

**INTERNATIONAL TRADE UNION CONFEDERATION/  
ASIA PACIFIC LABOUR NETWORK (ITUC/APLN)**

**STATEMENT OF THE ITUC ASIA PACIFIC LABOUR NETWORK  
TO THE 2011 APEC ECONOMIC LEADERS' MEETING  
(Honolulu, USA, November 12–13, 2011)**

**INTRODUCTION**

*A priority: tackling the financial and economic crisis*

It is critical that the world's major economies maintain their actions to create employment and avert renewed global recession. APEC Leaders must rise to the challenge and work on measures to strengthen demand and create quality employment in line with the ILO Global Jobs Pact. In order to create a sustainable economic model the Leaders need to support downsizing and strongly regulating the financial sector and bring it back to its original role of serving the real economy.

*Social justice and workers' rights as the basis of regional and global trade*

Efforts to liberalise trade both in APEC generally and in the Trans-Pacific Partnership (TPP) bringing together nine APEC members are intensifying. APEC Leaders must recognise the need to give the highest policy priority to achieving social justice through the creation of decent work for all, based on the full respect of fundamental workers' rights. We cannot afford and will not accept another trade agreement that privileges substantial new opportunities for investors over good jobs for workers.

*Green jobs, skills and technologies for sustainable development*

The leaders of APEC should actively engage in promoting an environmentally sustainable economic model through investment in new skills and practices, the creation of green jobs, and the promotion of energy efficiency and renewable energy creation as well as the advancement of other green technologies to address the causes of climate change.

*Trade unions need consultative status in APEC*

The member states of APEC must provide space for the participation of democratic and representative trade union organisations in APEC by agreeing on a new body with consultative responsibilities as a counterpart to the APEC Business Advisory Council (ABAC). The member economies should establish an APEC Labour Forum in order to hold an effective dialogue with representatives of the workers of the region.

## **RECOMMENDATIONS OF THE ITUC ASIA PACIFIC LABOUR NETWORK**

The ITUC/APLN urges APEC Leaders to use the APEC forum to achieve economic recovery, promote decent work, establish effective rules for the global economy and strengthen labour market security, with full involvement of trade unions in APEC economies. As immediate points for action – and as steps in the best way to a stronger community, a more sustainable future – the ITUC/APLN calls on APEC Leaders to:

- 1) Take effective measures to respond to the global economic and financial crisis and re-regulate the financial system;
- 2) Adopt concrete measures in order to promote labour participation in APEC including the establishment of an APEC Labour Forum;
- 3) Work for the ongoing Trans-Pacific Partnership negotiations to produce a truly 21<sup>st</sup> Century trade model – one that promotes the creation of good, green jobs, protects the rights and interests of working people, leads to long-term, balanced economic growth and development and promotes a healthy, sustainable environment – and furthermore promote fundamental workers' rights<sup>1</sup> in all regional, bilateral or multilateral trade agreements and economic integration processes, including in the planned Free Trade Area of the Asia-Pacific;
- 4) Tackle climate change and global warming in an ambitious and comprehensive manner, including through the creation of green jobs and skills;
- 5) Strengthen the building of the labour market, develop active labour market policies, improve employment services and enhance workers' skills, as part of implementing the APEC human resources development (HRD) agenda with full consultation and meaningful participation of social partners, including an APEC policy initiative to integrate the unemployed, young people, women, migrant workers and precarious/informal workers into employment and train the labour force for new skills and technologies;
- 6) Put strong emphasis on the creation of decent and productive employment through developing a comprehensive APEC Decent Work Strategy;
- 7) Address informal and atypical forms of employment and undertake a comprehensive APEC Action Plan to promote formalisation of economic and labour activities;
- 8) Develop APEC guidelines to ensure the proper implementation of non-discriminatory policies in member economies and to avoid the worsening of income inequality;
- 9) Put strong emphasis on the establishment of a Social Protection Floor and introduce APEC Social Safety Net Guidelines to assist APEC Economies to reinforce social protection systems.

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<sup>1</sup> Fundamental workers' rights, also known as core labour standards, are internationally-agreed fundamental human rights for all workers, irrespective of countries' level of development, that are defined by the ILO Conventions that cover Freedom of Association and the right to collective bargaining (ILO Conventions 87 and 98); the elimination of discrimination in respect of employment and occupation (ILO Conventions 100 and 111); the elimination of all forms of forced or compulsory labour (ILO Conventions 29 and 105); and the effective abolition of child labour, including its worst forms (ILO Conventions 138 and 182).

**Recommendation 1: Take effective measures to respond to the global economic and financial crisis and re-regulate the financial system**

***Promote balanced current accounts and demand-led growth***

The APEC Finance Ministers have underlined that “*Economies with current account surpluses need to reduce their reliance on external demand and undertake structural reforms that catalyse stronger domestic demand-led growth, such as enhancing infrastructure finance and strengthening social safety nets.*” Indeed, many APEC Economies could contribute to the re-balancing of the world economy by promoting policies that would support lower-paid workers and peasants in improving their livelihoods and lifting them out of poverty.

***Re-regulate and downsize the financial sector, increase regulation of capital flows and introduce a financial transactions tax (FTT)***

APEC Finance Ministers have stressed that due to the significant volume of net capital flows in emerging economies of the region, the risk of capital flow volatility and asset prices have increased. The Ministers agree that financial reforms are needed. APEC Leaders should support measures that will downsize the financial sector and return it to its legitimate role: serving the real economy. In this context, the role of credit rating agencies in creating the crisis needs to be re-examined and criteria should be set regarding qualification to make ratings. Instead of fiscal austerity policies and increased expenditure cuts APEC economies should introduce new sources of funding such as a Financial Transactions Tax (FTT), and raise more revenue with more progressive tax systems and elimination of tax havens.

***Discourage layoffs and protect minimum wages***

As unemployment rates in APEC economies remain high, APEC Leaders must take measures to secure the livelihoods and the employment of workers in times of economic crisis. Flexibilisation of the labour market and the promotion of contractual labour are not solutions; along with the creation of decent, productive employment and green jobs, paramount importance must be given to protecting existing jobs and wage levels, on the basis of the ILO Global Jobs Pact agreed by the International Labour Conference in June 2009. Efforts must be made to address the increasingly widening income gap through minimum wages and the improvement of social dialogue and collective bargaining systems, to ensure workers’ real wages increase. Particular attention should be given to the better integration of women, youth and disadvantaged groups in the workforce.

***Support quality job creation***

The ITUC/APLN calls for ambitious decent work plans at national and regional level and underlines the crucial role of decent work in achieving full and sustainable economic recovery. Consequently, fiscal expenditure should be better oriented towards quality job creation and new investments should be made in public works, including large-scale labour intensive investments for the development of “green” infrastructure with a view to creating employment quickly. Further to this, investments need to be made in social and human infrastructure. As the 18th APEC Leaders’ Declaration (Yokohama, 13-14 November 2010) stresses, “[u]nder our human resource and entrepreneurship development agenda, we will implement policies that will enable us to create more and better jobs, enhance education and training with equal opportunities for women, youth, the elderly, and all other sectors and improve social safety nets”.

**Recommendation 2: Adopt concrete measures in order to promote labour participation in APEC including the establishment of an APEC Labour Forum**

***Promote workers’ participation throughout the APEC process***

Since its creation in 1995, the ITUC/APLN has been striving to make workers’ views heard in APEC, through representations to governments at the national level, by consultations with the hosts of APEC

Summits<sup>2</sup> and in contributions to the work of APEC on Human Resources Development<sup>3</sup>. In 2008, the Peruvian hosts of APEC proposed broadening participation in the construction of the APEC community to other actors, including representatives of civil society and democratic and representative trade union organisations in APEC's processes. In its capacity as Summit host, the Government of Peru took a positive position with regard to consultative status for the Asia Pacific Labour Network as the legitimate voice of workers of the region. The absence of a formal trade union advisory mechanism not only contrasts with the privileged access benefiting business via the APEC Business Advisory Council (ABAC), but also with sister fora such as the Organisation for Economic Cooperation and Development (OECD)<sup>4</sup> and the Organization of American States (OAS) where unions have an official advisory status. APEC Leaders must now agree to take concrete measures to further promote workers' participation throughout the APEC process.

***Set up a permanent consultative APEC Labour Forum***

The ITUC/APLN calls on Leaders to endorse the establishment of an APEC Labour Forum, in the form of an APEC formal consultative mechanism with trade unions comparable with the arrangements for access by ABAC and based on the criteria agreed by APEC's trade union movement (see Annex to this statement), that would follow the practices of the ILO with respect to the most representative trade union centres of APEC Economies. Leaders should agree to instruct their Senior Officials to work in consultation with the ITUC/APLN to establish an APEC Labour Forum.

***Enable trade union participation in APEC committees and working groups***

Furthermore, in addition to the HRD process discussed below, APEC Leaders should instruct their Senior Officials to allow and promote the representation of trade unions on selected APEC committees, working groups and Ministerial meetings.

**Recommendation 3: Work for the ongoing Trans-Pacific Partnership negotiations to produce a truly 21<sup>st</sup> Century trade model – one that promotes the creation of good, green jobs, protects the rights and interests of working people, leads to long-term, balanced economic growth and development and promotes a healthy, sustainable environment – and furthermore promote fundamental workers' rights in all regional, bilateral or multilateral trade agreements and economic integration processes, including in the planned Free Trade Area of the Asia-Pacific**

***Fundamental workers' rights - the basis of creating a rule-based framework for globalisation***

APEC remains engaged in a process designed to lead towards the Bogor goals of free, fair and open trade and investment. In light of the continuing standstill in World Trade Organization (WTO) negotiations, APEC Leaders have once more encouraged Senior Officials to accelerate work to strengthen and deepen regional economic integration and address barriers to trade and investment. At the same time nine APEC Economies seek complementary alternatives to multilateral trade liberalisation by engaging in negotiations to establish the Trans-Pacific Strategic Economic Partnership (TPP). However APEC governments have yet to recognise that a strong social dimension

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<sup>2</sup> The ITUC/APLN has discussed its recommendations, in the form of annual trade union statements, with the Heads of States or Governments hosting annual APEC Leaders' Meetings in every year since 1995, except in 2001 when the ITUC/APLN met the Chinese Vice Premier, in 2003 when the Thai Prime Minister designated his Labour Minister to meet the ITUC/APLN and in 2007 when the ITUC/APLN met Kevin Rudd, who became Australian Prime Minister shortly afterwards.

<sup>3</sup> Trade union inputs to HRDWG have included an informal presentation by the AFL-CIO President at the 3<sup>rd</sup> HRD Ministerial Meeting (Washington D.C., 1999), an informal consultation with representatives of RENGO, Japan at the 21<sup>st</sup> HRDWG (Sapporo, 2000), an informal consultation with the RENGO President at the 4<sup>th</sup> HRD Ministerial Meeting (Kumamoto, 2001), a presentation of the AFL-CIO International Committee's Chair at an APEC symposium preceding the 23<sup>rd</sup> HRDWG (Washington D.C., 2001), and participation in a seminar on the occasion of the 33<sup>rd</sup> HRDWG (Washington D.C., 7-11 March 2011).

<sup>4</sup> Eight APEC countries out of 21 are members of the OECD.

embracing decent work and respect of fundamental workers' rights is essential to achieve a healthy, stable and inclusive regional economic integration. All APEC governments, as well as employers and trade unions, must reaffirm their pledge to respect, realise and promote fundamental workers' rights made in the adoption of the ILO Declaration concerning Fundamental Principles and Rights at Work (1998) and reiterated in the ILO Declaration on Social Justice for a Fair Globalisation (2008) and the ILO Global Jobs Pact (2009).

***Include fundamental workers' rights in the APEC and TPP agendas***

Many fundamental Conventions of the ILO remain to be ratified and, even if ratified, to be fully applied in APEC Economies. APEC Leaders should agree to include the promotion of the ratification and application of fundamental workers' rights in the APEC agenda as part of an expanded agenda on labour and social issues. Moreover, the Leaders of the TPP should agree to refrain from liberalising trade and investment to the detriment of workers. The ITUC/APLN calls on the TPP Leaders to mandate the inclusion of an ambitious labour chapter that will make the TPP a truly model trade agreement for the 21<sup>st</sup> century and will set the standard for future agreements worldwide.

***Support the inclusion of labour and social issues in the WTO***

A significant contribution which the Leaders' Meeting could make to reinforce the long-term sustainability of the WTO would be to support taking employment issues into account in future trade negotiations, and thus strengthen the analysis of the impact of trade on employment and sustainable development within the WTO. Assessments of the Doha Round of WTO negotiations show that the presumed benefits of trade liberalisation increasingly appear vague and that multilateral trade negotiations are being abandoned because they cause more job destruction than job creation. APEC Leaders should recognise the need for the WTO to begin a dialogue in this area. They should recommend that the WTO set up a committee on trade and employment that could seek to analyse and anticipate the impact of trade liberalisation on the level and quality of employment, and make recommendations to the WTO General Council accordingly.

**Ensure that RTA/FTA negotiations are transparent and reflect the views of civil society, including trade unions:** For too long, civil society organisations, including trade unions, have been excluded from any meaningful participation in trade agreement negotiations. Despite our best efforts to date, the negotiating texts remain secret, engagement is all too infrequent, and the views of civil society, from what we can ascertain, have not been duly considered and incorporated in the negotiations. As with the Free Trade Area of the Americas (FTAA) negotiations, draft texts should be made available for public review and comment. Governments must conduct regular and meaningful consultations with their respective civil societies throughout the negotiations. Governments must also comply with their international obligations to consult with indigenous persons, as required by, inter alia, ILO Convention 169. Finally, the respective legislatures must have an opportunity to conduct full and open hearings and to amend the agreement – consistent with their constitutions and laws.

***Include provisions on the protection of labour rights in all RTAs/FTAs***

Regional Trade Arrangements, including the TPP, and Free Trade Agreements (RTAs/FTAs) must contribute to promoting sustainable development and improving living standards and working conditions of workers in all Economies participating in them. RTAs/FTAs should not only contain obligations with regard to national labour laws but also to internationally recognised core labour standards, as well as a mechanism to institutionalise the participation of the social partners in the process of surveillance. APEC Economies should also commit to promote labour standards with a view to achieving convergence in performance across the region. Hence, the RTAs/FTAs should guarantee resources aiming at building the Economies' capacity to oversee the application of labour standards and enforce labour laws, especially in Economies where law enforcement problems are reported. In the region there already exist some FTAs that contain such clauses<sup>8</sup>, although in every case these are extremely weak and so far have proven ineffective to defend workers' rights.

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<sup>8</sup> Such agreements incorporating labour clauses include NAFTA; the Canada-Peru free trade agreement; and the various free trade agreements negotiated by New Zealand.

Therefore, the *Draft Model Labour Measures for RTAs/FTAs chapters*<sup>7</sup> need to include strong commitments to pursuing labour protection consistent with internationally recognised labour principles and rights, meaning that every APEC member's laws and regulations must be in line with the relevant ILO Conventions and that laws should be applied and enforced. RTAs/FTAs should also include effective dispute settlement mechanisms to enforce these obligations.

**Ensure that RTAs/FTAs do not otherwise effect negatively workers and consumers:**

Trade unions know from experience that many provisions of trade agreements affect workers beyond the labour chapters. For example, intellectual property rules and other provisions in trade agreements have threatened the ability of governments to supply essential medicines to their populations at an affordable cost. Further, services rules have opened up important public services to private investors, which have affected negatively both public sector workers and the consumers of those services. No agreement should pose obstacles to prudent financial regulation (or re-regulation) or limit tools such as capital controls which are at times necessary to establish financial stability. Investment chapters have also provided foreign investors with substantial new rights and empowered them to sue governments in international tribunals over legitimate laws and regulations that may have the effect of diminishing their profitability. The attached Joint Trade Union Declaration adopted by the trade union organisations of countries negotiating the TPP provides, in further detail, what should and should not be included in future trade agreements.

***Build equal judicial access for business, unions and other legal entities***

The ITUC/APLN urges the APEC Leaders to ensure that any measures to render the existing FTAs more business-friendly must not further worsen the conditions or wages of employees and must ensure that provisions on the protection of labour rights are incorporated. Bilateral investment treaties (BITs) need to incorporate clauses that require governments not to lower labour standards in order to attract foreign investors. Bilateral investment treaties (BITs) need to incorporate clauses that require governments to respect the ILO core labour rights in law and in practice, as well as to commit themselves not to derogate, or offer to derogate, from these rights in order to attract foreign investment. Moreover, there should be no investor-to-state judicial mechanisms foreseen in any agreements other than the national juridical system. Access to any dispute mechanism should be provided to all, including trade unions and environmental groups, and their scope should be extended to the application of social and environmental provisions.

***Assess the impact of agreements on quality of employment and decent work***

APEC and its Economies must provide for an impact assessment of all trade and investment agreements, including the TPP as well as a potential Free Trade Area of Asia and the Pacific (FTAAP), on employment, the level of development and the creation of decent work, instead of solely the impact on trade balances.

**Recommendation 4: Tackle climate change and global warming in an ambitious and comprehensive manner, including through the creation of green jobs and skills**

***Contribute to the conclusion of an ambitious and comprehensive agreement at the Rio+20 Conference***

In light of the outcome of the 16<sup>th</sup> Conference of the Parties (COP16) of the United Nations Framework Convention on Climate Change (UNFCCC) (Cancun, December 2010), it is clear that progress on tackling climate change depends on delivering financial resources. A significant contribution that APEC Economies could make to mitigate climate change would be to support an ambitious and comprehensive agreement at the Rio+20 Climate Change Conference in 2012. In Rio de Janeiro, the APEC Leaders should be united in their commitment to support massive investments

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<sup>7</sup> Called for in Busan in 2005, and discussed at the 20<sup>th</sup> APEC Ministerial Meeting (Lima, November 2008) and the 31<sup>st</sup> HRD Working Group (Chicago, June 2009)

to boost the green economy, which would also create millions of green and decent jobs. APEC Economies should forge a consensus to introduce innovative financial resources, including a tax on financial transactions, and enhance the progressivity of their tax systems. In order to take a holistic approach towards sustainable development, which encompasses a social dimension, the Leaders should support a universal social protection floor that would also improve APEC Economies' adaptive capacities to climate change.

***Develop policies for energy efficiency and renewable energy***

APEC must work toward long-term energy plans within a sustainable development framework that achieves energy security and environmental protection and that is compatible with full and decent employment. Policies must ensure secure, clean, environmentally friendly and affordable energy, based on the development of renewable energy sources. And policies must, through effective and enforceable agreements, ensure investment in emerging industries and in infrastructure and the creation of green and decent jobs, social protection measures through education and training investments as well as social dialogue.

***Ambitious, just transition needed more than ever, with creation of green jobs and investment in human resources***

APEC should increase its efforts to promote green and decent jobs within its sphere of actions. However, the transition to a low carbon economy and the development of appropriate technologies and employment risks creating a labour market of two speeds. Soon, if not already, the skills and qualifications of employees of the older generation will become obsolete and these employees will face increasingly great difficulties to remain employed. In order to ensure that there is a just transition to a green economy, and with a view to facilitating the adaptation of the labour force to the changing labour market, the ITUC/APLN urges APEC Leaders to mandate the HRDWG to put a strong stress on green skills in its activities. In full consultation with the social partners the HRDWG should develop policies and actions that expand quality education and training programmes for workers and unemployed persons, especially women and youth, to operate effectively in green jobs. Policies must be based on multilateral approaches, consultation of the social partners and joint investments by key national and regional actors.

***Promote workplace action for energy efficiency, recycling and waste management with consultation with labour***

APEC has already undertaken research on the recycling-based economy (RBE) in order to identify opportunities, challenges, and capacity building needs and share best practices. The Leaders should build on successful experiences and endorse energy efficiency, recycling and waste management projects at the workplace level, as well as the sectoral and local levels. At the workplace, such measures should be developed jointly between employers and trade unions with a view to ensuring that such measures and policies are applied effectively. Similarly at the level of individual economies, resource efficiency and technological innovation should be promoted in a way that supports employment after dialogue with the social partners.

**Recommendation 5: Strengthen the building of the labour market, develop active labour market policies, improve employment services and enhance workers' skills, as part of implementing the APEC human resources development (HRD) agenda with full consultation and meaningful participation of social partners, including an APEC policy initiative to integrate the unemployed and young people into employment and train the labour force for new skills and technologies**

***Hold the APEC HRD Ministers' Meeting with full and meaningful consultation of trade unions***

APEC has recognised the importance of human resource development (HRD) since its creation and has worked in this field through the activities of its HRD Working Group (HRDWG) and the discussions of the APEC HRD Ministers' Meetings (HRDMM). However, while Trade Ministers

meet on an annual basis to facilitate the process towards the Bogor goals of free and open trade and investment, the HRD Ministers decided last year to resume their meetings but only every 4 years. Given the key role of employment creation both in achieving recovery and in mitigating social tensions, HRD Ministerials need to be held annually henceforth. As trade unions are natural partners in promoting HRD, the HRDMMs should be held with full consultation and meaningful participation of social partners.

***Developing 21<sup>st</sup> century skills and competences in APEC***

APEC's HRDWG has been active in developing the "21st Century Skills and Competences For All", an effort to define necessary qualities of the future worker and integrate them into education in order to start preparing the labour force for future challenges. Understanding the pressing problem of youth unemployment, the Lead Shepherd of the 33rd HRDWG suggested the linkage of jobs and education as a tentative theme of the next APEC Education Ministerial Meeting. The ITUC/APLN welcomes APEC's work on enhancing human capital and calls for further resources to be invested in this effort, with full participation of the social partners.

***A new dimension in APEC members' economic integration***

APEC has adopted a primarily market-led agenda and gives lower priority to social goals such as achieving full and productive employment and environmental and social sustainability. This imbalance must be redressed. APEC has been evolving from an organisation solely concerned with commerce into one which seeks to create regional consensus on issues varying from the political and security domain to education, social security and public health. APEC members must incorporate an adequate social dimension into their economic integration. APEC Leaders must agree to address the linkages between growth, investment, and decent employment creation, with the involvement of the International Labour Organisation (ILO) and social partners in the region. Moreover, the Leaders, Ministers and APEC bodies should involve trade unions and civil society in creating a strong social and environmental dimension in APEC's work and make use of the expertise and ideas residing in such organisations. Furthermore, the ITUC/APLN is concerned at the growing interlinkages between APEC and the "Doing Business" secretariat of the World Bank, as considered at APEC's Economic Committee. We insist that the "Employing Workers Indicator" (EWI) of the Doing Business report, now disavowed even by the World Bank itself, must not be used in any investment study conducted by APEC.

***Invest urgently in training schemes and employment services to prevent long-term unemployment***

After the onset of the financial and economic crises it is particularly urgent to take active measures to integrate unemployed people into the job market, with special attention given to preventing unemployment from becoming long-term. A particularly important effort is required to enable women and young people to overcome the specific obstacles they face in the labour market. Measures should include:

- Early identification of needs of the unemployed and provision of services such as guidance, job search assistance and personalised action plans;
- Accessible training and retraining programmes for all people to enhance their employability and chances of integration into the jobs market, with a special focus on creating the new skills required for green jobs;
- Improved labour market institutions, particularly employment services;
- Specific action programmes to enable women to participate in the labour market on a greater scale and to achieve equal treatment and wages;
- Targeted youth training and skills enhancement programmes to overcome unemployment and low-wage employment among young people;
- Regular evaluation and review of the effectiveness and efficiency of labour market programmes.

**Recommendation 6: Put strong emphasis on the creation of decent and productive employment through developing a comprehensive APEC Decent Work Strategy**

***Tens of millions are working in EPZs in the APEC region without effective labour protections***

More than 60 million workers are now employed in Export Processing Zones (EPZs) around the world, and some 52 million are working in the APEC region<sup>5</sup>. Trade union organising is either prohibited or made impossible to exercise, and the great majority of workers in EPZs are denied by law or in practice the protection of ordinary workers' rights. As a result, many EPZs essentially attract footloose investment and have a different class of enterprises that builds their success on the exploitation of a cheap and compliant workforce. Women are the most frequent victims of exploitative, dangerous and sometimes brutal practices, as they constitute about 80% of the total workforce in EPZs. There are excessive efforts in many APEC economies to lower regulations, taxes, environmental protection and labour standards to attract investment. This tendency only aggravates the precariousness of jobs and makes the preparation and adoption of APEC Decent Work Guidelines more important than ever before.

***An ambitious APEC Decent Work Strategy***

In this regard, APEC must start an initiative for effective policies to promote decent work in EPZs and elsewhere. The Leaders should adopt a Strategy for the creation of decent jobs and the transformation of millions of precarious and informal jobs into decent employment. Among other elements, the Strategy should develop a framework for responsible foreign direct investment (FDI) that promotes decent work and ensures that enterprises contribute to economic and social progress through investment and technological upgrading. Special provisions should be put in place to address issues of labour standards' violations, with a focus on rights and working conditions of female workers. The Strategy should also comprise measures to facilitate the adoption of ambitious decent work plans at national and regional level with the guidance of the ILO and the participation of social partners. Such measures should aim at updating and amending laws to better protect core labour standards, strengthening law inspection to guarantee respect for fundamental workers' rights, increasing employment through higher skills and training, adopting and improving social dialogue procedures on all levels and promoting social protection. In order to effectively promote decent work, APEC should develop and implement comprehensive APEC Decent Work Guidelines aiming at strengthening the social dimension of APEC trade and investment initiatives in line with the Decent Work Agenda. Involvement of social partners is essential to the success of such a Strategy.

**Recommendation 7: Address informal and atypical forms of employment and undertake a comprehensive APEC Action Plan to promote formalisation of economic activities**

***Informality and precarious forms of employment are the causes of poverty***

There are hundreds of millions working in precarious and informal conditions all over the Asia-Pacific region, particularly in developing economies. Precarious/informal employment is characterised by unstable labour relations, unsafe and unhealthy working conditions, long working hours, low levels of skills and productivity and low wage and social security levels. Most of the workers are trapped into poverty because they lack access to rights, finance, markets and technology. Precarious and informal workers also lack access to publicly provided health care and social protection and, hence, they are vulnerable to even small economic or health shocks. In the many cases where such unprotected workers do not have access to education for their children, poverty is reproduced in subsequent generations. Women, and increasingly young people, are the most frequent victims of informality and any action to address the problem needs to have a strong gender and youth dimension.

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<sup>5</sup> ILO database on export processing zones, ILO, April 2007, available at: <http://www.ilo.org/public/english/dialogue/sector/themes/epz/epz-db.pdf>

***Informality and atypical forms of employment are on the rise***

The most recent ILO data<sup>6</sup> show that informal employment is on the rise in virtually all APEC economies. In developing APEC economies, the number of workers in vulnerable and informal employment is estimated to have risen, whereas in developed economies precarious and part-time work and unemployment increased strongly at the height of the crisis and is still growing.

***A comprehensive APEC Action Plan focusing on women***

APEC Leaders should mandate a comprehensive Action Plan to be carried out in cooperation with the ILO and social partners to achieve the formalisation of employment. The key to reducing informality is to extend the protection of the law to all workers - as well as, in many cases, to their employers who generally lack legal recognition as well. Technical assistance and capacity building projects are important with emphasis on the promotion of decent work for women. Economies with lower levels of informality should share their expertise and assist economies with graver problems, including simplification of legal and administrative systems. The Plan should encourage the organising of workers and self-employed persons in disguised employment relationships, with changes in the legal framework so as to enable more workers to join trade unions and to participate in genuine collective bargaining. The mandate should also address issues of financial inclusion. Attention should also be paid to the issue of universal access to financial services. Precarious/informal workers, women and the self-employed should be assisted to have access to sound and high-quality financial services with their dignity fully respected.

**Recommendation 8: Develop APEC guidelines to ensure the proper implementation of non-discriminatory policies in member economies*****Gender inequality is evident throughout the APEC region***

Gender inequality is evident throughout the APEC region in terms of access to resources, educational opportunities and leadership positions. At the current time, the application of fiscal austerity programmes is having a negative impact on the situation of women at work and in society because they adversely affect levels and conditions of employment in sectors where women are highly represented, and they reduce the provision of public services on which women are disproportionately dependent, particularly because of their unequal assumption of family responsibilities.

***APEC guidelines to ensure the proper and effective implementation of non-discriminatory policies***

We acknowledge initiatives taken by APEC to address gender equality through the work of the Gender Focal Point Network (GFPN). However, the Network is confined to promoting gender integration across various APEC bodies. APEC Leaders must agree to advance the initiatives so as to develop APEC guidelines for adequate measures and comparative data collection to achieve the proper implementation of non-discriminatory policies in member economies. Such mechanisms should also be extended to vulnerable groups facing discrimination on grounds other than gender.

***The APEC Women and the Economy Summit (WES)***

The APEC Women and the Economy Summit (WES) discusses a range of issues, including access to finance, access to markets, capacity and skills building, and women's leadership. The WES will also address innovation, green growth, technology, entrepreneurship, and public-private partnerships. Regrettably, the Summit is designed only for women leaders in businesses and senior government officials. Thusly, APEC forgets the majority of women in the APEC region who face discrimination, poor working conditions and long hours, and a considerable pay gap, and are the most common victims of poverty. The ITUC/APLN urges APEC to take up the issue of women's empowerment and gender inequality and design policies to address the real issues that women face.

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<sup>6</sup>Global Employment Trends 2011: *The challenge of a jobs recovery*, available at: [http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms\\_150440.pdf](http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_150440.pdf)

***An APEC framework for a rights-based approach to labour migration***

Migration represents both challenges and opportunities in the Asia-Pacific. While migration can benefit workers in both sending and receiving economies, far too often it is a last resort for people who are unable to find work at home and therefore are left open to exploitation in foreign lands, in sectors ranging from construction to domestic work. Frequently, migrants work in the informal economy and are discriminated against, and may even be victims of forced labour. APEC Leaders must agree to develop a framework for migration which takes account of national labour market needs, with reference to the Conclusions on a Fair Deal for Migrant Workers that were adopted at the 92<sup>nd</sup> International Labour Conference in 2004 and the ILO Multilateral Framework on Labour Migration adopted in 2005, with full application of national labour laws and working conditions without discrimination. Such a framework should be drawn from available information on policy and best practices in economies in international migration, existing proposals to enhance the economic benefits of migration and relevant international standards, including the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>9</sup> and ILO Conventions Nos. 97<sup>10</sup> and 143<sup>11</sup>. The ITUC/APLN considers that APEC Leaders should pay attention to the poor ratification rate of these international standards in APEC economies. APEC member economies should work out a timetable for their ratification and should further promote balanced industrial development and decent work so that any migration is undertaken voluntarily and not as an obligation to escape misery or repression.

**Recommendation 9: Put strong emphasis on the establishment of a Social Protection Floor and introduce APEC Social Safety Net Guidelines to assist APEC Economies to reinforce social protection systems**

***Growing global understanding of the necessity of a social protection floor***

The 5<sup>th</sup> APEC Human Resources Development (HRD) Ministerial Meeting (Beijing, China, 16-17 September 2010) recognised the important role that social safety nets played in the crisis, especially for vulnerable groups. Social protections systems are seen as “*economic automatic stabilizers, by contributing to aggregate demand, elevating social inclusion and enabling people to take advantage of market opportunities and share in the benefits of economic growth*”<sup>13</sup> while they also promote labour mobility and job creation. The social protection floor (SPF) should be the core of national development strategies. Countries should gradually address the differentiated levels of social benefits in a coherent, consistent and efficient way so as to optimise limited resources and reduce the poverty and insecurity of vulnerable groups. There is increasing global understanding<sup>12</sup> that the establishment of a universal social protection floor and the improvement of existing social protection systems would deliver a great deal in achieving more balanced growth.

***An APEC series of actions on active social protection measures***

The 5th HRDMM decided to work to improve the adequacy of social protection and the design and delivery of social protection programmes, and to link employment to social protection policies to exploit potential synergies. The Action Plan foresees a series of actions with regard to active social protection measures. The ITUC/APLN welcomes the HRDMM’s Action Plan (2011-2014) and its Social Safety Nets agenda. Holding such actions with the participation of the social partners would

<sup>9</sup> Ratified by 43 countries, including Chile, Indonesia, Mexico, Peru and Philippines in the APEC region

<sup>10</sup> Migration for Employment Convention (Revised), 1949 (No. 97), ratified by 49 countries, including New Zealand, Malaysia and the Philippines in the APEC region

<sup>11</sup> Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), ratified by 23 countries, including only Philippines in the APEC region

<sup>13</sup> Joint Ministerial Statement, APEC 5<sup>th</sup> HRDMM

<sup>12</sup> The G20 Seoul Action Plan includes action on social protection. The 16<sup>th</sup> ASEAN Leaders Summit called for the strengthening of social protection systems. The ASEM8 Leaders’ Statement also endorsed the need for social protection.

increase the quality of their outcome and the ownership of the actions. The ITUC/APLN could share expertise in extending access to social protection to the self-employed<sup>14</sup> and informal workers<sup>15</sup>, as well as their endeavours to extend social protection to migrant workers and to help enhance pension systems<sup>16</sup>. The indispensable advice of ILO on this issue needs to be incorporated as well.

### ***Introduce APEC Social Safety Net Guidelines***

The ITUC/APLN believes that the knowledge gained through the above actions should be summarised into APEC Social Safety Net Guidelines that would assist APEC economies of different development levels in conceiving, initiating, and delivering various forms of social protection. The HRDWG should work closely with the APEC Gender Focal Point Network, the social partners and gender-based NGOs in identifying the gender dimension of labour markets and providing high-effectiveness social protection to women. This joint endeavour needs to be undertaken in order to achieve effective social safety nets which respond to the needs of workers, such as adequate unemployment insurance schemes, health care, old age and retirement benefits and education. Active labour market policies, including the provision of worker-friendly employment services/guidance and vocational training and retraining and the implementation of decent work creation measures, with a review process to promote the implementation of these guidelines in individual economies, could greatly assist the establishment of a social protection floor with universal coverage. APEC should develop mechanisms to raise funds through multiple channels for the sustainable development of social security systems.

## **CONCLUSIONS**

### ***Strengthening the social dimension of APEC and achieving a genuine partnership with workers and their trade unions***

In practice, business promotion remains predominant in the APEC process. APEC Leaders must correct the distortion and redirect APEC so as to achieve the overarching and interrelated objectives of growth that is both equitable and sustainable, and thereby narrow the gaps between and within member economies. This can be done only through strengthening the social dimension of APEC and achieving a genuine partnership with workers and their trade unions in the region. The ITUC/Asia Pacific Labour Network (ITUC/APLN) is ready to make a commitment to that end.

### ***Achieving recovery from the economic crisis***

APEC needs to play a key role in concrete measures to achieve recovery, to reduce the social impact of the unprecedented triple economic, employment and climate crises and to promote the creation of decent work and green jobs as a response. Therefore APEC Leaders must work together to devise strong, effective and coordinated economic recovery programmes within the framework of a decent work agenda based on the ILO Global Jobs Pact.

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<sup>14</sup> Trade Union Congress of the Philippines (TUCP – Philippines)

<sup>15</sup> Confederation of Prosperous Indonesian Labor Unions (KSBSI – Indonesia)

<sup>16</sup> All-China Federation of Trade Unions (ACFTU – China)

## **Establishment of APEC Labour Forum**

### **Background**

1. Trade unions, representing the workers of the APEC region, are able to bring a uniquely valuable perspective to the wide-ranging examination of policies needed to support workers in a period of rapid change. APEC trade unions therefore seek to establish a formal relationship with APEC. Such involvement should be initiated at the APEC Leaders' level, comparable with the arrangements for access by the APEC Business Advisory Council (ABAC)\*, as well as throughout the APEC process.

### **Composition**

2. The APEC Labour Forum would follow the practice of the ILO with respect to the most representative trade union centres of APEC Economies.
3. All the representing national centres could meet in a general assembly at least once a year, possibly prior to the APEC Leaders' Meeting to discuss APEC issues of common interest.

### **Mandate**

4. The Forum's mandate would be as follows:
  - To work together with governments and employers on the promotion of APEC outcomes which can achieve stronger economic growth and higher living standards;
  - To contribute to the development of appropriate policies from APEC on matters such as human resource development, industry development, education and social welfare;
  - To convey the views and needs of workers in APEC economies in their dialogue with governments on APEC issues;
  - To encourage tripartite dialogue at national and APEC levels on issues of concern to the region.
5. Activities of the Forum would include:
  - To advise APEC Leaders and other officials on issues of interest to workers;
  - To present workers' positions in APEC Leaders Meetings, Ministerial Meetings, Senior Official Meetings and committees/working groups relevant to workers' interests;
  - To keep the Forum members informed of progress in APEC; and
  - To maintain a continuing exchange of information and views on the various themes and subjects covered by APEC, with the Secretariats of APEC and ABAC.

\* ABAC members are appointed by their respective Leaders (Prime Minister or President). The APEC Labour Forum would not use the same model for its composition.

**LABOUR DECLARATION ON THE NEGOTIATION OF  
THE TRANS-PACIFIC PARTNERHIP TRADE AGREEMENT**

*Adopted in 2010 by the trade union centers of the countries negotiating the TPP*

On March 15, 2010, the governments of Australia, Brunei Darussalam, Chile, New Zealand, Peru, Singapore, the United States of America and Vietnam will commence negotiations for a proposed Trans-Pacific Partnership Trade Agreement (TPPTA). The undersigned unions are not opposed in principle to trade agreements. As always, however, the agreement will not have our support unless it is well balanced, foments the creation of good jobs, protects the rights and interests of working people, leads to long-term, balanced economic development and promotes a healthy environment. We set out below what that means in practice. Throughout the negotiations, we urge negotiators to adopt a jobs lens, which asks how decisions at the negotiating table contribute to a coordinated strategy for the promotion of high-quality jobs and sustainable economic development among TPPTA member countries. It is time for a new trade framework that will make a positive difference in the lives of working people. We cannot afford another trade agreement that privileges substantial new opportunities for investors over good jobs for workers. Further, to work well, trade agreements must also be fairly and consistently enforced.

This declaration outlines the substantive and procedural principles for the negotiations, which if respected, will result in an agreement that may benefit us all.

**PROCESS**

1. A Single, High-Standard, Fair Trade Agreement

For many, the TPPTA represents the second or third potential trade agreement with another party to the negotiations – all of which failed to meet our aspirations. We believe that the only way to truly bring trade policy into the 21<sup>st</sup> century is for the TPPTA to supersede the existing agreements to the maximum extent possible, bringing them up to the highest standards. Of course, we realize that individual countries, especially developing countries, may pose unique challenges that may call for some variation in the text from country to country. However, we believe the core principles should be common to all.

2. Transparency and Civil Society/Trade Union Participation:

In the past, civil society organizations, including trade unions, have been excluded from any meaningful participation in trade agreement negotiations. This is unacceptable and must be remedied this time around. All the participating governments must conduct regular and meaningful consultations with their respective civil societies throughout the negotiations – both during and between negotiating rounds. Further, draft texts, proposals and requests should be made available for public review and comment. Without access to such information, informed participation in the negotiating process is impossible. Finally, the respective legislatures must have an opportunity to conduct full and open hearings and to amend the agreement.

**SUBSTANCE**

1. Worker Rights

Labour rights are an essential component of trade. Workers who are able to exercise their fundamental labour rights are empowered to bargain collectively for better wages and working conditions, ensuring that the benefits of trade accrue not only to capital but also to labour. Unfortunately, most of the agreements among the proposed TPPTA parties contain either no labour provisions or very weak ones. The TPPTA must at a minimum require that each party adopt and maintain laws and regulations consistent with the International

Labour Organization (ILO) core labour rights and effectively enforce those rights, as well as all domestic laws with regard to wages, hours of work and safety and health. Further, parties must commit not to derogate from these laws. A violation of these and other labour obligations should be subject to effective dispute resolution procedures with strong remedies up to and including trade sanctions should more cooperative efforts fail. The monitoring of these provisions should include workers' and employers' representatives, and the agencies responsible for enforcement must be adequately resourced.

Further, as labour laws of each of the potential TPPTA parties fall short, to varying degrees, of the core labour rights, we urge governments to initiate immediately a process, together with workers and employers representatives, to identify ways in which to bring labour laws into compliance with those international minimum standards. Those efforts should be concluded in tandem with completion of any TPPTA.

## 2. Investment

Most current trade agreements contain investment provisions that allow foreign investors to claim substantive and procedural rights above and beyond those that domestic investors enjoy. Further, flawed investor-to-state dispute resolution mechanisms contain none of the controls, such as an exhaustion of remedies requirement or a standing appellate mechanism that could limit abuse of this private right of action. Under certain existing investment chapters, investors have used the rules on expropriations and the minimum standard of treatment to challenge environmental laws and public health and safety protections, among others. Together, these and other investment provisions may provide foreign investors greater rights than the rights available to domestic investors in their own legal systems. The TPPTA should not include an investor-to-state dispute resolution mechanism, nor should the rules allow for challenges to legitimate public interest regulations. Foreign investors simply must not be given any greater rights than those enjoyed by domestic investors.

## 3. Services

Except for the very limited situation in which *no* private providers compete with a government provided service, any public service can be subject to the rules of a trade agreement. This allows parties to challenge domestic policies that protect governmental services if they believe these policies put private providers at a competitive disadvantage - even where government involvement is necessary to guarantee access to essential services in areas such as health care, education, and utilities. Services rules also penalize governments that reverse privatizations, even if such privatizations have lowered service quality or have led to less public accountability and access.

The TPPTA must include a broad, explicit carve-out for essential public services, including education, employment services, health care, post, sanitation, social services, transport and utilities. Public services should be excluded regardless of whether or not the public provider competes with private providers. In addition, governments must retain their ability to regulate foreign service providers in order to enact and enforce certification and licensing standards, consumer protections, and other public interest laws. We also urge that the negotiations proceed on a positive list approach.

Further, we are concerned that existing trade agreements contain ambiguous language that may constrain the ability of governments to adopt prudential financial regulations, including structural separation between commercial and proprietary trading banking institutions. We urge negotiators to make absolutely clear that efforts by a country to prudentially regulate its financial sector will not run afoul of financial services rules.

## 4. Environment

Protection of the environment is a critical trade policy objective. Trade rules should require full compliance with an agreed-upon set of multilateral environmental agreements, with effective sanctions for non-compliance. At the same time, the agreement must ensure that other rules, such as investment rules on expropriation, do not jeopardize efforts to enact and enforce environmental laws and regulations.

## 5. Procurement

Often, governments use procurement policy in furtherance of important public policy aims such as local economic development and job creation. Governments have also conditioned procurement to promote environmental and social goals. Governments should ensure that the procurement chapter does not constrain the ability of central, regional or local governments and authorities to carry out these objectives.

6. Intellectual Property and Health

Intellectual property rules and other provisions in trade agreements have been used to weaken the ability of governments to supply medicines to their citizens at an affordable cost. We oppose any government efforts in the context of the TPPTA to negotiate language that would reduce access to affordable medicines.

7. Consumer Protection

Our domestic consumer safety and trade policies must be crafted to prevent tainted or defective products from reaching our shores and, subsequently, our shelves. Such goods present a serious threat to the general public. Thus, the agreement should include language that would further facilitate cross-border food and consumer and industrial product safety inspections by, for example, giving safety inspectors of a TPPTA member enhanced rights to inspect the facilities of another member. The TPPTA should also include language requiring country of origin labeling, which would clearly identify the origin of food and consumer goods, as well as labeling of GMO-containing goods.

8. Market Access

In many previous trade agreements, tariff reductions have not resulted in new access. We urge negotiators to pay particular attention, and give particular emphasis, to ensuring that any market access expected from the agreement is actually achieved. Effective market access depends on addressing both tariff and non-tariff measures, though we recognize that non-tariff measures to protect health, public safety and the environment serve an important purpose if fairly applied. Further, while taking into account the complexity of the global supply chain, the rules of origin should be negotiated such that the signatories are the primary beneficiaries of any new market access.

9. Trade Remedies

The TPPTA should not in any way weaken trade remedy and safeguard mechanisms.

10. Competition Policy

We are greatly concerned that the current competition chapter of the P-4 agreement could compromise the right of governments to provide services on a privileged or monopoly basis, and to support economic development. We oppose any move to make the P-4 language with regard to public services enforceable in the TPPTA and urge greater protection for public services and economic development.

11. Temporary Movement of People

We do not believe that a trade agreement is the proper instrument to make commitments on the temporary movement of people.

12. Beneficiaries

Negotiators should ensure that countries not party to the agreement cannot gain its benefits.

13. Developing Country Trade Partners

Asymmetries between the economies of the developed and developing countries must be taken into account. Trade rules negotiated by and for developed countries may have a substantial negative impact on developing country economies. Thus, developing countries should have greater flexibility in negotiations to ensure that the

rights and obligations to which they are bound to do not frustrate development, but rather encourage it. For both developed and developing countries, consideration should also be given to compensatory mechanisms for producers and workers should sectors be seriously and negatively impacted by the agreement.

The unions that are signatory to this Labour Declaration have a broad range of interests not limited to those mentioned above. We reserve the right to raise other issues jointly or individually, and expect to be consulted on developments in the negotiations as they arise.

Signed,

Sharan Burrow, President

Australian Council of Trade Unions (ACTU)

Arturo Martimez Molina, National President

Central Unitaria de Trabajadores (CUT) – Chile

G Rajasakeran, General Secretary

Malaysian Trades Union Congress (MTUC)

Helen Kelly, President

New Zealand Council of Trade Unions (NZCTU)

Julio César Bazán Figueroa, Presidente

Central Unitaria de Trabajadores (CUT) – Peru

Mario Huaman Rivera, Presidente

Confederacion General de Trabajadores

de Peru (CGTP)

John De Payva, President

National Trade Union Congress (NTUC)-Singapore

Richard L. Trumka, President

American Federation of Labor &

Congress of Industrial Organizations (AFL-CIO)