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Ministry of Foreign Affairs and Trade

MEMORANDUM OF AGREEMENT

ON LABOUR COOPERATION BETWEEN THE GOVERNMENT OF
NEW ZEALAND AND THE GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES

Wellington, 4 November 2008
[Entered into force for New Zealand, 18 June 2009]

Presented to the House of Representatives

MEMORANDUM OF AGREEMENT (MOA) ON LABOUR COOPERATION
BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF
THE REPUBLIC OF THE PHILIPPINES

The Government of New Zealand and the Government of the Republic of the Philippines (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 are committed to uphold them in the context of economic development and trade liberalisation;

Seeking to promote sound labour policies and practices, 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 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) and other international instruments on labour and employment to which they are party;
- (d) support the commitments made by the Parties to this MoA with a view to improving the working conditions and quality of work life in their respective countries;

- (e) facilitate co-operation 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 the 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, to establishing a cooperation programme and to 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 amongst the involved 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.
5. 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, co-operation and consensus over any matter related in this MoA. Should any matter arise over the interpretation or application of the MoA, any Party may request consultations with another Party(ies), through the national contact point. The Parties shall make every effort to resolve the matter through co-operation, 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 another 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 programs 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
New Zealand

For the Government of
the Republic of the Philippines

Dated this 4th day of November 2008
WELLINGTON

Dated this 9th day of December 2008
MANILA

[Signatures not reproduced]