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Mission Report on the Social Dialogue in Kyrgyzstan

Anar Musabaeva & Evert Verhulp

Introduction

In September 2008 representatives of the trade unions, employers' organisations and the government of the Kyrgyz Republic visited the Netherlands to study 'the social dialogue and its decentralization'. The study visit was organized by the Dutch-funded Boosting Youth Employment project (BYE). The aim of the visit was (also) to consider ways of strengthening social dialogue and tripartite cooperation in the Kyrgyz Republic. After the visit the BYE project's steering committee unanimously agreed on the first step: an independent expert mission to enable the further exchange of information and ideas on how to improve social dialogue in the Kyrgyz Republic.

The ILO found Evert Verhulp, Professor of Labour Law at the University of Amsterdam, chairman of the board of the Amsterdam Institute of Advanced Labour Studies and independent (crown-appointed) member of the Committee Labour of the Dutch Social Economic Council willing to conduct this mission. Ms Anar Musabaeva was asked to join the mission as a national expert. The mission was held from 16 to 24 December. The experts had a number of formal and informal meetings with various key informants. The experts also had group meetings with specialists and mid-level managers of key government bodies involved in social dialogue or certain aspects thereof. Annexe 1 contains a list of people officially met during this mission. All meetings were attended by Ms Kalipa Djararova who was acting as simultaneous interpreter (Russian-English-Russian).

The experts had some informal meetings with individual employers and employees. Some of the latter requested to remain anonymous in the study for various reasons. The experts made a report of the formal meetings, but will not publish these reports. They made no reports of the informal meetings. Being aware of the risk of unreliable information or manipulation the experts will use the information gathered in the informal meetings only as solid background information when an independent and verifiable source is available for the same information, or when a reference can be made. Where no such source is available, the information is sometimes used, but with the remark that the information is not evidence-based.

The experts are unable to give an overview of all forms of social dialogue (tripartite or bipartite as long as one of the partners is the government or a state agency) and collective bargaining (primarily aimed at concluding a collective labour agreement or other deals between employers or an employers' organization and a trade union).

Prerequisites of the Success of Social Dialogue.

The ILO defines social dialogue as including all types of negotiation, consultation and exchange of information between, or among, representatives of governments, employers and workers on issues of common interest. The forms of social dialogue vary from country to country and from region to region. It can be tripartite, with the government as an official participant, or bipartite. It can be informal or institutional, and is often a combination of the two. It can take place at a national, regional or enterprise level. It can be inter-professional, sectoral or a combination of all these.

In the terms of reference for the status study on social dialogue in Kyrgyzstan the ILO sets out some prerequisites of fruitful social dialogue. These are:

- *the existence of strong and independent organizations of workers and employers*
- *a relevant knowledge base in these institutions on critical labour issues*
- *an adequate legal and institutional framework for social dialogue*
- *political will on the part of all three parties to engage in social dialogue and respect agreements arrived at through it.*

These prerequisites are based on ILO-conventions and recommendations, which have been ratified also by the Kyrgyz Republic.

The main goal of social dialogue itself is to promote consensus building and democratic involvement among the main stakeholders in the world of labour. On the one hand, successful social dialogue structures and processes have the potential to foster good governance, advance social and industrial peace and stability, and boost economic progress. For social dialogue to work, the State cannot remain passive. It is responsible for creating the stable political and civil climate required for employers' and workers' organizations to operate without fear of reprisals. On the other hand, collective bargaining is the most widespread form of social dialogue and is a useful indicator of the capacity within a country to engage in national level tripartism.

This experts' report examines the use of ILO's approach to social dialogue and presents ILO's basic and non-negotiable principles in the Kyrgyz Republic. The principles are embedded mainly in the fundamental conventions on the freedom of association (N.87) and collective bargaining (N.98). These two conventions are considered core ILO human rights standards and form the basis of the Declaration of Fundamental Rights and Principles adopted in 1998. This Declaration implies that Member States are committing themselves to implementing the principles enshrined in the core human rights Conventions, a commitment that is said to derive from the fact of ILO membership, and not from ratification. Even when all the core labour standards listed in the abovementioned 1998 Declaration (i.e. the freedom of association, the right to collective bargaining, the elimination of all forms of compulsory labour, the abolition of child labour, and the elimination of discrimination in employment and occupation) enjoy equal importance as regards compliance, the reality is that the ILO supervisory bodies have had to deal with the standards related to social dialogue and collective bargaining more than with any other labour relations issue. In particular, several countries have faced difficulties in securing compliance with the right to strike, which is inherent in ILO's Conventions 87 and 98.

Independent organizations for workers and employers are the cornerstones of ILO's tripartite structure and its efforts to promote freedom of association. The principle of freedom of association is at the core of the ILO's values: it is enshrined in the ILO Constitution (1919), the ILO Declaration of Philadelphia (1944), and, as mentioned earlier, in the ILO Declaration on Fundamental Principles and Rights at Work (1998). It is also a right proclaimed in the Universal Declaration of Human Rights (1948). The right to organize and form employers' and workers' organizations is the prerequisite of sound collective bargaining and social dialogue. The ILO promotes that all workers enjoy the right of association and condemns the fact that in some countries certain categories of workers (for example public servants, seamen, workers in export processing zones) are denied the right of association. ILO standards, in conjunction with the work of the Committee on Freedom of Association and other supervisory mechanisms, aim at ensuring that this fundamental human right is respected the world over.

According to Hepple, the ‘equality of capability’, which ought to be the goal of labour law in the twenty-first century, requires a revitalization and enforcement of ‘the substantive freedoms that individuals need in order to survive and prosper, including (...) freedom of association and freedom to participate in economic and political decision-making that affects their lives.’¹

The ILO Fundamental Convention on Freedom of Association and Protection of the Right to Organise, 1948 (No. 87), sets forth the right for workers and employers to establish and join organizations of their own choosing without previous authorization. Workers' and employers' organizations shall organize freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organizations of workers and employers. The right of workers and employers to form and join organizations of their own choosing is an integral part of a free and open society.

The ILO Fundamental Convention on the Right to Organise and Collective Bargaining, 1949 (No. 98), enshrines the right to collective bargaining. This convention promotes and encourages voluntary collective bargaining. In addition, this Convention provides that workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other, in particular the establishment of workers' organizations under the domination of employers or employers' organizations, or the support of workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations.

This report also analyses whether the government promotes in practice social dialogue and collective bargaining as described in other relevant ILO instruments, such as Conventions 144, 150, 154, 151, 160, Recommendations 91, 113, and 163. The study focuses on what should be the role of public policies in the development of social dialogue and collective bargaining; this is particularly important within the context of the Central Asia, where the roles of social partners and the state are sometimes confused.

Preconditions of Social Dialogue in the Kyrgyz Republic

The experts' prudence with informal gathered information is called for specifically regarding information on the outskirts of the mission's aim. Important for the success of social dialogue, but difficult to identify, to measure or to quantify, are the ‘soft’ preconditions like the mentality of the people, the education and vocational training of the workforce, poverty and wages, the enforcement of laws and regulation, the autonomy of the judiciary, the liability of the government and civil servants and corruption. Although these topics were not on the agenda at the formal meetings, they were mentioned in some meetings, and in the informal meetings these topics were a constant factor of discussion. The experts regarded these soft preconditions also as important indicators of the improvement of social dialogue in the Kyrgyz Republic. It goes beyond the scope of this report to discuss these soft preconditions in depth, but the experts will discuss the three they think most noteworthy: corruption, the vibrancy of civil society and the exodus of trained workers.

¹ See B. Hepple, ‘Labour Law, Inequality and Global Trade’, *Sinzheimer Lecture* (2002), 14.

According to the 2005 Business Environment and Enterprise Performance Survey (BEEPS), 59 percent of businesses cited corruption as a significant obstacle to doing business in the Kyrgyz Republic. Other studies confirm this information. Corruption seems to be a problem in all sectors of society and also affects the participants in the social dialogue and the social dialogue itself. The chairman of the federation of trade unions, Mr Sagyn *Bozgunbaev*, was charged and convicted for corruption in 2008. Where the allegations of corruption were known two years previously, some say that the prosecution was initiated for political reasons only, and his conviction is said to be proof also of the judiciary's lack of autonomy. Also the election of his successor, Mr *Imanaliev B.*, did not go without debate. Although the government denies having had any influence on his election, some of the informants say its influence was undeniable.² Regardless of what is the 'real story', such stories are likely to contribute to negative public perceptions of social dialogue, its main actors and justice in general. The experts mention this information to support their opinion that societal problems influence the social dialogue.

According to the World Bank³ civil society has, following the March 2005 revolution, consistently called on the authorities to fulfil their commitments to fight corruption and organized crime, and the authorities have in turn engaged in active dialogue with civil society. The bank states '*The mass media is freer now, and an environment of active political debate prevails*' and '*The existence of a vibrant civil society, which is the most robust in the Central Asian region, will assist the process of consolidation of the state*'. In some of the informal meetings this point of view was not shared. To the contrary: Some of the informants noticed an increasing limitation of free press and political debate.⁴ These informants also contradict the supposedly active social dialogue. The experts have indications that the civil freedoms, such as freedom of speech and freedom of association, necessary for a strong social dialogue, are hindered.⁵ However the experts did find some good examples of social dialogue in the Kyrgyz Republic, not only those initiated and sponsored by International Organisations. Social needs are great and the pressure to solve these is huge. The experts observed the widespread notion that the best way to find solutions to these complicated problems is to encourage a proper social dialogue. It was encouraging to see that representatives of all three parties of social dialogue met by the experts expressed their genuine interest and willingness to improve social dialogue in their country despite different understanding and different emphasises in what they consider to be a content of this dialogue as well as the roles of social partners.

The exodus of mainly highly skilled and highly educated workers to neighbouring countries is a loss for society but also for the public services in the Kyrgyz Republic, where the lack of e.g. good medical help is apparent. Since independence, Kyrgyzstan has already irrevocably lost thousands of qualified staff. It is even more disappointing that the urge for emigration is still strong among most educated youth, including those who have earned degrees from advanced universities abroad. Opportunities for self-actualization are quite limited for them in the country. The irrational policy on human resources, market deficiencies, and a high level of corruption in society all serve to limit the opportunities for educated and talented youth. The

² See also the letter of the International Trade Union organisation, http://www.ituc-csi.org/IMG/pdf/ituc_etuc_to_president_bakiev_re_suspension_fpkg_president_0208.pdf

³ Joint country support strategy for the Kyrgyz Republic 2007-2010 World Bank, no 45, . http://siteresources.worldbank.org/INTKYRGYZ/Resources/JCSS_ENG_07.pdf

⁴ See also the (closing down radio free Europe etc)

⁵ See also http://dosfan.lib.uic.edu/ERC/democracy/1994_hrp_report/94hrp_report_eur/KyrgyzRepublic.html

majority works in a specific labour market, mainly in international organizations or local NGOs, funded by international donors. This labour market is very narrow (limited), extremely unstable, and is not always flexible or free from corruption. This image reflects a situation in which the highly qualified part of the youth is not in demand in its own country or works in non-productive areas.

Brain drain is also a loss for the representation of the workforce, because the workers have disappeared who would be capable of organizing representing institutions and capable of participating in those institutions and by doing so could have contributed to a better social dialogue. Tentative research in other countries showed that this 'brain drain' affects the more critical and entrepreneurial workers and therefore has a negative effect on civil society in general and the industrial relations specifically. There is no indication that the influence on the social dialogue of the Kyrgyz Republic differs from these findings, although it is hard to show a direct relation between a hampering social dialogue and the rate of well-educated workers.

The Labour Market of the Kyrgyz Republic

To a population of 5.2 million, the Kyrgyz Republic has a labour force of about 2.5 million. The employment rate (percentage of working age population who are currently employed) has not improved over the last 10 years and in fact shows some decline. Thus, in 2000 the employment rate was 66.4%, in 2004 – 62.8%, and in 2008 – 59.8%.⁶ Other sources give slightly different figures. For instance, the State Committee on Migration and Employment conducted its own analysis of labour market trends in 2008, and according to its data the employment rate has increased, be it insignificantly, by 1.8 % from 2006 to 2007 with an absolute increase in number of employed by 2007 by 5 % since the year 2004⁷. See for a recent and accurate overview of the labour market the document of the World Bank: Poverty reduction and economic management unit Europe and Central Asia Region, 12 September 2007.⁸

Between 2001 and 2005, the total number of contributors to the pension fund increased by over 30%. Average pensions were raised by 35% in nominal terms, with higher increases for pensioners between 2003 and 2006. A recent change in the law on Assistance to the Employment of Population has led to an increase in the number of registered unemployed, putting a further strain on the already fragile financial status of the Ministry of Labour and Social Development. Still, the pension and unemployment benefits are considered too low.

Poor domestic labour market outcomes and low output growth and insufficient economic diversification have hindered a faster reduction in poverty and led to greater out-migration. Low wages, underemployment and outright unemployment are important explanatory factors of poverty in the Kyrgyz Republic. They also explain the brain drain of better trained workers to other countries. The result is that remittance income is becoming an important source of income for those remaining behind. According to the International Organization for Migration (IOM), some 300,000 migrant workers from the Kyrgyz Republic work in the Russian

⁶ Information about activities of the Committee on youth, gender, physical culture and sports under the Kyrgyz Parliament <<http://www.kenesh.kg>>

⁷ Analysis of labour market of the Kyrgyz Republic for the first half of 2008 and demand for qualified workers. Analytical materials of the State Committee on Migration and Employment. <<http://mz.kg/ru/analytics/>>

⁸ http://siteresources.worldbank.org/ECAEXT/Resources/publications/454763-1191958320976/Poverty_assessment_Vol2.pdf

Federation; the number for Kazakhstan is 50,000. The unofficial estimates seem to be more accurate and are much higher, at 400,000 – 700,000 in the Russian Federation, and at 70,000 in Kazakhstan.⁹

According to OECD statistics¹⁰ the registered unemployment rate is 3.2%, while in reality unemployment is 8.3%. According to the CIA world fact book the unemployment rate in 2007 was 18%, and some other sources estimate an even higher unemployment rate. According to the State Committee on Migration and Employment in 2007 11% of the work force was unemployed. The unemployment benefits are too low to stimulate unemployed to register, the other facilities offered to the unemployed, such as training, are sporadically mentioned as a reason for registration. The average unemployment benefit is 370 KG Soms (approximately 9.25 USD), and salary in the public works is about 1000 KG Soms (about 25 USD).¹¹

Informal employment in the Kyrgyz Republic is widespread. The informal sector refers to the share of the economy that fully or partially escapes the formal legal environment, taxation, and most often is not affected by labour laws, and other enterprise regulations. Informal sector jobs are typically small-scale operations, family and household jobs. The World Bank calculates the informal employment rate at 48% of the labour force.

There are no reliable figures available on the self-employed workers. It is likely that a majority of the informal employed workers is self-employed. The position of the formally self-employed is not clear. Some organisations, like the Dordoi trade union, organize groups within these self-employed workers and represent their interests.

Youth Employment

Another noticeable figure is that of the young workers on the Kyrgyz labour market. Since gaining independence in 1991, Kyrgyzstan has continued to face high levels of unemployment and inhibited development of a fully-operational labour market. In these circumstances, youth is experiencing additional barriers on the job market. These include low levels of competitiveness, especially among the first entrants into the job market, poor opportunities for self-employment or opening-up own businesses due to insufficient skills and the absence of initial capital and other resources. In some of our meetings the importance of good technical skills and training were stressed as one of the most important factors for a youngster to obtain a job¹².

The issue of youth employment is important because youth makes up a large segment of the job market structure, which currently entails a tendency towards growth of the labour supply. About 100.000 young people enter the labour market annually, but job creation is lagging behind.¹³ This trend is likely to continue at least in the coming five years due to demographic features of Kyrgyz society. Figures on youth employment vary. According to the official data persons younger than 34 years make up 59.4% of the total labour force (2922.7 thousand

⁹ Joint country support strategy for the Kyrgyz Republic 2007-2010 World Bank, p. 7.
http://siteresources.worldbank.org/INTKYRGYZ/Resources/JCSS_ENG_07.pdf

¹⁰ <http://www.oecd.org/dataoecd/51/46/3>

¹¹ Information about activities of the Committee on youth, gender, physical culture and sports under the Kyrgyz Parliament <<http://www.kenesh.kg>>

¹² <http://www.iaw.uni-bremen.de/downloads/AlmatyPaper2.pdf>

¹³ State programme of the Kyrgyz Republic on regulation of migration processes for 2007-2010, adopted on 25 September 2007

people).¹⁴ It should be noted that in Kyrgyzstan the ‘youth’ category includes persons from 14 to 34 inclusive, which is contrary to the internationally adopted criteria and does not always allow valid international comparisons. According to the official statistics for 2008 the youth made up 2 millions 487 thousands, or 48% of the country’s total population¹⁵.

The rate of youth unemployment based on official data stands at 10.1%.¹⁶ This number is widely recognized to be just the tip of the iceberg. Generally accepted is that the ratio of youth among the total registered unemployed makes up more than half: 56.8%¹⁷. Almost 60% of registered unemployed youth is made up of long-term unemployed, with a considerable number graduated from universities with various degrees (14%). 40 to 50 thousand of these university graduates enter into the job market annually. Young people, especially in urban areas, are also facing much more difficulties in the labour market than other groups. Urban youth under the age of 30 accounts for 13% of the total Kyrgyz labour force, but one fourth of all the unemployed, according to the World Bank.¹⁸

The problematic entry of youth into the job market advances poverty among this group, forces youth to switch to the informal sector, notorious for its bad working conditions, health risks, and absence of social protection. This switch also increases the chances of youth engaging in various antisocial activities. Among the positive effects of youth employment are the emergence of young businessmen, bankers, and managers in the private and non-commercial sector. Young people are becoming increasingly involved in areas of new economic development – trade, communications, and the service sector. Unfortunately, the percentage of youth employed in the public service (civil servants) is insignificant.

The existing eight youth labour exchanges in big cities, namely in Bishkek, Osh, Karakol, Tokmak, Jalal-Abad, Batken, Talas and Kara-Balta contributes to a certain extent to easing the situation with youth unemployment. They provide consultations, direct links with the employers, training and retraining, job fairs, etcetera. But there is also a growing understanding that without a special state programme and state approach the efforts of youth labour exchanges alone will not seriously change the situation and will remain just a ‘drop in the ocean’. The National Employment Programme (2010) does not frequently mention youth, although youth employment was set as a priority issue. The experts are of the opinion that in order to solve youth employment issues more serious attempts should be taken. Serious consideration should be given to strategies which would entice Kyrgyzstani nationals to come home by providing chances to develop their own businesses, establishing tax privileges, providing access to loans, etcetera. The youth employment policy should be matched to the strategy of youth development and target programmes, and should also be coordinated by government policies on finances, credits and investments, and by sector-specific policies (agriculture, education, industry, and others). In the experts’ view the starting point should be strategies for economic and social development. It is necessary to put efforts in coordinating

¹⁴ National Employment Programme until 2010. Adopted by government decree of 17 August 2006:

http://www.government.gov.kg/index.php?option=com_content&task=view&id=68

¹⁵ Why Kyrgyzstan needs a new country concept of youth policy, 4 November 2008,

<http://www.for.kg/goid.php?id=75799&print> with reference to www.akipress.kg

¹⁶ Analysis of labour market of the Kyrgyz Republic for the first half of 2008 and demand for qualified workers. Analytical materials of the State Committee on Migration and Employment.

<http://mz.kg/ru/analytics/>

¹⁷ Analysis of labour market of the Kyrgyz Republic for the first half of 2008 and demand for qualified workers. Analytical materials of the State Committee on Migration and Employment. <http://mz.kg/ru/analytics/>

¹⁸ http://siteresources.worldbank.org/ECAEXT/Resources/publications/454763-1191958320976/Poverty_assessment_Vol2.pdf, poverty assessment, vol 2.

tax policy and establishing favourable conditions for investors and employers to create new work places.

The development and improvement of services of intermediary organizations on the labour market such as youth registry offices should be combined with economic and other preventive actions in terms of improving the quality of professional education and strengthening its ties with the market, improving headhunting services between potential employers and employees via information and consulting services, career guidance, and trainings. The experts think that in order to be effective, youth employment policy have to be differentiated and targeted towards certain segments of the youth. Special attention should be given to the youth who are newly entering the labour market.

Additionally, the situation in the labour market requires serious research and has to be monitored. It is necessary to inform the public of general practical steps directed towards the solution of problems in the youth labour market and the contribution to interrelations between the state and other social partners. It is important that the youth also takes a more pro-active approach by better participation in policy development relevant to them. The strengthening of representing organizations is almost self-evident. Currently the young employees do not seem to be represented by the traditional organizations. Recently, in December 2008 the parliamentary hearing on youth employment issues through a gender lens took place in Kyrgyzstan. Although the presence of youth employee organizations would have benefited this event, the youth issues were discussed mainly by representatives of the government and the international donor community.

About 30 youth organizations exist in the country and at some level cooperate with the State Agency on Sports, Youth and Protection of Children under the government of the Kyrgyz Republic¹⁹; most of them deal with various issues, but youth and labour relations are not given any attention at all.

Representation of Workers in Kyrgyzstan

The experts found that the representation of the groups on the labour market identified in the last subsections (the unemployed, the workers in the informal sector, the expat workers, the youth and a majority of the self-employed) in the Kyrgyz Republic is problematic. These groups are not represented by the trade unions, because these groups are mostly non-affiliated. There are no other NGOs to represent their interests, especially concerning social economic policy. This is a significant problem due to the vast number of people belonging to one of these groups, which is estimated at 1.2 million workers (excluding the younger workers).

The government recognizes this lack of voice of large and important groups of ‘stakeholders’ on the socio-economic field. The government chooses to remain passive in this field. This attitude is based on the view that it is not the government’s task to interfere –let alone encourage – the representation of workers; the government bases this view on the (right of) independence of the trade unions and employer organisations

Due to the high number of self-employed workers the position of trade unions who organize this group of workers is -to say the least – ambiguous. The self-employed are not employees,

¹⁹ Development of youth policy in Kyrgyzstan is moving progressively. Interview with the director of department of youth at the State Agency on Sports, Youth and Protection of Children under the government of the KR, 15 July 2008, <<http://rus.kabar.kg/2008/07/15/razvitie-molodezhnoj-politiki-v-kyrgyzstane-na-puti-k/>>.

so they are not subordinated to an employer, and their interests do not necessarily coincide with those of the employees. The main representative of these self-employed workers in the small retail sector is the Dordoi trade union. This trade union is not a trade union in the classical sense, because it organises people that are mainly self-employed retail workers, and sell their goods at the Dordoi and other markets. Although many retailers at Dordoi are self-employed and mainly involve family members, there is a certain strata of entrepreneurs who have several or numerous retail shops/ outlets and they employ other people as salespersons (most of these employment relations are informal and it is highly unlikely that these 'employees' have any sort of protection). The Dordoi trade union defined its mission as the protection of interests of entrepreneurs towards the government and the dealing with internal market conflicts. Most of the small retailers rent places from the owners of the markets and in some sense, Dordoi trade union consider the administration of markets as their countervailing party, the same applies to state policemen who in fact harass small retailers with various demands (mainly bribes), provide 'protection' against thieves, etcetera. Therefore the Dordoi trade union has established its own security force and even employs detectives who identify thieves in bazaars.

This trade union positions itself as protector of the rights of small entrepreneurs; currently they are discussing the possibility of drafting and signing a collective agreement with the Dordoi market administration. The Dordoi trade union also targets the government and tries to improve the position of small retailers by discussing unfavourable taxes and proceedings. The experts wish to stress that the Dordoi trade union is in fact an association of small businessmen. The experts found it interesting to learn that, according to the chairman of the Dordoi trade union, this form of trade unions is becoming quite widespread in the former Soviet Union countries where small retail businesses comprise a big share of the economy.

Also, a very interesting detail is that by the end of 2007 the Dordoi trade union merged with other business associations into the National Alliance of Business Associations (NABA) with altogether 21 member associations providing 270,000 job places in total. At this point, this alliance is still informal, but they plan to register as a juridical person because they would like to be involved in the social dialogue. These organizations are not likely to represent the majority of the self-employed.

The trade union in the agricultural sector organizes a lot of self-employed workers as well. The union does not know the affiliation rate of self-employed. The chairman is proud – and rightly so, in the experts' view – of the efforts of his trade union in the WIND programme (Work Improvement in Neighbourhood Development). The trade union in the agricultural sector has strong ties with informally employed farmers, which was necessary to reach participants for this programme. The WIND programme initiated the creation of a agricultural employers' organization at a national level.²⁰ This initiated the development of the Confederation of Employers.

The experts did not find any other initiatives to increase the representation of workers or employees without a voice at this point. The experts think that a sound development of the social dialogue in the Kyrgyz Republic would be hard to achieve without taking into consideration the position, but also without obtaining the view, of the groups identified in the previous subsections.

²⁰ See the Wind Programme, p. 13 (also footnote 23)

The National Legal Framework on Social Dialogue and the General Agreement

The existing players in the field of social dialogue are the trade unions, the organisations of employers, and the government.

The experts received an English translation of three laws:

- the Law on Trade Unions of 5 October 1998
- the Law on Employers' Associations of 13 April 2004,
- the Law on Social Partnership in the domain of labour relations in the Kyrgyz Republic of 5 June 2003.

In general, these laws meet international requirements. The experts deliberately use the words 'in general', because some of the provisions are difficult to match with (the spirit of) international regulations. Besides the minor points and questions the Committee²¹ noted the experts point for example to article 18 of the Law on Social Partnership, which states that a general agreement should be concluded before all other types of agreements. Not only does this provision seem impractical, it also formally limits the possibility of concluding collective labour agreements. The experts did not find any indication of enforcing these kinds of stipulations, so the effects on the freedom of collective bargaining are of no real consequence. More stipulations from article 18 of this law seem obsolete, since the period that has expired since the last general agreement was concluded exceeds the allowed three months by far. Article 18 of the law stipulates that the general agreement may be extended for the period of negotiation, but not exceeding the three months' period. Nevertheless: The general agreement is by law the basic document for social dialogue. It just happened that a third and final draft of the general agreement was presented during the experts' visit. The previous one expired on 1 January 2008. In March 2009 a fourth draft was presented.²² The experts will attach to this report a summary of the three drafts of the general agreement that were discussed in 2008 and of the fourth of 2009. It is interesting to compare the different points of view, expressed in the drafts of this general agreement. It shows the difference in point of view of the topics to be discussed at the national level by the social partners. In the first draft, which was initiated by the trade unions, 54 out of 56 items assumed a government responsibility and initiative. In the government's view this draft would transform the National Tripartite Commission into a mechanism of the government reporting to employers and trade unions. A second draft is the Alliance's version, which omitted the chapter on wages and living conditions of workers. In the view of the Alliance the general agreement had to be short and should not express the intention to deal with a lot of topics. The third draft, which ought to be a compromise option and was drafted by the Ministry of Labour and Social Development, tries to get rid of any major commitments on the side of government, while leaving in less substantial moments, i.e. declarative moments. In the fourth draft the party responsible for implementation is named.

According to the existing regulation on the tripartite commission adopted in 1999 and revised in 2001 and 2008, three parties to the social dialogue form the National Tripartite Commission based on the principles of parity and equality. Article 8 of this regulation says that representatives of trade unions and employers should identify their representatives and their rotation independently. Considering that currently there is no consensus on who can represent employers' organizations and the factual non-existence of independent trade unions,

²¹ See also the Individual Direct Request concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) Kyrgyzstan (ratification: 1992) Submitted: 2008

²² After the deadline for this report, so the experts were not able to fully implement all the provisions of this latest draft.

besides the members of the Federation of trade unions of the Kyrgyz Republic, it is obvious that the process of nominating members of the tripartite commission is in fact a difficult issue. To some extent it provides a comfortable excuse to the government to neglect its own responsibilities in the process of negotiating the general agreement, as well as its necessary efforts to foster social dialogue in the country in general, on the ground that there is lack of coordination and unity among the two other parties.

Adopted in May 2008, the amendments to this regulation identify the government's representatives in precise detail. The tripartite Commission must include the following representatives of the government: the Minister of Health, the Minister of Transport and Communications, the Minister of Agriculture and Processing Industry, the Chairman of the State Committee on State Property Management, the Chairman of the State Committee on Migration and Employment, the Chairman of the Social Fund, the State Secretary of the Ministry of Finance, the State Secretary of the Ministry of Education and Science, the State Secretary of the Ministry of Economic Development and Trade, and the Deputy Minister of the Ministry of Justice.

An interesting (and controversial) clause is that according to the regulation on the tripartite commission, the government appoints a coordinator of the commission with the consent of the two other parties. This coordinator carries out administrative and coordination functions assumingly without interfering in affairs of social partners: he chairs the meetings of the commission, signs documents, and informs the President and the government about activities of TNK. In addition, each party appoints its own coordinator, including the government. Nothing is said in this regulation about a secretariat of the commission. The organization of the secretariat seems to be a real problem. The secretariat is rotating between the social partners.

According to article 18 of the Law on Social Dialogue the government registers the general, industrial, and territorial agreements. The last year none of the mentioned agreements was registered. According to the government representatives, this means that none of these agreements were concluded, although the registration is formally not a condition for the enforcement or applicability of an agreement. The government representatives do not register other agreements than those mentioned in article 18, and do not have information on the number of other agreements concluded, of which registration is not obligatory. No specific information is available on industrial actions.

The Trade Unions in Kyrgyzstan

22 trade unions are member of the Federation of Trade Unions. The precise number of affiliated organizations remained unclear, as in some of our meetings other figures were mentioned. Most reliable seems the statement of the chairman of the Confederation. He claims that these 22 trade unions organize about 900,000 workers. The Federation of Trade Unions claims to organize about 40% of the work force.²³ In some sectors, such as public services, the affiliation rate is very high, in other sectors, i.e. the self-employed, very low.

Some of the affiliated trade unions organize employees only, like the railway trade union and the mining trade union. The mining trade union has 19,600 members and holds an antagonist (by which the experts mean: a strong individual) position towards the employers in the sector.

²³ Interview with Temirbek Janaliev, deputy chairman of federation of trade unions, 30 July 2008, <<http://www.for.kg/goid.php?id=68748&print>>

This trade union organized three strikes in the last year, which gives this union a considerable position in the Federation. These strikes were –from the trade union’s viewpoint - successful. The latest one forced the country’s largest employer in this sector, the transnational Kumtor Mining Company, to accept the terms of the collective labour agreement as proposed by the trade union. This collective labour agreement is effective from 1 July 2008 to 31 December 2010.

The experts noticed that this strong individual position of trade unions is rather rare. The trade union of railway workers and transport construction workers, with about 5,000 members, seems to take a less strong position in the collective bargaining. The conclusion of the latest collective labour agreement went without much - or noticeable - debate, because the trade union shared the view of the railway company management that in times of financial crisis wage increases are not justifiable. It should be noted that railways in Kyrgyzstan are state-owned and in this sense, railway employees belong to a state sector.

In the railway sector another trade union emerged in 2005. The main objective of this trade union, called ‘Trade union of railway workers’, was to replace the management of the railway company. This trade union of railway workers was organised as a result of splitting the existing trade union, when a group of railway workers first organised an NGO called ‘Society for protection of railway workers rights’. This NGO organized several protest actions, but in 2004 it transformed into a trade union. After some strikes and other industrial actions in 2005, this trade union left the antagonist attitude, took part in the collective bargaining, and in 2007 signed along with the mother trade union the collective labour agreement and does not aim at replacing the management anymore. Currently this trade union has about 800 members. Some of our informants claim that this transformation was not completely voluntary, but forced by government officials and/or by non-official forces outside the trade union. The experts did not find any evidence to support this claim.

Collective agreements played a role in the wage increase of railway workers so far. Railway employees receive salaries that on average are twice the average salaries in other state-owned sectors. Currently the Kyrgyz government is seriously considering railway privatization and it remains to be seen what impact this will have on the positions of workers.

The trade union of health workers takes a position similar to that of the railway workers’ trade union. In this sector the (increase of) wages is dictated by ministerial decree. The trade union participates in a bilateral dialogue. Subjects to be discussed are various working conditions and labour protection, but not wages. Due to the fact that most workers in this sector are civil servants, the applicability of some ILO conventions is debatable. Most interesting is that following the Soviet tradition administration (employers) in many public sectors are members of the same trade union as employees. This relates largely to the health, education and science sectors, and some other sectors, including some industries.

The experts would like to express their admiration for the enthusiasm and good spirit of the trade unions leaders they have met. Most of those leaders were really inspired by the ideal of helping their members and society in general. Still, the experts’ observed that trade unions are not really and fully representing employees’ interests and are not taking a fully independent position in the bargaining process. Only when there is no direct or indirect state interest involved, and a commercial, privately owned company is acting as partner on the employers’ side, does the negotiating trade union seem to take a strong and independent position. To verify this for the different trade unions and to gain insight into the different

positions of the trade unions towards their negotiating partners the experts would have to do much more research. In general – but with exceptions - their conclusion is that the trade unions are not sufficiently independent of the employers and therefore unable to enter into fair and real negotiations with employers.

The experts cannot give a satisfying overall explanation for this position of the trade unions, probably because more factors influence the behaviour of trade unions. The experts found that these factors affect each other and are intertwined, but still tried to identify them:

- First of all, the tradition of trade unions in the Kyrgyz Republic is not favourable to a really independent position. Some trade unions were still acting as a state organization and seemingly acted only in the general (state) interest, as they did in Soviet times.

- Second: Some of the trade unions do not have a sophisticated internal democratic system. The participation rate in trade union activities seems rather low; the members are not or sporadically consulted on general items of social economic importance.

- This is probably caused primarily by a severe lack of basic administrative information, which the experts identify as a third factor to explain the position of the trade unions. Some trade unions are not able to deliver basic administrative information about their members, like the number of affiliates and their employment or profession. Illustrative of this lack of information are the different figures the chairpersons of the trade unions used during the meetings with the experts. It is claimed that membership of a trade union is not always voluntary. Some of the informants claim that employees are still required or pressured into becoming a member. The experts found no proof or disproof to back this claim. The absence of a sound internal democratic system and the lack of administrative information do not strengthen the position of the trade unions and make it more difficult to take an independent position.

- This could also explain the almost total absence of industrial action (demonstrations of workers, strikes etc.) in the Kyrgyz Republic. The trade unions have ample experience in organizing these kind of actions. This lack seems to be a major threat to the independency of trade unions and their strength in negotiations.

- Finally, trade unions do not necessarily represent employees but also represent self-employed workers and even small entrepreneurs. The previous subsection already showed that it is sometimes impossible to make a clear distinction between workers, employees and employers, especially in the informal labour market. Some trade unions try to combine the representation of interests of self-employed workers or small employers with those of employees. Such combination is bound to be problematic in the usual circumstances.

The experts were told that in the Kyrgyz Republic so far this conflict of interests has not become problematic for the traditional trade unions. Most of the trade union activities presented to the experts by the trade unions of the Federation of trade unions dealt with the position of the self-employed. The experts consider this a confirmation of their observations of the attitude of trade unions. This was partly confirmed by government representatives in the formal meetings. According to those representatives the trade unions have not been able to organize themselves properly after 1993. They are like a state in a state, and not willing or able to adjust labour relations to the changes that occurred after 1993. Their main interest is still to operate the holiday camps and houses they own as a result of their position under the former organization of the state. The trade unions are not really interested in being a partner in the social dialogue, negotiations on labour issues and collective bargaining.

The lack of a distinction between the groups represented by the trade unions makes it hard to identify the players in the social dialogue field. Some organizations call themselves trade

unions, but are in fact employers' organisations, like the Dordoi trade union, and some of them have a hybrid position, like the agricultural workers' union.

The Employers' Organisations in the Kyrgyz Republic

The position of the employers' organisations is (even more) unclear and debatable. It remains unclear who are represented by these organisations. The experts had formal meetings with the National Confederation of Employers and the Alliance of Employers. Neither organisations has a clear overview of their members and (therefore also not about) the interests of the members. The National Confederation operates mainly in the agricultural sector and its institution has been stimulated by the WIND-project.²⁴ It claims also to represent employers in the industrial and sewing sector. It is not clear how many employers the Confederation represents.

The Alliance of Entrepreneurs has no legal status of its own. It is a cooperation of three employers' organisations, of which the Federation of Employers of Industries - Guild of Directors is the legal entity that formally represents the Alliance. The Alliance of Entrepreneurs consist of 3 organizations: 1) Federation of Employers of Industries - Guild of directors, 2) Entrepreneurs` Union of Kyrgyzstan, 3) Union of Construction Companies. The Alliance says to be representing about 500 enterprises that employ about 25.000 workers. The Federation of Employers of Industries – Guild of Directors itself is the most powerful organization in the Alliance and comprises 60 enterprises in the machine building, wood processing and furniture, textile and other industries. The experts could not identify the employers represented by the Alliance and their founders, although the Alliance claimed that it unites about one-third of the Kyrgyzstan business community, involving major industrial enterprises in the country including the biggest gold mining company Kumtor. Perhaps this latter fact explains why other organizations of employers see the Alliance as a 'club of millionaires'. The experts learned that some employers' organisations-members of the Alliance try to have influence on government policy by writing letters or contacting members of parliament, if any employers' interest is at stake. Recently the Alliance submitted a package of proposals to the government containing preventive measures in the light of the worldwide financial crisis.

The Alliance has been instituted only recently and is therefore a rather new participant in the social dialogue, while the Confederation of Employers is an older organization, established seven years ago. At that time employers' organizations were literally absent in Kyrgyzstan. The Confederation of Employers claimed a national status only in May 2008 after their General Convention. Until then, the Confederation of Employers had been a signatory of the general agreement on behalf of the employers` community. The members of the Council of the Confederation of Employers informed the experts about their activities in the past and claimed credit for the efforts to develop from scratch the legislative basis for associations of employers in Kyrgyzstan. Thus, they have initiated and participated in the development and adoption of the Law on Employers` Associations, and actively participated in the development of the Law on Social Partnership. Also, the Confederation of Employers participated in the review or discussions of some laws (Labour Code, Customs Law) and participated in various consultative bodies created under the auspices of the government and different ministries.

²⁴ See page 13 of the WIND Programme in Central Asia.

The experts observed a lack of solidarity among these employers' organizations and some unwillingness to unite and cooperate, as well as some level of distrust towards each other. It is difficult at this stage to identify all possible reasons for these schisms among the employers' community. Such reasons could include different interests of various associations as they represent different sectors, enterprises of various scales and nature, different political affiliation of their top leaders; differences in their approaches towards social dialogue and labour relations. This lack of cooperation among employers might also be due to institutional weaknesses and the lack of a general platform that could bring all employers communities together. Seemingly at this point, the employers' side is very fragmentary and various business and employers' associations tend to discuss all issues within their own narrow circles, using only those issues which have an immediate impact on their respective sectors or industries. Some government informants explained the absence of solidarity among employers as a competition for leadership.

In 2007 a new business association called the National Alliance of Business Associations (NABA) was organized by 21 member organizations. It does not have a legal status yet, but has the intention to register. Interestingly, the NABA association includes those organizations that are engaged in small businesses, retail and services, agro-businesses, transport operators, consultative services, microfinance institutions. The main goal of this association is to reform the tax law, to make it more favourable for entrepreneurs, but NABA also intends participating in social dialogue. The emergence of NABA is additional evidence that the institutional development of employers' associations is still an ongoing process.

The experts feel that under such circumstances the government is not helping by refusing to conclude the general agreement and by asking the employers to come up with a decision on the representation of the employers in the general agreement. Obviously, employers' organizations are not ready for such cooperation and the government should take more responsibility, set up some sort of interim procedure and envisage participation of several employers' organizations which have substantial representations.

The Government.

Social dialogue in the Kyrgyz Republic takes place at various levels. At all these levels, except the level of collective labour agreements in privately owned companies, the government plays an important, or rather: a leading, role. At the level of the general agreement the government takes the lead and tries to enhance the social dialogue. In 2003, the legislative framework for the social dialogue (The Law on Social Partnership in the Domain of Labour Relations in the Kyrgyz Republic) was issued. As a result a tripartite commission, the Republican Tripartite Commission, was established. This Commission worked on an agreement concluded for three years (2005-2008), which is extended.

The main focus of the Ministry of Labour and Social Development was to conclude a new agreement on national consultation of the social partners and social dialogue.

According to the extended agreement the secretariat rotates every year among the parties involved. This is cause for a lot of problems and is one of the weaknesses of the social dialogue, because this system implies a lack of continuity. The expired agreement has been extended for 2008: under that agreement a tripartite commission has been instituted. Every social partner has nine representatives on the commission. According to the law the three parties should decide independently who represents them in the republican tripartite

commission. The way the employers' side will divide the seats and who will represent them in the republican tripartite commission has not become totally clear. The trade unions divide the seats by voting. The commission meets every three months. The chair is held by the vice prime minister of the Kyrgyz Republic.

The government is not satisfied with the role the social partners have played until now. In the agreement's negotiating process one of the employers' organizations demanded an extension of the social dialogue on side aspects of the labour market, such as customs regulations, housing and the training of the self-employed. This blocked the new agreement on social dialogue, which the government found especially frustrating because in their view the employers' organization lacks critical mass as regards representation.

The government holds the opinion that the parties themselves are responsible for obtaining an independent and realistic position to participate in social dialogue: the government is unable but also unwilling to support the parties or the process to obtain this position. The government holds the opinion that the legislation is no obstacle to the parties' further development. The legislative framework allows parties to conduct as real antagonist social partners; the laws do meet the ILO-regulations.

The government does not know of any industrial action or strikes ever in Kyrgyzstan, other than the railway strikes in 2006. The government does not register industrial actions or strikes, nor affiliation figures, or representation of trade unions or employer organizations. According to the Law on Social Partnership (art. 18) the ministry (government) registers the general, industrial and territorial agreements, but not the enterprise collective agreements (collective labour agreements). In 2008, no agreement was registered. There are some registered general, industrial and territorial agreements still applicable, concluded in previous years. The government has no information on the conclusion of collective labour agreements: There is no register of collective labour agreements.

The unions are not involved in any bargaining process regarding the settlement of wages as far as the civil servants or state financed sectors (i.e. healthcare) are concerned. The wages for civil servants are determined by presidential decree, and depend on the financial possibilities of the government. The minimum wage is set by presidential decree without consultation or negotiation with social partners.

The Labour Inspectorate does not cooperate on a structural basis with trade unions and individual employers. In projects where cooperation seems useful this is done on the basis of ad hoc appointments. Other governmental institutes do not have structural contacts either with trade unions or employers (organizations). The same applies to the State Agency on Vocational Training. This organisation cooperates with trade unions and employers organizations on an ad hoc basis only. The experts were under the impression that this state agency did not see much advantage in structural cooperation. This, however, is not the impression they got from the State Committee on Migration and Employment. This agency regretted being forced, due to circumstances, to give up a tripartite working group (tripartite council on employment). This state agency would like to cooperate more closely with social partners, but are unable to intensify cooperation by themselves and without any support. Currently the SCME cooperates mainly with the Confederation of Employers, but is developing links with other employer organizations as well, including the Guild of Directors, International Business Council, Association Legprom, and the Chamber of Commerce. SCME also cooperates with trade unions. In 2008 two important meetings were held in Bishkek

where employers and trade unions discussed various issues. At the last meeting attended by the vice prime-minister it was decided to create a working group based at the Ministry of Labour and Social Development to conduct an analysis of the labour market and make projections of labour demand.

The abolishment of the Foundation of Employment and Insurance in the view of SCME made the work of the tripartite commission less effective. This foundation was abolished in 2005 and all financial aspects of employment programs were transferred to the state budget. Distribution of social benefits previously controlled and monitored by the tripartite commission were no longer an issue. This led to a situation in which trade unions and employers became less interested in the work of the tripartite commission.

Strengths, Weaknesses, Opportunities and Threats to the Social Dialogue and Recommendations of the Experts.

The social problems in the Kyrgyz Republic are huge. The experts will not comment on the contextual problems, such as corruption and poverty, but would like to stress once more that these 'soft preconditions' are weak in the Kyrgyz Republic. Some of the problems identified in this report are a hindrance to social dialogue. The best way to face up to these problems is to introduce a sound and reliable social dialogue. The experts noticed a sense of urgency in all the parties involved to establish a good social dialogue and to participate in this social dialogue. The conclusion of the general agreement is a very good example of this involvement. The experts rate this commitment as one of the major prerequisites of social dialogue.

The scope and extension of the problems on the labour market are not clear, due to a lack of adequate information. The experts would like to indicate that the Kyrgyz Republic ratified ILO conventions C 150 and C 160, and therefore have undertaken to produce and update basic labour statistics. A threat to sound social dialogue is distrust of the parties involved.

In the experts' view this distrust is based mainly on misinterpretations and uncertainty about the interests represented by the parties

These findings led the experts to the following SWOT-analysis for the parties involved:

The government is not certain about the groups represented by especially the employers' organizations. The government accuse the employers' organizations of lacking critical mass, and blames the trade unions for not adapting to the changes that occurred after the implementation of the market economy. In some cases this reproach is not justified, as with the conclusion of some collective labour agreements, but in other cases the government does have a strong point. As for the trade unions the experts observed that they seem to have serious problems with the administration of members and the representation of the members in the field of social economic affairs. Besides, the trade unions do not represent the interests of all the stakeholders on the Kyrgyz labour market. Because of the specific labour market conditions a sound social dialogue can, in the experts' view, not be organized properly without the commitment of the groups that until now were not represented. Especially the position of the younger workers deserves attention.

The government has a detached attitude towards trade unions and employers' organizations. In the government's view the development of the trade unions and employers' organizations

is not the government's concern. Moreover, the independence of these organizations as required by law does not allow the government to interfere. Therefore the government is not willing to facilitate the secretariat of the republican tripartite commission founded on the basis of the general agreement. This secretariat rotates every year between the three main participants of the general agreement. The experts think the government's view of this issue is outdated, if at all true. This view of the government of the Kyrgyz Republic does not correspond with the basic principles of the ILO. The government confuses independence with the encouragement and fostering of social dialogue and the partners participating in it, which is not only allowed by the ILO regulations but strongly supported, even.

The experts were surprised to learn that the state agencies they met do not have structural meetings with the trade unions and employers' organisations. On the other hand all these agencies were proud of their projects, which they conduct in cooperation with the trade unions and employers organizations. The choice of projects and of cooperation with other partners all seemed coincidental. A more structured consultation of employers organizations and trade unions could contribute to better balanced decisions and could improve social dialogue in general.

Weaknesses / Threats:

- the trade unions:
 - are not taking a really independent position
 - do not have a strongly developed internal democratic system
 - lack basic 'internal' information
 - do not have much experience in organizing industrial actions
 - are in danger of representing conflicting interests

- the employers organisations:
 - do not have (or give) clear insight in their members
 - are not clear about the interests they represent
 - distrust each other and do not cooperate properly
 - cannot therefore take a united and thus strong position
 - are in the process of developing and have a strong inward focus

- the government:
 - takes a passive attitude on the independent development of social partners
 - is reluctant to invest in the development of social dialogue

Strengths / Opportunities

For all three:

- There is a real sense of urgency among all partners
- Leaders are genuinely interested and concerned about social partnership
- Social partners (unions / e.o.'s) are developing and increasing their affiliation rates (and are organizing or looking at new groups)

This analysis leads to the following opportunities, and recommendations of the experts:

1 - The experts recommend that the government of the Kyrgyz Republic submit the basic labour statistics, as required by C 150 and C 160, and take responsibility for the fulfilment of these obligations.

2 - The experts recommend that the government of the Kyrgyz Republic support the organization of unrepresented groups and foster organizations that represent these groups.

3 - The experts call on the trade unions, and employers' organizations to organize these groups, with an emphasis on the youth, as described earlier; especially the group of Kyrgyz workers working abroad and young workers could be organized more properly, and contribute to a better social dialogue.

4 - The experts recommend that the trade unions and employers' organizations improve their membership administration. improve the consultation of members on general social economic issues, and identify and disclose the interests they stand for.

5 - The experts are of the opinion that the trade unions should take a more independent position.

6 - In the experts' view it would be recommendable to set up an independent and non-rotating secretariat for the republican tripartite commission, funded basically by the government with contributions from the other participants in social dialogue.

7 - The experts suggest that tripartite commissions be set up on the level of state agencies.

In the experts' view recommendation 6 is the most urgent. Where funding would be a major problem, as well as the staffing of a secretariat for the republican tripartite commission it is recommended that this problem be tackled with the help of the ILO. This secretariat, if set up properly and acting independently, could also collect information of social partners about collective bargaining, and could play a very significant role regarding recommendation 1 and to some extent (but most certainly not in total, due to the independent position of the social partners) regarding recommendation 4.

Amsterdam/Bishkek, March 2009,

Anar Musabaeva
Evert Verhulp

Annex 1.

The list of people officially met during the study mission

Government Bodies:

1. Ms Minbaeva Jamal Jumataevna, Deputy Minister of Labour and Social Development (MLSD) of the Kyrgyz Republic & Mr Adilbekov Daut Alimovich, head of the Department for Social Partnership at the MLSD;
2. Mr Askarov Nurlan, Director of the State Agency on Vocational Education (SAVE) of the KR
3. Mr Tailakov Adyl Abylovich, Deputy Director of SAVE
4. Mr Alimbaev Janysh , Deputy Chairman of the State Committee on Migration and Employment (SCME)
5. Ms Tashpaeva Nazgul Askerovna²⁵, chair person of the Department of Social Development under the apparatus of the government of the KR
6. Mr Adilbekov Daut Alimovich, Ministry of Labour and Social Development
7. Ms Voronina Galina Alexandrovna, deputy chairperson of the Department of Employment at SCME
8. Mr Karabalaev Ogan Mambetovich, Director of the State Labour Inspection under the MLSD
9. Mr Idrisov Aziz , Director, Youth Labour Exchange under the SCME
10. Ms Ajigulova Zamira, specialist with the Department of Social Development under the apparatus of the government of the KR responsible for migration and gender equality issues.
11. Ms Musaeva Nazira, specialist with the Department of Social Development under the apparatus of the government of the KR
12. Mr Asylbekov Taalai Spartakovich, specialist with the State Labour Inspection under the MLSD

Employers` Organizations

1. Mr Kadyrov Alybek, Chairman of Council, National Confederation of Employers of the Kyrgyz Republic (NCE)
2. Mr Borodavkin Vladimir Alekseevich, Members of the NCE Council
3. Mr Podgainyi Igor, Director of polygraph company 'Vesta', member of the NCE
4. Mr Kydyraliev Usen Kaparovich, Executive Director of the Union of Entrepreneurs of the KR& Alliance of Employers

Trade Unions

National Federation of Trade Unions:

1. Mr Imanaliev Baktybek Tybynovich, chairman
2. Mr Janaliev Temirbek, first deputy
3. Ms Babaeva Ryskul, vice chairlady of the Trade Union of Textile and Light Industry Employees of the KR
4. Mr Saliev Naken Salievich, chairman of the Republican Trade Union in the Public Health Sector,

²⁵ In January 2009 Ms Tashpaeva was appointed Minister of Labour and Social Development

5. Mr Jailobaev Ormonbek, chairman of the Republican Trade Union in the Mining and Metallurgic Sector
6. Mr Mambetov Kumushbek, chairman of the Trade Union in the Agricultural Sector
7. Mr Ponomarev Sergey Vasilyevich, head of the 'Dordoi' Trade Union of Entrepreneurs Engaged in Small Retail Services at Dordoi Markets
8. Mr Smetankin Albert Alekseyevich, deputy chairman of the Sectoral Trade Union of Employees in the Retail Sector
9. Ms. Semenova, head of the department of socio-economic protection of workers in the Federation of trade unions

Other Trade Unions

1. Mr Mazitov Robert Mergaziyanovich, chairman of the Trade Union of Railway Workers and Construction Workers in the Public Transport Sector

Annex 2:

Summary of the General Agreement drafts between the social partners in Kyrgyzstan developed during 2008-2009

Draft 1	Draft 2 (by Alliance of employers)	Draft 3 (the latest, supposed to be a compromised draft) by the MLSD	Current draft (signing is expected in March 2009, agreed by working group of social partners during January-February meetings)
Preamble (Confederation of employers is indicated as a party on behalf of employers)	Preamble is the same with the difference that Alliance of employers indicated as representative of employers	Preamble (confederation of employers is indicated as a party on behalf of employers)	Preamble is the same, employers` side is indicated as Republican Unions of employers
Main areas of Cooperation			
I. Economic Development	I. Economic Development	I. Economic Development	I. Economic development
<p>8 articles :</p> <p>1- obligations of social partners within the framework of the Country program on decent work for 2009-2011 to implement programs on increasing productivity and competitiveness of key priority economic sectors such as agriculture and processing, light industry, trade and services; programs of developing small towns and remote regions; programs to decrease proportion of informal economy</p> <p>2- commitments to regulate prices and tariffs on energy, gas and fuel, services provided by economic entities in energy sector through tripartite cooperation and with public participation</p> <p>3-improvements of Tax Code</p> <p>4-about easing regulation on penalties for incorrect reporting of payments to social fund by employers and calculating fines only for incorrectly reported incomes and social payments for individual employees, but not based on the whole amount of social payments</p> <p>5, 6, 7 – relate to certain measures in easing tax burden of economic entities (review of</p>	<p>2 articles:</p> <p>1-obligations to ensure measures by state to support domestic producers (protectionism from damping imports, promoting export of goods and services</p> <p>2- raise public awareness on changes in the legislation regarding social issues and entrepreneurship through media internet</p>	<p>5 articles</p> <p>1- the same as in draft 1</p> <p>2- the same as in draft 1</p> <p>3- the same as #4 in draft 1</p> <p>4, 5- the same as in draft 1 (re: VAT taxes, import taxes for fuel resources, and excise duties)</p> <p>Nothing about tax Code or regulatory functions.</p>	<p>6 articles</p> <p>1-obligations of partners within the framework of the country program for decent work for 2009-2010 to ensure implementation of strategies and programs for developing priority sectors of economy such as agriculture and processing, mining and gold mining industry, light industry, trade and services; programs of intensive development of remote regions and small towns; programs to decrease proportions of informal economy. (<i>Parties</i>)</p> <p>2-creation of favourable conditions for improving and developing business (<i>Government</i>)</p> <p>3-commitments to use institutional mechanisms of tripartite cooperation and involve civil society in improving the regulation of tariffs on energy, gas, fuel and services provided by economic entities in energy sector. (<i>Government</i>)</p> <p>4-commitments for increase in budget for social sphere during annual planning of the country's budget. (<i>Parties</i>)</p> <p>5-in order to improve the</p>

<p>VAT tax for agricultural producers, cancellation of excise duty on fuel resources, import duties on raw materials used in production; changes in tariff policies for energy and water use by employers 8-more actively transfer regulatory functions from state to employers associations</p>			<p>competitiveness of domestic products to carry a systematic work on improving the quality of domestic products and services and promoting their export; initiate reduction or cancellation of import duties on raw materials used in production and excise duty on fuel resources; introduce “groups of quality” at all enterprises (<i>Employers, trade unions</i>) 6. Ensure work on introducing international certification standards of domestic producers and voluntary certification of quality system, staff and services by employers` unions(<i>Employers</i>)</p>
<p>II. Wages and life conditions of population</p>		<p>II. Regulation of Wages</p>	<p>II. Regulation of wages and social safety</p>
<p>8 articles: 1- commitments to implement concept of reforming wages in the KR for 2003-2010 2-increase the minimal wage in accordance with the Labour code of the KR 3-measures to stop delays in paying of wages 4- in sectoral, regional agreements, and in collective agreements to envisage better guarantees for wages in comparison with the regulations of national law 5-initiate ratification of ILO convention # 102 (1952) on minimal norms of social protection 6-increase annually the base part of pensions for 12 % from the average salary in the country for the previous year 7-ensuring annual increase of pensions considering the level of inflation 8- make the system of state social benefits more targeted</p>	<p>***The chapter on wages is omitted in the draft</p>	<p>5 articles: 1-gradually increase minimal wage to equalize it with the living wage 2-stop delays in wage payments 3-include minimal wage for certain sectors in the sectoral agreements 4- increase annually the base part of pensions for 12 % from the average salary in the country for the previous year 5- ensuring annual increase of pensions considering the level of inflation</p>	<p>Include 7 articles: 1-increase minimal salary stage by stage to make it equal to the size of living wage. (<i>Government</i>) 2- define the size of minimal salary of workers in certain sectors and include it in the sectoral agreements (<i>Employers and trade unions</i>) 3-ensuring measures to stop delays in paying wages (<i>Parties</i>) 4-initiate ratification of ILO convention # 102 (1952) on minimal norms of social protection (<i>Government</i>) 5- increase annually the base part of pensions for 12 % from the average salary in the country for the previous year (<i>Government</i>) 6- ensuring annual increase of pensions considering the level of inflation (<i>Government</i>) 7-ensure implementation of ILO #189 recommendations on general conditions for stimulating job creation at small and medium enterprises. (<i>Parties</i>).</p>

III. Labour market and employment	III. Labour market and employment	III. Labour market and employment	III. Labour market and employment
<p>7 articles: 1- commitments to implement the national program on employment for 2007-2010 2-in sectoral, regional and collective agreements to envisage measures for guaranteeing protection of jobs and provision of professional development and retraining of employees 3-consider (by tripartite commission) benefits that might be given to employers for using own resources for retraining and training of employees, creating job places for on-job training 4-promote practices of state orders in enterprises with disabled employees for production of goods that can be used by law enforcement bodies, army and education system. 5-promote legalization of labour migrants in CIS countries through concluding bilateral agreements 6- control over quotas for foreign labour in Kyrgyzstan 7- introduce and strengthen programs for training and professional development of current and potential entrepreneurs</p>	<p>2 articles: 1- activate job creation in rural areas through developing services, small and medium enterprises, processing companies etc. 2-implement recommendations of ILO convention # 189 on general conditions for stimulating job creation in small and medium enterprises</p>	<p>13 articles: 1- same as draft 1 2- the same as draft 1 3- promote practices of state orders in enterprises with disabled employees for production of goods that can be used by law enforcement bodies, army and education system 4- promote legalization of labour migrants in CIS countries through concluding bilateral agreements 5- ensure control over quotas for foreign labour in Kyrgyzstan 6- introduce and strengthen programs for training and professional development of current and potential entrepreneurs 7-promote improvements in the mechanisms of temporary employment of youth, including in small and medium enterprises (SME) 8-implement activities to balance the demand and supply of work force, to increase effectiveness of utilizing work force and to increase job creation at newly created economic entities 9- promote in mass media professions in deficit 10- measures to strengthen links between employers and vocational education institutions for better job creation</p>	<p>17articles: 1- commitments to implement the national program on employment for 2007-2010 (<i>Government & Employers</i>) 2- in sectoral, regional and collective agreements to envisage measures for guaranteeing protection of jobs and provision of professional development and retraining of employees (<i>Employers & trade unions</i>) 3-promote practices of state orders in enterprises with disabled employees for production of goods that can be used by law enforcement bodies, army and education system. (<i>Government</i>) 4-ensure control over quotas for foreign labour in Kyrgyzstan (<i>Parties</i>) 5- promote improvements in the mechanisms of temporary employment of youth, including in small and medium enterprises (SME) (<i>Parties</i>) 6-increase effectiveness of existing job places and creates new jobs. (<i>Employers</i>) 7- promote in mass media professions in deficit at labour market (<i>Employers & trade unions</i>) 8- measures to strengthen links between employers and vocational education institutions, including higher education institutions, for better organization of internships & practical training and job creation for graduates trained through employers order (<i>Parties</i>) 9- obligations of employers to inform about existing vacancies (<i>Employers</i>) 10-develop system of on-job training, revive the mentoring system in organizations and</p>

		<p>11-obligations of employers to inform about existing vacancies</p> <p>12-develop system of on-job training, improvement of qualification and retraining, including youth at risk of losing jobs, revive the system of mentoring in the enterprises</p> <p>13- activate creation of social jobs for disabled and vulnerable people</p>	<p>enterprises to transfer experiences to youth (<i>Employers</i>)</p> <p>11-in order to improve the quality of vocational training create extended commissions with participation of employers and employees for certification of personnel (<i>Employers and trade unions</i>).</p> <p>12-develop and submit suggestions on creation of specialized centres of training of future specialists and carry out professional orientation based on the results of forecasts for economic development of local territories (<i>Employers</i>)</p> <p>13-introduce and implement system of modular training “Begin own business”, “Improve your business”, “Learn about doing business” and other similar programs. (<i>Employers</i>).</p> <p>14-introduce optional classes in the Vocational training system on topics such as “Productivity and Competitiveness of employers of Kyrgyzstan”; conduct conference “Realities and mechanisms of increasing productivity and competitiveness of employers: towards decent labour in the Kyrgyz Republic” on 16 October 2009 devoted to International Employers Day, and invite all partners, chairs of relevant committees of Parliament. (<i>Employers</i>)</p> <p>15- train and re-train specialists based on the demands of labour market with active participation of employers (<i>Government & Employers</i>).</p> <p>16-promote creation of social jobs for disabled and vulnerable people (<i>Employers</i>)</p> <p>17-activate job creation in rural areas through developing processing</p>
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			industries, services, small and medium entrepreneurship, consumer cooperatives, home work. (<i>Employers & trade unions</i>)
IV. Necessary Social Life conditions for the population and particular social groups	IV. Necessary Social Life conditions for the population and particular social groups	IV. Necessary Social Life conditions for the population and particular social groups	IV Social sphere and life conditions for the population
12 articles: 1-attempt to achieve an annual increase of state budget for social expenses 2-ensure resources in the state budget annually for health improvement of employees and their families in trade-unions resorts, health centres etc 3-improving conditions in the resorts, holiday houses etc 4-ensure full financing of the system of obligatory medical insurance and retain benefits and state guarantees for medical services 5-achieve allocations of 3% of GDP for public health and 6, 1 % for education system in the state budget by 2010 6- ensure that institutions of culture and art have resources for their development annually 7- provision of free consultations to the members of trade-unions at their employment places 8- widen the practice of including commitments into the collective agreements about allocating resources (no less than 0, 15 % from the salary fund) for cultural, sport and mass public activities. 9- increase in building municipal housing for people with low incomes 10-include provision of housing for needy employees in collective agreements 11- envisage resources in the state budget for summer holidays of children residing in boarding schools, or disabled children	1 article: Ensure allocation of funds of social insurance in the whole amount annually for improvement of health conditions of employees in resorts and health centres of trade-unions	7 articles: 1- the same as draft 1 2-improving conditions in the resorts, holiday houses, children`s sanitary centres for people needed in improving health by using own resources and attracting investments. 3- achieve allocations of 3% of GDP for public health and 6, 1 % for education system in the state budget by 2011 4- provision of free consultations to the members of trade-unions at their employment places 5- widen the practice of allocating resources (no less than 0,15 % from the salary fund) for cultural, sport and mass public activities by including in the collective agreements 6- include provision of housing for needy employees in collective agreements 7-envisage opportunities for training and professional development, corporate crediting, payment for mobile phones, medical insurance, additional pension funds and other benefits	7articles: 1-improving conditions in the resorts, holiday houses, children`s sanitary centres for people needed in improving health by using own resources and attracting investments(<i>Employers and trade unions</i>) 2-ensure resources in the state budget annually for health improvement of employees and their families in trade-unions resorts, health centres etc. (<i>Government & Employers</i>). 3-ensure opportunities for flexible work time particularly for employees with small children. (<i>Employers, trade unions</i>) 4-provision of free consultations and legal assistance to employees in organizations and enterprises in all regions of the country (<i>trade unions</i>) 5- widen the practice of including commitments into the collective agreements about allocating resources (no less than 0, 15 % from the salary fund) for cultural, sport and mass public activities. (<i>Employers and trade unions</i>) 6-initiate the ratification of ILO Convention # 183 (2000) on Motherhood Protection. (<i>Government</i>) 7-envisage opportunities for training and professional development, corporate crediting, and payment for mobile phones, medical

12-consider gradual reduction of social payments by employers			insurance, additional pension funds and other corporate benefits (<i>Employers</i>).
V. Labour protection, labour rights and ecological safety	V. Labour protection, labour rights and ecological safety	V. Labour protection, labour rights and ecological safety	V. Labour protection, labour rights and ecological safety
<p>9 articles:</p> <p>1- state control and public monitoring of observance of labour legislation, with an emphasis on in timely payment of wages, conclusion of collective agreements, protection of workers at work places, safety issues, labour right of women and underage workers, prevention of arbitrary firing of workers, compensations for injuries received at work places etc.</p> <p>2-commitments to implement national program of the Kyrgyz government on improving safety at work in agriculture for 2007-2009 according to the government decree #61 adopted on 20 February 2007.</p> <p>3-annual consideration and discussion of issues of safety and work traumatism in TPK and undertaking of necessary measures to improve the situation in these aspects</p> <p>4-commitments of social partners to implement state program on elimination of child labour</p> <p>5-initiate ratification of ILO convention # 173 on protection of workers in case of employers bankruptcy</p> <p>6-include obligations for observing social rights and guarantees (including right for creation of trade-union) when considering investment tenders</p> <p>7-free consultations and legal assistance to workers who experienced injuries or health problem at work places</p>	<p>3 articles:</p> <p>1- Submission of proposals for bringing legislation into compliance with the regulations of ILO convention # 182 about elimination of worse forms of child labour</p> <p>2- free consultations and legal assistance to workers who experienced injuries or health problem at work places</p> <p>3-develop sectoral, inter-sectoral normative documents, certificates, instructions on labour safety and protection</p>	<p>7 articles:</p> <p>1- the same as draft 1</p> <p>2-the same as draft 1</p> <p>3-the same as draft 1</p> <p>4-the same as draft 1</p> <p>5- free consultations and legal assistance to workers who experienced injuries or health problem at work places</p> <p>6- measures for preventing HIV/AIDS, creating favourable and safe working environment, information work, protection to people with HIV/AIDS</p> <p>7- ensure preferential right for retaining job place for people of near-retirement age, single mothers and other vulnerable groups in cases of lay-offs</p>	<p>9 articles:</p> <p>1- commitments to implement national program of the Kyrgyz government on improving safety at work in agriculture for 2007-2009 according to the government decree #61 adopted on 20 February 2007 (<i>Parties</i>)</p> <p>2-develop sectoral, inter-sectoral normative legal acts and instructions on safety and labour protection issues, and based on this introduce modular principle of training (<i>Parties</i>)</p> <p>3- Annual consideration and discussion of issues of safety and work traumatism in TPK and undertaking of necessary measures to improve the situation in these aspects (<i>Parties</i>)</p> <p>4-promote the creation of labour protection services in organizations and enterprises according to the law of the KR on “ Labour Protection”, and regulation on labour protection services (<i>Employers and trade unions</i>)</p> <p>5-ensure implementation of the State program of activities by social partners to eliminate labour of under-aged. (<i>Parties</i>)</p> <p>6- free consultations and legal assistance to workers who experienced injuries or health problem at work places (<i>Government and trade unions</i>)</p> <p>7- measures for preventing HIV/AIDS, creating favourable and safe working</p>

<p>8-initiate ratification of convention # 183 on protection of motherhood 9-measures for preventing HIV/AIDS, creating favourable and safe working environment, information work, protection and social guarantees for people with HIV/AIDS</p>			<p>environment, information work, protection and social guarantees for people with HIV/AIDS (<i>Parties</i>) 8 ensure preferential right for retaining job place for people of near-retirement age, single mothers and other vulnerable groups in cases of lay-offs (<i>Employers, trade unions</i>) 9-conduct short-term forecast of pilot districts on local economic development and conclude agreements with local authorities for further development of the region. (<i>Employers</i>)</p>
<p>VI Ensuring constructive social partnership</p>	<p>VI Ensuring constructive social partnership</p>	<p>VI Ensuring constructive social partnership</p>	<p>VI Ensuring constructive social partnership</p>
<p>12 articles; 1-ensure conclusion of tariff, collective and territorial agreements in economic entities regardless of form of ownership, including enterprises with foreign participation, as well access to information for negotiating collective agreements. 2-tripartite consultations of legislative issues and related issues of social labour relations 3-promote tripartite commissions at all levels, including primary levels (at village level) 4-implement work plan on the country program on decent work (2006-2009) 5- inclusive policy making (by involvement of employers and trade-unions in developing social and economic policy in collegial organs of governance 6-prohibition of acts preventing visits of trade-unions representatives to work places of their members 7- non-adoption of laws contradicting labour legislation and ILO conventions 8-seminars, conferences for tripartite partners 9-promote creation of sectoral and regional associations of employers and</p>	<p>4 articles: 1-consultations between social partners for developing draft laws and submitting them to the Parliament 2-conferences and round tables at national level 3- Practise hearing of reports on regulations of social-labour relations and implementation of work in social partnership at meetings of the Tripartite Commission by officials of executive power and local self-governance, associations of trade unions and employers 4- mass media coverage of social partnership, implementation of General Agreement</p>	<p>10- articles: 1-same as draft 1 2-same as draft 1 3-same as draft 1 4-same as draft 1 5- seminars, conferences for tripartite partners 6- promote creation of sectoral and regional associations of employers and developing social partnership 7- mass media coverage of social partnership, implementation of General Agreement 8- organize reporting on ILO conventions implementations 9-organize monitoring of collective agreements by the Ministry of Labour and Social Development 10-provide assistance to representatives of employees at all levels in collective bargaining and conclusion of collective agreements</p>	<p>13 articles: 1-the same as in draft1 (<i>Employers and trade unions</i>) 2-ensure implementation of work plan on Country program in the Kyrgyz republic on decent work for 2009. (<i>Parties</i>) 3-carry out preliminary consultations with social partners on legislative drafts regarding social and labour relations before submission to the Parliament and government of the KR (<i>Government</i>) 4-by initiative of one of the parties, employers and trade unions organize discussions at round tables, work group meetings, conferences devoted to the analysis, forecast and studies on social and economic issues, and submit suggestions to the parliament of the country (<i>Employers and trade unions</i>) 5-Promote the formation of tripartite commissions on regulating social-labour relations from oblast (province) level down to the primary level. (<i>Employers and trade unions</i>) 6-Ensure proper preparation</p>

<p>developing social partnership 10- mass media coverage of social partnership, implementation of General Agreement, collective agreements, sectoral and regional agreements, and measures on preventing and resolution of social and labour conflicts 11- consider allocation of resources for participation of social partners in international ILO conference in Geneva once in 3 years time 12-organize reporting on ILO conventions implementations</p>			<p>of reports on implementation of ILO Conventions according to the schedule (<i>Parties</i>) 7-Promote the creation of sectoral and regional associations of employers in order to protect rights of employers, develop social dialog and negotiate collective agreements at respective levels (<i>Employers and trade unions</i>) 8- mass media coverage of social partnership, implementation of General Agreement, collective agreements, sectoral and regional agreements, and measures on preventing and resolution of social and labour conflicts (<i>Parties</i>) 9- provide assistance to representatives of employees at all levels in collective bargaining and conclusion of collective agreements (<i>Trade unions</i>) 10-organize national and regional level seminars, conferences, round tables on social partnership issues during the duration of the General agreement (<i>employers and trade unions</i>). 11-practise hearing of reports on regulations of social-labour relations and implementation of work in social partnership at meetings of the Tripartite Commission by officials of executive power and local self-governance, associations of trade unions and employers (<i>Parties</i>). 12-activization of work by associations of employers including at primary level (village, town). (<i>Employers</i>) 13-ensure monitoring of concluded republican, regional and sectoral agreements (<i>Trade unions</i>).</p>
<p>VII. Implementation of general agreement, control and responsibilities of parties</p>	<p>VII. Implementation of general agreement, control and</p>	<p>VII. Implementation of general agreement, control and responsibilities</p>	<p>VII. Implementation of general agreement, control and responsibilities of parties</p>

	responsibilities of parties	of parties	
9 articles: These relate to Procedural provisions : commitments to implement the agreement, consultative process of adopting changes or additions, publication of the agreement in public press within one week after its conclusion, semi-annual reporting of social partners at TPK about their work on social partnership, article 9 provides an opportunity for other organizations of employers to join the agreement	9 articles Identical to draft 1	9 articles Identical to draft 1	8 articles, Identical to other drafts, but only one article (#6 in previous drafts) is eliminated. This article is the following “Parties carry responsibility for undertaken obligations in accordance with the legislation of the Kyrgyz Republic”. *1) In this draft four different employer organizations included as signatories: National Confederation of Employers, National Association of commodity producers of Kyrgyzstan, Guild of Directors, and “Education Network” association.

*1) Parties responsible for implementation of articles in the draft 4 (the latest) included in the brackets in *Italic* after the description of articles.

*****General observations:**

Draft 1: most of the articles impose responsibility for implementation either on all three the parties, or on the government and employers

Draft 2: imposes responsibility on all three parties, with the exception of chapter 1 on economic issues (here the responsible parties are the employers and the government).

Draft 3: in terms of defining responsibility this draft is the most balanced, although some articles could be interpreted as the government’s responsibilities being rather declarative.