Committee on the Application of Standards

Date: 15 May 2026

Governments appearing on the list of individual cases have the opportunity, if they so wish, to supply written information to the Committee.

Information on the application of ratified Conventions supplied by governments on the list of individual cases

Philippines (ratification: 1953)

Right to Organise and Collective Bargaining Convention, 1949

The Government has provided the following written information.

A. Assumption of Jurisdiction

The Government recognizes that strike is an essential and legitimate means through which workers may further and defend their interests. However, the Government notes that the issue of assumption of jurisdiction is being raised in the context of the workers' right to strike, which has been submitted to the International Court of Justice for an advisory opinion. Hence, prudence dictates the need for restraint in scrutinizing matters related thereto.

The Government submits that the power of the Secretary of Labor and Employment (SOLE) to assume jurisdiction over labour disputes in an industry indispensable to the national interest pursuant to article 278(g) of the Labor Code is an extraordinary mechanism aimed at preserving industrial peace by maintaining the status quo and preventing the parties to a dispute from committing acts that may further aggravate the situation. The Supreme Court has long held that the right to strike, while constitutionally protected, is not absolute, and that the SOLE's authority to assume jurisdiction does not interfere with trade union rights, but rather is a reasonable exercise of the State's police power to promote the public good.

In practice, the exercise of this power remains the exception rather than the rule, as the Government continues to promote voluntary modes of settling labour disputes. From June 2022 to the present, the SOLE assumed jurisdiction over 12 out of 28 cases based on petitions for assumption involving a tyre manufacturer, a pharmaceuticals company, electric cooperatives, an educational institution and a telecommunications company, as well as one government-owned and controlled corporation and a multinational beverage company. In addition, the SOLE exercised the authority motu proprio in eight cases in the following industries: hotel, motorcycle parts manufacturing, electricity, electronics manufacturing, tollway operations, and education.

As these figures demonstrate, the exercise of the power to assume jurisdiction is not automatic but guided by the imperatives of preserving employment and protecting public welfare. The SOLE has consistently exercised the power sparingly and prudently, taking into account the circumstances of each case, the nature and extent of the dispute, its potential impact on the public and the workers, the status of conciliation and mediation efforts, and the overall labour relations environment.

For instance, while the education sector is not expressly included in the list of industries indispensable to the national interest, the SOLE assumed jurisdiction upon a determination that an impending strike would not only disrupt the school's operations and affect the workers' livelihoods, but would also, more importantly, unduly prejudice the students and impede the completion of their academic requirements.

Similarly, in a case involving a bargaining deadlock in the hotel industry, the union and the management declared their respective intentions to stage a strike and implement a lockout. In assuming jurisdiction, the SOLE took into consideration that the threatened lockout would displace more than 300 employees, including 137 union members, thereby aggravating the dispute. The SOLE likewise recognized the broader economic impact of the dispute, particularly considering the vital role of the tourism industry in the country's economic recovery after the pandemic.

In assuming jurisdiction over a dispute between a multinational beverage company and its three unions, the SOLE cited case law recognizing the exercise of jurisdiction involving the same company and noted that work stoppage would prejudice 6,000 businesses, which would have repercussions not only for the company but also for government revenues, considering the company's substantial tax contributions amounting to nearly 19 billion Philippine pesos in 2023.

The labour sector likewise recognizes the broader socio-economic impact of a labour dispute as there have been instances where the unions themselves petitioned for assumption of jurisdiction in industries not traditionally considered indispensable to the national interest, such as a bus transport company and exporters of Cavendish bananas. In requesting the National Conciliation and Mediation Board to facilitate the settlement of a dispute involving a banana exporter, the workers' group cited the possible impact on government revenue, GDP, and the livelihoods of communities and workers. The Secretary did not ultimately assume jurisdiction over these cases due to the settlement reached by the parties.

Bills filed in the previous Congress seeking to limit this power to essential services were not enacted. Three bills on the same subject matter, including one proposing the total repeal of this power, are presently pending with the House Committee on Labor and Employment.

The Executive, as a co-equal branch of government, fully respects the Legislative's prerogative to determine whether to retain, refine or limit the existing framework. This is especially so since the sector has their representatives in Congress, particularly through the Trade Union Congress of the Philippines (TUCP) Party-list and the Kamanggagawa Party-list.

B. Certification as sole and exclusive bargaining agent (SEBA)

On 9 February 2026, the former Fifth Division of the Court of Appeals issued an Entry of Judgment in the case *San Miguel Integrated Logistics Services, Inc. (SMILSI) v. Department of Labor and Employment (DOLE), et al*. (CA-G.R. SP No. 184711). As such, its 29 May 2025 decision which the Government reported to the ILO, declaring invalid the rule on SEBA certification under DOLE Department Order No. 40-J, series of 2022 (DO40-J), became final and executory.

To recall, the Court explained in its decision that article 269 of the Labor Code mandates the conduct of a certification election in unorganized establishments regardless of the number of legitimate labour organizations (LLOs) present in the establishment. By allowing the recognition of a SEBA in an unorganized establishment without a certification election where only one LLO operates, DO40-J was held invalid for being contrary to law.

In compliance with the court's decision, on 29 April 2026, the DOLE issued Labor Advisory No. 7, series of 2026, immediately and permanently discontinuing the implementation of DO40-J. The Advisory nonetheless emphasizes that LLOs which had attained SEBA status as of 1 August 2025 shall continue to be recognized as such, unless they subsequently lose their SEBA status in a valid certification election or upon an order by a competent authority. Collective bargaining agreements (CBAs) entered into by LLOs that were issued SEBA certification prior to 1 August 2025 shall also remain valid.

The court's decision, however, should not be construed as diminishing or impairing collective bargaining rights. It merely reaffirms the statutory mechanism prescribed by law for the determination of the bargaining agent.

First, article 269 of the Labor Code mandates the Mediator-Arbiter to automatically order the conduct of a certification election in an unorganized establishment upon the filing of a petition. Second, section 19, Rule VIII of DO40, as amended, expressly states that this Order is not subject to appeal. Third, the safeguards recognized by the Committee continue to apply under the certification election process. The certification election is supervised by the DOLE and carried out independently. The exclusive bargaining agent is determined by secret ballot and majority vote of the employees in the bargaining unit, while the employers are precluded from opposing the petition pursuant to the bystander rule. The minority unions may also request a new election after the lapse of the period provided by law. Ultimately, the fundamental principle of ensuring the free and genuine selection of the bargaining agent in an unorganized establishment remains fully respected both in practice and in law.

C. Collective bargaining in the electricity sector

The concerns raised by the workers' group in the electricity sector involve an issuance by the National Electrification Administration (NEA), Memorandum Circular No. 2014-003 which the Court of Appeals and the Supreme Court ruled to be valid and not unconstitutional. In 2023, it was superseded by Memorandum Circular No. 2023-052. As clearly pointed out by the Philippine judicial authorities in their decisions, the NEA issuance does not stifle the right to collective bargaining.

The NEA issuance was prompted by legitimate regulatory and policy considerations, particularly the adverse consequences of certain monetary concessions under CBAs on the financial and operational viability of several electric cooperatives. In this regard, the Government emphasizes that, as a developing State, the Philippines has a substantial and legitimate interest in ensuring essential electric service to the public through the continued implementation of rural electrification programmes. Such an objective requires the maintenance of stable, efficient, and financially viable operations of electric cooperatives, especially those serving rural and geographically isolated communities. In other words, and considering the courts' rulings, the issuance was adopted in good faith to provide a mechanism for the exchange of views among concerned stakeholders so that social and economic considerations may be taken into account in the bargaining process, especially as the industry involved here is imbued with public interest and regulated by the State. The Government, therefore, requests the Committee to consider that the issuance of MC 2014-003 and MC 2023-

052 was not attended by malice and wilful intent to circumvent the principles of collective bargaining.

In any case, the DOLE has facilitated dialogues between the NEA and the workers' group, represented by the National Union of Workers in the Power Industry (POWER-SENTRO) which raised the matter before the ILO. As reported to the Committee, a series of dialogues and joint capacity-building activities were conducted in 2024 and 2025.

In addition to those reported in September 2025, the DOLE, NEA, and POWER-SENTRO held further dialogues on 1 October 2025, during which the NEA announced the suspension of Memorandum Circular No. 2023-052. This was formalized through Memorandum No. 2025-50 dated 16 October 2025, which took effect upon its filing with the Office of the National Administrative Register on 23 October 2025.

In March and April 2026, the DOLE, through the Bureau of Labor Relations (BLR), also convened two bilateral meetings with POWER-SENTRO for the review of a draft manual on collective bargaining. The manual seeks to address concerns arising from varying interpretations and practices on the ground by providing a bargaining framework in the power sector that is based on the Constitution, the Labor Code, and relevant ILO Conventions. As agreed with the workers' groups, the manual will be finalized in consultation with them prior to its presentation to the regulatory agencies.

Another significant matter discussed during bilateral meetings was the proposal to establish a National Tripartite Council for Electric Cooperatives (NTCEC). Pursuant to Republic Act No. 10395 (Tripartism Law) and its Implementing Rules and Regulations, the proposal requires consultation with the concerned stakeholders and the concurrence of the National Tripartite Industrial Peace Council (NTIPC), as the main tripartite consultative body on labour and employment issues. The matter was raised during the NTIPC meeting on 7 April 2026, during which the NTIPC agreed to convene a special session with representatives from the NEA, workers' groups, and other regulatory bodies to further discuss the proposal.

At the same NTIPC meeting, the social partners moved to adopt a resolution calling for the total revocation of Memorandum Circular No. 2023-052. The resolution has been approved in principle and is now being routed for signature. In the meantime, the issuance remains suspended.

In view of the ongoing good-faith efforts and constructive engagements initiated by the Government, the Government finds the possible inclusion of this matter for further scrutiny to be unnecessary and inconsistent with the progress made to date.

The Government recalls the primacy that the ILO and its supervisory bodies accord to the voluntary and amicable settlement of issues within the domestic framework. The issuance has been suspended, and the bargaining framework under the Labor Code continues to govern. Representatives from both electric cooperatives and workers' groups have been capacitated on conciliation and collective bargaining, equipping them with tools, skills and techniques that emphasize respect for workers' rights while ensuring the stable and uninterrupted delivery of electric services to the public. Meanwhile, there are also ongoing discussions to establish a national tripartite council and to formulate a manual on collective bargaining for the electricity sector.

With these manifestations, it is the Government's humble submission that an examination of this matter before the Committee may prejudice the ongoing discussions and undermine the momentum toward an amicable resolution at the national level. The Government respectfully requests that the Committee to defer further consideration of this issue while the concerned stakeholders continue their efforts to address it through sustained dialogue and consultation.