

FROM : ILS

PHONE NO. : 5273491

JAN. 14 2009 11:16AM P1

TO : 1351P 11P30NISTTYL2510

PHONE NO. : 8904654

JAN. 14 2009 11:16AM P1

Memorandum of Agreement (MoA)
on Labour Cooperation
Between
the Government of the Republic of the Philippines
and
the Government of New Zealand

The Government of the Republic of the Philippines and the Government of New Zealand (hereinafter referred to collectively as the "Parties" or individually as a "Party", unless the context otherwise requires):

Desiring to express an approach dealing with labour issues based on cooperation, consultation and dialogue that takes account of the unique circumstances, needs and future aspirations of the Parties and reflects their desire to strengthen their growing economic and political relationship;

Recalling their resolve to improve working conditions and living standards in their respective countries and protect, enhance and enforce fundamental workers' rights, taking into account different levels of national development;

Acknowledging their commitment to high level standards of labour laws, policies and practices and that they are committed to uphold them in the context of economic development and trade liberalisation;

Seeking to promote sound labour policies and practices and closer and greater cooperation, and to improve the capacities and capabilities of the Parties to achieve these;

Sharing the common aspiration that free trade and investment should lead to job creation, decent work and meaningful jobs for workers, both

- Measuring decent work in public sector
- Development of decent work indicators on overseas employment
- Conduct of labour market studies

**Annex to Memorandum of Agreement on Labour Cooperation:
Some examples of potential projects for possible cooperation
(under Article 3 of the MOA)**

Occupational safety and health

- Fellowship and training on the different fields of occupational safety and health
- Capability building in the following areas of OSH:
 - Personal protective equipment testing
 - Industrial hygiene methodologies
 - Occupation health programmes and biologic monitoring procedures
 - OSH management systems

Labour standards

- Evaluation study on the working conditions of workers in the call centre industry
- Evaluation study on the operationalisation of the Labour Standards Enforcement Framework
- Conduct of consultations/fora on decent work and international labour standards

Labour market information system

- Capacity building on Labour Market Information (LMI) Trends and Systems
 - Research on benchmarking of the best practices on developing LMI systems

Research studies and consultations on international standards

- Conduct of forums/social dialogues and consultations on international standards governing fundamental principles and rights at work, employment promotion, social dialogue and social protection
- Conduct of policy research studies and working papers (e.g. macro-policy coherence and its impact on decent work, green jobs)

domestically and internationally, in accordance with universal principles of international instruments on labour and employment;

HAVE AGREED AS FOLLOWS:

**Article 1
Objectives**

The objectives of the Parties shall be to:

- (a) promote better understanding of each Party's labour systems, sound labour policies and practices and decent work, and improve the capacities and capabilities of the Parties;
- (b) provide a forum to discuss and exchange views on labour issues of interest or concern;
- (c) promote better understanding and observance of the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998)¹ and other international instruments on labour and employment to which they are party;
- (d) support the commitments made by the Parties in this MoA with

¹ See Attachment 1 (ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998)), which does not form an integral part of this MoA.

2. The report will cover, each year, one of the four categories of fundamental principles and rights in turn.

B. Modalities

1. The report will be drawn up under the responsibility of the Director-General on the basis of official information, or information gathered and assessed in accordance with established procedures. In the case of States which have not ratified the fundamental Conventions, it will be based in particular on the findings of the aforementioned annual follow-up. In the case of Members which have ratified the Conventions concerned, the report will be based in particular on reports as dealt with pursuant to article 22 of the Constitution.

2. This report will be submitted to the Conference for tripartite discussion as a report of the Director-General. The Conference may deal with this report separately from reports under article 12 of its Standing Orders, and may discuss it during a sitting devoted entirely to this report, or in any other appropriate way. It will then be for the Governing Body, at an early session, to draw conclusions from this discussion concerning the priorities and plans of action for technical cooperation to be implemented for the following four-year period.

IV. IT IS UNDERSTOOD THAT

1. Proposals shall be made for amendments to the Standing Orders of the Governing Body and the Conference which are required to implement the preceding provisions.

2. The Conference shall, in due course, review the operation of this follow-up in the light of the experience acquired to assess whether it has adequately fulfilled the overall purpose articulated in Part I.

The foregoing is the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up duly adopted by the General Conference of the International Labour Organization during its Eighty-sixth Session which was held at Geneva and declared closed the 18 June 1998. In faith whereof we have appended our signatures this nineteenth day of June 1998.

by the Governing Body in 1995, the efforts made in accordance with the Declaration by Members which have not yet ratified all the fundamental Conventions.

2. The follow-up will cover each year the four areas of fundamental principles and rights specified in the Declaration.

B. Modalities

1. The follow-up will be based on reports requested from Members under article 19, paragraph 5(e), of the Constitution. The report forms will be drawn up so as to obtain information from governments which have not ratified one or more of the fundamental Conventions, on any changes which may have taken place in their law and practice, taking due account of article 23 of the Constitution and established practice.

2. These reports, as compiled by the Office, will be reviewed by the Governing Body.

3. With a view to presenting an introduction to the reports thus compiled, drawing attention to any aspects which might call for a more in-depth discussion, the Office may call upon a group of experts appointed for this purpose by the Governing Body.

4. Adjustments to the Governing Body's existing procedures should be examined to allow Members which are not represented on the Governing Body to provide, in the most appropriate way, clarifications which might prove necessary or useful during Governing Body discussions to supplement the information contained in their reports.

III. GLOBAL REPORT

A. Purpose and scope

1. The purpose of this report is to provide a dynamic global picture relating to each category of fundamental principles and rights noted during the preceding four-year period, and to serve as a basis for assessing the effectiveness of the assistance provided by the Organization, and for determining priorities for the following period, in the form of action plans for technical cooperation designed in particular to mobilize the internal and external resources necessary to carry them out.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

Follow-up to the Declaration

I. OVERALL PURPOSE

The aim of the follow-up described below is to encourage the efforts made by the Members of the Organization to promote the fundamental principles and rights enshrined in the Constitution of the ILO and the Declaration of Philadelphia and reaffirmed in this Declaration.

In line with this objective, which is of a strictly promotional nature, this follow-up will allow the identification of areas in which the assistance of the Organization through its technical cooperation activities may prove useful to its Members to help them implement these fundamental principles and rights. It is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning; consequently, specific situations within the purview of those mechanisms shall not be examined or re-examined within the framework of this follow-up.

The two aspects of this follow-up, described below, are based on existing procedures: the annual follow-up concerning non-ratified fundamental Conventions will entail merely some adaptation of the present modalities of application of article 19, paragraph 5(e), of the Constitution; and the Global Report will serve to obtain the best results from the procedures carried out pursuant to the Constitution.

II. ANNUAL FOLLOW-UP CONCERNING NON-RATIFIED FUNDAMENTAL CONVENTIONS

A. Purpose and scope

1. The purpose is to provide an opportunity to review each year, by means of simplified procedures to replace the four-year review introduced

The International Labour Conference

1. Recalls:

(a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;

(b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including, by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:

(a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;

(b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of these Conventions; and

(c) by helping the Members in their efforts to create a climate for economic and social development.

ILO Declaration on Fundamental Principles and Rights at Work 86th Session, Geneva, June 1998

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting Fundamental Rights at Work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights embodied in the Constitution of the Organization and to promote their universal application;

a view to improving the working conditions and quality of work life in their respective countries; and

- (e) facilitate cooperation and dialogue in order to strengthen the broader relationship between the Parties.

Article 2

Basic Principles

1. The Parties reaffirm their obligations as members of the ILO and their commitment to the principles of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998).
2. Each Party shall work to ensure that its labour laws, regulations, policies and practices are in harmony with their respective international labour commitments.
3. The Parties respect their sovereign rights to set their own policies and national priorities and to set, administer and enforce their own labour laws and regulations.
4. The Parties recognise that it is inappropriate to set or use their labour laws, regulations, policies and practices for trade protectionist purposes.
5. The Parties recognise that it is inappropriate to encourage trade or

investment by weakening or reducing the protections afforded in domestic labour laws, regulations, policies and practices.

6. Each Party shall promote public awareness of its labour laws and regulations domestically.

Article 3
Cooperation

1. Taking account of their national priorities and available resources, the Parties agree to cooperate on labour matters of mutual interest and benefit. The Parties shall mutually agree on specific labour cooperative activities.
2. Each Party may, as appropriate, invite the participation of its unions and employers and/or other persons and organisations of their countries in identifying potential areas for cooperation and in undertaking cooperative activities.
3. Cooperative activities may be in areas including but not limited to:
 - (a) labour laws and practices, including the promotion of labour rights and obligations and decent work;
 - (b) information, compliance and enforcement systems;

- (c) sound labour relations, including labour management consultation, cooperation and labour dispute settlement;
 - (d) occupational safety and health;
 - (e) human capital development, training, and employability; and
 - (f) human resource development initiatives including sharing of labour market trends, skills development, building mutual capacity, and the promotion and protection of employment rights and obligations of migrant workers.
4. Cooperative activities may be implemented through a variety of means, such as the exchange of best practice and information, joint projects, studies, exchanges, visits, workshops and dialogue as the Parties may agree, including in relation to international labour forums and matters. The attached annex provides some examples of potential projects for possible cooperation.
5. The resourcing of cooperative activities shall be agreed by the Parties on a case-by-case basis.

Article 4 Institutional Arrangements

1. Each Party shall designate a national contact point for labour matters

within six months following the entry into force of this MoA to facilitate communication between the Parties.

2. With a view to guaranteeing the implementation of this MoA, establishing a cooperation programme and coordinating the cooperation activities referred to in this MoA, the Parties shall establish a Labour Committee including senior officials of their government agencies responsible for labour matters
3. The Labour Committee shall meet within the first year of the signing of this MoA. The Committee shall subsequently meet every two years unless otherwise mutually agreed, to:
 - (a) establish an agreed work programme of cooperative activities;
 - (b) oversee and evaluate cooperative activities;
 - (c) serve as a channel for dialogue on matters of mutual interest;
 - (d) review the operation and outcomes of this MoA, and
 - (e) provide a forum to discuss and exchange views on labour issues of interest or concern with a view to reaching consensus on those issues between the Parties.
4. In carrying out its work, the Labour Committee may consult with, or invite

the participation of, members of the public or relevant sectors over any matters relating to the operation of this MoA by whatever means that Party considers appropriate.

6. The Parties may exchange information and coordinate activities between meetings using email, video conferencing or other means of communication.

Article 5 Consultation

1. The Parties are committed to following the principles of mutual respect, dialogue, cooperation and consensus over any matter related in this MoA. Should any matter arise over the interpretation or application of the MoA, a Party may request consultations with the other Party through the national contact point. The Parties shall make every effort to resolve the matter through cooperative consultation and dialogue.
2. If a Party seeks a meeting to assist in the resolution of any such matters, the Parties shall meet as soon as practicable and, unless otherwise mutually agreed, no later than 90 days following the request.
3. If the matter is not resolved, it may be communicated to a meeting of

the Labour Committee, which may include Ministers, for mutual discussions and consultations.

Article 6

Disclosure of Information

1. No Party shall disclose any information provided by the other Party under this MoA and claimed by the other Party to be confidential without the other Party's approval, except where required to do so under the laws governing the Party that received the information, subject to a court order.
2. Nothing in this MoA shall be construed to require a Party to furnish or allow access to information the disclosure of which it considers would be contrary to the public interest or the laws governing that Party.

Article 7

Entry into Force, Amendment and Termination

1. This MoA shall enter into force on the date of the later notification by the Parties, through the diplomatic channel, indicating completion of their respective domestic requirements for entry into force.
2. Either Party may propose in writing, through the diplomatic channel, amendment to this MoA. Any amendments agreed in writing by the

Parties shall enter into force in the same manner as set out in the preceding paragraph.

3. This MoA shall remain in force for a period of three (3) years from the date of its entry into force and shall automatically renew for further periods of three (3) years unless one Party notifies the other Party of its intention to terminate this MoA by notice in writing, through the diplomatic channel, at least six (6) months prior to the intended date of termination.
4. Notwithstanding Paragraph 3 and unless the Parties otherwise agree, this MoA shall continue as if in force in relation to programmes and/or projects begun prior to termination.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Agreement.

Done at Wellington and Manila on the dates indicated.





For the Government of
the Republic of the Philippines

For the Government of
New Zealand

Dated this ~~3~~ ¹⁰ day of ~~November~~ ^{December} 2008
MANILA

Dated this 4 day of November 2008
WELLINGTON