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Committee on Economic, Social and Cultural Rights

Concluding observations on the fourth periodic report of the Republic of Korea

Addendum

Information received from the Republic of Korea on follow-up to the concluding observations*

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* The present document is being issued without formal editing.



Information on the Implementation of the Recommendations of the Committee on Economic, Social, and Cultural Rights after the Consideration of the Fourth Periodic Report of the Republic of Korea

1. The Government of the Republic of Korea had a constructive dialogue with the Committee on Economic, Social, and Cultural Rights (hereinafter ‘the Committee’) on the fourth periodic reports on implementation of the International Covenant on Economic, Social and Cultural Rights (hereinafter ‘the Covenant’) at the meeting held on 20 and 21 September 2017. The Committee adopted its concluding observations (E/C.12/KOR/CO/4), which were made public on 6 October 2017.

2. In paragraph 74 of the concluding observations, the Committee requested the Republic of Korea to provide, within eighteen months, relevant information on the implementation of the Committee’s recommendations made in paragraph 18(a) (Business and human rights), 23 (Non-discrimination legislation), and 41 (Trade union rights). The Government of the Republic of Korea respectfully submits the requested information to the Committee.

Information on the Recommendations in Paragraph 18 (a)

3. The Republic of Korea announced the Third National Action Plan for the Promotion and Protection of Human Rights from 2018 to 2022 (NAP) in August 2018 and included a new independent chapter of business and human rights in it. The Third NAP encompasses all human rights policies of the entire government agencies and the newly added chapter specifically contains government policies on business and human rights. For instance, the chapter includes tasks, such as promoting corporate responsibility to protect human rights, establishing and implementing comprehensive policies for sustainable management, supporting corporates with gender equality management, preventing violation of local workers’ human rights by Korean companies overseas, and securing safety on consumer staples. The contents of the Third NAP were finalized through consultation procedures including receiving recommendations from the National Human Rights Commission of Korea (NHRCK) and holding public hearings to gather public opinion.

4. The ROK Government is taking steps to gradually implement political tasks regarding business and human rights. The Ministry of Justice is in the process of developing the ‘Guidelines for Human Rights Management,’ aiming to provide business enterprises with ways to implement international human rights norms throughout their operations. The Guidelines would include methods to carry out human rights due diligence, such as establishing a committee on human rights management and conducting assessments of human rights impacts to fulfill corporate responsibility to respect human rights. Also, the Government amended the Industrial Development Act in December 2017, stipulating that the Government shall formulate and implement comprehensive policies for sustainable management every five years and may designate institutions or organizations as sustainable management support centers. The Government is to conduct studies on different ways to encourage corporates to participate in human rights management, including giving incentives in public procurement.

5. To actively monitor business enterprises causing or contributing to adverse human rights impacts and hold them to account, the Government added a task of improving the effectiveness of grievance and remedy procedures in the Third NAP. In the same vein, the Special Act on Remedy for Damage Caused by Humidifier Disinfectants came into force in 2017 to provide prompt remedies for victims and their families who have suffered from the use of toxic humidifier disinfectants and prevent recurrence of such tragic case of serious human rights infringement. Moreover, the Government is running a consumer-friendly recall system to prevent consumer damage. The Government is also planning to revise the Securities-Related Class Action Act by expanding the range of class action, which is currently allowed only in securities transactions, so that it can cover consumer damages in other fields. The revised law would ensure victims can easily access remedy procedures.

6. The Government is encouraging public institutions, including public enterprises, to respect human rights in their operations. Every government agency and metropolitan local authority decided to appraise whether their affiliated institutions implement human rights management during the annual Public Institution Management Assessment (PIMA). Relevant government agencies including the Ministry of Justice are planning to apply newly adopted management assessment indexes, containing index on human rights management, on evaluating public institutions' business performance of 2019 (The assessment will be conducted in 2020). The new indexes examine whether the institutions practice assessments of human rights impact, which is an essential element of human rights due diligence. In addition, 860 public agencies established their own action plan for human rights management, containing tasks, such as declaration of human rights management, composition of human rights management committee, and assessments of human rights impacts. In many of these agencies, the implementation of these plans is currently in progress. Also, 114 companies under direct management of local public enterprises are expected to implement human rights management following the Ministry of Public Administration and Security's announcement to add a human rights management index in the 2019 Handbook of Management Assessment of Local Public Enterprises (the assessment will be conducted in 2020). The aforementioned decisions and plans are based on the recommendations of the NHRCK, asking to add or expand human rights management index in the criteria of PIMA and to implement human rights management in accordance with its Manual of Human Rights Management in Public Institutions published in 2018.

Information on the Recommendations in Paragraph 23

7. The ROK Government included a task titled 'the improvement of anti-discrimination legislations and regulations to fulfill the right to equality' in the Third NAP announced in 2018. The Government is seeking out a way to create a legal framework to balance social benefits of promoting the principle of non-discrimination and socioeconomic burdens, and at the same time, to provide effective remedy for victims. Moreover, the Government is planning to collect opinions from various spheres of society as well as to study international legislations and regulations about non-discrimination.

8. In the process of preparing legislations and regulations on anti-discrimination, the Government reinforced the mechanism of addressing damages caused by discrimination, in accordance with the Committee's General Comment No.20. The Government amended the administrative rule, Organization of the National Human Rights Commission and Institutions Attached Thereto in July 2018 to restore the once-downsized organization of the NHRCK. Accordingly, the Government established the Discrimination Remedy Bureau, and increased its manpower. The newly established Discrimination Remedy Bureau is in charge of investigating and reviewing petition cases, providing a remedy for victims, and making recommendations on improving policies on non-discrimination.

9. The Republic of Korea has devoted considerable efforts to guarantee that the economic, social, and cultural rights stipulated in the Covenant are exercised without discrimination by the Constitution and 90 individual legislations. The Government is reviewing existing laws and committing legislative efforts to gradually abolish formal and substantive discrimination. To be specific, the Government amended the Equal Employment Opportunity and Work-Family Balance Assistance Act in 2019 to guarantee men and women equal remuneration for work of equal value. Before the amendment, public institutions and businesses with over 500 employees were required to report only the number of male and female workers by occupation and position to the Minister of Employment and Labor, but the amended Act asks them to include the statistics on the wage of male and female workers in the report. In addition, the Government makes efforts to enhance the role of major ministries in addressing gender equality issues in order to prevent gender discrimination and sexual harassments in sectors relevant to each ministry's work. Moreover, the Government is working on amending the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, etc. in order to improve the effectiveness of correction orders issued by the Minister of Justice on discriminatory acts against the persons with disabilities. Currently, relevant parties are discussing various options, including reducing requirements of the correction

order. Furthermore, a number of bills articulating various prohibited grounds of discrimination, such as gender, region of origin, and educational background, are pending in the National Assembly.

Information on the Recommendations in Paragraph 41

Ensuring the plurality of trade unions is not used by employers in weakening the power of workers

10. The ROK Government adopted the procedures for Simplification of Bargaining Windows to prevent possible side effects of legalizing the plurality of trade unions and guaranteed trade unions to autonomously determine a representative bargaining trade union when they request their employer to engage in collective bargaining. In order to prevent discrimination against minor trade unions, under the procedures, the Trade Union and Labor Relations Adjustment Act (TULRAA) gives a duty of fair representation to the employer and the representative bargaining trade union. If the employer or the representative fails to carry out this duty, any trade union may request the Labor Relations Commission to release correction orders. In fact, the Labor Relations Commission issued 27 and 52 orders correcting violation of the duty of fair representation in 2017 and 2018, respectively.

11. The Government is also taking strict actions, including intensive inspection, against unfair labor practices of an employer discriminating trade unions and thereby weakening their bargaining power. The Ministry of Employment and Labor introduced the Innovation Plan on Unfair Labor Practices Investigation in February 2019 to improve current investigative practices. Accordingly, the Ministry distributed handbooks to persons in charge of inspecting unfair labor practices and provided training to them. The Government intends to further strengthen law enforcement regarding unfair labor practices.

Guaranteeing the rights of association and preventing interference in trade union activities

12. The rights of association of workers, public officials, and school teachers are guaranteed by article 33 of the Constitution of the Republic of Korea, the TULRAA, the Act on the Establishment and Operation of Public Officials' Unions (AEPOU), and the Act on the Establishment, Operation, etc. of Teachers' Unions (AEOTU). There are some workers and public officials, including dismissed workers and the unemployed, who are limited to exercise their rights of association. In the process of preparing the ratification of ILO Conventions, however, the Government is working on an amendment of the aforementioned Acts to expand the range of workers whose rights of association are guaranteed by these Acts. Furthermore, the Government is conducting a strict inspection on unfair labor practices to prevent employers from arbitrarily interfering in trade union activities.

Ratification of core ILO Conventions (No.87, No.98)

13. According to the article 6(1) of the Constitution of the Republic of Korea, the ILO Conventions would have the same effect as domestic laws once they are ratified. Therefore, the Government needs to amend domestic laws and regulations that may contradict the Conventions before the ratification. The Government held a meeting with experts to discuss the ratification of the Conventions in 2017 and established the Committee for the Improvement of Laws, Measures, and Practices for Labor Relations Development (CILMPLRD) under the Economic, Social and Labor Council in July 2018. The CILMPLRD continuously held meetings with representatives of trade unions, employers, and government authorities and had social dialogues on measures to improve relevant laws and regulations. In November 2018, civil expert members designated to represent public interests within the CILMPLRD submitted a proposal for approving dismissed workers and the unemployed to join trade unions and reducing restraints on rights of association of public officials and teachers. Based on the proposal, the amendments of the TULRAA, the AEPOU, and the AEOTU were proposed to the National Assembly and referred to the Environment and Labor Committee. The Government will keep making efforts to facilitate the passage of aforementioned bills while continuing the social dialogue. Subsequently,

according to the progress of the revision at the National Assembly, the Government will move on to ratification procedure of the Conventions.
