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Second Validation Forum on ASEAN Minimum Labor standards

26 May 2016, Vientiane, Lao PDR

ATUC STATEMENT ON MINIMUM LABOR STANDARDS IN THE ASEAN AND THE ASEAN 2025 BLUEPRINT “FORGING AHEAD TOGETHER”

THE ASEAN TRADE UNION COUNCIL¹ in the “Second Validation Forum on ASEAN Minimum Standards” on 26 May 2016 in Vientiane, Lao PDR, with the participation of 15 representatives of eight (8) affiliates in eight countries, including participants from the International Trade Union Confederation Asia Pacific (ITUC AP), and the International Labor Organization (ILO) Lao PDR country office

REVIEWED AND VALIDATED the results of Parts 1 and 2 of the ATUC Study on Minimum Labor Standards which looked at various categories, among others, (a) wages, hours of work, overtime, rest periods, holidays, and leaves; (b) social security, medical care, maternity/paternity, occupational health and safety, employees’ compensation, death and disability and housing; (c) equality of opportunity and treatment at work; and (d) freedom of association, right to organize and to collective bargaining, representation in enterprises and labor institutions, and tripartism;

Having CONSIDERED earlier in Kuala Lumpur in December 2015 the ASEAN 2025 Blueprint “Forging Ahead Together” which describes the ASEAN as (a) a Highly Integrated and Cohesive Economy; (b) a Competitive, Innovative, and Dynamic ASEAN; (c) enhanced Connectivity and Sectoral Cooperation; (d) a Resilient, Inclusive, People-Oriented, and People-Centred ASEAN; and (e) a Global ASEAN;

NOTED organized labor’s concerns on ASEAN transforming into a single market and production base allowing freer movement of goods, capital and services and free flow of skilled workers in the region that can lead to competition among ASEAN countries which could impede progress in labor standards and workers’ rights, including the challenges and implications of ASEAN Regional Economic Cooperation Partnership (RECP) and Trans-Pacific Partnership (TPP);

¹ ATUC is a regional grouping of 18 national labor centers in nine (9) ASEAN member states representing some five million union members. ATUC affiliates include Cambodia (CLC, CCTU, CCU); Indonesia (K-SPI/CITU, K-SPSI, K-SBSI); Lao PDR (LFTU); Malaysia (MTUC); Myanmar/Burma (CTUM); Philippines (TUCP, FFW); Singapore (NTUC); Thailand (LCT, SERC, TTUC, NCPE); Vietnam (VGCL). TLTUC of Timor Leste is associate member.

REITERATES ATUC's Kuala Lumpur Declaration on the ASEAN Agreement on the Promotion and Protection of the Rights of Workers, adopted on 23 April 2015, which proposed inclusion in the ASEAN Agreement on the Promotion and Protection of the Rights of Workers the following points: (a) Fundamental Workers' Rights, (b) Employment and Working Conditions, (c) Social Protection, (d) Gender Equality, (e) Elimination of Child Labor, (f) Promotion of Occupational Safety and Health, (g) Protection of Migrant Workers, (h) Establishment of ASEAN Supervisory Mechanism and Dispute Settlement Boards, and (i) Equitable ASEAN Economic Integration and Free Trade Agreements;

REITERATES ATUC's proposal that the ASEAN hold dialogue forums to discuss issues and challenges in ASEAN labour market integration and the new ASEAN 2025;

CALLS on the ASEAN Member States, ASEAN secretariat, and stakeholders to consider "A Framework for ASEAN Labor Standards and Principles":

1. Enforcement and International Labor Standards(ILS)/Regional Minimum Labor Standards (RMLS) Advocacy

- National labour authorities in ASEAN recognize the importance of ILS.
- National authorities focus on enforcement of existing national standards through labor inspection, including resolving limited capacity of the inspectorate

2. Key principles for an ASEAN RMLS

- Concepts and terminology shall be in ILS.
- RMLS benchmarks shall not be in derogation of ILS.
- The set of RMLS shall consist of priority principles from ILS that ASEAN Members can immediately promote.
- RMLS shall not detract from obligations arising from ratified conventions or from ATUC's continuing ratification campaigns.

3. On wage standards

- **Core elements for all ASEAN Members:** (a) Non-discriminatory, inclusive, fair, (b) Targeted at lowest paid; (c) Effective tripartite participation in the wage fixing process; and (d) Effective enforcement
- **Respect each Member's choice of approach** –(a) Legislated, decreed or delegated; (b) Mandatory or guideline; and (c) Centralized or decentralized
- **End payment of wages in kind or product-sharing schemes**
- **Develop a standard minimum wage in ASEAN**

4. On working hours

- Address issue of long hours
- Define what constitutes compulsory overtime or rest day work, based on ILO Convention 14 and Convention 106
- All work beyond normal work hours or during rest days shall be paid a premium, regardless of whether it is compulsory or voluntary

5. On non-regular work arrangements

- **Promotional framework in addressing special concerns of** (a) Part-time work, (b) Flexi-time, (c) Shift work, (d) Night work, (e) Work for pregnant women, (f) People with disabilities, and (g) Child labor.
- Stop contractualization and precarious work in all sectors

6. On occupational safety and health (OSH)

- **Continue with national programmes and focus on developing a regional policy on safety and health, using as benchmarks** – (a) C 155, Occupational Safety and Health, 1981; (b) Protocol to C 155, 2002; and (c) C 187, Promotional Framework for Occupational Safety and Health, 2006; as well as ATUC priority items in the 2015 8th ASEAN Forum on Labor Migration (AFML) OSH recommendations;
- **Extend Social Protection System for all**

7. On equality of opportunity and protection against discrimination

- Two approaches: (a) General: being fundamental, equality and non-discrimination principles should be continuously embedded in laws and practices on wages, hours of work and social protection; and (b) Specific: legislation should explicitly define and provide sanctions against acts incompatible with non-discrimination principles.
- **New laws or amendments to existing laws should include** – (a) Explicit legal recognition of protected characteristics (e.g., race, creed, sex, national origin, etc); (b) Sanctions against acts tending to impair protected characteristics; (c) Effective enforcement mechanisms; and (d) Adjustments based on observations of the Committee of Experts on the Application of Conventions and Recommendations (CEACR)

8. On freedom of association (FoA) and the rights to self-organization and Collective bargaining (CB)

- **National legislation to promote and facilitate CB:** (a) Simplify union recognition processes; (b) Enable unions to exercise CB rights for their members if majority support

is not obtained; (c) Enable CB to take place at all levels (i.e., enterprise, industry, national); (d) Remove restrictions on matters or issues subject of CB; (e) Remove unreasonable time limits to complete CB; (f) Limit compulsory arbitration to essential services

- **National legislation to strengthen and protect FoA and CB rights:** (a) Define acts of interference, anti-union discrimination, and other unfair labor practices; (b) Provide sufficiently dissuasive sanctions against acts of interference and anti-union discrimination; (c) End exclusion of specific groups from right to organize and bargain collectively, including the public sector, those in export processing zones, migrant workers, etc.; and (d) Provide efficient and effective mechanism to administer regulations and to enforce sanctions.
- **Coordinated regional action –**
 - Calling on concerned ASEAN governments to resolve all issues on acts of violence and threats against trade unionists.
 - Promoting effective exercise of FoA and CB rights of migrants – (a) Union membership and representation portable across borders; (b) Standard employment contracts for specific groups; and (c) Engagement and partnership with ASEAN Confederation of Employers (ACE).
 - Engaging with ASEAN members to pursue the ratification of ILO Core Labor Standards.

9. On social dialogue and tripartism

- **Social dialogue and tripartism enable workers to participate in policy/decision-making processes –** (a) Continuous capacity building toward more effective participation in countries with existing mechanisms; (b) Progressive institutionalization where there are no mechanisms or mechanisms are not functioning; and (c) Expanded representation to include matters directly affecting the benefits and welfare of workers in general

Actions on the ATUC Regional Framework Action Agenda will be at two levels: National action through labor law and institutional reforms and implementation of programmes; and Coordinated regional and sub-regional action to (a) address issues within national borders but requiring common response, and (b) cross-border issues.

The action agenda will include: (a) Harmonization of national law reform agendas based on international labor standards; (b) Exchange of information, research, and sharing of good practices; and (c) Technical cooperation and sourcing of expertise and other resources, from within and outside ASEAN.

ATUC asks the ASEAN to ensure and strengthen tripartism and stakeholder participation, particularly of the ATUC as regional trade union organization, in the development, adoption, and implementation of sector work plans in relation to the ASEAN 2025.

26 May 2016, Vientiane
ASEAN Trade Union Council