

5 March 2003

HON. JUAN SOMAVIA
Director-General
International Labor Office
4 des Morillons
CH-1211 Geneve 22

Subject:

**Complaint of the Trade Union Congress of the Philippines (TUCP)
against the Hong Kong SAR for Violation of ILO Convention No. 97
concerning Migrant Workers**

Dear Director-General Somavia:

Pursuant to Article 24 of the ILO Constitution, this is to formally file a complaint against the Hong Kong SAR (HKSAR) for violation of ILO Convention No. 97 concerning Migration for Employment.

Last 26 February 2003, the HKSAR Government approved certain measures that will greatly affect Filipino domestic helpers in Hong Kong. These measures that seriously impact on our workers in the territory are as follows:

1. Reduction of the minimum wages of foreign domestic helpers by HK\$400 per month effective 1 April 2003.

The monthly wage cut of HK\$400 corresponds to an 11% reduction in the minimum allowable wage (MAW). In comparison, the mandated wages of civil servants in HKSAR were reduced by only 6% to be applied in two equal installments of 3% effective 2004 and 2005.

2. Imposition of a monthly levy of HK\$400 on those employing foreign domestic helpers effective 1 October 2003.

Savings of employers accruing from the 11% salary reduction represent the same amount of levy which will be imposed under the Employees Retraining Ordinance. The foreign domestic helpers who are the lowest paid and most vulnerable members of the HK society will now bear the burden of retraining local domestic helpers and other displaced workers by way of the levy.

3. Possible exclusion of foreign domestic helpers who have not resided in HK SAR for at least seven (7) years from enjoying the benefits of subsidized public health care services.

The non-entitlement of foreign domestic helpers to a host of benefits accorded to a HK resident is exploitative. Under existing employment arrangements, the employers are required to provide medical treatment during employment and are not required to provide medical insurance coverage. In most cases, foreign domestic helpers are forced to advance payment to doctors or hospitals prior to admission. Further, the responsibility of the employer does not cover the entire period of stay in HKSAR such

as the allowable 14-day period of stay after termination or any extended period when they have pending labor, immigration or police cases. With this new measure, foreign domestic helpers will absolutely be unable to afford the prohibitive costs of medical treatment in HKSAR.

Approximately more than 70% of Filipino domestic helpers have not worked in HKSAR for more than seven years and thus, will be excluded from the availment of subsidized public health care benefits.

4. Penalization of foreign domestic helpers from working again in HKSAR in case of violation of employment contracts by employers and foreign domestic helpers.

The existing standard employment contract in HKSAR is lacking in employment security. As such, employers can terminate foreign domestic helpers without just cause by merely giving a one-month notice or by giving a one-month salary in lieu of a notice. This forces many foreign domestic helpers to follow instructions of employers even if such are against HKSAR employment and immigration ordinances for fear of losing their jobs. In these circumstances, it will not be fair for foreign domestic helpers to be barred from returning to HKSAR to work.

Given the above, the Trade Union Congress of the Philippines (TUCP), representing some 27 affiliated organizations of workers' organizations, finds the recently approved measures of the HKSAR government unjust and discriminatory for our workers. Said measures are in violation of ILO convention No. 97 concerning Migration for Employment to which the HKSAR is a party. Particularly, we draw attention to Article 6 of the Convention which prohibits inequality of treatment between migrant workers and nationals arising out of laws or regulations or the practices of administrative authorities in four areas: remuneration, social security, employment taxes and access to justice.

In the interest of more that 150,000 Filipino domestic workers employed in the HKSAR, we sincerely look forward to the preferential attention of the ILO on this matter.

Very truly yours,

(Signed)
ERNESTO F. HERRERA
General Secretary