Nestlé Philippines, Inc.

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Nestlé
Good Food, Good Life™

YOUR REF:

OUR REF:

18 February 2011

Mr. JOSE NOEL ALEMANIA
Km. 44, Niugan, Cabuyao, Laguna

Dear Sir:

I am writing to acknowledge receipt of your letter dated December 28, 2010 which has been referred to us by the Nestle Corporate Head Office in Switzerland.

To avoid any misunderstanding of the facts pertaining to the subject matter of your letter, I wish to set the record straight on the following points:

1 **Management's position on the 2001 CBA negotiations**. Rather than being "deliberately provocative", as the letter asserts, the management position on the non-inclusion of the Non-Contributory Retirement Plan (NCRP) flowed from Memorandum of Agreement dated October 8, 1998 signed by all NPI unions including the Cabuyao Factrory union. In this context, even the Supreme Court, in both its August 22, 2006 decision and the March 3, 2008 decision, endorsed the NPI position and cleared the company of any taint of Unfair Labor Practice (ULP).

2. **No resumption of negotiations ordered**. There is no Supreme Court decision dated March 26, 2008 on the industrial conflict in the Cabuyao Factory. Instead, the Supreme Court held, in its decision dated March 3, 2008, that the proceedings should be referred back to the Secretary of Labor for proper disposition. In fact, the Supreme Court was emphatic in its tenor, thus: "*Nowhere in our Decision did we require parties to submit to negotiate by themselves the tenore of the retirement benefits of the concerned employees of Nestle, precisely because the Secretary of the DOLE had already assumed jurisdiction over the labor dispute subject of herein petitions*"

In compliance with the instruction from the Supreme Court, the Department of Labor issued an Order on November 28, 2008 finding Nestle Philippines to have sufficiently complied with the 2002 arbitral award. The order also mandated that the NCRP was to remain in its present form and that Nestle Philippines should establish a Contributory Retirement Plan (CRP) in the Cabuyao Factory similar to those in the other Nestle Philippines bargaining units. The Cabuyao CRP was organized on March 26, 2009.

3. **Validity of the intervention by the Secretary of Labor twice affirmed by the Supreme Court**. There are extended references in your letter to incidents which appear to cast doubts on the probity and integrity of Secretary Sto. Tomas, the former Secretary of Labor However, in fairness, however, in both the August 22, 2006 and the March 3, 2008 decisions, the Supreme Court affirmed that "*Secretary Sto. Tomas correctly assumed jurisdiction over the questions incidental to the current labor dispute and those matters raised by the parties.*"

In fact, in the latter decision, the Supreme Court noted that UFE-DFA-KMU's insistence on the supposed over-reach of her mandate by the former Secretary of Labor was misplaced since the

change of mind by the union "*is of no moment because to give premium to such would make the legally mandated power of the DOLE Secretary subservient to the whims of the parties.*"

4. **High-Level Fact-Finding Mission of the ILO**. On the issues of alleged militarization and "labor repression", it must be noted that Nestle Philippines was not on the agenda of the High Level Fact-finding Mission of the International Labour Organization (ILO) to the Philippines in 2009. It may also be further noted that the so-called excerpts cited in the letter is not in the body of the ILO minutes but is found in the letter from the Kilusang Mayo Uno (KMU) itself, one of the numerous annexes thereof.

The company further recognizes that the government, through the police, has the duty to maintain law and order in the community Being in the private sector, the company has no control over the law enforcement decisions taken by the government. We understand that the investigations on the deaths of Mr Meliton Roxas and Mr Diosdado Fortuna continue to this day

5. **New Union in Cabuyao Factory**. Nestle respects the right of its employees to self-organization and to chose the labor union which would be the certified exclusive bargaining representative in their negotiations with the company.

On January 29, 2010, the present associates of the Cabuyao Factory chose a new independent union as their exclusive bargaining representative in Certification Elections presided over by the Department of Labor and Employment (DOLE) according to law. A new Collective Bargaining Agreement (CBA) was duly signed on July 7, 2010.

6. **Financial assistance extended to dismissed CF employees**. Despite the affirmation by the Supreme Court of the validity of its actions and decisions on the 2001 CF CBA conflict, Nestle Philippine decided to heed the advice of the Labor Arbiter and extended financial assistance to the dismissed CF employees. The financial assistance took into the account the length of service of the employees at the time of their illegal strike and dismissal. It may be noted that some 428 out of 617 dismissed CF employees have availed of the financial assistance. The financial assistance was initially offered from 2006 to 2008 and reopened in October, 2010. We continue to encourage the remaining members of this group to avail of this financial assistance.

In view of the foregoing, we reiterate that it is misleading to state that there is a "long-standing labour dispute in Nestle Philippines Cabuyao Factory " As far as the legal issues from the 2001 CBA negotiations are concerned, these were fully addressed and closed by the order issued by the Secretary of Labor dated November 27, 2008.

Furthermore, the validity of the dismissals was affirmed by the Supreme Court in three decisions: the first two in 2006 and the last, in May 2010, for the Alemania group.

In closing, we welcome this opportunity to once again fully clarify the issues you raise in your letter This is done in a spirit of candor and transparency

Very truly yours,

GIDEON S. MANUEL
HR Director

Cc: Jean Marc Duvoisin