

# **Attachment 1**

## **Statement of Mr Antoine Boudier**

*President of the Vanuatu Chamber of Commerce and Industry  
National Employers Representative for Vanuatu  
Member of the National Tripartite Labour Advisory Council*

I, Antoine Boudier, President of the Vanuatu Chamber of Commerce and Industry, solemnly and sincerely affirm and declare:

### **BACKGROUND**

1. My name is Antoine Boudier and I am the current President of the Vanuatu Chamber of Commerce and Industry (VCCI). I am a Vanuatu citizen and have called Vanuatu home my whole life.
2. I have been the President of the VCCI for 4 years having been elected to this position in 2020. I also represent employers as one of three employers' representatives on the National Tripartite Labour Advisory Council.
3. The VCCI is a statutory body established by the *Chambers of Commerce and Industry Vanuatu Act* in 1996 and serves as the National Employers Organisation in Vanuatu, recognised by the Government of Vanuatu and the International Labour Organisation, and is one of the tripartite partners represented in the National Tripartite Labour Advisory Council (TLAC), established under the *Employment Act* in 2012. The VCCI is also the recognised National Private Sector Organisation on the Pacific Island Private Sector Organisation (PIPSO).
4. The VCCI is responsible for providing information and advice to employers, the business community in general as well as the Government on matters affecting business in or the economy of Vanuatu. As part of this, VCCI advises on matters affecting employers specifically and represent employers' interests at the national and international level. Specifically, VCCI produces policy papers, guidelines and reports on employers' rights and legal compliance, with recent examples including the VCCI Guidebook for Employers; VCCI Vanuatu's Private Sector Economic Update; Advice on Employers' Obligations during COVID-19; Position Paper on the Reserved Occupations List and other important data related analysis used for advocacy and lobbying. The VCCI also provides training and coaching to employers on these areas.
5. The matters that I speak about in this Statement are based on my direct and personal knowledge of the facts stated or otherwise has been reported to me by VCCI staff, employers, Government officials and development partners in Vanuatu, in my capacity as President of the VCCI.

### **STRIKING IN VANUATU**

6. The freedom to strike is recognised as a legal right in Vanuatu. It is protected by legislation.
7. Different contextual factors contribute to the exercise and protection of free association, collective bargaining and strike action in Vanuatu.
  - a. Vanuatu is a small island developing country with a population of approximately 320,000 people. There are limitations on its resources, both financial and human resources, across all tripartite partners.
  - b. There are also close linkages between different actors within Vanuatu's small community, including union affiliation and political party sponsorship from the private sector that influence government administrations.
  - c. There is a large informal sector which the VCCI does not represent. Employers' membership with the VCCI is automatic upon payment of an annual business license through the Government.
  - d. The predominance of micro, small and medium enterprises (MSMEs) in Vanuatu's private sector means that most employers have only small teams of workers, averaging 1 to 5 workers per employer.
8. As I understand it, the Government of Vanuatu is currently reviewing its domestic legislation to ensure full alignment with its international obligations under ratified conventions, including ILO Convention No. 87. Clarification of the protection of the right to strike under ILO Convention No. 87 will support these ongoing national efforts to implement the right to strike in law and in practice.

## **LABOUR MOBILITY AND CLIMATE CHANGE AS A DRIVER FOR EMIGRATION**

9. Vanuatu's engagement in labour mobility programmes has created significant challenges for the private sector and employers in Vanuatu. Although remittances from workers engaged in the labour mobility schemes are one of the highest contributors to Vanuatu's GDP, being upwards of twenty (20) percent of its GDP, the schemes have also taken an estimated twenty (20) percent of its national workforce.
10. In recent research carried out by the VCCI, over 50% of employers had reported worker resignations in the past year due to workers leaving to participate in a labour mobility program. This is not surprising given workers are earning up to ten (10) times more income in these schemes than they can earn on local salaries. The cost of living in Vanuatu is also high and local salaries at the base level are not sufficient to meet basic living expenses and needs. Recent reports and data on the labour mobility schemes show that the number one thing labour mobility workers are spending their earnings on are 'permanent' houses. Over 70 percent of workers spent their earnings on building a 'permanent' house. In Vanuatu's context, this means cement houses that can withstand the increasing frequency and severity of cyclones, replacing traditional

homes made of local renewable resources like bamboo and Natangura leaves. School fees is the next highest expenditure but also in the top ten is support to family and community for disaster recovery support.

11. Vanuatu also has a large agriculture sector. While most is informai subsistence or semi-commercial agriculture, we also have commercial agriculture. Our main export commodities are kava, cocoa, copra and coffee. Cyclones and other weather events or changing weather patterns caused by climate change also impact on Vanuatu's agriculture sector with plantations, farms and crops being destroyed or not growing as productively. This has an impact on both the formai employment sector, as stable work opportunities and employment is threatened, and informai sector, because adequate livelihoods from agriculture are less dependable.
12. In Vanuatu, land is owned in perpetuity by the indigenous clans of that area or island, which means that most ni-Vanuatu have access to land to support livelihoods and work opportunities through subsistence, semi-commercial or commercial agriculture. However, as the climate is getting more volatile and the weather is increasingly destroying employers', workers' and farmers' efforts, agriculture is becoming an unreliable and in some cases already unviable income source. The pull of the labour mobility schemes must also be understood in this context.
13. In sum, it is clear that climate change is a driver for workers to engage in these labour mobility programs.

## **JUST TRANSITION, LABOUR MOBILITY AND THE RIGHT TO STRIKE**

14. At the moment, we have over 16,000 ni-Vanuatu workers in Australia and New Zealand engaged in labour mobility schemes.
15. The labour mobility schemes are relevant to a Just Transition in Vanuatu because, as already mentioned, worsening climate change impacts in Vanuatu are an important reason why many Ni-Vanuatu consider working abroad as necessary to sustain themselves and their families. At the same time, the loss of both skilled and unskilled workers in Vanuatu's domestic market to these labour mobility schemes makes it extremely challenging for Vanuatu to implement its national climate change adaptation plans. The resulting adaptation gap creates a wide range of risks, ultimately weakening the very foundation of Vanuatu's society and economy. The demand for new skills, knowledge and experience with green technology and infrastructure to support a green economy is equally pressing, slowing down sustainable development.
16. The labour mobility schemes are both the problem and the solution in this sense. There is an opportunity for ni-Vanuatu workers to gain the skills and experience needed to fill some of the gaps and skills shortages in the domestic market, whether it be as workers or entrepreneurs. Although we have limited resources and sufficient access to training or skills development support, there are many opportunities in

Australia and New Zealand for this. However, if the work opportunities and employers, or even the government through restrictive visa conditions, in Australia and New Zealand are not facilitating access, or are restricting access, to these opportunities then ni-Vanuatu workers and employers are being left behind in the Just Transition.

17. Within the context of the labour mobility schemes, ni-Vanuatu workers overseas need to be able to organise, to be represented by unions and to be able to strike, no matter where they are working in the world. This is for the benefit of ni-Vanuatu workers, who need some protection in advocating for better working conditions in climate vulnerable work environments abroad. This is also for the benefit of workers, employers and national industry in Vanuatu itself, because supporting and promoting workers' capacity in this regard will mean that workers and industries in Vanuatu will not be left behind in initiatives directed towards a Just Transition.

Signed: Antoine Boudier



Signed: Joanna Spencer



Date: 16 September 2024

# **Attachment 2**

## Statement of Murielle Metsan Meltenoven

*Commissioner of Labour, Department of Labour and Employment Services*

I, Murielle Metsan Meltenoven, Commissioner of Labour, solemnly and sincerely affirm and declare:

### **Background**

1. My name is Murielle Metsan Meltenoven and I am a national of the Republic of Vanuatu. I was born on 15 August 1985 and my professional address is Department of Labour and Employment Services, Private Mail Bag 9022, Port Vila, Vanuatu.
2. On July 2018 the Public Service Commission appointed me as the Acting Commissioner of Labour and Employment Services from 2018 to 2019. On...26<sup>th</sup> February 2019 to 26<sup>th</sup> February 2021 I was appointed as the Commissioner of Labour and Employment Services for Vanuatu on contract basis. From April 2022 to date, I continue to occupy the position of Commissioner of Labour and Employment Services on a permanent basis.
3. As the Commissioner of Labour, I am responsible for the Vanuatu Government's domestic labour and employment matters, as well as the labour mobility programs.
4. At the domestic level, my department works closely with the International Labour Organisation ('ILO') on alignment of Vanuatu's domestic legislation with the ILO Conventions that Vanuatu has ratified, including ILO Convention No. 87. Further to this, primary functions of the Department include:
  - a. issuing permits to foreign workers;
  - b. handling employment grievances by employers and employees through the conciliation process under the *Trade Dispute Act*;
  - c. responding to Notices of Industrial Action;
  - d. conducting regular checks and inspections of business sites and locations, to monitor and ensure compliance with applicable labour laws (such as, e.g., occupational health and safety law); and
  - e. providing advice to employers and employees on their rights, obligations and responsibilities under national employment and labour legislation.
5. The Department also maintains two labour mobility programs, in partnership with the Australian Government and the New Zealand Government. These are called the Pacific

Australia Labour Mobility ('PALM') Program; and the New Zealand Recognized Seasonal Employment ('RSE') Program, respectively. I will briefly explain each of them.

6. In 2008, the Australian and Vanuatu Government entered into a Memorandum of Understanding for workers from Vanuatu to travel and work in Australia under the Seasonal Workers Program to work for nine (9) months. Workers are usually engaged in the agriculture and horticulture industries. In addition, under the Pacific Labour Scheme we sent Ni-Vanuatu workers to work in meat, tourism and agriculture industries facilitated by twelve (12) months to three (3) years' work visa. The two programs merged into the PALM in 2021-2022.
7. In 2006, the Vanuatu Government and New Zealand Government entered into a pilot program whereby about 40 workers travelled to New Zealand to work in Agriculture, horticulture and viticulture. The period of their visa was for seven months. The pilot scheme become successful and gave confidence to both the New Zealand and Vanuatu Governments to expand the pilot program into the RSE. Since, then the number of Vanuatu Workers have increased and currently Vanuatu is the largest sending country in terms of number of RSE workers sent to New Zealand.
8. The Department works with many development and technical partners, such as the ILO, International Organization for Migration ('IOM') and civil society organisations, to implement and support these labour mobility programs. For example, for the reintegration activities under the programs our partners include IOM and the Vanuatu Chamber of Commerce and Industry to support returning ni-Vanuatu workers to set up their own businesses once they return to Vanuatu. This is part of the Government's commitment to provide exit pathways from the labour mobility programs and reintegration support.

#### **Role of the Department of Labour and the strike action in the domestic labour market**

9. When there is a Notice of Industrial Action issued to an employer, my role under the *Trade Dispute Act* is to assess the Notice and to then advise the Honorable Minister of Internal Affairs; and bring the parties to the table for conciliation, with a view towards having the parties establish a collective bargaining agreement.
10. As mentioned already, Vanuatu has ratified the eight (8) 'fundamental' ILO conventions, including ILO Convention No. 87. The Department of Labour has a role in ensuring that the employers and employees understand their different obligations and rights. For example, the Department has designed information pamphlets that explain and list the different rights that employees have and placed these pamphlets at the reception area for members of the public. Also, when employees have questions relating to their rights at work or any issues or grievances with employers, the Department can provide information and try to answer their questions.

11. The Department has been involved in conciliation processes for many employment grievances between employers and employees. One of the most recent examples is a dispute between the Vanuatu Teachers Union and the Ministry of Education and Teaching Service Commission. In this matter, about four-hundred (400) teachers went to strike, on the belief that the Government has not responded to long-standing claims to entitlements.
12. There was an initial strike, which happened between May to June 2024. In relation to that strike, the Department invited the parties to the table for conciliation process. The matter was not resolved and differences remained between the relevant teachers and the Government on the total value of entitlements that are outstanding. This led to a second strike, which is currently ongoing.
13. Under the *Trade Dispute Act*, the period for conciliation is only 7 days. This is proving to be a very short period. Consequently, the Department is currently reviewing the *Trade Dispute Act* to amend the period from 7 days to 21 days for a conciliation process, based on the experience had in the Vanuatu Teachers Union strike and conciliation process.
14. In short, the right to strike in Vanuatu is recognized and already provided for in the *Trade Dispute Act* in Vanuatu, and we have seen a lot of industrial action happening in the last past decades in exercise of this right. The level of protection afforded by that right is important because it impacts on collective bargaining agreements and on social dialogue. If the employer does not address the issues the employees have raised then an industrial action is an important next step for workers to have their voices heard.

### **Impacts of Climate Change and the Labour Mobility Program**

15. The impacts of climate change affect the livelihoods of ni-Vanuatu workers and increase the need for labour mobility programs. The recent history of tropical cyclones in Vanuatu illustrates this. In 2015, Vanuatu was hit by category five cyclone (TC Pam) and, before Vanuatu fully recovered economically, it was hit again by another category five cyclone in 2020 (TC Harold). Later, in 2022, twin category four cyclones (TC Kevin and TC Judy) hit Vanuatu, two days apart, affecting over 70 percent of the population. This was then followed by another category five cyclone a few months later (TC Lola).
16. The most vulnerable workers in these situations are those working in the private sector, as private businesses often cannot continue operating or need to scale down because of the loss and damage caused by these cyclones. These businesses then lay off workers. The Department has provided support to those workers who have lost their jobs during the cyclones by placing them in the labour mobility programs in Australia and New Zealand.

### **PALM and RSE worker's challenges**

17. Although there are a lot of success stories and real benefits of the two programs, there are also challenges. One of the challenges is how climate change impacts and labour mobility intersect, affecting the resilience of our local communities. As most of the people participating in the two programs are strong, able-bodied men and women, they are leaving behind the most vulnerable people, such as children, grandparents and people with disability. With increasingly severe and frequent cyclones these communities are facing real risks, also in terms of disaster preparedness and recovery.
18. Climate impacts also affect the workers themselves, with implications for relatives back home who depend on the remittances. An example is seen in 2022 when Cyclone Dovi struck New Zealand. Most of our workers lost their belongings and work. In some cases, workers were sent back to Vanuatu without completing their visa and work contracted period. Last week I received a call from a group of PALM workers in Australia that they are not able to work due to heavy rains and they have not worked for a week and have not received any salary but salary deductions for their living expenses still continue.
19. Another complaint I have received is in relation to the health and safety of Ni-Vanuatu workers who are working in big farms. When it rains heavily, they are not able to attend work because they might be exposed to certain chemicals that are being used in those farms. They raised their complaints to us so we can ask their employers to compensate for the hours that they are not able to work on. Some farmers do compensate but others do not despite complaints from the workers. This leaves the worker no choice but to sustain themselves off their savings whilst not working, reducing their capacity to send remittances to their families back home.
20. Engaging more with labour unions could help our workers who are working in farms in Australia and New Zealand to improve their working conditions, including through collective action such as strikes. The unions could also help them advocate for a review of policies which increasingly affect them negatively due to climate change. For example, a review of the visa system on which our workers depend, which are tying the worker to their employer. So when a disaster hits a particular state or region in Australia, the worker could then still have access to decent work opportunities and won't be forced to go home with empty pockets. Currently their sub-class 403 visa does not allow the workers to do so.
21. Most of our workers seem hesitant to engage with unions or participate in advocacy while abroad. They may fear repercussions. I believe that greater clarity about their rights as workers would assist in overcoming these obstacles.



Signed :.....

Name: Murielle Metsan Meitenoven,

Commissioner of Labour, Department of Labour and Employment Services.

Date: 16 September 2024.

# **Attachment 3**

## **Statement of Annette Daniel, Vanuatu Trade Unions Combined (VTUC)**

*President of the Vanuatu Trade Unions Combined*

I, Annette Daniel, President of the Vanuatu Trade Unions Combined, solemnly and sincerely affirm and declare:

### **BACKGROUND**

1. My name is Annette Daniel and I was recently elected as the President of the Vanuatu Trade Unions Combined (VTUC) in 2024.
2. This Statement has been given based on my direct and personal knowledge of the facts stated or is information that has been reported to me by other Trade Union representatives, including representatives of the Vanuatu National Workers Union and Vanuatu Teachers Union, in my capacity as President of the VTUC.
3. The VTUC is the national umbrella organisation for all trade unions in Vanuatu. Its main purpose is to empower trade unions to stand up and speak for the rights of workers in Vanuatu. The VTUC is also the national representative body for workers in regional organisations and with the International Labour Organisation (ILO).

### **RIGHT TO STRIKE IN VANUATU**

4. The right to strike facilitates protected industrial action, which is the core business of trade unions. VTUC support unions and workers to exercise this right in accordance with Vanuatu's national laws. Although the right to strike is recognised in Vanuatu, the relevant domestic legislation is still undergoing reform to ensure alignment with international obligations under the ILO Conventions that Vanuatu has ratified. As a result, dispute processes are not always clear or efficient and so, in practice, there are often challenges or uncertainties with how this right is protected. This is an important area in where VTUC can and does provide support.
5. In Vanuatu, there are some legal provisions that limit opportunities to exercise the right to strike in practice, including:
  - a. Section 65 of the *Trade Dispute Act*, which requires notice to be given to the Government of the intention to strike; and
  - b. Section 49 of the *Employment Act*, which gives employers the right to terminate employees with no cause, provided notice periods are observed or paid out.
6. These two legislative provisions in practice often result in workers being terminated lawfully once notice of the intention to strike has been communicated (or even before, if the employer receives a request to enter into negotiations).

## **NI-VANUATU WORKERS ABROAD EXERCISING THE RIGHT TO STRIKE**

7. VTUC has networks with unions in Australia. That is because there are large numbers of ni-Vanuatu workers going to Australia on seasonal work (labour mobility) programs and joining unions while they are there.
8. Seasonal work is vulnerable to environmental changes. Climate change is negatively impacting on the opportunities available for many of the seasonal workers coming back to Vanuatu from Australia. In my experience, workers might go to Australia because the farmers expect crops to be ready at a certain time of year, but then the crops are not ready because of changes to the season. Then it takes one or two months before the ni-Vanuatu seasonal worker can start undertaking work, yet their expenses are still accumulating during that time that they are not working. In response to scenarios like this, the unions have been educating such workers about their rights. Sometimes this leads to protests or picketing in Australia based on their conditions of work, but because the labour laws in Australia are generally ‘employer-friendly’, this can then lead to changes in the entitlements and benefits for the worker.
9. There have also been examples of ni-Vanuatu workers taking industrial action in Australia. For example, in 2022, about three hundred (300) workers on a tomato farm joined a union, and because of poor crop production that season their pay was low and then there was a stand down. The stand down was resolved in Australia with the support of the unions. However, after these workers returned to Vanuatu at the end of the season, they were not recruited to return to Australia for subsequent seasons. So although their rights were protected in Australia, the end result was a loss of future work opportunities abroad. Such complications arise in these situations across different countries, with different standards in the protection of the right to strike. Many workers are reluctant to speak out or stand up for their rights at work in Australia because of a fear that they will lose the opportunity to travel out again.
10. Although many ni-Vanuatu workers also go to New Zealand, VTUC does not have union networks to the same extent because there is less engagement with unions in New Zealand. Aside from Australia and New Zealand, I am also aware of workers on fishing boats that are working in difficult situations, with unfair treatment and underpay. When these workers have tried to take action, they have had their employment terminated and been sent back to Vanuatu. This is yet another example of ni-Vanuatu workers being left behind when working abroad and without comprehensive protection of their right to strike.
11. Given the impact of climate change on workers, any clarification on the operation of the right to strike in the context of climate change and a just transition would help the VTUC to better support workers to advocate for and promote their rights.

**Signed:**.....

**Name:** Annette Daniel

President of the Vanuatu Trade Unions Combined

Date: 16 September 2024.