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**GUY RYDER**  
GENERAL SECRETARY  
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The Honourable Chief Executive  
Donald Tsang Yam-Kuen  
Office of the Chief Executive  
Hong Kong Special Administrative Region  
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ESP/JH

27 November 2008

Dear Mr. Tsang,

The International Trade Union Confederation, which represents 168 million unionised workers through its 311 national affiliated union centres in 155 countries and territories, including China's Hong Kong Special Administrative Region (SAR), is writing to you in connection with recent moves by the Democratic Alliance for the Betterment of Hong Kong (DAB) and representatives of Hong Kong Small and Medium Enterprise associations urging you to push for the suspension of certain articles of the Labour Contract law of the People's Republic of China (PRC), which the ITUC welcomed when it was adopted as a step in the right direction.

We wish to make it clear that the ITUC regards such lobbying by political parties and industry associations to negatively affect and rescind important labour legislation across the border in mainland China as tantamount to asking the Chinese authorities to turn back the clock to allow businesses to continue to exploit working men and women. The two articles in question (Articles 14 and 47) concern the right of employees to obtain specified levels of compensation in the event that their contracts are terminated and the right of employees to obtain a contract without a fixed term under certain circumstances – namely if the employee has already worked for the employer for 10 consecutively full years or if the contract is to be renewed after two fixed-term employment contracts have been concluded consecutively. I am sure that your government is aware of the importance attached to requesting that the People's Republic of China's national authorities suspend a law enacted only recently after several years of debate and to widespread international support.

While we understand that many small and medium enterprises are fearful for their businesses in the current economic turmoil and while we have no objections to associations seeking financial measures (such as tax breaks and loans) to support them, we must raise two significant objections to the current lobbying over the labour contract law. Firstly, we remind the authorities that it is clear that the reason for some small and

medium businesses facing difficulty is neither due to the new laws nor to the financial ‘tsunami’. In fact many small businesses operating at the lower end of the market with small profit margins and operating on a low cost, labour intensive and low profit model have been going out of business in the past 24 months, and at an increasing rate. The situation has not necessarily been exacerbated by the new labour contract law; many of these businesses have been negatively affected by mismanagement, a reliance on low wages and the almost universal circumvention of Chinese labour laws as well as the rising prices of oil, transport prices, factory rent, food prices and raw materials. While it is clear that the extent of the recession is not yet known, labour intensive factories have been moving inland to cheaper provinces away from the Pearl River Delta and even before the start of 2008, many had left or gone bust.

Indeed we note that the General Secretary of the Dongguan Municipal Party Committee was reported earlier this month as saying that “*Some media have been overstating the impact of financial crisis*” and that according to official data there were “*627 enterprise closures in the past nine months this year in Dongguan, compared to last year when there were a total of 908 enterprise closures*”.

Secondly, we must emphasise that the only way forward in developing the local economy and long term economic sustainability is not in the prolonged use of low cost, low profit enterprises which often provide minimum wages and few social benefits. If the Hong Kong government and its business sector are interested in promoting social harmony and economic well being for its citizens and those of the mainland, it should be remembered that jobs are not the best guarantee for social cohesion if the jobs that are created are second-tier positions – without decent wages and decent working conditions. Competitiveness is not served by creating an underclass of workers that is lacking skills, suffers from health-related problems and is unable to raise productivity or engage in innovation.

Instead of focusing on negative measures to tackle the situation through dismantling hard-won rights and working conditions for their compatriots over the border, we instead recommend that the DAB, SME associations and other business associations instead focus on improving research, branding and quality, rather than seeking extraordinary measures to continue operating what are in certain circumstances simply sweatshops.

We regret therefore that the government authorised public statements which not only hint at industrial unrest but also give credence to an exaggerated assessment of the impact of the new labour contract law, such as that “*Mr Tsang said Hong Kong enterprises worry that in complying with the labour contract law labour costs will surge, flexibility in managing human resources will be undermined and labour disputes will arise*”. This statement comes almost 12 months after the law was implemented – at a time when all companies regardless of their ownership should be fully compliant with the law. We hope that the government will desist from further pressure on the central government to ‘relax’ their labour related legislation.

Furthermore, we very much hope that the government will not heed calls to halt the introduction of the minimum wage bill. Whilst regretting the authorities’ attempts to

produce an overly restrictive bill, we further urge the Hong Kong SAR government to move ahead with its long delayed legislation on a minimum wage and ensure that it works not only to secure the interests of its business constituents but also its citizens and, in doing so, to address urgently income inequality and the increasing numbers of working poor.

Yours sincerely,



The image shows a handwritten signature in black ink, appearing to read "Guy Ryder". Below the signature, the title "General Secretary" is printed in a smaller, sans-serif font.

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