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NINTH ITEM ON THE AGENDA

Complaint concerning non-observance by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 102nd Session of the International Labour Conference under article 26 of the ILO Constitution

Report on the ILO direct contacts mission to Fiji (Suva, 6–11 October 2014)

I. Background, purpose and terms of reference

1. The ILO direct contacts mission was called for by the Committee on Freedom of Association in November 2011 in view of the seriousness of the violations in freedom of association alleged by the complainants in Case No. 2723 and the absence of a complete picture of the situation in Fiji. The Fiji Government accepted the ILO direct contacts mission by letter dated 23 May 2012, signed by His Excellency, the Prime Minister Commodore Josaia Voreque Bainimarama. The background, scope and composition of the mission were confirmed by the ILO and the terms of reference were developed by the Government of Fiji and the ILO Country Office for South Pacific Island Countries in Suva. The mission commenced its work on 17 September 2012 but was interrupted towards the end of its first meeting. A full report of the 2012 mission was communicated to the Governing Body at its November 2012 session¹ and adopted the decision on the eighth item on the agenda: Latest developments in Fiji in light of the resolution of the 15th Asia and the Pacific Regional Meeting in which it called upon the Director-General to work

¹ 365th Report of the Committee on Freedom of Association, Appendix I, Case No. 2723.

with the Government to seek its acceptance of the direct contacts mission under the previous agreed terms of reference.²

2. Since 2012, the complainants to Case No. 2723 submitted new allegations in communications dated 18 and 22 February, 6 September and 19 December 2013, as well as 28 February 2014. The Fiji Bank and Finance Sector Employees Union (FBFSEU) also associated itself with the complaint by a communication dated 25 February 2013.
3. During its 319th Session in October 2013, the Governing Body took note of the complaint against the Government of Fiji for non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by Workers' delegates to the 102nd Session of the International Labour Conference (2013) and, acting upon the recommendation of its Officers following their finding of its receivability, transmitted the complaint to the Government for its observations. The Governing Body again reviewed this question at its 320th Session in March 2014, alongside its follow-up to the resolution on the trade union situation in Fiji and: (a) called once again on the Government of Fiji to accept the ILO direct contacts mission under the previously agreed terms of reference, which were based on the conclusions and recommendations of the ILO Committee on Freedom of Association on Case No. 2723; and (b) decided that, if the direct contacts mission did not take place in time for a report to the 322nd Session of the Governing Body (November 2014), then the 322nd Session should appoint a Commission of Inquiry under Article 26.³
4. By letter dated 30 September 2014, signed by the Acting Prime Minister, Aiyaz Sayed-Khaiyum, the Government of Fiji invited the direct contacts mission for the week of 6 October and advised that it broadly accepted the original terms of reference, but requested that the mission pay particular attention to the Essential National Industries (Employment) Decree. The mission schedule is attached as Appendix I.
5. The mission was led by Judge Abdul G. Koroma, Chairperson of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and former Judge of the International Court of Justice. He was accompanied by Ms Cleopatra Doumbia-Henry, Director, International Standards Department and Ms Karen Curtis, Chief, Freedom of Association Branch, International Labour Standards Department. A list of persons met is set out in Appendix I.

II. Meetings

A. Government

Meeting with the Attorney-General and Solicitor General

6. The Attorney-General provided an overview of the Government's approach to a number of matters relating to the complaint and discussed the wider political context of the Government's overall approach.

² GB.316/PV(&Corr.), para. 238.

³ GB.320/INS/10, GB.320/INS/11 and GB.320/PV, para. 224.

7. With respect to the Essential National Industries Decree (ENID), the Attorney-General said that the Decree is intended to focus on industries that are critical to the economy. He noted that, with the exception of the major trading banks, the Decree covers government entities. He said that the Government was taking a conservative approach to its application, noting that other entities had sought to be covered by the Decree, but this was not accepted by the Government. In this respect he said the hotel industry had sought to be covered, but this was declined given the weakness in the bargaining power of workers in the industry.
8. The written briefing that the Office of the Attorney-General provided to the mission provides a number of other elements. It is clarified that the ENID will not be extended to cover all unions and all sectors of the Fijian economy. This is not the intention, and would not be permitted by the Decree itself, which is specific in its definitions of an “essential national industry” and “designated corporation.” Moreover, the Government specifies that it is not the case that collective bargaining agreements are abrogated. Based on reports from designated corporations, unions continue to engage in collective bargaining, are effective associations of their employees, and have reached new collective bargaining agreements with their employers. Fiji’s Cabinet even extended the initial bargaining window laid out in the ENID, based on requests from employers to allow additional time to reach new agreements with their unions. The Government asserts that the ENID upholds the fundamental right of workers in essential national industries to form and join trade unions of their choice while also upholding other widely recognized fundamental workers’ rights, including:
 - (i) the right to vote in a secret ballot election;
 - (ii) the right to strike;
 - (iii) the right to collectively bargain and the duty of corporations and labour unions to renegotiate bargaining agreements in good faith;
 - (iv) the right to well-defined dispute resolution processes; and
 - (v) the right to receive overtime pay.
9. The Government adds that the ENID does not abolish existing trade unions in Fiji. In designated corporations within essential national industries, workers can, and do still join a trade union and the union continues to be recognized for the purpose of collective bargaining if a majority of workers clearly want that. In the event that occurs, the employer is obliged to recognize and negotiate in good faith with union representatives. Workers who do not want to be represented by a trade union also have that freedom and the ENID strikes a balance between the interests of all workers. According to the Government, the concept of “bargaining unit” in the ENID is found in other countries’ laws, including the United States and the United Kingdom. The Government adds that the bargaining unit does not “replace trade unions” – the two are quite different concepts. Trade unions will continue to exist and can represent workers within a bargaining unit in a designated corporation in accordance with the ENID. It does not outlaw professional trade unionists, rather, it requires that those who negotiate directly with the employer in designated corporations are employees of the company concerned so that an employer may negotiate terms and conditions directly with its own employees who have a direct stake in the outcome. This is as opposed to an external third party who may have a wider agenda. The workers in the essential industries have been able to freely organize, form bargaining units and elect representatives. They have successfully reached collective agreements with their employers and have devised their own dispute resolution processes. All this has been done without any third party intervention.

10. With respect to bargaining, the written brief from the Office of the Attorney-General states:

In one designed corporation (Fiji Airways), workers and their representatives have been able to successfully negotiate salary increases of up to 25%, together with other employment benefits. The workers in this industry will also receive guaranteed pay increases every year throughout the five year term of the collective agreement. In addition, the workers and employers have agreed that workers will receive a share of the profits declared by the employer. None of these benefits were available to the workers prior to the enactment of the ENID.

11. The Attorney-General stated that the Fiji Electoral Office will now oversee trade union elections, noting that this is a similar process to some Australian legislation. He said that these changes are in response to the need for improvements in the democratic processes within trade unions.
12. With respect to the Political Parties (Registration, Conduct, Funding and Disclosures (Amendment) Decree (No. 11, 2013), the Attorney-General referred to provisions that require trade union officials to resign from office before standing for elections. This was intended to ensure that persons in public office do not engage in political activity which could compromise the political neutrality of that person's office and to ensure they did not publicly indicate support for or opposition to any political party. In this respect three trade union leaders resigned from their positions and there is now nothing preventing them from returning to their positions.
13. The written briefing from the Office of the Attorney-General further refers to the tripartite Employment Relations Advisory Board (ERAB) review of labour laws to ensure compliance with the 34 ILO Conventions ratified by Fiji.
14. The Attorney-General indicated that the Government would be amenable to look into areas where steps could be taken to train officials on the application of international labour standards.

Meeting with the Minister for Employment, Productivity and Industrial Relations

15. The Honourable Minister Jioji Konrote welcomed the opportunity to meet with the mission. He expressed a commitment to compliance with International Labour Standards and expressed hope that the matters giving rise to the case before the Committee on Freedom of Association could be resolved.
16. The Permanent Secretary referred to the Prime Minister's commitment expressed in a letter of May 2012 that the Government would review all labour laws to improve compliance with International Labour Standards. The Permanent Secretary noted that this responsibility was much wider than the subject of the matters before the Committee on Freedom of Association. The review was undertaken through the tripartite processes of the ERAB and was not limited to the Employment Relations Promulgation, but also encompassed the ENID and other employment related decrees. The review also considered the Administration of Justice Decree and State Services Decree, but these have now been superseded by the Constitution. The review did not focus on specific electoral decrees other than to mention these in passing.
17. The Permanent Secretary reported that over 18 months and after 40 meetings, the ERAB had achieved consensus on most issues before it. With respect to the Employment Relations Promulgation, a draft Bill is currently being vetted by the Government and will

be considered by Cabinet in due course. In addition, Worker and Employer representatives on the ERAB agreed that all labour related decrees should be repealed or regularized (i.e. brought into compliance with the Fiji Constitution). With respect to the ENID, worker and employer representatives agreed that it should be repealed in its entirety.

18. It was reported to the mission that other than taking forward proposed amendments to the Employment Relations Promulgation, the Government's final position was to maintain other existing decrees. However, the Minister reminded the mission that this decision was prior to the Fiji election and now there was an opportunity to consider this within a new context. The Minister reiterated the importance of laws that are consistent with the Constitution and ongoing dialogue was needed to continue the process.
19. Supporting evidence was submitted to the mission and a detailed report was to be forthcoming.

Meeting with the Honourable Chief Justice, other justices and the Chief Registrar

20. The Chief Justice welcomed the opportunity to meet with the mission. He discussed his experience as member of judiciary in Fiji, existing challenges and opportunities for the future. The Chief Justice described a significant amount of effort and progress the judiciary had made to improve and strengthen institutional arrangements, strengthen capacity and improve transparency. The Chief Justice expressed an interest in training for judges and legal practitioners on interpreting and applying International Labour Standards as part of ongoing strengthening of the functions of the judiciary and legal practice.

Meeting with the Director of Public Prosecutions (DPP)

21. The Director of Public Prosecutions (DPP) provided an overview of new arrangements relating to the Office of the DDP under the Fiji Constitution that provide for greater independence. The DPP also discussed the outstanding case relating to Mr Daniel Urai who was charged in November 2011 under section 65 of the Crimes Decree. This section refers to crimes relating to "urging political violence or inciting communal antagonism". He said that Mr Urai had elected that the matter be dealt with in the Magistrates Court, rather than in the High Court. He also advised the mission that Mr Urai applied for, and was granted bail on the condition that his passport was surrendered. While the initial bail application was opposed by the Office of the DPP, it did not oppose subsequent applications for changes to bail conditions (including the ability to travel overseas) as there was an absence of flight risk.
22. The DPP stated that since the initial charges were laid, the case has been active. The Office of the DPP had applied for a consolidation of charges as there were other police matters relating to similar activities, and this application was granted by the Court. He advised that a hearing in the Magistrates Court on 31 October 2014 had been set for a hearing to set a trial date. He advised that the trial date would depend on whether there were any further applications from Mr Urai's counsel that needed to be dealt with.

Meeting with the Commissioner of Police

23. The Commissioner of Police stated that since his appointment in May 2014, he had reopened some files on a range of matters that had previously been closed. The Police Commissioner discussed the allegations of Mr Felix Anthony that he was assaulted by military officers on 18 February 2011 which were subsequently reported by the complainant to Lautoka police on 13 July 2012. The mission noted there is conflict in the

information that was provided relating to when the matter was reported by Mr Anthony to the police. The Police Commissioner advised the mission that on 29 July 2014 he reviewed the case docket relating to Mr Anthony's allegations. He noted the file had been closed due to a lack of medical evidence pertaining to the assaults, but nevertheless was concerned that Mr Anthony did not have the benefit of being interviewed by police regarding his allegations.

24. After evaluating the file the Commissioner of Police reopened the matter and appointed a senior investigator. The Police Commissioner also advised that Mr Anthony had been reminded of the need to submit medical evidence relating to his allegations and this is yet to be submitted. It was noted there was some difficulty relating to obtaining medical evidence from the medical personnel involved.
25. The Commissioner discussed his interest in human rights training for the police and supports the possibility of human rights training for police in Fiji.

Meeting with the Chairperson of the Public Service Commission (PSC)

26. The Chair of the Public Service Commission (PSC) noted that there have been a number of developments and changes in practice relating to discipline in the public service and increased awareness of good practice in the service.
27. The Chair discussed the case relating to the dismissal of the President of the Fijian Teachers' Association, Mr Tevita Koroi, for a breach of the Public Service Code of Conduct. The Chair stated that at the time of the dismissal in 2008 the Commission followed due process including the right to be heard. In 2009 the ability to apply for Judicial Review was available to Mr Koroi and further, the Public Service Disciplinary Tribunal was established to hear cases in August 2009. He further noted that this has now been superseded by the establishment of the Public Service Disciplinary Tribunal established by section 120 of the Fiji Constitution which is headed by an independent judge with a fully constituted Tribunal. The mission understands that the original complainant left Fiji and has lived overseas for some time and the matter is unlikely to progress.
28. The Chair stated that in the past there had been three possible avenues for cases to be heard (including the Public Service Disciplinary Tribunal, Employment Relations Court and Judicial Review). This led to a duplication of proceedings and there was a need to remove one of the duplications in the process.
29. The Chair stated that the PSC was also open to hear claims from trade unions regarding terms and conditions of employment and the opportunity to bargain collectively was open to trade unions should they wish to pursue this. He also stated that union check-off facilities had come at some expense due to the need for administrative arrangements for verification. He stated that there had previously been some discussions with the PSA about sharing the cost of this, but that these had broken down. Check off was therefore being provided at present only with respect to the funds that were directly being transmitted on to workers as part of the social function of the union. This amounted to 4.50 Fijian dollars (FJD) out of what was previously FJD6 for union dues. The Chairperson nevertheless stated that the PSC was open to revisiting this issue with the union.

Meeting with the Media Industry Development Authority (MIDA)

30. The Chairperson of the Media Industry Development Authority (MIDA) welcomed the opportunity to discuss his interest in fostering a free and responsible media. He informed the mission that MIDA was focusing on developing the role of the media to address fragmentation in a highly politicized environment.
31. He referred to the need for MIDA to focus on media self-regulation through responsible media practices rather than self-censorship. In this respect he noted the importance of the Constitution of Fiji which includes explicit reference to the right to freedom of expression and freedom of the press in the Bill of Rights. The Chairperson was of the view that the media in Fiji is not well versed in labour issues and tends to focus on matters relating to the politicization of trade unions and occasional coverage of other issues such as minimum wages. He expressed concern that the consciousness of the media needs to be raised on labour matters.
32. The Chairperson raised a general point that ownership of narratives on labour and other rights are often dominated by the more socially and economically advantaged groups in society. He mentioned concerns about the institutionalization of trade unions in the political arena and the overall representation of trade unions to reflect the interests of unorganized workers. He expressed his enthusiasm for training of journalists on ILO-related matters.

B. Trade unions

Meeting with the Fiji Trade Union Congress (FTUC)

33. The Fiji Trade Union Congress (FTUC) presented a written submission to the mission which formed the basis of the discussion and included further information relating to matters previously examined by the Committee of Experts on the Application of Conventions and Recommendations and new decrees that have been issued by the Government.
34. With respect to the ENID, the FTUC reiterated that it must be revoked due to its serious impact on trade unions, collective bargaining, freedom of association and workers' entitlements. The FTUC stated that effectively trade unions covered by the ENID have been reduced to providing welfare and member benefits to members rather than representing their wider interests. The FTUC discussed the extension of the ENID in 2013 to a number of other industries and stated that just prior to its introduction, three unions in the three sectors in question had voted to amalgamate. With the introduction of the extension of the ENID, these unions could no longer amalgamate and, in the FTUC's view, the purpose of the extension was to ensure that these unions would not be able to represent the interests of workers.
35. The FTUC cited events in the timber industry noting that prior to the extension to the ENID there was a collective agreement, but following the extension of the ENID to the timber industry in 2013, the agreement became void. There has since been no dialogue between management and unions, and the FTUC stated that management issued a memo in which it was indicated that there were no longer any unions in the workplace. The FTUC stated that the trade union representing timber workers effectively now has no role whatsoever in representing the interests of workers in the industry.

36. The FTUC said there were many difficulties encountered in applying the requirements of the ENID – including the threshold requirement of 75 workers before a bargaining unit can be registered. Further it was noted that the registration of a bargaining unit is valid for a period of two years, but the time limit for negotiating collective agreements is three years. The FTUC states that this has an impact on a bargaining unit's ability to conclude collective bargaining if it is required to reapply for recognition as a bargaining unit during negotiations.
37. The effect of the ENID on the Fiji Local Government Officers Association was also discussed. With the exception of Suva City, the FTUC states that most towns in Fiji are small and do not have 75 workers within local councils to meet the threshold requirement of 75 workers to register as a bargaining unit. These workers are forced to go without any representation at all and have been deprived of their collective voice.
38. The FTUC further discussed the impact of the Fiji Constitution and various decrees on the role of trade unions. The FTUC said that section 20 of the Fiji Constitution, while conferring rights for workers and trade unions (such as the right to fair employment practices, the right to form and join trade unions as well as the right to bargain collectively), also provided wide scope for these rights to be limited section 20(5).
39. With respect to a number of decrees issued by the Government, the FTUC noted in particular the impact of the Employment Relations (Amendment) Decree (No. 21, 2011) which essentially removed government workers from the coverage of the Employment Relations Promulgation 2007 including important protections such as leave, maternity protection and trade union rights. The FTUC noted that the Public Service (Amendment) Decree (No. 36, 2011) restored parts of the Employment Relations Promulgation to these workers regarding some fundamental rights, but this has had little impact as their ability to appeal for protection of their rights remained hindered.
40. With respect to the State Services Decree (No. 6, 2009) that abolished the Public Service Appeal Board, the FTUC alleges that this effectively removed redress from public sector workers on a wide range of matters. A Public Service Disciplinary Tribunal was subsequently established, but this is restricted to disciplinary matters only.
41. The Administration of Justice Decree (No. 9, 2009) and subsequent amendments were discussed. The Decree removed any right to challenge the validity of any decrees between 5 December 2006 and 9 April 2009. The Administration of Justice (Amendment) Decree (No. 10, 2009) made a further amendment with the effect of terminating proceedings challenging any decision of the PSC or the Government relating to terms and conditions for Public Officers. The FTUC states that this terminated dozens of proceedings. The FTUC states that a further amendment, the Administration of Justice (Amendment) Decree (No. 14, 2009), extended the reach of this further. The FTUC noted that where courts no longer could hear pending or existing cases under the requirements of the Decrees, a certificate of discontinuance was issued, but these certificates are also not challengeable. The FTUC stated that public sector union functions are now limited to providing services to members such as savings, loans and health schemes, but they have no ability to represent the wider interests of members.
42. The FTUC raised concerns about the Public Order (Amendment) Decree (No. 1, 2012), and in particular, the definition of terrorism, which according to the FTUC is wide enough to encompass the solidarity activities of trade unions. In addition, the FTUC discussed recent decrees relating to the conduct of the General Election. First, the Political Parties (Registration, Conduct, Funding and Disclosures (Amendment) Decree (No. 11, 2013) which brought trade unionists within the ambit of the definition of a "public officer" and thereby excluded trade unionists taking part in political activity unless they resigned from

their positions in trade unions if they intended to take part in the elections, support a political party or become a candidate. A subsequent decree, the Political Parties (Registration, Conduct, Funding and Disclosures (Amendment) Decree (No. 10, 2014) imposed penalties for violating the restriction on public officers and provides for a fine of up to FJD10,000 or a term of imprisonment of up to five years, or both.

43. The Electoral Decree (No. 11, 2014) was also raised by the FTUC as it provides that the Electoral Office shall be responsible under section 154, for the conduct of all elections of all registered trade unions. The FTUC noted that this is also in conflict with the Employment Relations Promulgation 2007, as it prescribes that trade unions rules (in Schedule 5) must have provisions for secret ballots to be conducted relating to the election of officers. In the FTUC's view, this change is to control the conduct of trade unions.
44. The FTUC advised the mission that it had actively participated in tripartite discussions to review the Employment Relations Promulgation and there was an agreement that some of the decrees related to the matters raised would be revoked. They were concerned, however, that this might no longer be the Government's position. The FTUC indicated that, as further decrees were issued, it decided to withdraw from the ERAB discussions as they considered that such actions were a demonstration of a lack of good faith.
45. The FTUC recommended the ERAB should take forward the work that it has done to review the Employment Relations Promulgation in addition to other recommendations contained in its written submission to the mission.

Meeting with the Fijian Teachers' Association (FTA)

46. The Fijian Teachers' Association (FTA) raised concerns regarding the removal of the check-off system for teachers in 2011 and its view that such action is contrary to section 20 of the Fiji Constitution relating to fair employment practices. In its written submission to the mission the FTA stated that it had written to the Prime Minister's Office in September 2013 requesting that the check-off system be restored for teachers. A year later, by letter dated September 2014, the Office of the Prime Minister advised that the existing position relating to check off would be retained without providing any reason. The FTA states that its membership has fallen to 3,800 members as a result of the check-off policy.
47. Teachers' involvement in political activities was also discussed. The FTA noted a Public Service Commission Circular No. 36/2014 stating that it is a disciplinary offence for Civil Servants to indulge in active political or party activities and that they must maintain resistance in discussing public affairs. They considered this to be contrary to section 23 of the Constitution relating to the freedom to make political choices and to participate in the activities of a political party. They added that the Constitution confers authority on the State to limit this right for public office holders who are additionally defined under section article 57(3) of the Constitution as including trade union officers. The FTA referred to the suspension of a head teacher in July 2014 for having expressed political views.
48. The FTA also raised two additional matters relating to the introduction of a compulsory retirement age as well as concerns relating to restrictions on freedom of speech despite their protection under article 17 of the Constitution. In its written submission to the mission, the FTA raised further concerns relating to indigenous rights. Finally, the FTA noted the recent announcement that trade union elections would be supervised by the Electoral Office stating that such measures were a clear violation of trade union rights and the Employment Relations Promulgation which provide the framework under which trade unions should conduct their elections.

***Meeting with the Fiji Islands Council
of Trade Unions (FICTU)***

49. The Fiji Islands Council of Trade Unions (FICTU) states that workers have continued to feel the adverse consequences of the ENID including redundancies and the erosion of benefits. Wage claims remain outstanding and union check-off facilities are denied to a number of unions. It noted that the scope of the ENID was extended in late 2013 to three additional FICTU members including the Suva City Council Staff Association (SCCSA), the National Union of Municipal Workers (NUMW) and the Fiji Forest Industries Staff Union (FFISU).
50. With respect to workers in Telecom Fiji (represented previously by the Communication, Mining and General Workers Union) which had been part of the initial scope of the ENID, FICTU states that a bargaining unit was established, but it was unable to negotiate a collective agreement. It is alleged that the employer prepared its own employment contract and insisted that the bargaining unit accept it as a new collective agreement or the employer would proceed with issuing individual contracts. FICTU states that the bargaining unit had little choice but to accept this. Despite the signing of the agreement, the employer continued to make appointments on an individual basis. FICTU states that further attempts to improve the collective agreement have not resulted in negotiations. In addition, check-off facilities were withdrawn from the union and transferred to the bargaining unit, despite the fact that most of the members remained in the union. The bargaining unit had therefore to reorganize itself within the union so that the transfers could be made to its own account. Additionally, the Communication, Mining and General Workers Union has no access to the workplace.
51. With respect to the SCCSA, the employer, Suva City Council has discontinued check-off facilities and consequently the union no longer receives membership fees. The employer also withheld FJD6,000 of the union's welfare benefit loan repayments owed by members that were previously deducted at source. SCCA states that its members applied to form a bargaining unit, but this application is still awaiting approval from the Prime Minister's Office. In addition, several disputes that were in mediation or before the Employment Relations Tribunal have been terminated.
52. The NUMW also has members at Suva City Council and they have been unable to form a bargaining unit as the employer insisted that the election be supervised by the Registrar of Trade Unions, but the supervising officials did not show up to supervise the elections. The union members were able to establish a bargaining unit in Nasinu Town Council, but were unable to do so in Lami, Lambasa and Nausori as the number of workers in these municipalities did not meet the threshold requirement of 75 members for a bargaining unit under the ENID. FICTU noted that FFISU representing forestry workers have encountered a similar situation as it also does not have sufficient staff to meet the requirement of 75 workers and its check-off facility was also withdrawn.
53. FICTU states that the financial position of the Transport Workers Union has also been seriously affected by the ENID through the withdrawal of check-off facilities leading to declining membership. The Transport Workers Union has closed its office and is operating from the General Secretary's home. Further, there is no money available to pay the General Secretary's salary from November 2014. The Fiji Forest Industries Staff Union lost its check-off facility and the workers are now unrepresented because there are not enough workers to make up a bargaining unit.
54. FICTU states that employers are able to take greater advantage of the ENID because of the absence of provisions enabling legal action to challenge decisions by employers regarding

the interpretation and application of the Decree. With no ability for workers to challenge employers' actions, they take advantage of this.

55. FICTU raised concerns about the Political Parties (Registration, Conduct, Funding and Disclosures (Amendment) Decree (No. 11, 2013) relating to the denial of trade unionists and employees of trade unions from the right to join or support political parties or to become a candidate for elections unless they resigned from their positions, and further amendments to the Decree in 2014 providing criminal penalties for such action. They also raised concerns about the indication from the Supervisor of Elections that he would proceed to conduct union elections under the Electoral Decree following further regulations and asked the ILO to call on the State to amend this decree so that unions are free to conduct their own affairs.
56. Finally, FICTU submitted that if the Fiji Government does not accept ILO's recommendations, the ILO should institute a Commission of Inquiry.
57. A written submission from FICTU was provided to the mission.

Meeting with the Fiji Public Service Association (FPSA)

58. The Fiji Public Service Association (FPSA) welcomed the opportunity to speak to the mission and stated that Public Sector workers continue to be seriously affected by a series of decrees since 2009 which have effectively reduced the status of trade unions. The FPSA stated that with respect to the Employment Relations (Amendment) Decree (No. 21, 2011), public sector workers were excluded from the rights and protections set out in the Employment Relations Promulgation and 15,000 workers were effectively removed from the scope of employment legislation including the ability to have judicial proceedings. On advice provided by the court, the union has nevertheless made representations for judicial review, but the costs are prohibitive (FJD10,000) and they had as yet not been able to achieve any redress of the issues raised.
59. The FPSA also discussed the earlier State Services Decree (No. 6, 2009) that abolished the Public Service Appeals Board. It noted that the subsequent Public Service Disciplinary Tribunal appeared to be operating independently from chief executives in the Public Service, citing an instance where the Tribunal found a worker not guilty of a disciplinary matter, but there remained a problem with implementation as this finding was not followed up on by the public sector agency concerned.
60. With respect to the ENID, the FPSA stated it has had a dramatic effect on trade unions. In a written submission to the mission, it states that under the Decree, the FPSA lost all of its members in the Fiji Revenue and Customs Authority, Water Authority of Fiji, Airports Fiji Limited, National Fire Authority, Fiji Hardwood Corporation and Nasinu Town Council – amounting to more than 600 members. The union's check-off facilities had initially been entirely removed for over 25,000 members and were only partially restored two months later. The FPSA explained to the mission that in the past the union was collecting FJD6 from each member, but the government payroll section restored only FJD4.50 on the basis that it would only allow check-off facilities for money that was returned directly to union members such as welfare contributions. The costs of union overheads have not been returned under the check-off system so in effect it is acting as merely a conduit for workers' welfare but union dues are not being paid.
61. With respect to two other matters, the FPSA stated that:
 - (i) Rajeshwar Singh has not been reinstated to the Air Terminal Services Board; and

- (ii) new requirements that the Electoral Office oversee trade union elections is an interference in trade union activities.

62. The FPSA's written submission provided to the mission sets out its concerns in more detail and recommends the withdrawal of the decrees referred to and the restoration of union check-off facilities.

C. Employers' organization

Meeting with the Fiji Commerce and Employers Federation (FCEF)

63. The Fiji Commerce and Employers Federation (FCEF) discussed its experience and issues affecting the overall stability of businesses in Fiji. In particular, the FCEF discussed its ongoing commitment to tripartite engagement within the ILO and as a member of several tripartite institutions in Fiji including the ERAB. The FCEF stated that it had actively participated in ERAB meetings over a number of months as part of the Government's review of labour legislation and agreed to a number of areas where changes could be made to the existing framework.
64. The FCEF discussed the impact of the ENID in the broader political context. The decree currently captures a number of members of the FCEF. Despite its representative role at national level, the FCEF stated that it has not had a role in decisions relating to the ENID. In this respect, the FCEF noted that if the intention of such decrees was to reduce the threat of disruption of economic activity, such as industrial action, the Employment Relations Promulgation had dealt with such matters effectively for a number of years and there was a good understanding between unions and employers about its procedures and requirements. The FCEF said that there is scope for the ENID to be removed as discussed at recent meetings of the ERAB. It noted that this may however no longer be the position of the Government.
65. Finally, the FCEF raised two other matters. First, its view that requirements that the Electoral Commission supervise elections for trade unions and employer organizations appears to be heavy handed and unnecessary. Second, current issues before the Fiji Courts relating to trade union leaders must be concluded as soon as possible.

D. Meetings with unions, bargaining units and enterprises covered by the ENID

Meeting with the Fiji Bank and Finance Sector Employees Union (FBFSEU), including representatives from the Westpac Banking Corporation and the Bank of Baroda

66. The FBFSEU represents workers in 20 banks, insurance companies, credit unions and finance institutions in Fiji. The Union specifically discussed the impact of the ENID on workers in five institutions: the Australia and New Zealand Banking Group Limited (ANZ Bank); the Bank of Baroda; the Bank of South Pacific (BSP); the Westpac Banking Corporation; and the Fiji National Provident Fund (FNPF), with representatives from each of the corresponding unions. Currently there are three bargaining units operating in the sector. The union also raised more generally the major challenges faced such as the hefty fines for employers under the ENID negotiating with unions and the absence of any

third party dispute resolution machinery. Under these circumstances, there was no doubt that the employer had the last say and his or her decision was final and binding. This was even the case for rights disputes as no recourse to the courts was allowed under the Decree against essential national industries.

67. With respect to the ANZ Bank, the FBFSEU's written submission to the mission outlined in detail the events relating to the establishment of a bargaining unit and the impact of the ENID on terms and conditions. With respect to bargaining, the FBFSEU ceased to have status to represent workers under section 6 of the Decree. The FBFSEU told the mission that members of the bargaining unit had difficulty bargaining without representation from an experienced trade union official. The FBFSEU reported that the Bank was represented in bargaining by a retired High Court Judge and a consultant from Price Waterhouse Coopers and there was thus no equality of bargaining power. Currently the ANZ has a collective agreement with the bargaining unit.
68. With respect to Westpac Bank, the FBFSEU and the bargaining unit's representative said that Westpac's recognition of the bargaining unit occurred approximately two months after the Decree came into force and it took a further 11 months before the bargaining unit was registered by the Registrar of Trade Unions. By this time the existing collective agreement had been rendered void because the bargaining unit had not been registered within 60 days from the issuance of the Decree, as required thereunder. The union and the bargaining unit representative stated that since the Decree, terms and conditions have been reduced and to date there is still no new collective agreement, but rather the previous collective agreement has been "grand parented".
69. With respect to the Bank of Baroda, following a long history of strong ties with the trade union for over 40 years, once under the ENID, the staff was the first group of employees in the country to organize itself as a bargaining unit. The employer initially refused to recognize the bargaining unit but later accorded it voluntary recognition. However it did not extend this to branch managers. It also did not reinstate check off facilities that had previously been available to the FBFSEU. Check off facilities had however been put in place directly for the bargaining unit. The Union and the bargaining unit representative stated that the Bank refuses to recognize the new President of the bargaining unit or re-engage in negotiations to settle the 2014 log of claims.
70. The FBFSEU discussed the situation relating to the Home Finance Company Bank (HFC) which has been operating for nine months as a subsidiary of the Fiji National Provident Fund. The union stated in its written submission that there was a matter pending with the Employment Relations Tribunal regarding the collective agreement and the union was granted an order preventing the HFC from issuing new contracts to its employees pending the final determination of the union's case. However, the HFC invoked the Administration of Justice Decree (No. 3, 2010) and the Court terminated the proceedings.
71. The Union provided membership statistics in its written submission to the mission and reported a significant decline in membership between 2011 (when the Decree came into effect) and August 2014. With respect to BSP and ANZ Banks the drop in union membership was 78 per cent and 61 per cent respectively during this period. In addition to its written submission, the Union submitted 35 certificates issued by the Registrar of the Employment Tribunal terminating proceedings that were before the Employment Tribunal when the Decree came into effect, apparently due to the last provision of the Decree which provides that any decision of any designated corporation made under the Decree shall not be accepted, heard or entertained before a court, tribunal, commission or other adjudicating body and includes the immediate termination of any pending cases before the courts (section 30). The Union discussed the deleterious effect of the lack of recourse to Tribunals and Courts under the Decree and concluded that the ENID must be revoked.

Meeting with the ANZ bargaining unit representative

72. The representative of the ANZ bargaining unit said that he concurred with the information provided by the FBFSEU. He has been employed with the bank for 21 years and is a representative of the bargaining unit but has also chosen to maintain his union membership. He stated that the employees felt quite overwhelmed and ill-equipped to bargain with the external representatives that the bank brought in for negotiations. The employees were little aware of the achievements that had been attained during the previous negotiations with the union and had not had the experience to argue on how its provisions should be interpreted and thus final interpretations were decided by management. He also stated that many employees were fearful of getting involved in the bargaining unit at the risk of possible reprisal.

Meeting with the ANZ Bank

73. The management representatives from the ANZ Bank provided an overview of the Bank's engagement with workers following the implementation of the ENID. The ANZ stated that it neither lobbied for, nor was consulted on the Decree and its application to the Bank. Shortly after the decree was issued, ANZ Bank issued a memo accompanied with questions and answers for employees about the impact of the Decree. A copy was supplied to the mission.
74. With respect to implementing the Decree's requirements, the Bank rolled over all collective agreements and voluntarily recognized the bargaining unit that was established despite delays in obtaining the registration certificate from the Prime Minister's Office. The registration certificate expired in the middle of 2014, but the Bank continues to recognize the bargaining unit, while awaiting the certification again from the Prime Minister's Office. The ANZ Bank stated that it made an undertaking to workers that it would not impose any unilateral changes to terms and conditions of employment. Any changes to terms and conditions were subject to an individual anonymous vote by each member of staff at the Bank and these were only made on a select few areas, all other matters being covered by the previous collective agreement.
75. The management representatives noted that there was a backlog of claims and that the new collective agreement that was negotiated with the bargaining unit covered only a portion of the log of claims. The main change that had been made to the collective agreement was a change in the salary structure from fixed cost of living adjustments to adjustments based on performance. The Bank stated that as dispute resolution institutions under the Employment Relations Promulgation were no longer available under the ENID, it had established, with the agreement of the bargaining unit, a dispute resolution mechanism in accordance with the Decree. This process utilizes ANZ Bank's external Advisory Board. The ANZ Bank stated it was in its interests to recognize and work with the bargaining unit despite it still not being registered, but that it cannot sign a collective bargaining agreement with them in the absence of renewed registration. They reaffirmed that ANZ had its own global standards and was accountable to international unions; the bank would not trample upon the fundamental rights of workers.

Meeting with the representative from Fiji Pilots Association

76. The representative from the Fiji Pilots Association stated that the Association would submit a written report to the mission. He discussed the impact of the ENID on pilots. Prior to the ENID, members of the Fiji Pilots Association were covered by a collective agreement. However, given there are approximately 73 pilots in Fiji, it falls short of the

75 members required to establish a bargaining unit under the ENID and consequently there is no longer a collective agreement in place. Since the ENID, it was reported to the mission that there had been a reduction in terms and conditions for pilots. The representative did state, however, that they had a good relationship with the new Chief Executive Officer (CEO) of the company and that they hoped they would be able to reach an agreement on some of the critical matters affecting national pilots.

Meeting with the representative of the Flight Attendants Bargaining Unit

77. The President of the bargaining unit stated that prior to the ENID, the Transport and General Workers Union represented its members, the cabin crew, who had been working for Air Pacific (now Fiji Airways). Under the ENID, workers had no right to a union representative during collective bargaining and the lack of experienced trade union representation negatively impacted on bargaining outcomes. They were also obliged to set up a bank account for the bargaining unit as the check-off facilities would only be deducted and transferred to them and not to the union. The President reported that the employer specifically brought in lawyers from the United States to negotiate with the bargaining unit, placing the employees at a clear disadvantage. The President stated that during the bargaining process, given the power imbalance, workers attempted to maintain as many terms and conditions in the existing collective agreement as possible rather than make new claims. A copy of the relevant collective agreements (before and after the ENID) were supplied to the mission.
78. This year, the two-year registration certificate for the bargaining unit expired under the ENID and an application for re-registration was submitted in July to the Prime Minister's Office, but has not yet been approved. It was his understanding that all these first renewals of bargaining units were being held in abeyance at the moment. The President stated that the ENID should be removed given the disadvantages it brings to workers in their collective representation and its very complex nature. Should it be revoked, the bargaining unit would explore rejoining the Transport and General Workers Union as flight attendants wanted to be represented.

Meeting with the CEO of Fiji Airways

79. The CEO provided an overview of Fiji Airways and the context within which it operates. He stated that after a period of financial difficulty and a subsequent period of stabilization, Fiji Airways was now in a much stronger financial position. He said that Fiji Airways was a vital component of Fiji's tourism sector and made a significant contribution to the overall economy of the country, in particular through the maintenance of continuity for local hotels and other sectors that depend on a stable national carrier.
80. He stated that workers were a vital asset to the company and he has maintained an open door policy to ensure that workers have open and continuous dialogue with the management of the Company. He said that the Company continues to have regular meetings with the Flight Attendants Association and the Fiji Pilots Association. He said that unions have a role to play in the Company. With respect to terms and conditions of employment he said that the company recently implemented profit sharing with workers and was reviewing the pay scale for pilots. He also stated that in the post-election period, the Company would be looking at terms and conditions for workers.

III. Tripartite debriefing

- 81.** A tripartite Memorandum of Understanding (MOU) on the Future of Labour Relations in Fiji was presented and discussed (see Appendix II). Harvey Probert on behalf of the FCEF stated that his organization has invested a lot of effort in reaching this point in the last six months and employers are now looking to the future. He noted that this is a shared view of the Government, employers and workers. He stated that on behalf of the FCEF, he would sign the tripartite MOU signifying the FCEF's commitment to the process. Mr Felix Anthony, stated that the FTUC shared the sentiments of the FCEF in wanting Fiji to move forward. Further, he stated that the MOU reflects the large amount of work that has been invested by the ERAB to progress the alignment of labour legislation with International Labour Standards. He said that the FTUC looks forward to continuing to work with the Government towards attaining these goals. The MOU was signed by Mr Daniel Urai on behalf of the FTUC. The Minister of Employment, Productivity and Industrial Relations, Hon. Jioji Konrote thanked the social partners for signing the MOU. He stated that he was unable to sign the MOU on behalf of the Government at the meeting, but said that it is now the responsibility of the Government to follow its proper processes to consider the matters set out in it.
- 82.** Judge Abdul G. Korma thanked the Government, employers and workers for meeting with the mission during the week. He noted that the new Constitution and elected Government provides a framework and fresh direction for Fiji. In this regard, he noted the sense of optimism among those people with whom the mission had met. He observed that employer and worker representatives had not been able to extol any virtues of the ENID, while the damaging effects on the trade union movement were widely corroborated. The deleterious impact of the Decree on unions had been evidenced not only by the decreasing union membership but also by this fire wall which impeded the assistance they could provide to their members and withdrew the check-off facilities previously provided. He stated that it was very difficult to envisage how the Decree could be adjusted or applied in a manner that would fully respect trade union rights and the mission was convinced that the Employment Relations Promulgation 2007 provided the best basis for re-establishing constructive and harmonious labour relations in the country. He also noted that public service unions faced formidable challenges over recent years in both their right to defend their members' interests and the protection of their rights by the law. He expressed hope that their concerns be brought post-haste before the ERAB with the full participation of all relevant actors so as to equally renew labour relations in the public service.

IV. Conclusions

- 83.** The mission wishes to express its appreciation to the Government for the warm welcome it received in Fiji and the efforts made to ensure that it could meet with all persons relevant to the matters pending in relation to freedom of association and collective bargaining rights in the country. The recent elections and inauguration of a new parliament provided an auspicious backdrop for its work which sets the tone for a new dispensation where concrete and tangible progress can be made in response to the outstanding requests from the ILO supervisory bodies. The mission was especially encouraged by the frank and open dialogue it was able to have with all concerned and the genuine desire that was expressed to move the country forward on the basis of mutual respect.
- 84.** The mission carried out its work, guided by the conclusions and recommendations that had been enunciated by the Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations with respect to the implementation of the Freedom of Association Convention No. 87 and the Collective Bargaining Convention No. 98. The fact finding that the mission was able to carry out has

provided important additional information in relation to the application of the laws and decrees that it considers of particular bearing on the understanding of their real impact on freedom of association in the country. The mission therefore believes that it will be useful to further consideration of these matters for it to summarize this information and its reflections as to ways forward.

The Essential National Industries Decree (ENID)

- 85.** The mission heard numerous witnesses expressing deep concern about the effects of the ENID on the trade union movement in the country and the capacity to exercise trade union rights. Indeed, beyond the detailed provisions that the supervisory bodies have already requested be amended, the information gathered by the mission from all concerned, including enterprises covered by the Decree and their respective bargaining units, has led it to understand that it is not possible for trade unions as such to continue to function under the Decree. For recollection, the industries currently covered by the ENID include a number of private banks, the Fiji Revenue and Customs Authority, the Fiji Telecommunications Industry, Air Pacific (now Fiji Airways), the Fiji Electricity and the Water Authority, the Pine and the Mahogany Industries, Fire Prevention and Local Government.
- 86.** The de-registration of unions and abrogation of collective bargaining agreements are not followed by the establishment of enterprise unions, but rather the creation of bargaining units with employee representatives that have to additionally create new legal structures for any dues collection. While it has been said that they can consult with outside unions, the employee representatives are nevertheless obliged to sit alone in negotiations with management representatives and hired lawyers apparently much better equipped for such dialogue; thus resulting in a severe imbalance of power in the bargaining process, not to mention the fear of reprisal that accompanies employee bargaining representatives who consider that their jobs may be in jeopardy. Bearing in mind the testimony that court cases concerning ENID companies were terminated on the basis that the Decree's provisions do not allow for judicial review, the mission considers that such fears are fully comprehensible.
- 87.** The mission noted that none of the bargaining units with whom it met had led it to understand that the workers were better off under the ENID, had better working relations or had achieved major benefits that unions had been unable to negotiate. To the contrary, the bargaining units all referred to a general strategy of simply trying to maintain terms and conditions that had been previously agreed with the unions, while any changes proposed by the employer had to be accepted given their unequal force and capacity. They all spoke about the importance of having external assistance at the bargaining table not only for their knowledge and expertise, but also due to the effective protection of outsiders from any form of retribution. They highlighted the importance of this last element given the bar on judicial review in the named industries.
- 88.** All the bargaining unit representatives and concerned unions met expressed their desire to be brought back under the scope of the Employment Relations Promulgation. The employers also considered that the Promulgation was the most appropriate framework for constructive labour relations in the country, while some further amendments to that text might be apposite. Given the above, and in light of the MOU signed by the social partners, the mission considered that, even with adjustments, the ENID could not provide a meaningful framework for industrial relations in the country. It would therefore endorse the approach taken in the MOU.

Public service

89. The mission also heard about the impact of the Employment Relations (Amendment) Decree (No. 21, 2011), which essentially removed government workers from the coverage of the Employment Relations Promulgation, including important protections such as leave, maternity protection and trade union rights. The Public Service (Amendment) Decree (No. 36, 2011) restored parts of the Employment Relations Promulgation to these workers regarding some fundamental rights, but this was said to have had little impact, as their ability to appeal for protection of their rights remained hindered. The unions in the public service were barely surviving with check-off facilities first withdrawn and finally restored only in so far as the funds that were being transferred directly to workers as welfare assistance. The mission was encouraged by the openness shown in its meeting with the PSC and invites the parties, pending the constitutional review of the decrees and laws relating to the public service, to meet to address all outstanding matters and to restore fully the check-off facilities to the unions concerned.

Electoral Decree

90. The mission learned of the newly published Electoral Decree (No. 11, 2014), which provides that the Electoral Office shall be responsible under section 154, for the conduct of all elections of all registered trade unions. The mission observed the concerns expressed by all unions and the employers' organization in this regard and their view that such supervision was unnecessary given that elections were already governed by the Employment Relations Promulgation and the approved by-laws of each organization. The mission firmly expects that any supervision of elections of employers' or workers' organizations will be carried out by an independent body and will in no way interfere with the right of these organizations to elect their officers in full freedom.

Other matters

91. The mission observed with concern that charges were still pending against Daniel Urai, FTUC President, despite the period of time that has elapsed and in the absence of any clear indication of criminal wrongdoing on his part. The mission recalled the call from the Committee on Freedom of Association to drop all charges related to his exercise of trade union activity and expressed the hope that this matter would be closed in the very near future so that labour relations in the country could be built upon a climate of trust and confidence. As for the investigation of the assault of Felix Antony, the mission noted with interest that the new Police Commissioner had reactivated this matter and was taking it very seriously and expects that Mr Antony will cooperate in any way he can with the investigation. Finally, the mission observed with concern that certain restrictions on freedom of expression, including with respect to political matters, and of freedom of association, were incorporated into the Constitution and expected that these provisions would be interpreted with full account being taken of the Government's commitments under international law as specified in article 7 of the Constitution.

Training and awareness raising

92. The mission was pleased with the overall interest of the Government and the social partners in gaining greater understanding of international labour standards and, more especially, the principles of freedom of association and collective bargaining. The mission hopes that the Government will engage with the ILO to elaborate a comprehensive training and capacity-building programme in this regard for judges, lawyers, prosecutors, officials in relevant government ministries, the Attorney-General's office, journalists, trade

unionists and employers' organizations. The mission firmly believes that such a programme in the new dispensation will have a positive and meaningful impact on the development of labour relations in the country.

- 93.** Finally, the mission expresses its strong hope that the Government will soon join the two social partners in signing the MOU on the future of labour relations in Fiji as it remains convinced that this consensual way forward will serve all interests in the country to build constructive social dialogue based upon trust and respect.

Appendix I

Persons met by the direct contacts mission

Government

Fiji Media Industry Development Authority

- Mr Ashwin Raj (Chairperson, Media Industry Development Authority)

Office of the Attorney-General

- Aiyaz Sayed-Khaiyum (Attorney-General)
- Sharvada Sharma (Solicitor General)
- Hon. Faiyaz Koya (Minister of Industry Trade and Tourism)
- Hon. Lorna Eden, (Assistant Minister of Industry Trade and Tourism)
- Joeli Ditoka (Attorney-General's Chambers)
- Shaheen Ali (Ministry of Industry and Trade)
- Salaseini Daunabuna (Office of the Solicitor General)

Minister for Employment, Productivity and Industrial Relations

- Hon. Jioji Konrote (Minister of Employment, Productivity and Industrial Relations)
- Taito Waqa (Permanent Secretary)
- Vilimone Baledrokadroka
- Keleni Seruvatu
- Vani Varea
- V. Maharaj

Honourable Chief Justice and Staff

- Honourable Chief Justice Anthony Gates
- Justice Wati (Employment Relations Court)
- Yohan Liyanage (Chief Registrar)

Director of Public Prosecutions

- Christopher Pryde (Director of Public Prosecutions)

Commissioner of Police

- Major General Bernadus Groenewald (Commissioner of Police)
- Superintendent Ravula

Public Service Commission

- Pramesh Chand (Chair of the Public Service Commission)
- Kelera Nukufaunedu

Workers' organizations

Fiji Trade Union Congress

- Agni Deo Singh
- Daniel Urai
- Felix Anthony
- Mikhele Matakia (Fiji General Workers Union)
- Apisai Bakabaka; Prashneel Chand (Air Traffic Management Association of Fiji)
- Kolokesa Kini (Federated Airline Staff Association)
- Michael Tafuna'I (Federated Airline Staff Association)
- Ilikesea Naulumatua (Federated Airline Staff Association)

Fiji Islands Council of Trade Unions

- Manoa Seru Krishnu
- Kamlesh Kumar
- Illaisa Nabunobuno
- Attar Singh

Fiji Public Service Association

- Rajeshwar Singh
- Judith Kotobalavu
- Damodaran Nair
- Bua Vuli

Fijian Teachers' Association

- Gauna Halofaki
- Mikaele Leawere
- Marika Uluinaceva

Employers' organization

Fiji Commerce and Employers Federation

- Harvey Probert
- Michael Wong (Fiji Hotel and Tourism Association)
- Howard Politini
- Dixon Seeto (Fiji Hotel and Tourism Association)
- Nesbitt Hazelman

Enterprises and bargaining units covered by the Essential National Industries Decree

Fiji Bank Employees and Finance Sector Union

- Sailesh Naidu (Fiji Bank and Finance Sector Employees Union)
- Usa Kalim (Westpac Banking Corporation)
- Steven Beddoes (Westpac Banking Corporation)
- Dharmendra Nand (Bank of Baroda)

ANZ Bank

- Gwen Phillips (Manager, Employee Relations, ANZ Bank)
- Tracey Tuimaleai'ifano, (Human Resources Business Partner, ANZ Bank)
- Apologies: CEO of the ANZ Bank
- Dharmendra Singh (ANZ Bank Bargaining Unit)

Fiji Pilots Association

- Eden Sigani

Fiji Airways Flight Attendants Bargaining Unit

- Josaia McGowan (President of Bargaining Unit)

Fiji Airways

- Stefan Pichler (CEO)

Tripartite debriefing

- Hon. Jioji Konrote (Minister of Employment, Productivity and Industrial Relations); Michael Wong, Dixon Seeto, Harvey Probert, Nesbitt Hazelman (FCEF)
- Vilikesa Naulumatua, Rajeshwar Singh, Eva Leona, Michael Tafuna'I, Daniel Urai, Agni Deo Singh (FTUC)
- Felix Anthony
- Mikaele Mataka, A. Bakabaka (FSGWU)
- John Alexander (CETWUF)
- Salaseini Daunabuna, Joeli Ditoka (Office of the Attorney-General)
- Joeseva Vatubuli, Kolokesa Kini (ATMAF)
- Kelen Seruvatu, Vani Varea, Taito Waqa (Ministry of Employment, Productivity and Industrial Relations)
- Her Excellency Ms Nazhat Shameem (Permanent Representative to the United Nations)

Observer

- Her Excellency Ms Nazhat Shameem (Permanent Representative to the United Nations) in attendance at Government meetings.

Appendix II

Tripartite Memorandum of Understanding on the future of labour relations in Fiji

The Government of the Republic of Fiji, the Fiji Trades Union Congress and the Fiji Commerce and Employers' Federation solemnly recognize that the successful opening of the first parliament in eight years, heralding an era of multi-party engagement for the good of all Fijians, signals an auspicious moment for re-engagement with a view to the establishment of a renewed labour relations paradigm in the country. To this end, the parties pledge their efforts to reinvigorate labour relations through their pursuit of frank and sincere bipartite and tripartite dialogue in a spirit of genuine respect and good faith.

The parties recognize the Employment Relations Promulgation 2007 as a positive and constructive framework in which labour-management cooperation leading to enhanced productivity and collective bargaining for the improvement of workers' terms and conditions of employment can be effectively exercised and agree that it can set a level playing field for fair competition across industries and decent work for all workers and employees.

In this context, the Minister of Employment, Productivity and Industrial Relations undertakes to expeditiously present to Cabinet and Parliament, in accordance with compatibility with the 2013 constitution and with international law, the specific recommendations for the amendment and/or repeal of labour laws and decrees following the full review carried out by the Employment Relations Advisory Board in accordance with the instruction referred to in the Prime Minister's letter to the ILO Director-General of 23rd May 2012.

The parties firmly believe that rapid action aimed at bringing the legislation of Fiji into line with its obligations and commitments under the ratified ILO Conventions Nos. 87 and 98 on Freedom of Association and Collective Bargaining is a necessary step towards creating the win-win solution that will serve as a critical building block for social justice, industrial peace and economic development in the country and will make all efforts to achieve rapid progress to this end.

As discussed with the ILO Direct Contacts Mission, the parties recognize and welcome the significant contribution that the ILO can make towards the attainment of the above objectives offering assistance through regular training, workshops and seminars to build the capacity of all branches of Government and the social partners in their knowledge of international labour standards, especially those relating to freedom of association, and their constructive engagement in tripartite social dialogue on broader social and economic policy considerations and in meaningful collective bargaining.

Appreciating the need for a coherent national approach on a tripartite basis, the parties agree to review and reactivate Fiji's Decent Work Country Programme (DWCP) as soon as possible, to cover the period 2015-2017 and beyond. The social partners agree to support the Republic of Fiji in its endeavours to give immediate effect to this Memorandum and to fulfil its obligations under ratified standards, the 1998 ILO Declaration on the Fundamental Principles and Rights at Work, and the 2008 ILO Declaration on Social Justice for a Fair Globalization.



Mr. Harvie Probart
For President
Fiji Commerce and Employers'
Federation

Hon. Mr Jioji Konrote
Minister for Employment,
Productivity and Industrial
Relations



Mr. Daniel Urai
President
Fiji Trades Union Congress