013	3.5	3.0	2.1	N.A.

Source: DOS, 2013b; World Bank.

N.A.: Not available

* There was no Labour Force Survey in the years 1991 and 1994.

for per capita GDP is average growth of 4.1 per cent till 2020.

Foreign workers

The issue of whether or not foreign workers ought to be covered by an EI system in Malaysia, and any implications this might have, is addressed in a subsequent part of this report. This section reviews their overall situation vis-à-vis the labour market.

The Malaysian labour market's capacity to rebound from the 1997, 2001 and 2009 global economic downturns, with minor impact on the unemployment rate, may have been achieved partly by sending a number of foreign workers home. Exact numbers are not available, but estimates range from 300,000 individuals (Gooch, 2009) to 900,000 individuals (The Edge Markets, 2009) affected during the late 1990s. In 2009, according to MOHR, the number of foreign workers insured under the Workmen's Compensation Act 1952 declined by 147,000, to 898,000.

Indeed, foreign workers are most vulnerable to layoffs, as local employees cannot be terminated until after all foreign workers acting in a similar capacity have been terminated, according to Section 60N of the Employment Act 1955.

There is no definitive data on the number of foreign workers currently in Malaysia. In September 2011, the Home Minister stated that an amnesty programme had allowed more than 2.3 million unregistered foreign workers and illegals to formalize their status with the government (Bernama, 2011). According to the Economic Report 2012/2013 of the Ministry of Finance (MOF), towards the end of July 2012, there were over 1.6 million registered foreign workers in Malaysia, compared to 1.3 million in July 2011. Of these, 38 per cent were employed in manufacturing, 19 per cent in plantations, 15 per cent in construction and 9 per cent in agriculture. The majority of them were from Indonesia (49 per cent), Nepal (18 per cent), Myanmar (9 per cent) and Bangladesh (9 per cent) (MOF, 2012a).

The LFS 2012 showed that 1,505,000 foreigners were working as paid employees in Malaysia in 2012; another 213,000 migrant workers reported themselves as self-employed or business owners (DOS, 2013b). Almost identical numbers were reported for 2011. This is an underestimate of the number of foreign workers in Malaysia, not only due to likely reluctance for many unregistered migrant workers to formalize their status, but also because this survey only collects information on persons living in private dwellings, thus omitting the large numbers of migrant workers who reside in collective establishments.

According to the Malaysian Investment Development Authority, foreign workers earning less than MYR5,000 per month are permitted to work under a Temporary Employment Pass (TEP) in manufacturing, construction, plantation, agriculture and services sectors, or as domestic help. They must be aged 18 to 45 and hired from specific source countries, and must pay an annual levy in order to work in Malaysia. The cost of the levy varies according to the sector in which the worker is authorized to work, from MYR410 in agriculture to MYR1,850 in services. Employers paid this levy between 2009 and 2012; however since early 2013, workers are responsible for the payment, ostensibly to offset the cost of introducing minimum wages. The TEP is valid for up to five years but can be renewed. Foreign workers cannot change jobs without permission from the Ministry of Home Affairs and must leave the country when their employment ends.

Since April 2011, an exception has been made for highly qualified expatriates, who may qualify to work and live in Malaysia for up to ten years. They (and their spouses) can change employers without having to renew their Residence Pass. This pass is only granted after working in Malaysia for three years, subject to other

conditions, including having previously held an Employment Pass (for highly skilled expatriates, those hired in key posts or those who earn over MYR8,000 per month).

All foreign workers are excluded from the Employees' Social Security Act 1969 i.e. SOCSO. Since 1 July 1992, employers must insure foreign workers against injuries sustained during or outside employment hours, by purchasing coverage from private insurers. According to MOHR, in 2010, there were 1,003,865 insured foreign workers. Foreign workers, expatriates and their employers are exempted from compulsory EPF contributions but can choose to contribute on a voluntary basis (however, very few do so, only 8,338 in 2013).

Labour force

The overall labour force participation rate fell to a low of 62.6 per cent in 2008 but had recovered to 65.5 per cent by 2012. Labour force participation rates for men declined from about 85 per cent in the 1980s to just over 80 per cent in 2012. The rate for women appears to be trending upwards, reaching 49.5 per cent in 2012 (see Table 8 and Table 9). The Tenth Malaysia Plan includes a target of 55 per cent female labour force participation by 2015 (EPU, 2010).

The unemployment rate in Malaysia has averaged just over 3 per cent since 1995, and has never reached 4 per cent. Higher unemployment levels were last encountered during the 1980s, when the rate climbed to 5 per cent in 1985 and exceeded 7 per cent between 1986 and 1988.

The unemployment rate for women has always been slightly higher than that for men. Women, however, have a much lower labour force participation rate, suggesting an important degree of underemployment.

Table 8. Labour force in Malaysia, 1982 to 2012

Year	Working age population ('000)	Labour force ('000)	Employed ('000)	Unemployed ('000)	Labour force participation rate (%)	Unemployment rate (%)
1982	8 376.0	5 431.4	5 249.0	182.4	64.8	3.4
1983	8 641.2	5 671.8	5 457.0	214.9	65.6	3.8
1984	8 982.1	5 862.5	5 566.7	295.8	65.3	5.0
1985	9 115.0	5 990.1	5 653.4	336.8	65.7	5.6
1986	9 410.4	6 222.1	5 760.1	461.9	66.1	7.4
1987	9 702.9	6 456.8	5 983.9	472.9	66.5	7.3
1988	9 938.5	6 637.0	6 157.2	479.8	66.8	7.2
1989	10 242.9	6 779.4	6 390.9	388.5	66.2	5.7
1990	10 519.9	7 000.2	6 685.0	315.2	66.5	4.5
1992	11 102.6	7 319.0	7 047.8	271.2	65.9	3.7
1993	11 575.0	7 700.1	7 383.4	316.8	66.5	4.1
1995	12 190.8	7 893.1	7 645.0	248.1	64.7	3.1
1996	12 995.0	8 616.0	8 399.3	216.8	66.3	2.5
1997	13 389.1	8 784.0	8 569.2	214.9	65.6	2.4
1998	13 817.6	8 883.6	8 599.6	284.0	64.3	3.2
1999	14 249.9	9 151.5	8 837.8	313.7	64.2	3.4
2000	14 621.2	9 556.1	9 269.2	286.9	65.4	3.0
2001	14 939.3	9 699.4	9 357.0	342.4	64.9	3.5
2002	15 359.9	9 886.2	9 542.6	343.5	64.4	3.5
2003	15 698.2	10 239.6	9 869.7	369.8	65.2	3.6
2004	16 076.7	10 346.2	9 979.5	366.6	64.4	3.5
2005	16 461.6	10 413.4	10 045.4	368.1	63.3	3.5
2006	16 834.0	10 628.9	10 275.4	353.6	63.1	3.3
2007	17 219.6	10 889.5	10 538.1	351.4	63.2	3.2
2008	17 603.8	11 028.1	10 659.6	368.5	62.6	3.3
2009	17 981.0	11 315.3	10 897.3	418.0	62.9	3.7
2010	19 326.9	12 303.9	11 899.5	404.4	63.7	3.3
2011	19 684.6	12 675.8	12 284.4	391.4	64.4	3.1
2012	20 017.0	13 119.6	12 723.2	396.3	65.5	3.0

Source: DOS, 2013b.

Table 9. Labour force trends by gender in Malaysia, 1982 to 2012

Year	Labour force participation rate (%)			Unemployment rate (%)		
	Males	Females	Both	Males	Females	Both
1982	85.3	44.5	64.8	2.7	4.6	3.4
1983	85.6	45.7	65.6	3.3	4.7	3.8
1984	85.4	45.2	65.3	4.4	6.2	5.0
1985	85.6	45.9	65.7	5.0	6.7	5.6
1986	85.8	46.4	66.1	7.0	8.1	7.4
1987	85.6	47.5	66.5	6.8	8.2	7.3
1988	85.9	47.7	66.8	6.7	8.2	7.2
1989	85.6	46.7	66.2	5.3	6.5	5.7
1990	85.3	47.8	66.5	4.0	5.4	4.5
1992	84.9	46.9	65.9	3.4	4.2	3.7
1993	86.0	46.5	66.5	3.8	4.8	4.1
1995	84.3	44.7	64.7	2.8	3.8	3.1
1996	84.9	46.8	66.3	2.5	2.6	2.5
1997	84.3	46.0	65.6	2.2	2.8	2.4
1998	83.1	44.4	64.3	3.1	3.3	3.2
1999	82.8	44.6	64.2	3.5	3.3	3.4
2000	83.0	47.2	65.4	3.0	3.1	3.0
2001	82.3	46.8	64.9	3.4	3.8	3.5
2002	81.5	46.7	64.4	3.3	3.8	3.5
2003	82.1	47.7	65.2	3.6	3.6	3.6
2004	80.9	47.2	64.4	3.4	3.8	3.5
2005	80.0	45.9	63.3	3.4	3.7	3.5
2006	79.9	45.8	63.1	3.3	3.4	3.3
2007	79.5	46.4	63.2	3.1	3.4	3.2
2008	79.0	45.7	62.6	3.2	3.7	3.3
2009	78.9	46.4	62.9	3.6	3.8	3.7
2010	79.3	46.8	63.7	3.1	3.6	3.3
2011	79.7	47.9	64.4	2.9	3.3	3.1
2012	80.5	49.5	65.5	2.9	3.2	3.0

Source: DOS 2013b.

Malaysia's female labour force participation rates remain low by international standards, ranking 143rd out of 189 countries in 2012 (ILO, 2014). Even amongst ASEAN countries, Malaysian women have the lowest participation rate (see Table 10). This gender gap may narrow in the future, as seen from the female students in institutes of higher education, numbering 421,000 in 2012, who continue to outnumber male students, by 50 per cent in 2012 (DOS, 2013d).

Table 10. Female labour force participation rates in select Asian countries (%), 2012

Cambodia	Lao PDR	Myanmar	Viet Nam
78.9	76.3	73.2	72.8
Thailand	Singapore	Brunei D.	Indonesia
64.4	59.0	52.9	51.3
Philippines	Korea, Rep. of	Malaysia	
51.0	49.9	44.3	

Source: ILO, 2014.

In spite of low overall unemployment, pockets of higher unemployment are evident in certain regions of Malaysia. For example, Table 11 shows that in 2011, East Malaysia's unemployment rate was more than double that of Peninsular Malaysia. By 2012, the situation had improved in Sarawak but not in Sabah (see Table 12).

Particularly concerning are pockets of unemployment among young adults. In 2012, youths aged 15 to 19 had an unemployment rate of 15.5 per cent and those aged 20 to 24 recorded an unemployment rate of 8.8 per cent. Together, the two groups accounted for 61 per cent of the unemployed in Malaysia, which rises to almost 80 per cent if the 25-29 year old age group is included (see Table 13).

Table 11. Labour force by state/territory of Malaysia, 2011

States and territories (in geographical order)	Labour force (‘000)	Employed (‘000)	Unemployed (‘000)	Unemployment rate (%)
Peninsular Malaysia	10 005.9	9 752.5	253.4	2.5
Perlis	86.8	83.4	3.5	4.0
Kedah	770.1	743.3	26.8	3.5
Penang	781.5	767.1	14.4	1.8
Perak	943.2	918.3	24.9	2.6
Kelantan	554.3	543.5	10.8	1.9
Terengganu	401.5	388.7	12.9	3.2
Pahang	621.4	605.1	16.2	2.6
Selangor	2 704.0	2 638.5	65.5	2.4
Kuala Lumpur (FT)	836.7	811.8	24.9	3.0
Putrajaya (FT)	41.1	40.6	0.5	1.1
Negeri Sembilan	426.6	413.7	12.9	3.0
Melaka	343.7	341.2	2.5	0.7
Johor	1 495.0	1 457.3	37.6	2.5
East Malaysia	2 669.8	2 531.9	138.0	5.2
Sarawak	1 090.6	1 040.5	50.2	4.6
Sabah	1 538.8	1 452.7	86.1	5.6
Labuan (FT)	40.4	38.7	1.7	4.2
Total	12 675.8	12 284.4	391.4	3.1

Source: DOS, 2012a.

Table 12. Labour force by state/territory of Malaysia, 2012

States and territories (in geographical order)	Labour force (‘000)	Employed (‘000)	Unemployed (‘000)	Unemployment rate (%)
Peninsular Malaysia	10 324.2	10 056.0	268.3	2.6
Perlis	90.6	87.0	3.6	4.0
Kedah	809.1	785.4	23.6	2.9
Penang	786.1	770.5	15.7	2.0
Perak	952.7	924.3	28.4	3.0
Kelantan	589.2	575.6	13.6	2.3
Terengganu	401.2	389.0	12.2	3.0
Pahang	645.8	627.9	18.0	2.8
Selangor	2 828.7	2 762.4	66.3	2.3
Kuala Lumpur (FT)	846.5	823.9	22.6	2.7
Putrajaya (FT)	41.2	40.5	0.6	1.5
Negeri Sembilan	451.5	437.8	13.7	3.0
Melaka	357.1	355.3	1.8	0.5
Johor	1 524.5	1 476.4	48.2	3.2
East Malaysia	2 795.3	2 667.3	128.0	4.6
Sarawak	1 173.8	1 133.0	40.8	3.5
Sabah	1 579.8	1 494.5	85.3	5.4
Labuan (FT)	41.7	39.8	1.9	4.6
Total	13 119.6	12 723.2	396.3	3.0

Source: DOS, 2013b.

Table 13. Labour force status by age in Malaysia, 2012

Age	Labour force (‘000)	Employed (‘000)	Unemployed		Unemployment rate (%)
			(‘000)	Distribution (%)	
15–19	519.0	438.6	80.4	20	15.5
20–24	1 833.6	1 672.5	161.1	41	8.8
25–29	2 396.6	2 329.7	66.9	17	2.8
30–34	1 981.0	1 949.2	31.8	8	1.6
35–39	1 613.3	1 599.8	13.5	3	0.8
40–44	1 447.6	1 435.3	12.3	3	0.8
45–49	1 286.0	1 275.9	10.1	3	0.8
50–54	1 039.5	1 027.9	11.6	3	1.1
55–59	651.2	645.6	5.6	1	0.9
60–64	351.8	348.9	2.9	1	0.8
Total	13 119.6	12 723.2	396.2	100	3.0

Source: DOS, 2013b.

Part I

Legal aspects of the proposed employment insurance system in Malaysia

Author: John Mark Keyes

Legal aspects of the proposed employment insurance system in Malaysia

Introduction

Under the project “Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia”, coordinated by the TPC, a proposed EI system for Malaysia was studied. Three studies (legal; institutional and operational; actuarial) provided recommendations to the establishment of an EI system. Part I sets out the findings of the feasibility study regarding the legal aspects of the proposed EI system.

International instruments

Social security is a human right⁵ to which the ILO has attached great importance. Throughout its history, the ILO has aimed to facilitate, and it is presently pursuing, the attainment of tripartite consensus on the design of social security schemes⁶ by means of a variety of international instruments on social security. It also monitors compliance with the standards set in these instruments. The ILO also assists member countries to consolidate and strengthen social security rights in their domestic legal systems through policy support and technical assistance cooperation, in accordance with the ILO’s Conventions and Recommendations.

International labour standards, and in particular those listed below, set benchmarks for the design of employment/unemployment insurance programmes comprising income support, along with ALMPs that seek to strengthen the employability of participants. Contrary to other international approaches, such as individual savings programmes, ILO standards focus on the general responsibility of the State to guarantee social security, as well as the establishment, administration and monitoring of the legal

framework and institutional set-up for social security.

The TPC discussion in Malaysia focused on several key components of EI systems, i.e. coverage, qualifying conditions (notably, for voluntary termination), benefit rates, duration of benefit and entitlement conditions. However, EI benefits also typically include other components, including those linked to ALMPs. This report discusses these components as well.

The components of an EI system presented in this report are based on the following ILO Conventions and Recommendations:

- Social Security (Minimum Standards) Convention, 1952 (No. 102), specifically Part IV dealing with unemployment benefits
- Employment Policy Convention, 1964 (No. 122)
- Human Resources Development Convention, 1975 (No. 142)
- Termination of Employment Convention, 1982 (No. 158)
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)
- Social Protection Floors Recommendation, 2012 (No. 202)
- Income Security Recommendation, 1944 (No. 67)
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
- Human Resources Development Recommendation, 1975 (No. 150)
- Termination of Employment Recommendation, 1982 (No. 166)

⁵ United Nations international instruments also affirm the legal status of social security rights. Article 22 of the Universal Declaration of Human Rights 1948 recognizes social security as a right of every human being, while Article 9 of the International Covenant on Economic, Social and the Cultural Rights 1966 recognizes the right of everyone to social security.

⁶ The ILO’s mandate as set out in the preamble of the ILO Constitution 1919, states that measures related to the improvement of social justice may include “the prevention of unemployment”. The Declaration of Philadelphia, adopted in 1944, concerning the aims and purposes of the ILO and the principles which should inspire the policy of its Members, expresses a goal to be achieved, in Paragraph III(f), as “the extension of social security measures, to provide a basic income to all in need of such protection and comprehensive medical care”.

- Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176)

Other relevant ILO standards are contained in the Equality of Treatment (Social Security) Convention, 1962 (No. 118); the Maintenance of Social Security Rights Convention, 1982 (No. 157); the Domestic Workers Convention, 2011 (No. 189); and the Domestic Workers Recommendation, 2011 (No. 201). It is also worth noting the “ILO General Survey concerning social security instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization” elaborated in 2011 by the Committee of Experts (ILO, 2011a).

Convention No. 168 updates previous international standards related to unemployment/employment insurance. However, it also recognizes, in the preamble, that the earlier Convention No. 102 continues to constitute a target for developing countries that are in a position to set up an unemployment compensation scheme. While Convention No. 102 establishes coverage only for the single contingency of full unemployment by means of monetary benefits, Convention No. 168 and Recommendation No. 176 address a broader system of protection against unemployment. They are not solely intended to provide income support in the event of unemployment, but also to promote full, productive and freely chosen employment, and therefore comprise a social security tool that promotes employment creation and greater employability of job seekers.

Although Malaysia has not ratified these two Conventions, they nevertheless represent significant international standards and guidelines for designing an EI system in the country. Feedback received from some TPC members on an earlier version of this report and the accompanying institutional and actuarial studies, has pointed to Malaysia’s non-ratification of Conventions Nos. 102, 158 and 168 as evidence of the lack of a compelling need for EI in the country. Ratification of these Conventions, however, is not a prerequisite to establishing an EI system, or to using them as aspirational yardsticks in the design of such a system.

Further, in the specific field of UI and ALMPs, it is worth referring to the recently adopted Recommendation No. 202 concerning national social protection floors (SPFs). This Recommendation establishes SPFs as a fundamental element of national social security systems, including basic income security for persons of active age in case of unemployment or underemployment, as part of a minimum social security guarantee (Paragraphs 1(a); 5(c), and 9(2)).

Overview of legal issues

This section discusses the legal issues arising from the proposals put forward regarding a possible EI system in Malaysia. These issues are organized under the following headings and questions:

Pillar 1: UI benefits

- What possible components of UI benefits and implementing legislation should be considered?
- How should existing retrenchment benefits be phased out?
- What changes should be made to other existing employment programmes and legislation?

Pillar 2: ALMPs

- What international law considerations relate to ALMPs?
- Would an EI system require any changes to existing active labour market programmes and legislation?

Pillar 3: Savings Plan

- Are there any legal concerns with the proposed employer and worker funded Savings Plan?

General Matters

- Which matters should be addressed in an Act and which should be addressed in regulations or orders?
- How should administrative authority be conferred?
- What are the options for the overall legislative structure of an EI system?

This discussion also reflects on experiences of different countries, studied under the ASEAN-ILO/Japan project on “Promoting and building unemployment insurance and employment services in ASEAN” (Carter et al., 2013). A brief description is provided for each component of the EI system and the relevant law. A fuller treatment is included for the following issues previously discussed by the TPC:

- How should existing retrenchment benefits be phased out?
- How should reasons for employment termination (which trigger entitlement to benefits) be defined, including the notion of “just cause”?
- What types of employment opportunities (“suitable employment”) should trigger a suspension of benefits?

The main recommendation for Pillar 1 is that the following elements be addressed in legislation:

- contingencies covered – insurable employment and equality of treatment;
- insurable earnings;
- contributions;
- benefits;
- decisions and appeals;
- administrative provisions; and
- enforcement.

Similarly, it is recommended that new or amended legislation include the following elements related to Pillar 2:

- objective of Pillar 2;
- types of programmes and allowances offered;
- benefits;
- eligibility criteria;
- insurable earnings; and
- contributions.

Finally, it is recommended that the following elements be included in legislation regarding Pillar 3:

- objective of Pillar 3 – contingencies covered;
- benefits;
- eligibility criteria;

- insurable earnings; and
- contributions.

The law could be organized either per pillar or per element. This could be accomplished either through a new Act or by amending and linking with existing legislation related to each of the pillars. For instance, a new Chapter could be introduced under the Employees Social Security Act 1969, regulating the three pillars of the proposed EI system by linking with other relevant existing legislation. These different alternatives will be discussed in this report.

Pillar 1: UI benefits

What possible components of UI benefits and implementing legislation should be considered?

Although there are several social benefit programmes in Malaysia that protect unemployed workers,⁷ none is a UI scheme applying social insurance principles. This section discusses the components typically found in UI schemes.

A. Coverage

A.1 Contingencies covered and objectives

Box 1. TPC consensus

The TPC reached a consensus on a proposed mandatory EI system, which will embrace the following agreed objectives:

1. Provide adequate protection for those who lose their jobs and contribute to poverty eradication
2. Give flexibility to enterprises in adjusting to economic changes and in reorganizing their businesses (e.g. in the case of introduction of new technologies) – EI would therefore contribute to the protection of businesses and not only of employees
3. Facilitate mobility of the labour force through income security and re-employment measures
4. Be associated with job retention measures
5. Support job search and placement, training and retraining

Source: Carter and Bédard, 2012.

⁷ Discussed under Question 3. What changes should be made to other existing employment programmes and legislation?

With regard to contingencies covered and objectives of UI benefits, the TPC consensus was to “provide temporary cash benefits to employees who lose their employment involuntarily in order to allow them to look for immediate employment opportunities”.

The basic principle of insurance is that benefits are paid when the insured event or contingency occurs. The insured contingency in unemployment insurance is a loss or suspension of earnings from insured employment. The following discussion of contingencies begins by outlining the requirements of relevant ILO Conventions and then discusses the concept of insurable employment and related considerations of equality of treatment.

ILO Conventions

The contingency covered by Conventions Nos. 102 and 168 includes suspension or loss of earnings, due to inability to obtain suitable employment, in the case of a person protected who is capable of and available for work. According to Article 20 of Convention No. 102, “the contingency covered shall include suspension of earnings, as defined by national laws and regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work”.

According to Article 10(1) of Convention No. 168, “The contingencies covered shall include, under prescribed conditions, full unemployment defined as the loss of earnings due to inability to obtain suitable employment with due regard to the provisions of Article 21, Paragraph 2, in the case of a person capable of working, available for work and actually seeking work”.

The latter is similar to the conditions expressed in Article 20 of Convention No. 102. However, the requirement to be “actually seeking work” was added in Convention No. 168 to ensure a quick return to suitable employment. This condition seems perfectly aligned with the entitlement conditions agreed by the TPC; to require job seekers to register at the employment office upon

termination and report monthly on their job search activities.

A.2 Insurable employment and employees

With regard to coverage, the TPC consensus was that “all private sector salaried employees and apprentices under a contract of service of any type or duration” should be covered by UI benefits. This excludes government employees who are covered by UI schemes in most other countries, with the exception of some countries such as Chile and Thailand. In France, public institutions are not generally covered by UI, but can opt into the scheme.

Article 11(1) of Convention No. 168 prescribes coverage as “the persons protected shall comprise prescribed classes of employees, constituting not less than 85 per cent of all employees, including public employees and apprentices”.

However, Convention No. 168 goes on to provide that “public employees whose employment up to normal retiring age is guaranteed by national laws or regulations may be excluded from protection.” Articles 10(2-3) and 26 of Convention No. 168 defined other contingencies to be covered as follows.

10(2) Each Member shall endeavour to extend the protection of the Convention, under prescribed conditions, to the following contingencies –

- (a) loss of earnings due to partial unemployment, defined as a temporary reduction in the normal or statutory hours of work; and
- (b) suspension or reduction of earnings due to a temporary suspension of work, without any break in the employment relationship for reasons of, in particular, an economic, technological, structural or similar nature.

10(3) Each Member shall in addition endeavour to provide the payment of benefits to part-time workers who are actually seeking full-time work. The total of benefits and earnings from their part-time work may be such as to maintain incentives to take up full-time work.

26(1) Members shall take account of the fact that there are many categories of persons seeking work who have never been, or have ceased to be,

recognised as unemployed or have never been, or have ceased to be, covered by schemes for the protection of the unemployed. Consequently, at least three of the following ten categories of persons seeking work shall receive social benefits, in accordance with prescribed terms and conditions.⁸

As noted above, Article 10(1) of Convention No. 168 extends coverage to “full unemployment defined as the loss of earnings”. In turn, Article 20 of Convention No. 102 speaks of “earnings, as defined by national laws and regulations”. Thus, insurable employment is usually defined broadly to include all types of employment under a contract of employment. The definition of “insurable employment”, in Chapter 23 of the Canadian Employment Insurance Act 1996, provides a model in this regard.

...employment in Canada by one or more employers, under any express or implied contract of service or apprenticeship, written or oral, whether the earnings of the employed person are received from the employer or some other person and whether the earnings are calculated by time or by the piece, or partly by time and partly by the piece, or otherwise.

Coverage can also be aligned with the scope of existing labour legislation. For example, in Bahrain, insurable employment is defined in terms of the scope of the Law on Social Insurance and the Law Governing Pensions and Retirement Benefits for Civil Servants.

In Malaysia, the Employment Act 1955 does not define employment, but rather defines “employee” through an extensive list of persons or classes of person in the First Schedule. By contrast, the Employees Social Security Act 1969 defines “employee” in terms of work in an “industry” to which the Act applies. “Industry”

in turn, is defined as “any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft or industrial occupation or avocation of employees”.

It is recommended that the more concise and general approach of the Employees Social Security Act 1969 be adopted in defining insurable employment.

A.3 Equality of treatment

The principle of equality of treatment should be followed in relation to migrant or foreign workers, as well as domestic workers. Although the TPC made no statement about including or excluding these categories of workers, they should be covered. Their exclusion would be difficult to reconcile with ILO standards contained in Convention No. 168, the Migration for Employment Convention, 1949 (No. 97), the Equality of Treatment (Social Security) Convention, 1962 (No. 118) and the Domestic Workers Convention, 2011 (No. 189).

Equality of treatment in the field of social security is a well-recognized rule in ILO international standards. Article 6(1) of Convention No. 168 mandates that Member States “shall ensure equality of treatment for all persons protected, without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, nationality, ethnic or social origin, disability or age.”⁹

Certain categories of contract, such as short-term, daily, part-time, seasonal contracts and apprenticeships require special attention, according to Articles 10, 11 and 17 of Convention No. 168. Under national legislation

⁸ Article 26 of Convention No. 168 provides that this special protection shall be given to at least three of the following ten categories of employees: (a) young persons who have completed their vocational training; (b) young persons who have completed their studies; (c) young persons who have completed their compulsory military service; (d) persons after a period devoted to bringing up a child or caring for someone who is sick, disabled or elderly; (e) persons whose spouse had died, when they are not entitled to a survivor's benefit; (f) divorced or separated persons; (g) released prisoners; (h) adults, including disabled persons, who have completed a period of training; (i) migrant workers on return to their home country, except in so far as they have acquired rights under the legislation of the country where they last worked; and (j) previously self-employed persons.

⁹ Even when these provisions are aligned with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Convention No. 168 goes even further by adding three prohibited grounds that are not expressly envisaged in Convention No. 111 or in its Recommendation, namely nationality, disability and age.

and rules, many countries have extended coverage to all contracts by recognizing work under them as insurable employment over a certain period. For instance in France, an employee must have worked for at least four months (expressed in legislation as 122 days or 610 hours) in the preceding 24 months.

Under Articles 6(2) and 26 of Convention No. 168, the equality of treatment principle does not prevent the adoption of specific measures and administrative mechanisms in favour of persons who have disadvantages in the labour market, or the conclusion of bilateral or multilateral agreements between States relating to unemployment benefits on the basis of reciprocity.

Migrant and foreign workers

As regards migrant and foreign workers, current Malaysian Law renders them more likely to face a situation of dismissal as compared to Malaysian workers. Sections 60N and 60O of the Employment Act 1955 provide that when a reduction in workforce is needed, the employer must terminate the contracts of all foreign employees before terminating local employees in a similar capacity (however, foreign employees with permanent residence do not fall into the category of foreign employees for this purpose). In any case, the body of ILO standards, including Article 6(1)(b) of the Migration for Employment Convention, 1949 (No. 97) provides that States must undertake to apply treatment no less favourable than that which it applies to its own nationals, in respect to social security, including unemployment protection, without discrimination in respect of nationality, race, religion or sex, of immigrants lawfully within its territory (ILO, 2011b).

In addition, Article 68 in Part XII of Convention No. 102 also recommends equality of treatment of non-national residents.

1. Non-national residents shall have the same rights as national residents. Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are

payable wholly or mainly out of public funds in respect to the transitional schemes.

2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same rights as nationals of the Member concerned: Provided that the application of this paragraph may be subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

In the case that the Employment Act provisions are maintained in Malaysia, special arrangements or rules should be envisaged to ensure equal protection between nationals and non-nationals under the proposed EI system, particularly for those whose permit of stay is linked to their employment contract. In this case, a special provision allowing for partial or total payment of UI benefits as a lump-sum, before departing the country, could be envisaged.

Stakeholder inputs

Feedback on an earlier version of this report indicated that the inclusion of foreign workers in UI benefits remains a contentious issue among TPC stakeholders. MTUC, for example, is in favour of including migrant workers under UI benefits, while the Federation of Malaysian Manufacturers (FMM) has indicated its opposition to the proposition. Bank Negara Malaysia has adopted a centrist position; it advocates coverage of all workers under UI benefits (not just those covered under existing SOCSO provisions), but supports the exclusion of foreign workers.

Initial consultations between stakeholders during Phase 1 of the project resulted in a consensus on the exclusion of foreign workers under UI benefits at this stage, given that migrant workers must leave the country when their employment ends and could not receive benefits on the same basis as national workers. This is an issue of importance that may require specific and additional measures at a later stage in the design process, to ensure that migrant workers are adequately protected, in line with the

international standards noted above. As such, this report's recommendation is given below.

To ensure equality of treatment between nationals and non-nationals, it is recommended that migrant workers be included under the coverage of the proposed EI system under special rules, and that sections 60N and 60O of the Employment Act 1955 be amended.

Domestic workers

In relation to domestic workers, Article 14(1) of Convention No. 189 states that:

...each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection including with respect to maternity.

Malaysia's Employment Act 1955 includes domestic workers in its definition of "employee", but excludes the application of Sections 12, 14, 16, 22, 61 and 64, and Parts IX, XII and XIII. The Employees Social Security Act 1969 excludes domestic workers entirely from its coverage (First Schedule, item 3).

It is recommended that domestic workers be covered by the EI system and that consideration also be given to amending the Employment Act 1955 and the Employees Social Security Act 1969, to cover them.

A.4 Insurable earnings

Insurable earnings form the basis for calculating benefits and contributions. Article 20 of ILO Convention No. 102 refers to earnings "as defined by national laws and regulations". A broad definition of "wages" is found in Subsection 2(1) of Malaysia's Employment Act 1955.

"wages" means basic wages and all other payments in cash payable to an employee for work done in respect of his contract of service but does not include –

- a) the value of any house accommodation or the supply of any food, fuel, light or water or medical attendance, or of any approved amenity or approved service;
- b) any contribution paid by the employer on his own account to any pension fund, provident fund, superannuation scheme, retrenchment, termination, lay-off or retirement scheme, thrift scheme or any other fund or scheme established for the benefit or welfare of the employee;
- c) any travelling allowance or the value of any travelling concession;
- d) any sum payable to the employee to defray special expenses entailed on him by the nature of his employment;
- e) any gratuity payable on discharge or retirement; or
- f) any annual bonus or any part of any annual bonus.¹⁰

Particular types of earnings can also be excluded, for example, retirement allowances or payments made to cover benefit waiting periods. To reflect the purchasing power of insurable earnings over time, the maximum insurable earning is adjusted according to the relevant wage and price inflation index. This approach is found in Chile, where the maximum amount of insurable earning is adjusted annually according to variation in the Real Wages Index over the preceding 12 months. This mechanism is effective on 1 January every year, and is only triggered in case of positive variation of the index.

It is recommended that a broad definition of insurable earnings be included in the UI scheme, modelled on the definition of "wages" in the Employment Act 1955. It is also recommended that a provision be included to index maximum insurable earnings against increases in wages and prices.

¹⁰ Similar definitions of "wages" are found in Section 2 of the Employees Provident Fund Act 1991 and Subsection 2(24) of the Employees' Social Security Act 1969.

B. Contributions

B.1 Rate-setting and reporting

Article 71 of Convention No. 102 sets a variety of obligations on rate-setting:

1. The cost of the benefits provided in compliance with this Convention and the cost of the administration of such benefits shall be borne collectively by way of insurance contributions or taxation or both, in a manner which avoids hardship to persons of small means and takes into account the economic situation of the Member and of the classes of persons protected.
2. The total of the insurance contributions borne by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their wives and children. For the purpose of ascertaining whether this condition is fulfilled, all the benefits provided by the Member in compliance with this Convention, except family benefit and, if provided by a special branch, employment injury benefit, may be taken together.

Since the ILO recommends operating UI schemes on social insurance principles, contributions should be only enough to cover the cost of administering the programme, including paying benefits. Provisions are needed to set contribution rates at a level that will achieve this. Contributions are generally set as a percentage of an employee's earnings up to a maximum, corresponding to the maximum benefit payable. The calculation of the required rates is an actuarial exercise based on forecast values of economic variables, programme costs and labour market changes.

The Employees Social Security Act 1969 provides a Malaysian example of a legislative framework for setting contributions. The rates are set in the Third Schedule, but Subsection 6(6) provides that the Minister of Finance may amend the rates.

Article 71(3) of Convention No. 102 also provides that States shall ensure, where appropriate, that the necessary actuarial studies and calculations concerning financial equilibrium

are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question.

Thus, provisions are also required for relevant actuarial studies and calculations to be conducted on a regular basis, and for the results to be publicly reported. For instance, Article 8 of Legislative Decree No. 78, 2006 on Insurance against Unemployment in Bahrain provides an example of how this might be done.

Examination and auditing of the account's financial position

- a) The Board of Directors shall nominate an actuary or more for examination and auditing the Account's financial position at least once every three years and whenever necessary as shall be determined by the Minister or the Board of Directors.
- b) The Board of Directors shall publish in the Official Gazette and in at least two daily papers a summary of the actuary's report within a maximum of one month from the date of delivering it to the General Organisation for Social Insurance, provided that the report shall be published in full by any of the methods to be determined by the Board of Directors so as to ensure that everyone will have access thereto.

Because of the general volatility of factors used as the basis for setting rates, they are often set by government regulation on a regular, usually annual, basis. Even in jurisdictions where they are established in the principal legislative instrument, such as in Bahrain, power is delegated to the government to adjust them.

It is recommended that provisions be included for setting contribution rates on the basis of actuarial studies and for reporting the basis for rate changes. It is also recommended that a certain degree of flexibility be included in the UI scheme so as to allow adjustments to contribution rates that reflect economic realities. For instance, level of contributions and benefits could be fixed at the Decree level, instead of at the level of Laws.

B.2 Payment of benefits and collection of contributions

Contributions are usually paid by employers and employees, and in some countries, by the government as well. Legislation is needed to require employers to pay their contributions and to deduct and remit employee contributions. However, Paragraph 17(a) of the Income Security Recommendation, 1944 (No. 67) states that from an administrative perspective, the system should provide for the collection of contributions without incurring disproportionate administrative expenditure.

Paragraph 18 of Recommendation No. 67 states that “the employer should be made responsible for collecting contributions in respect of all persons employed by him, and should be entitled to deduct the sums due by them from their remuneration at the time when it is paid”. Paragraph 19 of Recommendation No. 67 requires employers to keep payment records, by stating “in order to facilitate the efficient administration of benefits, arrangements should be made for the keeping of records of contributions, for ready means of verifying the presence of the contingencies which give rise to benefits, and for a parallel organisation of medical and employment services with preventive and remedial functions”.

Legislation should also stipulate how contributions are to be paid and provide for the collection of unpaid or overdue contributions, including interest rates, as well as inspections to verify amounts owed (for reference, see Sections 12-13A of the Malaysian Employees Social Security Act 1969). Provisions should also be included to correct overpayments and provide refunds. Section 96 of the Canadian Employment Insurance Act provides a model in this regard:

If a person has made an overpayment on account of their employee’s premiums, or has made a payment of employee’s premiums during a year when the person was not employed in insurable employment, the Minister shall refund to the person the amount of the overpayment or

payment if the person applies in writing to the Minister within three years after the end of that year.

Finally, provisions are generally included to facilitate the recovery of contributions through legal processes, as in Sections 108A and 109 of the Employees Social Security Act 1969.

Joint and several liability of directors:

108A. Where any sum of money by way of contributions together with any interest due thereon remain unpaid by a company, a firm or an association of persons, then, notwithstanding anything to the contrary in this Act or any other written law, the directors of such company including any person who was a director of such company during the period in which the contributions were payable, or a member of such firm including any person who was a member of the firm during the period in which the contributions were payable or the office-bearers of such association of persons, including any person who was an office-bearer of such association during the period in which the contributions were payable, shall together with the company, firm or association of persons be jointly and severally liable for the contributions together with interest due and payable thereon to the Organization.

Recovery of contribution:

109. Without prejudice to any other method of recovery of contribution or other sum payable or recoverable under the provisions of this Act, any debt due to the Organization may be recoverable as if it is an arrear of land rent or an arrear of a sum payable to a local authority. Provided that this section shall not become operative in a State until adopted by the Legislature of that State.

It is recommended that provisions be included:

- **requiring employers to deduct employee contributions and pay these and their own contributions;**
- **requiring employers to keep employee payroll records;**
- **authorizing inspections of employer records;**
- **for correcting overpayments and providing refunds;**

- for applying sanctions on employers and employees in case of non-payment of contributions; and
- for recovering contributions through legal processes.

B.3 Protection of employees in case of failure or neglect by employers to pay contributions

The UI scheme should ensure that payment of benefits to a claimant does not depend on the payment of contributions for that claimant. Thus, a claimant's coverage is not lost when there is a failure to pay contributions since the claimant seldom, if ever, has any control over their payment. The default rests with the employer and employees should not be penalized.

Paragraph 25 of Recommendation No. 67 relevantly states that “a person should not be disqualified for benefits by reason of the failure of his employer duly to collect the contributions payable in respect of him”. A rule to this effect is contained in Section 48 of the Employees Social Security Act 1969. This section also makes defaulting employers liable to pay either double the contribution they should have paid or the benefits based on the unpaid premium, whichever is greater. Overall, this rule prevents employees from being compelled to take recourse to other labour authorities, as a necessary step to obtain the benefits they would have been entitled to, if the failure to pay contributions had not occurred.

It is recommended that non-payment of contributions by an employer should not be a basis for refusing to pay employee benefits.

C. Benefits

C.1 Type of benefits

The type of benefits envisaged by Convention No. 168 and Recommendation No. 176 is given below.

1. **Periodical payments:** Pursuant to Articles 14 and 15 of Convention No. 168, benefits

in case of full unemployment and suspension or loss of earnings due to temporary and involuntary suspension of work, if this latter contingency is covered, are periodical payments, calculated to provide partial and temporary wage replacement.

2. **Medical care:** According to Article 23 of Convention No. 168, States must endeavour to ensure medical care is made available to persons receiving unemployment benefits and their dependants. Paragraph 20 of Recommendation No. 176 also suggests making medical care available to unemployed persons who are not receiving unemployment benefits and their dependants, if possible.
3. **No worsening of the acquisition of other social security benefits (indirect benefits):** According to Article 24 of Convention No. 168 and Article 21 of Recommendation No. 176, the period of unemployment must not impede or worsen the acquisition of rights to disability, old-age or survivors' benefits, the right to medical care, sickness, maternity, or family benefits, if these rights are conditional on occupational activity.
4. **Assistance in finding long-term employment:** According to Article 19(5) of Convention No. 168, States are to endeavour to grant appropriate additional assistance to find employment, in case of unemployment continuing beyond the prescribed initial benefit period.
5. **Occupational or geographical mobility incentives:** Pursuant to Paragraphs 4 and 5 of Recommendation No. 176, allowances towards the cost of travel, resettlement grants and allowances in the form of periodical payments for prescribed periods of vocational training or retraining, among others.

International experiences show that in all UI schemes, health insurance continues while a person is receiving the monthly UI benefit. Assistance in finding long-term employment and mobility incentives are addressed as ALMPs under Pillar 2.

It is recommended that UI legislation defining Pillar 1 provides, at the minimum, for periodical payments of UI allowances and extends coverage of medical care to those entitled to UI benefits. Support to find and retain long-term, productive and decent employment, vocational training and mobility incentives will be discussed under Pillar 2.

C.2 Duration of benefits

The TPC consensus provides for benefit duration of three to six months. The duration of benefits is generally limited, often through the establishment of a defined “benefit period”. Benefit periods both limit the duration of benefit payments and establish the timing of payments, notably to allow enough administrative time for processing claims (see D.2 Payment of benefits). There may also be provisions for adjusting benefit periods of claimants who are receiving other benefits such as for illness or work injury.

Paragraph 1 in Article 24 of Convention No. 102 recognizes that there may be some limits on the duration of benefits: “(a) where classes of employees are protected, to 13 weeks within a period of 12 months, or (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, to 26 weeks within a period of 12 months”. Convention No. 102 also provides that the benefit period should depend on the length of the contribution period or on previously received benefits, and provides that in such circumstances, “the provisions of Subparagraph (a) of Paragraph 1 shall be deemed to be fulfilled if the average duration of benefit is at least 13 weeks within a period of 12 months”.

According to Article 19 of Convention No. 168, benefits shall be paid throughout the unemployment contingency. However, these benefits could be limited to an initial duration of up to 26 weeks in each period of unemployment, or up to 39 weeks over any period of 24 months. Special periods may be adapted to the occupational circumstances of seasonal workers. In case of unemployment

continuing beyond this initial period, the duration of benefits may be extended. Additionally, Articles 19(2) and 16 provide that special rules of calculation may be applied over this period, in light of the resources available to the beneficiary and their family, to ensure healthy and reasonable living conditions in accordance with national standards.

The TPC reached a consensus on a benefit duration of three to six months, which falls within the benchmark set by international labour standards. It is recommended that a maximum benefit period of six months be established for each period of unemployment.

C.3 Rate of benefits

The TPC consensus provides for a benefit rate of 40 to 50 per cent. Benefit rates are generally set as a percentage of the rate of insurable earnings to a fixed maximum rate. For example, Article 65(1) of Convention No. 102 and the accompanying schedule provide that the rates for unemployment benefits are to be at least 45 per cent of “the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary”.

Article 15(1) of Convention No. 168 raises the percentage to 50 per cent, but Article 14 frames this standard with the objective “to provide the beneficiary with partial and transitional wage replacement and, at the same time, to avoid creating disincentives either to work or to employment creation”. Article 2 of Convention No. 168 confirms this guideline by noting that the methods of protection should not be to discourage employers from offering, and workers from seeking productive employment.

Article 15(1) of Convention No. 168 addresses the calculation of benefits as follows:

- a) in schemes based on previous earnings: at least 50 per cent of previous earnings, but a maximum fixed amount of the earnings to be taken into account is allowed;

- b) in other schemes: at least 50 per cent of the statutory minimum wage or of the wage of an ordinary labourer, or at a level which provides the minimum essential for basic living expenses, whichever is the highest.

According to Paragraph 13 of Recommendation No. 176, these percentages should be reached on the basis of the beneficiary's gross earnings before tax and social security contributions. Benefits are to be paid throughout the period of unemployment. However, the initial duration of payments can be limited, as outlined in the section on payment of benefits. In comparison, rates in other countries are generally above 45 per cent, and can be as high as 90 per cent (Denmark).

The TPC reached a consensus on a benefit rate of 40 to 50 per cent. A minimum rate of 45 per cent would be necessary to comply with international labour standards.

It is recommended that a benefit rate of 50 per cent be established, based on a maximum amount of insurable earnings.

C.4 Qualifying conditions for benefits

The TPC consensus provides for the following qualifying conditions:

- 12 months of contributions in the last 24 months;
- interruption in employment results from involuntary termination;
- claimants must register at the employment office upon termination; and
- claimants must report monthly on their job search activities, to demonstrate their availability for employment.

Article 20 of Convention No. 102 describes the circumstances in which an individual should qualify for benefits as a “suspension of earnings ... due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.” In turn, Article 23 recognizes that there may be imposed “such qualifying period as may be considered necessary

to preclude abuse”. Article 10(1) of Convention No. 168 defines the circumstance of full unemployment that should qualify for benefits as a “loss of earnings due to inability to obtain suitable employment ... in case of a person capable of working, available for work and actually seeking for work.” In turn, Article 17 recognizes that where a “qualifying period” is imposed, it must not exceed the length necessary to prevent abuse.

Thus, at least in case of full unemployment, three criteria must generally be met in order to qualify for benefits:

- employment for a minimum period of time within a fixed period before making a claim (“prescribed class”);
- an interruption of employment (“suspension of earnings” / “loss of earnings”); and
- availability for suitable employment (“capable of and available for work, and actually seeking work”).

The latter two issues are usually addressed in terms of the further component of disqualification (see D.6 Disqualification and reduction of benefits). It should also be noted that Article 10(2-3) of Convention No. 168 encourages the extension of benefits to the following contingencies:

- a) loss of earnings due to partial unemployment, defined as a temporary reduction in the normal or statutory hours of work;
- b) suspension or reduction of earnings due to a temporary suspension of work, without any break in the employment relationship for reasons of, in particular, an economic, technological, structural or similar nature; and
- c) part-time employees who are actually seeking full-time work.

In addition, Article 26 of Convention No. 168 requires members to take account of the fact that there are many categories of persons seeking work who have never been or have ceased to (i) be recognized as unemployed; and/or (ii) be covered by schemes for unemployment protection.

Coverage of this kind is special, and limited to certain categories of persons.¹¹

In many countries (Canada, France, Germany, Japan, the Republic of Korea, Thailand, Viet Nam, among others), UI benefits are available to claimants who are pursuing training programmes. Although they are not actively seeking suitable employment, they are enrolled in training to enhance their chances of obtaining employment. UI legislation in these countries typically recognizes that attending training is considered as “actively looking for a job”.

Finally, it should be noted that some UI schemes allow claimants to continue working part-time, while they search for full-time employment. However, benefits are reduced for earnings above a minimum threshold (see Sections 19(2-3) of Canada’s Employment Insurance Act 1996). France, Germany and the United States also introduced this as an extraordinary measure to mitigate the impact of the economic crisis in 2009-10.

It is recommended that UI legislation stipulate qualifying conditions as follows:

- **involuntary interruption in earnings;**
- **at least 12 month of contributions in the 24 months preceding a claim; and**
- **availability for suitable employment.**

Consideration should also be given to qualifying partial unemployment, as described in Convention No. 168.

C.5 Involuntary termination of employment

Article 20 of Convention No. 168 recognizes a series of grounds for disqualifying a claimant from receiving benefits. These include “(a) when it has been determined by the competent authority that the person concerned had

deliberately contributed to his or her own dismissal; and (b) when it has been determined by the competent authority that the person concerned has left employment voluntarily without just cause”.

The TPC recommended that UI benefits be payable only as a result of “involuntary” termination of work. Employees who decide to leave their employment would not be eligible. This approach is found in many other UI schemes, but it is usually accompanied by an exception for voluntary departure with “just cause”. The concept of involuntary termination is dealt with in Regulations¹² under Malaysia’s Employment Act 1955 that require employers to pay termination and lay-off allowances. Section 4 of the ETLB Regulations 1980 states that:

4(1) Subject to paragraphs (2), (3) and (4), an employee shall be entitled to termination benefits payment where his contract of service is terminated for any reason whatsoever otherwise than:

- a) by the employer, upon the employee attaining the age of retirement if the contract of service contains a stipulation in that behalf; or
- b) by the employer, on the grounds of misconduct inconsistent with the fulfilment of the express or implied condition of his service, after due inquiry, or
- c) voluntarily by the employee, other than under Section 13(2) (wilful breach of a condition of the contract of employment by the employer) or the reasons specified in Section 14(3) (threat of danger) of the Act.

Paragraphs (2-4) and Section 8 limit the payment of benefits, notably by providing that the following events do not entitle employees to termination benefits:

- a) an employee unreasonably refuses an offer to renew his/her contract of service or re-engaging him/her under a new contract of

¹¹ Article 26 of Convention No. 168 provides that this special protection shall be given to at least three of the following ten categories of employees: (a) young persons who have completed their vocational training; (b) young persons who have completed their studies; (c) young persons who have completed their compulsory military service; (d) persons after a period devoted to bringing up a child or caring for someone who is sick, disabled or elderly; (e) persons whose spouse had died, when they are not entitled to a survivor’s benefit; (f) divorced or separated persons; (g) released prisoners; (h) adults, including disabled persons, who have completed a period of training; (i) migrant workers on return to their home country, except in so far as they have acquired rights under the legislation of the country where they last worked; and (j) previously self-employed persons.

¹² Regulations are in force for each region separately – the ETLB Regulations 1980 for Peninsular Malaysia; the Labour (Termination and Lay-off Benefits) Rules 2008 for Sabah and Sarawak.

service under conditions no less favourable than the previous contract if the offer is made not less than seven days before its termination;

- b) in case of change in the ownership of a business, an employee unreasonably refuses an offer to continue employment under conditions not less favourable if the offer is made within seven days of the change of ownership.¹³

It is noteworthy that the approach here is to include all forms of termination except those described, as opposed to including only “involuntary” termination. These two approaches demand different burdens of proof (a burden on the administrator to show voluntary departure as opposed to a burden on the claimant to show involuntary termination), which have consequences for administering these provisions.

The effect of voluntary departure on UI benefits also varies from one country to another. In many countries like Germany and Japan, it results in longer waiting period for receiving benefits. In others like Canada, Chile and China, it disentitles claimants from receiving benefits at all. In Thailand, it results in a lower unemployment benefit amount and duration. The extension of coverage to those departing from their employment voluntarily has been implemented in countries where labour inspection and labour dispute settlement mechanisms are weak.

In Canada, which also recognizes all forms of termination subject to disqualification for voluntary departure, Section 29 of the Employment Insurance Act 1996 defines “voluntary leaving” as follows:

- (b.1) voluntarily leaving an employment includes
- a) the refusal of employment offered as an alternative to an anticipated loss of employment, in which case the voluntary leaving occurs when the loss of employment occurs;
 - b) the refusal to resume an employment, in which case the voluntary leaving occurs when the employment is supposed to be resumed; and

- c) the refusal to continue in an employment after the work, undertaking or business of the employer is transferred to another employer, in which case the voluntary leaving occurs when the work, undertaking or business is transferred.

In many countries, the disqualification for voluntary departure is itself subject to an exception for “just cause”. This recognizes that although the departure is a decision made by the employee, it is not really “voluntary”, in so far as the employee may have been pressured to depart by circumstances beyond their control. This is to some extent recognized in Paragraph 4(1)(b) of Malaysia’s Termination and Lay-off Benefits Regulations, which provides exceptions where there has been a wilful breach of a condition of the contract of employment by the employer or a threat of danger.

In Canada, a more comprehensive definition of “just cause” is provided in Section 29 of the Employment Insurance Act 1996.

- (d) just cause for voluntarily leaving an employment or taking leave from an employment exists if the claimant had no reasonable alternative to leaving or taking leave, having regard to all the circumstances, including any of the following:
 - i. sexual or other harassment,
 - ii. obligation to accompany a spouse, common-law partner or dependent child to another residence,
 - iii. discrimination on a prohibited ground of discrimination within the meaning of the Canadian Human Rights Act,
 - iv. working conditions that constitute a danger to health or safety,
 - v. obligation to care for a child or a member of the immediate family,
 - vi. reasonable assurance of another employment in the immediate future,
 - vii. significant modification of terms and conditions respecting wages or salary,
 - viii. excessive overtime work or refusal to pay for overtime work,

¹³ According to information given by SOCSO in an email dated 27 June 2012, there is no specific case concerning the claim from the employee under the provisions related to “unreasonable refusal”.

- ix. significant changes in work duties,
- x. antagonism with a supervisor if the claimant is not primarily responsible for the antagonism,
- xi. practices of an employer that are contrary to law,
- xii. discrimination with regard to employment because of membership in an association, organization or union of workers,
- xiii. undue pressure by an employer on the claimant to leave their employment, and
- xiv. any other reasonable circumstances that are prescribed.

To ensure protection of workers in case of unemployment, a strict definition of “just cause” should be included in the law, based on existing provisions in Sections 13(3) and 14(3) of the Employment Act 1955.

Stakeholder inputs

Comments received from TPC members indicated that some disparity regarding entitlement to UI benefits still remains. Bank Negara Malaysia stated that loss of employment due to end of the contract period should not be a reason for entitlement to UI benefits, unless the loss of employment occurs before the end of the contract. As illustrated above however, end of contract is an internationally recognized reason for entitlement to UI benefits. It is hoped that thorough consideration of the three final technical reports, will provide greater clarification on points of contention, and a strong basis for further dialogue and consensus-building efforts under the TPC.

It is recommended that benefits be payable if there is termination or suspension of employment, except for voluntary departure. It is further recommended that departing for just cause is not considered voluntary termination, for the purposes of administering benefits. Definition of “just cause” should be reinforced in the ETLB Regulations 1980, to ensure protection of workers left with no other option but to resign.

C.6 Disqualification and reduction of benefits

Disqualifications can be imposed on the basis that a claimant has not fulfilled all the requirements for receiving benefits, either before making a claim or on an on-going basis after making a claim. Two of these requirements are discussed above, i.e. involuntarily leaving their employment; and seeking and, if offered, accepting suitable employment.

Disqualification or reduction of benefits may also be imposed for some misconduct associated with making a claim, such as providing false information. Disqualification or reduction decisions are typically made on the basis of additional information received after a claim for benefits has been made. A disqualification may be absolute or for a limited duration, as determined by administrative officials based on the seriousness of the misconduct.

Article 20 of Convention No. 168 contains a list of valid grounds to refuse, withdraw, suspend or reduce the benefits. In addition to the two mentioned above, it states the following:

- (a) for as long as the person concerned is absent from the territory of the Member;
- ...
- (d) during the period of a labour dispute, when the person concerned has stopped work to take part in a labour dispute or when he or she is prevented from working as a direct result of a stoppage of work due to this labour dispute;
- (e) when the person concerned has attempted to obtain or has obtained benefits fraudulently;
- ...
- (g) as long as the person concerned is in receipt of another income maintenance benefit provided for in the legislation of the Member concerned, except a family benefit, provided that the part of the benefit which is suspended does not exceed that other benefit.

It is recommended that these additional grounds of disqualification be included.

C.7 Seeking suitable employment

A refusal of suitable employment generally triggers disqualification from receiving benefits. Before the disqualification is imposed, it is necessary to establish three things: whether there has been a “refusal” of employment; whether the employment was “suitable”; and whether there was good cause to refuse the employment. A refusal to undertake training might also trigger a suspension of benefits. If training is essential to take advantage of an employment opportunity, then refusal of training is tantamount to refusing the employment opportunity.

Article 20 of Convention No. 168 provides that claimants can be disqualified from receiving benefits “when the person concerned has failed without just cause to use the facilities available for placement, vocational guidance training, retraining or redeployment in suitable work.” The term “suitable employment” is not defined in the relevant ILO instruments. However, Article 21(2) of Convention No. 168 provides that in assessing the suitability of employment, “account shall be taken, in particular, under prescribed conditions and to an appropriate extent, of the age of unemployed persons, their length of service in their former occupation, their acquired experience, the length of their period of unemployment, the labour market situation, the impact of the employment in question on their personal and family situation and whether the employment is vacant as a direct result of a stoppage of work due to an on-going labour dispute”.

Furthermore, Paragraph 14 of Recommendation No. 176 lists some instances where employment may not be considered suitable, namely:

- employment involving a change of occupation that does not take account of the abilities, qualifications, skills, work experience or the retraining potential of the person concerned;
- employment in which the conditions and remuneration are appreciably less favourable than those generally granted, at the relevant time, in the occupation and district in which the employment is offered;

- employment involving a change of residence to a place in which suitable accommodation is not available;
- employment vacant resulting of a stoppage due to an on-going labour dispute; and
- employment such that, for a reason other than those covered in the preceding clauses, and with due regard to all attendant circumstances, including the family responsibilities of the person concerned, the refusal is not unreasonable.

In conformity with Convention No. 102, Convention No. 168 and Recommendation No. 176, the expression “suitable employment” serves to determine whether a person is facing a situation of unemployment due to “inability to obtain suitable employment” (Article 10(1) of Convention No. 102); and the unemployment benefits may be refused, suspended, withdrawn or reduced in case the person refuses to accept suitable employment (Article 21 of Convention No. 102).

In assessing the criteria specified in the above circumstances, account should be taken of the age of the unemployed persons, their length of service in their former occupation, their acquired experience, duration of unemployment, the state of the labour market and the repercussions of the employment on their personal and family situations.

This requirement generally excludes claimants who are unable to work because of illness, disability or family responsibilities, such as pregnancy or care of children or other family members. Although some UI schemes provide benefits in these cases (see Sections 21-23(1) of Canada’s Employment Insurance Act 1996), in Malaysia, inability to work because of illness is addressed by the Employment Act 1955 (which requires employers to grant sick leave) and the Employees Social Security Act 1969 (which provides compensation for work-related injuries and pensions for non-work-related “invalidity”).

However, in UI schemes where the duration of benefits is shorter i.e. less than six months, the definition of criteria to refuse suitable employment

and consequent suspension of benefits is of less significance.

It is recommended that seeking suitable employment be made a qualifying condition for benefits, with a definition of “suitable employment” determined in accordance with Article 21 of Convention No. 168 and Recommendation No. 176.

A refusal of suitable employment should correspondingly result in disqualification from eligibility to receive benefits. Consequently, clear definitions of “suitable employment” and “refusal” should also be included in the Employment Act 1995.

D. Claim process

D.1 Claim procedure

Claim procedures ensure that claimants provide the information needed to determine their eligibility to receive benefits. These procedures typically address the form of the claim; information to be provided, notably, contact information and details of efforts to obtain employment; attendance at UI offices; and registration with employment services. Much of the procedural detail is generally contained in regulations or policy documents.

Claim procedures also typically provide for the reconsideration of claims and the re-calculation of benefits based on new information (see E. Decisions and appeals). The legislation should also determine which institutions are responsible for each step of the claim process. The division of tasks and functions assigned to each institution will be further addressed by the recommendations on institutional set-up.

It is recommended that detailed consideration be given to establishing the claim procedures needed to administer the UI benefits.

D.2 Payment of benefits

Article 22 of Convention No. 102 and Articles 14-15 of Convention No. 168 provide that benefits are to be provided by “periodical

payment”. Guidelines regarding periodical payments can be found in Articles 65, 66 and 67 of Convention No. 102. In turn, Article 24 of Convention No. 102 permits waiting periods to allow for the administrative time needed to process applications, and/or for the applicants to seek and find a job.

The benefit need not be paid for a waiting period of the first seven days in each case of suspension of earnings, counting days of unemployment before and after temporary employment lasting not more than a prescribed period as part of the same case of suspension of earnings.

Article 18 of Convention No. 168 states:

1. If the legislation of a Member provides that the payment of benefit in cases of full unemployment should begin only after the expiry of a waiting period, such period shall not exceed seven days.
-
3. In the case of seasonal workers the waiting period specified in paragraph 1 above may be adapted to their occupational circumstances.

Payment procedures also include deductions for amounts resulting from overpayments, disqualifications or penalties, as well as reimbursement for underpayments. They may also limit the assignment or garnishment of benefits.

It is recommended that a waiting period of seven days be required and that payment procedures be prepared in accordance with guidelines in Articles 65-67 of Convention No. 102.

D.3 Liability to return overpayments

These procedures are needed to impose legal obligations to repay overpayments. These obligations are imposed on claimants and others who may owe amounts that generate the overpayments, for example, earnings payable to a claimant as a result of an arbitral award or a bankruptcy settlement. Section 109 of the Employees Social Security Act 1969 is an example of a provision to facilitate the recovery of overpayments. It provides that overpayments “may be recoverable as any debt due to the

Organization may be recoverable as if it is an arrear of land rent or an arrear of a sum payable to a local authority”.

It is recommended that a provision regarding liability to return overpayments, modelled on Section 109 of the Employees Social Security Act 1969, be included.

E. Decisions and appeals

The legal principles of natural justice and fairness require administrative decisions to be made in a way that allows those affected by the decisions to actively participate in the process. These principles require that individuals be provided with information about the decision being made, an opportunity to express their views about how it should be made, and to have those views considered before the decision is made. A hearing is not necessarily required, particularly for high-volume initial decisions made in accordance with clear rules. Respect for these principles is generally achieved through internal decision-making procedures, which apply to initial decisions, for example, to deny benefits or require the payment of premiums. They are normally determined through internal office manuals or policies, which should nevertheless be made available to those affected by the decisions. However, there is an increasing trend to establish a framework for internal decision-making in legislation (see Sections 111-112 of Canada’s Employment Insurance Act 1996).

An important adjunct to the principles of natural justice and fairness is the right to appeal a decision and have it reviewed. Rights of appeal are generally subject to time limits within which requests for review must be made.

Article 70 of Convention No. 102 and Article 27 of Convention No. 168 provide that every claimant is to have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity. An appeal implies that the matter must be determined by an authority that is independent of the administrative authority that

made the first decision. The mere right to request re-examination of the matter by this authority is not sufficient to constitute an appeal. Article 27 of Convention No. 168 also provides that claimants are to be informed in writing of the procedures available; that these procedures should be simple and rapid; and that the procedures shall enable the claimant, in accordance with national law and practice, to be represented or assisted by a qualified person of their choice, a delegate of a representative workers’ organisation, or a delegate of an organisation representative of protected persons.

Procedures for appeals may be set out in the legislation establishing the UI benefits or in other more general legislation dealing with administrative procedures. Appeals may be conducted by a specialized review tribunal, which itself is reviewable by the courts. In Malaysia, Part V of the Employees Social Security Act 1969 provides a good example in terms of the Social Security Appellate Board. The Board has jurisdiction to decide disputes about decisions arising under that Act (Section 84) and deals with some types of decisions that occur with regard to UI schemes, notably about rates of wages. The Employees Social Security Act establishes the basic procedure for applying to the Board, but it also gives the Board power to determine its own rules of procedure (Sections 86-87). In turn, appeals of Board decisions can be taken to the High Court on a “substantial question of law” (Section 91).

It should also be noted that tribunals can be given multiple appellate functions, as is the case for the Canadian Social Security Tribunal (established under Part 5 of the Department of Human Resources and Skills Development Act). The Tribunal has jurisdiction to hear appeals on a wide range of social benefit matters, including pensions and employment insurance benefits.

It is recommended that appeal procedures be provided in accordance with Article 27 of Convention No. 168.

F. Administrative provisions

F.1 Administrative apparatus

Article 72 of Convention No. 102 and Articles 28-29 of Convention No. 168 provide that the government shall assume general responsibility for the sound administration of the institutions and services entrusted with the application of the Conventions. The government must ensure that the agencies entrusted to administer the scheme include representatives of employers; employees, i.e. beneficiaries; and the government.

UI schemes are typically administered by one or more specialized agencies that operate with some independence from the government, to ensure that the financing principles underlying these schemes are respected. This model exists in Malaysia under the Employees Social Security Act 1969, which provides for the administration of the Social Security Scheme by a corporate body, i.e. SOCSO, under the direction of a Board appointed by the Minister, to represent a variety of stakeholders from within and outside the government.

In some countries, the administration of UI schemes is split among two or more agencies. The main division of responsibilities includes: (i) setting contribution rates, generally by the Ministry of Finance; (ii) collecting contributions, generally by the tax office or the social insurance organization; and (iii) processing claims and benefit payments by a social insurance organization.

Convention No. 102 stipulates that all States shall ensure that the necessary actuarial studies and calculations concerning financial equilibrium are made periodically and prior to any change in benefits. Such arrangements should be included in legislation regulating the UI scheme. A proposed institutional structure and description of the functions of each institution are provided in the accompanying report on institutional and operational set-up.

F.2 Accounting

Provisions are needed to establish accounts for receiving contributions and paying UI benefits. Sections 68-82 of the Employees Social Security Act 1969 provide a good example of these provisions.

It is recommended that accounting provisions be modelled on Sections 68-82 of the Employees Social Security Act 1969.

F.3 Electronic transactions

Administrative organizations are increasingly turning to electronic transactions as a way of introducing efficiencies into their operations. Legislative provisions are generally needed to authorize these sorts of transactions. Current Malaysian legislation provides an instructive example for this purpose. Section 112A of the Employees Social Security Act 1969 talks about electronic submission of documents.

1. Subject to Subsection 2, the Organization may allow any returns, statements, particulars, records, notice, reports, register or other documents required to be submitted or furnished under this Act or regulations made under this Act by an electronic medium or by way of an electronic transmission.
2. The conditions and specifications under which the returns, statements, particulars, records, notice, reports, register or other documents referred to in Subsection 1 are to be submitted or furnished shall be as determined by the Organization.
3. The returns, statements, particulars, records, notice, reports, register or other documents referred to in Subsection 1 shall be deemed to have been submitted or furnished by a person to the Organization on the date the acknowledgment of receipt of such documents is transmitted electronically by the Organization to the person.
4. The acknowledgment of receipt, returns, statements, particulars, records, notice, reports, register or other documents submitted or furnished pursuant to Subsection 3 shall be admissible as evidence in any proceedings.

It is recommended that provisions on authorizing electronic transactions be modelled on Section 112A of the Employees Social Security Act 1969.

F.4 Employer and employee registration numbers

A centralized numbering system is essential to keep track of employers and employees and avoid duplication of transactions. If a single system is used for a range of social benefits, it can facilitate linkages with UI benefits. For example, it can ensure that UI benefits are deducted when a claimant is receiving other benefits.

It is recommended that provisions to encourage integration of the tracking and registration numbers of persons insured under different social security benefits be included.

F.5 Pilot projects

It can be useful to authorize pilot projects for the purpose of testing proposed changes to the UI scheme, as and when required. These projects are typically of limited scope and operate as exceptions to the general UI scheme. Part V of Canada's Employment Insurance Act 1996 provides an example of how these projects can be authorized.¹⁴

It is recommended that consideration be given to including provisions to authorize pilot projects.

G. Enforcement

Paragraph 18 of Recommendation No. 67 provides that the employer “should be made responsible for collecting contributions in respect of all employees employed by him, and should be entitled to deduct the sums due by them from

their remuneration at the time when it is paid”. Provisions for the enforcement of UI benefits generally include the creation of offences and penalties for contravening programme requirements and delegation of powers to conduct inspections to verify compliance and investigate offences. Sections 12-13A and Part VI of Malaysia's Employees Social Security Act 1969 provide examples of the types of provisions needed for these purposes.

It is recommended that enforcement provisions, particularly legal proceedings and penalties be included in UI policy and legislation, modelled on those set out in the Employees Social Security Act 1969.

How should existing retrenchment benefits be phased out?

In July 2012, the TPC reached a consensus on phasing out retrenchment benefits while introducing unemployment benefits, i.e. workers would remain entitled to retrenchment benefits accrued up to the effective date of implementation of an EI system, but no further retrenchment benefits would accrue for work commencing after the effective date of the EI system.

Within the Malaysian context, “retrenchment benefits” result from the Termination and Lay-off Benefits Regulations¹⁵ under the Employment Act 1955. These regulations require employers to pay minimum allowances to workers whose contract of service is terminated for any reason other than reaching retirement age, misconduct or voluntary departure. Other workers who do not fall under the Employment Act can also receive retrenchment benefits either through individual or collective negotiation. These benefits are triggered by circumstances similar to those that trigger UI benefits, but they are not subject to employees finding suitable alternative

¹⁴ Part V reads (in part): “109. Notwithstanding anything in this Act, the Commission may, with the approval of the Governor in Council, make such regulations as it deems necessary respecting the establishment and operation of pilot projects for testing whether or which possible amendments to this Act or the regulations would make this Act or the regulations more consistent with current industry employment practices, trends or patterns or would improve service to the public, including regulations...”

¹⁵ Regulations are in force for each region separately, ETLB Regulations 1980 for Peninsular Malaysia; and Labour (Termination and Lay off Benefits) Rules 2008 for Sabah and Sarawak.

employment. Thus, an employee could collect these benefits even though they have found alternative employment.

According to ILO standards, “retrenchment benefits”, also known as “severance pay” in ILO parlance, is addressed as a method of compensation that is independent of and complementary to UI benefits (Article 22 of Convention No. 168, Article 12 of Convention No. 158 and Paragraph 18 of Recommendation No. 166 dealing with termination of employment). The coexistence of the two methods of compensation means they may be applicable separately or jointly. Convention No. 158 and Recommendation No. 166 state that severance pay shall not necessarily be paid solely because the individual concerned does not fulfill the qualifying conditions for UI benefits, or even for other forms of social security, such as old-age or invalidity benefits.

However, this complementary relationship should not lead to overlap in compensation for unemployment. Article 22 of Convention No. 168 addresses duplication; it is recommended that either the UI benefit period or the amount of severance pay be reduced. Article 20(g) of Convention No. 168 provides that UI benefits may be refused, withdrawn, suspended or reduced if the claimant is in receipt of another income maintenance benefit provided for in the legislation of the country concerned, except for a family benefit, so long as the part of the benefit which is suspended does not exceed the other benefit.

A phase-out of retrenchment benefits can be accomplished by repealing the ETLB Regulations, but enacting a savings provision that preserves pre-implementation entitlements. This provision would not disturb pre-implementation entitlements, but would prevent overlapping compensation for employees with such entitlements.

In Viet Nam, where a similar “phasing out” clause has been adopted with the introduction of UI, employers had to provide severance payments for service up to 1 January 2009 (date of

introduction of UI) but do not need to do so for employees who have come under UI since then. Article 139 on Transition provisions, Paragraph 6 of Viet Nam’s Social Insurance Law 2006 relevantly states that “the duration for which laborers pay unemployment premiums under the provisions of this Law shall not be counted for enjoyment of job loss allowances or job severance allowances under the provisions of the labor law or the law on cadres and civil servants”.

Stakeholder inputs

There is still a significant level of contention among stakeholders regarding whether current provisions for retrenchment benefits should be retained or modified, in spite of the Phase 1 consensus on phasing out retrenchment benefits. Comments from MTUC on an earlier version of this report indicated their strong desire that termination pay be retained once UI benefits are implemented. The National Union of Bank Employees (NUBE) has also expressed concern that the proposed UI benefits would negatively impact employees, by removing their rights to retrenchment benefits.

MEF and the Master Builders Association Malaysia, on the other hand, argue that the existing ETLB Regulations 1980 provide adequate protection for workers without UI benefits. MEF advocates for an amendment to Section 29(1) of the Companies Act 1956 to make it mandatory for managers to pay termination benefits to employees before paying creditors, in order to provide employees with improved protection under the existing regulations. Conversely, FMM has submitted feedback indicating that it will only consider the proposed UI benefits if retrenchment benefits are phased out.

Bank Negara Malaysia has also highlighted that should UI benefits be implemented, some workers may receive less in UI than they would have from retrenchment payments, especially those who have worked for an organisation for a long time. They propose that a more thorough comparison of the two benefit schemes be carried out.

While retrenchment benefits can be valuable for long-term employees, they are generally not for those with broken or irregular work patterns. The latter are the most vulnerable to lay-offs and in need of UI protection. Many workers are not even covered by the law governing retrenchment benefits. A UI scheme would provide protection to a far greater number of workers, almost universal protection, while still allowing individuals and unions to bargain privately for retrenchment benefits.

During Phase 1 of the project, stakeholders agreed to phase out retrenchment benefits but to consider implementation of a third pillar of the EI system, i.e. “acknowledgement of tenure” as proposed by stakeholders like FMM. The legislative implications of establishing such a system are discussed in later sections of this report, while the actuarial and administrative considerations are set out in the accompanying actuarial and institutional studies.

At this stage, one of the most pressing issues is to resolve the lack of consensus between employer organisations and other stakeholders, regarding the phase-out of retrenchment benefits and the question of whether retrenchment benefits alone are adequate. If retrenchment payments are retained in whole or in part, or even during the phase-out, the payment of UI benefits should happen after the payment of retrenchment benefits.

It is recommended that the ETLB Regulations 1980 be repealed and a savings provision be enacted that preserves entitlements accumulated before the repeal.

What changes should be made to other existing employment programmes and legislation?

There are many existing programmes that provide benefits bearing some similarity to UI benefits in Malaysia. If the proposed UI benefits are introduced, policy issues will arise as to whether the existing programmes should be discontinued or modified, to avoid duplication. Relevant existing legislation includes:

- **Employees Provident Fund Act 1991 (No. 452):** is a mandatory savings plan. It requires employees and their employers to contribute to the EPF and entitles employees to withdraw the contributions once they reach 55 years of age; become incapacitated from work or die; or leave Malaysia (foreign workers only). Partial withdrawals are also permitted for housing, health care or educational purposes, or for the purchase of life insurance.

The objectives of the EPF Act are different from those of UI benefits. They have a savings rather than an insurance orientation. They are focused on providing for employees at the end of their working life, as opposed to providing protection in case of an interruption in employment during their careers. There appears to be no need to modify the EPF Act as a consequence of enacting UI benefits.

- **Employees Social Security Act 1969 (No. 4):** provides employees (except foreign employees) with two types of benefits. The first type of benefit provides compensation for work injuries or diseases. The second type of benefit is paid in case of death or incapacity of a permanent nature not connected to their employment. In both cases, employees are not able to work and thus would not fulfil the requirement under UI schemes, that of seeking suitable employment.

Amending the Employees Social Security Act 1969 is one of the possible options for setting the legal framework of the EI system. If it is decided that SOCSO is the most suitable agency to collect contributions and pay UI benefits, UI legislation could be attached to the Social Security Act as one supplementary Chapter encompassing similar fundamental principles already prescribed by the Act.

The second option is to enact new stand-alone UI legislation. In this case, there appears to be no need to modify the Employees Social Security Act as a consequence of enacting UI. There will be

Table 14. Review of possible amendments to legislation due to the introduction of Pillar 1

Legal document	Possible implications and need for amendment	
Employees Provident Fund Act 1991 (No. 452)	No implication	
Employees Social Security Act 1969 (No. 4)	Option 1: Supplementary EI Chapter, if it is decided that EI legislation will be attached to the Act	Option 2: New stand-alone EI law, including a provision that prevents duplication of benefits
Workman's Compensation Act 1952	New provision to prevent duplication of benefits	
Employment Act 1955	<ul style="list-style-type: none"> • Possible implication for provisions regulating termination and lay-off benefits (Part XIII A and ETLB Regulations). • Include definition of termination for "just cause" • Include definition of "suitable employment" 	
Pension Act 1980 (No. 227)	No implication	

instances, however, when injured employees may have recovered sufficiently to resume working. As such, legislative provisions will be necessary to ensure that workers in these circumstances do not receive benefits under both programmes at the same time.

- **Workman's Compensation Act 1952:** provides compensation to foreign employees for work injuries or diseases. As with the Employees Social Security Act, there appears to be no need to modify this Act as a consequence of enacting UI benefits. There will be instances, however, when injured employees may have recovered sufficiently to resume working. As such, legislative provisions will be necessary to ensure that workers in these circumstances do not receive benefits under both programmes at the same time.
- **Employment Act 1955:** regulates employment contracts, conditions of employment and employee entitlements, including sick leave and lay-off or retrenchment benefits, termination and retirement benefits. The only part of this Act relating to UI benefits is Part XIII A and the ETLB Regulations under it. These regulations and the possible implications of introducing UI have been discussed in detail.

As noted in the previous section, it is recommended that the ETLB Regulations be repealed and a savings provision be

introduced, that preserves entitlements accumulated before the repeal.

- **Pension Act 1980 (No. 227):** provides pensions to public servants, for old-age, incapacity or death. Since UI benefits require claimants to seek suitable employment, it would not include beneficiaries of the Pension Act. There appears to be no need to modify the Pension Act as a consequence of enacting UI benefits.

Pillar 2: ALMPs

What international law considerations relate to ALMPs?

The TPC reached a consensus regarding ALMPs such as counselling, placement, mobility assistance, vocational training and retraining. ALMPs aim to upgrade skills and match labour supply to demand. Article 1 of the Employment Policy Convention, 1964 (No. 122) calls on States to pursue, as a major goal, active policies designed to promote full, productive and freely chosen employment. It does so with a view to stimulating economic growth and development, raising levels of living, meeting labour requirements and overcoming unemployment and underemployment. Additionally, Articles 2 and 7 of Convention No. 168 and Paragraphs 2 and 7 of Recommendation No. 176 recommend the establishment of a "system of protection

against unemployment”, not limited to protecting individuals facing hardship due to unemployment, by means of income support, but also to promote full, productive and freely chosen employment.

There is already a robust set of ALMPs operating in Malaysia. Given the focus of this report on advancing the development of an EI system for Malaysia, this report does not comment on any domestic legal issues related to the operation of these ALMPs. ALMPs in Malaysia appear to go to a considerable extent towards meeting the requirements of the two ILO Conventions and one Recommendation that have a bearing on ALMPs. Convention No. 168 of the ILO provides a general framework for ALMPs.

Article 2 of Convention No. 168 states that:

Each Member shall take appropriate steps to co-ordinate its system of protection against unemployment and its employment policy. To this end, it shall seek to ensure that its system of protection against unemployment, and in particular the methods of providing unemployment benefit, contribute to the promotion of full, productive and freely chosen employment, and are not such as to discourage employers from offering and workers from seeking productive employment.

Article 7 of Convention No. 168 states that:

Each Member shall declare as a priority objective a policy designed to promote full, productive and freely chosen employment by all appropriate means, including social security. Such means should include, inter alia, employment services, vocational training and vocational guidance.

Article 8 of Convention No. 168 addresses programmes for traditionally disadvantaged persons:

1. Each Member shall endeavour to establish, subject to national law and practice, special programmes to promote additional job opportunities and employment assistance and to encourage freely chosen and productive employment for identified categories of disadvantaged persons having or liable to have difficulties in finding lasting employment such as women, young workers, disabled persons, older workers, the long-term

unemployed, migrant workers lawfully resident in the country and workers affected by structural change.

The Human Resources Development Convention, 1975 (No. 142) provides a framework for the establishment and implementation of training schemes. Article 1 states:

1. Each Member shall adopt and develop comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.
2. These policies and programmes shall take due account of:
 - a) employment needs, opportunities and problems, both regional and national;
 - b) the stage and level of economic, social and cultural development; and
 - c) the mutual relationships between human resources development and other economic, social and cultural objectives.
3. The policies and programmes shall be pursued by methods that are appropriate to national conditions.
4. The policies and programmes shall be designed to improve the ability of the individual to understand and, individually or collectively, to influence the working and social environment.
5. The policies and programmes shall encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society.

In addition, Article 5 states that “policies and programmes of vocational guidance and vocational training shall be formulated and implemented in co-operation with employers’ and workers’ organisations and, as appropriate and in accordance with national law and practice, with other interested bodies”. Finally, Recommendation No. 166 encourages the establishment of occupational and geographical mobility incentives by way of allowances to assist employees to seek new employment, undertake training, engage in employment on a trial basis or to set up their own businesses. There are

several ways to link ALMPs with UI benefits (Carter et al., 2013).

Would an EI system require any changes to existing active labour market programmes and legislation?

ALMPs generally operate in close conjunction with UI benefits. It may therefore be helpful to consider whether any of the existing ALMPs in Malaysia may need to be adjusted to fit with UI benefits. It may also be useful to consider some additional types of ALMPs that have played a role in UI benefits in other jurisdictions. This discussion is organized in terms of the three types of ALMPs agreed by the TPC:

1. **Public employment services** such as job centres and labour exchanges help unemployed workers find a job, for example, by disseminating information on vacancies and providing assistance with interview preparation and writing CVs
2. **Training schemes** such as classes and apprenticeships help the unemployed improve their general education or specific skills and hence increase their employability
3. **Employment subsidies**, either in the public or private sector, seek to create or support jobs for the unemployed; these are typically short-term measures that are designed to allow the unemployed to build work experience and prevent skills from deteriorating

A. Public employment services

The Ministry of Human Resources currently operates JobsMalaysia, to provide services to workers seeking employment. Registration with a public employment service is typically regarded as an essential step in demonstrating availability for suitable employment. It is thus essential to maintain this service for the purposes of UI benefits.

In case of unemployment continuing beyond the prescribed initial benefit period, Article 19(5) of Convention No. 168 provides that States shall endeavour to grant appropriate additional assistance to find employment.

B. Training schemes

Training schemes in Malaysia are run by the Department of Skills Development under the National Skills Development Act 2006 (No. 652). The DSD is an agency under MOHR responsible for developing and monitoring national training standards, which are known as the “National Occupational Skills Standards”. One of the main functions of this agency is related to the approval of training providers, implementation of the National Training Certification Programmes and promotion of skills profile.

Training activities are funded through the Human Resources Development Fund (HRDF), under the Human Resources Development Act 2001 (No. 612). HRDF is funded by levies paid by employers who belong to a wide range of industries listed in the First Schedule of the Human Resources Development Act, mainly manufacturing and services industries. HRDF is managed by PSMB.

Vocational rehabilitation is funded by the Social Security Fund under the Employees Social Security Act 1969 (Act No. 4). Any person suffering from or claiming to suffer from invalidity under the Invalidity Pension Scheme or permanent disablement under the Employment Insurance Scheme, both administered by SOCSO, may be provided vocational rehabilitation free of charge, in addition to physical rehabilitation.

If the UI benefits recognize training as a legitimate alternative to actively seeking suitable employment, then these programmes should be referenced. The existence and implementation of training activities is well referenced in ILO instruments. Paragraph 25(3) of Recommendation No. 166 states that in assisting the workers affected in obtaining suitable alternative employment or training or retraining, regard may be had to the Human Resources Development Convention, 1975 (No. 142) and Human Resources Development Recommendation, 1975 (No. 150). Recommendation No. 150 states that:

Paragraph 4(1). Members should adopt and develop comprehensive and co-ordinated policies

and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.

Paragraph 4(6)(c). Such policies and programmes should have as objectives ... (c) to protect persons against unemployment or other loss of income or earning capacity deriving from lack of demand for their skills as well as against underemployment.

Paragraph 8(1)(c). The main objectives of vocational guidance programmes should be to ... (c) assist persons who are entering the labour force, who seek to change their work activities, or who are unemployed, to choose an occupation and to plan related education and vocational training.

In many countries including Canada, France, Germany, Japan, Republic of Korea, Thailand, Viet Nam and others, UI benefits are available to claimants who are pursuing training programmes. Although they are not actively seeking suitable employment, they are pursuing training to enhance their chances of obtaining it. UI legislation in these countries typically recognizes this expressly. For example, Viet Nam provides an additional allowance complementary to the UI allowance, to cover training fees for up to six months.

C. Employment subsidies

Paragraphs 4 and 5 of Recommendation No. 176 promote the granting of occupational or geographical mobility incentives towards cost of travel, resettlement grants and allowances in the form of periodical payments for prescribed periods of vocational training or retraining. The authors are unaware of any employment subsidies currently granted under Malaysian legislation. However, a relevant example can be observed in Part 2 of Canada's Employment Insurance Act. Section 27 of the Act states that:

59. The Commission may establish employment benefits to enable insured participants to obtain employment, including benefits to

- (a) encourage employers to hire them;
- (b) encourage them to accept employment by offering incentives such as temporary earnings supplements;

- (c) help them start businesses or become self-employed;
- (d) provide them with employment opportunities through which they can gain work experience to improve their long-term employment prospects; and
- (e) help them obtain skills for employment, ranging from basic to advanced skills.

Part 2 also sets out a framework for establishing and administering these benefits, particularly in cooperation with provincial and territorial governments.

Another form of subsidy is to support work sharing benefits. The salaries of employees with reduced working hours are supplemented, as an alternative to lay-offs. These arrangements are beneficial not only to employees in terms of maintaining their level of remuneration, but also to employers in terms of retaining employees on the expectation that work levels will be restored. Employment subsidies can also be provided to support job-creation schemes. An example of this is found in Section 24 of Canada's Employment Insurance Act, which authorizes the Employment Insurance Commission to make regulations to create a work sharing programme. A similar programme is also found in Germany.

To minimize the possibility of these incentives being misused, Article 30 of Convention No. 168 states that "in cases where subsidies are granted by the State or the social security system in order to safeguard employment, Members shall take the necessary steps to ensure that the payments are expended only for the intended purpose and to prevent fraud or abuse by those who receive such payments".

D. Recommendations

The success of an EI system will rely on well-functioning ALMPs. Facilitating early return to work presents the twin benefit of maintaining an active and productive domestic workforce (long periods of unemployment tend to affect workers' productivity after returning to work), and limiting the expenditures of the UI fund. Therefore, a more detailed assessment of existing

ALMPs will be needed, to identify well-performing programmes and institutions upon which the EI system should build. Adjustments to existing ALMPs or implementation of new programmes may also be considered, which will have some implications for existing ALMP legislation.

E. Stakeholder inputs

A concern was that various publicly funded ALMPs exist in Malaysia. Thus, stakeholders like MEF recommended against making employers and employees contribute to an EI system that uses part of the fund to support the functioning of ALMPs. The actuarial report provides a comprehensive list of existing ALMPs and government spending on them, and concludes that their funding and extent is already substantial and adequate. The report does not recommend any additional measures or funding from the UI fund. However, it notes that an important function under any proposed UI benefits will be to establish functional linkages between existing ALMPs and UI. A range of options for this are proposed and described in Phase 2 of the institutional and operational study. Whether this will require additional funds and if so, whether they need to be drawn from UI funds, is a subject for further exploration among TPC members and government representatives. In this regard, FMM has requested that the Malaysian government conduct an independent assessment of the effectiveness of all its existing training and re-training schemes.

Pillar 3: Savings Plan

Are there any legal concerns with the proposed employer and worker funded Savings Plan?

The TPC consensus was to provide an additional offset to phasing out retrenchment benefits. The TPC requested that the possibility of introducing an employer and worker funded Savings Plan to recognize tenure, be examined.

An employer and worker funded savings plan already exists in Malaysia under the EPF Act. It operates on the basis of contributions paid by

employers and employees, which generate income and which employees can withdraw at the end of their careers (upon reaching retirement age, foreign workers leaving Malaysia, upon invalidity or death) or for specified purposes (housing, health care, higher learning or purchase of life insurance).

The Savings Plan proposed under Pillar 3 would contain many of the same structural elements as the EPF. The main difference would be the basis for withdrawing contributions. The basis for withdrawals under the proposed plan is summarized below.

A special TPC meeting was convened to look at several examples which highlighted the difference in purpose between retrenchment rules and UI benefits. The TPC confirmed that entitlement to Pillar 3 should follow the rules of retrenchment, but there was no consensus on what would happen to the employer and worker portions of Pillar 3, if it were determined that the unemployed worker was not entitled to these amounts. There is also an issue of fairness, as most private sector workers would be paying into the savings account as well as the employer, but they would not meet the rules of retrenchment. It is felt that the rules for entitlement to Pillar 3 should closely follow the rules for receiving UI benefits under Pillar 1, which would allow for better streamlining of the administrative procedures.

This indicates that there are still significant policy issues related to withdrawal of contributions, which need to be decided. In addition, the issue of entitlement to benefits raises significant concerns, including from a legal standpoint. If characterized as a Savings Plan, beneficiaries have a “property interest” in the contributions made by them on their behalf by their employers. They must, accordingly, have access to their property at some point. Otherwise, their property may be characterized as having been expropriated without compensation, contrary to Article 13 of the Federal Constitution.

Similar concerns would arise from the application of the rules for the payment of retrenchment benefits under the ETLB Regulations. These

provide that employees who retire are not entitled to retrenchment benefits. In addition, employees who leave voluntarily would not be able to access their contributions unless they find other employment and are then terminated on a basis that is recognized under the ETLB Regulations. It is difficult to see how the rules of the ETLB Regulations could be applied to a Savings Plan. Either the rules would have to change or the programme would have to be re-profiled as something other than a Savings Plan.

The application of entitlement rules for UI benefits contemplated under Pillar 1 creates similar problems. These rules relate to an insurance scheme rather than a savings plan. There is no need for insurance premiums to match benefits for individual employees since the purpose of the scheme is to safeguard against the risk of unemployment, regardless of whether it is realized or not. In contrast, the objective of a savings scheme, as noted above, is to require employees to set aside some of their remuneration to build savings that they will ultimately be able to access.

It is anticipated that payment from an employer and worker funded Savings Plan under Pillar 3 will not be subject to entitlement rules for either UI benefits or retrenchment benefits under the ETLB Regulations. Therefore, further legislation and regulations will need to be developed to determine withdrawal conditions for both employers and employees. This will be done once the tripartite partners have agreed on the modalities of this employer and worker funded Savings Plan.

General matters

Which matters should be addressed in an Act and which should be addressed in regulations or orders?

An important area of programme design is to decide the appropriate legal form to be taken by the various elements needed to operate an EI system. The elements are:

- Acts of Parliament (Statutes);
- Regulations;
- Executive Orders;
- administrative policies and manuals; and
- institutional arrangements.

In a democracy, Acts are the fundamental components of the law; they are enacted by elected representatives through parliamentary processes that are designed to provide transparency and public debate. In Malaysia, the authority to enact law relating to unemployment insurance is expressly granted by the Federal Constitution.¹⁶ Laws should establish the purpose and main elements of an EI system. In addition, certain types of provisions are conventionally found in Acts, including:

- provisions establishing administrative bodies and conferring significant powers to them, including the power to make Regulations and Orders;
- provisions governing the collection and spending of public money; and
- provisions for offences and enforcement powers.

By contrast, provisions that provide details for a statutorily established framework are generally found in Regulations or Orders (subsidiary legislation) made by politically accountable officials such as government ministers. The processes for making Regulations and Orders is generally less involved than parliamentary processes and, as forms of subsidiary legislation, they can usually be made more quickly. This is important for provisions that provide details to inform implementation of laws, since they are more likely to have to be altered to respond to changing conditions and programme requirements.

Discretion is an important element of most modern administrative programmes. UI/EI programmes are no exception. Not all programme details can be reduced to legislated rules in Acts or subsidiary legislation. Many administrative decisions are best made with

¹⁶ See Section 77 and the Ninth Schedule, Legislative Lists, List I Federal List, Section 15(b).

a degree of flexibility guided by clear objectives and factors. Administrative policies and manuals are essential tools for ensuring that discretion is exercised appropriately, particularly across large administrative organizations.

How should administrative authority be conferred?

Part II on the institutional and operational framework of the EI system discusses possible institutional arrangements and makes recommendations in that regard. Once these arrangements are decided, administrative authority will have to be conferred on the appropriate institutional actors. Administrative authority can be conferred in one of two ways:

- by identifying the responsible Minister or agency in the Act that confers the authority; or
- by giving power to the government to designate the responsible Minister or agency.

The administration of the EI system should be governed by a board comprising representatives of employers, beneficiaries and the responsible Ministry or agency, including government agencies responsible specifically for Pillar 2 and Pillar 3. When a definite policy decision can be made as to who should exercise particular administrative functions, it should be reflected in the legislation that confers the authority to carry out these functions. However, if there is uncertainty about who should have the authority, flexibility should be retained by allowing the authority to be conferred by an Executive Order. A good example of a provision to provide this sort of flexibility is section 59J of the Malaysian Employees Social Security Act 1969, which states that:

The Board may, subject to such conditions, limitations or restrictions as it thinks fit, delegate to the Chairman, Director General, any of its members or any person, authority to sanction expenditure from the Social Security Fund or any other monies under the control of the Board, up to such limit as it shall in such case specify.

Summary of recommendations

What are the options for the overall legislative structure of an EI system?

There are four options to enact legislation for the EI system, each containing some sub-options. Each sub-option deals with one of the three pillars of the EI system.

Option 1: A new Act for the EI system and consequential repeal of ETLB Regulations (Pillar 1); amendments to existing legislation for ALMPs (Pillar 2); and integration of the Savings Plan into the EPF Act (Pillar 3).

Option 2: A new Act for the EI system and consequential repeal of ETLB Regulations (Pillar 1); amendments to existing legislation for ALMPs (Pillar 2); and a new Act for the Savings Plan (Pillar 3).

Option 3: Integration of the EI system into the Employees Social Security Act 1969 and consequential repeal of ETLB Regulations (Pillar 1); amendments to existing legislation for ALMPs (Pillar 2); and integration of the Savings Plan into the EPF Act (Pillar 3);

Option 4: Integration of the EI system into the Employees Social Security Act 1969 and consequential repeal of ETLB Regulations (Pillar 1); amendments to existing legislation for ALMPs (Pillar 2); and a new Act for the Savings Plan (Pillar 3).

The options are presented graphically in Table 2.

Sub-option 1 for Pillar 1: New Act on an EI system

The preceding discussion of the proposed EI system suggests that it would be quite distinct from any existing programmes in Malaysia. Although certain components of existing social insurance programmes will be required for UI benefits, two arguments may favour having a separate legislation for the EI system in Malaysia:

Recalling Table 2. Possible options to enact legislation for the EI system

Legal options	Pillar 1	Pillar 2	Pillar 3
Option 1	<ul style="list-style-type: none"> • New EI Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • Amend EPF Act
Option 2	<ul style="list-style-type: none"> • New EI Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • New Savings Plan Act
Option 3	<ul style="list-style-type: none"> • Amend Employees Social Security Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • Amend EPF Act
Option 4	<ul style="list-style-type: none"> • Amend Employees Social Security Act • Repeal ETLB Regulations 	<ul style="list-style-type: none"> • Amend ALMP Acts 	<ul style="list-style-type: none"> • New Savings Plan Act

- existing laws, including the Employees Social Security Act 1969, serve the purposes of programmes that have different structures and purposes; and
- the EI system will rely on existing programmes (social insurance, ALMPs, etc.) that are scattered across other legislations, and modifying all of them so that they apply to an EI system, would make understanding and applying the new EI system far more difficult for employers, employees and administrative officials.

If enacted under a new Act, the EI system would require very few amendments to legislation establishing the other programmes, with the notable exception of the ETLB Regulations 1980.

Sub-option 2 for Pillar 1: Amend Employees Social Security Act 1969

The Employees Social Security Act 1969 provides for guidelines to run social insurance schemes in Malaysia, notably work injury benefits, the RTW programme and invalidity pensions. It also provides for the funding and payment, and administration of a range of benefits related to work injuries and invalidity, based on social insurance principles. It contains many elements that will be common to legislation for the EI system, notably provisions related to the governance of a social insurance scheme.

This option would involve integrating a Chapter on EI into this Act, and linking with other existing legislations and institutions needed under Pillar 2 and Pillar 3. This would require

including separate provisions such as the level of contributions and payments, qualifying conditions, among other provisions specifically regulating the EI system. However, common principles related to social insurance based management will be similar to those applied to other benefits under the Employees Social Security Act 1969.

Sub-option 1 for Pillar 2: Amend existing legislations on ALMPs

Since many ALMPs are in place backed by legislation, any new ALMPs could be introduced by amending the extant legislation.

Sub-options for Pillar 3

The EPF Act contains the structural elements needed for an employer and worker funded Savings Plan and should serve as a model. There are two sub-options for using it as a model, namely to:

1. modify the funding and withdrawal provisions of the EPF Act to include withdrawal of contributions on termination of employment for any reason; or
2. create a new Act to establish a new employer and worker funded Savings Plan that would allow withdrawal of contributions on termination of employment for any reason.

Sub-option 1 for Pillar 3: Amend the Employees Provident Fund Act 1952

The advantage of this option is that it would require minimal legislative changes and would

use the existing administrative structures established by the EPF Act (such as the Fund, Investment Panel, Board and its staff) to discharge the functions necessary to operate the Savings Plan. The legislative provisions related to paying and investing contributions would apply as well. The only substantive change would be in the provisions related to withdrawals (Part VI). These would have to be amended to include withdrawals contemplated under the new Savings Plan. This could be done by adding this basis to the existing bases. If the new basis were to include termination of employment for a broader set of reasons, or for any reason, it might also subsume some of the existing bases. However, the merits of retaining existing powers to impose conditions on some withdrawals (for example, the power in Subsection 54(2) to require a member to take up an insurance policy) would have to be considered.

Sub-option 2 for Pillar 3: New Savings Plan Act

A new Act on a Savings Plan funded by employers and workers would be more advantageous if many changes are required to the provisions of the EPF Act. However, careful thought should be given to these changes since

a new Act, and corresponding new administrative structures, would entail significant expenses and implementation challenges. Also, a new Act would have to be coordinated with existing legislations, notably the EPF Act, to ensure that they operate harmoniously. For example, it should be checked if the withdrawal of contributions under the new Savings Plan would reduce benefits under the EPF Act or UI legislation, and coordination between different administering agencies should also be checked.

Conclusions on the legal framework

The preceding discussions suggest that any of the four options are feasible for establishing the legal framework of the proposed EI system. A review of 14 UI/EI systems in Asia and worldwide shows that five countries have included UI benefits under their Social Security or Social Insurance Laws; eight countries opted for a separate law (although some of the countries started with including UI under their Social Security Act); and one country has kept UI provisions under the Labour Law (Carter et al., 2013). The legislative practices in Malaysia and dialogue among different institutions involved can determine the most suitable way for the country.

Table 15. Summary of factors to be considered in UI legislation

Components of UI benefits	ILO Conventions: definitions and guiding principles	TPC consensus as of July 2012	Recommendations
A. Coverage			
A.1 Contingencies covered	Suspension of earnings, as defined by national laws and regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of and available for work.	Involuntary interruption in employment.	Compensation to cover full or partial loss of earnings due to inability to find suitable employment.
A.2 Insurable employment/ employees	All types of employment, including public employees and apprentices.	All private sector salaried employees and apprentices under a contract of service of any type or duration.	Broad, comprehensive definition similar to “employee” in the Employees’ Social Security Act, not dependent on the duration of contract.
A.3 Equality of treatment	At least 85 per cent of all employees; non-discriminatory coverage, including foreign/migrant/ domestic workers, workers with short-term or seasonal contracts.	No consensus	Equal treatment between nationals and non-nationals, with special implementation arrangements (particularly for migrant workers whose permit of stay is linked to the contract).
A.4. Insurable earnings	To be defined by “national laws”.	Not discussed	Broad definition based on “wages” in the Employment Act. Also include provision to adjust “maximum” in line with wage and price index.
B. Contributions			
B.1 Rate-setting and reporting	Cost of system to be borne by contributions or taxes; employees to bear no more than 50 per cent of costs.	To be shared between workers and employers for Pillars 1 and 3, employers and the government for Pillar 2.	To be shared between workers and employers for Pillars 1 and 3, employers and the government for Pillar 2. Setting of rates based on actuarial analysis.
B.2 Payment of benefits and collection of contributions	Employers deduct employee contributions and pay these and their own contributions; and keep proper records.	Not discussed	Provisions modelled on the Employees Social Security Act including: <ul style="list-style-type: none"> • require employers to deduct employee contributions and pay these and their own contributions; • require employers to keep employee payroll records; • authorize inspections of employer records; • correct overpayments, provide refunds; and • for recovering contributions by legal processes.

Table 15. (continued)

Components of UI benefits	ILO Conventions: definitions and guiding principles	TPC consensus as of July 2012	Recommendations
B.3 Non-payment of contributions (employee protection)	Non-payment of contributions not a basis for refusing benefits.	Not discussed	Non-payment of contributions not a basis for refusing to pay UI benefits to employees.
C. Benefits			
C.1 Type of benefits	Periodical payment of benefits; assistance in finding long-term employment; mobility incentives; medical care.	Temporary cash benefits	Periodical payments; see below (Pillar 2) for assistance in finding long-term employment and mobility incentives; extension of health insurance coverage while receiving UI benefits.
C.2 Duration of benefits	26 weeks per unemployment period; or 39 weeks per 24 months.	3 to 6 months	3 to 6 months
C.3 Rate of benefits	At least 50 per cent	45 to 55 per cent of insurable earnings	At least 50 per cent of insurable earnings up to a fixed maximum, to be determined by an actuarial study.
C.4 Qualifying conditions for benefits	Recognized conditions: <ul style="list-style-type: none"> • suspension of earnings due to inability to obtain suitable employment; • qualifying period necessary to preclude abuse; • claimant must be capable of and available for work; and • States encouraged to consider benefits for partial unemployment. 	Consensus on: <ul style="list-style-type: none"> • involuntary interruption in employment; • 12 months of contributions in previous 24 months; • register with employment office; and • demonstrate availability for work through regular reports. 	Qualifying conditions: <ul style="list-style-type: none"> • involuntary interruption in earnings; • at least 12 month of contributions in the 24 months preceding a claim (adjustable to economic conditions, based on actuarial studies); and • availability for suitable employment. <p>Consideration should also be given to qualifying partial unemployment as described in Convention No. 168.</p>
C.5 Involuntary leaving	Involuntary employment	Benefits payable for involuntary interruption.	Benefits payable due to termination or suspension of employment except in case of voluntary termination; leaving for just cause does not constitute voluntary termination. Drafting approach of ETLB Regulations 1980 should be adopted.

Table 15. (continued)

Components of UI benefits	ILO Conventions: definitions and guiding principles	TPC consensus as of July 2012	Recommendations
C.6 Disqualification and reduction of benefits	<p>Grounds for disqualification recognized in Article 20 of Convention No. 168:</p> <ul style="list-style-type: none"> • person absent from the territory; • misconduct; • voluntarily leaving without just cause; • until labour dispute is settled; • fraudulent claim; and • failure to use employment support services. 	Voluntary leaving disqualifies	<p>In addition to voluntary leaving and failure to seek suitable employment, the following grounds of disqualification should be recognized:</p> <ul style="list-style-type: none"> • dismissed for misconduct; • claimant is absent from Malaysia; • claimant involved in a labour dispute; • fraudulent claims; • receipt of other State income assistance benefits; • failure to report to employment services; and • refusal of suitable employment (number of refusals to be determined).
C.7 Seeking suitable employment	Recognized as a qualifying condition	Consensus as a qualifying condition	Seeking suitable employment should be a qualifying condition for benefits with a definition of “suitable employment” in accordance with Article 21 of Convention No. 168, and Recommendation No. 176. A refusal of suitable employment should correspondingly result in disqualification. “Refusal” should be defined as well.
D. Claim process			
D.1 Claim procedure	Legal, administrative and financial guarantees in Articles 27-30 of Convention No. 168	Not discussed	Detailed consideration of claim procedures needed to administer the UI benefits. It will be based on recommendations of the institutional report.
D.2 Payment of benefits	Waiting period of 7 days may be mandated	Not discussed	A waiting period of 7 days should be mandated and payment procedures should be prepared in accordance with guidelines in Articles 65-67 of Convention No. 102.

Table 15. (continued)

Components of UI benefits	ILO Conventions: definitions and guiding principles	TPC consensus as of July 2012	Recommendations
D.3 Liability to return overpayment	Not addressed	Not discussed	Provision modelled on Section 109 of Employees Social Security Act should be included.
E. Decisions and appeals			
	Claimant should have the right to appeal against refusal of benefits and should be informed of appeal procedures, which must be simple and rapid and allow the claimant to be represented.	Not discussed	Appeal provisions in accordance with Article 27 of Convention No. 168 should be included.
F. Administrative provisions			
F.1 Administrative apparatus	Governments responsible for general administration, but particular responsibilities may be delegated. Board of administration should ensure representation of employers, beneficiaries and government.	Not discussed	Board of administration should comprise representatives of employers, beneficiaries and the government. For more details see the institutional report.
F.2 Accounting	See F.1 above	Not discussed	Provisions modelled on Subsections 68-82 of the Employees Social Security Act to be included.
F.3 e-transactions	Not addressed	Not addressed	Provisions modelled on Section 112A of the Employees Social Security Act (authorizing electronic transactions) to be included.
F.4 Employer and employee registration number	Not addressed	Not discussed	Recommendations will be provided in the institutional design.
F.5 Pilot projects	Not addressed	Not addressed	Consideration to be given to authorizing pilot projects, modelled on Part V of Canada's Employment Insurance Act.
G. Enforcement			
	State retains the general responsibility for proper administration and has the right and duty to supervise.	Not discussed	Enforcement provisions modelled on the Employees Social Security Act to be included.

Part II

Institutional and operational aspects of the proposed employment insurance system in Malaysia

Author: John Carter

Institutional and operational aspects of the proposed employment insurance system in Malaysia

Introduction

Under the project “Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia”, coordinated by the TPC, a proposed EI system for Malaysia was studied. Three studies (legal; institutional and operational; actuarial) provided recommendations to the establishment of an EI system. Part II sets out the findings of the feasibility study regarding the institutional and operational aspects of the proposed EI system.

The options proposed and discussed in this report emanate from a fact-finding mission undertaken during 11-20 March 2013. The mission sought to:

- i) conduct a feasibility study and provide recommendations concerning the institutional and operational set-up of the proposed EI system under Scenarios 2 and 3; and
- ii) propose a monitoring and evaluation system for an EI system in Malaysia, in line with relevant ILO Conventions and Recommendations, in particular, Conventions Nos. 102 and 168, and Recommendation No. 176.

A list of meetings that took place during the mission is available in Annex 1.

Overview of institutional recommendations

Part II of the report provides recommendations on the institutional and operational arrangements for the proposed EI system. It is based on the preparatory study and field trip conducted during 11-20 March 2013. It discusses several issues raised by the TPC regarding the determination of appropriate departments to carry out the functions of the proposed EI system. The EI system should not be developed and implemented as an entirely new system, but rather should

utilize existing services, to the extent possible and with possible ICT upgrades.

Part II refers to international practices in the field of EI/UI. An ILO study reviewed the experiences of UI scheme design, and operations and linkages with ALMPs in 14 countries, namely Argentina, Bahrain, Canada, Chile, China, Denmark, France, Germany, Japan, Republic of Korea, Mongolia, Thailand, the United States and Viet Nam. One of the main conclusions of this study is that UI should be kept as simple and straightforward as possible, fulfilling the primary objective of providing temporary and partial income replacement to insured persons who lose their jobs, while they seek new employment. ALMPs should be linked to new UI benefits (Carter et al., 2013). However, it is strongly suggested that the overarching EI system be implemented methodically and gradually, allowing time for maturation and to ensure its sustainability.

Policy development

This report affirms the need for good governance as an essential support to the effective institutional and operational set-up of an EI system. Article 71 of Convention No. 102 recommends that countries should assume responsibility for sound governance, including consultations with employers and workers, and involve them in the operation of UI schemes.

Sound management of the system requires developing a legal framework and overall monitoring. This should be developed through consultations involving technical departments and line ministries.

It is recommended that policy coordination mechanisms be established to ensure the effective design and implementation of EI policies and laws. Similarly, specific mechanisms beyond the tripartite administration of the fund will be required to engage social partners in the design and future reforms of the legal framework and implementation arrangements.

Most countries nominate a ministry already involved in social insurance or labour issues to oversee policy development and overall leadership of UI/EI systems. For example, in Canada, Human Resources and Skills Development Canada is the department responsible for developing, managing and delivering social programmes and services; and Service Canada, which reports to it, is mandated to administer benefits. In Viet Nam, the Ministry of Labour, Invalids and Social Affairs assumes overall responsibility and management of the system, while the Bureau of Employment is responsible for processing claims.

It is recommended that MOHR be designated as the responsible ministry for development of policy and legal requirements, and assume overall leadership of administration of the EI system.

MOHR currently provides leadership to SOCSO on administration of two social insurance benefits, namely the Employment Injury Insurance Scheme and the Disability Pension Scheme. JobsMalaysia and the Department of Labour (in Peninsular Malaysia, Sabah and Sarawak) also report to MOHR.

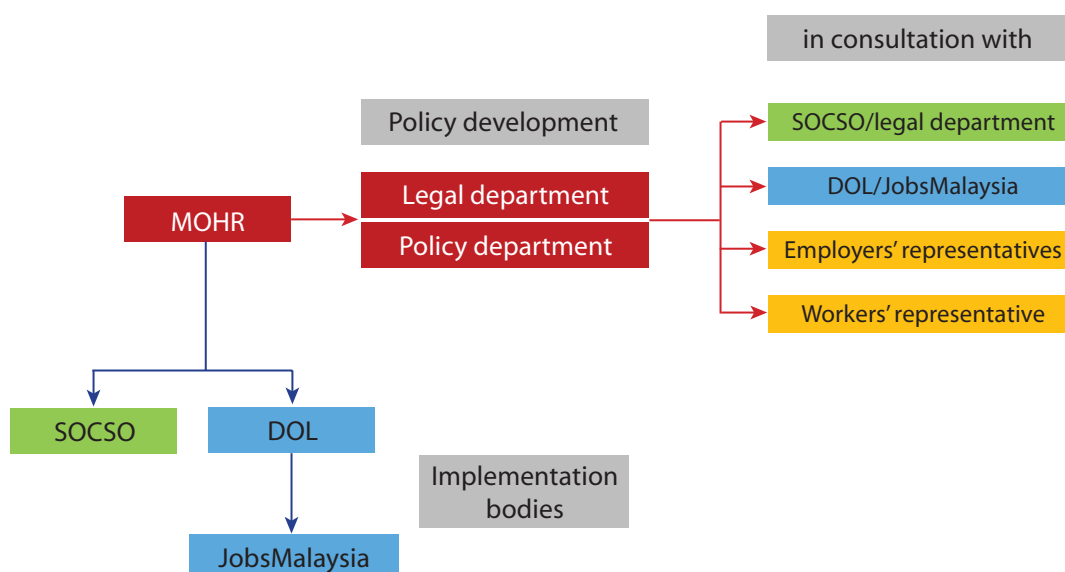
It is recommended that MOHR's Legal Advisory Department collaborate with SOCSO, employer representatives, worker representatives, DOL and JobsMalaysia in the development of a legal framework for the EI system and conduct overall monitoring of the system on a continuous basis.

MOHR would thus play a major role in the adoption of EI, and monitoring and enforcing the provisions of the EI legislation.

UI fund

According to the SOCSO annual report, the SOCSO fund is currently administered by SOCSO Board members. The tripartite nature of the Board provides effective leadership and transparency in the overall administration of SOCSO's insurance schemes. Consideration was given to integrating the EI system under the SOCSO Board. However, the composition of Board members is such that it represents work injury and pension invalidity benefits; therefore a new Board would better reflect the requirements of the EI system. During TPC discussions, MEF proposed that a new EI Fund Board be established to administer the EI system.

Figure 3. Structure of policy development mechanism, and stakeholders



It is recommended that a new SOCSO Employment Insurance Board be created (similar to the Board currently administering the work injury and pension invalidity benefits).

Members of the new EI Board would be selected by SOCSO, and would include representatives from the Ministries of Human Resources, Education, Higher Education and Finance; employer organisations; insured persons or worker representatives; and relevant experts in social security.

An EI Board could also provide effective leadership and transparency in the overall administration of the fund, including funds generated for ALMPs and the Savings Plan, contingent on which scenario is selected. However, the final guarantor of the EI fund in most countries is the government, which provides funding in emergency situations such as depletion of the fund due to an economic crisis. To establish a monitoring and performance system, MOHR and SOCSO should collaborate together to ensure the achievement of EI performance targets.

The EI Board and senior management of the EI system would be required to report to the Malaysian government and the public in a transparent way, and set objectives that are clear and well defined. They must report overall results on an annual basis.

It is recommended that the administrators be required to establish policy objectives prior to the commencement of a fiscal or calendar year, and to report results at the end of that period.

Some sample performance indicators for the EI system are given in Annex 2. It should also be noted that according to Convention No. 102, an actuarial study should be conducted periodically to review and assess the functionality of the EI system. In many countries, there is a legal requirement for a time-sensitive review of EI/UI schemes, such as every three years.

Scenario 2: Pillars 1 and 2

In September 2012, following a consensus, the TPC requested that Scenario 2 should be further studied in Phase 2 of the project. Scenario 2 includes Pillar 1 on UI benefits and Pillar 2 on ALMPs. The TPC also selected Scenario 3, which includes all three pillars, for further consideration. As such, Scenario 3 has been partially discussed in this report. However, additional research is needed to comprehensively assess this option.

Figure 4. Composition of the administrative board of the EI fund



Pillar 1: UI benefits

The three main functions of the UI scheme are to collect contributions; process claims; and pay benefits. Generally, tax authorities or social insurance bodies have the responsibility of collecting contributions (some are also involved in the payment of benefits, e.g. in Viet Nam and Bahrain). Government departments that deal with social insurance or labour issues are normally responsible for receiving and processing claims (some are also involved in the payment of benefits, e.g. in Argentina, Canada, France, and Republic of Korea).

In Mongolia, three separate entities are involved in the implementation of its UI scheme. The Social Insurance General Office collects contributions, the Labour and Social Welfare Service Office accepts and processes claims, and the Ministry of Social Welfare and Labour pays benefits. In Denmark, UI coverage and benefits are provided by private funds, according to rules set by the State. The fees charged by these funds vary, but are maintained at very low levels. The National Labour Market Authority is responsible for the majority of the UI regulations. The

Danish Pensions Agency monitors the UI scheme by exercising control, compliance and audit functions over the individual funds to ensure that they are managed in accordance with public policies, objectives, rules and directives.

It is noteworthy that every country develops a unique approach for the implementation of an effective UI/EI system, based on existing operations of the relevant government institutions.

Comments received from stakeholders on preliminary versions of the report included concerns regarding the prudent use of public funds to establish an EI system. It is hoped that the recommendations outlined below address this issue by providing various suggestions for utilizing existing organizations, resources and functions as far as possible, in the implementation process, especially for front-end services and payment functions.

The MTUC submitted comments advocating for UI benefits to be administered and managed by SOCSO under the supervision of MOHR, with the involvement of tripartite constituents and other experts. The recommendations set out below, support the designation of SOCSO as the primary department responsible for delivery of the proposed UI benefits, and the designation of MOHR as the body overseeing policy and legislative development and providing overall leadership.

For Malaysia, it is recommended the majority of the functions under Pillar 1 should be carried out by SOCSO. There are several reasons for considering SOCSO as the most logical choice for administering the delivery of UI benefits. SOCSO has 46 state and branch offices located throughout Malaysia, which provide full services¹⁷ to employers and insured persons. SOCSO also has a call centre dedicated to enquiry response. At present, SOCSO administers two insurance schemes:

- **Employment Injury Insurance Scheme:** provides insured persons with protection in case of industrial accidents, including

occupational diseases and commuting accidents. Types of benefits include medical care, allowances in case of temporary and permanent disabilities, grants to dependants, funeral benefits, rehabilitation education and a constant attendance allowance.

- **Invalidity Pension Scheme:** provides insured persons with 24-hour protection against invalidity or death due to any cause. Types of benefits include invalidity pension, invalidity grant, constant-attendance allowance, survivor's pension, funeral benefit, rehabilitation benefit and education benefit.

SOCSO currently has 14 state offices across Malaysia, including offices in the cities of Kuala Lumpur and Labuan, which have special status and are designated as state offices. Additionally, there are 32 satellite offices supporting their own state offices. All state and satellite offices carry out the functions of contribution collection and claims processing. Satellite offices are required to send claims with payments exceeding MYR70,000 to a state office. All offices can send claims to Headquarters for payments exceeding their payment limits, for clarification on matters of legal interest, or for complex cases involving determination of work injury and invalidity. State offices are permitted to approve or dismiss claims, provided that the facts pertaining to the claim are clear to staff members.

SOCSO also has a presence at three Urban Transformation Centres (UTCs), located in Melaka, Kuantan and Ipoh. UTCs were implemented to facilitate and streamline government processes in “one stop”. The UTCs operate under the direction of MOHR. There are several counters operated by various agencies under MOHR, including SOCSO, which have their own functions and staff. The SOCSO counters in the three UTCs only provide enquiry and counselling services, as well as collection of claims application forms. The application forms are then sent to a central processing office i.e. a state office. UTCs operate from 10 a.m. to

¹⁷ “Full services” provides for the registration and collection of employer and employee contributions, processing of applications, payment of benefits, on-going entitlement interviews and employment services.

10 p.m. for seven days a week. There are two SOCSO officers, namely a supervisor and an office clerk, who work in morning and evening shifts. They are solely responsible for carrying out SOCSO services at the UTC.

SOCSO has implemented many strategic initiatives that make them appropriate as administrators of UI benefits in Malaysia, such as the implementation of ISO 9000¹⁸ to effectively administer the two insurance schemes (SOCSO, 2012). SOCSO's quality management system is based on MS ISO 9001:2008 which came into effect on 1 June 2010 in all SOCSO offices. MS ISO 9001:2008 is a quality management system outlining the requirements for achieving the high quality services expected of the system. Its introduction by SOCSO demonstrates its commitment to high standards of services for clients applying for benefits and transparency in the delivery of benefits.

Integration of a new UI scheme into an existing department can be a complex exercise. SOCSO has demonstrated an effective and efficient service delivery system in processing claims and paying existing benefits, which will benefit the implementation of the new UI benefits. They also have extensive experience in investing funds, which can help ensure sustainability of the new UI fund. SOCSO also has a proven track record of providing effective service delivery, as customer satisfaction surveys reveal a success rate of 85.31 per cent in 2011.

In addition, SOCSO has a dynamic plan for enhancing their business activities through the ICT Project, which is being developed and scheduled to be launched soon. Once the ICT system is fully implemented, improvements will include:

- a central database for claims processing;
- linking of the headquarters and branch offices to the central database via two broadband connections;

- response time of three seconds for users of the system;
- online submission of claims by insured persons;
- use of “self-service” functions to register employers and employees to SOCSO benefits; and
- online payment of contributions.

The ICT project envisions secure online registration for employers and a database maintaining complex employee and employer relationships. There will also be a secure online contribution option where employers may login and access records of contributions paid in previous months. The ICT system will also enable automatic checking of eligibility for claims and issue payment of benefits electronically, directly into a client's bank account. For a complete list of the administrative improvements anticipated under the ICT project, see Annex 3.

SOCSO currently administers the registration of employers for work injury and invalidity pension benefits. This involves collecting contributions, processing claims, assessing and deciding on eligibility, and paying benefits. SOCSO is thus equipped with the administrative framework and experience necessary to provide the same services for UI benefits, provided that adequate funding and human resource requirements to deal with the additional load, are met. An actuarial estimate of the number of claims expected in the first year of operations is provided in Part III of this report. This lies between 137,000 and 215,000. In comparison, SOCSO's annual report indicates that they paid benefits to approximately 380,000 clients in 2011 – somewhat comparable with the number of claims estimated for UI benefits. The existing workflow of the two SOCSO insurance schemes could be utilized to a great extent in implementing UI benefits, as seen in Table 16.

¹⁸ ISO 9000 is a family of standards, developed and published by the International Organization for Standardization (ISO), which define a quality management system for companies, organizations and industries. It can also be used by governments to provide quality services to clients.

Table 16. List of functions and possible institutions in charge of UI benefits

Function	Existing SOCSO schemes	Proposed UI benefits
1 Registration of employers and employees for UI benefits	The contribution department accepts registrations.	Employers are already registered, but there would be a need to split the contributions for the two existing insurance schemes and UI benefits.
2 Collection of contributions	The contribution department is responsible for collecting contributions and conducting investigations into non-payment situations.	The same contribution department will be responsible for the collection of UI contributions. The amount of contributions will change with the implementation of an EI system, depending on the scenario. More employers may fail to remit contributions, due to the increased contribution rate.
3 Issuance of Termination Letter or ROE by employer	Not required	The ROE or Termination Letter will be one of the most important documents produced by the processing office, which in this case is SOCSO UI.
4 Registration for employment	Not required	An insured person who has lost their employment must immediately register at the applicable employment agency.
5 Application for benefits	Employers are expected to report accidents at their premises and insured persons (or representatives) are required to apply for benefits.	Unemployed workers would be required to report to a UI office and complete an application for UI benefits.
6 Acceptance of applications	The front-end staff accepts and checks applications for completeness and accuracy. If any information is missing, the staff asks the insured person to return when all documents are ready.	The front-end staff will accept and check applications for completeness and accuracy. If any information is missing, the staff will accept the application with a status “under process”, provide the unemployed worker with a letter indicating the missing documents or information and ask them to return when they have the missing information.
7 Registration of claims	In the benefits department, a clerk registers the claim, scans all documents into an electronic file and passes it to the officer-in-charge.	In the benefits department, a clerk will register the claim, scan all documents into an electronic file and pass it to the UI unit for assessment and calculation (all information received); or keep the application and documents in a B/F system (all information not received). ¹⁹
8 Assessment and calculation of claims	In the benefits department, the officer-in-charge assesses, calculates and approves the payment of benefits when the claim is in order. If there is a problem, the claim is referred to an investigator who will recommend whether the payment should be approved.	The UI unit assesses, calculates and approves payment of benefits if the unemployed worker meets all the conditions for entitlement. The UI unit will investigate the reason for separation when claims involve resignation or allegations of misconduct.
9 Approval for payment	This requires two to three signatures, depending on the benefit amount. Higher benefits are referred to the headquarters.	The UI unit will approve payment of benefits.

¹⁹ A B/F or Bring Forward system holds claims, pending the submission of additional information required to make the final decision on entitlement to benefits. Claims are held in abeyance for a certain number of days (B/F date), until the additional information is received or the expiry of the B/F date.

Table 16. (continued)

Function	Existing SOCSO schemes	Proposed UI benefits
10 Payment of benefits	The accounting department issues payments to insured persons.	The accounting department will issue payments to eligible unemployed workers. Payments could be issued every two weeks or every month depending on the decision of the TPC.

Box 2. Record of Employment function and SOCSO

While comparing the workflow of existing SOCSO insurance schemes with proposed functions of the new UI benefits, there is one entirely new function, that of the issuance of a letter of termination or Record of Employment.

In most countries, employers issue an official notice of termination of employment and the unemployed person is required to complete an application for benefits and submit the letter of termination to the local UI office. In other countries, employers maintain a booklet or ROE for each employee, in which they record insurable earnings and length of employment. The ROE is given to the unemployed worker on or shortly after separation from employment. The booklet or ROE is also required by the UI processing agency to assess the unemployed worker's benefit rate, duration of

benefits and their eligibility for other UI benefits, considering the reason for separation of employment. The reasons could range from voluntary to involuntary termination; misconduct; resignation from just cause such as harassment, hazardous working conditions; lay off due to shortage of work or completion of contract. The ROE is also used to identify additional benefits to be paid on separation, in order to ensure the appropriate start date of the claim (to avoid double indemnity).

Currently, employers report to the DOL when there is an impending retrenchment situation, i.e. within 30 days of termination. However, this report would be insufficient for the administration of UI claims as there are numerous other reasons for separation, aside from retrenchment, that would need to be considered by UI staff.

In the case of Malaysia, the ROE would not be required for contributions as this information is available electronically to SOCSO staff, and thus would be available to the UI staff as well. However, it would be essential for the UI staff to consider benefits on separation, the reason for separation and additional contributions made but not updated in the electronic system. The ROE template could be made available as a downloadable application from the SOCSO website. It is imperative to establish an ROE template that specifies the reason for separation and additional benefits paid on separation, to determine eligibility for UI benefits.

Prior to filing an application for benefit, the unemployed person will be required to report to an employment office immediately after termination from employment, so that they can register for employment. It will also be necessary for eligible unemployed persons to report to UI

authorities on a monthly basis while receiving UI benefits. These monthly interviews serve as a control measure to prove continual entitlement to benefits, and as a forum for providing additional employment assistance. Most countries require unemployed workers to report once per month. Conducting these interviews can have a major impact on the operational delivery process. Scheduling of interviews needs to be managed well, in order to avoid major congestion at the front-end. Officers assigned to the UI unit could rotate between conducting interviews and processing claims, adding additional staffing flexibility to UI units. During interviews, job seekers could be referred to JobsMalaysia (onsite at SOCSO) to access additional assistance or be referred to suitable employment.

A major responsibility to be taken on by JobsMalaysia staff will be advising the UI unit of anyone refusing work or failing to report for

interviews. Close linkages between SOCSO and JobsMalaysia staff will be required in order to conduct registration for employment and monthly follow-up interviews with unemployed workers. Additional staff would be required for these functions.

It is recommended that JobsMalaysia be the responsible department for the function of registration for employment services on behalf of unemployed workers. It is also recommended that JobsMalaysia assume responsibility for conducting monthly job seeking interviews, which will be a requirement to prove continuing eligibility for UI benefits.

An alternative option is to have the SOCSO UI unit conduct monthly interviews and refer UI recipients to JobsMalaysia for employment services.

JobsMalaysia is administered by DOL, which is administratively divided into DOL Peninsular Malaysia, DOL for the State of Sabah and DOL for the State of Sarawak. In DOL Peninsular Malaysia, there are several JobsMalaysia offices including:

- 23 JobsMalaysia Centres providing full services;
- 34 JobsMalaysia Points (shared premises with other departments like DOL);
- three Urban Transformation Centres (one-stop for persons requesting services of government departments); and
- one Regional Transformation Centre (same one-stop services for all government agencies and departments).

In DOL Sabah, there are 15 DOL offices and more JobsMalaysia offices including one JobsMalaysia Centre providing full services; six JobsMalaysia Points (shared premises with other departments like DOL); and one UTC. In DOL Sarawak, there are 17 DOL offices, but only one full service JobsMalaysia office.

The limited presence of JobsMalaysia staff could be an issue if the UI benefits are implemented

and unemployed persons start applying to claim benefits. For example, in Sabah, there is one SOCSO state office in Kota Kinabalu and four provincial offices. In Sarawak, there is one SOCSO state office in Kuching and six satellite offices. In remote areas, internet registration could resolve this issue, by using computers in public spaces such as libraries. The actuarial study estimates that a significant number of individuals would be applying for UI benefits during the first year of implementation, about 137,000 to 215,000.

It is recommended that unemployed workers be given the option of registering online or through local JobsMalaysia offices, which could provide assistance with online registration.

Critical electronic linkages will be required between UI staff processing applications and JobsMalaysia staff handling the registration of unemployed workers for employment. UI staff would need to know if and when an unemployed worker has formally registered for employment before processing the claim. The front-end SOCSO staff, through an agreement on exchange of information, could be granted access to the registration data of an insured person in the JobsMalaysia database.

It is also recommended that JobsMalaysia provide onsite staff at SOCSO offices to process UI claims, so that unemployed workers may register and file for UI benefits immediately. It would be ideal for JobsMalaysia and SOCSO staff to be located at the same place, but presence of just JobsMalaysia staff would also be adequate.

At present, the JobsMalaysia staff is located at the same place as the DOL staff, who conduct investigations on compliance with the Employment Act. Ideally, JobsMalaysia should be co-located with SOCSO to provide a more streamlined process for the unemployed worker. At the very least, some JobsMalaysia staff should be seconded to SOCSO offices, in order to avoid lengthy travel distances for unemployed persons. Additional computers could also be installed in

SOCSO offices for unemployed workers to register with the scheme or to access the job-matching portal during monthly interviews. In Peninsular Malaysia, co-location of JobsMalaysia staff might be more effective than in Sabah or Sarawak, given the larger number of offices and staff of SOCSO and JobsMalaysia.

JobsMalaysia could play a pivotal role in conducting monthly interviews, and protecting the UI fund from abuse and providing effective advice and guidance to job seekers. This would present an opportunity for SOCSO and JobsMalaysia to work together, to achieve the objectives of the monthly entitlement interviews. The JobsMalaysia staff co-located at SOCSO offices could carry out the initial interviews with UI recipients, and refer persons potentially not entitled to benefits, to the UI unit. They could also refer those who refuse to accept an offer of suitable employment.

During Phase 1 of this project, a range of other departments were also considered for the responsibility of delivering UI benefits, including DOL, HRDF and EPF. DOL currently processes compensation benefits for foreign workers. There are 50 DOL offices located in the country, to deal with employment-related issues such as minimum wage, enforcement of the Child and Young Persons Act, employer and worker relations, unjustly termination of employment, etc. DOL assesses and calculates claims for compensation of workers, but does not register employers and employees for collection purposes, or collect contributions. DOL is not involved in the payment of benefits or conduct of job seeking interviews. The number of claims received for assessment by DOL is minimal. In 2010, 1,003,865 foreign workers were insured and 3,626 foreign workers claimed benefits.

Table 17. Number of foreign worker claims received by DOL

Workmen's compensation benefit claims			
	2008	2009	2010
Temporary disability	5 383	2 959	2 497
Permanent disability	838	554	442
Death	1 082	876	687
Total	7 303	4 389	3 626

The HRDF collects levies from registered employers, who are mainly from the manufacturing and services sectors, but not from all employers. The number of registered employers for HRDF coverage in 2012 was 12,870. HRDF also processes grant requests and issues payments but on a much smaller scale than SOCSO. Unfortunately, they do not have a nationwide network of offices for filing UI claims and no experience in processing social insurance benefits.

The EPF has extensive experience in collecting contributions involving individual savings accounts. They also have a well-established ICT system and relevant ICT applications such as a digital “kiosk” that allows individuals to print copies of their contribution records. Over 8 million copies of contribution records were printed from kiosks in 2012. EPF has indicated that they do not want to establish UI benefits as a withdrawal from the EPF programme, but consideration should be given to nominating EPF as the administrative body for Pillar 3 on the Savings Plan.

Pillar 2: ALMPs

Developing linkages with employment services

ALMPs are desirable, in principle, to support both workers and employers, and are highly recommended for Malaysia. The necessary type and extent of such measures are subject to debate at the international level. Virtually all countries have minimal employment interventions to assist employers and unemployed workers, such as job referrals, labour market information, CV preparation and job search workshops.

Countries such as the Republic of Korea and Japan have prioritized the provision of assistance to individuals (through ALMPs), to help them return to work as quickly as possible. To achieve this goal, the Republic of Korea's system operates two main active labour market programmes, namely Vocational Competency Development, which consists of workplace training; and Employment Stabilization Programme, which provides job creation subsidies. In Japan, there

is a close relationship between UI benefits and activation policies. Employment promotion benefits, complimentary to UI benefits, are paid to UI beneficiaries who find work, while still being entitled to more than one third (and more than 45 days) of their prescribed period of benefits.

There are overarching advantages to linking UI benefits with ALMPs. Services such as skill building, job search, CV writing and interview skills have generally been found to be the most cost effective. Many countries use a job matching portal to link unemployed workers with vacant positions, with effective results. These job matching services are available in the public and private domains.

The development of effective linkages between the institution responsible for UI benefits and institutions implementing ALMPs will be critical to the success of the proposed EI system in Malaysia. The primary linkages will be with JobsMalaysia (registration for employment and conducting monthly interviews), DOL (mobility assistance), RTW (selection and referral of prospective trainees) and DSD (approved training providers and training courses).

After an employer has issued an ROE or Termination Letter to a worker, upon separation from employment, the initial function in the workflow is to register the person as seeking employment. The registration should occur immediately after the separation. There should be various mechanisms for the unemployed worker to register. The first option would be via the JobsMalaysia online portal. The unemployed worker would then be required to report to the SOCSO office to complete an application for UI benefits. The SOCSO staff will require access to only the registration data on the JobsMalaysia database. Agreements on exchange of information will need to be signed, to ensure that staff from both agencies have access to the necessary information, to carry out their duties. An alternative to providing SOCSO staff with access to JobsMalaysia registration data is to have the unemployed worker print a registration confirmation message from the JobsMalaysia

online portal and submit a copy with the UI application.

Another channel by which the unemployed worker could register is in-person registration at JobsMalaysia offices. JobsMalaysia staff could assist the individual to complete their registration and provide a confirmation of registration. It is suggested that JobsMalaysia staff could have limited access to a person's employment and unemployment history while they are receiving UI benefits, in order to determine the activities that would be most helpful to assist them in finding immediate and lasting employment. It is envisaged to have an electronic system (allowing for data entry, assessment, calculation and client information functions) for both employment and unemployment activities that could be accessed by either department (including updating, but with limited features). JobsMalaysia staff could then input data into the system regarding refusal of work situations and other pertinent information concerning eligibility for UI benefits.

The unemployed worker should be given the option of registering at a SOCSO office, where JobsMalaysia staff would be present to assist them in fulfilling their registration obligations and filing for UI benefits. This is the recommended link between the two departments, which would streamline the process and provide a one-stop service.

JobsMalaysia will also be responsible for conducting monthly job seeking interviews with unemployed workers receiving UI benefits. This is necessary to ensure that the unemployed worker is meeting their obligations for entitlement to UI benefits, by conducting job searches through various channels, and is willing and available to accept immediate employment. The interview could take 7-10 minutes and the unemployed worker would be required to demonstrate that they are actively seeking work. JobsMalaysia staff would also assist in providing services to increase the employability of the unemployed worker, such as referring the individual to vacant positions, relevant training opportunities, RTW, or mobility assistance at DOL.

It will be necessary for JobsMalaysia staff to update employment histories in the SOCSO database to reflect the results of the interviews. Any job refusals, problems with availability or failure to report for an interview would be flagged and referred to the UI unit for consideration of disqualification from benefit. It is suggested that an electronic message would be sent to the register officer in the SOCSO office. The register office after registering the document (separate from the initial application), would forward the information to the UI unit for decision.

Training

Training can take different forms, and can be conducted in an institution, workplace, or a combination of both. Training can address general or specific skills, provide vocational or apprenticeship education, and usually, though not always, results in a diploma. The merits of ALMPs, in general, and training specifically, for the unemployed have generated considerable discussion. Reports on the effectiveness of ALMPs, including training, have presented mixed results. Measures such as job search assistance, assistance for CV writing and improvement of interview skills have generally been found to be the most cost effective. Training and retraining are highly touted, yet must be managed with careful regard to their costs, effectiveness and targeting. They should nevertheless be considered for implementation, as long as their budgets are kept under tight control.

In Malaysia, many programmes and institutions offer a wide variety of training and skill upgrading courses. There are many approved training providers and courses under the responsibility of the DSD. It also appears that there is an effective accreditation process. For example, DSD is responsible for the new International Technical Education and Vocational Training Programme (INVITE) in Malaysia.²⁰ INVITE has over 1,400 accredited programmes across multiple disciplines for foreign students. It is less clear how the EI system can link with these existing activities and programmes, at what cost, for how many people, and how this might

be accomplished most effectively. Factors that will impact these issues include the limited duration of UI benefits; special characteristics of UI claimants; and lack of UI experience that training providers would initially have.

UI benefits in Malaysia would be paid for three to six months (see Part III of this report for calculations regarding benefit duration). Most training courses run for six months to two years. Courses of a shorter duration, i.e. less than six months, could thus be considered for UI benefits, while commencing the payment of UI benefits. Legislative provisions would need to be established, requiring unemployed workers to receive UI benefits for the duration of the course, up to a maximum of six months. If a person has already received four months of benefits at the time of referral to a course, the unemployed person should be entitled to receive six months of UI benefits, over and above the initial four months. The training costs would also be paid from Pillar 2 funds.

It is necessary to be careful when dealing with training costs. For example, in Canada, UI funded training i.e. skill development, costs about CAD8,000 per eligible trainee, whereas the average UI benefits amount to about CAD8,800 per claimant. Thus, the cost almost doubles for claimants attending approved training courses. Examination of the effectiveness of the training highlighted that it did raise post-training earnings but had no significant impact on employment. In France too, significant efforts and funds are invested in diverse training curricula, to engage enterprises in training programmes and support young job seekers. However, there is little monitoring of whether unemployed persons return to and remain at work, after participating in training. It is suggested that a maximum of 1,000 eligible unemployed persons receiving UI benefits be approved to attend an approved course in the first year of implementation. The training activity could be evaluated to determine the success rate and effectiveness of referrals to approved training courses, before considering an increase in the number of training referrals granted.

²⁰ Online portal: www.skillsmalaysiainvite.gov.my/why-study-in-malaysia [accessed 6 March 2015].

In Viet Nam, another problem was encountered in providing training to eligible claimants. Most workers in the manufacturing sector were entitled to three months of benefits, and most intended to return to work with their previous employer or in a related field within a short time, and were not interested in attending training courses. A further issue regards the quality of existing data required for strategic planning of training programmes linked with UI. Malaysia's National Graduate Employability Blueprint 2012-17 states that:

Despite efforts made by the Economic Planning Unit, Ministry of Higher Education, Ministry of Human Resources and several other agencies to collect data on the current employability scenario, there is still much market intelligence that needs to be known before proper planning can be done. Existing data lack details and do not show the actual number of job opportunities available in a specific employment context, i.e. the type or the level of jobs required by the different sectors and the number of workers leaving or entering the workforce. Furthermore, since there is no real collaboration between the different agencies, data collected are kept in a silo instead of being shared for mutual benefit (MOHE, 2012).

It is also noted in the National Graduate Employability Blueprint that “poor command of English” (55 per cent) is a primary concern for employers while considering prospective workers. This is followed by a variety of traits, as reported by JobStreet, an employment agency in Malaysia. A study on graduate employability skills conducted with 3,300 human resource personnel and employers in 2005, showed that factors leading to graduate unemployment include weak English (56 per cent); bad social etiquette (36 per cent); demand for high pay (32 per cent); non-relevant degrees (30 per cent); choosiness exhibited by fresh graduates (23 per cent); and absence of vacancies (14 per cent). These findings show that Malaysian graduates are unemployed not because they lack education or intellect but rather because most of them lack “soft” skills (Singh and Singh, 2008).

Once again, JobStreet seems to be a credible partner in this area and efforts should be made to develop a partnership in the development

of activation policies. A few government departments are working with JobStreet to provide suitable vacancies for their clients, such as RTW, which is in negotiation. JobStreet management expressed their desire to collaborate with JobsMalaysia in establishing effective active employment measures, to assist the unemployed to return to work as soon as possible. JobsMalaysia could greatly benefit in improving its effectiveness, by establishing a collaborative approach with JobStreet.

Collaboration between different training institutions is also a potential challenge to effectively linking UI with ALMPs. DSD should play an important role in the determination of appropriate training providers and training courses. HRDF has indicated that they would support any new EI system. Along with RTW, they can work as a team to determine effective short-term training courses for unemployed workers.

Establishing ALMPs

The TPC is committed to establishing a mandatory EI system providing temporary partial benefits with strong linkages to employment policies, which will assist unemployed Malaysians to return to work as quickly as possible. On 20 July 2012, the TPC reached a consensus on the following agreed objectives:

1. Provide adequate protection for those who lose their jobs and contribute to poverty eradication
2. Give flexibility to enterprises in adjusting to economic changes and in reorganizing their businesses (e.g. in the case of introduction of new technologies) – EI would therefore contribute to the protection of businesses and not only of employees
3. Facilitate mobility of the labour force through income security and re-employment measures
4. Be associated with job retention measures
5. Support job search and placement, training and retraining

ALMPs are government-supported interventions in the labour market designed to help the unemployed find work. Combining an ALMP pillar with a UI pillar has become the norm in many countries, throughout Europe, Japan, Republic of Korea and Canada. The scope of ALMP measures varies greatly from country to country. According to the OECD, ALMPs or activation strategies provide job seekers with a better chance of finding employment. Key features of such strategies are enforcement of work availability and mutual obligation requirements, which means that beneficiaries are expected to engage in active job search and improve their employability, in exchange for receiving efficient employment services and benefits.

In recent years, OECD countries have placed greater priority on effective coordination of ALMPs with UI benefits and “make-work-pay” policies, so as to implement coherent activation strategies for recipients of unemployment benefits and other working-age persons who are outside the labour market. “Make-work-pay” policies subsidize work at low pay. These policies either reduce the employers’ cost of employing low wage labour or increase the amount of pay of the worker and avoid potential unemployment during economic crises. In the long term, the solution would be to increase the level of education of low wage workers or to provide more effective job training (OECD, 1999).

There are three types of ALMPs, namely public employment services; training schemes; and employment subsidies (see Introduction and background). The effectiveness of ALMPs has been studied by ILO.

ALMPs have provoked vigorous debate over the years. A number of evaluations have sought to determine the effectiveness of investments made in such programmes. Their results have often been mixed and uncertain, and suggest that countries should only entertain such measures in a cautious and measured approach. One meta study reported on 199 programme estimates drawn from 97 studies done between 1995 and 2007, indicating better long-term than short-term results. This suggests a definite role for ALMPs but that authorities should not expect quick and easy results. The types of measures that are

applied also matter a great deal. The same study found, for example, that subsidized public sector job programmes and programmes for youth are generally less successful than other types of ALMPs (Carter et al., 2013).

In May 2012, the World Bank published a review of the types of ALMPs that are undertaken worldwide, and found notable variety between countries. The study mentioned that “activation of job seekers is a labour intensive activity. Moreover, activation policy interventions should be tailored to the needs of the labour market and job seekers themselves” (Kuddo, 2012).

Phase 1 of the project listed different kinds of ALMPs that could be implemented in Malaysia, including:

- free job placement and counselling activities (job search and CV workshops, which are currently provided by JobsMalaysia);
- measures to assist unemployed workers find work as quickly as possible, such as mobility assistance, vocational training and retraining; and
- compensation for loss of income under the EI system, to job seekers who accept return to work on a part-time basis, while continuing to search for full-time employment or enrolling in retraining programmes, found in France, Germany and Canada.

During economic downturns, some countries promote a “Work Sharing Programme”. In case of reduction in business activity that is beyond the employer’s control, UI benefits can provide partial income support to eligible employees while they work reduced work hours or weeks, for a limited time until the economic situation stabilizes.

It is recommended that ALMPs be administered by JobsMalaysia (job placement and counselling activities); DOL (mobility assistance); RTW (selection and referral for vocational training and retraining); and SOCSO (linkage to UI benefits, compensation for loss of income to job seekers who return to work on a part-time basis, and work sharing).

JobsMalaysia: job placement and counselling activities

Currently, JobsMalaysia provides services such as counselling and workshops on effective job search and preparation of CVs, free of charge. JobsMalaysia also has an online job matching portal. The recommendation for JobsMalaysia to administer the job matching and other employment services is qualified. Improvements will be needed in several areas, which have to be addressed prior to the implementation of an EI system. This is outlined in the Phase 1 report, also known as the interim report (Carter and Bédard, 2012).

For instance, statistics from the website indicate a total of 346,308 job seekers were actively listed but only 41,825 active or open vacancies (excluding elementary occupations) were available on 6 March 2013. JobStreet had 1,900,000 active job seekers in Malaysia alone and 70,000 registered employers. The interim report noted issues with the count and listing of vacancies; these would need to be investigated before linking the EI system with JobsMalaysia for job search services.

Another issue regards the requirement that employers have to list jobs targeted at foreign workers. Since 2005, it has been compulsory for employers to report job vacancies to JobsMalaysia before they can apply for foreign workers. Thus, it is possible that a large share of reported job vacancies represents demand for mainly unskilled foreign workers. During a visit to a JobsMalaysia Point in March 2013, listings of vacancies on the job board were observed. However, the most recent listings were old and had been posted two months prior to the visit. Guidelines are needed to ensure that job vacancies listed by employers enhance the job matching experience. These include keeping vacancy listings up-to-date, incorporating application deadlines and ensuring that the vacancy is available immediately.

JobsMalaysia has the potential to develop into a very effective partner within the EI system. The job fair attended during a field trip in March 2013, was conducted professionally and

efficiently with proven results, e.g. high number of placements at the fair. Several enhancements have been made to the job matching services on the JobsMalaysia website, but more work is needed to provide a valuable tool for unemployed workers seeking suitable employment.

It is recommended that the following steps be implemented to improve the functioning of JobsMalaysia:

- allow unemployed workers to register with JobsMalaysia via the online portal, either at home or at a JobsMalaysia office, to enable them to easily meet the requirement to register as soon as possible after terminating employment;
- co-locate some JobsMalaysia staff to work at the front-end of SOCSO offices, especially in larger offices with a significant number of potential unemployed workers applying for UI benefits. This will mean unemployed workers only need to report to one office, similar to a one-stop service. Additional computers could be provided at the front-end for unemployed workers to register online with the assistance of JobsMalaysia staff;
- establish a working group comprised of JobsMalaysia, SOCSO, private sector enterprises and other partners to enhance the services provided by JobsMalaysia. The working group could develop procedures for effectively posting jobs as well as strategies for promoting JobsMalaysia;
- conduct client satisfaction surveys with employers and job seekers as well as focus group discussions on specific issues to determine areas for improvement and potential resolutions;
- meet with officials from JobStreet who have offered to provide assistance to improve the website and job matching services. Other private websites could also be contacted to discuss assistance in developing an effective tool for job seekers; and
- develop important electronic linkages with SOCSO and other partners, e.g.:

- agreements on exchange of information, since SOCSO staff would require access to JobsMalaysia database or website to determine if a client has registered after terminating employment;
- JobsMalaysia staff would require access to electronic employment history records established as part of an ICT system which would include information such as previous referrals to jobs, results of monthly interviews, job refusals and attendance at training courses; and
- JobsMalaysia staff would also require access to selected user history such as start date of claim, benefit rate, duration of benefits, type of work desired, and so on.

Department of Labour: mobility assistance

DOL is responsible for numerous functions such as employee welfare, employer advantage,²¹ implementing national labour policy through administrative means and enforcement of the Labour Act. DOL is also involved in the compensation scheme for foreign workers, as it processes assessments and calculates benefits. It does not collect contributions or pay benefits. Payments are made by the relevant insurance companies, from an approved list of 31 private insurance agencies for foreign workers.

The DOL experience in evaluation and assessment of compensation claims could be utilized for Pillar 2 functions such as evaluating and assessing the needs of an individual applying for mobility assistance. The purpose of mobility assistance is to assist individuals with obtaining jobs in other parts of the country. For example, financial assistance could be granted to a UI recipient to attend a job interview in another state, where there is a good opportunity for potential employment. Alternatively, assistance could be provided for an individual to relocate to another part of the country, in order to begin new employment. In terms of mobility assistance, there would be no need for collection of contributions and the payment could be issued by the accounting department of SOCSO.

It is recommended that DOL be nominated as the responsible institution for administering mobility assistance.

DOL will also require access to the SOCSO database to update the employment history of persons receiving mobility assistance. They would also link with the accounting department of SOCSO to allow payment of mobility assistance under Pillar 2. Alternatively, mobility assistance could be administered by HRDF, which performs the functions of evaluation, assessment, calculation and payment of grants to approved employers. HRDF also collects contributions from select industries in the services and manufacturing sectors. They are only interested in assisting with Pillar 2 functions at this stage.

Return to Work: selection and referral to training

SOCSO's RTW unit was established to assist the disabled to return to permanent work. The RTW programme was first introduced by SOCSO in 2007. It is a comprehensive rehabilitation programme that uses personalized case management, to assist employees suffering from disability due to injury or illness, to recover and re-enter the workforce as early as possible. The success of RTW is entirely dependent on good case management, which involves the allocation of case managers to individual cases and their involvement from beginning to end. This ensures that the programme is run professionally and systematically, and the objectives of rehabilitation and return to work are achieved.

The work and goals of the RTW unit are in many respects similar to those that would be intended under an EI system. RTW officials seemed ready to take up the additional challenges and opportunities. This unit could potentially be responsible for the selection and referral of unemployed workers who are interested in attending training or retraining to increase their employability. RTW staff have expertise in case management, and provide effective services to disabled, injured or ill workers who wish to

²¹ Employer advantage is based on the principle of protecting and promoting the interest and well-being of the industrial community, and assisting industries to improve their competitiveness to deal with globalization.

return to work. The RTW unit would be linked to DSD, who would provide assistance to RTW in selecting training providers and appropriate approved courses for potential trainees.

RTW unit would also need to link to relevant training providers to discuss possible courses suitable for unemployed workers. Once a course is approved, notification of any approved training would need to be sent to the accounting department. RTW would also need access to employment and unemployment benefit records of individuals, in order to assist in selecting appropriate individuals for training. They would also require access to the electronic database, to enter updates regarding potential attendance at a course. They would also advise the SOCSO office of the start and end dates of the course, and report instances of non-attendance to the UI unit.

It is recommended that the RTW unit assumes responsibility for referral to approved training courses for unemployed workers who receive UI benefits. As an alternative, HRDF could fulfil the functions of selection and referral to training, since they have expertise in working with employers and assessing suitable training courses for staff. Another possibility is to assign the tasks of selection and referral to training, to a private community group recommended by MOHR or SOCSO.

At present, employers registered with HRDF can request advice and guidance for their employees and also advice on training schemes offered by HRDF. HRDF evaluates requests for training grants received from employers by checking the objective of the programme, course content, dates, allowable costs, and so on. HRDF would thus be well placed to assist UI recipients in the selection and referral process. HRDF usually handles applications from employers by mail, but an arrangement could be made to have RTW and HRDF work together. RTW staff could interview

potential UI recipients and HRDF could assess suitable training programmes.

Compensation for loss of income to job seekers who accept to return to work on a part-time basis

An ALMP that is common to Canada, France and Germany is partial compensation for loss of income, to job seekers who agree to return to work on a part-time basis. At the same time, such job seekers continue to search for full-time employment or enrol in retraining programmes. This can be accomplished by allowing a certain percentage of an individual's earnings in part-time employment to be exempt from deduction of their UI benefits. The individual must continue to seek full-time employment and meet other conditions for receipt of on-going benefits. A special form for those working part-time could be established. The decision of an Insurance Officer would be required to determine if the individual meets full conditions for working part-time, while seeking full-time employment.

It is recommended to include in the legal provisions the ability of beneficiaries to accept part-time work and exempt a percentage of their earnings from deduction of UI benefits.

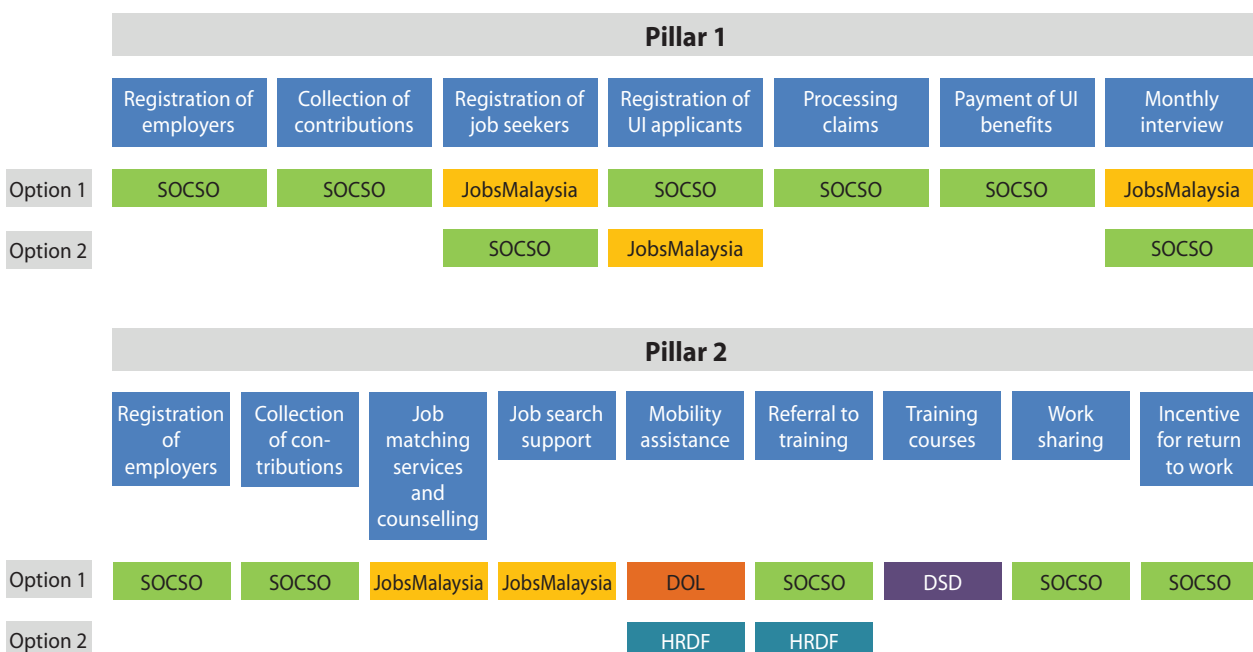
Compensation for workers who accept work sharing

Work sharing is another ALMP, wherein employers facing a temporary business slowdown, are permitted to place their workforce on reduced work hours, while the workers are paid partial UI benefits. This allows employers to resume full operations as soon as their business picks up, without having to recruit and train new staff. Such arrangements usually require the agreement of workers and can only be implemented for limited durations. Examples of countries with work- or job-sharing arrangements of this type include Canada, Denmark, France, Germany and parts of the United States.

Table 18. Summary of proposed institutional set-up for Scenario 2

Function	Suggested responsible institution	Alternate responsible institution
Pillar 1: UI benefits		
1. Registration of employers	SOCSCO	
2. Collection of contributions from employers and workers	SOCSCO	
3. Registration of worker for employment	JobsMalaysia	
4. Accepting applications for claims	SOCSCO	JobsMalaysia
5. Processing claims (assessing, calculating, making decisions, approving payments, notifying non-decisions)	SOCSCO	
6. Making payments	SOCSCO	
7. On-going monthly entitlement interviews	JobsMalaysia	SOCSCO
Pillar 2: ALMPs		
7. Registration of employers	SOCSCO	
8. Collection of contributions from employers and workers	SOCSCO	
9. Job matching services	JobsMalaysia	
10. Job search and CV writing workshops	JobsMalaysia	
11. Mobility assistance	DOL	HRDF
12. Selection and referral to training	RTW	Private community service; or HRDF
13. Certification of training providers and training courses	DSD	
14. Compensation for loss of income to job seekers who accept to return to work on a part-time basis	SOCSCO	
15. Work sharing	SOCSCO	

Figure 5. Functions and possible stakeholders for Scenario 2



It is proposed that dedicated work sharing teams be established within three central SOCSO offices, those at Kuala Lumpur, Kota Kinabalu and Kuching, to process work sharing applications. It is proposed to establish a special team in each of the three offices to administer the programme. A formal agreement between the employer and employees will be necessary, and claims should be processed separately from the normal UI claims. It is recommended to conduct an initial pilot in Kuala Lumpur, before expanding to the other offices, to ensure smooth administration of these claims.

Staffing for Scenario 2

Pillar 1 functions for SOCSO

Registration of employers: With the implementation of a proposed EI system, most employers would be remitting contributions to SOCSO, including UI, and therefore, there should be little impact on costs.

Collection of contributions: The amount of contributions will increase with the addition of the proposed EI system with little impact on costs. However, it is foreseen that additional assistance would be required at the headquarters administrative level, in allocating contributions for the two pillars. With time, additional human resources could be required to conduct investigations into and initiate legal proceedings against employers who fail to remit contributions on time.

Front-end services: At present, the front-end staff check the necessary information to ensure that it has been submitted, is complete and correct. The process for UI claims would deviate somewhat from the existing SOCSO workflow. Unemployed workers would be able to complete an application for benefits even if information were missing from their files. One of the required documents would be the ROE issued by the employer once termination has occurred. If the ROE is missing, this should not prevent a person from filing an application, as any delay could jeopardize their entitlement to benefits. The front-end staff would still forward the UI

application and other supporting documents to the registration clerk, who would register the claim. If information is missing, a Bring/Forward system, i.e. a filing system used to bring forward items that need to be handled on a future date, would keep the claim until the missing documents are submitted.

Register clerk: Currently a SOCSO clerk registers insurance applications, scans documents and creates an electronic file and retains the paper file. For UI applications, the SOCSO clerk would similarly register the claim and, if all information is available, scan documents and create the electronic file. If some information or documentation is missing, the claim would be kept with the register clerk until the missing information is received. This could increase the workload of the register clerk and additional staff would be required.

UI unit (instead of officer-in-charge for SOCSO claims): A new unit will be established and will comprise Insurance Officers who have the authority to make final decisions on UI claims. The number of Insurance Officers required will be determined by the projected intake in the first year of implementation (an actuarial assessment has estimated the number of claims would range from 137,000 to 215,000). Insurance Officers will also be tasked with other decision-making responsibilities, such as disqualifying a person from benefits because of refusal of job offers, failing to report for interviews or other reasons.

Accounting department: Once a decision has been made on the UI claim, electronic approval is sent by the Insurance Officer to the accounting department, indicating the amount and duration of the benefit. Additional staff would be required to handle the payments. A decision will be required on whether payments are to be made fortnightly or monthly, until the benefits are exhausted or the person returns to work.

SOCSO call centre: Additional staff would be required to handle enquiries from employers and workers concerning collection of contributions, qualifying conditions for UI benefits, amount and duration of benefits, and status of claims.

Table 19. Summary of staffing requirements for Scenario 2

Department	Function	Number of staff		
		Management (MYR5,300)	Decision makers (MYR4,000)	Clerical staff (MYR2,600)
SOCSO	Benefits	30	230	50
	Collection	0	90	50
	Other functions (e.g. accounting)	0	50	120
	Monthly job seeking activities		200	50
RTW	Selection and referral	0	90	20
	Sub total	30	660	290
JobsMalaysia	Registration	0	185	50
	Job counselling	0	50	0
	Sub total	0	235	50
DOL	Mobility Assistance	0	50	0
	Sub total	0	50	0
DSD	Referral to training	0	5	0
	Sub total	0	5	0
Total staff members		30	950	340
Total salary (MYR)		159 000	3 800 000	884 000
Grand total salary (MYR)			4 843 000 (monthly)	58 116 000 (annually)

* Average salary costs based on information received from SOCSO, DOL and JobsMalaysia:

SOCSO	Management	Administrative officer (Grade 23): MYR5,320
	Decision makers	Executive officer (Grade 19): MYR3,845
	Clerical staff	Administrative support (Grade 12): MYR2,645
DOL and JobsMalaysia	Management	Industrial Relations Officer (S48): MYR4,000 to MYR7,000
	Decision makers	Industrial Relations Officer (S44): MYR3,500 to MYR7,000
	Clerical staff	Assistant Industrial Relations Officer (S32/S27): MYR2,000 to MYR3,500

Note: The staffing is part of the administration cost included under the contribution rate of the EI system, therefore does not form an additional expense for the government.

Pillar 1 functions for JobsMalaysia

Registration for employment: Unemployed workers who are terminated from their employment must register for employment assistance as soon as possible after they are terminated. JobsMalaysia staff will conduct interviews with newly unemployed workers. Thus, there will need to be a significant increase in the number of staff conducting these interviews.

On-going monthly job seeking interviews: Entitlement interviews will be conducted by JobsMalaysia staff as part of the requirement that unemployed persons collecting UI benefits report once a month on their job seeking activities. JobsMalaysia staff will be responsible for advising the UI unit of anyone refusing work or failing to report for interviews. It is suggested that

JobsMalaysia staff be co-located in the front-end of SOCSO offices, to conduct registration and follow-up interviews with unemployed workers. Additional staff would be required for each function.

Pillar 2 functions for JobsMalaysia

Job placement and counselling activities: Additional funds will be required to enhance the website and list of vacancies under a re-engineering project.

Pillar 2 functions for others

DOL or HRDF: This department will be assigned the role of providing mobility assistance to workers willing to travel elsewhere in Malaysia to secure employment. Additional resources and costs will be associated with establishing

a mobility assistance unit at headquarters, to process requests and send to the SOCSO accounting unit for payment.

RTW or HRDF: This unit will be responsible for meeting with prospective unemployed workers and selecting appropriate candidates to attend vocational or skill training. Additional staff will be required to process selection and referrals to appropriate training institutions.

Costs for Scenario 2

Impact on ICT systems

Discussions were held with SOCSO ICT systems to investigate the potential costs of developing a new system for EI separate from the SOCSO ICT System; an integrated system based on Scenario 2; and an integrated system based on Scenario 3. The general business requirements for a new EI system would include but not be limited to the following application developments:

- establish a database for the EI system;
- data input function for electronic registration of employers and collection of contributions;
- data input function for electronic UI application data and processing claims;
- assessment and calculation tools for processing claims;
- electronic payment system for two or three pillars;
- data input function for electronic recording of ALMPs;
- electronic transaction function for approval, suspension or reinstatement of UI benefits;
- transfer of claims between offices;
- establish an enquiry and history section in the EI database, to keep a record of UI benefit payments, employment activities and decisions;
- electronic enquiry function to search for claim status;

- linkages between department databases including SOCSO, JobsMalaysia, DOL, DSD, HRDF and training institutions;
- daily and weekly reports on outstanding decisions;
- weekly and monthly reports on claim processing and decision making, including non-entitlement to benefits;
- monthly reports on suspension, activation and total payment of benefits; and
- robust data management system for data analysis as a managing and forecasting tool.

These generalized business requirements would require further refinement and study to determine more specific costing forecasts. For development of a new system separate from the SOCSO ICT system, SOCSO ICT staff indicated that the costs would increase by MYR50 million, compared to integration between the EI ICT system and SOCSO ICT systems. The additional costing for a new stand-alone EI system would involve costs for infrastructure such as data centre, disaster recovery centre, Intranet and Internet.

SOCSO ICT has also confirmed that the costs of developing an integrated system for Scenario 2 and Scenario 3 would be relatively similar. Table 20 presents a rough order of magnitude estimate²² developed by SOCSO ICT on the cost breakdown of the ICT requirements for integrating the EI ICT system with the SOCSO ICT system. The estimate indicates that once further business requirements are developed, there appear to be savings in developing a system based on Pillar 1 and Pillar 2 only.

Only the development cost will have to be borne by the government at the launch of the programme. The cost of maintenance will be covered by the administration cost included in the estimated contribution rate under the EI system. For other partners, the general business requirements for a new EI system would include,

²² Rough order of magnitude is an estimate of costs provided in the early stages of a project, when its scope and requirements have not been fully defined. It is used to reduce the uncertainty of cost outcomes for the organization when project details have yet to be identified.

but not be limited to, development of the applications described below.

JobsMalaysia:

- Revamping job matching services for more effectiveness and efficiency
- Reporting registrations for employment to UI staff either by weekly disk or direct access to registration data
- Electronic links to report job refusals, failure to report to suitable employment or failure to report for a directed interview to UI staff
- Monthly reports on new, active and terminated registrations

JobsMalaysia have estimated that MYR2 million would be required to develop interactive modules and reporting systems. Their detailed cost estimate includes a requirement for an expert team from the Information Management Division, MOHR to provide advice on licensing and intellectual property if needed, hardware, infrastructure, training, benchmarking, maintenance and enhancement. Based on the proposal to assign the functions of registration for employment and conducting on-going monthly entitlement interviews to JobsMalaysia, and possible impacts on application development, a rough costing of MYR5 million for JobsMalaysia has been determined.

DOL:

- Electronic linkages to the SOCSO accounts department, allowing for payment of mobility assistance and updating of the EI system.

The rough estimate for DOL is MYR2 million, to administer mobility assistance and subsequent application development, including establishing linkages with SOCSO.

DSD:

- Electronic system linking RTW with approved training institutions and training courses as well as updating UI history in the system.

Linkages would need to be established between DSD and the department responsible for selection and referral. The rough order of magnitude estimate is approximately MYR300,000.

Inputs from TPC members (e.g. Bank Negara Malaysia) indicated the concern regarding the need to ensure that database contents of UI recipients are kept confidential. While this is an important concern and should be incorporated into later programme design, it is worth noting that Malaysia has privacy laws to protect information collected by government departments

Table 20. Rough order of magnitude estimate of ICT requirements

Project management scope	Estimate for enhancement to current system (MYR)		
	Development	5 year maintenance	Total
1. Project management office	6 000 000	0	6 000 000
2. System integration	25 000 000	25 000 000	50 000 000
3. Procurement consultant services	2 000 000	0	2 000 000
4. Independent tester services	5 000 000	0	5 000 000
5. Application development	25 000 000	25 000 000	50 000 000
6. Development hardware	2 500 000	2 500 000	5 000 000
7. Staging and production hardware	25 000 000	25 000 000	50 000 000
8. Peripherals	5 000 000	5 000 000	10 000 000
9. Infrastructure (data centre, disaster recovery centre, Intranet and Internet)	50 000 000	0	50 000 000
Total	145 500 000	82 500 000	228 000 000

on clients, to ensure privacy and confidentiality of the information.

Other expenditures

The addition of new staff and a requirement for unemployed workers to report in person to the SOCSO district offices will significantly impact the physical location of offices and the need to expand premises or obtain new locations. The SOCSO office in Kuala Lumpur has indicated the current location is at full capacity. One option is to investigate a potential location for the UI unit near the SOCSO office and utilize shared electronic databases to connect the main SOCSO office with the UI unit. Claims would be sent electronically after the register clerk has registered the claim, scanned documents and created the electronic file. The UI unit would finalize the electronic file and the approval for payment sent electronically from the UI unit to the accounting department. The SOCSO office in Kuching, Sarawak has sufficient room to expand.

It is suggested that a working group be established to conduct a study of space requirements in each of the existing 46 SOCSO processing offices in Malaysia, based on the approval of the TPC for the final institutional and operational arrangements. Office sizes vary

according to the number of benefit recipients for the two SOCSO insurance schemes. There are six large offices which receive over 20,000 clients; ten medium-sized offices which receive 8,000 to 20,000 clients, and 30 offices which receive less than 8,000 clients. The introduction of UI and the accompanying increase in the number of clients could require expansion of existing offices or the need for new premises, estimated at 20 per cent or ten new offices.

There may also be a need to expand existing offices or provide new premises for JobsMalaysia staff to carry out the responsibilities of registering unemployed workers for employment. Additional computers will be required at front-end offices to accommodate persons registering for employment. Other supplies will be required by SOCSO, JobsMalaysia, DOL and other departments with functional responsibilities under Scenario 2. A one-time cost of MYR15,000 per newly hired employee is the reference point used for the rough estimate.

The rough order of magnitude assessment in Table 21 does not include certain activities associated with the implementation of the new EI system, such as communication and awareness generation, among staff and external stakeholders such as the public, employers, other departments

Table 21. Rough order of magnitude estimates for Scenario 2

Activity	Responsibility	Cost estimate (MYR)
1. Computer system	SOCSO ICT	228 000 000
	JobsMalaysia ICT	5 000 000
	DOL ICT	2 000 000
	DSD ICT	300 000
2. Office expansion	SOCSO	20 000 000
	JobsMalaysia	3 000 000
	DOL	100 000
	DSD	
3. Staffing (annual estimate)	SOCSO	42 636 000
	JobsMalaysia	12 840 000
	DOL	2 400 000
	DSD	240 000
4. Services and supplies	SOCSO	14 700 000
	JobsMalaysia	4 275 000
	DOL	750 000
	DSD	75 000
Total		336 316 000

and government officials. An effective communication strategy will be required for the successful launch of a new scheme and will include newspaper, radio and television communication, as well as workshops with employer and worker groups. MEF and MTUC can play a vital role in raising awareness of the new EI system. Formal training packages and tools for staff to administer the EI system also need to be developed and implemented.

Stakeholder inputs

Feedback from TPC members indicated their concern that a variety of ALMPs funded by the government, are in existence in Malaysia. As such, stakeholders like MEF recommended against making employers and employees contribute to an EI system that would use part of the funds to support the functioning of ALMPs. The actuarial report provides a comprehensive list of existing ALMPs and government expenditures on such programmes, and concludes that their funding and extent is substantial and adequate. The report does not recommend any additional measures or funding from the UI fund, with the exception of compensation for return to work on a part-time basis and for work sharing, if these two policies would be introduced. However, it notes that an important function under any EI system is to establish functional linkages between ALMPs and UI benefits.

It is hoped that some of the measures outlined above illustrate the possibilities for creating such linkages. Whether this will require additional funds and whether they need to be drawn from the UI fund, is a subject for further exploration by TPC members and government representatives. In this regard, FMM has requested that the government conduct an independent assessment of the effectiveness of all its existing training and retraining schemes.

Scenario 3: Pillars 1, 2 and 3

The selection of Scenario 3 by the TPC reflects their desire to ensure that recognition of the length of service is part of any EI system that

includes UI benefits and linked ALMP measures. The TPC conceptualised retrenchment benefits as serving a dual purpose, namely:

1. a social protection function that should in future be taken over by UI (Pillar 1); and
2. an acknowledgement of tenure or years of service with an enterprise (Pillar 3).

The TPC stressed that these functions should be reflected in the design of an EI system, to the extent possible. Acknowledgement of tenure is a new initiative and no other country has implemented such a provision as part of an EI/UI scheme. Many countries have separate legal provisions for recognizing years of service, which are defined as severance benefits.

To introduce an EI system, the current retrenchment system would have to be revised. It would see accrual for entitlement to retrenchment benefits up to the commencement of an EI system, with no further accrual after the commencement. This was described in the Phase I report. The idea of allowing employers to deduct employer contributions but letting retrenchment benefits accumulate even after the launch was also discussed. In the interest of fairness, it is evident that only one option could be accepted and the TPC has acknowledged freezing accumulated severance entitlements at the time of commencement of EI, and replacing it with employer and worker contributions to Pillar 3.

Retrenchment benefits would eventually be phased out. However, in the meantime, employers would continue to send the PK1 Form to DOL, outlining the anticipated retrenchment within 30 days of the effective date, and assisting the workers to find employment or receive training to update skills as soon as possible.

As noted in the interim report, significant discussion ensued at meetings and workshops with stakeholders on the issue of retrenchment benefits. Under current retrenchment rules, legal provisions provide for minimum allowances to be paid to workers who are made redundant due to business closures, technological changes, restructuring and other situations; for those who

earned less than MYR2,000 per month in the Malaysian Peninsula and less than MYR2,500 per month in Sabah and Sarawak. In some cases, more generous retrenchment benefits are paid to those who are covered under the legal provisions. Other workers that do not fall under the Employment Act 1955 can also receive retrenchment benefits through individual or group negotiations.

Contributions for the new Savings Plan under Pillar 3, will be collected from all private sector employers and workers under a contract of service. Currently, the contributions are tentatively set at 1 per cent of covered earnings for employers and employees. Pillar 3 establishes individual savings accounts for contributions from workers and their employers. The combined 2 per cent contribution would lead to savings of about 25 per cent of monthly wages for each year of contributions. This accrues to about two and a half months of wages after ten years of service.

As with Pillar 1, the administrative process of Pillar 3 is triggered by the termination of employment and submission of an application for benefits. It is unclear what actual process will be established for claiming benefits, but some type of application will be needed. One definite possibility is a combined application for UI and tenure benefits. There are many advantages to combining the two types of benefits in the same delivery system, streamlining the operational process and utilizing the same staff for processing both claims. There are some issues that need to be explored further, such as the ensuing circumstances or the impact on the employer and worker contributions to Pillar 3, in the event that the worker does not file an application. There is no consensus among stakeholders on this at present.

Another issue is the purpose for paying benefits. In case of retrenchment, payment of benefits is triggered by termination of the contract of service in a situation where the worker is made redundant. This could be brought about by closure of business, restructuring, reduction in production, acquisition, merger, technological changes, economic downturn, and so on. UI

benefits, on the other hand, are paid to those who involuntarily lose their employment; including those who are made redundant, laid off, found unsuitable for work, subject to the ending of their contract, or resigned under “just cause”. Just cause covers those who are forced to resign immediately in case of dangerous working conditions, unpaid salaries, sexual harassment or other similar grounds.

A special TPC meeting was convened to consider several examples that highlighted the different purposes of retrenchment and UI benefits. The TPC confirmed that entitlement under Pillar 3 should follow the rules of retrenchment. However, there was no consensus on the impact on the employer and worker portions of Pillar 3, in the event that the unemployed worker was not entitled to receive the benefits. Fairness is also an issue, as most private sector workers as well as their employers would be making contributions to the savings account, but would not meet the eligibility requirements for retrenchment benefits. It is felt that the rules for entitlement under Pillar 3 should closely follow the rules for receiving UI benefits under Pillar 1, which would allow for better streamlining of administrative procedures.

Discussions were also held with HRDF and EPF, both of which have individual savings accounts; HRDF with selected employers and EPF with employers and workers. HRDF indicated that they do not have a role in the administration of Pillar 3. Both HRDF and EPF expressed concern that there were significant administrative complexities with Pillar 3. The collection of contributions and establishment of individual savings accounts are considered feasible. However, EPF noted that the main problem would be the “withdrawals” of the employer and worker portions of the “acknowledgement of tenure” savings and the work required to determine the correct amount. In order to resolve this problem, they suggested that both worker and employer contributions should be treated as a single contribution in the individual savings account. Therefore, contributions not paid out (e.g. when the worker is not entitled to UI benefits, resigned without just cause, etc.) could be reinvested in the pension fund, instead of

having the employer contribution return to the employer.

From an administrative point of view and due to complexities of Pillar 3, it is recommended that Scenario 2 be accepted by the TPC for implementation. However, if Scenario 3 is ultimately supported by the TPC, it is recommended that SOCSO be responsible for the administration of Pillar 3 benefits.

From an administrative point of view, the processing of the EI system including Pillar 1 and Pillar 3 would be more efficient under the direction of one department, namely SOSCO. As an alternative, it is recommended to give consideration to EPF to assume responsibility for Pillar 3, while SOCSO retains the responsibility for Pillar 1.

EPF has extensive experience in establishing individual savings accounts comprising employer and worker contributions, as well as investment expertise. Their proposal to treat employer contributions as worker-invested, has merit and should be given due consideration. EPF also has experience processing “withdrawals” for various reasons, with different entitlements and requirements, throughout the country. However, EPF has made it clear that the EI system should not be integrated into EPF’s “withdrawal” system, but should run as a parallel system with individual savings accounts.

Links would need to be established between SOCSO and EPF, to enable shared data when an application is filed for UI benefits, and possibly acknowledgement of tenure benefits as well. Once a decision is made by SOCSO on entitlement to Pillar 1, EPF could assume responsibilities for Pillar 3 functions, such as assessing and calculating the payment from the savings account for either the employer or worker portions or both.

Stakeholder inputs

TPC inputs on an earlier version of this report indicate that the phasing out of retrenchment

benefits remains a contentious issue among stakeholders. MTUC has indicated that it is strongly in favour of termination pay being retained once UI benefits are implemented. NUBE has also expressed concern that the proposed UI benefits would negatively impact employees, by removing their rights to retrenchment benefits.

MEF and the Master Builders Association Malaysia, on the other hand, argue that the existing ETLB Regulations 1980, which provide for compulsory payment of termination benefits to employees who are involuntarily relieved of their duties, provide adequate protection for workers without UI. Instead, MEF advocates for an amendment to Section 29(1) of the Companies Act 1956 to make it mandatory for managers to pay termination benefits to employees before paying creditors, in order to provide employees with improved protection under the existing regulations.

Conversely, FMM has indicated that it would only consider the proposed UI benefits, if retrenchment benefits are phased out and the guidelines for hiring and firing are made more flexible. As an alternative measure, the Federation proposed that Pillar 3 provisions be established as a concession to the abolition of retrenchment benefits. Bank Negara Malaysia has also highlighted that should UI benefits be implemented, some workers may receive less through UI than through retrenchment payments, especially those who have worked for an organisation for a long time. They ask that a thorough comparison of the two benefits should be carried out.

While retrenchment benefits can be valuable for long-term employees, they are generally not for those with broken or irregular work patterns. The latter are the most vulnerable to lay-offs and in need of protection through UI benefits. Many workers are not even covered by the law governing retrenchment benefits. UI benefits would provide protection to a greater number of workers, almost universal protection, while still allowing individuals and unions to bargain privately for retrenchment benefits.

As has been noted previously, during Phase 1 of this project, stakeholders agreed to phase out retrenchment benefits, but to consider implementation of a Pillar 3 on acknowledgement of tenure. As outlined in the discussion regarding the implementation of Pillar 3, there are significant administrative complexities involved with this type of Savings Plan, namely in terms of withdrawal of benefits. It is noteworthy that the actuarial assessment does not recommend implementation of the Savings Plan, due to its limited value for employees and the accompanying design and administrative issues. The actuarial study further noted that such a scheme would be redundant with the savings scheme currently operated by EPF.

At this stage, one of the most pressing needs to further the design and implementation of an EI system is to resolve the lack of consensus between employer organizations and other stakeholders regarding the phasing out of retrenchment benefits and their adequacy without any

Table 22. Proposed institutional set-up for Scenario 3

Function	Suggested responsible institution	Alternate responsible institution
Phase 1: UI benefits		
Same as Scenario 2 (see Table 18)		
Phase 2: ALMPs		
Same as Scenario 2 (see Table 18)		
Pillar 3: Savings Plan		
16. Registration of employers	SOCSO	EPF
17. Collection of contributions from employers and workers	SOCSO	EPF
18. Applying for benefits	SOCSO	
19. Assessment, calculation, decision making, approval of payment, sending non-payment letter	SOCSO	EPF
20. Payment	SOCSO	EPF

Figure 6. Summary of institutional set-up for the three pillars of the EI system



additional protection through UI benefits. Should retrenchment payments be retained in tandem with the introduction of UI benefits, they should be paid only after and considering the amount of UI payments.

Staffing for Scenario 3

If SOCSO is accepted as the appropriate institution for processing Pillar 3 benefits, the UI unit responsible for administering Pillar 1 would

also be utilized for Pillar 3. The streamlined process would require fewer additional staff than if another institution were to be made responsible. If EPF is the accepted institution for the administration of Pillar 3, many decision makers need to be allocated to the 16 EPF full service offices. If the TPC opts to extend EPF's responsibility to collection of contributions for Pillar 3 only, there would need to be an adjustment to Pillar 1 collection of contributions, i.e. staff moved from SOCSO to EPF.

Table 23. Staffing requirements for Scenario 3

Department	Function	Staffing		
		Management (MYR5,300)	Decision makers (MYR4,000)	Clerical staff (MYR2,600)
Pillar 1 and Pillar 2 (costs are identical under either scenario)		30	950	340
Pillar 3				
SOCSO or EPF	Benefits			
	Collection	5	255	50
	Other functions (e.g. accounting)			
Total staff members		35	1 205	390
Total salary (MYR)		185 500	4 820 000	1 014 000
Grand total salary (MYR)			6 019 500 (monthly)	72 234 000 (annually)

Table 24. Rough order of magnitude estimates for Scenario 3

Activity	Responsibility	Cost estimates
1. Computer system for functions under Pillars 1 and 2	SOCSO ICT	228 000 000
	JobsMalaysia ICT	5 000 000
	DOL ICT	2 000 000
	DSD ICT	300 000
2. Office expansion	SOCSO	20 000 000
	JobsMalaysia	3 000 000
	DOL	100 000
	DSD	
3. Staffing	SOCSO (Pillars 1 and 2)	42 636 000
	SOCSO or EPF (Pillar 3)	14 118 000
	JobsMalaysia	12 840 000
	DOL	2 400 000
	DSD	240 000
4. Services and supplies	SOCSO (Pillar 1 and 2)	14 700 000
	SOCSO or EPF (Pillar 3)	4 650 000
	JobsMalaysia	4 275 000
	DOL	750 000
	DSD	75 000
Total		355 084 000

Cost estimate for Scenario 3

As mentioned earlier, discussions were held with SOCSO ICT personnel to determine a rough order of magnitude estimate of the cost of developing a computer system accommodating Scenario 2 and Scenario 3. SOCSO ICT personnel indicated that there is little difference in the cost factor between the two scenarios, at this point. The difference between the two scenarios is the addition of Pillar 3 representing acknowledgement of tenure benefits. It would be a unique feature compared with unemployment protection systems worldwide, and is also a complex pillar. The following table illustrates the cost estimate of Scenario 3.

Monitoring and evaluation system

Virtually all countries acknowledge the need to measure progress toward attaining programme objectives and targets, under the responsibility of various government departments, due to the increasing challenge of quantifying and justifying programme results. Governments are charged with the responsibility of providing cost-effective and quality services, with a focus on service to clients. Critical to the success of an effective unemployment protection system is the need to monitor the performance of the system. This can lead to good governance, assess whether targets are achievable and propose corrective actions when targets are not achieved.

Performance monitoring refers to the continuous collection of information and data in a systematic fashion, so as to provide an on-going indication of how well an organization or programme is performing. Evaluation typically refers to a disciplined assessment of government programmes, policies and activities, based on systematic and objective measurement and analysis, carried out to meet expectations set in policies and standards, and publicly reported. Effective M&E systems have certain common features such as a vision; an enabling environment; the infrastructure to supply M&E information; and the infrastructure to demand and use M&E information (Lahey, 2009).

To develop M&E for the proposed EI system in Malaysia, the vision could relate to the effectiveness of the delivery of services, e.g. the correct benefit delivered to the correct person at the correct time. While all countries are unique and present different expectations for service delivery, political will and leadership are uniformly essential elements of an enabling environment that will support a successful M&E system. Political will and good leadership are necessary to ensure good governance, transparency, objectivity, accountability and commitment to a result-orientated model, all of which underpin effective M&E systems.

The infrastructure to supply M&E information is critical to the success of an effective M&E system. Information technology plays a crucial role in providing information that is accurate, up-to-date and relevant to the objectives of the EI system. SOCSO ICT provides electronic functions to assist the delivery of services for their two insurance schemes and to measure performance against programme goals for annual reporting.

The infrastructure to extract and use M&E information has been developed over the years by SOCSO, as evidenced by the SOCSO's annual reports and reporting on KPIs. The sustainability of the M&E system will be enhanced with the addition of a new insurance, i.e. the EI system. Most countries utilize business managers or non-technical personnel, to use the information gathered by the M&E system, to report credible and unbiased results in line with the objectives of the EI system.

Senior managers and local branch managers will use the M&E system to report to the public on the performance and success of the EI system, and to investigate potential areas for improvement in the delivery of benefits and services. KPIs will need to be compiled to set the primary objectives of the system. It is important for the required resources and funding to be allocated to the designated institution such as SOCSO, to establish an effective M&E system.

Some KPIs related to operational matters that could be established and reported on are:

- **speed of service** i.e. percentage of claims finalized within a specified time period;
- **accuracy of payments** i.e. percentage of claims that are in order, with no impact on payment of benefits;
- **number of new registrations** of employers, with the EI system;
- **percentage of employers paying contributions** on time and correctly;
- **number of contributions collected** in a calendar year as compared to the previous year;
- **percentage of appeals heard on time** by the appeals court; and
- **number of payments** under each of the three pillars.

As previously mentioned, a good point of reference for setting M&E results is the SOCSO annual report. Other information to be collected for M&E purposes under an EI system is listed below.

All pillars: registration and contribution

- Number of registered employers and employees (disaggregated by gender)
- Number of active employers and employees (disaggregated by gender)
- Amount of contributions collected for each of the three pillars

Pillar 1: UI benefits (by gender, age, industry)

- Total number of applications for UI benefits received
- Total number of applications for UI benefits denied with appeal rights
- Total number of applications for UI benefits approved for payment
- Total amount of benefits paid
- Total number of UI recipients exhausting full UI benefits

All of these will be disaggregated by gender, age and industry.

Pillar 2: ALMPs

- Total number of UI beneficiaries receiving counselling
- Total number of UI beneficiaries attending job search workshops
- Total number of UI beneficiaries attending resume writing workshops
- Total number of UI beneficiaries referred to suitable employment
- Total number of UI beneficiaries finding permanent work as a result of job referral
- Total number of UI beneficiaries refusing job offers
- Total number of UI beneficiaries suspended from receiving UI benefits as a result of job refusal
- Total number of UI beneficiaries receiving mobility assistance
- Total number of UI beneficiaries referred to vocational training or retraining
- Total number of UI beneficiaries successfully completing training courses
- Total number of UI beneficiaries quitting a course without good cause

All of these will be disaggregated by gender, age and industry.

Pillar 3: Savings Plan

- Total amount of employer and employee contributions collected
- Total annual administrative fees
- Total amount of investment activities
- Total number of requests for payment
- Total amount of payments made to those who involuntarily lose their position
- Total amount of payments made to those who voluntarily lose or are dismissed from their position (worker only portion)
- Total requests received from insured persons for payments via savings accounts

There will also be a need for internal reports generated electronically for senior national headquarter and local office managers, to

monitor the workflow of UI applications under Pillar 1 and ensure that the key performance targets are being met. Some of these reports could include:

- daily and weekly claims intake and number of outstanding claims;
- number of claims approved for payment;
- number of claims denied for payment (reasons for denial);
- daily and weekly backlog of outstanding claims;
- number of appeals received;
- number of appeals ruled in department's favour; and
- number of appeals ruled in insured person's favour.

It would be beneficial to develop a quality control or assurance monitoring system, to ensure that the correct payments are being issued to the correct beneficiary in a timely manner. Many countries establish KPIs on the basis of operational matters such as speed of service, client satisfaction, coverage, adequacy of benefits and financial matters.

Finally, it is essential to develop an evaluation plan to thoroughly explore issues that have the potential to negatively impact the delivery of services. In Viet Nam, evaluations conducted at intervals of six and eighteen months, identified significant issues affecting legal provisions, policies, procedures and awareness of the new UI scheme among the public.

It is recommended to conduct an evaluation at intervals of three or six months, following full implementation of the EI system, to determine any need for follow-up evaluations in the future.

Overall institutional set-up

Based on the preceding discussions and possible alternatives for dividing the different functions among existing institutions, several options are envisaged. Two of these options are presented in Figure 7 and Figure 8. However, the options are flexible, and more options for the institutional set-up can be discussed if required.

Figure 7. Option 1 for institutional set-up of the EI system

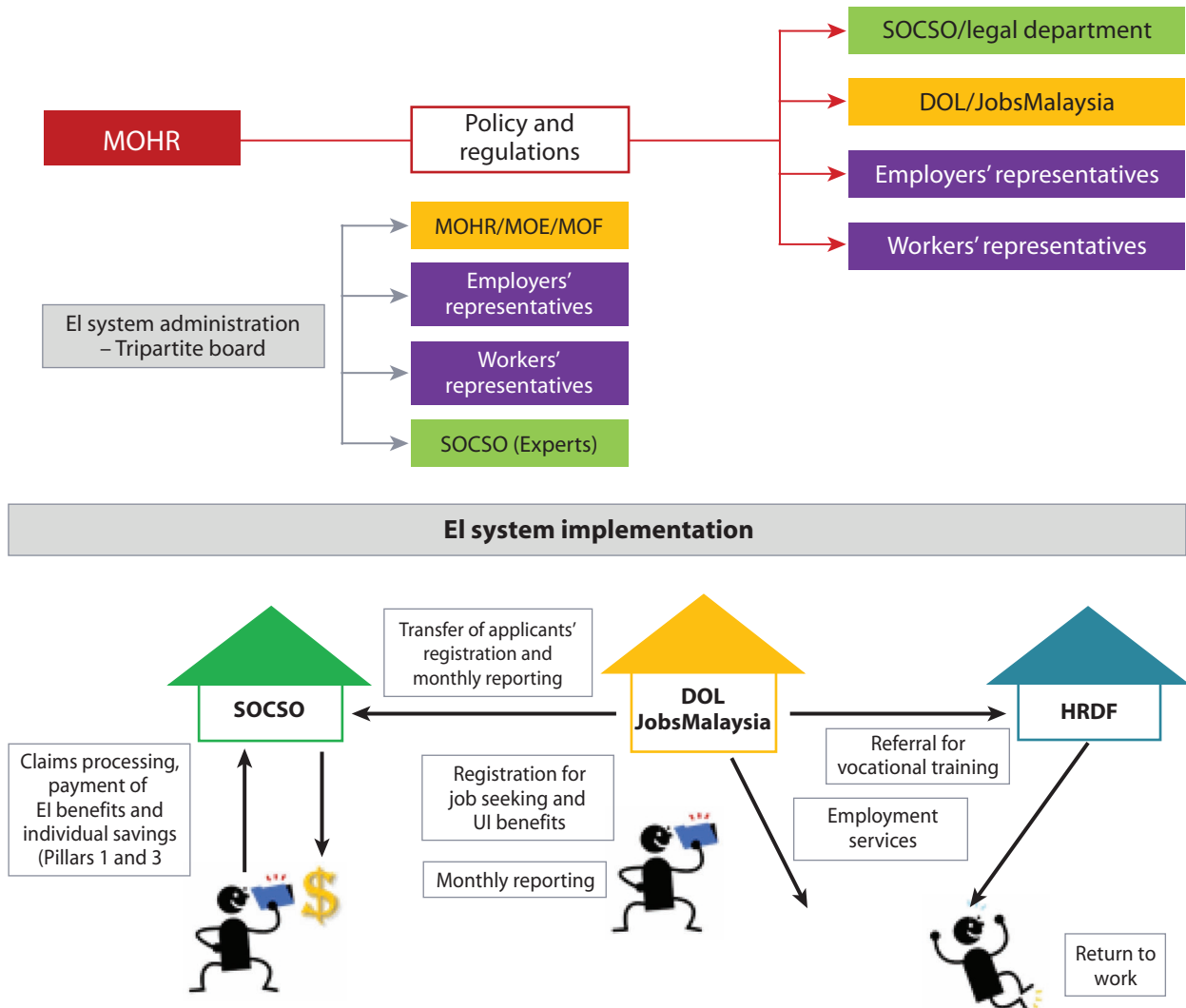
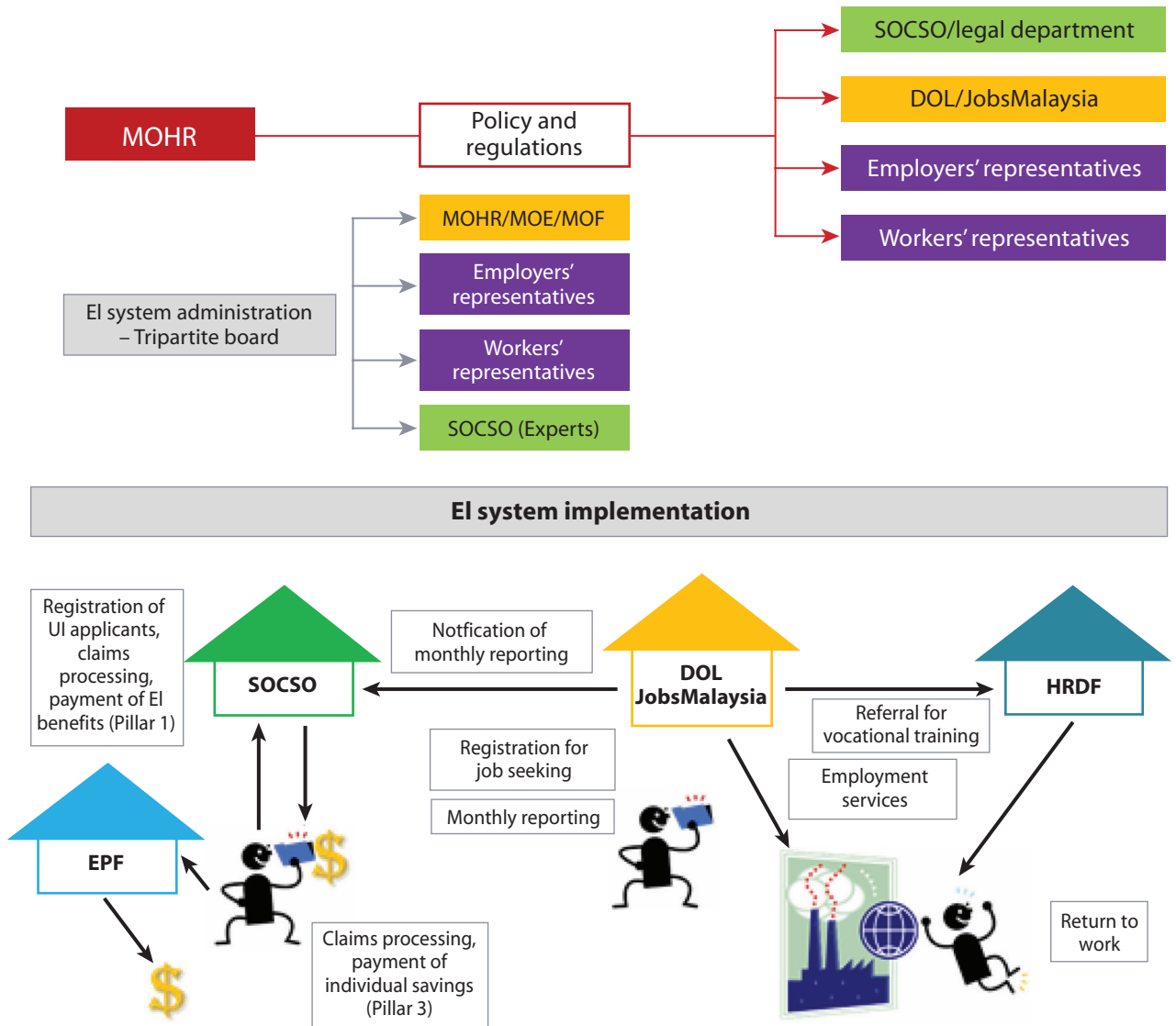


Figure 8: Option 2 for institutional set-up of the EI system



Part III

Actuarial aspects of the proposed employment insurance system in Malaysia

Author: Michel Bédard

Actuarial aspects of the proposed employment insurance system in Malaysia

Introduction

Under the project “Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia”, the TPC pursued three studies (legal; institutional and operational; actuarial) on the establishment of a proposed EI system for Malaysia. Part III provides an actuarial analysis of the three pillars of the EI system considered for review, namely UI benefits, ALMPs and a Savings Plan.

The actuarial review of Pillar 1 describes the main parameters governing UI benefits. The parameters include coverage, which will be extended to the same group already covered by SOCSO; benefit of 45 or 50 per cent of previous average earnings for three to six months; and the conditions that employees have (i) lost their jobs involuntarily; and (ii) contributed for at least 12 out of the preceding 24 months.

On this basis, the actuarial review concludes that unemployment benefits in Malaysia would cost 0.15 to 0.25 per cent of contributory wages, to be shared equally by employers and workers. With all factors in consideration, it is recommended that the contribution rate should not exceed 0.30 per cent to 0.40 per cent of contributory wages. The higher rate can cover initial costs required to start the UI scheme, and build a small reserve. The number of claims received annually for UI benefits would range between 137,000 and 215,000.

The actuarial review of Pillar 2 describes the main ALMPs existing in Malaysia, and compares the cost of existing measures with those in other countries. It concludes that Malaysia’s existing measures are far-reaching and substantive. No additional measures are recommended at present, at least not in so far as provision of additional funds from UI contributions would be required. Reinforced linkages between UI benefits and existing ALMPs will be needed, but can be achieved within existing frameworks.

Lastly, the actuarial review of Pillar 3 considers that the employer portion of the proposed

Savings Plan would be contingent on guidelines that essentially mimic those that currently apply for retrenchment benefits under the Employment Act 1955. It concludes that the proposed Plan would be of negligible value to workers, since the employer portion of savings would in most cases revert to the employer. Any savings accrued under the Plan would also be redundant with the existing EPF. Additional practical and design issues have also been raised, and the actuarial study thus recommends against proceeding with the Savings Plan.

Methodology

Four main sources of information can be used to design and evaluate UI schemes, or any social insurance scheme:

1. **Census data:** snapshots taken at five or ten year intervals, usually depicting activity and status during a given week;
2. **survey data:** produced at regular intervals, e.g. monthly or quarterly labour force or wage surveys; or through special ad hoc requests;
3. **operational and financial data:** obtained from the operations of social insurance schemes, other public schemes, employer and job seeker registrations, taxation authorities, etc.; and
4. **macro-economic data:** obtained from the national statistical agency or from international agencies, e.g. total wages, wages by sector, etc.

In case specific data from national sources cannot be obtained, as commonly happens, a recourse measure is to rely partly on information from other countries, with suitable adaptations. For Malaysia, the main sources of data were SOCSO and DOS. Other data was provided by or obtained from the websites of MOHR, EPF, the Public Service Department, PSMB, JobsMalaysia and others.

The initial valuation of UI benefits is necessarily built on multiple assumptions, and the type

and nature of available statistics dictate the methodology. In the present case, the available statistics are felt to be sufficiently detailed and complete, to allow reasonable cost estimates. This actuarial study is a follow-up to and should be read in conjunction with the interim report of 2012.

Pillar 1: UI benefits

Who gains from UI?

Before considering the appropriateness of UI benefits in the Malaysian context, it is worth recalling the main advantages of establishing such a scheme.

stated that: “employment insurance makes a difference to the health of the most vulnerable populations, low-wage and poorly educated workers” (McLeod et al., 2012).

UI benefits are preferable to lump sum retrenchment payments. Retrenchment benefits, when paid in a timely manner, may achieve some of the same objectives but less effectively. Their use has even been qualified as “crude”, because the amount paid relates to past service, instead of to the time and effort required to find new employment (Holzmann and Vodopivec, 2012). Lump sum payments can also lead to unwise financial decisions, causing unemployed workers to run out of money prematurely.²³ By contrast,

Table 25. Main advantages offered by UI benefits

Category	Benefits gained
Unemployed persons and families	<ul style="list-style-type: none"> • reduced hardship and poverty • better chance of finding suitable job • reduced stress and health problems • avoiding financial difficulties that can lead to family conflicts • increased employability through training and retraining
Firms	<ul style="list-style-type: none"> • productivity gains • flexibility to adjust to technological or structural changes • terminations easier to accept by employers and workers • “sheltered” workforce during temporary lay-offs • more stable economic and business environment • potential for better matching of vocational training with the needs of enterprises • less pressure in case of cutbacks or bankruptcy
Workers	<ul style="list-style-type: none"> • security and reassurance • reduced need for savings
Governments	<ul style="list-style-type: none"> • economic stabilization during recessions • higher tax revenues • reduced costs of public assistance schemes • reduced need for special government interventions
Society	<ul style="list-style-type: none"> • social stability resulting from reduced unrest, delinquency and crime

Unemployed persons and their families gain from UI benefits, because it will allow many of them to avoid falling into poverty. The resulting preservation of human dignity and self-esteem can help to reduce stress and health problems as well as family conflicts. The impact of UI benefits on health was evidenced in a study conducted by the American Journal of Public Health, which

the temporary income afforded by UI, along with the provision of reemployment assistance and skill training, can provide job seekers with better opportunities to find employment suited to their experience, education and aspirations.

The situation for laid-off employees can be particularly precarious if their former employer

²³ It was highlighted by EPF officials that a similar issue arises with lump sum withdrawals under EPF, which leaves recipients destitute within a few years of retirement.

experienced bankruptcy and was unable to provide the mandatory period of notice and retrenchment benefits. Employers may be unable to pay all the wages owed, or may only be able to or forced to pay after lengthy proceedings. Many countries have adopted public wage guarantee schemes for such situations. To date, Malaysia does not have such a scheme.

Other countries provide that unpaid wages, leave and termination benefits be afforded “super-priority” over secured and unsecured debts. One study identified at least 25 countries that do so (Sarraf, 2008). However, this practice is only effective if the assets of a bankrupt firm are sufficient to meet outstanding claims by former workers. In addition, this type of “super priority” can have an adverse effect on the ability of businesses, particularly labour-intensive industries, to obtain bank credit.

Employers and firms should also benefit from UI, by being able to recruit workers who are better suited to their needs. Workers are more likely to be productive and less prone to leaving the job prematurely, if their decision to join the firm was made without the pressure of having to urgently find income for subsistence. The presence of UI benefits can give firms more flexibility in managing workforce reductions, as firms and workers are able to depend on a temporary financial backstop, which is fully guaranteed by public UI benefits.

UI benefits can also facilitate a firm’s recourse to temporary lay-offs, making it more likely that workers would still be available when normal business activity resumes, thus avoiding the need to hire and train new staff. Alternatively, as in some countries, employers can place their workforce on temporarily reduced hours and wages, with work sharing UI benefits subsidizing part of the lost income of workers. This can enable employers to maintain all their staff on active payroll. The example of Germany is instructive; their job sharing scheme covered 500,000 workers during the last economic recession and is estimated to have preserved 120,000 jobs (Federal Employment Agency, 2011). Work-sharing benefits have been adopted

in other countries as well, like Canada, Denmark, France and the United States.

On a macro-economic level, firms also gain from the greater economic stability that UI benefits provide within communities and the country, which in turn helps to stabilize business activity and revenues. Active workers also gain from UI benefits, which provide assurance of some social protection when needed. This can reduce the need to maintain liquidity reserves in low-yielding bank accounts, as security against possible job loss. Excessive liquidity reduces the capacity of individuals to undertake personal or family investments that may improve their standard of living.

Governments and societies also gain from UI in several ways, namely economic stabilization during recessions; higher tax revenues; reduced cost of public assistance schemes; reduced need for government interventions and improved social stability, including reduced public unrest, delinquency and crime. Higher tax revenues flow not only from sustained consumer spending during economic downturns or in temporarily depressed regions, but also from the added economic activity generated by a reduction in the precautionary savings held by employed persons.

UI benefits spread their costs not only over the covered group but also over time. Consequently, UI contributions collected should remain relatively stable over a business cycle, for contributors as well as the economic system as a whole. In times of economic slowdown, UI benefits will act as an automatic stabilizer for the economy, by providing basic income to the unemployed and thus supporting consumer spending, which in turn helps to stabilize businesses and economic activity. In the United States, it was estimated that spending of UI benefits during 2009 contributed to reducing the fall in GDP by 18.3 per cent (Vroman, 2010).

In the absence of automatic stabilizing provided by UI benefits, governments may have to intervene with special measures to support workers and affected communities during times of economic downturn, as was seen in many

countries during the global economic crisis of 2008-09. It is likely that with the presence of UI benefits, some of this stimulus spending could have been avoided.

While comparing the effects of retrenchment benefits with UI benefits, account must also be taken of the fact that UI benefits are normally paid by public authorities in a timely fashion, while payment of retrenchment benefits by private employers is often accompanied by uncertainty and delays. For example, when a large multinational firm ceased its operations in Sarawak in November 2012, about 1,000 former employees were left without income. Disregarding its legal obligations, the employer withheld most of the retrenchment and other payments due to workers, some of whom had worked at the firm for a decade or more. The result was public unrest, demonstrations and intervention by the State Welfare Department with emergency funds for needy families. Court action followed, along with protracted negotiations. Laid-off workers received their retrenchment payments and other compensations over six months later.

The cost of police intervention, time spent on negotiations by public officials and private representatives, and frustration and stress caused within society and to workers represent costs that well-designed UI benefits could alleviate.

Design of UI benefits

The discussions and consultations held in Malaysia during 2012 addressed the main provisions of UI benefits. It is on the basis of meetings with employer, worker and government representatives that a consensus package has been drawn up, comprising the critical elements of the proposed UI benefits. As this package is translated into specific proposals for legislation, many points will undoubtedly need to be clarified. The package that is outlined below may need modification, either because of unexpected issues or to better reflect the views of interested stakeholders.

Preliminary comments on the design proposal have been received from several tripartite

stakeholders, and these are included in the text as relevant, to reflect the need for on-going dialogue between members of the TPC, to further refine and build consensus on the design of the proposed UI benefits. The proposed policy package was developed in accordance with ILO Conventions and Recommendations that deal with social security and unemployment protection, especially Convention No. 102 and Convention No. 168, and is described below.

1. Coverage

Coverage will be extended to all Malaysian citizens who are subject to the Employees Social Security Act 1969, as managed by SOCSO. This includes all private sector employees earning up to MYR3,000 per month, including, pursuant to amendments on 1 June 2013, government workers hired on a temporary or contractual basis. Employees who were previously registered with SOCSO and later earned more than MYR3,000 would continue to contribute, according to the “once in, always in” rule.

According to existing SOCSO rules, groups excluded from UI benefits are foreign workers, domestic workers, self-employed persons, business owners and their spouses, and members of the armed forces and police. The exclusion of foreign workers is contrary to international standards on equal treatment, particularly because under Articles 60M and 60N of the Employment Act 1955, they are the first to lose their jobs during an economic downturn. Furthermore, current rules allow foreign workers to receive retrenchment benefits, so their exclusion from UI benefits should be accompanied by alternative protection.

An additional issue is that, as in many countries, foreign workers must usually leave Malaysia as soon as their employment ends, making them ineligible for unemployment benefits. Thus, forcing them to pay UI contributions would in fact impose a financial burden without providing benefits, as small as the cost of contributions may be. One possibility could be to provide departing foreign workers with a refund of their UI contributions or a modest flat benefit. However,

this could give rise to similar demands from Malaysian employees.

It is also proposed to include persons who, with the consent of their employer, have elected voluntary SOCSO coverage. Once made, this election could not be revoked. Convention No. 102 requires 50 per cent coverage of all employees while Convention No. 168 raises the bar to 85 per cent, while accepting the exclusion of public employees, whose employment is guaranteed by national laws.

Stakeholder inputs

MTUC is in favour of including migrant workers under UI benefits, while FMM has indicated its opposition to this proposition. Bank Negara Malaysia has adopted a middle position; it advocates coverage of all workers under UI benefits and not just those covered under existing SOCSO provisions. However, it supports the exclusion of foreign workers.

Initial consultations between stakeholders during Phase 1 of the project resulted in a consensus on the exclusion of foreign workers under UI benefits at this stage, given that migrant workers must leave the country when their employment ends and thus could not receive benefits on the same basis as national workers. This is an issue of importance that may require specific and additional measures at a later stage in the design process, to ensure that migrant workers are adequately protected, in line with the international standards noted above.

2. Financing

UI benefits would be fully self-financed, with funds coming from equal employer and worker contributions. Any deficits would be covered by the government, either through repayable loans or outright grants. Convention No. 102 stipulates that there should be collective financing of UI and that insured workers should not pay for more than half the costs of the system. Convention No. 168 is silent on financing, except to hold the State as the ultimate guarantor

that benefits will be paid as promised, which is also a requirement under Convention No. 102.

Stakeholder inputs

MEF has expressed its concern that while all employers and employees would have to contribute to the proposed EI system, only a small number of workers would benefit. The Master Builders Association of Malaysia has also expressed their belief that the introduction of the EI system would incur additional costs to both employers and employees as well as to the overall cost of doing business. Actuarial calculations demonstrate that compared with the cost of introducing minimum wages in Malaysia, or the cost of increasing EPF contributions by 1 per cent done in 2012, the cost of UI benefits are very low. Furthermore, by reducing overall vulnerability to poverty, UI benefits would eventually provide tax savings for all Malaysian citizens.

FMM has also noted its reservations regarding employer contributions to the proposed UI benefits, suggesting that the manufacturing sector would be most burdened by such a scheme. However, the proposed scheme would ensure that every sector pays proportionally to their respective wage bill. The experiences of other countries that have implemented UI benefits suggest that the manufacturing sector gains significantly from UI, as it provides employers with flexibility to manage lay-offs during economic downturns, in a far more affordable manner than retrenchment benefits.

3. Contributory wages

Contributions would be charged on wages, as set out in the Employees Social Security Act, up to a maximum of MYR3,000 per month. This applies to the other social security branches, subject to the maximum being revised from time to time. All remuneration payable to an employee is taken into account as wages for the purposes of SOCSO contributions. This includes payments in respect of leave, holidays, overtime and extra work on holidays but does not include:

- contributions payable by the principal or immediate employer to any pension fund or provident fund;
- travel allowances;
- payment or reimbursement of special expenses due to the employment;
- gratuities payable on discharge or retirement; or
- annual bonuses.

4. Reasons for separation

Those who lose their employment involuntarily due to end of their contracts, shortage of work, plant closure, economic downturn, technological change or other similar causes would be entitled to receive UI benefits. Benefits should also be paid for involuntary job loss when workers have no choice but to resign, i.e. under “just cause”, e.g. dangerous working conditions, unpaid wages, sexual harassment.

In accordance with international practice, the payment of UI benefits would go beyond the conditions that have applied in Malaysia since 1980 for retrenchment benefits. Retrenchment benefits are limited to instances of redundancy, whether due to business closure, restructuring, reduction in production, merger, technological change, take-over, economic downturn or other similar circumstances.

Stakeholder inputs

Bank Negara Malaysia has suggested that loss of employment due to end of contract should not be a reason for entitlement to UI benefits, unless the loss of employment occurs before the end of the contract. FMM has expressed a similar view, noting that fixed-term contracts are entered into voluntarily. They have also argued that the Employment Act provides sufficient protection, recourses and compensation against situations of sexual harassment or dangerous working conditions.

End of contract is an internationally recognized reason for entitlement to UI benefits, and there

are no countries that provide otherwise. Workers generally accept fixed-term contracts only in the absence of permanent employment, which is preferred. Excluding fixed-term contracts from UI benefits, except for their early termination, could make it more difficult for employers to attract workers into employment of that nature.

Although the Employment Act is a proper vehicle for protecting against abusive situations, its legal remedies are often subject to costly and lengthy delays. Most individuals cannot afford such costs and delays, and they need income for personal expenses in the meantime. As an offset to UI costs, a frequent rule is that any money recovered through legal procedures is later refunded to the UI authorities.

5. Qualifying conditions

In order to qualify for UI benefits, workers would be required to have made 12 months of contributions, matched by their employer, within the 24 months preceding unemployment. Conventions Nos. 102 and 168 both allow for a reasonable qualification period, as may be required to preclude abuse.

6. Requalification for repeat claims

If individuals submit a second claim for UI benefits, they could be required to fulfil a longer qualifying period, e.g. to have worked for 18 out of the last 36 months. Similarly, third or subsequent claims could require a longer qualifying period.

7. Amount of benefits

Monthly benefits would be set at 50 per cent of previous average contributory wages, e.g. the average wage during the 12 month qualifying period or the average wage during the preceding six months. Convention No. 102 prescribes a minimum benefit rate of 45 per cent of previous earnings and Convention No. 168 raises that minimum to 50 per cent. The impact of providing a benefit rate of 45 per cent will also be evaluated.

8. Minimum monthly benefits

Minimum UI benefits could be considered if deemed appropriate. For example, the minimum UI benefits could be set at 75 per cent of the applicable minimum wage in the region where the individual worked. Provisions to ensure that part-time workers could not receive UI benefits higher than their prior earnings from part-time work would be required.

When establishing a formula for minimum benefits and for benefit rates, the poverty lines for different regions in Malaysia could be taken into account. The poverty line is much higher in Sabah than in Peninsular Malaysia or in Sarawak. Minimum wages can also provide a reference point for calculations.

Benefits would commence one month after the end of the waiting period, after verification that the unemployed person was in fact unemployed during the entire month. This could be verified either through in-person reporting or other means such as mail, telephone or email. If an individual returns to work in the middle of a month, they would be required to report this fact and then be entitled to only a portion of the benefits for the month of unemployment.

In order to ensure that claimants do not have to wait too long for the first payment, provisions could be made for partial payments after the first three or four weeks of unemployment, so that claimants could receive at least some income support without undue delay.

Table 26. Poverty lines and minimum wages in Malaysia

Region	Poverty lines (2012)			Minimum wage (2013)* (MYR per month)
	Total (MYR per month)	Urban	Rural	
Peninsular Malaysia	830	840	790	900
Sabah and Labuan	1 090	1 080	1 120	800
Sarawak	920	960	870	800

Source: DOS, 2013e.

*Minimum wages are being implemented gradually, starting in 2013.

9. Maximum monthly benefits

Since benefits would depend on average contributory wages, the maximum monthly UI benefits would automatically be limited to 50 per cent of MYR3,000. This would avoid creating disincentives to look for work and keep UI costs under control.

10. Commencement and timing of payments

It is common practice to impose a short waiting period at the beginning of each UI claim, on the grounds that individuals should bear some part of the costs of being unemployed. During the waiting period, no benefits are to be paid, and the period of time is not subject to retroactive payment. A waiting period of seven days is proposed, which is in line with international practice and is the maximum recommended in line with ILO Conventions.

11. Earnings on separation

It is common practice to delay the start of UI payments until earnings due at separation, e.g. vacation pay, are used up. Many countries also defer initial benefit payments until retrenchment benefits have been allocated. Alternatively, some countries consider that those payments are for past tenure, in part or in full.

International practice on this front is varied. In Argentina, Chile and Thailand, UI benefits are paid in full and without delay even to terminated workers who receive severance payments. In Canada and in parts of the United States, UI benefit payments are delayed until after severance payments. In France, the start of the UI benefit period would be deferred only to the extent that the amount of the dismissal payment exceeds the legally required minimum.

As a separate matter, Malaysia must decide whether the current rules for retrenchment benefits, in place since 1980, should be retained or modified. As noted in the interim report of 2012, at that time, Malaysia ranked sixth among the nine ASEAN countries in terms of the generosity of its retrenchment benefits and 48th in the world. One option could be to follow the example of Viet Nam, which froze the accumulated credits of retrenchment benefits when its UI scheme was introduced on 1 January 2009, and did not allow any further credits to be earned beyond that date.

Stakeholder inputs

There is still a significant level of disagreement among stakeholders regarding the question of whether current provisions for retrenchment benefits should be retained or modified. MTUC has indicated that it is strongly in favour of termination pay being retained once UI benefits are implemented. NUBE has also expressed concern that the proposed UI benefits would negatively impact employees, by removing their rights to retrenchment benefits.

MEF and the Master Builders Association Malaysia, on the other hand, argue that the existing ETLB Regulations 1980, which provide for compulsory payment of termination benefits to employees who are involuntarily relieved of their duties, provide adequate protection for workers without UI benefits. The Employers Federation instead advocates for an amendment to Section 29(1) of the Companies Act 1956, to make it mandatory to pay termination benefits to employees before paying creditors, in order to provide employees with improved protection under the existing regulations.

Conversely, FMM has indicated that it would only consider the proposed UI benefits if retrenchment benefits are phased out and the guidelines for hiring and firing are made more flexible. As an alternative measure, FMM proposed that acknowledgement of tenure provisions be established as a concession to the abolition of retrenchment benefits. FMM adds that the private sector has yet to receive accurate

statistics on the payment of retrenchment benefits and the number of employers in default.

Bank Negara Malaysia has also highlighted that should UI benefits be implemented, some workers may receive less in UI than they would have received from retrenchment payments, especially those who have worked for an organization for a lengthy period of time. They propose that a thorough comparison of the two benefit schemes be carried out. In this regard, the author refers Bank Negara Malaysia to the interim report, which provides a simulation of UI benefits compared with retrenchment benefits for individual workers, and results in a “grandfather clause” to protect acquired rights.

While retrenchment benefits can be valuable for long-term employees, this is not so for those with broken or irregular work patterns. The latter are the most vulnerable to lay-offs and most in need of UI protection. Many workers are not even covered by the mandate of the Employment Act, for retrenchment benefits. About 50 per cent were covered before 1 April 2012, which fell to around 30 per cent after the Employment Act’s coverage was extended on that date, and the cut-off wage was raised from MYR1,500 per month to MYR2,000 (Carter and Bédard, 2012). It has since started rising as the cut-off wage has remained frozen since April 2012, and is most likely over 30 per cent at present. UI benefits would provide almost universal protection to workers while still allowing individuals and unions to bargain privately for retrenchment benefits.

During Phase 1 of this project, stakeholders agreed to analyse a phase-out of retrenchment benefits accompanied by Pillar 3, in addition to UI and ALMPs, namely acknowledgement of tenure (as proposed by stakeholders such as FMM). From an actuarial perspective, however, implementation of acknowledgement of tenure provisions would either incur high costs for adequate compensation, along with redundancy with savings already provided by EPF; or, under the restrictive rules being envisaged by some stakeholders, be of little or no value to workers. This is explored in more detail below.

At this stage, one of the most pressing issues is the lack of consensus between employer organizations, employee organizations and other stakeholders regarding the phase-out (or not) of retrenchment benefits. The interim report concluded that existing data on retrenchment benefits was inconclusive, not only as to the amounts being paid out and the amounts in default, but also the amounts paid out due to statutory requirements compared to those due to negotiated agreements over and above minimum requirements.

Should retrenchment payments continue to be paid in tandem with the introduction of UI benefits, either on a statutory basis or due to negotiated agreements, they could delay the start of UI claims. In other words, UI benefits should be paid after retrenchment benefits have been considered and paid.

12. Frequency of payments

Payments would occur on a monthly basis, on the anniversary of the first benefit payment. As an alternative, the payments could be made every two weeks, as in Canada, United Kingdom and the United States. Fortnightly payments make verification of unemployment status easier and provide more timely financial resources to unemployed individuals. However, in-person reporting need not follow frequency of payments.

13. Duration of benefits

Benefits would be paid for a maximum of three to six months. It is proposed that the minimum of three months apply to workers who have worked the required minimum of 12 months, and that each additional four months of work provide one additional month of benefits, up to six months of benefits after 24 months of work. The benefit entitlement schedule would be as shown in Table 27.

Table 27. Benefit entitlement schedule

Months of contributions	Months of entitlement to UI benefits
12	3
16	4
20	5
24	6

Within those limits, benefits would be payable for as long as someone is unemployed. Any benefit months that are not used, could be made available within a window of 12 months, or might even be credited as an offset to the increased qualifying conditions, if any, for a second or subsequent claim.

The LFS asks active unemployed persons, namely those who have previously worked and have looked for work in the reference week, the duration for which they have been seeking work. Between 2010 and 2012, responses have consistently indicated that 52 per cent have been unemployed for less than three months and 80 per cent for less than six months; the number of months of UI benefit entitlement set out above should thus be fairly adequate.

14. Continuing entitlement

UI claimants must be capable of working, available at all times and actively looking for work. They must follow directives, attend scheduled job interviews, counselling, information or training sessions, and follow all directives. Actively looking for work means that unemployed persons must look for a job on their own and not simply wait for job referrals. Proof of job search could be required at regular intervals, in a form to be determined. Individuals must attend an employment office regularly, as directed, to prove continuing entitlement.

15. Consequences of job refusals

Benefits could be reduced or suspended for a temporary or indefinite period if two suitable job offers are rejected. The suitability of a job would depend on an individual's qualifications, education, personal abilities, location of the job and other relevant factors, under prescribed rules applied uniformly to all claimants in similar circumstances. These conditions are in line with requirements set out in Convention No. 168.

16. Suspension of benefits

UI benefits should be suspended if an individual leaves the country, finds a job, goes on vacation or makes a fraudulent claim. Any remaining

monthly benefits could be reinstated, but only within 12 months from the start of a claim, for example, if someone lost employment again or returned to the country.

17. Earnings while receiving benefits

Income from other employment could be permitted so long as earnings do not exceed a set percentage, e.g. 50 per cent, of monthly benefits being paid. UI benefits would be suspended if employment income exceeds that limit. This could provide claimants with an additional incentive to pursue alternative employment.

18. Duplication of social security benefits

If claimants receive any other social security benefits, they may choose the higher benefit. It would not be reasonable to allow beneficiaries to accumulate social benefits from multiple sources.

19. Fraud or abuse

Authorities may impose penalties and require repayment of illegally obtained benefits from individuals who knowingly make false declarations, obtain or try to obtain benefits fraudulently. Employers should also be subject to penalties for participation in any illegal actions.

20. Assessment of claims

SOCSSO will be responsible for assessing whether unemployed workers are entitled to benefits initially and continuing entitlement thereafter, by fulfilling all required obligations, particularly that they are capable, available and actively seeking work.

21. Late claims

Claims for UI benefits must be filed promptly after becoming unemployed. Late claims could lead to claim refusal and retroactive payments should be refused. Any exceptions to this would require a claimant to provide evidentiary proof supporting a valid reason for the entire period of the delay.

22. Administration

SOCSSO will bear the overall responsibility for the UI benefits, its management and financing. All contributions will be deposited into a separate UI fund and all benefits and administrative charges will be paid out of the same fund. There must be separate accounting and auditing of the UI fund and periodic actuarial reviews of its status. The government will guarantee the payment of all benefits due, irrespective of the balance in the UI fund.

23. Right of appeal

Claimants should have the right to appeal any unfavourable decisions to the administrative court in accordance with existing procedures; however, complaints should first be submitted to SOCSSO for review of possible errors or misjudgements.

Actuarial valuation of UI benefits

There are three steps involved in the actuarial valuation of the UI benefits, namely:

1. estimating the number of insured persons, according to the scheme rules described above, as well as the contributory earnings of those insured persons;
2. estimating the number of claims for UI benefits, their duration, average benefit paid per claim, and ultimately the total amount of benefits to be paid; and
3. calculating the ratio of total benefit costs to total contributory earnings, to get the combined contribution rate, which is to be shared equally between employers and workers.

Number of persons insured for UI and their contributory earnings

Starting from the number of paid employees in Malaysia, the potential number that could be covered under UI benefits is addressed. Put simply, the number to be insured would be those who are currently insured by SOCSSO under the

Employees Social Security Act 1969, for the employment injury branch, i.e. coverage up to 60 years of age.

Data summarized in Table 28, provided by SOCSO, indicate that in 2011, the average number of contributors in any month was 4,562,930; the total months of contributions was 54,755,161; and the aggregate contributory earnings were MYR94,190.8 million. On the basis of the SOCSO data it was also determined that the average monthly contributory wage was MYR1,720 (see Annex 6 for details). The number of persons who contributed at least once during the year was 5,761,626. The average number of months of contributions for these individuals was 9.5, obtained as the number of contribution months divided by the number of individuals.

Table 28. SOCSO contributors and insured wages in 2011

Contributors and contributions	Insured wages
Average monthly contributors	4 562 930.0
Total contribution months	54 755 161.0
Average monthly contributory wages (MYR)	1 720.0
Annual contributory wages (MYR millions)	94 190.8
Annual number of contributions	5 761 626.0
Average number of contribution months	9.5

For a more comprehensive understanding, it is useful to compare the SOCSO data in Table 28 with LFS data. Table 29 shows that out of 12.3 million employed persons in 2011, 9.4 million or 76.6 per cent were classified as paid employees. Other categories were:

- own account workers (persons who operate their own farm, business or trade without employing any paid workers), comprising 15.6 per cent of employed persons;
- employers (persons who operate a business, a plantation or other trade and employ one or more workers), comprising 3.6 per cent of employed persons; and
- unpaid family workers, comprising 4.2 per cent of employed individuals.

Table 29. Employed workers by class in 2011

Class of worker	Number	Distribution (%)
Employer	446.7	3.6
Employee	9 410.2	76.6
Own account worker	1 917.6	15.6
Unpaid family worker	509.9	4.2
Total employed	12 284.4	100.0

Source: DOS, 2012a.

The proportion of employed persons who work as paid employees differs across the 16 regions, as seen in Table 30. The proportion ranges from 85 per cent in Selangor and Kuala Lumpur to 57 per cent in Kelantan. The overall proportion in salaried employment is 78 per cent in Peninsular Malaysia and 71 per cent in East Malaysia.

Table 30. Employed persons and employees by region in 2011

States and territories (in geographical order)	Employed persons ('000)	Paid employees ('000)	Proportion of paid employees (%)
Peninsular Malaysia	9 752.6	7 610.3	78.0
Perlis	83.4	52.3	62.7
Kedah	743.3	519.7	69.9
Penang	767.1	620.7	80.9
Perak	918.3	674.2	73.4
Kelantan	543.5	311.7	57.4
Terengganu	388.7	271.5	69.8
Pahang	605.1	417.0	68.9
Selangor	2 679.2	2 282.0	85.2
Kuala Lumpur (FT)	811.8	691.9	85.2
Putrajaya (FT)	N/A	N/A	N/A
Negeri Sembilan	413.7	311.9	75.4
Melaka	341.2	268.3	78.6
Johor	1 457.3	1 189.1	81.6
East Malaysia	2 531.9	1 800.1	71.1
Sarawak	1 040.5	721.2	69.3
Sabah	1 452.7	1 045.1	71.9
Labuan (FT)	38.7	33.8	87.3
Total	12 284.4	9 410.2	76.6

Source: DOS, 2012a.

Government employees and armed forces are not covered by SOCSO and would not be covered by the EI system, since the Malaysian government grants them broad security of

employment. The Public Service Department reported about 1.5 million government employees in 2011 (see Table 31). No adjustment is needed for military and police personnel, as persons living in barracks and collective quarters are not counted in the LFS.

Table 31. Government employees in 2011

Government employees	Number
Federal public service	1 170 665
State public service	94 146
Federal statutory bodies	126 497
State statutory bodies	16 043
Local authorities	52 517
Total	1 459 868

Source: Public Service Department.

The number of paid employees in the private sector is estimated as the total paid employees from Table 29 (9,410,200) less the number of government workers from Table 31 (1,459,868). This equals 7,950,000 paid private sector employees in 2011. However, this group could not be taken to represent the potential coverage for UI benefits for several reasons.

Firstly, foreign workers and domestic servants are not covered by SOCSO and unlikely to be covered by UI benefits. As previously noted, the number of foreign workers included in the LFS was 1.5 million in both 2011 and 2012 (those living in collective quarters are not counted in the LFS). This leaves 6,450,000 Malaysian citizens working in the private sector.

Secondly, SOCSO coverage only applies to workers whose first earnings on joining the workforce are less than MYR3,000 per month (MYR2,000 per month before 1 May 2005), on the condition that, once in, workers must continue to contribute until retirement.²⁴ Data is not available on how many workers are excluded from SOCSO under this provision, but the number should be small given that most new entrants to the workforce are youth earning low

wages, lower than the average private sector wage of about MYR2,300²⁵ in 2013. The earning distribution of EPF contributors shows that among young people up to 25 years of age, 97 per cent earned less than MYR3,000 in 2011. DOS data for 2010 also shows that for all 6.3 million private sector wage earners covered by the Salaries and Wages Survey, 88 per cent earned less than MYR3,000 (though that proportion should be somewhat lower in 2011).

Thirdly, several employers, mostly small employers, fail to register their employees with SOCSO. The following comparative data has been compiled to show this.

- The 2010 Census of firms conducted by DOS found 663,000 private firms employing 6.3 million paid employees.
- The Salaries and Wages Survey of 2010 reported the same number of employees.
- MOHR reported 796,833 places of employment registered with DOL in 2011 (employers may have multiple work locations).
- In 2011, the Inland Revenue Board had 476,654 employers registered for tax purposes, and 221,133 other non-individual units (including partnerships, trusts, clubs and associations).
- EPF reported 487,664 active employers as of 31 December 2011 and 6,174,506 active contributors; the latter figure excluding 88,326 self-employed contributors. Active contributors include anyone who has made an EPF contribution in at least one of the previous 12 months.

For SOCSO, the number of reporting firms was 347,871 in 2010 and 368,472 in 2011, and the count of active contributors was 5,761,626 (covering 4,562,930²⁶ active workers, on average, during 2011). The difference of 412,000 active contributors between SOCSO and EPF is probably explained by the ceiling of MYR3,000

²⁴ Employees earning above MYR3,000 can join voluntarily, if their employer agrees.

²⁵ Estimated from wages reported in monthly issues of "The Malaysian Economy In Brief" (DOS) and EPF contributor data.

²⁶ The average value is considered, to ensure consistency with LFS data, instead of the persons who contributed at least once to SOCSO during 2011, i.e. 5,761,626 persons.

on SOCSO new contributors. The difference of almost 120,000 in the number of reporting employers is unexplained, but may be due to different definitions used by SOCSO and EPF.

Referring to data from LFS and the Economic Census 2010, it seems that with complete employer compliance, the potential coverage under SOCSO in 2011 could be estimated at around 6 million private sector employees on an average annual basis or approximately 7.6 million total contributors over the year. Since 2009, SOCSO has taken repeated action to find and register delinquent employers and their workers (Carvalho, 2013).

main steps involved in estimating potential claims for UI benefits and the costs.

1. Estimate the number of unemployed workers who terminate employment each year

Based on the LFS (Annex 7, summarized in Table 33), there were an average of 274,500 unemployed individuals at any time from 2010 to 2012, having worked before becoming unemployed. For a subset of this data, the LFS also provides the distribution of the unemployed.

In order to determine the average months of unemployment for those 274,500 individuals,

Table 32. Malaysian firms by size in 2010

Number of employees	Number of establishments	Total workers engaged in December or last pay period	Salaries and wages paid	Average annual wages	Average number of employees
Below 5	466 188	1 185 901	10 903	9 194	2.5
5-9	119 670	858 366	12 259	14 282	7.2
10-19	30 415	403 330	6 756	16 751	13.3
20-29	12 457	287 770	6 004	20 864	23.1
30-49	9 660	343 382	7 605	22 147	35.5
50-99	4 812	307 717	6 122	19 895	63.9
100 and above**	1 934	282 793	5 027	17 776	146.2
Large	17 803	3 294 714	98 212	29 809	185.1
Total	662 939	6 963 973*	152 887	21 954	10.5

Source: DOS, 2012b.

* Including 687,190 working proprietors, active business partners and unpaid family workers

** Still considered an SME due to its sales or number of employees (see Annex 4).

The preceding analysis allows us to infer that SOCSO coverage may over time expand somewhat more rapidly than one could expect from a straightforward projection of labour force and employment growth. The extent to which this might occur depends on institutional and administrative factors that are impossible to predict at this time. For now, **the contributor base for an unemployment benefit scheme remains as 5.8 million annual contributors.**

Potential claims for UI benefits and benefit costs

The number of UI claims will proceed from the number of individuals terminating employment each year after having previously contributed for at least 12 of the last 24 months. There are six

Table 34 is constructed based on the following equivalents:

- those unemployed for less than three months have been unemployed for one to 12 weeks;
- those unemployed for three to six months have been unemployed for 13 to 25 weeks;
- those unemployed for six months to one year have been unemployed for 26 to 51 weeks;
- those unemployed for one to three years have been unemployed for 52 to 156 weeks; and
- the remaining 1,900 persons have been unemployed for over 156 weeks.

Table 33. Unemployed persons disaggregated by duration of unemployment

	Average persons during 2010-12		
	Total	Used to work	Never worked
Total unemployed	397.4	274.5	122.9
Active*	228.3	166.2	62.1
Non-active**	169.1	108.3	60.8
Active unemployed*			
Under 3 months	111.0	84.7	26.2
3 to 6 months	66.1	47.6	18.5
6 months to under 1 year	30.0	20.2	9.8
1 to 3 years	17.9	11.8	6.1
Over 3 years	3.4	1.9	1.5
Total	228.3	166.2	62.1

Source: DOS, 2013b; DOS, 2014.

* Information on duration is only collected for the “active unemployed”. Active unemployed refers to those who did not work during the reference week but were available for work and actively looking for work.

** Non-active unemployment includes those who:

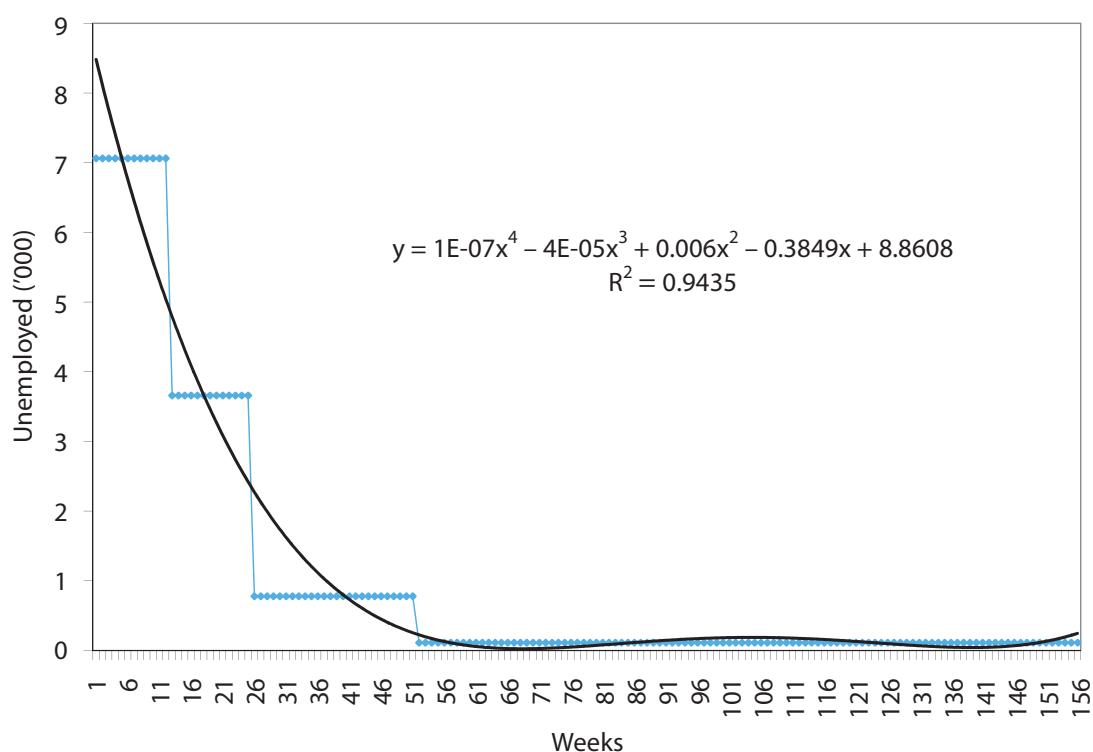
- did not look for work because they believed no work is available or not qualified;
- might otherwise seek employment due to illness or bad weather;
- are waiting for job applications result; and
- had looked for work before the reference week.

Table 34. Active unemployed by duration of unemployment

Duration of unemployment		Number of unemployed	
in months	in weeks	Total	per week
Less than 3	1 to 12	84 700	7 058
3 to 6	13 to 25	47 600	3 662
6 to 12	26 to 51	20 200	777
12 to 36	52 to 156	11 800	112
36 and more	Over 156	1 900	
Total		166 200	

A four-step graph is constructed in Figure 9 by considering weekly data in Table 34 (omitting the statistically insignificant remainder of 1,900 cases unemployed over 156 weeks), to which we fit a polynomial curve found to have 94 per cent correlation (see Figure 9 and the equation within). The number of unemployed persons is then distributed according to that curve, up to and including the 54th week. The remainder is allocated by effecting a smooth reduction from the value at the 54th week to a nominal terminal value of ten cases at the 208th week, the end of the 4th year being assumed to be the upper limit of this distribution.

Figure 9. Graph and equation for active unemployed persons by duration



The resulting table (see Annex 8), is normalized on the basis of 1,000 cases, to represent the assumed distribution by duration of individuals becoming unemployed in Malaysia, for those who used to work before they reported themselves as unemployed. The average duration of an unemployment period on this basis is determined to be 4.74 months per unemployed individual.

To summarize:

- In any month during 2010-12, there were 274,500 unemployed persons reporting themselves unemployed, after having worked previously (see Table 33);
- Over a period of 12 months, the total number of unemployed months incurred by these individuals are 3,294,000 (274,500 multiplied by 12);
- With the average unemployment duration estimated at 4.74 months per person, the number of workers becoming unemployed in a year is calculated as approximately 695,000 (3,294,000 months of unemployment divided by an average unemployment period of 4.74 months).

These calculations assume relatively stable inflows into and outflows from unemployment, which is considered appropriate based on 2010-12 patterns.

2. Estimate how many of the 695,000 job-attached entrants into unemployment would have previously been insured under UI benefits (as Malaysian citizens, neither self-employed nor in uninsured employment)

According to DOS, 91.5 per cent of unemployed individuals in 2011 were Malaysian citizens. SOCSO's insured population represented on average, 70.7 per cent of private sector employees, i.e. 4,562,930 individuals out of 6,450,000 private sector employees during 2011 (see Table 28). Thus, out of the 695,000 job-attached entrants into unemployment each year, it is estimated that there are 450,000 Malaysian citizens who, in a typical year, become unemployed after having occupied employment

covered by SOCSO (695,000 multiplied by 91.5 per cent, then multiplied by 70.7 per cent).

This estimate is indirectly confirmed by SOCSO data, which shows that out of those who contributed to SOCSO between 2008 and 2010, 1,918,148 individuals had withdrawn from SOCSO by 2011. Many of those individuals would have become unemployed, but many could also have withdrawn temporarily or permanently from the labour market, left the country, started public employment, become self-employed, become invalids, died or retired. Regarding retirement, persons over 54 years of age can be excluded, leaving 1,741,896 individuals over three years, representing an average of 580,632 per year.

The estimated number of 450,000 covered job-attached unemployed represents 77.5 per cent of the total of 580,632 SOCSO withdrawals. This ratio appears to account reasonably for the other SOCSO withdrawals, those not due to unemployment.

3. Estimate how many of the 450,000 covered unemployed would have enough insured contributions to qualify for UI benefits

SOCSO data shows that only 29.7 per cent of job leavers below the age of 55 had contributed for 12 or more months between 2008 and 2010. However, it should be expected that the introduction of unemployment benefits would cause some individuals to search for additional work needed to qualify for benefits. This is weighed against the fact that 80 per cent contributors in 2011 had contributed for at least 12 months during the preceding four years, the proportion dropping to 66 per cent if the threshold is raised to 24 months out of the preceding four years.

Considering this and the need to provide a prudent estimate, it is assumed that the proportion of individuals qualifying for UI benefits would range from 40 to 60 per cent. The lower value of 40 per cent gives 180,000 individuals and the upper value of 60 per cent gives 270,000 individuals, representing those

who would have made enough contributions to qualify for UI benefits.

4. Estimate the number of these individuals who would have lost their jobs involuntarily

There is no data in the LFS addressing this issue. In the United States, statistics collected since 1994 show that the average rate of unemployment due to resignation was 0.6 per cent; this rate did not vary significantly in any year. In Canada, the unemployment rate due to resignation due to job dissatisfaction was similar, i.e. 0.5 per cent over the same period.

Dividing those rates by Malaysia's average unemployment rate from 2010 to 2012 (3.1 per cent) would result in an estimate of 16 per cent to 20 per cent unemployed Malaysians leaving their jobs voluntarily, without good reason. Assuming a rate of 20 per cent applied to the previous low estimate of 180,000 individuals, 144,000 Malaysians could qualify for UI benefits; the rate of 16 per cent applied to the upper estimate of 270,000 would leave 227,000 qualifying individuals.

An additional adjustment required is to exclude persons who are unemployed for only one week. They would not receive UI benefits due to the waiting period of seven days. From the data in Annex 8, it is found that 5.2 per cent of unemployed individuals stay unemployed for one week. This reduction is applied to the above

estimates, to get a range of 137,000 to 215,000 qualifying individuals.

5. Estimate the months of compensated unemployment

The months of compensated unemployment for those individuals is derived from Table 47 and represents the weeks that they remain unemployed, from the second week of unemployment until the end of the benefit period. Since the length of the benefit period depends on the number of contribution months, Table 35 provides two assumed distributions of qualifying individuals, according to their duration of work in the last 24 months. The distributions are intended to provide a range of outcomes.

Table 35. Distribution of qualified claimants

Con-tributory months	Benefit period (months)	Qualified claimants			
		Low		High	
		%	No.	%	No.
12	3	65	89 050	55	118 250
16	4	20	27 400	25	53 750
20	5	10	13 700	15	32 250
24	6	5	6 850	5	10 750
Total		100	137 000	100	215 000

Table 36 shows the results of multiplying the number of qualified UI claimants (from Table 35) by the estimated months of compensation for each category, yielding a range of 355,000 to 462,000 compensable benefit months.

Table 36. Compensated benefit months and costs

Benefit period (months)	Qualified claimants		Claim duration (months)	Months of UI benefits	
	Low	High		Low	High
3	89 050	118 250	1.37	121 999	162 003
4	27 400	53 750	1.72	47 128	92 450
5	13 700	32 250	2.04	27 948	65 790
6	6 850	10 750	2.39	16 372	25 693
Total	137 000	215 000		213 446	345 935
Estimated average monthly benefits (MYR)	at a benefit rate of 50%			665.0	665.0
	at a benefit rate of 45%			598.5	598.5
Estimated cost of UI benefits at 2011 values (MYR millions)	at a benefit rate of 50%			142	230
	at a benefit rate of 45%			128	207
Aggregate insured earnings of SOCSO contributors (MYR million)				94 191	94 191
Combined employer and employee contribution rate	at a benefit rate of 50%			0.151%	0.244%
	at a benefit rate of 45%			0.136%	0.220%

6. Estimate the monthly benefit rate and estimated annual costs

The final factor needed to determine the cost of UI benefits is the average monthly benefits. Table 45 shows that the average monthly wage of SOCSO insured workers was MYR1,720 in 2011. Table 46 shows that the average wage of job leavers ranged from MYR987 to MYR1,330, depending on whether all job leavers are considered, or only those who had contributed to SOCSO for at least 12 months before leaving. The latter value is taken to represent the average wages of unemployed persons. It represents 77 per cent of the average wages of active contributors, which is a reasonable proportion on the basis that unemployed workers are more likely to come from lower paid segments of the labour force.

Thus, it is considered that the average benefit rate will be 50 per cent of MYR1,330 or MYR665. The final results are set out in Table 36. It is estimated that at current unemployment levels and with a benefit rate of 50 per cent, the annual costs of UI benefits could range from a low of MYR142 million to a high of MYR230 million, in 2011 currency values.

7. Total contribution rate

The final calculation is to determine the combined employer and employee contribution rate needed to pay for UI benefits. This is found by dividing the estimated benefit costs by the aggregate insured earnings from Table 45 (MYR94,190.8 million).

It is estimated that, at a benefit rate of 50 per cent, a total contribution rate varying between 0.15 and 0.24 per cent, shared equally between employers and workers, can fund the UI benefits. If the benefit rate is set at 45 per cent instead, the total contribution rate will range between 0.14 and 0.22 per cent.

There is no provision in the above calculations for administrative costs. It is assumed that the

partial take-up of UI benefits would offset the scheme's administrative costs. There is only partial take-up of available benefits under any public programme, for a variety of reasons, such as ignorance of the law, negligence, refusal to submit to government bureaucracy, personal pride, etc. A 5 per cent provision for each of the two factors is deemed to be an appropriate and offsetting margin.

Conclusion

The estimated costs of UI benefits for Malaysia are very low, in the range of 0.15 and 0.25 per cent. The combined employer and employee contribution rate should not be set any higher than 0.30 per cent to 0.40 per cent, so that employers and workers would each contribute no more than 0.20 per cent of wages earned, up to MYR3,000 per month. The higher combined rate of 0.40 per cent (0.20 per cent each for employers and employees) might be chosen if a safety margin is desired, and to provide for start-up costs, for which no provisions have been made here.

It is interesting to compare the estimates above with earlier estimates. In 2010, under the ILO's Relief Fund, it was estimated that the total combined contribution rate would be 0.20 per cent for a flat benefit of MYR600 per month, payable for up to six months, based on data on retrenchment benefits (ILO and SOCSO, 2010). In 2011, a UI study initiative was led by the Performance Management and Delivery Unit (PEMANDU), an agency established under the Prime Minister's Office in 2009. The proposed UI contribution rate was 1 per cent of wages to be shared equally between employers and workers. The PEMANDU proposal was similar to the current proposed UI benefits. However, it also proposed end-of-service bonuses or refunds to persons who had made few or no UI claims during their work life. Coverage would have included foreign workers, self-employed and domestic workers. The PEMANDU proposal also provided for a significant accumulation of reserve funds.²⁷

²⁷ PEMANDU's UI initiative, as described in the interim report, was one of 38 consultative, brain storming, analysis and implementation planning sessions organized in 2009 and 2010.

Stakeholder inputs

FMM submitted several reservations regarding the assumptions used to guide the actuarial analysis.

- The estimate of the number of workers terminating employment each year implies that claims could include those who had voluntarily resigned. FMM objects to this and proposes that estimates be based on time series data of the average number of workers retrenched.
- Workers who involuntarily lose employment due to end of contract and resignations because of dangerous work conditions or sexual harassment should not be included.
- The actuarial study states that estimates are comparable to SOCSO paying out benefits to approximately 380,000 clients in 2011. This comparison is not appropriate because the figure accumulates over several years and not all are new claims.
- FMM has further stressed that with regard to implementation costs, UI benefits should seek to optimize the use of existing resources wherever possible.

The report responds to the reservations, as given below.

- The FMM submission incorrectly quoted the number of expected claims, which are estimated at 137,000 to 215,000 per year when the UI scheme reaches maturity. Compared to an estimated 695,000 Malaysian workers becoming unemployed each year over recent years, the expected number of claimants could even appear low, due to prudent and low-cost conditions recommended for the proposed UI benefits.
- The time series data on retrenchment benefits were reviewed in the interim report and found to be questionable. FMM has also noted the lack of accurate data on retrenchment benefits.
- Voluntary resignations are excluded from estimates, except in situations where employees have no reasonable alternative but to quit, which aligns with international

practice. Fixed-term contracts are included, which also aligns with international practice, and reflects both the constraints faced by workers in choosing employment as well as the need to provide a level playing field for employers, to help them attract workers towards such employment.

- Prompt payment of UI benefits, particularly in cases of forced resignations, will help individuals deal with or even avoid lengthy court proceedings, which are costly to both employers and workers.
- With regard to implementation costs, the actuarial study outlines the set-up, maintenance and staff costs by taking into consideration integration with current systems, such as integrating the front-end and payment services of SOCSO with a new system for UI benefits. Once the UI delivery system, its processes and procedures are finalized, it is likely that the cost of administration will be moderate.

The Economic Planning Unit (EPU) under the Prime Minister's Office has also expressed concerns with the analysis of costs involved with the proposed UI benefits. They have recommended a holistic approach in considering costs for employers, workers and the government, along with SOCSO and HRDF contributions as well as the costs of doing business. The EPU has suggested that the ILO conduct a closer study of the overall costs that would be borne by employers and workers, not just restricted to UI.

The proposed UI benefits would be a low-cost undertaking, requiring maximum contributions of 0.2 per cent of insured earnings on the part of employers and workers. For employers, the costs would clearly be much lower than the 1 per cent increment in EPF contributions that the government decreed in 2012. It is also suspected that the minimum wage law might have comparable or even greater impact on employers' cost of doing business, compared to the marginal costs of the new UI benefits.

The actuarial report has outlined the advantages that UI benefits would bring to all sectors of society and the economy, namely unemployed

persons and their families, employers, workers and the Malaysian government (see Table 25). A precise assessment of each is beyond the scope of the present actuarial exercise. The report prepared by the National Economic Advisory Council for the New Economic Model in 2010 provided this kind of holistic assessment or background for the Malaysian economy and its composite elements, including the labour market. These issues have formed part of the government's Vision 2020 and Economic Transformation Programme.

On-going dialogue within the TPC forum is clearly necessary to ensure that all stakeholders have a clear understanding of the proposed UI parameters and the relevant assumptions upon which the actuarial estimates are made. This is the third effort related to an EI system launched by the Malaysian government, after the discussions concerning the Relief Fund in 2009-10 and the PEMANDU UI initiative in 2010-11, which underscores the difficulty of attaining a consensus.

Pillar 2: ALMPs

International background

During the 1970s and 1980s, there was increasing concern within developed countries about persistent unemployment and the costs associated with paying unemployment benefits. Many nations turned to active labour market policies to help job seekers find or maintain gainful employment. At the same time, many countries, especially those that provided fairly generous unemployment benefits, strengthened the requirement for active job search in the payment of benefits, a condition which had in some cases been partially neglected.

The OECD has been prominent in arguing for ALMPs and stricter conditions on unemployment benefits. The OECD Jobs Study 1994 declared that “active labour market policies improve access to the labour market and jobs; develop job-related skills; and promote more efficient labour markets” (OECD, 1994). Among ALMP measures, the OECD particularly recommended improved public employment

services, targeting training to local needs, and adoption of job creation programmes for the youth and long-term unemployed. In its 2006 update, the OECD maintained this focus while emphasizing the need for more effective ALMP spending, rather than increased levels of spending. This shift stemmed from the finding of substantial cross-country variation not only in levels of ALMP spending but also in the composition of spending relative effectiveness of various ALMP interventions.

The scope of ALMPs today is best encapsulated in a results-oriented definition: “ALMPs are implemented to improve the employability of labor through productivity and skill enhancement, to create employment and sustain jobs through public work programs and wage subsidies, and to increase the efficiency of the matching process through employment intermediation services” (Angel-Urdinola et al., 2010). In line with this definition, the European Commission and OECD have established a statistical classification system that distinguishes three broad types of labour market policies (LMPs), namely LMP services, LMP measures and LMP supports (European Commission and Eurostat, 2006; OECD, 2009). The first two are usually referred to as ALMPs. This classification is the basis for Table 37.

1. **LMP services:** are those made available to job seekers in their job search, primarily through the public employment service. Examples include referrals to job opportunities; job placement services; job search; skills training; CV preparation and interview skills. Other measures could include counselling and career planning; individualized return-to-work planning; mobility assistance; labour market information and self-employment assistance. Special assistance could be offered to disadvantaged groups such as the disabled, illiterate, persons with low levels of education or skills, long-term unemployed, minorities, older displaced workers, abused women or female heads of households.
2. **LMP measures:** include training programmes and other initiatives to keep

Table 37. Classification of labour market policies

	Main Types	Sub-Types
Labour market services	1. Public employment services and administration	1.1 Placement and related services 1.2 Benefit administration 1.3 Other
Labour market measures	2. Training	2.1 Institutional training 2.2 Workplace training 2.3 Alternate training 2.4 Special support for apprenticeship
	3. Job rotation and job sharing	3.1 Job rotation 3.2 Job sharing
	4. Employment incentives	4.1 Recruitment incentives 4.2 Employment maintenance incentives
	5. Supported employment and rehabilitation	5.1 Supported employment 5.2 Rehabilitation
	6. Direct job creation	
	7. Start-up incentives	
Labour market supports	8. Out-of-work income maintenance and support	8.1 Full unemployment benefits 8.1.1 Unemployment insurance 8.1.2 Unemployment assistance 8.2 Partial unemployment benefits 8.3 Part-time unemployment benefits 8.4 Redundancy compensation 8.5 Bankruptcy compensation
	9. Early retirement	9.1 Conditional 9.2 Unconditional

Source: European Commission and Eurostat, 2006; OECD, 2009.

workers employed or bring them into employment. Training can take different forms, either within an institution, in the workplace, or a combination of both. It can address general or specific skills, provide vocational or apprenticeship education, which usually but not always results in a diploma. Other LMP measures could be used to promote temporary job rotation or job sharing; provide wage subsidies or incentives to recruit new workers; ensure the continued employment of persons at risk of involuntary job loss; support the rehabilitation and employment of persons with reduced capacity to work; or fund temporary programmes of direct job creation or programmes to help individuals launch and sustain their own business.

3. **LMP supports:** usually refer to UI benefits, but also to publicly funded severance, bankruptcy, wage protection and early retirement schemes. The literature often refers to UI benefits as passive LMP

measures, perhaps implying, whether or not it is stated or desired, that many or most unemployed recipients remain inactive while receiving the benefits. Such characterization appears to be an unfair stereotype and, for that reason, is avoided in this report.

When discussing ALMPs it is important to keep in mind that their primary objective is to facilitate work transitions, not to create employment. Activation policies are defined by their goal: they intend to help people of working age back into the labour market. They do not aim directly to increase the number of available jobs. They involve the implementation of labour market programmes, i.e. public employment services and administration, labour market training, youth measures, subsidized employment and measures for the disabled (Daguerre and Etherington, 2009).

Nevertheless, properly targeted ALMPs may help to reduce unemployment by helping qualified individuals find available jobs and helping others

obtain the training and skills needed to occupy available jobs. The conclusion reached by the OECD in 2006 was that “even though evaluation results for a wide range of active labour market programmes have highlighted a mixed record, enough successful programmes have been documented to confirm that an appropriate mix of properly designed ALMPs can reduce unemployment by improving the efficiency of the job-matching process and by enhancing the work experience and skills of those who take part in them” (OECD, 2006).

Situation in Malaysia

Malaysia has a well-developed network of programmes and measures designed to assist job seekers in finding work, encourage employers to hire them, promote training and skills development and provide individuals with opportunities to improve their long-term employment prospects. An overview of these initiatives is given below.

JobsMalaysia, a unit of MOHR, provides public employment services with an online job-matching portal for workers and employers (www.jobsmalaysia.gov.my). It also provides job placement opportunities through job fairs, and counselling services like CV preparation and job search techniques. JobsMalaysia operates in around 100 locations, either as stand-alone operations or jointly with other government agencies.

However, job offers posted on the JobsMalaysia website are often poor matches to the preferences of job seekers. This can be seen in Table 38, where 279,343 job seekers were searching for white-collar jobs, i.e. the first four categories, but only 9,916 vacancies of that type were listed. On the other hand, employers were seeking 165,135 workers in elementary occupations, i.e. manual labour, while only 6,506 workers were interested in such employment.

Table 38. Job seekers and vacancies in 2013

Sector	Active job seekers by job type		Open vacancies by available job type		No. of job seekers per vacancy
	No.	%	No.	%	Ratio
1. Senior officials and managers	23 891	7	1 063	2	22.5
2. Professionals	105 736	30	3 840	8	27.5
3. Technicians and associate professionals	61 735	17	3 194	7	19.3
4. Clerical workers	87 981	25	1 819	4	48.4
Sub-total (1 to 4)	279 343	78	9 916	22	28.2
5. Service workers, shop and market sales workers	16 425	5	14 149	31	1.2
6. Skilled agricultural and fishery workers	1 182	0	2 886	6	0.4
7. Craft and related trade workers	8 130	2	4 560	10	1.8
8. Plant and machine operators and assemblers	6 447	2	14 447	31	0.4
Sub-total (5 to 8)	32 185	9	36 042	78	0.9
9. Elementary occupations	6 506	2	119 177	259	0.1
10. Others	46 275	13	0	0	
Grand total	364 309	102	165 135	359	2.2
Grand total without elementary occupations	357 803		45 958		7.8

Note: Average of the data collected from JobsMalaysia's online portal on five days in 2013 (18 January, 15 February, 6 March, 16 June and 17 August).

Other avenues for job seekers include private job search firms, such as JobStreet.com and JobsDb.com. JobStreet has a website (www.jobstreet.com.my) and a mobile application, and posts around 22,000 jobs mostly in white-collar industries. JobsDB also has a website (my.jobsdb.com/my) and a mobile application, and lists over 1,000 jobs.

The Department of Skills Development and SkillsMalaysia, both of which fall under MOHR, are active in the area of training. SkillsMalaysia aims to create awareness of opportunities in skill and job related training, while DSD coordinates and regulates the actual implementation of training standards as well as researching and developing job competency standards.

The *Skim Latihan 1Malaysia* (SL1M) or 1Malaysia Training Scheme, a programme administered by the EPU, aims to enhance the employability of graduates in collaboration with Government Linked Companies (GLCs) and the private sector. It is envisaged that the programme will run for five years from 1 June 2012 to 31 December 2016. SL1M provides enhanced tax deductions to companies that adopt the programme, by providing two months of soft skill training and six months of on-the-job training.

The *Perbadanan Tabung Pembangunan Kemahiran* (PTPK) or Skills Development Fund is a statutory body under MOHR that provides loans to 15 to 45 year old individuals, to undergo skill training in public or private training facilities approved by the DSD. PTPK is open to Malaysians seeking to complete any of the five levels of DSD's Malaysian Skills Certification.

The Human Resources Development Fund is operated by the Human Resources Development Corporation or PSMB, as a separate agency under MOHR. It focuses on helping covered employers retrain and upgrade the skills of their employees, apprentices and trainees, in line with their business needs and the development strategy of the country. HRDF is funded by a 1 per cent levy on large employers in the manufacturing and

services sectors, who numbered at 12,969 as on 30 April 2012. The levy raises approximately MYR350 million annually, which HRDF redistributes through training grants, as well as by providing training consultancies and other human resource services. HRDF funds an average of 700,000 training places annually.

Small and medium-size enterprises (SMEs) can also access training opportunities. SME Corporation Malaysia, a specialized national agency, oversees a variety of training opportunities and support programmes for SME owners and their employees. Apart from its own schemes, PSMB coordinates and oversees training and human resource development for SMEs on behalf of the National SME Development Council. The Malaysian Institute of Management, a not-for-profit organization, is the training provider for the Skills Upgrading Programme for SMEs, under a mandate from SME Corporation Malaysia.

The Ministry of Women, Family and Community Development, through the Women Development Department, has implemented the Single Mother Skill Incubator Programme, which seeks to provide single mothers with intensive skill training and entrepreneurship assistance to allow them to generate income. Training is available in the areas of sewing, beauty therapy, commercial cooking, crafts, child care, tourism and food processing.

SOCOSO operates Return to Work, a comprehensive rehabilitation programme, which assists insured persons with work injuries and diseases, to secure productive employment.

Considerable efforts are thus being made towards reaching Malaysia's goal of employing 50 per cent of workers in higher skilled jobs by the year 2020, as compared to 28 per cent, when the Tenth Malaysia Plan was launched in June 2010 (EPU, 2010). The next section of the report briefly considers the international experience of such programmes and measures, to draw conclusions about Malaysia's existing investments in the field of ALMPs.

Comparison between OECD and Malaysia

Data on ALMP spending is published for OECD countries based on the classification system outlined above. Some of this data is presented in Table 39, to give an idea of the levels of LMP and ALMP spending in OECD countries. No attempt has been made to relate the costs of

For illustrative purposes, if Malaysia were to spend the same amount on LMP measures as the OECD average of 1.67 per cent of GDP, spending would amount to nearly MYR17 billion (assuming GDP of MYR1,002,000 billion) (MOF, 2012b). An appropriate OECD country reference is Chile, since its per capita GDP is similar to that of Malaysia. Chile spends

Table 39. Spending on LMPs and ALMPs in OECD countries in 2010

Country	Spending on LMPs (as % of GDP)	Spending on ALMPs (as % of GDP)	ALMP spending as % of LMP spending	Country	Spending on LMPs (as % of GDP)	Spending on ALMPs (as % of GDP)	ALMP spending as % of LMP spending
Australia	0.79	0.28	35	Japan	0.63	0.28	44
Austria	2.21	0.81	37	Korea, Rep. of	0.76	0.42	55
Belgium	3.63	1.36	37	Luxembourg	1.34	0.53	40
Canada	1.12	0.30	27	Mexico	0.01	0.01	100
Chile	0.63	0.43	68	Netherlands	2.82	1.07	38
Czech Republic	0.70	0.33	47	New Zealand	0.72	0.27	38
Denmark	3.35	1.78	53	Norway	–	–	–
Estonia	1.10	0.23	21	Poland	1.04	0.69	66
Finland	2.76	0.98	36	Portugal	2.09	0.70	33
France	2.59	1.14	44	Slovak Republic	0.94	0.33	35
Germany	2.18	0.84	39	Slovenia	1.18	0.44	37
Greece	–	–	–	Spain	4.00	0.86	22
Hungary	1.34	0.62	46	Sweden	1.82	1.09	60
Ireland	3.88	0.88	23	Switzerland	–	–	–
Israel	0.80	0.15	19	United Kingdom	–	–	–
Italy	1.83	0.38	21	United States	0.87	0.11	13
OECD total	1.67	0.61	37				

Source: OECD.

LMPs and ALMPs to the unemployment rates in each country, nor to other socio-economic variables. All the data on spending is relative to the GDP of each country. Average LMP spending within the OECD is 1.67 per cent of GDP, out of which 0.61 per cent of GDP is spent on ALMPs, with wide variations between countries.

MOF provides information on the spending for technical, educational and vocational training in Malaysia, for the six main ministries engaged in such activities. These amounts are shown in Table 40.

Table 40. Budget allocation for technical, educational and vocational training in 2013

Ministry	Budget (MYR)
Ministry of Higher Education	1 109 790 510
Ministry of Rural and Regional Development	259 258 900
Ministry of Agriculture and Agro-Based Industry	92 834 300
Ministry of Education	828 141 300
Ministry of Youth and Sports	282 989 300
Ministry of Human Resources	1 091 052 900
Total	3 664 067 210

Source: MOF, 2012b.

0.63 per cent of GDP on LMPs. The comparable LMP spending for Malaysia would amount to about MYR6 billion.

Considering ALMP spending on its own (excluding UI and similar benefits that are included in LMPs), the equivalent spending for Malaysia on employment measures and training (0.61 per cent of GDP) would also amount to about MYR6 billion. Some OECD countries, however, spend less than this. Chile spends 0.43 per cent of its GDP on such measures, which would correspond to about MYR4.3 billion when transposed to Malaysia. The purpose of this discussion is not to propose any particular level of spending on LMPs or ALMPs for Malaysia, but simply to provide a point of comparison.

Conclusion

With regard to the programmes described and comparisons listed above, it can be concluded that Malaysia is already implementing substantial and dynamic ALMP programmes and measures, which should prove sufficient in the current context. The task for the proposed UI benefits will thus be to effectively link with existing tools and instruments so that job seekers can secure suitable employment at the earliest opportunity. This will benefit both workers and the employers who hire them, by increasing the likelihood that such employees will be both productive and reliable.

Any additional investment in ALMPs, financed out of UI contributions, does not appear necessary and should, if deemed expedient, be kept at a very low level, no more than 0.1 or 0.2 per cent of contributory wages.

However, adjustments to the UI regulations might be required, by extending the UI benefit period for a few months, to allow claimants to complete their training courses. These kinds of measures should be kept to a minimum, to prevent misuse and control costs.

Stakeholder inputs

Inputs from stakeholders support the conclusion that existing ALMP programmes and measures are sufficient. MEF submitted comments noting that employers and employees should not be made to contribute to UI benefits, if part of the contribution is used to fund ALMPs already being provided by the government. Similarly, FMM has noted possible abuse of UI funds channelled into ALMPs, with the unemployed and employers not receiving any substantial benefits. FMM has recommended that the government conduct an independent assessment of the effectiveness of all existing training and retraining schemes.

Pillar 3: Savings Plan

Concept

Social partners working together under the TPC have considered the desirability of a Savings Plan as Pillar 3, in recognition of employees' tenure of service with their employers. This is in addition to UI and ALMPs. The nominal contribution rate under the Savings Plan was tentatively proposed at 2 per cent of wages shared equally by employees and the employers (i.e. 1 per cent each), presumably applied to the same persons and wages as UI benefits.

It was proposed that these savings not be taken into account when paying UI benefits, since they would be accumulated for past service and are akin to personal funds. This treatment exists in several countries, namely Argentina, Chile, France (though amounts exceeding the statutory minimum are taken into account), Thailand and some states of the United States.

The accumulated employer contributions in the savings accounts would be deducted from any retrenchment benefits otherwise payable. In case of voluntary departure (retirement, resignation or misconduct), workers would only be entitled to their own savings, and employers could recover their contributions.

Issues

The accumulated savings produced by a 2 per cent contribution on wages would be modest; equivalent to about 25 per cent of a month's wages for each year of contributions. For example, it would amount to only about 2.5 months of wages after ten years of service. Current retrenchment benefits after ten years of service translate to 6.58 months of wages or 2.6 times that result (see Annex 10 for formula). If the employer share were excluded, as proposed, the comparison would be even less favourable.

It is difficult to estimate the ultimate cost to employers of their 1 per cent contribution. However, on the basis of Table 41, it could average from only 1 to 4 per cent of their nominal contribution, if the current retrenchment rules were to prevail when the time comes to consider a possible payment. In other words, most of the employer contributions (96 to 99 per cent) would be expected to revert to employers. Table 41 illustrates the ratio of retrenchments to unemployment claims (the estimated unemployment claims are taken from Table 36).

Table 41. Retrenchments reported to DOL

Year	Retrenchments*	Percentage of all job leavers**
2008	24 059	3.8
2009	25 064	3.9
2010	7 085	1.1
2011	9 450	1.5
2012	11 494	1.8
Average	15 430	2.4

* Source: MOHR.

** Average job leavers of 639,383.

Coverage under the Employment Act 1955, which provides for retrenchment benefits, is in some ways less and in other ways more extensive than what is planned for UI benefits. It is less extensive in that retrenchment benefits under the Employment Act 1955 only apply to workers earning up to MYR2,000 per month (MYR2,500 in Sabah and Sarawak), whereas SOCSO coverage applies to employees earning up to MYR3,000. It is more extensive in that foreign

workers are covered under the Employment Act 1955 but not by SOCSO, and are eligible for retrenchment benefits. There were 1,931 foreign workers reported as retrenched in 2012, or 17 per cent of the total of 11,503.

Three questions must thus be clarified.

1. Should the Savings Plan also apply to foreign workers, in the same way as retrenchment benefits apply under the Employment Act 1955? If not, what treatment should be applied to foreign workers?
2. Should coverage and contributions for the Savings Plan be set at MYR2,000 (MYR2,500 in East Malaysia) or at MYR3,000?
3. When the Employment Act 1955 or the SOCSO ceiling are revised, as they are from time to time, what adjustments would be needed to bring the Savings Plan in line with the revisions?

As noted above, the employer portion of savings would only be paid under the conditions that have applied in the past for retrenchment benefits, namely in situations of redundancy due to business closure, restructuring, reduction in production, merger, technological changes, take-over, economic downturn or other similar circumstances. Two more questions are thus raised.

4. Would it be practical or administratively feasible to impose different rules for the disbursement of the employer portion of the Savings Plan and the payment of UI benefits?
5. Should the proposed scheme still be called a Savings Plan, at least with regard to the employer contribution, most of which would never be paid out?

The proposed hybrid Savings Plan is not likely to be of significant value to employees. It may also not represent an attractive or practical option, since its administration would require separate and different rules from those that would apply for UI benefits. If presented as a Savings Plan in recognition of past service, then workers

should have a vested right to both the employer and the worker portions, especially but not only when they retire.

The sole exception to disbursement of the employer portion might be if an employee were dismissed due to serious misconduct. But those cases are likely to be very few in number. In addition, it would seem preferable that even in cases of misconduct, the employer contributions be allocated for the benefit of other workers rather than reverting to the employer. This would preserve the savings principle and avoid incentives for some employers to invoke such reasons as a pretext for not paying out the accumulated savings.

As there are long-standing employer apprehensions about the costs of UI benefits overall, the debate around Pillar 3 is likely to be counterproductive and detrimental to the adoption of even the modest, low cost proposal made in this report.

Conclusion

Establishment of the Savings Plan proposed under Pillar 3 is not recommended, given the limited value for employees and the attendant design and administrative issues.

Such a scheme would furthermore be redundant to the savings scheme that is operated by EPF. Stakeholders expressed similar views during the regional and national workshops held in Malaysia in 2012.

A submission received from MEF in response to a draft version of this report, indicated that MEF would prefer a Savings Plan involving joint employee and worker contributions, which could be withdrawn at retirement. However, the existing EPF scheme in Malaysia already provides this type of coverage. This kind of model fails to ensure pooling of risks and payment of temporary partial UI benefits, a prerequisite for the establishment of an unemployment protection scheme within the parameters of the ILO's and other international standards.

Observations on the proposed EI system

General comments

The proposed design for UI benefits in Malaysia is a conservative, prudent and low cost option. Benefits are modest, the maximum duration is low, entitlement requirements are sensible. The prevailing low unemployment rate is a major reason why the costs of UI are low for Malaysia. There is no guarantee that this situation will persist indefinitely, even if economic prospects for the country are favourable.

Other countries have seen their labour markets change dramatically over time. The Republic of Korea had very low unemployment rates in the early 1990s, averaging around 2 per cent, when a UI scheme was introduced. By the end of the 1990s, however, the unemployment rate had risen to 7 per cent, demonstrating the foresight the country had in setting up the machinery for UI in favourable times. Since then, the labour market situation has firmed up and unemployment rates have fallen back to a 3 per cent range, allowing the country to further develop and improve its unemployment protection system, and helping to sustain the country as one of the leading global economies.

As Malaysia moves up the productivity ladder, achieves a higher standard of living and becomes more vulnerable to global economic currents, there may be greater risks associated with its participation in the global economy. It seems pertinent for a country moving toward high-income status to adopt a UI scheme that is congruent with that classification, in line with most other countries in that group. The National Economic Advisory Council's 2010 Report advocating a New Economic Model for Malaysia emphasized this point:

... as Malaysia approaches developed country status, appropriately designed unemployment insurance schemes provide significant advantages in terms of pooling risks and providing a channel for shifting some of the burden from firms to

shared pooling schemes with government, thus facilitating firm level competitiveness, especially for SMEs and relatively new companies. It is also far easier to link unemployment insurance schemes (compared to firm specific severance payments) to other social programmes to provide extra assistance for retrenched workers who also happen to be specially disadvantaged (National Economic Advisory Council, 2010).

Specific observations

Under SOCSO coverage regulations, employees who enter the private sector with a wage above MYR3,000 per month are excluded, unless both the worker and the employer agree to contribute. This exclusion affects around 400,000 workers, based on the difference between EPF and SOCSO contributor counts. Although this provision has a long standing history, its appropriateness for UI purposes could be questioned. Its general effect will be to reduce the pooling and risk-sharing characteristics of the UI benefits. Some higher income workers may also be at risk of becoming unemployed, even if the risk is statistically lower for them than for lower paid workers. Extending UI coverage to this group would improve the financial condition of the UI scheme and lower overall contribution rates. This would particularly benefit SMEs, as the average wage paid by SMEs tends to be lower than in larger firms.

The monthly wage ceiling was set at MYR2,000 on 1 July 1992 and was increased to MYR3,000 from 1 May 2005. For UI purposes, this pattern of infrequent increases may be undesirable, since the interim periods would see a gradual deterioration in the scheme's financial viability, then an abrupt correction when the ceiling is increased. The ratio of benefit costs to revenues will in fact tend to deteriorate during periods when the wage ceiling is held constant.

This is because the unemployed have low wages, on average. Their benefit costs, largely unconstrained by the wage ceiling, will thus tend to increase in line with average wage increases. On the other hand, contribution revenues derive from higher average wages and a significant portion will be held constant or stagnate during

the periods when the wage ceiling is frozen. A better approach would be to provide for automatic annual increases in the UI coverage ceiling based on a wage index.

Employers interact with numerous government bodies, namely SOCSO, EPF, PSMB, Internal Revenue Bureau, *Suruhanjaya Syarikat Malaysia* (SSM) or Companies Commission of Malaysia, SME Corporation Malaysia and others. These interactions ought to be streamlined as much as possible. The calculation of contributions should, to the extent possible, follow standard and uniform rules. The remittance of all contributions, from SOCSO, EPF, PSMB, to a single collecting agent should also be envisaged, to simplify the administrative burden for employers and especially SMEs, and to enhance compliance with all statutory obligations. In the meantime, systematic data exchanges should be arranged between the various government bodies. The use of SSM's My Company Identification (MyCoID) unique identifier for employers should be made mandatory as soon as possible.

Stakeholder inputs

Some stakeholders have expressed concerns regarding the financial impact and sustainability of the proposed scheme. FMM has expressed the view that the proposed EI system, and actuarial calculations set out in the preceding sections, would have severe financial implications. However, the actuarial analysis of the proposed system concludes that UI benefits could cost between 0.15 and 0.25 per cent of contributory wages, shared equally by employers and workers. No additional funds would be required for ALMPs due to the comprehensive investment in ALMPs currently done by the Malaysian government. Also, no additional funds should be allocated for the proposed Savings Plan.

Several other issues have been raised in stakeholder comments on the preliminary version of this report, which are outside the scope of this report and require continued tripartite dialogue to build consensus, as well as direction from the Malaysian government. For example, MTUC and NUBE have expressed opposing concerns

regarding labour market flexibility, MEF has indicated their position that no real consensus has been reached on the proposed EI system throughout tripartite discussions, NUBE has questioned the role of the TPC regarding issues of skills training, and FMM has asserted that employers' concerns as expressed in a joint memorandum in 2010 have not been met by the TPC. These are issues that need further discussion within the TPC and may require the initiation of additional studies or proposals for additional measures on the part of the government and other relevant stakeholders.

Some stakeholders, such as MEF and FMM, have submitted comments to the effect of questioning the need for any EI system at all. MEF has argued that Malaysia's consistently

low unemployment rate negates the need for UI benefits. However, the experiences of other countries like the Republic of Korea confirm the logic and pragmatism of implementing UI benefits when unemployment rates are low, rather than waiting for a crisis. As it continues to integrate with the global economy, Malaysia will be increasingly vulnerable to global economic downturns and in need of systems that protect its workers and employers in case of domestic and global shocks. FMM has pointed to Malaysia's non-ratification of Conventions Nos. 102, 158 and 168 to argue against the need for UI benefits. However, ratification is not a prerequisite for establishing an EI system. Domestic calls for UI benefits date back to the Asian financial crisis in 1997 and later, the announcement of the New Economic Model in 2010.

Annexes

Annex 1. Meetings conducted during the fact-finding mission

As part of Phase II of the project on designing an EI system for Malaysia, a fact-finding mission was conducted. The first part of the mission took place from 11 March 2013 to 15 March 2013 and included the following members: Mr John Carter (International UI expert); Ms Valérie Schmitt (ILO); Ms Celine Peyron-Bista (ILO); and two secretariats from SOCSO.

11 March 2013, Monday	12 March 2013, Tuesday	13 March 2013, Wednesday
Meetings with: <ul style="list-style-type: none"> • SOCSO headquarters • RTW • MEF • MTUC 	Meetings with: <ul style="list-style-type: none"> • TPC • SOCSO • RTW 	Meetings with: <ul style="list-style-type: none"> • SOCSO ICT • EPF
14 March 2013, Thursday	15 March 2013, Friday	
Meetings with: <ul style="list-style-type: none"> • HRDF • DOL • DSD • Department of Manpower • JobsMalaysia 	Meetings with: <ul style="list-style-type: none"> • MOF • Industrial Training Institute • JobStreet • Other employment agencies 	

The second part of the mission took place from 18 March 2013 to 20 March 2013 and included the following members: Mr John Carter and two secretariats from SOCSO.

18 March 2013, Monday	19 March 2013, Tuesday	20 March 2013, Wednesday
Meetings with: <ul style="list-style-type: none"> • SOCSO Kuala Lumpur office • DOL • JobsMalaysia • SOCSO call centre • TPC (special meeting) 	Meetings with: <ul style="list-style-type: none"> • MTUC • SOCSO Kuching office • Employment services and vocational training centres 	Meetings with: <ul style="list-style-type: none"> • SOCSO senior management • TPC (debriefing meeting)

The TPC meeting on 12 March 2013 was attended by the following people:

Datuk K Selvarajah (*Chief Executive Officer of SOCSO; Chair of TPC*)

Wan Zulkifli Setapa (*MOHR*)

Dr Michael Chiam Tow Hui (*MEF*)

Mohd Zakri Baharudin (*MEF*)

K Somasundram (*MTUC*)

S Satish (*MOHR*)

Noorhaslina Tuseran (*DOL Peninsular Malaysia*)

Mohd Nazri Zakaria (*Institute for Labour Market Information and Analysis, MOHR*)

Nor Iskandar Md Nor (*EPF*)

Norasyikin Che Puteh (*EPF*)

Wan Yon Shahima (*PSMB*)

Norlaili Matsal (*PSMB*)

Dr Ponniah Raman (*SOCSCO*)
 Sharuddin Shafie (*DOS Malaysia*)
 Wolfgang Schiefer (*ILO*)
 Valérie Schmitt (*ILO*)
 Celine Peyron-Bista (*ILO*)
 Rakawin Leechanavanichpan (*ILO*)
 John Carter (*International UI expert*)
 Muniroh Mohd Fadzil (*meeting secretariat*)
 Mohd Arif bin Aziz (*meeting secretariat*)

The special TPC meeting on 18 March 2013 was attended by the following people:

Datuk K Selvarajah (*Chief Executive Officer of SOCSCO; Chair of TPC*)
 Mohd Sahar bin Darusman (*MOHR*)
 Dr Michael Chiam Tow Hui (*MEF*)
 Mohd Zakri Baharudin (*MEF*)
 Abdul Halim bin Mansor (*MTUC*)
 W M Naim Shukri Mohamad (*MTUC*)
 Kim Seng Ong (*SOCSCO*)
 S Satish (*MOHR*)
 K Kejayam (*DOL Peninsular Malaysia*)
 Noor Arzila Ariffin (*DOL Peninsular Malaysia*)
 Wan Yon Shahima (*PSMB*)
 Dr Ponniah Raman (*SOCSCO*)
 John Carter (*International UI expert*)
 Muniroh Mohd Fadzil (*meeting secretariat*)
 Mohd Arif bin Aziz (*meeting secretariat*)

The TPC debriefing meeting on 20 March 2013 was attended by the following people:

Datuk K Selvarajah (*Chief Executive Officer of SOCSCO; Chair of TPC*)
 Mohd Sahar bin Darusman (*MOHR*)
 Dr Michael Chiam Tow Hui (*MEF*)
 Mohd Zakri Baharudin (*MEF*)
 Abdul Halim bin Mansor (*MTUC*)
 W M Naim Shukri Mohamad (*MTUC*)
 Kim Seng Ong (*SOCSCO*)
 S Satish (*MOHR*)
 Noorhaslina Tuseran (*DOL Peninsular Malaysia*)
 Noor Arzila Ariffin (*DOL Peninsular Malaysia*)
 Wan Yon Shahima (*PSMB*)
 Luqman Ahmad (*EPU*)
 Dr Ponniah Raman (*SOCSCO*)
 John Carter (*International UI expert*)
 Muniroh Mohd Fadzil (*meeting secretariat*)
 Mohd Arif bin Aziz (*meeting secretariat*)

Annex 2. Potential performance indicators for the EI system

Performance indicators that could be established for the EI system include, but are not limited to:

All pillars: registration and contribution

- Number of registered employers and employees (disaggregated by gender)
- Number of active employers and employees (disaggregated by gender)
- Amount of contributions collected for each of the three pillars

Pillar 1: UI benefits (by gender, age, industry)

- Total number of applications for UI benefits received
- Total number of applications for UI benefits denied with appeal rights
- Total number of applications for UI benefits approved for payment
- Total amount of benefits paid
- Total number of UI recipients exhausting full UI benefits

All of these will be disaggregated by gender, age and industry.

Pillar 2: ALMPs

- Total number of UI beneficiaries receiving counselling
- Total number of UI beneficiaries attending job search workshops
- Total number of UI beneficiaries attending resume writing workshops
- Total number of UI beneficiaries referred to suitable employment
- Total number of UI beneficiaries finding permanent work as result of job referral
- Total number of UI beneficiaries refusing job offers
- Total number of UI beneficiaries suspended from receiving UI benefits as a result of job refusal
- Total number of UI beneficiaries receiving mobility assistance
- Total number of UI beneficiaries referred to vocational training or retraining
- Total number of UI beneficiaries successfully completing training courses
- Total number of UI beneficiaries quitting a course without good cause

All of these will be disaggregated by gender, age and industry.

Pillar 3: Savings Plan

- Total amount of employer and employee contributions collected
- Total annual administrative fees
- Total amount of investment activities
- Total number of requests for payment
- Total amount of payments made to those who involuntarily lose their position
- Total amount of payments made to those who voluntarily lose or are dismissed from their position (worker only portion)
- Total requests received from insured persons for payments via savings accounts

Annex 3. SOCSO's ICT core system project

SOCSO has two main ICT systems, which are currently not integrated and work independently.

1. The first system was built in the 1970s and is used mainly to process registrations and contributions. It runs on a UNISYS ClearPath Plus Dorado 9140 mainframe, and is centralized at the PERKESO headquarters in Jalan Ampang.
2. The second system, called *Sistem Imejan Kaedah Automasi PERKESO* (SIKAP) or Imaging Systems Automation Method PERKESO, was built in 1995 and is used to process claims received by SOCSO. SIKAP is housed on the IBM AS/400 servers, and distributed as a client-server solution at each SOCSO branch in the country.

SOCSO has a total of 46 branches, all over the country. The branches are connected to the headquarters through a Virtual Private Network, which is based on Multi-Protocol Label Switching. It is called SOCSO*Net.

In light of current needs, SOCSO is redeveloping its ICT core system. The system will cover all core business processes in SOCSO and be used by an estimated 2,500 internal users at 46 branches. It will also be used by at least 796,527 registered employers and 14,261,070 registered employees. The numbers of internal and external users are expected to increase over time.

The ICT core system will comprise various key integrated business functions clustered into a robust, modular, scalable, flexible and secured system solution that provides fast and real-time transaction. In line with the government's aspiration to encourage the use of technologies developed by Malaysian research institutions, the government has decided that the project shall utilize technologies developed by the Malaysian Institute of Microelectronic Systems (MIMOS), which are readily available under the Ninth Malaysia Plan. These technologies have been duly patented, either locally or abroad. SOCSO has appointed MIMOS as the System Integrator and Technical Consultant for the development and implementation of the ICT core system.

Table 42. Key components of SOCSO's ICT core system

Description	Key functionalities
1. Enforcement	
<ul style="list-style-type: none"> • To be used for planning of employer inspections, profiling of employers and tracking of inspection cases. • To be used for the management and issuance of SOCSO compounds and prosecution against errant employers. 	<ul style="list-style-type: none"> • Detect and profile suspected non-compliant employers via risk profiling, system trigger and data matching against third parties. • Register, search, view and update employer inspection cases. • Manage workforce. • Schedule employer inspection cases. • Retrieve and extract employer and employee data from other modules within the system, for use by enforcement officers during inspection. • Perform intelligent case monitoring and alerts. • Generate, print and track official notices and reminders to employers. • Automatically route inspection cases to the legal functions for legal action against errant employers. • Profile employers for probable legal action. • Schedule and assign cases to officers. • Register, approve, issue, print compounds. • Register, search, view and update appeal cases, facts and judgement. • Generate reports.

Table 42. (continued)

Description	Key functionalities
<ul style="list-style-type: none"> • To register employers and employees at any place and time. The captured employer and employee registration details shall be used as the main source of information by other functional areas. • To upload and manage data on employer and worker contributions, received from various submission channels. 	<ul style="list-style-type: none"> • Register and update employer and employee details via secure online methods and other channels. • Notify employers and employees via communication channels like email, fax, phone, etc. • Maintain complex employee and employer relationships. • Verify and validate against third party data. • Update data, as required, in the event of employer mergers, divestitures, etc. • Perform intelligent case monitoring and alerts. • Generate reports. • Automatically calculate contributions based on salary and age. • Secure online contributions. • Upload and post data on employer and worker contributions received from various submission channels such as direct file transfer protocol, discs, data entry, web services. • Generate notice to pay <i>Faedah Caruman Lewat Bayar</i> (FCLB) or interest on late contributions, and manage the remittances. • Store and retrieve contribution records. • Reconcile contribution data. • Process rejected records like data cleansing. • Print, store and retrieve images of Form 8A. • Generate and print contribution statements. • Process contribution and FCLB refunds, and update employer and employee databases. • Generate reports. • Adjust contribution payments, as a result of law amendments. • Perform intelligent case monitoring and alerts.
2. Benefits	
<ul style="list-style-type: none"> • To process and manage applications for benefits, submitted by employers, employees and dependants. • To manage education loans. 	<ul style="list-style-type: none"> • Manage benefit schemes. • Register, process, calculate and update applications for benefits. • Automatically check applicant eligibility for claims. • Revise and recalculate existing claim cases. • Perform intelligent case monitoring and alerts. • Adjust benefit payments, as a result of law amendments and benefit enhancements. • Determine eligibility for education loans. • Online application.
3. Prevention	
<ul style="list-style-type: none"> • To conduct business intelligence: management and prevention strategies. 	<ul style="list-style-type: none"> • Ensure that users are equipped with the information needed by SOCSO to make fact-based decisions, through its query and reporting capabilities. • Explore and analyse information easily and intuitively, to aid in making business decisions. • Access, interact and personalize content in a way that supports decision making. • Incorporate statistical results with core business reporting, analyse data and prepare business presentations based on the analysis.

Table 42. (continued)

Description	Key functionalities
<ul style="list-style-type: none"> To provide financial occupational safety and health (OSH) grant management to non-governmental organizations (NGOs) and institutions. To provide event management and planning for the OSH awareness programme. 	<ul style="list-style-type: none"> Manage allocation of financial grants for OSH awareness generation events organized by NGOs. Manage OSH awareness programmes and events. Create a registration form for event attendees. Manage, organize and report information on event attendees. Market the event with automated confirmation and reminder emails to help increase attendance. Prepare for the event by sending reminder emails, printing name badges, sending invoices and agendas to the attendees. Analyse the event performance, by capturing feedback and identifying areas of improvement, using online surveys submitted by attendees.
4. Medical and rehabilitation	
<ul style="list-style-type: none"> To perform disability case management. To assess medical impairment and invalidity. To manage medical partners and service providers. 	<ul style="list-style-type: none"> Manage applications related to medical and rehabilitation assistance. Manage applications for becoming medical partners e.g. panel clinics, dialysis treatment providers, hospitals, rehabilitation centres, etc. Manage claims for medical treatment submitted to SOCSO by medical partners. Register, search, view, and update medical partner cases. Schedule hearings with medical partners and assign cases to officers. Perform intelligent case monitoring and alerts. Generate reports.
5. Accounts payable and receivable	
<ul style="list-style-type: none"> To manage all types of debtors and creditors within the system, which integrates with the financial management system. To handle payments and collections related to the system's core functions like benefit payments and contribution collections. 	<ul style="list-style-type: none"> Create and track master records of debtors and creditors. Generate all types of payment vouchers and cheques. Capable of electronic fund transfers. Online validation and approval management. Provide workflow capabilities. Reconcile cash books. Track all types of payments and receivables. Capable of handling requirements of the Unclaimed Moneys Act. Manage the complex receipting process, for payments received from employers and others. Manage processes related to bounced cheques. Manage all expired cheques which are not presented by recipients. Perform intelligent case management and alerts. Generate reports, statistics and statements of accounts.
6. Legal	
<ul style="list-style-type: none"> To manage, update and track SOCSO's legal case proceedings such as civil, prosecution and arbitration cases against third party entities. 	<ul style="list-style-type: none"> Register, search, view and update legal cases, agreements and legal opinions. Profile employers for probable legal action. Import loan defaulter data from SOCSO's financial management system for legal action. Retrieve and extract employer and employee data from other modules within the system, for preparation of court defense or legal proceedings.

Table 42. (continued)

Description	Key functionalities
	<ul style="list-style-type: none"> • Generate and print reports to be used in legal case proceedings as per statutory requirements. • Schedule and assign cases to officers. • Perform intelligent case monitoring and alerts. • Register, approve, issue and print compounds and prosecutions. • Register, search, view and update appeal cases, facts and judgements. • Generate reports.
7. Appeal	
<ul style="list-style-type: none"> • To register, track and manage social security case applications by SOCSO, employers, employees and dependants, for appeal against rejected benefit claims and other related disputes. 	<ul style="list-style-type: none"> • Register, search, view and update appeal cases, facts and judgements. • Retrieve and extract employer and employee data from other modules within the system, for preparation of defense or appeal. • Generate and print reports to be used in appeal cases as per statutory requirements. • Schedule hearings and assign cases to officers. • Perform intelligent case monitoring and alerts. • Generate reports.
8. Enterprise content management system	
<ul style="list-style-type: none"> • To manage electronic content, physical documents and document images, related to the core business processes of SOCSO. 	<ul style="list-style-type: none"> • Capable of various recognition technologies. • Create electronic documents. • Document imaging and storage. • Retrieve and display electronic content and images of documents, when requested by users through other modules within the system. • Document indexing. • Capable of digital versioning and document scan. • Generate reports.
9. SOCSO corporate website	
<ul style="list-style-type: none"> • To provide self-service functions. 	<ul style="list-style-type: none"> • Users including employers, employees, dependants and education loan borrowers can register, pay contributions and apply for benefits online. • Manage and download templates of forms. • Attach and upload scanned documents.
10. Fraud management	
<ul style="list-style-type: none"> • To proactively detect and manage potential frauds, which may occur in SOCSO's core operations. 	<ul style="list-style-type: none"> • Manage and process fraud cases that have been reported via various channels e.g. through emails, website, walk-ins, telephone calls, etc. • Proactively detect potential fraud events. • Plan and conduct investigations of fraud cases. • Update case investigation outcomes and automated routing to the legal module. • Generate reports, letters, notices and audit trails.

Table 42. (continued)

Description	Key functionalities
11. Performance management	
<ul style="list-style-type: none"> To provide a structured approach for measuring the performance and results of SOCSO's business operations. 	<ul style="list-style-type: none"> Score-carding capabilities enable organisations to capture corporate strategy and communicate that strategy at the operational level. It provides quantifiable goals and targets and allows them to track performance across business units, operating subsidiaries and geographic regions to quickly identify the areas that need attention. Real-time monitoring capabilities for SOCSO with a rich view of operational KPIs and measures to support up-to-the-moment decision making.
12. Customer service and complaints	
	<ul style="list-style-type: none"> Record and capture complaints made through different sources, e.g. email, phone, letter, fax, website and call voice recording. Maintain historical databases on captured complaints, for future reference. Provide alerts while receiving complaints.
13. Communications	
<ul style="list-style-type: none"> To fully integrate the system with business functions. 	<ul style="list-style-type: none"> Integrate the system with all business functions using common communication platforms and communication means such as email, phone, fax, etc.

Annex 4. Definition of SMEs

Table 43. Definition of SMEs

Sector	Manufacturing	Agriculture, mining, quarrying, construction and services
Based on full-time employees		
Micro	Less than 5 employees	Less than 5 employees
Small	5 to 50 employees	5 to 20 employees
Medium	51 to 150 employees	21 to 50 employees
Based on annual sales turnover		
Micro	Less than MYR250,000	Less than MYR200,000
Small	MYR250,000 to MYR10 million	MYR200,000 to MYR1 million
Medium	MYR10 million to MYR25 million	MYR1 million to MYR5 million

Source: DOS, 2012b.

Notes:

1. An establishment was classified as an SME if it met either one of the above criteria.
2. The Economic Census 2011 covered all registered establishments engaged in the agriculture, mining and quarrying, manufacturing, construction and service sectors. The main source of information was SSM. Apart from the SSM, information was also updated from other sources such as the Malaysian Investment Development Authority, Ministry of Agriculture and Agro-based Industry, Construction Industry Development Board, Minerals and Geosciences Department, Department of Electricity and Gas Supply, various businesses and trade associations, newspaper advertisements and websites. The frame was updated to take into account new establishments and to record any changes in the status of the establishments such as “closed down”, “not in operation”, changes in activities, location or postal addresses.
3. Employment covers all persons engaged during December or the last pay period of 2010.

Annex 5. Coverage rules for SOCSO and EPF

Table 44. Coverage rules for SOCSO and EPF

	SOCSO	EPF
Included	<ul style="list-style-type: none"> Private sector employees earning up to MYR3,000 when first employed (“once in, always in” principle) Government employees on temporary or contract basis, since 1 June 2013 	<ul style="list-style-type: none"> Private sector employees Non-pensionable government employees
Excluded	<ul style="list-style-type: none"> Government employees Foreign workers Domestic servants Self-employed Business owners and their spouses 	<ul style="list-style-type: none"> Pensioners
Voluntary coverage	<ul style="list-style-type: none"> Employees earning more than MYR3,000 when first employed, provided both the employer and employee agree 	<ul style="list-style-type: none"> Pensionable government employees Self-employed Domestic maids Temporary foreign workers*
Contributory Wages	<ul style="list-style-type: none"> Covered: all wages up to MYR3,000 per month, including overtime pay, commission, leave, allowances (incentive, good behaviour, cost of living), service charges Not covered: bonuses and retrenchment benefits 	<ul style="list-style-type: none"> Covered: all wages, without limit, including bonus, commission, allowances (incentive, good behaviour, cost of living) Not covered: overtime pay, service charges, retrenchment benefits

* Temporary foreign workers earning less than MYR2,500 were required to contribute to EPF from 1 August 1998 to 1 August 2001.

Annex 6. SOCSO data on employees and job leavers

Table 45. SOCSO data on employees and earnings in 2011

Month	Number of employees	Average salary (MYR)	Total insured salary (MYR)
Jan.	4 552 262	1 699.62	7 737 116 045
Feb.	4 540 100	1 686.27	7 655 851 565
Mar.	4 574 035	1 693.01	7 743 903 250
Apr.	4 576 923	1 701.10	7 785 780 945
May	4 532 034	1 707.43	7 738 118 520
June	4 562 588	1 719.81	7 846 762 440
July	4 617 864	1 730.62	7 991 782 730
Aug.	4 592 793	1 738.09	7 982 665 100
Sep.	4 578 009	1 743.98	7 983 947 775
Oct.	4 574 883	1 748.15	7 997 583 050
Nov.	4 529 086	1 737.12	7 867 558 525
Dec.	4 524 584	1 737.12	7 859 738 018
Annual total	54 755 161		94 190 807 963
Monthly average	4 562 930	1 720.22	

Source: SOCSO.

Table 46. SOCSO data on job leavers during 2008-10

	Number of job leavers	Average monthly wages (MYR)
All job leavers	1 741 896	987.35
Job leavers with at least 6 monthly contributions	792 498	1 237.22
Job leavers with at least 12 monthly contributions	518 103	1 330.05

Source: SOCSO.

Note: Includes individuals contributing at least once to SOCSO from 2008 to 2010.

Annex 7. Unemployed persons in Malaysia

Table 47. Numbers of unemployed persons during 2010-12, disaggregated by work experience, unemployment duration and gender

	Number of unemployed persons ('000)																	
	2010						2011						2012					
	Total	Used to work	Never worked	Total	Used to work	Never worked	Total	Used to work	Never worked	Total	Used to work	Never worked	Total	Used to work	Never worked			
Total unemployed	404.4	270.6	133.8	391.4	274.8	116.6	396.3	278.1	118.2	397.4	274.5	122.9	397.4	274.5	122.9			
Active*	231.1	164.7	66.5	229.8	168.4	61.4	223.9	165.5	58.4	228.3	166.2	62.1	228.3	166.2	62.1			
Non-active**	173.3	106.0	67.3	161.6	106.4	55.2	172.4	112.6	59.8	169.1	108.3	60.8	169.1	108.3	60.8			
Active unemployed*	231.1	164.7	66.5	229.8	168.4	61.4	223.9	165.5	58.4	228.3	166.2	62.1	228.3	166.2	62.1			
Less than 3 months	109.7	84.7	25.0	113.3	86.2	27.1	109.9	83.3	26.6	111.0	84.7	26.2	111.0	84.7	26.2			
3 to 6 months	69.1	47.1	21.9	66.9	48.3	18.6	62.3	47.3	15.0	66.1	47.6	18.5	66.1	47.6	18.5			
6 months to 1 year	30.0	18.9	11.1	28.2	19.6	8.6	31.8	22.2	9.6	30.0	20.2	9.8	30.0	20.2	9.8			
1 to 3 years	18.9	11.7	7.2	17.7	11.9	5.8	17.2	11.9	5.4	17.9	11.8	6.1	17.9	11.8	6.1			
Over 3 years	3.5	2.2	1.2	3.8	2.5	1.3	2.8	0.9	1.9	3.4	1.9	1.5	3.4	1.9	1.5			
Male	141.6	109.9	31.7	138.9	110.0	28.9	135.6	106.0	29.6	138.7	108.6	30.1	138.7	108.6	30.1			
Less than 3 months	69.6	56.7	12.8	72.0	58.0	14.0	67.6	54.8	12.8	69.7	56.5	13.2	69.7	56.5	13.2			
3 to 6 months	42.4	32.2	10.3	37.8	29.7	8.1	37.1	29.6	7.5	39.1	30.5	8.6	39.1	30.5	8.6			
6 months to 1 year	16.0	11.7	4.3	15.4	12.2	3.2	19.5	14.7	4.8	17.0	12.9	4.1	17.0	12.9	4.1			
1 to 3 years	11.4	7.7	3.7	10.6	7.9	2.8	9.2	6.3	2.9	10.4	7.3	3.1	10.4	7.3	3.1			
Over 3 years	2.2	1.6	0.6	3.1	2.3	0.8	2.2	0.6	1.6	2.5	1.5	1.0	2.5	1.5	1.0			
Female	89.6	54.8	34.7	90.9	58.4	32.5	88.3	59.5	28.8	89.6	57.6	32.0	89.6	57.6	32.0			
Less than 3 months	40.1	28.0	12.2	41.3	28.2	13.1	42.2	28.5	13.8	41.2	28.2	13.0	41.2	28.2	13.0			
3 to 6 months	26.7	15.0	11.7	29.1	18.6	10.5	25.2	17.7	7.4	27.0	17.1	9.9	27.0	17.1	9.9			
6 months to 1 year	14.0	7.2	6.8	12.8	7.4	5.4	12.3	7.5	4.8	13.0	7.4	5.7	13.0	7.4	5.7			
1 to 3 years	7.5	4.1	3.5	7.0	4.0	3.0	8.0	5.5	2.5	7.5	4.5	3.0	7.5	4.5	3.0			
Over 3 years	1.3	0.6	0.6	0.7	0.2	0.5	0.6	0.3	0.3	0.9	0.4	0.5	0.9	0.4	0.5			

Source: LFS, DOS Malaysia (estimates based on 2010 Census of Population and Housing).

* Information on duration is only collected for the "active unemployed". Active unemployed refers to those who did not work during the reference week but were available for work and actively looking for work.

** Non-active unemployment includes those who:

- did not look for work because they believed no work is available or not qualified;
- might otherwise seek employment due to illness or bad weather;
- are waiting for job applications result; and
- had looked for work before the reference week.

Note: LFS data on duration of unemployment is only collected for the broad intervals shown above. DOS should, if possible, collect more detailed information, including on the non-active unemployed.

Annex 8. Unemployment periods

Table 48. Duration of unemployment during 2010-12, among individuals who have ever worked (normalized to 1,000 cases)

Year 1		Year 2		Year 3		Year 4	
Duration (weeks)	Unemployed persons	Duration (weeks)	Unemployed persons	Duration (weeks)	Unemployed persons	Duration (weeks)	Unemployed persons
1	52.2629	53	0.9181	105	0.5299	157	0.2958
2	50.0015	54	0.7640	106	0.5237	158	0.2896
3	47.8080	55	0.7579	107	0.5237	159	0.2834
4	45.6884	56	0.7517	108	0.5176	160	0.2773
5	43.6304	57	0.7517	109	0.5114	161	0.2773
6	41.6464	58	0.7456	110	0.5053	162	0.2711
7	39.7240	59	0.7394	111	0.5053	163	0.2649
8	37.8693	60	0.7394	112	0.4991	164	0.2649
9	36.0701	61	0.7332	113	0.4929	165	0.2588
10	34.3387	62	0.7271	114	0.4929	166	0.2526
11	32.6627	63	0.7209	115	0.4868	167	0.2465
12	31.0484	64	0.7209	116	0.4806	168	0.2465
13	29.4895	65	0.7147	117	0.4744	169	0.2403
14	27.9861	66	0.7086	118	0.4744	170	0.2341
15	26.5381	67	0.7024	119	0.4683	171	0.2280
16	25.1456	68	0.7024	120	0.4621	172	0.2280
17	23.8023	69	0.6963	121	0.4560	173	0.2218
18	22.5146	70	0.6901	122	0.4560	174	0.2157
19	21.2699	71	0.6839	123	0.4498	175	0.2095
20	20.0807	72	0.6839	124	0.4436	176	0.2095
21	18.9347	73	0.6778	125	0.4375	177	0.2033
22	17.8379	74	0.6716	126	0.4375	178	0.1972
23	16.7781	75	0.6655	127	0.4313	179	0.1910
24	15.7676	76	0.6655	128	0.4252	180	0.1910
25	14.8002	77	0.6593	129	0.4190	181	0.1848
26	13.8760	78	0.6531	130	0.4190	182	0.1787
27	12.9887	79	0.6470	131	0.4128	183	0.1725
28	12.1446	80	0.6470	132	0.4067	184	0.1725
29	11.3374	81	0.6408	133	0.4005	185	0.1664
30	10.5672	82	0.6346	134	0.4005	186	0.1602
31	9.8339	83	0.6285	135	0.3943	187	0.1540
32	9.1315	84	0.6285	136	0.3882	188	0.1540
33	8.4661	85	0.6223	137	0.3882	189	0.1479
34	7.8376	86	0.6162	138	0.3820	190	0.1417
35	7.2337	87	0.6162	139	0.3759	191	0.1417
36	6.6669	88	0.6100	140	0.3697	192	0.1356
37	6.1308	89	0.6038	141	0.3697	193	0.1294
38	5.6194	90	0.5977	142	0.3635	194	0.1232
39	5.1388	91	0.5977	143	0.3574	195	0.1232
40	4.6890	92	0.5915	144	0.3512	196	0.1171
41	4.2638	93	0.5854	145	0.3512	197	0.1109
42	3.8633	94	0.5792	146	0.3451	198	0.1047
43	3.4875	95	0.5792	147	0.3389	199	0.1047
44	3.1363	96	0.5730	148	0.3327	200	0.0986

Table 48. (continued)

Year 1		Year 2		Year 3		Year 4	
Duration (weeks)	Unemployed persons	Duration (weeks)	Unemployed persons	Duration (weeks)	Unemployed persons	Duration (weeks)	Unemployed persons
45	2.8035	97	0.5669	149	0.3327	201	0.0924
46	2.5016	98	0.5607	150	0.3266	202	0.0863
47	2.2182	99	0.5607	151	0.3204	203	0.0863
48	1.9532	100	0.5545	152	0.3142	204	0.0801
49	1.7068	101	0.5484	153	0.3142	205	0.0739
50	1.4850	102	0.5422	154	0.3081	206	0.0678
51	1.2755	103	0.5422	155	0.3019	207	0.0678
52	1.0906	104	0.5361	156	0.2958	208	0.0616
Total	935.14	Total	34.06	Total	21.57	Total	9.24

Total unemployed persons (year 1-4): 1,000

Average duration of unemployment: 20.56 weeks or 4.74 months

Annex 9. SOCSO data on job leavers

Table 49. Number of Malaysians leaving registered employment with SOCSO, disaggregated by age group and gender

Age group ¹	Male			Female			Both Sexes		
	Number of times left employment			Number of times left employment			Number of times left employment		
	1	2	Total	1	2	Total	1	2	Total
<20	39 804	4 210	44 014	28 414	2 913	31 327	68 218	7 123	75 341
20-24	130 357	12 855	143 212	98 974	9 863	108 837	229 331	22 718	252 049
25-29	110 934	10 691	121 625	81 679	7 744	89 423	192 613	18 435	211 048
30-34	75 586	7 134	82 720	46 017	4 278	50 295	121 603	11 412	133 015
35-39	56 693	5 379	62 072	31 032	2 971	34 003	87 725	8 350	96 075
40-44	44 987	4 294	49 281	24 249	2 267	26 516	69 236	6 561	75 797
45-49	36 859	3 566	40 425	20 752	2 011	22 763	57 611	5 577	63 188
50-54	28 455	2 662	31 117	16 174	1 519	17 693	44 629	4 181	48 810
55-59	23 853	2 149	26 002	11 099	996	12 095	34 952	3 145	38 097
60-64	15 133	1 471	16 604	4 886	470	5 356	20 019	1 941	21 960
65+	10 905	1 122	12 027	2 704	284	2 988	13 609	1 406	15 015
Total	573 566	55 533	629 099	365 980	35 316	401 296	939 546	90 849	1 030 395

Source: SOCSO.

- Notes:
- ¹ age is calculated based on year 2011.
 - refers to 2 years data (2010 and 2011).
 - the reason for leaving employment is not captured in SOCSO's database.

Annex 10. Entitlement to retrenchment benefits

Table 50. Entitlement to retrenchment benefits

Length of service	Minimum retrenchment benefits
Less than 12 months	None
12 months to 2 years	10 days per year of service
2 to 5 years	15 days per year of service
5 years or more	20 days per year of service

Note:

1. The above table is applied on a calendar basis to the average daily wages over the last 12 months. For example, someone who earned MYR24,000 over the last 12 months would have an average daily wage of MYR65.753 and with ten years of service, would be entitled to a 200 day retrenchment payment of MYR13,150.69.
2. This is in accordance with Section 6 of the ETLB Regulations 1980 and the online calculator provided by MOHR, available at: http://jtksm.mohr.gov.my/index.php?option=com_content&view=article&id=87&Itemid=116&lang=en [accessed 6 March 2015].

Bibliography

- Bernama News Agency. 2011. “More than 2.3 million foreigners registered under 6P Programme”, 5 Sep. Available at: mapo.bernama.com/news.php?id=611630 [3 Mar. 2015].
- Carter, J.; Bédard, M. 2012. *Phase 1 Report of the Project on Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia* (Bangkok, ILO).
- Carter, J.; Bédard, M.; Peyron-Bista, C. 2013. *Comparative review of unemployment and employment insurance experiences in Asia and worldwide* (Bangkok, ILO).
- Carvalho, M. 2013. “SOCSO to bosses: Pull your socks up!”, in *The Star Online*, 2 July. Available at: www.thestar.com.my/News/Nation/2013/07/02/Socso-to-bosses-Pull-your-socks-up [6 Mar. 2015].
- Angel-Urdinola, D.; Semlali, A.; Brodmann, S. 2010. *Non-Public Provision of Active Labor Market Programs in Arab-Mediterranean Countries: An Inventory of Youth Programs*, SP Discussion Paper No. 1005 (Washington, DC, World Bank).
- Daguerre, A.; Etherington, D. 2009. *Active labour market policies in international context: what works best? Lessons for the UK*, Working Paper No. 59 (London, Department for Work and Pensions).
- Department of Statistics (DOS). 2012a. *Labour Force Survey Report, Malaysia 2011* (Putrajaya).
- _____ 2012b. *Economic Census 2011: Profile of Small and Medium Enterprises, Malaysia* (Putrajaya).
- _____ 2013a. *Population Projection, Malaysia 2010–40* (Putrajaya).
- _____ 2013b. *Labour Force Survey Report, Malaysia 2012* (Putrajaya).
- _____ 2013c. *Salaries and Wages Survey Report, Malaysia 2012* (Putrajaya).
- _____ 2013d. *Social Statistics Bulletin Malaysia, December 2012* (Putrajaya).
- _____ 2013e. *Household Income and Basic Amenities Survey Report, Malaysia 2012* (Putrajaya).
- _____ 2014. *Population and Housing Census, Malaysia 2010* (Putrajaya).
- Economist Intelligence Unit. 2013. *Malaysia Update and Long-Term Outlook*. Available at: country.eiu.com [28 Feb. 2014].
- Economic Planning Unit (EPU). 2010. *Tenth Malaysia Plan* (Putrajaya). Available at: www.epu.gov.my [5 Mar. 2015].
- European Commission; Eurostat. 2006. *Labour market policy database: Methodology* (Luxembourg). Available at: ec.europa.eu/eurostat [7 Mar. 2015].
- Federal Employment Agency. 2011. *Annual Report 2010*, p. 31 (Nuremberg). Available at: www.arbeitsagentur.de [6 Mar. 2015].
- Gooch, L. 2009. “Foreign Employees Limited, Malaysia is Suffering Through a Labor Shortage”, in *New York Times*, 31 Aug. Available at: www.nytimes.com/2009/09/01/business/economy/01labor.html [3 Mar. 2015].
- Holzmann, R.; Vodopivec, M. 2012. *Reforming Severance Pay: An International Perspective*, p. 2 (Washington, DC, World Bank).
- International Labour Office (ILO). 2011a. *General Survey concerning social security instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization: Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1B), International Labour Conference, 100th Session, Geneva, 2011 (Geneva).

- _____. 2011b. *Observation of the Committee of Experts on the Application of Conventions and Recommendations: Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19): Peninsular Malaysia*, International Labour Conference, 100th Session, Geneva, 2011 (Geneva). Available at: www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:2327314,en:NO [5 Mar. 2015].
- _____. 2014. *Key Indicators of the Labour Market* (Geneva).
- _____. *Conventions and Recommendations* (Geneva). Available at: <http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO> [5 Mar. 2015].
- _____. ; SOCSO. 2010. *Relief fund for the loss of employment: Programme design and actuarial assessment* (Bangkok; Geneva and Kuala Lumpur). Available at: www.social-protection.org [6 Mar. 2015].
- Jomo, K.S.; Wee, C.H. 2009. *Policy Coherence Initiative on Growth, Investment and Employment – The Case of Malaysia* (Bangkok and Geneva, ILO). Available at: www.ilo.org [3 Mar. 2015].
- Kuddo, A. 2012. *Public Employment Services and Activation Policies*, Discussion Paper No. 1215 (Washington, DC, World Bank).
- Lahey, R. 2009. *A Framework for developing an effective Monitoring and Evaluation System in the public sector: Key considerations from international experience*. Available at: www.ecdg.net [5 Mar. 2015].
- Malaysian Investment Development Authority. *Employment of Foreign Workers*. Available at: www.mdia.gov.my [3 Mar. 2015].
- McLeod, C.B.; Lavis, J.N.; MacNab, Y.C.; Hertzman, C. 2012. “Unemployment and Mortality: A Comparative Study of Germany and the United States”, in *American Journal of Public Health*, Vol. 102, No. 8, pp. 1542–1550.
- Ministry of Finance (MOF). 2012a. *Economic Report 2012/2013*, Ch. 3, p. 112.
- _____. 2012b. *Budget 2013*.
- Ministry of Higher Education (MOHE). 2012. *The National Graduate Employability Blueprint 2012-2017*, p. 5 (Putrajaya).
- Ministry of Human Resources (MOHR). *Foreign Workers Compensation Statistics*.
- _____. *Retrenchment Statistics*.
- National Economic Advisory Council. 2010. *New Economic Model for Malaysia: Part I* (Putrajaya). Available at: www.pmo.gov.my [7 Mar. 2015].
- Organisation for Economic Co-operation and Development (OECD). 1999. *OECD Economic Outlook No. 66*, Ch. 5 (Paris).
- _____. 1994. *The OECD Jobs Study: Facts, Analysis, Strategies* (Paris). Available at: www.oecd.org/els/emp/1941679.pdf [7 Mar. 2015].
- _____. 2006. *OECD Employment Outlook 2006*, Ch. 3, p. 74 (Paris).
- _____. 2009. *Coverage and Classification of OECD Data for Public Expenditure and Participants in Labour Market Programmes* (Paris).
- _____. *OECD Stat: Public expenditure and participant stocks on LMP*. Available at: stats.oecd.org/Index.aspx?DataSetCode=LMPEXP [7 Mar. 2015].
- Public Service Department. *Statistics*. Available at: www.jpa.gov.my [6 Mar. 2015].

-
- Sarra, J. 2008. *Recognizing Workers' Economic Contributions: The Treatment of Employee and Pension Claims during Company Insolvency, A Comparative Study of 62 Jurisdictions*, presented at the Eighth Annual International Insolvency Conference, Berlin, 9-10 June. Available at: www.iiiglobal.org/component/jdownloads/viewdownload/572/5379.html [6 Mar. 2015].
- Singh, G.; Singh, S. 2008. "Malaysian Graduates' Employability Skills", in *Universiti Tun Abdul Razak (UNITAR) e-Journal*, Vol. 4, No. 5, p. 19. Available at: www.academia.edu/5292843/malaysian_graduates_employability_skills [5 Mar. 2015].
- Social Security Organisation (SOCSO). 2012. *Annual Report 2011* (Kuala Lumpur). Available at: www.perkeso.gov.my [5 Mar. 2015].
- _____. *Statistics* (Kuala Lumpur). Available at: www.perkeso.gov.my [7 Mar. 2015].
- TalentCorp. *Expatriates*. Available at: www.talentcorp.com.my [3 Mar. 2015].
- The Edge Markets*. 2009. "Foreign labour keeps Malaysian unemployment low", 13 Oct. Available at: www.theedgemarkets.com/en/node/19917 [3 Mar. 2015].
- Vroman, W. 2010. *The role of Unemployment Insurance as an Automatic Stabilizer during a Recession* (Washington, DC, Impaq International). Available at: www.dol.gov [6 Mar. 2015].
- World Bank. *Data | The World Bank*. Available at: data.worldbank.org [3 Mar. 2015].

Design of an employment insurance system for Malaysia

This publication is the report of the project "Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia" under technical cooperation between the Government of Malaysia and ILO during 2012-14. The report describes three feasibility studies that were conducted: on the legal; institutional and operational; and actuarial aspects of the proposed employment insurance system. Unemployment insurance benefits linked with active labour market policies form the core of the employment insurance system.

ILO Regional Office for Asia and the Pacific

United Nations Building, 11th floor

Rajdamnern Nok Avenue

Bangkok 10200, Thailand

Tel. +662 288 1234

Fax. +662 288 3062

Email BANGKOK@ilo.org

www.ilo.org/asia

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