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**INDONESIAN MIGRANT WORKERS UNION (IMWU)
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COALITION FOR MIGRANTS RIGHT (CMR)**

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**STATEMENT SUBMITTED TO LEGISLATIVE COUNCIL
PANEL ON MANPOWER SPECIAL MEETING ON 12 March 2003**

LEVY: DISCRIMINATION THROUGH TAXATION!!

**CMR CALL THE LEGISLATIVE COUNCIL TO STOP THE LEVY AND THE WAGE
CUT BECAUSE OF FOLLOWING REASON, ON OUR STATEMENT**

Since 26 February 2003, the HK government announced that it will impose a HK\$ 9,600 levy on employers of Foreign Domestic Workers (FDWs) and HK\$ 400 cut on FDWs' minimum wage. To say the least, the decision highlights the undemocratic treatment and discriminatory attitude of the HK government towards FDWs. The policy announcement is a cowardly and roundabout process the government has chosen to essentially tax FDWs, while circumventing and violating HK's international obligations to respect labour rights.

The announcement indicates the government's clear disregard of the interests and collective voice of FDWs, exemplified by ongoing protests undertaken by the Coalition for Migrants Rights (CMR) and other migrants' coalitions, migrants and local workers' union, advocates, NGOs and churches in Hong Kong. Efforts to stop the levy from the Philippine, Thai, Indonesian governments seem also to have been vain. This newest imposition is the latest in string of anti-migrant policy proposals, which have been aggressively pursued by the government and employers since 1998.

CMR, the Indonesian Migrant Workers Union (IMWU) and the Asian Domestic Workers Union (ADWU) have repeatedly asserted that the tax and levy proposals are blatant forms of discrimination through taxation that violate International Labour Organization (ILO) Convention 97 and core international labour standards. Hong Kong has ratified ILO Convention 97. And ILO conference on domestic workers, held in Hong Kong on 17-19 February 2003, further supported this claim and urged migrants to pursue the issue with international human rights agencies.

We migrant workers organizations and unions, along with local workers' unions, will continue to mobilize the support of local and international labour movement and strive to strengthen our unions' collective opposition to the new, unjust policies of the HK government. We support the large demonstration held on 23 February by JIL, AMCB and other advocates, we urge future mass protests. Our experience in 1998--when CMR, JIL and various advocacy groups staged an

8,000-strong rally that helped to decrease the 35% wage cut proposal to only 5%—shows that mass protests are critical. But as the government refuses to take heed to national protests, we are asserting the issue to the United Nations and international forums.

As part of the common protest efforts, we have lodged a formal complaint to the Governing Body of the ILO in Geneva in January 2003, in the line with its Article 34 Procedure. On 29 January 2003, the ILO confirmed to us that our complaint has been transmitted to the relevant authorities within ILO and the International Confederation of Free Trade Unions (ICFTU), and they encouraged us to work closely with local union centers in HK such as HKCTU and HKTUC. The ILO responded with another letter on 18 February 2003, stating that they will submit our complaint that the HK government is violating the Migration for Employment Convention (Revised) 1949 (No. 97) to the Committee of Experts on the application of Conventions and recommendations at its next session (November- December 2003). (See the copy ILO reply.)

Though we understand the limitations and potentials of international advocacy, we are encouraged by CMR's submission to the ILO in 2000 to stop the HK government's proposal to remove FDWs' maternity protection. Combined local protests and international critique at that time had helped to stop the anti-women, anti-FDW proposal.

CMR, through its partners in the Migrant Forum in Asia (MFA) and Migrants' Rights International (MRI) will participate in the 59th Session of Commission on Human Rights in Geneva in April 2003. Frustrated by the HK government's adamant refusal, we will place them in the international spotlight for imposing this discriminatory policy. We are also inviting the UN Special Rapporteur on the Human Rights of Migrant Workers to come to HK and conduct a first-hand investigation on the issue.

HIGHLIGHTS OF THE CMR/ ADWU/ IMWU PROTEST TO THE ILO

The HK government's decision to impose the levy (effective October 2003) and wage cut (effective April 2003) are discriminatory and inconsistent with its obligations under international human rights standards:

- ◆ The levy violates Article 6 of ILO Convention 97 (Migration for Employment), to which Hong Kong is a state-party; the Convention mandates that the HK government should NOT discriminate against FDWs in terms of remuneration.
- ◆ Since the levy and wage cut have been announced supposedly to help pay for retraining services for domestic workers and HK's current budget deficit, this violates Article 7 of Convention 97 (public services for FDWs should be free).
- ◆ As explained below, there is a high chance that many employers will pass on the HK\$ 9,600 levy to FDWs in the form of higher agency fees. This will increase the incidence of non-payment or severe underpayment of wages, especially among Indonesian and Indian FDWs. To recover the levy, abusive employers could resort to the intensification of the current practice of not paying FDWs for up to seven months (which could rise to 11 months of non-payment with the new levy). The latter are essentially practices of debt bondage and forced

servitude and are also inconsistent with the HK government's commitments under ILO Conventions 29 and 105 to combat forced labour.

The government might argue that the levy is on employers rather than on FDWs, but a closer look at the twin decisions easily reveal otherwise. The HK\$ 9,600 levy - a lump sum fee for a two year FDW contract--actually translates to HK\$ 400/ month for two years: this is exactly the same amount as the new cut in FDWs' monthly wage. Not only is the government circumventing the spirit of the ILO Convention, but it is crudely attempting to tax FDWs in a round-about way by making it appear that the employer, not the FDW, is paying. This is also an implicit admission by the government to escape its responsibilities.

Worse still, there is a high probability that FDWs will end up paying twice or three times in the following ways:

- a) A HK\$ 400 reduction in their minimum wage;
- b) Some employers may further underpay FDWs (e.g. 50% of Indonesian FDWs now receive HK\$ 2,000 or less; this could be further reduced to HK\$ 1,600 to 'recover' the levy)
- c) Abusive employers, in connivance with recruitment agencies, would charge higher agency fees in order to pay back/ recover the levy for the employer. For instance, many Indonesian FDWs now pay up to HK\$ 21,000 as agency fee; this could rise to HK\$ 30,600 with the levy, resulting in FDWs working without pay for up than 11 months. These are current practices which would only worsen with the levy and wage cut.

Now that the government has formally announced the twin policies, CMR, IMWU and ADWU will proceed with its formal complaints against the HK government through the above stated international forums. We are asking the ILO to declare the levy as a form of discrimination through selective taxation (violation Article 6 and 7 ILO Convention 97); or a policy that encourages debt bondage and forced servitude of FDWs (inconsistent with ILO Conventions 29 and 105).

We have also asked trade unions all over the world, as well as the ILO, NGOs and advocates, to support CMR's and FDWs' unions protest against the levy.

For the Hong Kong government to claim it is "world-class city" is arrogant and hypocritical if it cannot live up to basic international human rights and labour standards.

Stop the levy! No to discrimination through taxation!

Stop the wage cut!

Properly recognize and compensate domestic work and women's work!

Stop all forms of unfair, unjust and discriminatory policies against FDWs!

Signed:

Indonesian Migrant Workers' Union (IMWU)

Asian Domestic Workers' Union (ADWU)

Coalition for Migrants Rights (CMR)
Asian Migrants Centre (AMC)
Migrant Forum in Asia (MFA, a regional network based in the Philippines)
Migrants Rights International (MRI, Geneva)
Asian Human Rights Commission