



Prime Minister Prayut Chan-o-cha
 Office of the Prime Minister
 Government House, 1 Pissanulok Road, Dusit,
 Bangkok
 Thailand
 Email: webmaster@thaigov.go.th
 Fax: +6622834000
 Via Royal Thai Embassy Brussels, Mission of Thailand
 to the European Union
 876 Chaussee de Waterloo, 1000, Bruxelles, Belgium
 Email: consular@thaiembassy.be

HTUR/JB

27 November 2019

Suspension of US Generalised System of Preferences

Dear Prime Minister,

The International Trade Union Confederation (ITUC) is sending this letter in alignment with the European Trade Union Confederation (ETUC), the International Transport Workers' Federation (ITF) and IndustriALL Global Unions. For years, the International Labour Organisation (ILO), the ITUC, and the Global Union Federations have raised serious concerns on labour violations in Thailand, including endemic violations of the right to freedom of association, to organise and to bargain collectively, and concerning the widespread use of trafficked forced labour. Most of these concerns have not been addressed in any meaningful way. It comes as no surprise then that on 25 October 2019, the Office of the US Trade Representative (USTR) announced that it would partially suspend Thailand's trade preferences under the Generalised System of Preferences (GSP) as of 25 April 2020. This six-month delay is meant to give the Royal Thai Government (RTG) a last opportunity to take the necessary steps to protect fundamental workers' rights in law and in practice. The ITUC, ETUC, ITF and IndustriALL Global Unions, including our affiliates in Thailand, strongly urge the RTG to address fully the issues raised in the GSP review, in consultation with legitimate and representative unions, without any further delay.

The issues below are of highest priority and their full resolution are for us the minimum necessary to indicate the intention of the RTG to comply with fundamental worker rights.

1. Labour Law Reform

The Labour Relations Act (LRA) and the State Enterprise Labour Relations Act (SELRA) fail to protect the fundamental rights of workers and as such are not fit for purpose. Draft amendments put forward by RTG in 2017 and 2018 would have done little improve these laws even had they been adopted. These laws exclude the majority of the Thai workforce, including civil servants, government employees, teachers, agricultural workers, migrant workers, and workers in the informal sector. Even those who are



covered by these laws face substantial limitations on these rights. For example, employers have no obligation to bargain with trade unions in good faith and the regulation of the right to strike is so cumbersome as to be nearly impossible to exercise. *The RTG must review and revise the labour laws, in coordination with legitimate trade unions and with the support of the ILO, in order to ensue conformity with core ILO conventions.*

2. In Practice

a. Freedom of Association and Collective Bargaining

Anti-union discrimination by employers is commonplace and weak dispute settlement mechanisms mean that workers are rarely reinstated or even compensated. The authorities do little to compel remedies even when ordered by a competent tribunal. In some cases, the state itself has engaged in anti-union retaliation, including in the transportation sector. The widespread abuse of agency, subcontracted or temporary work arrangements also undermine the enjoyment of these rights in practice, including in industrial zones and the construction industry. We expect that measures are adopted to ensure that anti-union discrimination is sanctioned fully and that workers are afforded commensurate remedies – including rapid reinstatement.

Below are among the priority cases:

i. State Railway Workers' Union of Thailand (SRUT)

In Case No. 3022, the ILO's Committee on Freedom of Association (CFA) urged reinstatement of and payment of back wages to the leaders of the State Railway Workers' Union of Thailand (SRUT) who were sacked after organising a demonstration against the deadly conditions prevailing on the nation's rail system. The RTG has failed to do so. Worse, since November 2018 the RTG has garnished the leaders' wages and pensions, leaving them with close to nothing, to pay damages (24 million Bhat) to the State Railway of Thailand (SRT) which the ILO found were not legitimate. These leaders are now being tried before the Central Criminal Court for Corruption and Misconduct Cases for breach of official duties in a case filed by the SRT with the National Anti-Corruption Commission (NACC). The union leaders are not however public officials and have committed no acts of corruption. Despite having committed no crime, the workers face a maximum of five years' imprisonment. *All garnished wages/pensions must be returned, no further garnishment should be imposed and all criminal charges be dropped immediately.*

ii. Thai Airways International Union (TG Union)

In Case No. 3180, the CFA held that that the damages of 326 million Thai Baht (roughly USD 10 million) ordered against four TG Union officials allegedly over losses attributable to a spontaneous two-day protest by off duty Thai Airways staff in 2013 were contrary to the principles of freedom of association protected under international law. The CFA found that the damages were based on violations of strike prohibitions which are themselves contrary to the principles of freedom of association, and that their excessive amount is likely to have an intimidating effect on the TG union and its leaders and inhibit their legitimate trade union activities. The union's appeal is currently



pending before the Supreme Labour Court. *The Government must communicate the recommendations of the CFA to the Supreme Labour Court without delay.*

iii. Automotive and Electronics Sectors

The GSP petition also refers to widespread labour violations in the nation's automotive and electronics industries, including the use of "reeducation" camps on military bases (see General Motors and Mitsubishi Electric Consumer Products cases). These cases collectively concern hundreds of workers who were dismissed for legitimate trade union activity, almost none of whom have been reinstated to their jobs and compensated for the lost income. *The RTG must ensure the reinstatement and compensation of workers in each of these cases.*

b. Criminal Defamation

With alarming frequency, workers have been charged with criminal defamation by their employers when they complain about the employers' illegal conduct in violation of the labour law. In some cases, workers have been found guilty at the same time their employers have been absolved of any responsibility for their labour violations. *The RTG must strictly prohibit the use of criminal libel actions over allegations of labour violations.*

c. Forced Labour and Working Conditions in the Seafood Industry

Despite recent measures, including to amend its anti-trafficking law, to eliminate recruitment, to prohibit the withholding identity documents and to ban child labour, it is still the case that human trafficking for forced labour is rampant in the Thai fish and shrimp industries (both on land and at sea). Human rights abusers operate with almost total impunity. The Fishers Rights Network (FRN), an initiative of the International Transport Workers' Federation (ITF) to build an independent democratic union of fishers in Thailand, mainly organizes Burmese and Cambodian migrant fishers. More than 90% of the Burmese fishers the FRN has interviewed in the past 12 months are in debt bondage for more than 20,000 THB (~\$600 USD). While Thailand's ratification of ILO Convention 188 on Work in Fishing should be welcomed, the Government is yet to effectively implement and enforce the provisions of the Convention that protect fishers' rights on board vessels, including requirements on occupational safety and health, medical care at sea and ashore rest period written work agreements, and social security protection. *The RTG must comply with Convention 188 in law and in practice as well as allow migrant workers to join and form their own independent and democratic trade unions - which are essential to protecting all workers, including migrants.*

d. Ratify ILO Conventions 87 and 98,

Thailand remains one of the few countries in the world to have ratified neither Convention 87 nor Convention 98. Indeed, these conventions enjoy near universal ratification. *We urge the RTG to ratify these two instruments as soon as possible,*



We look forward to the resolution of these priority areas over the next six months. We extend our offer of technical assistance to help your government address these issues in the shortest possible time.

Sincerely,

Valter Sanches
General Secretary
IndustriALL Global Union

Per Hilmersson
Deputy General Secretary
ETUC

Sharan Burrow
General Secretary
ITUC

Stephen Cotton
General Secretary
ITF

Copy

Mr. Chatumongol Sonakul, Minister of Labour

Email: webmaster@mol.mail.go.th

Mr. Jurin Laksanawisit, Deputy Prime Minister and Minister of Commerce

Email: webmaster@moc.go.th

Mr. Don Pramudwinai, Minister of Foreign Affairs

Email: information01@mfa.mail.go.th ; permsec@mfa.go.th