

ADDRESS BY

HON. JEAN FRANÇOIS CHAUMIÈRE
MINISTER OF LABOUR, INDUSTRIAL
RELATIONS & EMPLOYMENT

MAURITIUS EMPLOYERS' FEDERATION

WORKSHOP ON

*“Engaging in Collective Bargaining and Negotiating
Collective Agreements”*

Date: Wednesday 08 October 2008

Time: 0930 hrs

*Venue: MEF Management School
MEF – MCCI Building
Ebène Cybercity
Ebène*

Mr. Anwar Joonas, Chairman of Mauritius Employers' Federation

Dr. Azad Jeetun, Director of MEF

Mr. Ludek Rychly, Senior Social Dialogue Specialist, ILO

**Mr. M. Vivekananda, General Manager, Industrial Relations
Malaysian Employers' Federation**

Dear Participants,

Distinguished guests,

Ladies and Gentlemen,

A very good morning to everyone of you.

I am indeed extremely pleased to address participants and guests of **Mauritius Employers' Federation** on the occasion of the opening of this 3-day Workshop on **“Engaging in Collective Bargaining and Negotiating Collective Agreements”** organized in close collaboration with the **International Labour Office**.

As it has been pointed out, this workshop's main objective is to sensitize employers on the major review of our labour legislations with particular emphasis on Collective Bargaining.

Let me first of all congratulate the MEF for this laudable initiative for holding this workshop, which comes at a very opportune time, indeed.

As you all know, very recently the National Assembly adopted the **Employment Relations Act** and **Employment Rights Act**. The main aim of these two new labour laws is to put in place a legal and institutional framework, which will not only respond to economic imperatives but also, **to better protect workers**, promote effective **Collective Bargaining** in enterprises and effectively **strengthen tripartism and social dialogue**.

The formulation of the above new labour laws, which are going to replace the IRA and the Labour Act, had necessitated lengthy consultations with stakeholders. Throughout the consultation process, government has consistently acted in accordance with the spirit of dialogue. No less than **16** meetings were held with representatives of the MEF since 20 December 2005, when

discussions first started on the review of the labour laws. Nearly as many as **24** were also held with workers representatives.

Dear friends, while preparing the two pieces of legislation, government has been inspired by the Conventions and Recommendations of the ILO, which are recognized by all as international best practices. As you may be aware, Mauritius has at to date ratified 35 ILO Conventions, including convention 87 on **“Freedom of Association and Protection of the Right to organize”**, Convention 98 on **the “Right to organize and Collective Bargaining”** and also the other 6 core Conventions relating to workers rights.

Indeed, one prominent feature of the Employment Relations Act is the effective recognition of the right to Collective Bargaining – a voluntary mechanism for regulating terms and conditions of employment.

Without going into details on relevant sections dealing with Collective Bargaining, I wish, however, to stress that the new labour legislation sets out, in a structured manner, the sine-qua-non conditions for the harmonious development of Collective Bargaining. The new legislation also provides the necessary safeguard against unfair labour practices, which could undermine the process of Collective Bargaining.

Furthermore, the legislation also provides that a **Collective Agreement can be renegotiated after a period of only two years** from the date of its coming into force. This is indeed, the outcome of fruitful discussions; we had with all the stakeholders and representatives of the ILO on the duration of a Collective Agreement. May I also take this opportunity to remind Employers, in general, that a Collective Agreement cannot contain any provision reducing the wages prescribed in Remuneration Order Regulations. The prescribed wages become the basis on which negotiations must start.

Ladies and gentlemen:

May I also take this opportunity to appeal to all stakeholders and everybody in general, to **dispassionate the ongoing debate around the issue of working on Sundays** – which according to me and being given the economic imperatives and realities – must not be regarded as an issue at all.

The Employment Rights Act, in fact, provides for the payment at twice the basic rate for work on Public Holidays, **including Sundays** – irrespective of the number of hours of work performed. Existing provisions of the **Labour Act** to the effect that an agreement may continue to provide for the remuneration of a worker to include

payment for work on Public Holidays and overtime has been maintained in the new legislation.

Furthermore, the maximum number of public holidays and maximum number of hours of overtime on weekdays and on public holidays covered by the Remuneration Orders **must be expressly** provided for in the Collective Agreement.

Ladies and gentlemen:

It is my own sincere belief that confrontation does not necessarily resolve problems. The answer to many of our problems, and particularly labour and industrial relations problems, lies in social dialogue, good communication based on mutual respect.

It is essential that social dialogue becomes the cornerstone of our industrial relations strategy and that the institutional framework for such dialogue be improved and redefined. Social dialogue institutions can only be effective if they have the trust and the confidence of all the partners concerned.

The new labour legislation does not only bring about fundamental changes in the existing framework, but also reviews our institutional framework. The new legal framework, I believe, will adequately address the emerging challenges caused by globalisation and is not only **“worker friendly”** and complies with the **ILO fundamental conventions** but is also **investment friendly**.

Our ultimate aim is to find solutions to industrial relations problems through speedy conciliation and settlement of disputes and putting in place processes for agreements on labour issues to be reached to the satisfaction of all parties concerned.

All these changes will require also changes in the mindset and the attitude of both workers and employers as well. Let me again; congratulate the MEF for already preparing its members on how they should operate under the new legal framework that the government has already proposed by coming up with the Employment Relations Act and the Employment Rights Act.

Ladies and gentlemen:

Let me stress that the existing **Industrial Relations Act (IRA)** does not specifically deal with the negotiation process and with the legal regime of Collective Agreement. The IRA hardly provides any statutory regulations and procedures for the promotion of Collective Bargaining. Instead the IRA favours as voluntary approach and sets broad parameters and procedures for recognition. It also sets

“guidelines” in the Code of Practice for matters pertaining to the implementation of Collective Bargaining.

This approach, unfortunately, has not given the expected results. The adversarial industrial relations pattern, which has prevailed for many years, has prevented the development of Collective Bargaining.

The **Employment Relations Act** marks a major change in the mauritian statutory Industrial Relations System. Presently, the **Conciliation and Mediation Division** of my Ministry and **Industrial Relations Commission (IRC)**, are actually involved in the Conciliation and Mediation processes whereby the employers and employees are given an opportunity to break away from the rigid legal formalism of the **Industrial Court** to find ways to build a stable and effective management and labour interactions in the workplace.

We all know that the Industrial Court under the current legislation focuses on adjudication and rule making, after the happening of the event.

In the new legislation, the rules of conciliation and mediation are detached from the adversarial system to a more proactive and expeditious dispute resolution system where the system is less technical and more accessible to parties – and which, unlike in the IRA, provides for a given time-frame.

In addition to setting-up of necessary conditions and instruments for facilitating effective Collective Bargaining, much emphasis has also been laid on providing for a more effective dispute settlement machinery to allow speedy conciliation, mediation and voluntary arbitration as a peaceful means to settle labour disputes.

Ladies and gentlemen:

It was, indeed high time for the government to come up with these new labour legislations to replace the outdated IRA and Labour Act, which no longer respond to the realities of the labour market in a rapidly changing global economy.

I sincerely believe that, although it was a very difficult task, we have managed to reconcile the need to protect the fundamental rights of workers on one hand with the necessity to providing optimal conditions for investment. Because it is only new investment that can fuel economic growth, and, as a consequence, paves the way for the creation of additional and more productive and decent employment.

Ladies and gentlemen:

The **Mauritius Employers' Federation** along with workers' organisations have been and will always remain major partners of my Ministry. I am confident that I can always rely on the full support of the MEF and its members in our effort of formulating and implementing the best strategies for the promotion of harmonious industrial relations.

I wish all participants fruitful interactions during this workshop and I now have the pleasure to declare open this workshop.

Thank you for your kind attention.