

CONFERENCE 2: ECONOMIC AND SOCIAL SECURITY

Remarks by Christophe Aguiton, France Attac

I will start with the idea that behind this debate, the ASEM Summit next month will be held in a very specific context. This context is in fact that in one hand globalization is still going ahead. We have more and more countries who are wanting to enter WTO or who are negotiating to enter WTO. We see that WTO after the collapse of Cancun is trying to recover and we saw last month in Geneva the third attempt to find an agreement between the big countries and some developing countries. At the same time, the big corporations are continuing their process of internationalization, outsourcing a big part of their activities and the process of globalization is still going on, that's for sure.

On the other hand, there are strong threat on globalization. This strong threat comes because the international community is deeply divided. If we look a little bit behind us in the 90's, the leaders of big countries, international institutions and big corporations were united at two levels: united at economical level following what was well known as Washington Consensus, the recipes for the neo-liberal economy and neo-liberal globalization; but also united mainly in the big international issues. They thought that the free market would give a possibility to have more resources and a better life for everyone. At the same time they believed that this free market would assure, in the medium and long term, more secure world for everyone. But if this common belief was well stressed in the international community in the 90's, last year, we saw a big division between the globalists and between the big countries' leaders and big corporations' leaders. We have people, particularly in European Union and I'm thinking of the European Commission, the last one, who are still believing that the free market plus multilateralism and multilateral institutions are the only way to resolve the problems of the world. But now we have those, in particular in the US, and also the UK and some other countries, who believe that free market is not enough, multilateralism is not enough and they also need the big stick of the US's army and the UK's army to resolve what they call the problems of the world. And this division was obviously clear in the debate on Iraq war, but behind the debate and behind the big division, at the beginning of the 2003, we saw the emergence of new groups because all countries don't trust and need the international community's capacity to work together. The biggest countries known as the revival of nationalism, Russia for example where last year we see an attempt to have much more important nationalist line from the leadership of the

country, and the smaller countries are now trying to group themselves to reinforce their forces and their capacity creating agreement between them, and that is very clear inside WTO with the creation of the G20 with the big alliance of the biggest developing countries like Brazil, South Africa and China and so on, but also with the poorest countries to the G77. But what we can see inside WTO is also through a regional level, the regional agreement I'm thinking of is the European Union but also in South America at the Mercosur with the alliance of the countries around Brazil, Argentina, Uruguay and so on. These alliances are trying to reinforce themselves to counter-balance a little bit the power of the US and to be able to play a role in the international community. And we have to say that this process of regionalization could be positive. Because if you look for example at WTO, it's obvious that a small country or even a country of medium size has no capacity to negotiate alone, and if it tries to enter alone in WTO, it will be absolutely in the end of the big countries, big corporations who will impose to this small or medium sized country all the rules they need for their interests and not at all for the interests of the country. And the capacity for these countries to group themselves to have the capacity to negotiate themselves or even to assume common benefits between them without entering in such an institution as WTO could be a very good and very useful process in this world and in the neo-liberal globalization, theory and practice.

However, if this regionalization could be useful, we have to talk about the kind of regionalization we're looking at. And in this way, it's interesting to see that in many of these regions, the evolution of regionalization is not so good. If you look at for example European Union, the region I know the most because I'm French and I'm European, if at the beginning when the European Union was built, it was a tool to avoid the wars the continent knew during the 20th century and if at the beginning we saw some attempts to have some social common goals and some social common achievements, it was particularly clear in the last decade that the European Union is now mainly a tool to liberalize, it's mainly a tool to privatize, it's mainly a tool to organize the deregulation of the labor market. And we have now a strong debate between the Europeans to see what to do with the project of new constitution. We have between us those who think that it's better to have a constitution, even if it's a bad constitution. We have a lot of proposals and I am a part of those who think that this constitution is now only a neo-liberal tool for the people who want to make Europe to be only a neo-liberal and free market but not at all something useful for the benefits of the workers, something to protect the rights of women and more generally the fundamental human rights.

If I was explaining a little bit the importance to talk about the kind of regionalization, I think it's important also if we want to talk and to think on the future of globalization because I'm sure that in this room a lot of us, the big majority here are objecting the neo-

liberal globalization. Nevertheless, objecting the neo-liberal globalization is one thing, after that we have to think what to do, what kind of alternative against neo-liberal globalization, and the risk exists out of the fragmentation of the world following the big progress when I was trying to explain a little bit what are the threats of globalization after the collapse of Cancun and after the international division between the big countries around the crisis of Iraq war. We have the risk of fragmentation around big empires. The US is trying to have it in Germany and America (global America), the EU is trying to have it in Eastern Europe, in Mediterranean, in Africa and even in Middle East. And in Asia there's a possibility to have a sort of alliance between the Japanese, Korean and Chinese capitalism. This risk is now starting even in our debate. We have in Europe people thinking that it's important to underline the specification of an European model, an European model we suppose to be better because the social democracy, the unions are stronger in Europe than for example in the US. And behind this debate on the constitution and behind the debate about what to do with the constitution, we have found that some people think that it's better to have any kind of Europe because in this world with the process of fragmentation, we need big power, big tool to protect ourselves. I think doing that would be a really big mistake because we knew in the past the consequences of this kind of fragmentation between these empires, and it would be a really big mistake. So if we look, for example, at the United States now, obviously the United States have produced George Bush and the new concepts and awful lies that we see their effects now in Iraq and in several parts of the world. But we are not to forget that the US are also able to have Seattle. And if we are here in this kind of meeting with activists coming from Unions, NGOs, anti-war, anti-globalization campaigns, it's because in the US the activists were also able to collapse the WTO in 1999. And we are not to forget that if the US have produced Bush, they've also produced hundred thousands of demonstrators in New York last week and I think that our really main job is to work with these people in the US as well as we are working between us - Europeans, Asians and tomorrow with the Latin Americans and Africans, and I think that is the best way to think together at which way the process of regionalization of our countries could be useful, but only when regionalization is a tool to give good benefit and good human life to everyone and so we work together with the idea of having an alternative globalization, globalization of people, globalization of human life and not of neo-liberalism.

Now I want to finish with a concrete proposal in this field of economic and social rights we are talking about today. Because we know that we have a lot of things to do at national or regional levels, I've talked a little bit at regional level, but in our countries we have also a lot of goals to achieve, for example the process of privatization we are knowing in a lot of our countries through Asia to Europe and Latin America, it's not a fatality. And our governments are responsible for this privatization. A country I'm thinking about is France who has now privatization of power companies. We are now

trying to privatize telecommunication companies. It's responsible for this action. It's not because international institutions would like them to do that. Previously in the developing world it was more difficult because the pressure of international institutions, the pressure of big corporations is stronger so that even in these countries, it's possible to decide what to do, and there is no obligation to do this or that. And for this reason we have a lot of things to do at local and national levels to oppose our Governments in realizing this kind of privatization and deregulation. But at the same time we know that we have a big goal altogether, different from the goals of the big corporations. These corporations are now often more powerful than states, even in some developed states, some big corporations are bigger in capital than the budget of the country. And we have to see how we can work together in this topic. And it's particularly important between Asia and Europe because we have a lot of companies and corporations who are working in both continents using outsourcing as a way to attack benefits of the workers in Europe but also using the network of subcontractors to destroy working class's condition here in Asia. And we have in this sense a common interest between Asian workers and European workers, Asian human right defenders and European human right defender. But the problem is to know how to regulate more or less or to control these big corporations. We have some negotiations starting in some international institutions. For example now the OECD has started the process to control the big corporations. We know what OECD is, OECD is the clearly the richest countries in the world, clearly the most important capitalist leaders and it's impossible here to believe and to trust those OECD as the good place to do that. But it's really possible to trust them for another reason. Now in this international institution, how we can think that big countries like the US and Bush Administration will accept tomorrow a kind of control of this corporations, and if we can not trust the OECD there is no other place the control of corporations is now in discussion on the table. There is the UN-Human Rights Commission, it's a better place because obviously the UN is not the OECD, and the Human Right Commission is perhaps the best place in this international institution. But at the same time we will very quickly face the same problems. In this commission we have big countries, we have the US, we have even a lot of countries in the EU who refuse to control the corporations and to give workers more rights inside the big corporations and more important inside the network of subcontractors.

However, there are also other ways we could talk about. We are very close to Cambodia and one of the most important issue was raised last year that perhaps a lot you know is the international agreement on landmine, and this international agreement started with very small things. Small countries like Cambodia with small NGOs and small groups of citizen were able to achieve an agreement which is now an international commitment and international treaty. We are not able to change everything, the fact is that the US and Russia for example are not now signing agreements to solve other problems, but at the

same time they were able to change a lot of things in this field of landmine and in this issue of landmine. And why not to think between the European countries and Asian countries and between us - people's movements, working class's movements, unions, NGOs and so on to press our governments to have these kinds of agreement without waiting for multinational and multilateral agreement with the US or EU or whatever because we know that in the last decade as well as in the next decade there will probably few that we can achieve in this issue, but why not to think of an agreement with some countries who would start to establish some rules at first to control the corporations but secondly to give the workers more rights to defend their rights inside the corporations but also between this big network of the sub contractors.

This idea is only the idea of one proposal. We have here a long day of discussion on this topic of economic and social rights, and I think it'll be really useful in all our workshops to further exchange this kind of idea, the idea of others because I'm sure that here a lot of you and a lot of us have a lot of good ideas in the way to control the corporations, in the issue to give more rights at economic and social levels in our countries and I think it'll be useful at the end of the day if we will be able to have a collection of all proposals obviously to present at the ASEM Meeting next month but more important than that, to create commitment between us to have a real activist campaign between us for the next month and the next year and to be able to create a real solidarity link and a real solidarity struggle between peoples, unions, NGOs, and social movements and probably the main goal for the next month and the next year.

Thank you for your attention!

Remarked by Tran Dac Loi

Secretary General of Vietnam Peace and Development Foundation

Dear friends,

In my presentation today, I would like to address the evolution of social and economic development in Vietnam in order to provide a clearer picture of dynamics of development in Vietnam during the past decades.

First I would like to go back to the history of our country. You may know that Vietnam was colonized by the French for about 80 years. And Vietnam for thousands years was feudal country which was closed to the rest of the world. During the colonial period, the colonizers established only few infrastructures in Vietnam in order to explore natural resources and cheap labors. No public education or service for the population had been provided. At that time in Vietnam only nearly 5 percent of population knew how to write and read. Services were provided only for small elite. The life of people under colonialism was terrible in all aspects. And in only single year 1945, under the Japanese occupation together with French colonialism, two millions of Vietnamese people died from hunger. That was nearly 10 percent of our total population at that time. The August revolution led by Ho Chi Minh and the Communist Party of Vietnam and the establishment of Democratic Republic of Vietnam in 1945 was overwhelmingly supported by people all over the country. After the revolution, Ho Chi Minh set 3 immediate tasks of the newly born government which is to fight against three major and immediate enemies: hunger, illiteracy and foreign aggressors. Land was distributed to peasants. All food reserves were disclosed for distribution to save people's life. All those who know how to read and write tried to engage in the popular literacy campaign. Only during one year, 85 percent of population learned how to write and read. That enabled us to hold the first ever in our history free democratic election in which Ho Chi Minh was elected by 98 percent and became President of the country.

But we could not continue our course of building a new life because French came back. Nine years of struggle ended with the victory in Dien Bien Phu and French had to sign Geneva Accord and withdraw their troops out of Vietnam. But American came to replace the French in the South, divided the country and the war re-started. About the war, you may know very well. What I would like to say is that no development could be under the war. More than that, the war destroyed everything. The slogan of American military during the war was to "turn Vietnam back to the Stone Age". Apart from yielded 3 millions of Vietnamese, the war left behind very heavy consequences for us: four

million people were injured, millions of people were exposed to the chemical weapons of dioxin/agent orange and face with fatal diseases. And Khmer Rouge started genocide in Cambodia and attack Vietnam, border conflict with China. US economic embargo was imposed until 1994. That was the time of the Cold War. It was very difficult time for us. We had very little resources to rebuild the country while overcoming the heavy consequences of the war and facing challenges of existing regional and international situation.

There was an additional factor that further aggravated the situation. We implied centrally planned economy based mainly on the state and collective ownership of means of production, which was very popular in the socialist countries at that time. The using of such a economic system aimed mainly at promoting social justice and equality among people, to get rich of exploitation. That's very good motivation! But the form of productive relationships somehow was not adequate to the level of development of existing productive forces, which was still very low in Vietnam. We achieved at large scale what we wanted in terms of social relationship. People were more equal. Every one had jobs. Health care and education was free for all. I really liked that social climate. In the society, people are treating and behaving to each other in a very nice way. At that time, my parents and those who were in the same generation only cared for their children that they grow healthy, they get good education and they have good moral values, treating other people in peaceful and proactive way. There was no need to accumulate the wealth because my parents were sure that if I grow, if I go out to the community, I will be taken care by the society. It was very good in that sense. But at the same time we had serious problems in economic development because mainly of the low productivity. In fact, there was very weak material motivation for production. Being an agriculture country, we had very low harvests and we were always at shortage of food. Every year we had to import from about half of million up to a million tone of food. The shortage was not only at food, but also at all kind of consumer goods. So, the life of people could not be improved. Inflation in middle of 1980s reached more than 700 percent. It was really very serious social-economic crisis that we had to face with in late 70s and 80s.

The Communist Party of Vietnam initiated a new policy that we call "Doi Moi" in Vietnamese, in English it's called "renewal", in 1980s and formalized it in 1986 at the 6th National Congress of the Party.

The main elements of the new economic policy are:

- To apply the socialist oriented market economy. We apply market mechanism with the main aim to increase economic efficiency as a means to improve the living conditions for all the people. But we understand that the market itself will never promote social progress. We do not believe in the so-called "free market", which promote an "economic

jungle” for big capital to control and manipulate economy and to exploit the working people. That’s why we cannot leave everything to the market. Market should be under the management of the State. The State through its economic policies stimulates healthy economic development, supports priority areas of development and provides objective conditions for social progress.

- To diversify the ownership of means of production and economic sectors with the key role of the State one. This policy is aimed at liberating productive forces, mobilizing all potential and resources for development. At the same time, the State plays an active and decisive role in multi-sector economy. The State maintains its monopoly in the areas that are essential for national security. The state sector also plays a key role in the important areas for socio-economic security like natural resources, railways, aviation and public transportation, electricity and water, communication, banking and insurance, etc. State companies play an active role in the business fields affecting overall development or interests of the large population, such as mining, construction, agriculture, heavy industry, textile, etc. As was shown in the year 2000, the revenue of the state own sector composed of 39% of the GDP and collective sector 8,5% while private national capital 3,3%, foreign capital 13,3% and household 32%, mixed ownership 3,9%.

- To widen international economic cooperation and engage in economic integration on the basis of mutual benefit. While expanding international economic cooperation, we think that it is essential to mobilize all internal resources and potentials.

In my understanding, these are three substantial components of the Doi Moi economic policy. It had really brought about a lot of positive changes in the country in the last two decades.

The economy started to develop faster. GDP has been growing with relatively high rate, on an average 7% per year. From a country, which was always suffering from the shortage of food, in the late of 1980s we became self-sufficient in food and started to export rice to other countries. Food products increased from 17,5 million tons in 1987 to 35 million tons in 2000. Today Vietnam is the second largest exporter of rice in the world and ranked among the leading countries exporting a number of other agricultural products. Industry develops with a high speed, on the average of 6% in the 80s, 12-13% in 90s and 13-15% in 2000s; industrial production increased from 29% of the GDP in 1986 to 40,5% in 2003. Service grows at about 6-9% per year, increased from 27,7% of the GDP in 1986 to 38% in 2003. Export increased about 20-25 percent per year. Foreign investment also increased, up to now 46 billion USD of FDI was registered and 30 billion USD had been realized. Foreign tourists are increasing in number every year. Per capita GDP doubled every 10 years.

But the market economy and the opening up of the country also had brought about new social problems that we were not used to face with before, such as unemployment, corruption, prostitution, and very serious issues like woman trafficking, prostitution, drug trafficking and drug abuse, HIV/AIDS, etc. And the gap between the rich and the poor, between rural and urban areas also appeared. These are substantial issues that we have to deal with in the process of socio-economic development in the country.

The Doi Moi policy concerning social development contains the following main elements:

- To consider human beings as the center of development, economic growth as a material means to implement social policy and the implementation of social policy is an important motivation for economic development. To realize adequate social justice and progress in every step of economic development.
- To create conditions for all people to develop and realize their potentials; encourage legal enrichment along with focusing on poverty alleviation, supporting disadvantaged people, people in special difficult circumstances.
- To consider education, training and science-technology as first national strategy to develop human resource and major factor of social development and sustainable development.

Viet Nam today has 82 million population, 75% are living in rural areas. The economic development enabled us to overcome socio-economic crisis in the 80s and to significantly improve the living conditions for our people.

The Government spends 24-25% of the annual budget on social programs.

Poverty alleviation is the first priority of the socio-economic strategy. The rate of poor people according to the international criteria has been reduced from 75% in 1986 to 58% in 1993, 37% in 1998, 28,9% in 2002 and 27% in 2004, on an average of 310,000 families every year. In the period 1991-2000 alone Viet Nam already achieved the millennium goal set by the UN for 2015: to reduce poor population by half. According to the Vietnamese criteria, the rate of poor families in 2003 was 12%.

The Government continues to play the major role in providing education and health care.

Viet Nam completed universalization of primary education in the year 2000. Today compulsory junior secondary education is already completed in 19 provinces in the country. The number of school attendants increased from 14,9 million in the school year 1994-1995 to 20,8 million in 2002-2003; the number of university and tertiary students increased from 203,000 to 1,020,000 during the same period. 94% of adult population is literate.

Epidemic diseases were successfully controlled. The number of undernourished children reduced from 50% to 28% during the last decade. Infant mortality decreased from 81‰ in 1990 to 38‰ in 2003. Average life expectancy increased from 63 in 1990 to 65 in 1993 to 68,9 in 2003.

Human development index has been growing from 0,498 in 1991 to 0,688 in 2000.

The Socio-economic Strategy set for the period 2001-2010 is aimed at achieving 7% annual economic growth, reducing population growth rate to 1,23%, basically alleviating poverty by 2010, reducing malnutrition to 20-25%, increasing people's life expectancy to 70 years.

At the same time, what I would like to say is that we still have a lot of problems to solve. Viet Nam is still a poor developing country. Per capita GDP is still very low to compare with other countries in the region and the world. Competitiveness of our economy in the world market is still weak. The quality of education and healthcare is still far from good. There are still 8,3% of population living in poverty, 28% of children is undernourished. The legacies of war, especially of Agent Orange/Dioxin is still very heavy in the country.

The ongoing globalization is also posing big challenges to Viet Nam. Unjust economic order and unfair trade practices are harming the interests of millions of workers and peasants in our country.

Those are the challenges that we have to face with today in a process of socio-economic development. We understand that there are still a lot of things to be done to overcome the weakness of the economy, of the social system, of the administrative management, etc. But one thing I can say for sure is that we have very clear and consistent objective: to build an independent socialist country with prosperous people, equitable, democratic and civilized society. We understand that it is not an easy task, especially in the current international situation. There is no ready-made model for us. But that is the choice of our people and we want to find out our own way to achieve this objective. It is our new struggle and in this struggle we need your solidarity and support.

Thank you.

Remarks by Lidy Nacpil

(Outline)

1. Just about two weeks ago, President Gloria Arroyo finally admitted the Philippines is going through a fiscal and debt crisis, one that threatens to get much worse and lead to an economic collapse within the next two years. As a consequence of her admission, government officials and media have started paying closer and more serious attention to what we had to say about the debt and the economy, and our campaign initiatives are moving forward much more quickly than we had anticipated.
2. We had been warning about a fiscal and debt crisis as early as 2002, when the indications had already been very clear - the national government had been running a huge deficit - almost 20% of the national budget in 1999 to more than 28% in 2002. Interest payments on the debt has gone from 20% of the national government budget in 1999, to more than 25% in 2002, and this year up to about 31 %. Payment on interest is the single biggest item in the national budget. For 2004, it is even bigger than the budget for all social services combined.
3. Payments on interest and principal combined will eat up about 80% of government revenues this year, and in 2005 the projection is 95%. That means only 5% of revenues can be spent on everything else. And what is the solution of our government? To borrow even more. Government borrowings went on a sharp increase since 1998, and have reached unprecedented levels. This year, Philippine public debt, which is almost US\$ 100 billion, has reached 130% of GDP.
4. This is a country which up to recently has been considered by the IMF and World Bank as having a "manageable debt" or a "sustainable debt."

The Debt Burden:

5. I am presenting the Philippine case to put forward the first of several major issues that threaten and undermine economic and social security of many peoples of Asia and the rest of the South - the problem of the debt.
6. We are all too familiar with the consequences of the burden of debt service - reduction of public spending for all basic services - such as health, education and housing - as well as public utilities such as water and power. Consequently, fewer services are available for the poor and whatever is available is deteriorating in terms of quality. In addition, charging of user fees for services and increase of rates of utilities.

7. Women absorb greater share of the additional burden, because of gender discrimination and traditional roles in the family and households. It is women who compensate for services no longer affordable to their families. It is women who are first to give up education and healthcare.
8. After all the international campaigning on the debt issue leading up to the Jubilee year 2000, there has not been substantive action on the part of creditor governments, (most of them European governments), nor on the part of international financial institutions which they control, to address the problem of the debt.
9. Current international official discourse is still stuck on HIPC. HIPC or the Heavily Indebted Poor Country debt relief program was unveiled in the mid 1990's by the IMF and World Bank with the support of the G7. In the face of criticism, it was re-launched again in the late 1990's as the Enhanced HIPC.
10. This debt relief scheme was cleverly designed to appear to be in aid of the severely indebted poorest countries of the South. HIPC had initial effect of dividing the international debt movement but fortunately many caught on eventually that it is little more than a mechanism for creditors to clean their books and collect payments from countries that were about to default or were already defaulting.
11. HIPC did not even pretend to address the debt problem of all South countries, as the scheme was accompanied with their categorization of countries as moderately indebted middle income and severely indebted low income countries, and the declaration that only the latter is in need of debt relief.
12. HIPC does not even begin to address the more fundamental issue of illegitimate debts - debt contracted with onerous terms, debts accompanied by fraud and corruption, debts which financed projects and programs that resulted in massive dislocation of communities and destruction of the environment, debts arising from grossly disadvantageous contracts favoring private corporations and creditors, private debts which creditors required governments to guarantee and are now being paid for by taxpayers money. These are illegitimate debts for which creditors are liable, debts which our people should not be made to pay.
13. One of the biggest indictments of HIPC is that it is designed to exact continued compliance with economic conditionalities. Previously known as structural adjustment measures, these economic conditionalities have been repackaged as Poverty Reduction Strategy Papers, (PRSPs) and sweetened with the promise of participatory processes. Poverty reduction is now the catch phrase, not only of the IMF and WB, but also of their regional counterparts including the Asian Development Bank. The framework and policies of PRSPs, however, have remained essentially the same as with previous structural adjustment programs.

14. Addressing the debt is also key to many other problems. Debt is no longer simply about profits from lending. Debt is now primarily about power, the power to compel countries to restructure their economies to give free movement to capital and goods, implement liberalization, privatization and deregulation policies, and march in line with globalization.

15. North and south movements are challenged to breathe new life into campaigning on the debt issue. We must once and for all bury HIPC and reject PRSPs, and move forward with alternatives that should include a) on the part of South governments - major changes on debt payments policy, tighter regulation on borrowings, more daring actions to reduce the debt stock which should include the options of revaluation and repudiation b) international recognition of the problem of illegitimate debts and international mechanisms to address such debts and c) debt cancellation without conditions on the part of creditors

Privatization of Services and Utilities:

16. The proliferation of poorly maintained, cash-strapped and debt-ridden public utilities is one of the legacies of the debt problem, of unequal trade relations and other economic policies that result in net resource outflows from the South to the North.

17. This situation has provided the justification for what has been in recent years a relentless drive to privatize services and utilities throughout Asia and the rest of the South. We are told that we need to cut our losses and liquidate non-performing assets as part of fiscal reforms.

18. In addition, purveyors of privatization claim that governments have proven to be inefficient in managing these industries. Private sector participation is the solution. The private sector has the capital, is efficient, and privatization will redound to greater benefits for the poor.

19. The truth of the matter is that services and utilities are areas for potentially highly profitable investments for the private sector, and global corporations are moving in quickly to capture their share of the market. Opening up access to investments in this area is of special concern for Europe, home to many of the world's largest companies involved in services and utilities.

20. International financial institutions - the IMF, the World Bank, as well as the ADB - have been the principal agents pushing governments to implement privatization. Aside from imposing privatization as economic conditionalities the World Bank and the ADB, finance projects that prepare the grounds for the privatization, fund the actual implementation of privatization, and even provide the technical expertise and assistance

required. A central tenet promoted by these institutions in running water services is "cost recovery."

21. In addition, the World Bank through the International Finance Corporation provides loans and equity for private companies who invest in privatization.

We should not forget export credit agencies and other government financial institutions that provide direct financing and loans to private companies investing in what are considered high-risk big infrastructure privatization projects.

22. The General Agreement on Trade and Services or GATS under the WTO further secures the services markets for global corporations. It is a comprehensive commitment to the liberalization of the services sector that has such an extensive coverage. While on paper, GATS supposedly allows "appropriate flexibility" on the part of "developing countries" in defining the parameters of liberalization, the nature of the negotiations and the reality of the imbalance of power between member countries would have the predictable effect of aligning the results in favor of the powerful countries and big business.

The privatization of water services now sweeping across Asia, other parts of the South, and even in some countries in the North is of urgent concern. Water is a fundamental necessity for human life, a basic human right. It should be unthinkable to hand over the control of freshwater resources and the water service industry to global corporations that by nature operate for profit.

23. Most of the biggest global water corporations are European - Suez, Vivendi, Rwe Thames, Bouyes-Saur, Severn Trent, United Utilities, Anglian Water, Kelda Group.

There are now numerous testimonies to the negative effects of privatization of water services - higher prices and reduced access to service, deterioration in the quality of water, higher wastage, outright denial of community use of traditional sources of water, problems of water supply for irrigation, abuse of water resources, damage to the environment and dislocation of communities by big water infrastructure projects.

24. Many grassroots movements and campaigns have emerged to resist water privatization in various countries of Asia. There are success stories to inspire us - in the Asia region such India, Korea, Pakistan as well as from other countries - Bolivia for instance. But even in these countries the gains are temporary in the face of unrelenting push by international financial institutions, water companies and governments.

25. We need to build and strengthen regional and global movements and wage concerted, collective campaigning efforts in the international arenas. In Asia, there are now efforts to develop a regional campaign to challenge the water companies, the

IMFWB and ADB and GATS-WTO, as well as support national and local movements in resisting government water privatization policies. We need to strengthen solidarity, cooperation and joint campaigning between Europe and Asia movements.

Trade Liberalization:

26. Anti-Trade Liberalization campaigns have emerged as one if not the strongest pillars of the international movement against neoliberal globalization.

27. The impact of trade liberalization has been dramatic - the destruction of local enterprises and farms; weakening of domestic economies, loss of livelihoods and jobs; decline in incomes, increasing prices of goods, greater food insecurity, loss of government revenues, and the undermining of people's sovereign right to determine their own development strategies.

28. Trade liberalization has forced developing countries to compete with each other, driving wages and farm gate prices down to keep their products cheap, and implementing increasingly repressive policies against workers and farmers. Workers are in fear of losing jobs to workers of other countries, farmers are pitted against each other, - North versus South and especially within the South.

29. Cross border and international solidarity among workers and farmers is a basic requisite to resistance. Political solidarity is not enough - common agendas must be forged so multinational corporations are forced to deal with the same demands wherever they go.

Labor migration:

30. The massive export of labor from the South to the North is a major consequence of increasing economic and social insecurity in the South. For the Philippines, remittances from the millions of overseas Filipino workers have helped a great deal in keeping the economy afloat and one of the important means of economic survival for millions of Filipino families. But this is at great social cost to the workers and their families, and to the entire country. We constantly hear of tragic stories of the plight of overseas workers and the effect of their long absences from their families.

31. Worker's movements in North and South, Europe and Asia, must make the struggles of migrant labor their own. And so must all movements. Currently, there is very little connection that is forged and this is one of our major challenges.

W1: GATS CHALLENGES TO NATIONAL SOVEREIGNTY AND PEOPLE'S SECURITY

GATS, The Development Threats and the EU's Agenda

by Peter Hardstaff

World Development Movement, UK

WDM is a UK-based organisation with some 13,000 supporters campaigning to change UK, European and International policies to tackle the root causes of poverty. WDM has been working on the development implications of the General Agreement on Trade in Services (the GATS) for almost four years as part of its broader and longer-term work on transforming international trade rules. So I guess we have a pretty intimate knowledge of the agreement and of the EU's GATS agenda.

I have been asked to address three topics in relation to the GATS. First, an introduction to the GATS - what is it and how does it work. Second, an overview of the problems with GATS - how it undermines development. And third, an outline of the European Union's role in the GATS talks - how the EU is seeking to open up developing country markets to European service companies.

Before I begin, I would just like to point out that I will not be covering every single technical detail of the GATS, every single rule and every single potential impact. This is for two reasons:

- First, I don't know them all.
- And second, if I did, and I tried to explain them, we would be here all day - and you would all be asleep after the first half an hour.

So I will only attempt to get across some key issues that provide a basic understanding of GATS and its impacts.

So first, what is the GATS?

The GATS consists of 30 pages of dense legal text. So I make no apologies for the fact that the following explanation is a bit technical and boring. Believe me, a few minutes listening to me will seem like a party compared to hours spent wading through the GATS trying to understand what it means.

The aim of the GATS is to increase trade in services through progressive liberalisation. In other words its aim is the removal of barriers to trade in services. The Agreement covers all forms of trade in services.

Critically, this includes services supplied by a company of one WTO Member, through a commercial presence in the territory of any other Member (for example, a UK owned retail company setting up and operating in Vietnam). In other words, the GATS is principally about the rights of service companies to set up operations around the world.

As for who GATS rules apply to, the agreement applies to all national, state, regional and local government measures affecting services. GATS even applies to non governmental bodies that have been delegated powers by central, regional or local government.

The GATS uses a list to define the service sectors it covers. This includes: business services, educational services, environmental services, transport services, financial services, health and related social services, and tourism and travel related services.

The agreement covers all provision of services in the listed sectors except services supplied in the exercise of governmental authority. These are defined as services supplied neither on a commercial basis, nor in competition with one or more service suppliers.

The heart of the GATS concerns rules that apply to sectors in which Governments make specific commitments. There are two main aspects to this.

First, governments can commit to providing market access for all WTO members in a particular service sector. Once committed the Government is then not allowed to implement measures that affect the level of access foreign companies have to sell services, or to invest in the country.

Second Governments can commit to treating all foreign companies the same as it treats its own companies. The Government is then prohibited from implementing measures that are either intended to, or have the effect of, favouring its own companies.

A few other important points about the GATS:

Governments are allowed to list specific exemptions from these two rules. Critically, though, they must list these exemptions at the time of making the commitment. A Government cannot go back and add extra exemptions at a later date.

The GATS does have a procedure for Governments to withdraw commitments but this requires the consent of all affected WTO members and requires compensation, normally in the form of some other kind of liberalisation. This makes it very difficult - if not impossible - for governments to withdraw commitments. The WTO has claimed that GATS commitments are 'effectively irreversible'.

The GATS includes a commitment to further rounds of negotiations aimed at progressive liberalisation. The current talks are part of fulfilling this requirement to keep on liberalising.

The GATS also contains a few nasty surprises that are still waiting to happen. For example, WTO members have committed to developing more detailed rules on domestic regulation during the current talks. These are aimed at ensuring domestic regulations applied to service companies do not constitute 'unnecessary barriers to trade' in services. This is a dangerous expansion of trade rules into areas of government policy never before touched by the WTO.

Governments have also committed to developing detailed rules covering government procurement of services and government subsidies for service suppliers. The negotiations on these general rules are conducted multilaterally. Theoretically all WTO members will be involved in developing more detailed rules on domestic regulation, government procurement and subsidies during the current talks. In contrast, the negotiations on each country's specific commitments are conducted bilaterally through a process known as request-offer.

Countries submit liberalisation requests to each other. They then make liberalisation offers and then they negotiate.

This process does of course take place across the whole WTO membership - except those countries that neither make nor receive any requests - so it is a great deal more complex.

In 2002 and 2003, WTO members submitted their initial requests and made their initial offers. However, to date only 42 countries have tabled offers, and the major trading powers like the EU are not satisfied with those offers that have been made. This is why the latest WTO text agreed in July includes a demand that all WTO members submit offers and those countries that have already submitted should make better offers by May 2005.

So that, I hope, is a bit of background on the GATS. If you are feeling slightly confused at this point, don't worry. It is a normal symptom displayed by those exposed to the GATS for the first time.

Hopefully, it will become clearer as I move on to talking about how GATS affects development policy.

So what is wrong with the GATS? Why should anyone care about this obscure piece of international trade law?

As I have just explained, the GATS is primarily about the gradual expansion of rights for service companies to invest overseas. Its rules are designed to place limits on the kind of regulations governments can impose on foreign investors.

2. For example, the GATS is designed to prohibit governments requiring foreign investors to employ and train local people;
3. it is designed to prohibit governments requiring foreign investors to use local suppliers;
4. prohibit governments requiring foreign investors to transfer technology or production processes;
5. prohibit governments requiring foreign investors to pay specific taxes or to give domestic firms tax breaks;
6. prohibit governments providing contracts or concessions on a favourable basis to domestic companies;
7. and prohibit governments requiring foreign investors to export a proportion of their output.

The GATS rules on so-called 'national treatment' are designed to eliminate all of these government regulations.

The GATS is also designed to eliminate so-called barriers to 'market access'. This includes requirements that foreign investors form joint-ventures with domestic companies to help in technology and skills transfer.

It includes restrictions on foreign ownership of companies. For example, India has a foreign equity ceiling of 51 per cent in its hotel sector. This will come under attack through the GATS.

And it includes limitations on numbers of suppliers in a sector. For example, Egypt uses an economic needs test policy when companies seek permission to set up hotels and restaurants. It assesses market needs and the location of different categories of hotel. This will come under attack through the GATS.

In general, it is impossible to say that one, some, or all of the measures that I have just listed is critical to the development of all services in all countries. Different measures are useful in different circumstances and most, if not all of these policies will have been both successfully and unsuccessfully used at some stage. The key point concerns whether governments should maintain the option, both for themselves or for future governments, to use these measures.

The key point that I would like to get across to you, is that the GATS limits the policy options open to governments to achieve development.

Any look at the history of how the industrialised world has developed shows that rich countries did it through a wide range of government interventions. No country is like another. No development process is exactly the same as another. Developing countries need the flexibility to use the kinds of policies that rich countries used during their development. Fundamentally, developing countries should have the ability to implement policies that favour their domestic businesses and build-up the effective provision of services.

The increasing number of examples of botched attempts at commercial provision of basic services to the poor highlights the need for effective and accountable public services, and effective government regulation. The GATS is hindering rather than helping this process by promoting private rights and deregulation over the interests of poor communities.

This argument is, of course, in stark contrast to the proponents of the GATS, who tend to claim that the GATS is not a problem because it is a flexible agreement. It allows developing countries to pick and choose what to liberalise and when, and it allows them to make exemptions from their commitments. There are several problems with the argument that the GATS is flexible and poor countries can choose what they want to do. In order to engage in the GATS debate, it is useful to understand the 'myth of flexibility'.

The first problem I would like to highlight, is that all is not fair in trade negotiations. The rich and powerful countries have a great deal of leverage in trade talks, and act in the interests of their companies rather than in the interests of the poor. Although much has been made of the supposed flexibility of GATS - that poor countries don't have to sign on the dotted line if they don't want to - it asking the public to suspend a great deal of disbelief if we expect them to think that the bilateral talks simply involve a cosy chat between an EU negotiator and one from a developing country talking about the relative development benefits of making GATS commitments.

The EU has massive political and economic clout. Anecdotal reports from Geneva describe how a single developing country delegate - who has to cover a broad range of negotiating topics - is going into a bilateral meeting with twelve service sector specialists from the EU. Also, rich countries can and do wield the big stick of aid. In Ghana, in 2002 it was reported that the UK government was withholding \$10 million dollars of aid for a water project, because of apparent 'slow progress' in privatising Ghana's water supply. Such pressure is not unknown when it comes to doing trade deals.

The second problem with the "GATS is flexible" argument, is that GATS negotiators are supposed to be blessed with magic powers. It is true that the GATS allows Governments to list what are called 'limitations' or exceptions to their specific commitments. For

example, Italy, Spain, Portugal, and Greece have all listed an exception, which ensures that they can regulate the establishment of hotels and restaurants, "in order to protect areas of particular historic and artistic interest." This all sounds fine. But the problem - especially for developing countries - is that you are supposed to come up with a list of all the possible regulations that you might want to use in the future at the time you make the commitment. How can any government official know in advance all the possible regulations that future governments might want to use?

This ridiculous restriction denies the opportunity for governments to learn from mistakes and change policies that are not working. No Government gets it right first time all the time. Yet in the fantasy world of the GATS, Government officials seemingly have the power to see far into the future.

A third problem with the mythical GATS flexibility is what we call 'lock-in' or irreversibility.

As I have already mentioned, once you make a GATS commitment, there's effectively no turning back. For developing countries, it's part of a pincer movement. On one side you've got the IMF and World Bank with their loan conditions requiring privatisation of basic services, on the other you've got pressure to sign up to the GATS in order to lock-in these policies forever. This has massive implications for democracy and the right of future governments to change the direction of economic policy.

The final problem I want to highlight, is what I call the 'eternity clause'. The GATS enshrines a commitment to keep on liberalising. It requires that there must be successive rounds of talks aimed at ever more progressive liberalisation. This means that exemptions made in the last round of negotiations become the targets for liberalisation in the next round. This exerts a long-term deregulatory pressure on governments.

Yet, nobody actually knows what so-called 'free trade' in services looks like? How much deregulation is enough? How long is a piece of string? So as you can see, the GATS is far from being a flexible development friendly agreement.

In the final part of my presentation, I would like to outline the **EU's agenda and the EU's role in the current GATS talks.**

The EU's GATS agenda is dominated by European service companies. The European commission - which negotiates on behalf of the European Union - has very close ties with a range of industry bodies. In particular, the European financial services industry has a major voice and, consequently, liberalisation of sectors such as banking and insurance is a major objective of the EU. Research by the Corporate Europe Observatory uncovered a very cosy relationship between European Commission officials and European

multinational water companies and, as a result, the EU is proposing that 'water supply' be included in the GATS.

As the EU has stated before, the GATS is, and I quote, "first and foremost an instrument for the benefit of business". Despite this blatant corporate influence, the EU claims to be promoting a 'development agenda'. But this is just empty rhetoric. The reality is that the EU is pushing for major liberalisation commitments in poor countries.

In early 2003, a leak of the EU's GATS negotiating requests was posted on the internet. This leak demonstrated the scale and depth of the EU's GATS agenda. 109 countries were targeted in total - including 94 classified as developing countries or economies in transition. Each country received between three and twelve sector-specific liberalisation requests. Over 200 of these requests were made of the 41 countries defined as low-income countries by the World Bank - in other words, the world's poorest. These requests targeted liberalisation across a range of sectors, including financial services, telecommunications, water, energy, transport, retail and construction.

The sheer number of requests made of developing countries demonstrates a major push for market opening by the EU. The leaked requests also demonstrate that the EU has been through developing country regulations with a fine-tooth comb - and they are proposing to eliminate a range of development policies. For example, the EU wants to eliminate a law in Cameroon that requires investors to create at least one job per 10,000 dollars of investment.

The EU wants to eliminate Brazilian laws, which restrict profit repatriation by multinationals in order to maintain investment in the country. The EU wants to eliminate similar capital controls in Chile. In India, the Government has introduced rules in its tourism sector obliging foreign companies to work through a local counterpart. These rules can be important, both in helping to transfer technology and skills to domestic companies and in helping ensure that, in the event of corporate wrong-doing, the offending company can be more easily held accountable. Needless to say, these Indian Government rules have been targeted for removal by the European Union as part of the GATS negotiations.

The final point to highlight in relation to the EU's agenda is **the 'grand bargain'**.

Many of you are probably asking yourselves, why would my government make such commitments? Why would my government agree to the EU's demands? Aside from the political pressure the EU can exert on poor countries, it is also using the promise of agricultural reform to encourage developing countries to make GATS commitments. In other words, the EU is saying, 'we will reform our agricultural policy if you make binding commitments to opening up your service sectors to our companies'.

Even if the EU was offering meaningful agricultural reform - which many people doubt - it is a bad idea to give up your future policy flexibility in return. As one Harvard economist (Dani Rodrick) concludes, and I quote, "The exchange of reduced policy autonomy in the South for improved market access in the North is a bad bargain where development is concerned."

So, before I finish, I would just like to recap **the main points of my presentation**:

1. The GATS affects the rights of governments to regulate investment in ways that benefit people and the environment.
2. The GATS limits the policy options open to governments to achieve development.
3. The GATS is not 'flexible', as its proponents argue, because:
 - Countries must keep on liberalising
 - GATS commitments are 'effectively irreversible'
 - No government can have the foresight to know what regulations future governments might want to use
 - The request-offer process allows bilateral pressure to be exerted on poor countries
4. The EU's agenda is defined by service companies, not EU citizens.
5. The EU is pushing for extensive market access all over the world and is targeting specific regulations in developing countries for removal.
6. And the EU is offering agricultural reform in return for services liberalisation. This is a bad deal for development.

So, finally, thank you for listening and I hope that I have been able to give you a broad understanding of what is a very complex but also critical issue that I think exemplifies how globalisation is being shaped in the corporate interest, rather than the public interest.

The Dutch GATS-Platform's challenges to GATS and the EU services directive

*by Roeline Knottnerus
the GATS platform, the Netherlands*

The previous speakers have sketched the dangers of GATS for the development perspective in the South. In the Netherlands, the Dutch GATS-platform - a loose coalition of NGOs and social organisations active in fields as diverse as education, health, energy and environmental issues - has also tried to underline the effects of GATS in the North. The GATS-platform decided on this two-fold strategy for two main reasons:

- GATS has such a wide scope that public services, environmental standards, social legislation, labour standards, indeed sovereignty and democracy in the North will also come under increasing pressure.
- And secondly, because it makes it easier for people to realise the devastating effects GATS is likely to have in the South and increase global solidarity, if they can relate the effects of the GATS-agreement to examples closer to home.

People need to come to realise that GATS is part of a liberalisation agenda that will affect the lives and livelihoods of people all over the world, in the North and in the South. This is an important aspect, because thus far it has been quite a struggle to get a GATS-campaign going in the Netherlands. GATS is, as Peter has made clear, a very complicated subject. It is being put to us as an agenda for development in the South and the means to create greater prosperity in the North. And the agreement is so complicated that the threat to public services and social conditions is not immediately apparent. That makes it hard to rally the support of the general public. Also because people are constantly being told that public services are best left to the market: that will make them more efficient and cheaper. They insufficiently realise that this is in fact a sell-out: introducing profit mechanisms means introducing a dynamic which runs contrary to the idea of general access to basic services at an acceptable standard and at affordable prices.

Not just in the South, where the consequences will be all the more detrimental, because often the regulatory role of the state is weak, compared to the power of large multinational companies, and large segments of society lack the necessary purchasing power to keep essential services such as water, health care and education within their reach once market forces are introduced. But also in the North, where liberalisation efforts are undermining the social welfare system and putting increasing downward

pressure on wages, working conditions and environmental standards. Instead of promoting the adoption of best practices in these areas all around the world, the liberalisation agenda is promoting a drive towards the lowest standard. States are forced to step back and dismantle their redistribution mechanisms in the interest of big business, to the detriment of the most vulnerable groups in society and the social fabric as a whole.

The Dutch GATS-platform is trying to raise awareness on these issues in the Netherlands. A full understanding of the effects of GATS, both in the North and in the South, on access to essential services such as health, education and water and on working conditions and environmental standards is needed to create the necessary international solidarity to give momentum to a truly global movement to stop GATS and other similar liberalisation treaties.

For the European Union is not only actively pursuing its GATS objectives at WTO level, but is also pushing its liberalisation agenda closer to home. The EU is working hard to introduce a new services directive aimed at liberalising the services market within the EU territory as part of the so-called Lisbon agenda which is to turn Europe into the most competitive knowledge-based economic block in the world by 2010. The European services directive has been a focal point for the GATS-platform this year. It brings the effect of services liberalisation and the threats it poses, especially to working conditions, wages and health care systems, very close to home, and thus makes it easier to draw parallels with GATS. Just like GATS, the EU services directive forms a threat to the public welfare system and undermines the solidarity between European citizens. Its aim is to remove the obstacles to the freedom of establishment for service providers and ensure the free movement of services between the member states of the EU. Like GATS, it covers virtually all service activities. The proposed EU directive would introduce the so-called country of origin principle, according to which service providers would be subject only to the law of the country where they are established and not to the laws of the countries where they are operating. Fears are that companies will relocate to those countries with the lowest standards, thus causing a downward pressure on wages, health, safety and environmental standards. The recent accession of the Eastern European countries to the EU block - with their much lower wage levels and much lower social and environmental standards - makes these fears very real. Like GATS, the EU services directive seeks to liberalise public services which have so far been protected from liberalisation. It seeks to dismantle large parts of the social security and public welfare system and to diminish the social and economic regulatory powers of the state. So the parallels with GATS are self-evident and the push for the EU services directive confirms the EU's strong commitment towards further liberalisation of services. Campaigning on the EU services directive has helped create new opportunities to bring home the message

in the North/Netherlands that liberalisation means the dismantling of economic and social rights of people for the sake of competitiveness and that liberalisation and privatisation of public goods poses a major threat to universal access and affordability of basic social services, especially for the more vulnerable groups in society. It has offered new opportunities to highlight that the liberalisation agenda is not just affecting the South, but will have serious effects on the standard of living and on social welfare in the North as well. It has helped to stress the need for a concerted effort to oppose the drive towards further services liberalisation, both within the EU as well as on a global level.

Recently, gaining momentum for the Dutch anti-GATS campaign was an uphill-struggle. With the standstill in the WTO-agenda after the failed ministerial in Cancun, it proved very difficult to rally public opinion around GATS. The proposed EU directive has given the Dutch campaign a much-needed new impulse. The national and international campaigns against further services liberalisation, both on the EU services directive and on GATS - have in the Netherlands begun to succeed in rallying the trade unions and in raising awareness among left wing politicians that liberalisation will undermine the democratic decision-making process by turning key social areas over to the market. The Dutch GATS-platform will continue to bring this message home, especially now that the Netherlands, traditionally a strong advocate of trade liberalisation, are fulfilling the European Union presidency. The platform hopes that its campaign on the EU services directive will help build a stronger GATS campaign in the Netherlands now that the WTO negotiating process is once again gaining momentum. With its strategy, the GATS-platform seeks to contribute to building a stronger global solidarity movement against the neo-liberal market doctrine, against privatisation and the introduction of profit-making principles in basic public services.

W2: GATS AND MODE 4: ISSUES AND MIGRANT PERSPECTIVE

Remarks by Nonoi Hachang Platform of Filipino Migrant Organizations, The Netherlands

Introduction:

Thanks to Marina and (Nick and Saiful) for their inputs to the discussion and the issues they have raised.

As Ellene has mentioned I am working in Europe with the *Platform of Filipino Migrant Organizations*. Since 9/11, we have also witnessed in Europe the impact of a global security regime which is shaped by the US 'war on terrorism' and where already restrictive immigration policy has experienced a further rollback as civil and political rights in Europe have been curtailed or suspended and the rights of refugees and migrants further eroded. These developments have been a central focus for the migrant and refugee movements among Europe's more than 16 million migrant and refugee community, in which we as Filipino migrants participate. Besides these campaigns for changes in the EU's migration policy regime, we are also participating in the transnational migrant alliance which has developed as RESPECT which campaign for the rights of migrant domestic workers. We have also been actively involved in the international campaign for the ratification of the UN Convention for the Protection of Migrants Rights.

Besides these europewide and international campaigns, we have also conducted successful campaigns towards the Philippine government for the implementation of Overseas Voting, Dual citizenship and the recognition of a comprehensive Migrant agenda which see migrants as key transnational actors in development both in our 'receiving' countries as well as our home countries.

While we have followed the central issues arising from the *Structural Adjustment Programmes* (SAPS) imposed by the IMF and the World Bank as well as the WTO, we have now additional pressing reasons to tackle the issues put forward by the *WTO/General Agreement on Trade in Services (GATS) Mode 4*, since this WTO Agreement deals directly with migrant labour.

The importance of WTO/GATS as a main arena of campaigns and struggles is underlined by the fact that there are 4 or 5 Workshops on different aspects of GATS within the *ASEM5 Peoples Forum*. Therefore I welcome the fact that in this

Workshop we will look at WTO/GATS Mode 4 and set the ball rolling in terms of a broad education effort among the ranks of migrant organizations on the implication not only of *GATS Mode 4* but on the implications of *GATS & WTO* as a whole for our developing economies in the South and the relation this has to migration and development.

The *ASEM5 People's Forum* also provides the opportunity to begin the process of consulting among ourselves on how to position in relation to the *GATS Mode 4* especially in view of our preparation for the WTO Ministerial in Hong Kong in December 2005 as well as to hear the experience and analysis of WTO/GATS from other sectors of the global movement for global economic justice.

I would like to raise **3 areas of discussion/questions** in relation to GATS Mode 4:

1. How does WTO/GATS impact on development and migration?
2. What are key elements/considerations in developing a Migrant perspective on GATS Mode 4
3. Some Recommendations towards a migrant agenda on GATS Mode4

1. How does WTO/GATS impact on development and migration?

In discussing *GATS Mode 4*, I believe Mode 4 cannot be separated from the GATS package as whole and it is important to locate our discussion in the context of the WTO's re-structuring of the global trade regime. The existing GATS regime of the WTO, initially established in 1994, is already comprehensive and far reaching in terms of privatization and liberalization of services. The current GATS negotiations which resumed in February 2000, covers every imaginable service and applies to all aspects of government regulations affecting trade in services, from labour laws to consumer protection and will lead to further accelerated privatization and liberalization of public services.

Coupled with the developments in the WTO as a whole, concern over the implications of the GATS has grown not only among peoples organizations and NGOs, but also among Southern governments and local and regional authorities worldwide. Critics point out that GATS pose not only a threat to the provision of basic services like education, health, water and energy provision but also crucially to government's right to regulate, including setting policies targeting economic, social, labour and environmental protection.

WTO/GATS intensifies IMF WB conditionalities:

Already throughout the 80s and 90s, the IMF & WB conditionalities for financial support and loans have forced many developing countries to adopt extensive

privatization and liberalization. The WTO/GATS trade regime is re-structuring the global economic environment with devastating effect on the developing world.

In July 2004 in Geneva, the WTO General Council succeeded where WTO Ministerial Meeting in Cancun had failed. Several commentators have pin-pointed that strong arm tactics were used by the US and EU to divide the Southern governments and to bring them to accept what seemed to be concessions in agricultural trade.

The ICFTU criticized the WTO negotiations for ignoring the worsening impact of trade on peoples' lives and working conditions around the world: "governments must raise their sights and tackle the basic social and development questions at the heart of the inequity and injustice that characterize world trade today".

Commentators like Walden Bello warned that the so-called Geneva "July Framework" issued by the WTO General Council is "so unbalanced in favor of the interests of the United States and the European Union that one wonders where these governments (of the South) have been since the unraveling of the trade body's ministerial in Seattle in 1999. (D-Day for the WTO Walden Bello)

GATS is Corporate driven:

The fundamental issue which the GATS agreement raises is whether basic public services should remain under the control of the state or be left to the whims of the MARKET?

In any society there are a number of services that are provided by the state through what is called the public sector. This is in recognition of the fundamental role of the state to look after the interests of all its citizens and out of a growing international consciousness of the universality of human rights including socio-economic and cultural rights. Governments' ability to regulate economic activity, including the regulation of TNCs and to provide affordable and accessible services is key to fulfilling the public trust.

Corporations on the other hand do not have the public good as a primary responsibility or mandate. Their accountability is only to their shareholders and to make a profit.

Northern TNCs driving GATS Negotiations:

The big Transnational Corporations (TNCs) particularly in the industrialized world have organized themselves as strong corporate lobby organizations working closely with government decision makers within the WTO. Both the *US Coalition of Service Industries* and the *European Services Forum* are the two most powerful lobby organizations providing the corporate drive behind the GATS. These corporate

lobby groups have disproportionate access to both the US Trade Department and to the European Trade Commission and other Brussels Institutions. Through these powerful lobby machines, TNCs have effectively set the agenda for the GATS negotiations.

Through GATS Mode 1, 2 and 3, foreign based TNCs will gain unlimited access to national resources as well as to local and municipal contracts for water and electricity services, construction, sewage, garbage disposal, sanitation, tourism etc. GATS Mode 4 will cover the question of temporary migration of workers.

For us in the developing world, this invasion of peoples' basic rights is not new. During the past two decades or more, the structural adjustment programmes of the IMF and WB have been used to force many governments in the South to dismantle their public services and allow foreign based health care, education and water and energy TNCs to provide services on a for-profit basis. This trend will be greatly intensified and accelerated under the proposed WTO/GATS regime. Southern governments are under renewed pressure to provide a list of the 'services' they are willing to open up to TNCs. This will certainly mean that developing countries will experience a further dismantling of local services providers, restrictions in the build up of their own service providers and the creation of new monopolies dominated by corporate service providers from the North. (Stop the GATS Attack Statement).

GA TS Big Markets & Big Profits:

GATS seeks to turn public services into private markets. Not only are the services industries the fastest growing sector of the current global economy, but also health education and water for instance are shaping up to be the most lucrative of all 'services'. Health care is considered to be a 3.5 trillion dollar market worldwide, while education is targeted as a 2 trillion and water a 1 trillion dollar annual market. (Stop the GATS Attack now! - Declaration of the Anti-GATS Campaign 2001)

2. What are key elements/considerations in developing a Migrant perspective on GATS Mode 4:

The implementation of WTO commitments has already created a legacy of greater poverty, inequity, gender inequality and indebtedness throughout the world. It has promoted unsustainable patterns of production, and consumption and accelerated the destruction of the global environment.

GATS seeks to guarantee TNCs with irreversible market access to countries, especially in the South. This will be devastating for the fragile economies in our countries of

origin. In this context of massive liberalization can we expect a fair deal for migrants within Mode 4?

WTO, together with the IMF and WB conditionalities are creating and accelerating the conditions for migration. Many sectors, farmers, indigenous peoples as well as workers in the public sector are experiencing destruction of livelihood and new levels of poverty in our home countries where there is already mass migration.

It is clear that the GATS Agreement has and will, as negotiations continue under the pressure and the power of the highly industrialized countries and their TNCs place restrictions on the role of the state in guaranteeing the fundamental rights and access of their citizens to basic services and sustainable livelihoods.

GA TS Mode 4-Comparative Advantage or greater threat to migrant rights:

Even as many people's organizations and social movements are coming to grips with the full implications of the WTO "July Framework", the Union Network International (UNI) issued a GATS Alert with the heading " GATS Negotiations Boosted by WTO July Meeting-Expect more liberalization pressures! It is expected that the industrialized countries, especially the US and the EU will put strong pressure on Southern governments for compensatory concessions for market access to services under GATS in exchange for the prospect of gains in agricultural trade as well as possible access for temporary migrant labour.

However as the UNI warns, the emphasis on Mode 4 means there will be a greater risk of direct WTO interference in the regulation of employment, even as the WTO has until now refused to accept even core labour standards or co-operation with the ILO.

Limitations of the GA TS Mode 4 Framework:

WTO member country commitments under this "mode" refer to the temporary admission of foreign natural persons as service providers into their territory (e.g. accountants, doctors, nurses, teachers). Permanent migration is not covered under GATS Mode 4. (ILO Report VI 2004)

Deployment of workers abroad is thus narrowly viewed as "temporary work abroad for the supply of a service" - limited to certain sectors of highly trained professionals. This is not about changing migration policy.

In the on-going GATS round, representatives of developing countries like India or Pakistan and service suppliers from industrialized and developing countries are calling for a further opening of the labor markets of the North for a temporary movement there of service providers. What they are proposing is, among other things, a so-called GATS visa

that would, in the future, make it easier for natural persons from abroad to enter other countries to carry out service jobs there (e.g. to work on software or constructions projects, to provide maintenance and repair services).

But the trade union movement of the industrialized countries fear that new **Mode 4** concessions would exert enormous pressure on hard-won social standards in the North. They are warning of a 'race to the bottom' on wage levels and social services and are rightly refusing to abandon the working conditions applicable in cross-border service projects to the simple logic of free-trade competition. (P.Fuchs on Trade Union discussions on GATS 2003)

Instead, labor unions insist on at least

- continuing application of internationally accepted labor standards and specific
- national wage levels and working conditions as well as
- effective protection of temporary migrant workers against all forms of discrimination.

As migrant organizations, we need to co-ordinate our efforts with trade unions and other sectors in monitoring what our governments will be preparing or negotiating, and the implications of any such measures for the regulation of services within our countries and especially those that will affect migrants under Mode 4.

3. Some Recommendations towards a migrant agenda on GATS Mode4:

In the coming months, as the GATS negotiations accelerate in the run up to the WTO Ministerial in Hong Kong December 2005, we as migrant organizations, need to coordinate our efforts with other sectors in monitoring what our governments will be preparing or negotiating, and the implications of any such measures for the regulation of services within our countries and especially those that will affect migrants under Mode 4.

Recommendations for our consideration to include:

Recommendations to our migrant networks:

In the short-term:

- we need to analyze more thoroughly the full implications of *GATS Mode 4* so that migrant networks are better grounded in taking a position in view of the upcoming 6th WTO Ministerial negotiations in Hong Kong in December 2005
- We need to undertake a broad education campaign among our ranks on the implications not only of *GATS Mode 4* but on the threats posed by *GATS & WTO* as a

whole to our developing economies in the South

- co-ordinate our efforts with other sectors in monitoring what our governments will be preparing or negotiating, and the implications of any such measures for the regulation of services within our countries and especially those that will affect migrants under Mode 4.
- Need to link our networks with the ongoing campaigns on GATS & WTO (e.g. *Our World is not for Sale* or the *Stop the GATS Attack Now*) - as the drive to privatization and liberalization of services envisaged by GATS and the development paradigm of the WTO regime is wrecking havoc with our already fragile economies of the South ... which is accelerating impoverishment and will intensify the factors and roots causes of migration
- Participate with the movement for global economic justice, adding a migrant dimension to the construction of development alternatives to the current neoliberal and 'free trade' paradigm which is aggravating the divide between our economies in the South and the North

Recommendations To our governments:

- As regards **Mode 4**, steps must be taken to ensure that the ILO's core labor standards, national labor laws and collective wage agreements, and protection of migrant workers from all forms of discrimination are safeguarded
- Demand transparency from our governments, including the governments of the ASEM countries, on the actual 'offers' being made in relation to GATS, including those under GATS Mode 4 affecting migration
- Guarantee the right of governments to require ironclad safeguards for public services that may be threatened by WTO & GATS trade and investment rules
- Secure the rights and responsibilities of governments to enact and carry out laws and regulations protecting the environment and natural resources, health and safety, poverty reduction and social well-being, as well as labour laws and migration policy.
- Raise public awareness of the nature, role and damaging effects of the policies of the WTO and demand that our governments make transparent their position in relation to WTO Ministerial Meetings and other multilateral and bi-lateral trade agreements
- Oppose our governments' positions on the WTO where these lead to commercialization of public goods and services, privatization, greater rights to

multinationals and mobility of capital, and the loss of democratic control over our economic, social, environmental and cultural resources

As migrant organizations we need to take our concerns to the other social movements and peoples organizations campaigning on GATS and as migrant organizations we need to get more actively involved in the broader issues and campaigns around the WTO/GATS in the run-up to the Hong Kong WTO Ministerial. Hopefully we can make a start from this Workshop.

The debates around *GATS Mode 4* will remain complex, Even as our Southern governments see in Mode 4 one - if not indeed their only - important comparative advantage in the GATS negotiations; the labor unions, on the other hand, rightly point to the risk that existing labor and social standards which will be undercut to make way for aggravated exploitive practices on the part of employers (e.g., recent experiences in the European construction industry).

As migrants, we need to ensure that the debate continues to factor in the dimensions of migrant and trade union interests as well as the vision of an alternative development paradigm.

GATS, The Development Threats and the EU's Agenda

by Nick Clark

Policy Officer

Trades Union Congress, Great Britain

(Outline)

- No-one should be forced by economic circumstances to leave their home and family in order to work
- Offers regarding Mode 4 made by developed nations need to be judged on whether they reduce these pressures
- They also need to be judged by who stands to gain the most by the type of migration proposed.

British context

There is already much migration in areas likely to be covered by (or even requested to be included in) Mode 4

- 150,000 work permits per year issued, for higher skilled workers (in IT, health, finance and engineering)
- 45,000 temporary permits for lower skilled workers in hospitality, agriculture, food manufacture)
- 15,000 entrants under Highly Skilled Migrant Programme (no job offer necessary)
- 350,000 students with automatic right to work for up to 20 hours per week

UK government is in lead in EU on pressing for more wide-ranging offer on GATS Mode 4. How has experience promoted this view?

- Governor of the Bank of England attribute low inflation in period of high employment to effects of migration (presumably on depressing wage demands)
- National Health Service relies very heavily on skilled and unskilled migrant workers. This keeps cost of training low and reduces need to improve pay and conditions to retain existing staff.
- Pressure is coming from employers (many of them multinational) for easier access to migrant labour.

Unions in Europe are skeptical of the GATS 4 proposals.

They have a legitimate concern in defending jobs and collective agreements. These are under constant pressure, as are trade union rights, from employers and governments - but not from migrant workers.

It can sometimes be difficult to disentangle legitimate trade union concerns from xenophobic or protectionist ones - and yet this must be done. Unions need to ensure that they are not contributing to the divide and rule tactics relied upon by some employers (and governments).

Unions have a number of concerns about temporary migration schemes:

- They separate the newcomers from established workers
- They may have different employment rights due to the schemes themselves and to the restricted length of their stay.
- The potential for organizing the workers is significantly reduced
- They may keep the migrants on lower rates of pay
- Migrants are excluded from political participation
- The short stays encourages overstaying and slipping into undocumented status

One must also be sceptical about the development value of Mode 4. It would be far better for governments to reach the targets set in the Millennium Development Goals - the UK is a long way off them.

Remittances are not aid and play a very different role, supporting survival, but not economic development.

Those most likely to benefit from new temporary migration streams will be the intermediaries - the recruitment agencies, the temporary labour agencies, corrupt individuals and government themselves.

Finally, the UK experience is that many workers are not protected from forced labour practices, even where they are legally present. Governments should not be proposing more migration, if they cannot guarantee protection of the workers from slavery.

W3: PROTECTIONIST POLICIES IN AGRICULTURE: IMPLICATIONS FOR PEASANTS AND FARMERS IN BOTH REGIONS

Fisheries policies of developed countries and the impact on the export of fisheries products from developing countries

by Vu Van Trieu

Vietnam Association of Seafood Exporters and Producers

1. Introduction:

Fisheries products are important components of the diets of the majority of the world's people, especially those living in developing countries. Consumption of fisheries products reached 14 kilograms per capita in developing countries in 2001, nearly twice the level recorded in the early 1970s, while population in those countries doubled over the same period. Fisheries products are important components of the rapid growth of the consumption of animal products in developing countries over the past two decades and into the foreseeable future. However, most high-value fisheries products have been exported increasingly from developing countries to developed countries for earning of hard currency for their economy with the total figure about 15 billion USD for the year 2003. Because of that, the fisheries policies of imported countries - namely developed countries, give the main impacts on the export of fisheries products from developing countries.

2. Fisheries policies of developed countries:

We are all knowing that : most of the net growth in fish production over the past 20 years has come from the development of fish farming, especially in the developing countries of Asia. At 11 percent per year, aquaculture has in fact been the fastest growing source of food and agricultural income worldwide for the past 20 years, while wild fisheries are in a state of crisis. Total catches of fish from the wild reached a plateau in the early 1990s and dropping year by year, especially in developed countries with sophisticated catching technologies and powerful fishing fleets.

In the name of protection of their consumers from fisheries imported products, the developed countries adopt a series of policies for protection of their fisheries sector by increasing of trading barriers, including Tariff Barriers, Technical Barriers to Trade (TBT), Sanitary and Phytosanitary Measures (SPS). At this Forum, we would like to present to you some fisheries policies of EU and the main impacts on the export of fisheries products from Vietnam and all ASEAN countries.

2.1. The EU new policy for food safety:

Before touching on the impacts of EU food safety policy on the food exporting from developing countries, including Vietnam, let me first recap on what happened in the European Union over the past couple of years. You will all recall the difficult days on the late 1990s when the image of the food industry was at perhaps its lowest ebb in the EU history. It has been shown that even the complicated system on hundreds different food safety Directives, each applied for each kind of food, couldn't prevent food crises happened. EU food consumers loudly criticized and urgently required radical changes in food safety policy of their government and at the EU level.

All of these waves and movements were resulted in the issuing the EU White Paper on Food Safety of January 2000 - the paper with overall aim to ensure that European's food supply is the safest in the world. It is clear that the EU new policy on food safety was designed first of all to satisfy the requirements and to protect the benefit of its citizens on food safety assurance.

Four years later, the EU is well on course towards completing this very ambitious task, by doing a lot on its legislation improvement: the general food regulation has been in force, the European Food Safety Authority is now up and running, several new measures on GMOs, animal by-products, labeling of food and feed, chemicals, undesirable substances in feed, pesticides, additives and antibiotics have all been introduced, and many other even more strict proposals are passing through the legislative process.

Now the EU has the strictest and the most sophisticated system of food safety controls in place. This new system will not only improve EU's public health protection, it also is restructuring relations with the food exporting countries. While the EU has made significant improvements to its own food safety system, it must not overlook the effect this may have on its trading partners, especially developing countries.

We know very well that this EU's new food safety policy has both sides: the good and the bad. When the governments and consumers of EU countries welcome its good side, it may at the same time the other side to developing exporting countries.

New EU requirements on food safety become one of the highest challenges for the food exporting countries in ensuring the accessibility and competitiveness of their products in the EU food markets. In EU's drive for ever-higher standards it is needed to recognize that many developing countries experienced difficulties in reaching the high levels that EU demands in the spirit of protecting the health of safety of its citizens.

At the national level, any new policy or technical measure related to food safety applied by the EU, surely requires the equivalent changes in national policy always require many

big efforts to get overall consensus, social acceptance and people agreement, not yet saying about time and money spent.

And by far it is not an easy matter for developing countries, especially in the case when the changes are required neither by the self-demand of local industry nor for the benefit of people in exporting countries. In quite reserve, exporters and producers are required to accept many losses, when imported food containers were banned, rejected and/ or even destroyed at some ports of EU countries.

Another matter is the compensation for the losses caused by implementing new policy. If any people in importing country would require higher quality and safety of food, rationally they should pay the cost for that. This also regarding the cost for sampling food and laboratory analysis. But the case didn't happened yet in EU-ASEAN food trade.

And last but not least, in the context of FAO policy on food security and principles of international juridical trade law, importing country with higher safety standard should not have rights to destroy the food, considered by its legislation as unsafe. They have instead right to reject the food and not allow the food to enter the country. Remember that the same food may be considered as totally safe and can be used for human consumption in other country with lower safety requirements. Today this kind of food is still required by many hungry and underfed children and people in the world. And besides, in culture and religion of many nations, destruction of food, even a small piece of rice, considered as a criminal to the God and nature. How about destruction of entire containers of shrimp!

2.2. “Zero tolerance” policy of EU:

Let come back to a situation what was the biggest difficulty faced exporting countries in 2002, when EU started implementation of the so-call “zero tolerance” policy regarding antibiotics residue. The case happen when some antibiotics (chloramphenicol and nitrofurans) residues (at the level lower than part per billion - ppb) detected by most modern EU lab technology in the some shrimp products imported from Asian countries.

The legislative background of the strong European response could be seriously, publicly considered, when the zero-tolerance approach for compounds listed in Annex IV of Council Regulation EEC No. 2377/90 is the regulatory translation of the precautionary principle in food safety issues: “*when in doubt, leave it out*”. It isn't an appropriate time to be raised here today, but the case need to be discussed widely and openly to find the way for developing better common consensus for the future.

The narrow focus on potential exposure risk erroneously deemed to arise only from illicit veterinary use leaves four essential issues untouched. Firstly, chloramphenicol is a chemical, produced in natural environment by the microorganism *Streptomyces venezurlae* - world-wide soil bacterial. Secondly, as chloramphenicol is still used in

human clinical medicine, mainly in formulation against eye infections, therefore, environmental presence of chloramphenicol needs to be estimated. Thirdly, “zero” does not exist in real world situations. Zero-tolerance effectively means a best-available-techniques approach in the quest for analytical limits of detection, which in turn might result in the crossing of natural base-line concentrations ever present in food products. And lastly, the actual risk of such so low level exposure of chloramphenicol need to be analyzed.

This case could be considered as a worst food safety scandal in international seafood trade in recent years. The EU borders were practically closed for shrimp from many countries, including Vietnam; numerous containers of imported shrimp have been kept at, rejected from or even destroyed in some EU ports. Producers lost millions of euros and at the same time thousands of people lost their job in exporting countries.

Why this case could happen and how to avoid similar cases for the future? Answer to those questions may be received only by common efforts and cooperation of both sides - the EU and exporting countries, based on the sound scientific studies, the risk analysis, the Codex Alimentarius principles and sincerely open and constructive discussion.

3. Vietnam seafood export under impacts on EU legislation:

Sometime a difficult thing can give motive and pressure for improvement. That was the case of the Vietnam seafood industry under heavy impacts of the change in EU food safety regulations that I would like to share with you.

It is needed to mention that “zero-tolerance” policy have strongly affected the Vietnamese seafood export to EU markets. For instance shrimp exported from Vietnam to the EU declined down more than two third from 2000 to 2002 in term of value. Fortunately, it seems that some recovering happened last year (Tab.1) and may continuing this year.

<i>Year</i>	<i>Export volume, tons</i>	<i>Export value, US\$</i>	<i>Change, %</i>
1999	9,539.22	58,328,007.00	-
2000	10,994.71	61,299,851.00	
2001	9,745.05	52,342,184.00	
2001	4,384.30	20,088,073.00	
2003	5,622.14	37,891,133.16	

Facing the high requirements from EU legislation, to assure the continuation of doing export, all stakeholders of the Vietnamese fisheries and aquaculture sector have been

forced to develop and implement such a measures in compliance with the EU requirements.

The Vietnam Ministry of Fisheries and the seafood industry have given high priority and efforts to implementing the following tasks:

- *Changing legislation and regulation system* - Developing and promulgating new national legal framework, including food safety assurance whole-chain concept and hygiene standard equivalent to EU standards and other importing countries.
- *Development of Competent Authorities* - Establishing and strengthening the capacity of the food safety competent authority at national and provincial levels.
- *Strengthening laboratory capacity* - Establishing and equipping national food safety labs in the seafood sector, training staff, implementing the ISO 17025 for several labs, assistance given to private companies in establishing their own labs.
- *Good processing factories* - Seafood enterprises made huge efforts to upgrade and renovate technology, equipment and facilities, at the same time implementation of GMP, HACCP, ISO 9000, ISO 14000 and other national and international food safety, quality assurance and environmental management standards.
- *Monitoring Programmes* - Implementation of national and regional monitoring programmes for bio-toxins in bivalve mollusks harvesting areas and the monitoring programmes for chemical contaminants residues in aquaculture animals and aquaculture areas in Vietnam.
- *Training and education* - Organize thousands training courses for all stakeholders in the entire value-chain from hatcheries, farms, fishing vessels, collecting, transporting to processing and export of seafood and many different areas.

As a result of that, to date we have multifold achievements:

- Food safety and hygiene conditions have been improved considerably in most of Vietnam's 363 seafood processing enterprises and in many steps of whole food chain, from farm and fishing vessels to the factory;
- 153 establishments received EU code compared to just 18 in 1999;
- 222 plants are implementing HACCP and meeting the requirements of US FDA;
- 12 bivalve mollusks harvesting areas received EU approval (other 6 areas submitted to EU SANCO for approval) compared to just only 1 in 2000;
- 130 aquaculture areas are controlled under Residue Monitoring Program compared to just 15 areas in 1999.

Those improvements were achieved also by highly effective co-operation between the Vietnam fisheries sector and one of the EU nations: Denmark. A series of technical assistance projects funded by DANIDA and implemented by the Vietnam Ministry of Fisheries, with high priority given improvement of seafood hygiene and safety, brought benefit to Vietnam enterprises, fishermen and farmers, and became a good example and model for the help that EU countries can contribute to developing countries.

It is now strong believe and sincere hope that the crisis was over and Vietnam seafood export to the EU will get take-off this year.

4. Perspective:

According to the Article 4, SPS Agreement, members shall enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of equivalence of specified sanitary and phyto-sanitary measures. Measures shall be accepted as equivalent if it is demonstrated that they provide the same appropriate level of protection.

Being major producers and exporters of fishery and aquaculture products in the world, ASEAN countries have right to expect that issue related to harmonization and equivalent of SPS Measures could be raised in bilateral negotiations with the EU and other parties, and in certain context it also is relevant for ASEAN countries to request negotiations on equivalence in such negotiations.

Vietnam seafood exporters would accept and implement the food safety policy and regulations that meet following principles:

- (i) Shall be based on Codex Alimentarius;
- (ii) Shall be based on sound scientific evidences;
- (iii) Shall be based on the thorough risk analysis, especially risk assessment
- (iv) Shall be logical, systematic and practically feasible for implementation
- (v) Shall reserve appropriate time for transaction period to be implemented
- (vi) Shall be implemented in non-discriminatory manner to all parties

In the case that the food safety standards of EU or other country are higher than that of Codex Alimentarius, it should require justification and documentation for appropriate level of protection (ALOP) based on the application of acceptable procedures of risk assessment, risk information and risk management.

In the context of harmonization and equivalence, for better future, it is necessary to intensify co-operation and enhance the development of sound international standards, reflecting scientific advice, which can serve as a basis for country's own standards. For

doing that, it is needed to develop and establish the following contents between the EU and ASEAN countries:

- (i) Direct dialogue mechanism between competent authorities and relevant agencies in the export and import countries on the principle of respect for each other's independence;
- (ii) Formal forum for discussion on implementing of risk management procedures relating to protection of human health from food-born disease;
- (iii) Technical assistance given ASEAN countries to comply with EU standards.
- (iv) Common standards, common approaches and non-discriminatory systems for simplified trade.

In closing the opinion, I would like to emphasize, that the issues of food safety, food security, and trade in agriculture and fisheries are not just important technical matters; they are also at the roots of conflicts involving science, the future of agriculture and food cultures, solutions to the hunger problems and trade, market shares and competition.

I sincerely wish the **ASEM V PEOPLE'S FORUM** successful, remarkably contributes to a better understanding and cooperation between Asian and European countries in the future. I also wish the health, happiness and prosperity for all of its participants.

Thank you for your kind attention.

The impact of the CAP's reform inside the EU and on developing countries

*by Jacques Berthelot
Solidarité*

I - THE IMPACT OF THE CAP'S NEW REFORM WITHIN THE EU:

We will-analyse first the impact of the CAP's reform on farmers and then on the other major stakeholders: tax-payers, consumers, advocates of the environment, food safety and animal welfare, agro-industries.

A - The impact of the reform on farmers:

The reform will accelerate the elimination of small farms and the concentration of large farms, for several reasons:

1. Because the slump in agricultural prices will continue, both for world prices and domestic prices:

- The world prices will continue to drop because:

1) The new Farm Bill prompts US farmers to produce always more since they get floor prices higher than world prices for all grains (cereals, oilseeds, cotton).

2) The US has eliminated all supply management measures since 1996: set aside, public purchases of grains at the *loan rate*, subsidies for farmer-owned reserves.

- The domestic prices will drop because the reform has decided:

1) a sharp drop in the intervention prices of rice, butter and skimmed milk powder.

2) an increase of dairy quotas and the halving of the monthly increments in the cereals' intervention price.

3) Domestic farm prices will also diminish sharply since the EU has proposed at the WTO to reduce tariffs on agri-food products by 36% at the end of the Doha Round - which would probably be a minimum since the other WTO's Members have asked 40% to 60% - and since the EU is negotiating a free-trade agreement with the Mercosur, whose prices are much below EU prices for cereals, sugar, meats and dairy products .

4) The increased competition from Ukraine, Russia and the new CEEC's Member States will diminish EU domestic farm prices, notably of cereals.

5) The foreseeable upholding of a strong euro vis-a-vis the dollar will slow down exports and foster imports.

- Against that background, the 10% set aside of arable lands would be of little help to counteract the slump in prices since it would be fixed (albeit exceptions would be possible) and will consequently affect the least productive lands.

2. The reform will accelerate the elimination of small farms because the decoupling will increase the volatility of domestic farm prices from one year to the other:

with cycles of overproduction generating a slump in prices, followed by shortages generating higher prices. If the large farms enjoying a large single farm payment will be able to endure the period of lower prices, this will not be the case of small farmers with a low or no single farm payment.

3. Small farms will also suffer from the increased land prices for several reasons:

- The rush to enlarge the size of farms, since the single farm payment will be divided by the number of eligible hectares so as to permit the transfer of payment rights with the eligible land, will increase land prices and discourage the setting up of young farmers.

- The rent on leased lands benefiting from payments rights will itself increase significantly, as it has been acknowledged on farms with dairy quotas or direct payments more generally, even in Member States like France where dairy quotas are not freely marketed but where the new tenant has to give an under-the-counter payment (often to the former tenant) to get the lease.

- The landowners will be more reluctant to lease their lands, as it has been occurring in the US since the Fair Act of 1996, which will also increase the rise in farmland prices.

- In shorter terms, the single payment will continue to be capitalized in farmland prices.

- Worst, article 49 of the Council Regulation's Proposal made by the Commission in January 2003 states that "entitlements may be transferred by sale with or without land", which means that the decoupled single payments could ultimately become freely tradable securities!

4. In this context of lower prices, even the largest farms enjoying the perpetual rent of the average direct payments received from 2000 to 2002 will see their income diminish rapidly:

- The more so as the reform has planned a 5% reduction in direct payments whereas the production costs will continue to rise.

- Besides, additional cuts could be done if necessary (which is almost certain) to ensure that the CAP expenditure will not go above the ceiling.

5. Decoupling will not lead to a more market-oriented CAP:

- On the pretext that the single farm payment will be granted to farmers without an obligation to produce, notably cereals (for Member States which will adopt a decoupling rate of 100%, surely the largest number since even the French cereals growers are inclined to adopt it), the Commission claims that the new CAP will allow farmers to choose better what to produce according to market signals, i.e. to prices, or even not to produce anything.
- If that is true for farmers granted a (large) rent of single payment, on the other hand those who did not get already direct payments in 2000-02 would not be able to produce cereals, oilseeds, pulses, bovine and ovine meat since their prices have been lowered much below their production costs since the CAP reform of 1992. E.g. wheat is paid at around E100 per tonne to EU farmers - very close to its world level - although its production cost is around E160 per tonne in France (one of the most competitive Member States for wheat).
- Many among those who grow cereals or raise bovine or ovine cattle who will cease to do it at prices below production costs, particularly in deprived areas, if they find more profitable products. Some farmers granted a significant direct payment are contemplating to choose a completely new job, while pocketing their annual single farm payment!
- Herve Gaymard's initial demand to maintain a minimal proportion of coupled payments was therefore fully justified but the principle of total decoupling eventually adopted, with limited exceptions for Member States to maintain some coupling, will lead to the devitalisation of many rural areas.
- Apparently the reform has been welcomed in the UK, even by the NFU's President, Sir Ben Gill, who said: *"I am encouraged by the fact that other European farmers have become aware of the benefits of full de-coupling which their Ministers have failed to appreciate ... The compromises give other countries options to maintain the link, at least in part, with production. We will ask the Government for full de- coupling in England"* (Financial Times, 28 June 2003).

B - The impact of the reform on the other EU's stakeholders

1. The impact on tax-payers:

- In the face of the expected slump in farm prices, the EU will find itself in the same situation as the US which, confronted with the inability of its fixed direct payments to ensure a fair income to farmers, has been obliged to quadruple total direct payments from 1996 to 2000, and to legalise for 10 years more increased payments in their 2002 Farm Bill.

- Therefore:
- Despite the strong commitment made by the European Council to stabilise agricultural expenses up to 2013 in the EU-25 at the level fixed for 2006 in the EU-15 (plus an annual 1% increase to allow for inflation),
- Despite the financial discipline foreseen to ensure that the farm budget fixed until 2013 is not overshot,
- Knowing that this fixed budget would furthermore have to pay the new direct payments compensating the reduction in the intervention prices of rice, butter and skimmed milk powder,
- One can be sure that the EU farmers, struggling for their living, will make the necessary pressures at the State and Community levels to get additional payments from the EU's taxpayers.
- This is all the more foreseeable that the stricter standards for the environment, food safety and animal welfare, would not permit as large increases in productivity and notably in yields as in the past, increases which had permitted to balance lower prices to a large extent.
- Therefore this perpetual rent will rapidly become politically intolerable in case of total decoupling of direct payments for COP (cereals, oilseeds and pulses) and even in cases of partial decoupling, and it will be highly justified for the unemployed and receivers of welfare payments to protest against the fact that some citizens are getting subsidies tens of times their own allocation even without producing anything.
- In fact it is the Commission's unconfessed objective to eliminate progressively farm subsidies, according to Alan Buckwell's vow, the agricultural economist whose Report ordered by the Commission has inspired the Agenda 2000. For Alan Buckwell, direct payments should be *"a transitory assistance to adjustment... to help farmers to adapt to reality, by providing them a shock absorber while they are receiving and assimilating the message that society will pay market prices for marketable products and reasonable prices for non market services they are providing, but not more. This message has to be explained and repeated, stressing very clearly that the assistance to adjustment is effectively transitory, during the time necessary to prepare themselves to change their job and, if necessary, their life"*
- Another Report ordered by the Commission to Amsterdam University (published in February 2000) stands on the same line, specifying that *"since only the farms reaching a minimal level of international competitiveness will survive in liberalized markets in the long run... a key objective of the CAP should be to contribute to the international competitiveness of a core of commercial farms in the most adapted areas of Europe"*.

2. The impact on consumers:

- Consumers will loose since the higher volatility of agricultural prices will increase retail prices, first because the European Court of Auditors has shown that the drop in the production prices of cereals and bovine meat has not been transmitted to consumers, and the Commission has insisted that one should not expect a decline in the consumers price of milk as a result of a reduction in the farmers price.
- And the periods of sudden rises in producers prices - linked to a drop in production following a period of low prices resulting from an overproduction - will establish new plateaus for consumers prices which will not scale down or very little when producers prices will decrease.
- Besides, by basing more and more the financing of food on tax-payers and less and less on consumers - i.e. through remunerative agricultural prices without direct payments, except for the smallest farms -, the reform is socially regressive since the poorest citizens are financing partially, through the VAT, the food of the richest citizens.
- It is distressing to acknowledge that some free-traders NGOs have entered recently into an alliance with the BEUC (European consumers' organisation, www.beuc.org), which has always been lobbying for lower agricultural prices, notably through a lower import protection and without caring for the multifunctionality of agriculture:
- Thus *"BEUC has now joined forces with Oxfam International, the development agency, and WWF, the Global Conservation Organisation, in a campaign for a profound and timely reform of the Common Agricultural Policy (CAP). Environmental sustainability, rural development, food quality and safety and fair trading relations with developing countries should be the driving forces behind a reformed CAP, and no longer just the by-product of meeting WTO criteria... The EU lacks a coherent strategy for delivering on its commitment made at the WTO ministerial meeting in Doha last year to reduce "with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support". Failure to develop such a strategy will undermine prospects for a WTO agreement to stop export dumping, making a mockery of the EU's commitment to a 'development round' of multilateral trade talks. This might endanger the whole negotiating process, and the outcome of the Cancun WTO Ministerial Conference of September 2003. Consumer interests need to be taken on board. It is high time for key trade decisions to benefit developing countries and consumers worldwide"* (Memorandum to the Italian Presidency of May 2003).
- If those two free traders NGOs have thought to be able to influence the BEUC positively to share their concern to get rid of EU's agri-food dumping, on the other hand that alliance between Oxfam International (and WWF, which seems less present in the

area of agricultural policies) and the BEUC is very dangerous and reduces the hopes to bring it along the same lines as most continental NGOs involved in lobbying on agricultural policies. Unhappily enough, Christian Aid (Duncan Green) shares the same stance of prioritising the short term views of free trade consumers to the detriment of a socially and environmentally sustainable agriculture for the EU. It is always very risky to have dealings with Mammon: he cannot be converted but the reverse might happen!

- Are Oxfam International, WWF and Christian Aid really aware of the BEUC's policy positions, such as the following?

- Have they realised that, if the BEUC is pleading for the elimination of dumping of agri-food products, it is because it identifies it - like the Commission does - to the export refunds alone and because their elimination make it compulsory to replace them by direct payments linked to the reduction of farm prices - the BEUC's objective -, which the export refunds did not imply. Of course the BEUC does not admit that the decoupled direct payments have a dumping effect, no more than the Commission does.

- It is here that stands their most inconsistent behaviour: while fighting for the elimination of dumping, they pretend to accredit that fully decoupled payments have no dumping effect. Otherwise they would say very clearly that any export of agri-food products by farmers receiving the single payment should be forbidden.

- They have been tempted by the alleged solidarity of the BEUC with DCs, when it pleads for an increased openness of the EU to their agri-food exports : *"European consumers want more variety and choice in the food on offer... We question why EU consumer choice is so restricted by high import levies and other barriers... It would be very much in the mutual interest of consumers and developing countries to do away with many unfair trade-barriers in the developed countries... Future supplies of food for European consumers will be more secure in the long term if we diversify our sources of food, than if we try to "put everything in the one basket" of self-sufficiency "* (November 26, 2002).

- What to say then about the solidarity of the BEUC with the in-coming Member States from the CEECs, when it states: *"We feel very strongly that extending the current system of direct payments to up to ten new member states is a mistake. Food is already more expensive in the 15 countries of the European Union than almost anywhere else in the world"* (Memorandum to the Greek Presidency, November 30, 2002). How can OI agree with such a falsehood?

- In a press release on September 19, 2002, the BEUC stresses its willingness to link direct payments to non trade concerns or to abolish them otherwise: *"We welcome the principle of linking future payments to environmental, food safety and animal welfare*

standards... There must be concrete and verifiable results from the new de-coupled payments. If direct payments are not clearly seen to be achieving the desired results, they should be stopped... In the ongoing process of change, the aim should be to reduce direct payments as much as possible in favour of spending on rural development and other structural policies. This is particularly important in the context of enlargement".

- *"Food prices are maintained artificially high because of the combination of market measures, border protection, price support and reduced efficiency due to the quota system. Higher food prices hurt low-income families particularly, because poor families spend a higher proportion of their income on food. In that sense the CAP contributes to increase the social inequality among non farmers by acting as a regressive tax on consumers"* (Reform of the CAP, 26-11-02). I have shown above that it is the present system of low farm prices which make the poorest EU citizens finance, through the VAT, the food of the richest citizens.

3. The impact on the environment, food safety and animal welfare:

- In that context of:

+ decreasing agricultural prices,

+ a strongly increased intra-EU and global competition after the Doha Round, with additional competition distortions inside the EU stemming from the a la carte decoupling according to Member States,

+ a higher concentration of farms,

+ a significant renationalisation of the CAP,

+ it is not credible to think that the EU could impose to its farmers a high conditionality on direct payments according to their degree of compliance with higher standards on the impact of their production systems on the environment, food safety and animal welfare.

- And even though direct payments to bovine and ovine meats will remain largely coupled (at least in France, not in the UK), the choice of the Commission (ratified by the European Parliament and the Council)* not to increase the production of oilseeds and pulses will continue to make more profitable the most intensive systems of animal production, which have been and remain the main cause of the deterioration of the environment, the quality of products and animal welfare.

- And the reluctance of the Commission to protect the production of feedstuffs at the import level is based on three main reasons:

+ it is much less costly to import than to subsidize the production,

+ the EU does not want nor feel politically able to increase import protection on feedstuffs, particularly from the US or even Brazil and Argentina, in the negotiating context of an EU-Mercosur free-trade agreement,

+ above all that allows to improve the competitiveness of European animal productions, not only of white meats but also of red meats and dairy products.

4. The impact on agri-food industries They are the only winners of the reform:

- Thus, for Jean Martin, President of the CIAA (Confederation of the Food and Drink Industries of the EU, www.ciaa.be), *"For the CIAA the agreement reached by EU Agriculture Ministers yesterday represents a major breakthrough for the agri food sector. The agreement will improve the EU's position in WTO negotiations. Other WTO trade partners will now have to make a step towards a possible compromise. CIAA considers that the margin of manoeuvre provided by this reform in the Doha Development Agenda should be used on the condition that equivalent agricultural concessions are obtained from WTO partners. The agreement reached yesterday is in line with the long term objective of the EU food and drink industry to promote a competitive, efficient and more sustainable agriculture in Europe... The decoupling provisions retained by the Council represent a decisive step towards opening of the European agricultural sector to market forces"*. (Press release of June 27, 2003).

- The analysis made by the CIAA of the European Commission's proposals of January 2003 and of the WTO's (Harbinson) proposals of March 2003 to reform the AoA is also speaking for itself and helps to clarify its point of view : *"Regarding the offensive interests of the European agri food industry, the Uruguay Round formula (such as proposed by the EU) falls short of the necessity of a substantial market opening to get a drop in high tariffs. Given that, in the framework of the present project of modalities, some countries, notably emerging ones, could escape from equivalent or comparable commitments on market access, the Harbinson's approach would not provide the expected benefits for the offensive interests of the agri food industry.*

Regarding the proposals on export competition, the CIAA judges the contemplated elimination of export refunds as being too ambitious. As long as there will be differences between the prices paid by industries on world markets and on the common market, refunds will be necessary to compensate and allow the EU's exporters to operate on an equal footing. Besides, other forms of export support, such as export credits and food aid, should be subjected to similar reductions and should not escape to the rules" (Press release of June 19, 2003).

- That is echoing the speech made by the President of the CIAA on October 8, 2002, addressing 70 members of the European Parliament : *"Our industry needs to ensure its*

longterm supply of raw materials. In order to increase our competitiveness on world markets, the price of these raw materials should more closely reflect world market prices, given that a significant part of our production is exported".

- In another speech of June 19, 2003, the President of the CIAA declared, during a seminar it organised on "From Doha to Cancun - Challenges and opportunities of the WTO negotiations for the agri-food sector", that *"CIAA is committed to continuing the reform process in international agricultural policies that should lead to a clear set of trade rules creating a fairer playing field for WTO members following the Doha Development Agenda"*. Yes, you have read well: the CIAA claims clearly that it has a decisive say in the definition of agricultural policies!

- In order to confirm that this CIAA's claim is not pure vanity, let us hear Pascal Lamy, one of the speakers at the seminar: *"The agri food industry has the privilege to benefit from the cares of three Commissioners, a rare privilege at the Commission ! Franz Fischler on behalf of agriculture since tariffs on transformed products are agricultural tariffs. Erkki Liikanen on behalf of industry since those same products are industrial products for our domestic market. And myself on behalf of my overall responsibility on international trade issues... And you are aware that your leverage increases on your three interlocutors when you are united. Owing to those clear positions, we know where us, as negotiators, have to go or where we cannot go. And your support, or your positions, are reinforcing ours. Even if it is obvious that the industry's position cannot always be reflected at 100% in the European position... Our trade in primary agricultural products has a deficit of 19 billion euros, our trade of transformed agricultural products has a surplus of almost 7 billion euros... Regarding market access, I have already said it, the agri food sector is one of our standard bearer at the export level. Like you, I think that the WTO's negotiations should allow our products to benefit from the reduction in tariffs. As a matter of fact, I hope to get your suggestions, when we will come up to identifying the priorities in that area. Of course the reduction in tariffs will also affect the European market, and I am sensible to the argument that the result shall be well-balanced and allow the European industry to go on producing added value... But there are other means to create value. The second, which I will mention only in passing, is foreign investment. Some of you are already well engaged in that way. It is a process which will certainly gain momentum, owing to bilateral agreements that we can conclude with one or the other country... The third manner is therefore, you are saying it regularly to us, to be able to buy raw materials at competitive prices, possibly close to the world market prices. The solution is to import raw materials and transform them in high value added products. You see that once more the question of market access is crucial for the future of your industry. Not only for exports but for imports as*

well.

But there is of course a fourth manner, it is quite simply to buy on the domestic market at competitive prices. This consequently raises the question of domestic prices and of the necessary reforms to reduce them. We enter here on the field of domestic support, also discussed at the WTO. Owing to the successive reforms of the CAP, domestic prices, particularly of raw materials such as wheat, have become very competitive. The achievements of the processing industry show it clearly. We must go on in that direction. We must also keep the same line in transforming our types of support, in order that they will be minimally trade distorting. This is the reason of the CAP's new reform, and of its importance with regard to the negotiation at the WTO on domestic support".

No comment !

- At least, and contrary to the President of the NFU, John Dillon, the President of the Irish Farmers' Association, seems quite aware of the danger and *"warned against the risk of agriculture being sold out to big business and multinational food companies in the (WTO) negotiations. He said there could be no question of trading agriculture for industry and services in the negotiations. Agriculture was essential for the survival of rural Europe but there was a real danger that the interests of big business would be put first by EU Governments"* (Financial Times, July 16, 2003).

5. The CAP will become more bureaucratic:

The new CAP will be particularly complex and bureaucratic, given:

- the multiplicity of situations of total or partial decoupling in the Member States
- the situation even more complex in the incoming Member States
- the system of control and sanctions to ensure that farmers getting the single farm payment or other direct payments will comply with the statutory standards in the field of environment, food safety, animal welfare and occupational safety of farmers.

II - THE IMPACT OF THE CAP'S NEW REFORM ON DEVELOPING COUNTRIES:

A - The swindle of dumping and the farce of the green box's subsidies:

- According to the EU ministers' statement, "With this reform the (EU) Council is sending a strong message to European farmers, European citizens and the world, in particular the developing countries".
- In fact, the new CAP will be a supplementary stab in the back of Southern farmers. Indeed the main aim of the reform was not a better adaptation of the CAP to the demands of the EU's civil society in relation to the environment, food safety and animal

welfare, even if the Commission has been clever enough in its communication to make the medias swallow it.

- No, the main objective has been to shield agricultural subsidies, once decoupled, from obligations of reduction at the WTO, by transferring them to the green box of the AoA. Because the idea that decoupled subsidies - i.e. not linked to the production or prices of the current year - do not have trade distorting effects, and notably no effect of import protection or dumping, is an enormous legal and political farce to which the political elites of rich countries and international institutions are still pretending to accredit.
- Most negotiators from DCs and all NGOs from North and South have now demystified it.
- All decoupled agricultural subsidies, including those granted on the specific grounds of protecting the environment, are reducing farmers' production costs, improving the competitiveness of their products and hence have a dumping effect when exported.
- In fact the decoupling trick rests on an enormous legal-political swindle: the definition of dumping in article 6.1.a of the GATT 1947 itself, repeated in article 9.1.b of the AoA: it is defined, not as an export at a price below its production cost but as an export at a price below its domestic price.
- That explains why and how the CAP has been reformed in 1992, 1999 and this last 26 June 2003: in reducing by steps the EU farm prices to the level of world prices, the EU could export its agri-food products without explicit export refunds, hence without legal dumping, even if those subsidies are rightly pointed out as very unfair to foreign farmers.
- Indeed the great bulk of wheat and barley exports of the EU have been made without refunds from July 2001 to June 2002, since the domestic price had fallen to the world price level, around E100 or \$100 per tonne (since then the euro appreciation has obliged to resume refunds, at E15 per tonne of wheat the 15 May 2003).
- To take advantage of that incredible definition of dumping, it was necessary that the agricultural subsidies compensating the gap between the production cost and the low price of EU's agri-food products were shielded from the obligations of reduction imposed by the WTO.
- And this has been the trick of the AoA, essentially negotiated between the EU and the US and the imposed to DCs: to state that import protection is the worst of ignominies, followed by explicit export subsidies (they are indeed disastrous), whereas considering that domestic decoupled subsidies are not trade distorting at all.
- One evidence that decoupling will not change anything for French cereals growers is

the statement given in Le Monde of 28 June 2003 that "the reform "does not change anything" for cereals growers, it is said by wheat growers, whose interests have been preserved owing to the absence of reduction in the price of cereals".

- The self-satisfaction loudly claimed the 26 June 2003 by Franz Fischler after the Council's meeting having adopted the reform, that "Our new policy is trade friendly. We are saying goodbye to the old subsidy system which significantly distorts international trade and harms developing countries" is therefore particularly misplaced.

B - In fact, paradoxically, import protection is the least protectionist way of supporting farmers in any country:

For 8 reasons:

1. For economists, any measure increasing the competitiveness of national products vis-à-vis foreign products is a form of protection. That is why one should banish the use of the word "protection" in isolation because, when used in the area of trade, it refers almost exclusively to import protection and is then connoted extremely negatively - a fortiori the word protectionism -, being associated to such terms as overcautious withdrawal into oneself, specter, old demon, stench, temptation, hydra, trap, etc. Therefore it is always necessary to say explicitly "import protection" when we want to use it in this restricted sense.
2. Therefore, as Vandana Shiva puts it, "Free-trade is not anti-protectionism. It is the protectionism of the mighty".
3. Import protection is the only support available to poor countries, which do not have the budgetary means to subsidize significantly their farmers, the more so as they represent the majority of the employed population.
4. All types of subsidies, even on environmental grounds, reduce production costs and have a dumping effect for exported products.
5. Only rich countries can use subsidies to protect themselves from imports without having to protect themselves at the import level, by compensating the reduction of domestic prices to their world level so that there is no longer an economic interest to import.
6. It is socially regressive that the poorest citizens are financing (through the VAT) the food of the richest citizens.
7. Furthermore an import protection is the only means to rebuild a market-oriented CAP, where the bulk of farmers' income is based on prices, not on subsidies, but on domestic prices and not on highly volatile and distorted world prices, which have no economic meaning.

8. Import protection would simplify the AoA enormously: so long as the new AoA will pose as a basic principle that any country is free to fix the appropriate import protection level on agri-food products, it would be useless to fix rules on domestic supports. Ultimately, even export refunds will not be a problem since every country could avoid their detrimental effect through import protection. However, since many DCs do not have the political ability to increase their import protection because of the pressures made by the IMF and WB, the suppression of all explicit and implicit export subsidies remain a priority.

C - On the other hand, the decoupled domestic agricultural subsidies are even more distortive than the coupled ones:

For the following reasons:

1. Because of a tight budget, DCs give priority to coupled supports which have a more direct effect on production and prices than the decoupled ones. Indeed, DCs need to increase their agricultural production whereas the EU and many other developed countries are generally striving to reduce it, the AoA rules having been designed mainly with that aim.
2. Coupled supports are often used to maintain domestic prices above world prices (e.g. the EU's intervention price) and are compatible with self-sufficiency without exports, but blue or green supports allow to lower domestic prices below production costs, with a dumping effect for exported products.
3. Blue and green supports are even more distortive than explicit export refunds, more transparent for importers and which allow anti-dumping measures when they exceed their ceiling, whereas decoupled subsidies can increase without limits and are much more difficult to identify.
4. The decoupled nature of a subsidy is quite relative, being function of the use to which the subsidized product is intended. If EU's direct payments to COP (cereals, oilseeds, pulses) are as such decoupled (blue box), thus non actionable before 2004, subsidies on inputs are coupled according to article 6.2 of the AoA for developed countries and to article 1(ii) of the annex 2. Now, the largest part of the COP being used as feedstuffs (108 Mt of cereals, 12.6 Mt of bran and 18.3 Mt of oilseeds cakes and pulses in 1999-00), direct payments for COP should have been notified as coupled subsidies of the amber box, and reduced accordingly.
5. The conversion of those direct payments for COP in a single farm payment decoupled from the production of COP will not change anything to its remaining an input subsidy for the benefiting farmers who will continue to grow COP.
6. Several new in-depth legal analyses (by R.H. Steinberg & T.E. Josling, James Rude,

D. Chambovey) show that even green box's subsidies will be much easily actionable at the WTO in 2004 (after the expiry of the 'peace clause'), which will reinforce the more and more open and well argued criticisms of the majority of WTO's Members.

7. Therefore the desperate fight of the Commission to shield the CAP's direct payments in the green box is already lost and the new reform is already outdated before being implemented.

8. When Franz Fishier said that "Today's decision will give Europe a strong hand in the negotiations on the Doha Development Agenda. The EU has done its homework, now it's up to others to move to make the WTO trade talks a success. But let there be no mistake. At the Cancun Ministerial Meeting, the EU will be ready to use its increased negotiating capital only if we get something in exchange. unilateral disarmament is not on", he announces clearly that the EU will go beyond its already disastrous proposals for the CAP's future made at the WTO (reduction of tariffs by 36% and of coupled domestic supports by 55%, besides the welcome proposal for the rest of the world to reduce export refunds by 45%), if the majority of WTO's Members (i.e. of DCs) agree to enlarge the Doha Round to the "Singapour issues" much called for by the EU (investments, transparency in public procurement, competition, trade facilitation). The CAP (Common Agricultural Policy) is dead, long life to the CAP (Common Agri-industries Policy)! No wonder that the Confederation of the Food and Drink Industries of the EU is the only professional organisation to welcome the reform.

CONCLUSIONS:

The CAP reform is suicidal and proceeds from a very bad calculus, including from a purely selfish economic point of view for the EU. Because, without food sovereignty -i.e. an efficient import protection - there cannot be an overall development in DCs, the more so when farmers still represent the majority of the population. Therefore, without food sovereignty of DCs, developed countries will not be able to export to them high value added goods, thus prejudicing their own selfish interests in the long run.

Therefore the EU must reform the CAP by eliminating all types of dumping so that a large majority of WTO's Members would agree to rebuild the AoA on food sovereignty without dumping, defined as the export of an agri-food product at a price below its computable production cost, the one that would prevail if all computable agricultural subsidies were eliminated, including the collective subsidies of the green box.

Therefore the CAP should be refocused on its domestic market for its main basic agri-food products - cereals, sugar, dairy, meat -, for which it is not competitive (i.e. without import protection and/or export and domestic subsidies of any colour). Indeed few products meet these conditions: a high proportion of wines and a handful of cheeses.

Since those subsidized exports represent only 10% of the EU production of cereals and dairy products, 8% of its production of meats and 30% of its production of sugar, it is all the more important to rebuild the CAP on the protection of its domestic market, on food sovereignty without dumping.

Furthermore, such an alternative reform would allow to reduce the CAP's budget - an important political consideration for countries such as Germany - and to release resources to give direct payments to CEECs' farmers on the same basis as in the EU-15, which will avoid social unrest in those countries.

W4: THE IMPACT OF WATER PRIVATIZATION IN ASIA AND EUROPE AND PEOPLE'S RESPONSES

The UK Government and Water Privatisation

by Peter Hardstaff

World Development Movement, UK

WDM is a UK-based organisation with some 13,000 supporters campaigning to change UK, European and International policies to tackle the root causes of poverty.

As part of our campaign on the General Agreement on Trade in Services (GATS), and as part of our campaign to stop the World Bank and IMF imposing economic policies on developing countries, we have become involved in working with groups campaigning against water privatisation.

More recently, we have been looking more closely at the role of the UK government in pushing water privatisation around the globe.

My role today is not to go into detail on the problems with privatisation or to talk about the way the World Bank and IMF are pushing this policy. My role is to explain how the UK government is involved in pushing privatisation around the world.

I will focus on the UK –both because there is much to say and because this is what WDM is most familiar with – but I'm happy to talk a bit about the EU in the questions and answer session.

So first, a few words about the UK agenda. What is it, and where did it come from?

Perhaps the most surprising, and difficult issue for development campaigners in the UK over the past eight years has been the recognition that a Labour government - supposedly left wing in its political outlook – is such a staunch supporter of deregulation, free markets and privatisation.

For example, our former international development minister, Clare Short, was seen by the public as being on the left of the labour party. Yet, in 2002, while still development minister she said, and I quote, “Privatisation is the only way to get the investment that poor countries need in things like banking, tourism, telecommunications and services such as water, under good regulatory arrangements.”

So, apart from a small number of Members of Parliament, our Labour government seems to have more or less adopted wholesale a neo-liberal economic agenda.

It is hard to say exactly when and how this happened. In one sense, I would prefer it if our government were simply pandering to corporate interests and giving in to corporate lobbying. This at least would be something we could identify and perhaps more easily counter.

Unfortunately, while companies certainly do exert significant influence on the government, I also suspect that many influential figures in the labour party actually believe their own rhetoric.

In reality then, I expect the reason for the UK's adherence to free market orthodoxy is a mixture of both ideology and corporate influence with the two becoming increasingly difficult to separate. The practical result is that UK international development policy is often about benefits for business rather than benefits for the poor.

In the UK, the Department responsible for disbursing aid, conducting research on development, and being a champion for development issues within government is the Department for International Development – D.F.I.D. or 'difid' as we call it.

DFID – as well as our Chancellor of the Exchequer Gordon Brown – like to portray the UK as one of the 'good guys' – a friend of developing countries. They trumpet initiatives on debt relief, on aid and their support for reforming the EU's Common Agricultural Policy, as evidence that the UK is at the forefront of pushing development friendly policies.

Unfortunately, this public face masks the reality that the UK is all too often part of the problem, rather than the solution.

DFID has become a key player in pushing water privatisation across the world. Although UK aid is officially not tied to contracts for UK companies, DFID is pushing an agenda that, at the very least, benefits the private sector, and at most ends up benefiting UK companies directly.

Another part of Government – known as UK Trade and Investment – has summed up the UK's approach in the following quote:

The UK has a great deal of practical knowledge and expertise to offer with regard to the expansion, maintenance and management of complex infrastructure systems and in particular with regard to private sector participation in the same. Apart from world-class utilities, contractors, equipment suppliers and consultants there are also leading firms of financiers and lawyers to back them up. The long-term future of all of these companies is crucially dependent upon their expanding their worldwide operations and the UK is now

one of the largest investors in overseas infrastructure, either through the development of new projects or through the management of existing, previously state owned, assets.

UK Trade & Investment is the official export promotion arm of the UK government, originally established by the Labour government in 1999.

Essentially, the UK Government is exporting privatisation. In the 1980s, an industry was established around privatisation in the UK, and now those companies – the consultancies, the contractors and the utilities – want new markets.

The problem we face is in pinning down exactly how the UK government does this. I will attempt to give you an outline of three ways in which DFID is pursuing privatisation, and I will focus on water.

The first, is through tying UK aid to implementation of World Bank and IMF policy conditions.

Direct country-based UK aid for new water construction projects is in decline. Funds are increasingly channelled through budget support. Fifteen per cent of UK aid money is now channelled directly into developing country government budgets.

On the one hand, this theoretically gives governments greater flexibility in how aid money is spent. On the other, the ‘catch’ is that these countries must be ‘on track’ with their World Bank and IMF programmes in order to receive the money.

The pattern emerging is one where no donor money is released until there has been a satisfactory current assessment of a country’s policies by the World Bank and IMF.

DFID aid is also tied to the implementation of Poverty Reduction Strategy Papers (PRSPs) which are, at the very least heavily influenced by the World Bank and IMF and at most practically written by these institutions.

DFID has explicitly linked its dispersal of funds for water and sanitation to the implementation of PRSPs in Uganda, Vietnam, India, Ghana and Tanzania. Yet PRSPs often include policies decided by the Bank and Fund, not by the people and parliaments of these countries.

The second way DFID pushes privatisation is through what is called technical assistance.

Technical assistance is a term used to describe funding directed at institutional reform and policy change achieved through the provision of personnel, training or research.

In its recent water strategy, DFID makes clear its intention to become a key funder and promoter of what it calls ‘strategic policy level research and advocacy’.

This approach ties in perfectly with the UK Government's explicit aim of helping UK companies become involved in privatisation overseas. The UK Government calls it 'aid funded business'.

The practical result of this 'aid funded business' approach is that millions of pounds are given to consultants to 'advise' developing country governments on water sector reform; in other words, privatisation.

In the water sector, in 2003 DFID spent £6.8million on 'sanitation' – mainly comprising technical assistance in Africa, and it spent £9.8million on 'Water Resource Management' – mainly technical assistance in Asia.

More broadly, in 2003, DFID spent £36 million on technical assistance under the headings of 'Private Sector Development' and 'Public Private Partnerships' – mainly in Africa and Asia.

Under these various different headings, DFID awarded 35 million pounds of contracts to companies for what it calls "public sector management and macro-economic reform".

This includes millions of pounds worth of contracts for a consultancy company called the Adam Smith Institute to provide 'technical assistance' on water privatisation in Ghana and Tanzania.

And millions in funding for Halcrow – another consultancy company – for water sector restructuring work in Mozambique, Kenya and South Africa.

This is an area of the water privatisation debate that has received little attention. Most of the focus has been on big water utility companies – such as Vivendi, Suez, Thames Water, International Water and Bechtel.

But we believe the role of consultancy companies such as Price Waterhouse Coopers, KPMG, Arthur Andersen, Deloitte and Touche and the Adam Smith Institute is central to the way privatisation is being pushed globally and perhaps needs more attention from activists.

The third way DFID pursues privatisation is through what are called 'multi-donor financing mechanisms'

In March 2004, DFID released a 'Water Action Plan' stating that, and I quote, "*We are developing and implementing a range of multi-donor programmes to encourage private sector investment in basic infrastructure services.*"

These financing mechanisms also fit perfectly with the UK's 'aid funded business' agenda as they are essentially a way to give taxpayers money to multinationals in order to entice them to set up in developing countries.

DFID is taking the lead on, and wields considerable influence over, at least four major multi-donor finance mechanisms that are involved in providing capital for privatisation.

First, is the Emerging Africa Infrastructure Fund (EAIF), launched by DFID in January 2002. It involves four major donors, Sweden, Germany, Netherlands and the UK and is aimed at mobilising up to \$450 million for private investment in basic services infrastructure projects in Africa.

The fund is managed by a US-based fund manager and gives money only to the private sector and does not work with African governments. DFID is explicit that the fund is open only to private companies. EAIF will not provide any financing for public sector investment.

Second, is the Private Infrastructure Donors Group (PIDG). This is a fund managed by the World Bank, but initiated by DFID in 2002. It aims to bring together, and I quote, ‘a group of like-minded donors seeking to increase private sector investment in the infrastructure of developing countries’.

By the end of 2003, its backers included UK, Sweden, Switzerland and the Netherlands and the group seems to be working with a lot of recognised global consulting companies.

Third, is Business Partners for Development (BPD). BPD has a specific water programme called: ‘Building Partnerships for Development in Water and Sanitation’ that is focused on increasing business participation in the sector. In this water sector initiative, DFID is the only government development agency partner, amongst private firms and NGOs.

We believe DFID provides significant funding for this programme which is currently focused on 7 countries, including four of the biggest urban water privatisations in the world - La Paz in Bolivia, Cartagena in Colombia, Buenos Aires in Argentina, and Jakarta in Indonesia.

The fourth multi donor mechanism is the Private Public Infrastructure Advisory Facility (PPIAF). This is a joint initiative of the governments of Japan and the UK and was established in 1999. From what we can gather, much of the financing is going to consultancy companies and the objective is, and I quote, to ‘tackle the enabling environment for Public Private Partnerships in infrastructure.’

So, just to re-cap, the UK Government, as a result of corporate influence and ideology - is pursuing a water privatisation agenda overseas. It is doing this through its support of World Bank and IMF policy conditions, through its major technical assistance budget and through a range of multi-donor financing mechanisms all aimed at increasing the role of the private sector in developing countries.

I should also just briefly mention that, where water privatisation has taken place – whether pushed by the IMF and World Bank or by bilateral donors like the UK - the European Union is seeking to make this irreversible by including ‘water supply’ as a sub-sector in the General Agreement on Trade in Services (the GATS) and seeking binding market access commitments for multinational companies in developing countries.

So before finishing, a few brief words on what WDM is doing on these issues over the coming year:

We are continuing work on challenging World Bank and IMF economic policy conditions attached to loans and debt relief. In particular, we are highlighting the role the UK plays in the Bank and Fund and seeking to pressurise our government into supporting greater democratic scrutiny of loan and debt deals in the countries affected.

Through the Trade Justice Movement – a coalition of NGOs in the UK that have joined forces to campaign on trade issues – we are seeking to put pressure on the UK Government, and the EU to abandon the proposal to include water in the GATS.

And we are developing work on exposing DFID’s role in pushing water privatisation around the world and we are seeking to collaborate with campaigners in countries where DFID is a key player in this process.

So, I hope that I have been able to give you a brief outline of how deeply involved the UK government has become in pushing water privatisation globally, and I hope WDM will get a chance to work with you in the future and that we can join together to challenge all those who are complicit in this process.

The camouflaged variations of the privatisation move by the World Bank Group: Public Private Partnerships and the Demand-Responsive Approach or Community-Driven Development

*by Uwe Hoering
Weed, Germany*

Reading some of the recent statements of the World Bank, you get the impression that the Bank is retreating from privatisation. Since private sector investors are withdrawing from infrastructure in some countries of the South, high ranking World Bank officials like Nemat Safik, Vice-President for Infrastructure, admit, that they have been "too optimistic" regarding forthcoming private investments. Others play down the promises made earlier by the protagonists of privatisation as "oversimplified, over rated and finally disappointing as they promised more than has been kept" (World Bank News, 16.06.2004).

So, is the World Bank really retreating? Not at all, quite the opposite is true. The Bank and other multilateral and bilateral development finance institutions are pushing even harder to give as much of the cake to the private sector as possible - in spite of the negative experiences and the growing resistance. But they have to rethink and to modify their strategy like they did for example in their new Water Resources Sector Strategy, WRSS. And we should analyze these changes carefully, so that we can counter them.

There is a whole range of new instruments in the World Bank Group like risk management for currency exchange fluctuations for private investors and new funds by the IBRD as well as by the private sector lending arm, the IFC. Here I just want to draw your attention to two of them with far reaching direct consequences for the people and civil society: Public Private Partnerships, sometimes labeled as Private Sector Participation, and the Demand-Responsive Approach or Community-Driven Development as the new approach for development projects in rural and peri-urban areas. Both could be considered as camouflaged variations of the privatisation move by the Bank.

As a response to the reluctance of private investors especially in the infrastructure sector but also in the social services there will be a strong push towards more Public-Private Partnerships by international organizations like the World Bank and the Asian Development Bank, but also by UN-Organizations and by the OECD, the organisation of the leading industrialized countries. These PPPs are an attempt to reduce the economic and political risks for private investors by shouldering much of the burden by the public

but privatizing the benefits. Already in the past a lot of public funds and capacities by World Bank and others development organizations have been employed to promote PPPs for example in the water and in the health sectors - with little positive results. And pushing PPPs further will mean that even more support will be given to these so called partnerships in future, thus reducing the public funds available for other actors like public utilities and Public-Public Partnerships, development NGOs or people's organizations.

Looking at PPPs, there are several basic and very fundamental threats involved:

- Firstly, the concept of "Partnership" is changing the relations between public and private, the State and private capital fundamentally. Responsibilities of governments, multilateral institutions like World Bank or the UN are being shifted towards the private partners. Between the so-called partners, there are new vague values guiding the relationship like "mutual trust" and "good will" instead of control and regulation by laws or government orders. As a result of this, the implementation of public obligations and responsibilities becomes depend on the private interest, be it market access or profit, "blue washing" as in the case of the UN Global Compact, or influence on policies. So only those public interests will be realized, that are profitable as well. Government institutions become dependant on the strategies of their private partner.
- Secondly, experience shows, that agreements about Public-Private Partnerships or Private Sector Participation are often intransparent, undemocratic and biased in favor of narrow economic interests. So while the influence and control of private capital over government decisions is increasing, the space for democratic and civil society forces to influence and control development priorities and political decisions are being reduced.
- And finally, PPPs are an important stepping stone for further privatisation. One aspect is that they help private companies to get a foothold in the sector. But beyond that, the whole framework of State rules, laws and regulations is being changed to make them possible, thereby opening up the sector to further large-scale intrusion by private companies. So PPPs can be called the Trojan Horse of privatisation, allowing the troops of the private sector to sneak into the public fortress and pull down the defenses.

While the role of PPP as part of the privatisation process is quite obvious, this is not so clear with the Demand-responsive Approach or Community-Driven Development Projects. For those, who are not familiar with this concept just a brief introduction: "Demand-responsive" means that user groups themselves shall decide about which kind of - let's say - water supply system or sanitation facilities they want to have. They shall be in charge of everything from designing and planning to building or contracting out (to private companies) as well as to operation and maintenance. While government institutions will finance part of the initial investment, the user groups will have to raise money through user fees and tariffs for operation, maintenance and future repairs and

replacement. That sounds quite like "ownership" and full participation. But again, the opposite is true. The Demand-Responsive Approach has the same roots like privatisation: The concept of water as an economic good, the principle of cost recovery and the reduction of government spending for the sake of budget consolidation. The main difference is, that government responsibility is not being replaced by a private operator or investor but by the community or water user groups.

Whether this concept will work under the conditions of rural poverty and power relations is a big question mark. Pilot projects in Sri Lanka, India and a few African countries have at best shown mixed results: Initially, there can be some improvements in coverage and functioning. But due to non-affordability or non-payment by users there is no sustainability. Marginalized groups or women are often excluded from decisions as well as from improvements. Instead of "need", the "demand" of consumers who can afford to pay for their supply becomes the criteria for the development of the supply system, very much like the profit motif of the private investor or operator in privatisation schemes.

In both cases, the World Bank is promoting a market driven commercialization, that can not guarantee the right to water or other basic services for everybody. Furthermore, there is a perspective, that DRA-Projects in relatively better-off communities or regions may very well become attractive for private investors later on, thus paving the way for privatisation.

World Bank and others are pushing the Demand-Responsive Approach as the prime solution for rural and peri-urban areas, that means for populations who are normally underserved, but not attractive for private business, because they are poor. After heavy influence and pressure from the World Bank and the Water and Sanitation Program, controlled by the Bank, the new approach has already become official policy in new national Laws for rural water supply and sanitation in India and Sri Lanka.

Finally, looking at the broader picture of the water policy of the World Bank Group, the Demand-Responsive Approach turns out to be just the other side of the coin of the Bank's new love for "high risk/high-benefit-projects". After a decade, the World Bank announced recently, that it would start again to finance big infrastructure projects like Mega Dams, admitting that they involve high risks but would also bring high benefits for economic growth. And the Demand-Responsive Approach shall help to find the money for this: While poor people have to look for themselves how they get their basic services financed and organized, public funds from governments and international financial institutions can go increasingly towards profitable big projects. And that again means more privatisation, not less.

**W5: POVERTY ALLEVIATION, DEBT
AND EQUITABLE DEVELOPMENT, THE ROLE OF PRS AND ADB**

**The role of Germany and other European donor-countries
and NGO activities**

*by Ulrike Bey
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Germany, one of the original 31 founding member countries, is an important donor country of the ADB. It is the third-largest shareholder among the non-regional members. Of the current 63 members, Germany is the ninth largest shareholder and owns 4,37 per cent of the total shares in the bank. The voting power of the German government amounts 3,8 percent among the total membership and 10,87 percent from the total non-regional membership. It has an overall capital subscription of US\$ 2,27 billion and a paid-in capital subscription of US\$ 159,30 million¹. Out of the 14 European donor countries, Germany is the largest donor. (The biggest donors with the highest voting power are the US and Japan). Altogether the European have a combined voting power of 16,8 percent, which is higher than that of Japan and the US. However, the European countries are clustered in different constituencies. The EU countries have three constituencies which is equivalent to three seats in the 12-strong Board of Directors. Together with Austria, Luxembourg, the United Kingdom and Turkey, Germany forms a constituency and is represented in the Board of directors by one Executive Director (ED). The combined voting power of this five-country-constituency is 7,2 percent. Although donor countries in their national development policies are committed to poverty reduction as an overarching goal – also formulated in the ADB’s policy -, and all have signed the UN Millennium Goals the countries follow to some extent their own national agendas, namely when it comes to contracts for the implementation of projects. The use and effectiveness of the German contribution to the ADB is monitored by the German Federal Ministry for Economic Co-operation and Development (BMZ). The Federal Ministry of Finances (BMF) and the Federal Foreign Office (AA) also participate in specific decision-making that concerns their scope of responsibilities. According to the government, Germany’s involvement in the decision making and supervisory bodies of

¹ *ADB Fact Sheet on Germany, www.adb.org*

regional development banks and the World Bank is an instrument for influencing these development institutions towards the realization of sustainable development².

Special Funds and Resources:

Donor countries contribute to Special Funds and Resources, namely the Asian Development Fund (ADF) and to the Technical Assistance Special Fund (TASF). The ADF lends money to the poorest ADB member countries at concessional interest rates at 1,5% over a long term of 24 to 30 years. It is replenished every four years and increased since ADB announced its Poverty Reduction Strategy. In ADF VIII Germany contributed US\$ 1,37 billion (overall committed contribution US\$ 18,18 billion). ADF IX was replenished in spring 2004. Germany committed to contribute but did not set an amount because the new budget of the ministry has not yet been adopted. The Technical Assistance and Special Fund provides money for project preparation and technical and feasibility studies. In 2002 Germany committed US\$ 18,56 million.

Cofinancing:

An additional source for project financing is Co-Financing. Bilateral or private sources (commercial financial institutions, official funding agencies, export credit agencies) are mobilised to increase the cash flow. It is attractive for donor countries to co-finance projects because a “political risk guarantee” is provided by ADB and the government. Besides, co-financing is tied money: Lucrative contracts to convene or implement some co-financed projects go to companies from the financing countries³.

Privatisation and Corporations:

Beside the damaging effects to people and environment „privatisation“ is an issue of concern to many NGOs. The main pillar for ADB’s poverty reduction strategy is the development of the private sector as the engine of growth to reduce poverty. Promoters of this strategy encourage the idea that delivery of the poor from poverty could be done through public-private-partnerships that will provide services, which are otherwise not possible for the government to provide to its poor. Since ADB was founded in 1966, private sector corporations based in donor countries have benefited immensely from goods, related services and civil works (GRSCW) contracts of ADBfunded projects in the region. They get a share in the procurement contracts which were facilitated through their country’s influence within the ADB. It is therefore not surprising that thirty seven percent

² BMZ, „Combating poverty - Our Goals in the Regional Development Banks“, April 2003 www.bmz.de

³ see *A Handbook on the Asian Development Bank, Focus Asien 16, 2004, p19*

(US\$ 20,1 billion) of the US\$ 54,3 billion awarded contracts for goods and services went to companies from donor countries with high voting power: Japan, US and Germany ⁴.

Top 5 companies from top 4 donor countries with the most goods, related services and civil works (GRSCW) contracts (1995-1999):

JAPAN (\$342 million):

Mitsui and Co

1. Mitsubishi
2. Mitsui Engineering and Shipbuilding
3. Itochu
4. Marubeni

US (\$209 million):

1. Cooper Rolls
2. Westinghouse International
3. AT&T
4. Raytheon Company Electronic Systems
5. Cargill Fertilizer

GERMANY(\$166 million):

1. Siemens AG
2. Man B&W Diesel AG
3. KGH Schulze
4. Dyckerhoff & Widmann
5. UNICO

UK (\$43 million):

1. NVPSKG
2. Balfour Beatty
3. Acme Maris (China)Ltd
4. Siemens PLC
5. British Steel

Source: NGO Guidebook on ADB Series Vol.1 Nr.2

⁴ *NGO Guidebook on ADB Series Vol.1; Nr. 2, ADB's Private Sector Development Stratetgey (PSDS): Private Sector as the Engine of Growth 2001, p4*

Many of these companies awarded contracts from ADB loans and technical assistance are the biggest companies in the world. Many are involved in large-scale infrastructure projects using technologies that are either no longer politically acceptable or commercially viable in developed countries. Private companies, large engineering and construction companies in donor countries (particularly Japan, US, Germany, UK) and consulting companies in donor countries, therefore are some of the immediate beneficiaries of ADB lending over the past three decades. In 2001 and 2002 Germany's share of procurement contracts totalled US\$ 2,70 billion and US\$ 4,46. The cumulative procurement from 1967 to the end of 2002 was US\$ 67,29 billion. The following German companies benefited between 1 January 1998 to 31 December 2002 from ADB projects as contractors and suppliers and the corresponding sectors⁶. In terms of Consulting projects, German consultants had been involved in 74 out of the total 3696 contracts between January 1985 to December 2002. The projects are worth US\$ 90,62 million (total US\$ 2,03 billion).

Seeing all this statistics one has to bare in mind that all those projects and lending policy is done in the name of "poverty reduction". To conclude, Germany's membership in the ADB does on the one hand comply to German development policy, and its contribution to the bank is part of the ODA. On the other hand Germany gains big benefits from - of course - the interest rates, but also from companies and corporations which get lucrative contracts. Even if the governments have good intentions many projects are questionable and do not necessarily make the lives of the poor better. Many projects, in fact, add to the problems of the poor.

Role of NGO-engagement in the North:

The responsible Ministries of the Donor governments have to assess whether and to what extent the ADB's operations achieve their promised development goals as they are spending public money. The „achievement of the development goals“ or the "success" of the projects is difficult to measure, since the effects of the ADBs development operations are largely translated in socio-economical and environmental costs and benefits. For this assessment the governments do not rely on independent evaluations but on performance evaluations and reports prepared or commissioned by the ADB itself.⁵

There are many NGOs and local stakeholders that report about disastrous project failings, negated interests of local communities, inadequate information disclosure and failing accountability. These reports seem not to reach the desks of the decision makers⁶. In

⁵ See Henneke Brink "On the Asian Development and Donor Countries that Hear and See Little Evil" in: *BanglaPraxis Vol. 2, No. 1, June 2004*

⁶ *ibid*

many European and other donor countries is the local NGO attention for the ADB still very low. In the Netherlands, for example, two organisations are following the bank's activities, Both ENDS, Friends of the Earth International.

In Germany, a recent development is the establishment of a NGO working group on the ADB. It is a network of Asia-focused NGOs and interested individuals associated with organisations that are engaged in development issues especially in Asia. The ADB is an issue or should be an issue for them because the bank acts as a key player in development in the region. Our tasks and challenges are:

- Raising awareness among the public that our government is a member and donor country to the ADB and spending tax money. As citizen and taxpayer of an important shareholder and donor country we want to be convinced how our money is valued and not wasted by the ADB in the name of poverty reduction in Asia and the Pacific.
- Engaging the government to ensure, that the positive developments in German politics and wellmeaning international policies of the German government is being reflected in its co-operation activities with the Bank (as said before, Germany claims that it exerts influence in the governing bodies of the bank).

Example: Forest Policy

When in 2003 the new forest policy was drafted, one group member inquired with the German ADB governor Dr. Uschi Eid about the compatibility of the German Forest Policy with the ADB policy. And Dr. Uschi Eid replied, that indeed the German Forest Policy is superior to the ADB policy. She described the latest draft as „unfortunately behind our principles and minimum standards for this sector; it does not reach the quality of the ‘Operational Standards’ of the World Bank.“ How can Germany endorse this ADB policy and further give loans to the bank?

- monitoring of private sector / German companies that are involved in Germany's co-financed projects with the ADB and those which are getting those lucrative procurement contracts.
- strengthening the co-operation with Southern partners: make local stakeholders heard at the decision making tables as they know best about the actual impacts of the ADB operations Without this input from local stakeholders, it is impossible, even for well-intending donor-countries, to properly assess the ADB's operations, and to critically consider their contribution to ADF / ADB, and the strength of the Northern NGOs in our advocacy efforts is the work of the groups in the South

- boomerang effect: NGOs in the North sometimes have easier access to information (due to transparency policies): we can obtain information from the German BMZ about projects in for example Cambodia or Laos, which Cambodians cannot get.
- collaboration with other European NGOs to build efforts in order to develop a critical and committed engagement with the ADB: raise concerns, calling for transparency, fair and genuine participation of all stakeholders, and greater accountability.

The Vietnam Farmers' Union and the National Target Program on Hunger Eradication, Poverty Alleviation and Employment

*by Nguyen Quoc An
Vietnam Farmers Union*

I - INTRODUCTION:

Hunger Eradication, Poverty Alleviation and Employment Generation represents a major policy of Vietnam in its Strategy for Socio-Economic Development. At the Global Summit on Social Development held in Copenhagen in 1995, a common commitment was expressed for worldwide hunger eradication through determined national actions and international cooperation. The commitment is considered a mandatory requirement in mankind 's moral, social, political and economic aspects. On July 23rd, 1998, the Prime Minister of the Socialist Republic of Vietnam issued Decision No 133/1998/QD-TTg approving the National Target Program on Hunger Eradication and Poverty Alleviation from 1998 to 2000. Then on September 27th 2001, the Prime Minister issued Decision No 143/2001/QD-TTg endorsing the National Target Program on Hunger Eradication, Poverty Alleviation and Employment from 2001 to 2005. So far, the following achievements have been recorded.

1. Achievements in hunger eradication and poverty alleviation in Vietnam so far:

Vietnam's economy has gradually been shifted from a centrally planned to a socialist marketing economy. The economy has gained a fast and fairly stable growth. The 1990s recorded an average GDP growth rate of 7.5%, and in 2000 GDP was double that in 1990. In 2003, GDP increased by 7.24%, and for 2001, 2002 and 2003, the average annual GDP growth rate was around 7.1%.

In agriculture, food production rose from 19.9 million tonnes (in paddy equivalent) in 1990 to over 37 million tonnes in 2003. Cereal production per capita increased from 303 kg in 1990 to 462 kg in 2003, thus not only ensuring national food security but also listing Vietnam among the world's top rice exporters. Industrial cash crops and animal husbandry have therefore developed more favourably. Rice, coffee, rubber, cashew nuts, tea, ground nuts, fruits, vegetables, and aquatic products have become Vietnam's major agro-based exportables.

Industry has been restructured and gradually grown stably. The average yearly growth rate over the past 10 years reached 13.6%, in which the State sector made 11.4%, the Non State sector 11.4%, and the foreign invested sector 22.5%. In terms of value, industrial

output in 2000 was 3.6 times higher than that in 1990. In 2001, 2002 and 2003, industry kept growing, its output increased by 15%, in which the State sector got 12.1%, the non State sector 19.8% and the foreign invested sector 15.65%.

The service sector has been expanded with higher quality, in pace with economic development and improvement of the people's life. The value of services during the 10 years (1990-2000) and three years (2001-2003) averagely increased by 8.2% and over 7% respectively. The total value of goods sales in the domestic market in 2000 was 12.3 times the 1990 figure. In the three years between 2001 and 2003, the domestic market got busier and the total volume of traded commodities went up by over 12% on a yearly average.

The 7 National Target Programs for the period between 1998 and 2000 (Hunger Eradication, Poverty Alleviation and Employment, Population and Family Planning, HIV/AIDS Control, Abolition of Social Diseases and Perilous Epidemics, Rural Clean Water and Environmental Hygiene, Formation of Talented Sportsmen and Major Sports Centers, Crime Control) together with other Target Programs (such as Socio-Economic Development in Utterly Difficult Communes in Mountain and Remote Areas, Extensive Immunization for Children, Illiteracy Elimination and Primary Education Universalisation, Control of Social Vices) have been implemented with marked results in various social aspects. The National Funds such as those for Hunger Eradication, Poverty Alleviation and Employment, for Payment of Gratitude Debts, Compassion Fund, Support Fund for the Disadvantaged, have been established and in fruitful performance. In the period between 2001 and 2005, there are six target programs (on hunger eradication, poverty alleviation and employment, rural clean water and environmental hygiene, population and family planning, prevention and treatment of social diseases, perilous epidemics and HIV/AIDS, culture, education and training) have been adopted and deployed, and have seen socially encouraging initial results.

The people's life in both urban and rural areas has remarkably improved. The achievements in the hunger eradication and poverty alleviation have been highly appreciated both at home and abroad. The incidences of households living below the national poverty line have decreased from 30% in 1992 to 10% in 2000 (based on old norms), meaning nearly 300,000 households have come out of poverty annually. According to new norms, the poverty rate was around 11% in 2003. According to internationally comparable norms used in the Surveys on the People's Living Standards, the poverty rate went down from 25.5% in 1993 to 15.5% in 1998. From 1991 to 2000, the number of employed workhands increased from 30.9 million to 40.6 million, i.e.. an average yearly increase of around 2.9%. Annually, about 1.2 million new job opportunities were created.

By 2000, the whole country had achieved the national norms of illiteracy elimination and primary education universalization. In 2003, 99 percent of communes possessed their own health stations, 60 percent of communes had medical doctors, and over 90 percent of the population had access to healthcare services. 3,584,231 poor people were provided with health insurance certificates. The incidences of malnourished under fives dropped from 38% in 1996 to 28.4% in 2003. 60.5 percent of households accessed clean water. Television coverage reached 85% of the national territory, radio waves covered 95%; and 84% of arable land accessed irrigation.

Various social indications have improved enormously. Vietnam's Human Development Index (HDI) rose from 0.611 in 1992 to 0.682 in 1999. Among the 162 listed countries, Vietnam ranked 120 in 1992 and 101 in 1999; in 2003, it was placed 109 among 173 countries. Compared to certain countries with similar GDP per capita, the HDI of Vietnam was considerably higher. Concerning Gender Development Index (GDI), in 2003, Vietnam was placed 89 out of 144 countries. Women accounted for 26% of National Assembly deputies, making Vietnam one of the 15 countries with the strongest female representation in parliament.

A great deal of improvements has been seen in farmers' life, in terms of food, clothing, housing, travelling, education and health care alike. The rural physiognomy has changed considerably. The cultural, spiritual and intellectual life has been improved. The grassroots political system has been enhanced and kept stable. Democracy in the countryside has been broadened and functioned better. The eco-environment has been protected and ameliorated.

2. Causes of hunger and poverty:

There are diverse causes of hunger and poverty. Poor households are usually the following:

- Households with many children but in shortage of labour,
- Entitlement policy households;
- Supportless, with disabled members or victims of Agent Orange/ dioxin;
- Lacking funds;
- Lacking production experience, scientific-technical knowledge and market information;
- In shortage of cultivable land;
- Suffering from accidents, illnesses, diseases, prolonged medical treatment, and natural disasters;
- Unable to plan their own production and spendings.

II. PERFORMANCE OF THE VIETNAM FARMER'S UNION:

Since 1998, the Vietnam Farmers' Union has been engaged in the following activities:

- A movement named Farmers Emulating in Production and Business, United in Hunger Eradication, Poverty Alleviation and Collecting Wealth. The Union would assign a capable member (good at production) to assist from 1 to 5 poor households in funds, animal and vegetal strains, materials, experience and labour;
- A Farmers' Support Fund, in coordination with the Agricultural and Rural Development Bank and the Social Policy Bank, which would offer poor households loans to improve production, acquire arable land, or retrieve mortgaged land;
- On-Trust Groups at Union chapters and cells, which would ensure that a poor household associate their loans with a production plan and enjoy technical training, thus making best use of the loan;
- Joint efforts with various ministries, services and businesses to seek resources, techniques, technologies, know-how to help farmers restructure their production, gradually abolish mono-culture, shift to cash crop production, form concentrated zones of specialized cultivation;
- Contracts with businesses to supply farmers with materials, fertilizers and agricultural machines on hire-purchase;
- Models of Agro-Forestry-Fishery Extension to help the poor earn their living, especially in ethnic minority, upland, hinterland, remote and utterly difficult areas;
- Vocational education, job training and job service targeting farmers, thus helping them acquire stable employment and income;
- Motivating farmers to contribute labour and wealth to building rural infrastructure (roads, schools, health stations, electric transmission lines, irrigation networks), to assist areas stricken by natural disasters. Building of Compassion/Gratitude houses and gardens to help poor households, the supportless elderly, and victims of Agent Orange/dioxin;
- Broadening democracy and promoting farmers' rights as masters, observing gender equality and raising women's role in the local decision-making process and socio-economic development programs as well as in their own family life and production plans;
- Combining activities under the National Target Program on Hunger Eradication, Poverty Alleviation and Employment with protection of the eco-environment, civil healthcare and building of cultured families, villages and communes, as well as fighting against social vices for a new countryside.

1. Technical Support:

The Vietnam Farmers' Union has offered farmers technical support in a variety of forms:

a. Knowledge and publications:

The Union has coordinated with functional agencies, scientific institutes and businesses to hold 108,076 know-how transfer courses for 6,770,190 Union members and 33,234 on-site workshops for 1,427,003 members. These courses and workshops have helped farmers access new technical advances applicable, livestock raising, farming, post-harvest product conservation and processing. They have also guided farmers on how to restructure their production, develop VAC (garden-pond-sty) economy, and make their many-faceted efforts profitable.

The Union has compiled 12 videos on Technical Guidance for Farming and Livestock Raising, 12 technical books and 10 leaflets. The books, all illustrated, are bilingual (in Vietnamese and some minority languages, such as H'Mong, Bhanar, E'De, Khmer).

b. Shaping Models of Agro-Forestry-Fishery Extension:

Models of Agro-Forestry-Fishery Extension have been shaped in 63 utterly difficult communes in 28 provinces (Lai Chau, Son La, Lao Cai, Cao Bang, Bac Can, Yen Bai, Tuyen Quang, Lang Son, Quang Ninh, Bac Giang, Ninh Binh, Thanh Hoa, Quang Tri, Nghe An, Thua Thien Hue, Quang Nam, Quang Ngai, Binh Thuan, Phu Yen, Binh Phuoc, Gia Lai, Kon Tum, Dac Lac, Soc Trang, Tra Vinh, Bac Lieu, Ca Mau).

These 63 models include 89 farmers' clubs with 4,500 members who regularly get together on such topics as Guidance on Family Planning Methods, Techniques for Rice, Maize, Soya Bean Growing, How to Raise Cattle (buffaloes, bulls, cows) and Poultry (chicken, ducks...).

755 clusters of farmers' households have been formed for agro-forestry-fishery extension. 71 training courses have been held for 3,960 Union office-bearers at provincial and district levels. These courses have been followed by 160 similar courses for 6,422 farmers' households.

Material support has been provided for 6,422 households belonging to 19 ethnic minority groups (H'Mong, Xinh Mun, Hoa, Tay, Nung, Dhao, Thai, Mong, K'Tu, Van Kieu, Bana, J'Rai, E'De, Ro Ngao, Xe Dang, Khmer, Cham). Among these 6,422 households, 18 types of demonstrative models have been formed, of which, 12 types are for crop growing (hybrid paddy, hybrid corn, potatoes, soya bean, green bean, groundnuts, sugar cane, cotton, lemon, plum, coffee and pepper) while the other 6 are for livestock raising (buffaloes, oxen, cows and goats, chicken, ducks, etc).

In three years, 2,050 farmer households have in turns obtained rotational capital, 80% of which in kind (buffaloes, oxen, cows and goats).

37,500 Union members have accessed farming techniques and experiences in how to earn a living and plan their family life. Also, stable employment has been generated for 4,000 workhands, contributing to decreasing the hunger poverty-hunger rate by 4-6% and even 8% a year quite a few communes.

c. Shaping Models of Terraced Fields for the Ethnic Minority Group H'Mong:

Models of better terraced fields linked with a small irrigation system, assistance in means of production for hunger eradication and poverty alleviation have been formed in two communes (Na Sun in Dien Bien Dong district and Ta Phinh in Tua Chua district) in Dien Bien province. 13 hectares of land have been reclaimed for cultivation. Three water conservancy/dams and 3 km of ditches to irrigate 46 hectares have been built. Thanks to these, 270 poor farmer households have more cultivable land and such tools as ploughshares, hoes, shovels and harrows.

d. The "Support for Production and Trade Diversification" Project:

32 training courses have been held by 21 provincial and municipal Unions (in Gia Lai, Quang Ngai, Quang Nam, Tay Ninh, Ho Chi Minh city, Lai Chau, Cao Bang, Bac Can, Nam Dinh, Thanh Hoa, Ba Ria Vung Tau, Dac Lac, Lam Dong, Kon Tum, Binh Dinh, Khanh Hoa) for 2,359 office-bearers and members, among whom, 2,036 poor farmers and 323 from ethnic minority groups.

These training courses focus on the following topics:

- Techniques applied to producing and processing commodities from bones, horns, hoofs and crocodile skin.
- Techniques applied to producing and processing commodities from coconut fibre, carpets, bamboo and rattan articles for export.
- Know-how in conserving and processing papaya, mango, cucumber, carrot, beans, medicinal herbs, coffee, starch, etc.

2. Funding:

The Vietnam Farmers' Union has signed with the AgriBank Joint -Resolution No 2308 NQ/LT on implementation of the policy on credits to farmers. In the years between 2001 and 2003, the Union chapters established 15,000 On-Trust groups helping 3,019,209 households acquire loans worth 19,218,781 million VND from the AgriBank, and 1,830,307 incidences of households obtain loans worth 5,441,137 million VND from the Social Policy Bank.

Added to this, the Union has established a Support Fund for Farmers with the balance of over 187,887 million VND by the end of 2003. The Fund has lent 64,694 households with loans worth 2.5- 3 million VND per household on the average. 30.4% of the beneficiaries have spent the loans on farming, 38.5% on livestock raising, and 31.1% on services.

3. The National Employment Program:

During the period between 2001 and 2003, the Union allocated 12 billion VND as planned from the National Fund for Employment to 96 projects. This provided funds for 3,011 households and created employment for 4,786 workhands. The total funds accrued from due repayments for circulation amounted to 37.51 billion VND and helped generate employment for 11,057 workhands from 9,375 households. Besides, the Union chapters kept cooperating with Centres for Agro-Forestry-Fishery Extension to organize technical training courses, talks, exchanges of experience to ensure that the capital source be used efficiently, thus minimizing credit risks.

4. Export of Guest Workers:

In July 1999, the Union established the Company for Labour Export, Commerce and Tourism (COLECTO) as a service provider. Farmers are thus given a chance to employment with higher income and savings. So far, the Company has helped 15 provincial and municipal Union chapters to export 2,233 guest workers to Taiwan and Malaysia. For example, Thai Binh province exported 925, Ha Tinh 251, and Nam Dinh 245. 80% of the workers are female.

5. Vocational Education and Job Training:

For the past three years, the Union has organized vocational courses for 9,522 trainees, including 1,134 in office administration and 8,388 in construction, agriculture and forestry. Trainees are granted with certificates after completion of their courses.

6. The Movement of Farmers' Contribution to Rural Infrastructure:

Over the past three years, the Union at various levels has motivated farmers to donate 1,929,893 million VND and 45,813,062 workdays. As this has resulted in 1,972,132 kilometers of newly built or upgraded rural roads, 19,874 fortified or semi-fortified bridges, 211,835 km of canals and ditches and 19,186 new classrooms. The movement has also raised farmers' cultural enjoyment, improved their communication, cultural sharing, product exchange, crops and economic restructuring. Large areas that used to facilitate only one crop a year now yield two or even three crops owing to new irrigation systems, thereby raising productivity and output. Welfare works like schools, health and electricity stations...have improved the farmers' living standards and physiognomy of the countryside.

7. The "Mutual Assistance in Production and Life" Movement:

The Union and its chapters have motivated office-bearers and members to undertake joint efforts in overcoming consequences of natural disasters (drought, flood...), accidents, pre-harvest food shortage; building "Compassion houses" and "Gratitude houses" and helping Entitlement families, families of war invalids and fallen soldiers, Hero Mothers, the disabled, the supportless, orphans, and poor households. For these purposes, 1,469,480 million VND, 207,183 tonnes of food, 3,491,940 workdays and thousands of tonnes of agricultural materials have been mobilized.

These have resulted in 33,501 "Compassion houses" worth 32,591 million VND and 5,993 "Gratitude houses" worth 44.6 billion VND, 15,917 "Gratitude savings books" worth 10 billion VND and 15 billion VND going to the Gratitude Debt Payment Fund. 548,654 poor households have gotten assistance develop production and stabilize their living.

III. PLAN OF ACTIONS:

Despite the above-mentioned achievements, Vietnam still has to continue its efforts.

The hunger/poverty rate remains high. Part of the population has gotten out of poverty, but sustainability has not been ensured, especially in areas often stricken by natural disasters (flood, typhoon, and drought) and rocky mountainous areas in shortage of water and arable land.

Acreage of cultivable land per capita is low. Handicrafts, small industries, processing industries and service in the countryside are underdeveloped. There are enormous demands for job training and labour quality raising with a view to economic, labour, and trade restructuring in rural areas in the industrialization and modernization process.

A big gap in income and cultural enjoyment remains between urban and rural areas, lowland and the mountain regions.

More investments are needed for infrastructure development in utterly difficult communes.

Urban unemployment and rural under-employment are still serious; pressure for employment is on the increase.

Thus, Vietnam has to keep striving for the successful realization of the **National Target Program on Hunger Eradication, Poverty Alleviation and Employment for the period between 2001 and 2005.**

1. General Objectives:

The National Target Program on Hunger Eradication, Poverty Alleviation and Employment from 2001 to 2005 is a comprehensive and inter-service program under the

National Strategy for Socio-Economic Development. It aims at helping poor citizens, households, communes and areas in the following:

- to develop production and augment income;
- to access social services, eradicate hunger and alleviate poverty;
- to reduce the unemployment rate in urban and underemployment rate in rural areas;
- to match economic restructuring with labour restructuring and improve the people's quality of life.

2. Quantitative Goals:

a. Hunger Eradication and Poverty Alleviation:

To reduce incidences of poor households to below 10%, or an average yearly decrease of 1.5 - 2% (around 280,000-300,000 households). To abolish chronic food shortage. To provide poor villages with enough basic infrastructure (small-scale irrigation systems, schools, health stations, roads, electricity, civil water supply, and market places).

b. Employment:

To generate employment opportunities for 1.4-1.5 million workhands yearly. To reduce urban unemployment rate to 6% and increase the opportunities of useful time of rural labour to 80% by 2005.

3. Orientations:

a. Hunger Eradication and Poverty Alleviation:

- Combine economic development with sustainable hunger eradication poverty alleviation;
- To help poor farmers and communes access production-targeted as well as basic social services;
- Mobilize and allocate resources for investments in pivotal locations and priority activities;
- Promote internal synergy in parallel with consolidating and enhancing international cooperation.

b. Employment:

- To develop the economy, step up export of guest workers and specialists, assist the unemployed, under-employed and vulnerable to acquire loans at preferential interest rate for employment generation;
- To develop human resources;

- To promulgate, amend, improve and enforce laws;
- To expand labour markets;
- To consolidate and expand international cooperation.

4. Policies and Projects in Direct Support of Poor People and Poor Households:

The following policies are available:

- Policies on Support in Healthcare and Education;
- Policies in Support of Utterly Difficult Ethnic Minority Groups;
- Policies on Social Security and Support for the Vulnerable; Support for the Poor in terms of Housing, Production Means and Arable Land.

5. Projects:

The following projects are under execution:

- Credit Projects providing poor households with loans to develop their production and business;
- Orientation Projects helping the poor in agro-forestry-fishery extension;
- Projects for Hunger Eradication and Poverty Alleviation Models in Poor Communes;
- Infrastructure Projects in Poor Communes;
- Support Projects for Production and Trade Diversification in Poor Communes;
- Training Projects for Hunger Eradication and Poverty Alleviation;
- Projects for Population Settlement and New Economic Zones Establishment in Poor Communes;
- Projects for Population and Farming Settlement in Poor Communes.

At this Forum, on behalf of Vietnamese farmers and the Vietnam Farmers' Union, I would like to express warm thanks to foreign Governments, International Organizations and NGOs for their precious support and assistance in terms of experience, techniques and finances to the Hunger Eradication and Poverty Alleviation efforts of Vietnam. Looking forward to your assistances in the future, I wish the best of health to all of you present here.

Thank you.

Codes of conduct: Straight jacket or protective clothing?

by Apo Leong

Asia Monitor Resource Centre, Hongkong

Quotes:

- “In the US, our workers decided not to set up a union,” Mr. Menzer said, “It was the same in China, Bangladesh other developing countries.” Mr. John Menzer is the head of Wal-Mart’s international operations. The ACFTU (official union in China) on two occasions openly attacked Wal-Mart for not allowing it to organize its 18,000 workers. (SCMP 2 Sept 2004)
- Every time before the brand people come to do auditing, the management would launch mass mobilization, and lecture us how to consider the whole picture, i.e. to avoid creating mass unemployment because of one sentence we make. (Xiao Chen Hotline, 2 Aug 2004)
- What is a code of conduct? Do you mean company regulations? Yes, we have very strict regulations, and if we make mistake, we will be fined. Quality control is very high in this company. (Pun Ngai, 2004)

These are vivid illustrations by TNCs senior staff, labour activists and workers responding to the new phenomenon of corporate social responsibility movement. On one hand we are repeatedly told of shining examples of ethical and social business and there are more to come, but when we approach rank and file workers, their real stories are totally different, if not dismay. Most of them do not know what it is all about, and worse still, there is usually no proper and reliable report back system or mechanism to the workers after an audit is made. Even if the FLA, GAP, Mattel audits reports are available publicly on the website, there is no local language translation for workers. This defeats the amplified purpose of codes for respecting workers’ rights as the working people whom the codes would like to serve are not accessible to the information directly. TNC monitoring has a long history, as long as a new global supply chain which consists of workers in the south, manufacturing capital in Asia and western buyers. Consumer movement organisations in developed countries have been playing a particularly important role in pushing TNCs to improve working conditions by organising consumer boycotts in major shopping centers in big cities such as London, New York, Paris, Amsterdam, and elsewhere. In response to this sort of pressure and other pushing factors, companies introduced corporate codes of conduct and internal/external inspections to monitor compliance to the codes. With the weakening power of governments and trade

unions, the privatisation of labour rights monitoring moves ahead by leaps and bounds. Accordingly, professional and systematic regulation of the labour practices of TNCs has developed, accompanied by the emergence of a standardized monitoring process performed by auditing companies, and various certifications, such as SA8000, ISO14000, etc. New pro-business NGOs and auditing/consultancy firms are formed, which in turn create job opportunities and income for many who reap for profits at the expenses of the workers. They are competing with each other, despite some five major ones are talking about harmonisation (SA8000, WRC, Fairwear, FLA, ETI). The multiplicity, overlapping and endless auditing of these codes have been a major complain by many suppliers. They also complain being coerced to pay for corrective actions, certifications, and bear most of the blame. But then, they will shift the burden to workers, or to relocate to darker corners, or to outsource to other suppliers. There are dozens of books and journals on this subject, some even teach managers how to deal with CSR, auditing in a smart way. We are aware that some suppliers would employ consultants to fabricate a 'model facility' and to train 'happy workers' to meet the auditing demands.

However, organisations working in this area have been witnessing a lot of problems in practice. In many cases, factory owners are well informed beforehand about inspections, allowing them to clean up the mess. Interviews with workers are arranged by management, and in any case, most workers have no freedom to tell the truth, for fear of being laid-off or disciplined. In a recent case of mass chemical poisoning of a GP battery factory in China, workers complained that no improvement after the auditors were gone, but the facility was certified in 2001 up to the required 'health and safety standards'. Even if inspections are done 'independently' and can bring provisionally improvements, workers play a very passive role (if any) in the process, and it is therefore not likely to be sustainable. In the late 90s, when we made a counter offer to the ETI pilot project on worker education as a component of their initiative, they turned us down instantly. To us, pre-audit worker education is very important, as workers should have the right to know their basic labour rights and the contents of the codes and to learn how to exercise them. This should make an audit more meaningful. Although many argue that the existing problems are merely procedural ones and therefore, can be fixable with more capacity, stricter auditing and more transparency in the process. It is difficult for us to believe that the phenomenal problems are rooted in the real nature of codes as 'privatised labour regulation' which is often, and if not all, subsumed to the logic of PR and more fundamentally of making profits. Nevertheless, more and more labour organisations and activists have been attracted to the code-based strategy, almost as if it provides an alternative to trade unions and other forms of worker -organising. Some justified by saying that we need to engage constructively as direct action/campaign fatigue is happening in western groups, non-engagement is more

damaging, and recognizing good guys would bring positive changes. Our monitoring project began with a criticism with this emerging trend. This kind of engaging strategy in practice is not empowering existing worker organising but replacing or hindering the more basic and fundamental principal of workers self organising. We believe that, rather than pressuring brand-names to implement codes in supplying factories, or to work with them in code enforcement, assisting workers to organize in workplaces largely managed by TNCs is the sustainable way to improve labour conditions in Asia. It is well understood that freedom of association (FOA) is not taken up seriously by most of the codes, and even if this is taken up, auditors would propose or accept 'parallel means' to replace genuine trade unions. What we found out in typical cases, these parallel means are only top down means such as credit clubs, or leisure groups set up mostly by the companies, headed or manipulated by the human resource officers. We are now trying to develop a participatory labour monitoring system, through which external monitoring groups can work for better working conditions, together with workers and without harming workers' autonomy.

We would like to argue that even if the best existing code was fully implemented, the basic issue of workers' rights would still be addressed. This is because workers would continue to be 'objects' rather than 'subjects' of the whole codes of conduct exercise where they continue to have no say in matters of where, when and how they work. TNCs and their 'independent monitors' would essentially continue to run workers' lives, determining what their rights were, and whether or not they were being exercised. The recent cut and run case in Central America (Gildan in Honduras) is an alarm bell to those who are so obsessed with codes of conduct movement. – how to pressure brands once workers are organised. Other problems include confidential agreement with the companies in codes monitoring, which has become a straightjacket for NGOs and activists. Looking at the bigger picture, we should not only address the piece meal approach of attacking the fallacies and defects of this or that code and its auditing process, but to maintain or broaden our challenges to the whole political economy of present system. Therefore, the improvement of working conditions on the basis of voluntary codes and consumer-centred campaigns is constrained exactly within the context that market allows, no matter how many concessions a few individual companies can make. However, at the same time, the very contradiction that it is based on the market makes it possible for workers to utilise corporate codes of conduct as a means to organize themselves in and against capital, under certain conditions. A fundamental issue surrounding Codes of Conduct, then, is credibility, and the extent to which they can be taken seriously. A more basic point is one of power: who has the power to determine what is acceptable in the workplace, and who has the power to make sure these standards are met?

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W7: HEALTH AND EDUCATION FOR ALL

The development of the ASEM-Process and the relevance of social aspects

*by Christian Salazar Volkmann
UNICEF Vietnam*

I would like to thank the organizers of this event for inviting me to deliver the key note speech at the workshop on "Health and Education for all".

This workshop deals with two complex social areas: health and education. Obviously I cannot address both areas properly in 15- 20 minutes and want to apologize upfront for any omission of important aspects. I will focus on "the big picture", on major trends in health and education in East Asia:

1. I will say a few words about health and education as human rights;
2. I will then present a number of data on the realization of these rights in East Asia and the Pacific and finally
3. I will address the right to health and education of ethnic minorities.

I. HEALTH AND EDUCATION AS HUMAN RIGHTS:

Every human being needs health and education to survive and develop his or her human capabilities. This is why today, health and education are regarded as universal human rights. They are prominent parts of the Universal Declaration of Human Rights, of the International Covenant on Social, Economic and Cultural Rights, of the Convention on the Rights of the Child (CRC) and of the Millennium Declaration.

Allow me to briefly explain the specific meaning of the right to education and the right to health as defined in international human rights conventions and covenants.

Right to Education:

The right to education is defined as the duties of States

1. to offer as a minimum free, and compulsory primary education for all and
2. to provide different forms of secondary education and vocational training "available and accessible" for all.

3. The right to education also includes the right of pupils not to be beaten or to be humiliated. (Article 28 CRC)

4. The right to education refers to the purpose of education: to provide children with life skills, to promote a culture of respect for human rights as well as for the environment. (Article 29)

5. The right to education also implies the right of the child to be listened to and to express its opinions.

Right to Health:

The right to health is based on a broad understanding of health as a state of physical, mental and social well-being, and not merely as absence of disease. According to the CRC the right to health is the right of the child to the "highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health." (CRC, Article 24.1.)

The right to health encompasses specific policies and programmes for primary health care in order to reduce infant and child mortality, child morbidity and malnutrition. Access to family planning services, to prenatal and postnatal care as well as access to drinking water and sanitation are defined as part of this right. (Article 24 CRC) In addition, adolescent health, mental health, injury prevention and the combat of HIV/AIDS have become important areas of discussions on the right to health.

The right to health has not been defined internationally as a right to cost-free access to health care. Given the common worldwide mix of private and public service providers as well as the low level of health insurance in most development countries, health care financing and health insurance schemes have become crucial for the realization of the right to health, especially for the poor.

II. IMPLEMENTATION OF THE RIGHT TO HEALTH AND THE RIGHT TO EDUCATION:

Many human rights translate into specific measurable policy goals for States. Human rights set a standard - goals define milestones by which these standards are to be attained.

The right to health translates into goals for poverty reduction as well as for the reduction of mortality and morbidity. For example, Millennium Development Goal (MDG) 1 aims at the eradication of extreme poverty and hunger. The proportion of people whose income is less than one dollar a day should be reduced by half in 2015 in comparison to 1990. The same reduction should happen for the proportion of people who suffer from hunger and malnutrition.

Under MDG 4 and 5 child mortality should be reduced by two thirds, maternal mortality by three quarters. MDG 6 refers to the combat of HIV/AIDS, Malaria and other diseases.

The right to education translates into the goal of universal education which has been reaffirmed in many international conferences and meetings. MDG 2 means that by 2015 all children should be able to complete a full course of primary schooling. MDG 3 requires to eliminate gender disparity in primary and secondary education by 2005 and to all levels of education no later than 2015.

How are the rights to health and education implemented in East Asia?

All countries in East Asia recognise the importance of education. Big investments into education have been made and the goal of 100% enrolment has been almost achieved since 1990. However the quality of education still needs significant improvement in all countries. And some countries still have not increased enrolment rates sufficiently. Allow me to show you a number of slides to illustrate these trends. (slides 1-6)

Implementation - Health:

There is also good progress on goals related to health and nutrition although progress is not as impressive as in education.

For child mortality, East Asia and the Pacific is slightly behind required progress to reach the MDGs although improvements in this region are generally above the global average. (slide 7) Access to water is already high in East Asia and the Pacific (71% in 1990) but improvements in access to sanitation are necessary. As for malnutrition, East Asia is generally on track to reach the MDG target. However, disaggregated analysis of regional data indicates that progress so far is almost entirely due to positive developments in China. Excluding China from the analysis shows that many East Asian countries are still far from achieving MDG targets on malnutrition.

In general, many countries of the region clearly invest too little into public health. (slides 8-9)

III. RIGHT TO HEALTH AND EDUCATION OF ETHNIC MINORITIES:

Let me come to my final point: the right to health and education of ethnic minorities.

The title of this workshop "Health and Education for all" points at the human rights principle of non-discrimination. All human beings should be able to enjoy the fulfillment of their rights without discrimination.

A primary implication of the "non-discrimination" principle for policy makers and programme design and delivery is to put emphasis on equitable access to social services. Therefore, special attention needs to be given to children who are economically

marginalized, belong to socially discriminated groups or are otherwise excluded from a full realization of their rights.

In East Asia and the Pacific, further progress to reach the goal of universal access to health and education will largely depend on the ability of public education and health systems to reach the most difficult to reach children: those children who live in geographically inaccessible areas, those who are poor, those who are disadvantaged. Children from ethnic minorities usually fall into all of these categories.

Even in a country like Vietnam with excellent record in poverty reduction, social disparities among ethnic groups still remain. (slides 11-13)

A similar pattern of social disparities can be probably found in almost all countries of the world.

Under the Convention on the Rights of the Child children from ethnic minorities have special rights. States in which ethnic, religious or linguistic minorities live should fulfill the right of the child "to enjoy his or her own culture, to profess-and practice his or her own religion, or to use his or her own language." (Article 30, CRC) All children should be educated in a spirit of respect and "friendship among all people, ethnic, national and religious groups and persons of indigenous origin." (Article 29, CRC)

A recent global Report from UNICEF, titled "Ensuring the Rights of Indigenous Children" estimates, there are some 300 million indigenous people in more than 70 countries worldwide. Approximately half of these live in Asia, with some 70 million in East Asia, 50 million in South Asia and 30 million in South East Asia.

To reach ethnic minorities with culturally appropriate services of good quality is a big challenge. Strategies to face this challenge include:

1. in health: to study and assess local health practices; train ethnic persons as health workers and work with traditional healers and birth attendants; improve access to quality health services in distant and remote locations;
2. in education: to develop pre-school education programmes; offer bi-lingual education especially during the first few years of schooling when children are not fully fluent in the majority language;
3. to take steps to overcome obstacles to birth registration and
4. empower ethnic minority children to participate in community, national and international discussions.

Finally:

States gathering at the ASEM summit have committed themselves to the implementation of the right to health and the right to education in numerous international Declarations, Conventions and Conferences..

The right to health and the right to education set obligations for national investments and international cooperation in these sectors.

The ASEM Summit is a good opportunity for civil society organizations to remind the leaders of Europe and Asia once again about these obligations and to claim their fulfillment especially for the poor and marginalized people living in Asia and Europe.

Thank you for your attention.

W8: MIGRATION ISSUES AND SOLUTIONS: CHALLENGES TO TRADE UNIONS AND MIGRANT ORGANIZATIONS

New forms of organizing

*by Sinapan Samydorai
President of the ThinkCentre*

Introduction:

The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.⁷

There are over 150 million migrants worldwide (2% of the world's population) and according to the ILO, over 100 million of these migrants are workers. Economic globalization and the disparities are causing thousands of people to leave their homes every day to earn a living in more developed countries. The needs of the poor are many but without money they have no access to the basic goods and services they desire, as they do not have a job to earn their living and they are forced to migrate in search of work. Many are forced to accept lower salaries, longer working hours, poor health and safety at work to survive. Migrant workers have fewer protections and it's worse during economic crisis. The trade unions and most worker organizations are weak. The Asian economic crisis had made victims of millions of immigrant workers as they are the first to be retrenched and sent home to join the ranks of the unemployed.

On 18 December 1990, the General Assembly of the United Nations adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, entered into force in January 2003 [MWC 1990]. The MWC 1990 to establish the rights of migrant workers and ensures that those rights are protected and respected. "The majority of States parties to this Convention are, on the whole, migrant-sending States which, while extremely important in terms of protection of migrants prior to departure and after return, hold little influence over the daily living and working conditions of the majority of migrant workers.... The 1990 Convention is the only United Nations instrument of direct relevance to migrant workers, but the International Convention on the Elimination of All Forms of Racial Discrimination

⁷ Fact Sheet No.24, *The Rights of Migrant Workers*, United Nations High Commission on Human Rights

(ICERD) is also relevant"⁸

The framework of rights to migrants is summarized in the Convention including rights to civil, political, economic, social and cultural rights. The Convention also takes into account all the aspects of the migration process so as to protect effectively the victims of abuses in countries of origins, transit and destination, be they regular or irregular, documented or undocumented. The Convention will play an important role in preventing and eradicating exploitation, trafficking and smuggling of migrants. The Convention also provides for the States to cooperate in the formulation of migration policies and in combating irregular migration; to provide information to employers, workers and their organizations about policies, laws and regulations relating to migration; and to provide assistance to migrant workers and their families.

Most Asian Countries do not ratify key conventions on labour:⁹

Most Asian states refused to ratify the UN International Convention on All Migrants and the Members of Their Families, which was adopted in 1990. Four Asian Mates have ratified the instrument, namely the Philippines, Sri Lanka, Bangladesh and East Timor.

Most Asian states have also refused to ratify the International Labor Organization (ILO) instruments that secure migrant workers' rights:

- ILO Convention No. 97 of 1949 (concerning Migration for Employment)
- ILO Convention No. 143 of 1975 (concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.)

Most Asian states have not ratified international human rights instrument, which are the principle safeguard, on migrant workers' rights:

- International Covenant on Economic, Social and Cultural Rights,
- international Convention on the Elimination of All Forms of Discrimination, International Covenant on Civil and Political Rights
- and social security benefits are problematic in most receiving countries

Most sending and receiving specifically exclude the domestic workers from labour laws

⁸ Daniel Martinez, *INTERNATIONAL STANDARDS IN THE FIELD OF MIGRATION, seminar on Migrations and Regional Integration, Latin American Economic System (SELA), Caracas, Venezuela, August 1 and 2, 2002.*

⁹ Mr Shahidul Haque, *Overview of Trends and Patterns of Migration with respect to Foreign Migrant Domestic Workers at Pre Departure, Post Arrival And Reintegration stages of Migration.*

<http://caramasia.gn.apc.org/Regional%20Summit-Plenary%20Papers-Plenary%20-%20Mr%20Shahidul%20Haque.htm>

and policies that protect their rights¹⁰. Those without legal status are susceptible to more discrimination, low wages under abusive working conditions and sexual harassment.

Hong Kong recognizes domestic workers under its Employment Ordinance but Singapore does not recognize domestic workers under its Employment Act. In Hong Kong, FDWs are organized into unions and associations. But Singapore does not permit the organizing of FDWs.

Globalization and the New Economy: Challenges

- Labour saving robotics and automation technology cause unemployment
- Collective bargaining power of workers undermined by fear of companies moving
- FTZs in developing countries compete by lowering labour standards and no unions
- deregulation permits easy and fast capital transfers but union organizing is a struggle
- With time and space compression MNC prefer to hire contract workers
- MNC service needs are sub-contracted for cleaning, food, production of component parts. Thus permanent workers, contract and sub-contract workers compete. Less long-term employment for workers. The main production company will effect the workers in sub-contract companies - but workers in both main and sub contract companies need to be in solidarity to improve their conditions.

Organizing Workers:

The trade unions organize mainly the permanent or full-time workers in the various industries. When workers contact the Trade Union, the organizer invites the workers to join unions through like wages, working conditions and benefits..etc. Workers could recognize themselves as "working class", and express their unite during collective bargains and industrial actions. They demand for their rights by establishing labour laws to protect and demand their rights. There are industrial unions and company base unions.

Difficult to organize service sector, there are many migrant workers, are less concern about working conditions and their job may not be allow space for organizing. Moreover, migrant who are employed as home-based, sub contracted, piece-rated, flexible and part time workers are not recognized as regular workers and their basic rights not guaranteed. No law exists to guarantee their right to form organization and protect them from suffering in poor working conditions. Generally, domestic work is excluded from national labour laws and standards. They do not have collective bargaining rights.

¹⁰ Noeleen Heyzer, Geertje Lycklama a Nijeholt and Nedra Weerakoon, [eds], *The trade in Domestic Workers: Causes, Mechanisms and consequences of International Migration [Asia and Pacific Development Centre, Kuala Lumpur, 1994]*

The challenge for trade unions from globalization is to seek ways of organizing beyond borders based on common interest. Migrant workers get unions, at local and international level, to launch struggle against racism, xenophobia, discrimination and prejudices suffered by them. In South Korea, unions campaign against the deportation of undocumented migrants and in Hong Kong they form unions for domestic workers.

Traditional Union Organizing:

Organizing in MNCs:

Unions building solidarity against a single and big employer

Unions promote and protect their labour rights [labour law, industrial safety standards

Solidarity campaigns: leafleting and lobbying

International Campaigns: Consumer boycotts

Organizing by commodity:

International Union of Food and Allied Workers' Associations [If] organized Banana Workers in Danone, Dole, and Del Monte to ensure the recognition of workers' rights

Starbucks adopt a code of conduct and agree to sell "fair trade" coffee

Organizing the zone or area: In the garment industry: factories and subcontractors in the zone jointly bargain and signed a collective agreement with a union.

Global Social Movement Unionism:

It is based on the recognition that we are living in a class divided society, owners and workers have different needs and interests. It sees workers as one, not divided by income or educational levels, by employment or jobless, by part-time or full-time, migrants or nationals. The Social Movement Union [SMU] is focused on the social concerns of the working people and is not convinced by the existing system. Organizing on broad social issues including housing, working and living conditions, health care, living wage and participation in decision-making at work and community level.. Involves a shared process not just top-down traditional union organizing; awareness, labour law studies, labour rights, needs of the community ..etc. The SMUs link with Civil Society Organizations [CSOs] involved with improving the working and living conditions of foreign workers' and defend the rights of migrant workers. Coos in both sending and receiving countries support the migrant workers in various ways ranging from welfare and social assistance to the mobilization of workers. The SMU is involved in the workers' rights in all aspects economic, political, social and cultural at local, national and global level. The SMU aims for social transformation. Today social-movement unionism is

beginning to deliver the goods.¹¹

Labour Organizers form coalition with community and religious:

Leaders: moral voice on social issues housing, living wage, migrant workers rights, and their right to organize into unions.

Consumers: mobilizing unionized workers and consumers. Stop Sweatshops Campaign focus on retailers/consumers to demand for workers right

Organizing specific job based workers:¹²

Cleaning are hired by a contractor but work in several sites and their life is affected by shift work, work routine, and schedules

Community based organizing develop grassroots activities, home visits and personal contact to organize workers in a particular area or zone.

They organize workers into unions then the collective bargaining demands standard wage and benefits.

Internet for organizing: Workers and unions communicate with their global networks and updates on new developments immediately. Workers and community organizer are connected with global networks

Labourstart, Labournet, Vicnet - operate Urgent Appeals systems and their web-site are easily to any local websites which mobilizes solidarity and support action at the global level.

Handphones, faxes and emails are used for mobilizing activities, appeals and rapid action.

¹¹ Ravi Naidoo, *Social Movement Unionism in South Africa, Dollars & Sense*; September 01, 2001
http://www.findarticles.com/p/articles/mi_m2548/is_2001_Sept/ai_79151373/pg_1

¹² ILO, *Migrant Workers, Labour Education* 2002/4, No. 129

New Challenges and Actors - paper prepared for ASEM5 conference in Hanoi, Vietnam. 6 -10 September 2004

by *Margarer Healy*

A spectre haunts the world, and it is the spectre of migration. All the powers of the old world are allied in a merciless operation against it, but the movement is irresistible'

Empire: 213.

In fairy stories dragons are typically greedy for gold, burning the land and protected by inches of armour- plated scales that will turn the sharpest blade. But, as its poor but wily opponent knows, it is not impregnable, for it has baby soft spots on its underbelly, unprotected by scales. These are the dragon's vulnerability and where one has to aim one's arrows. I believe that migration is one such soft point in the neo-liberal dragon's armour, and I want to lay out some of the insights, resources and challenges migration and migrants offer to struggles against neo-liberalism.

Let us first recognise that globalization has created both the means and the motivation for moving. I will mention very generally the depredations of the IMF and the World Bank and the corporatization of agriculture. These factors exacerbate injustice relating to land rights and compound that injustice with the following:

- requirements for fertiliser and chemical inputs and control over varieties of seed;
- the lowering commodity prices, swamping by cheap imports;
- a the rural to urban migrations with consequent harsh living conditions, and unemployment;
- a the global mobility of capital - which can pick up its factories and walk;
- the unsustainability of life where the environment has been ravaged, drought and starvation caused by global warming - though often in those areas hardest hit the benefits of car owning and industrialisation are least felt;
- a wars of resources, the imposition of unpopular regimes or regimes founded on ethnicity or religion.

Here we have one side of the equation. And on the other? work - though low paid and low status - for while capital can move, we are all still subject to the physical reality, - jobs in construction, jobs in agriculture, and jobs in services and reproductive labour (childcare, cleaning, restaurants) cannot be moved to the places of cheapest labour, rather

the cheapest labour must come to them. Small and medium sized firms do not have the resources to locate production near sources of cheap labour, so again, cheap labour, both legal and undocumented, must come to them.

But we must be careful of the old approaches, that migrants are needed for the 3D jobs (dirty, difficult and dangerous). These are over-simplified, and also feed into a wider rightist ideology because what they end up saying is that citizens (British, Japanese or whatever) don't want to do these jobs because they are too lazy or have too high expectations or have access to benefits. This pits migrants (presented as hardworking, entrepreneurial) against native workers. But there are plenty of unemployed people who are desperate for work. We should note that currency systems and exchange rates that give US dollars, British pounds, European Euros etc a significant relative value when converted into 'soft' currencies are crucial incentives to migrate. When people are earning hard currency, and sending it back for conversion into soft currency this can make a significant difference. But the story is more complicated. There is a specific demand by employers for migrant labour.

WHY DO EMPLOYERS WANT MIGRANT LABOUR?

Three major reasons:

1. Skills shortages: (for example nursing) often the consequence of underinvestment in public education and public sector pay. In the UK for example those looking after the elderly perform work that is physically and emotionally demanding and given little respect. Recruitment and retention difficulties of both nurses and care assistants plague the private care sector. In 2001 68% of independent care homes and home care assistants rated the recruitment of care workers as difficult or very difficult. For both care assistants and nursing staff in the private sector, accommodation (especially in rural areas) and shift patterns are difficult to arrange around family and private life. The work of care is both place dependent and difficult to co-ordinate with the rigid timetabling of productive 'work' life - a person's need for assistance is not confined to 9am - 5pm and may include emotional as well as physical labour. For both care managers and those being cared for 'living - in' is a solution to this, providing the possibility of 24 hour availability. Workers with more choices are reluctant to take this option, not only because of the possibilities it opens for excessive hours, but also for the degree of control over their private lives and consequent dependence that living-in gives to employers. These jobs are increasingly taken by migrants.

2. Retention: when work is badly paid and physically difficult, workers have every incentive to move frequently until they find the most rewarding job. But for migrant labour, if 'legal' they are usually tied by a work permit. If undocumented, they can be controlled by physical violence, by threats re immigration status etc.

3. Disposable: development of flexible employment markets. Employers want to be able to employ people for short periods of time and at short notice. These sorts of conditions are more likely to be tolerated by working people without family commitments or those who are separated from their families. Sub-contracting chains link with migrants' personal and community networks and can be important sources of employment. Little attention has been paid to how employers, agencies and other third parties use these networks to access new pools of cheap insecure labour. A big contract cleaning company spokesman gave an example of West African site cleaning supervisors, 'it's very easy if you have a recruitment problem to ask them to help and they put the word around their friends' Such networks may extend transnational and be used to recruit workers from abroad as well as place them in employment when they are already in the UK. One of our informants described how a Portuguese labour coordinator for a high street employment agency telephones contacts in Brazil when there is a labour shortage, and arranges for people to come to the UK as tourists. They pay \$3,000 for the trip to an agent, then 150 sterling for fake Portuguese identity cards when they arrive in the UK, and 150 sterling to be registered in the agency.

Demand for migrant labour is a demand for exploitable and subordinate labour that is part of the growth of flexible labour markets, erosion of pay and conditions, and lack of investment in public sector that has had detrimental effect on working people. This is where coalitions need to be built. There are lots of subcontractors, agents, and others making a lot of money from migrants, as well as the employers themselves.

But we must beware of the logic of the market, of viewing markets as uncontrollable and as acting according to the unbreakable 'natural' rules. There are no such rules, or if there are then together we can break them. Demand does not simply exist, waiting to be answered. Markets do not exist in nature, rather they are socially, culturally and historically determined matter. People don't 'naturally' want or need Nike trainers, plastic models of Gandalf, mobile phones or GM crops. These markets are constructed, and a great deal of effort is put into their construction. And labour markets are notoriously not 'proper' markets - for labour power is not a 'proper' commodity. Moreover, there are patterns to migration, although increasingly complicated - they are predominantly from certain places to particular other places, these movements are not random.

Migration is related to political and social conditions as well as economic and the inter-relationship between all three. And let us not forget the importance of gender, ethnicity and religion, both in terms of motivating migration and people's experiences of migration. In some instances it is easier for women to find work abroad than paid employment in the next town for example, and I have been struck by how many of the women I've spoken to at Kalayaan have talked about the constraints of families, and

unhappy and violent marriages, as motivating factors for movement. People are social and cultural beings, not just units of labour. In its treatment of migrants, separation from families and lack of consideration for their needs, both the state and employers ignore this personhood, and it is important that, while appreciating the economic framework within which migration takes place, we do not make the same mistake. For it is in migrants as human beings with social and political relations and capabilities, as well as economic roles, that lies our strength.

While states may attempt to control this movement of labour it seems impossible, indeed arguably the more controls are imposed the less control is exercised since denied legal access more people are driven to other means of entry and to overstaying. Many would argue that this is, by no coincidence precisely in tune with the interests of neo-liberalist forces: a flexible, exploitable labour force, disposable and isolated from the general population. Yet it is also the armour plated dragon's soft underbelly: when this becomes an organized political force, supporting and supported by other struggles and movements, the threat it poses is real. BUT, and perhaps here is the crucial insight that activism has brought me, there is a practical and crucial difficulty with how one deals with the immediate crisis facing an individual, or the key current issue of political struggle, and yet maintains the vision of the world transformed. This isn't just a case of having your nose to the grindstone so you don't have time to squander in indulgent imaginings. It can seem that what one is doing to alleviate crucial problems NOW, contradicts that vision. A concrete example. In 1987 staff members of CFMW, London, recognized a pattern shared by many of the migrants who were coming to the organization - they were mainly women who had entered the UK accompanying their employers as domestic workers in private households. Most had been physically abused, had wages withheld, and were experiencing serious exploitation and abuse. For those who managed to keep their passports (most were actually held by the employer) we found that they had either visitor's visas or the name of the employer written on their visa. In effect they could not leave their employer, however badly abused, without losing their immigration status.

We really felt there was a possibility to change this, that organizing and campaign work could change the immigration practice and make a very material difference to the lives of many migrants. But this would mean devoting our time and resources to respond to the specific needs of this group of workers. So, began a ten year long campaign to change the legislation tying domestic workers in the private household to their employer. I believe there were three key factors in the success of this campaign:

First, the domestic workers affected by this legislation and having escaped from the household and now living and working clandestinely in the UK were facilitated to form their own organization. This was unheard of in the UK that migrant workers with no

rights whatsoever (not even the right to be in the UK) could organize themselves into a strong all - national organization called WalingWaling, and

Secondly, a campaigning group, Kalayaan was established to expose what was happening and campaign to change the legislation. While the organization Waling-Waling took care of the immediate practical needs of the escaping domestic workers, Kalayaan campaigned publicly using all the means available both locally and at Europe-wide level. This was done through the parliamentary system, the legal system, media etc. Thirdly, I must stress here the success of the campaign could not have been achieved without the commitment and support of the trade union movement. I mention in particular the Transport and General Workers Union (T&GWU) who worked consistently along with Kalayaan and WW. To give an example the 'unauthorized' workers were encouraged to join the union. They received a trade union card and for most of them this was the only 'formal' document they had to show they were human beings with a name and living in UK. Simple though it seems it was a great source of security for them. On the campaigning front the trade union publicly fought to have these 'undocumented' workers recognized as workers with rights as workers. This was done at branch, regional and national level mobilizing and gaining the support needed to change the particular immigration 'Rules' at parliamentary level.

It wasn't always easy and there were many learnings both for the organizations concerned and for the trade union movements:

- Domestic workers in the private household are difficult to locate (isolated, and dependant on the employer for time off etc)
- Outside the household of the employer they become 'undocumented' and live in fear of deportation and all the other hazards surrounding the lives of those living clandestinely and with no rights. They feel and are very vulnerable.
- A specific type of organizing is required - eg access and resources need to be geared to the availability of the workers (its not a Monday - Friday, 9am-5pm job)
- organizing on a multinational level (ie with migrant workers of all nationalities) was a major strength in the campaign
- Early on in the campaign in debate with other organizations Kalayaan were criticized for organizing on a single issue, and not including all undocumented migrants and refugees. But in fact this was the only way change could have been affected in this instance and perhaps it is in organizing tailor made campaigns, recognizing that they are part of the broader struggles that we can learn from each other and build alliances.

– And I feel this is where the trade unions can provide the possibilities for local/national organizations and campaigns to open up and build solidarity and alliances at pan-national level.

And finally, I am so happy to be here in Hanoi to be able to share our experiences at this level and hopefully to continue the building of alliances and working together so necessary in today's broken world.

Thank you.

Organising Migrant Workers

by *Nick Clark*

Trades Union Congress, Great Britain

Across Europe, the number and variety of migrant workers is increasing.

To some extent this is due to short-term factors - growth in employment in an area with no readily available labour (a pull factor), or unrest or economic crisis in another area pushing people to move.

There are also systemic problems:

- employers' failure to train or keep those already trained,
- refusal by employers to improve pay and conditions enough to make a job attractive to resident workers,
- fluctuating demand for labour (as in agriculture, food distribution or construction)
- ageing populations (although migration can only mitigate this if migrant workers leave the host country before they themselves become old!)

Furthermore there is the intervention of intermediaries: recruitment and travel agencies, temporary labour agencies, smugglers and traffickers.

As was said in the CATS mode 4 meeting yesterday, there is serious money to be made from all of this - but mostly not by the workers themselves. The worst employers may make unauthorized deductions from wages, fail to pay social security contributions, withhold workers' documents, charge high rents for tied housing, undercut collective agreements or even legal minimum wages, sometimes fail to pay wages at all, risk workers health & safety, especially by demanding excessive working hours.

Migrant have been in the forefront of resistance to these abusive practices in the past. In our own movement, one of the founders of an early clothing workers union (in 1839) was William Cuffay, from St Kitts in the Caribbean. He was also a leader of the struggle for the vote (the Chartist movement). Many of those involved in early struggles for general unionism - dockers and match workers in 1890s were Irish migrants.

Previous waves of migration into Britain in the 50s 60s and early 70s were predominantly English-speaking, from Commonwealth countries, holding British passports. Workers from West Africa, the Caribbean, India and Pakistan were all more likely to be union members than the indigenous population.

Aided by organizations like the Indian and Pakistani Workers Associations, unions were successful in recruiting (and organizing - a distinction of which I will say more) the new arrivals. But not all of their problems were over. Most of these workers were black, and faced endemic and institutional racism - earnings are still lower for black workers (even taking into account qualification levels), unemployment is higher for their children.

They encountered racism in the unions, too. This has been effectively countered (if not entirely rooted out) by a number of means, but certainly including self organization of black workers within the unions, and the development of black sections to air issues which might otherwise not have made it onto the unions agendas.

There is a risk, of course that this strategy may just sideline such issues - colleagues in Spain have told me that the establishment of special centers for migrant workers, while ensuring that they had access to information and advice, meant that migrant issues were not picked up by mainstream trade union organizations or in the workplace, who tended to refer them to the centres.

The newer arrivals in Britain - and there has been anew flow since about 1995, may not speak much or any English, and are not British nationals. They have a new set of problems, including the vulnerability that comes with uncertain resident status.

So unions are having to start with basic provision of information about employment rights and trade unions. This is a function which the state is supposed to fill, under ILO convention 91. So the TUC for example has produced material in a variety of languages - I have copies here in English, Portuguese, Spanish, Polish and Hungarian. Unions have done the same - I have seen recruitment material in Hindi, Urdu and Farsi, and some collective agreements have been translated into Bengali and Kurdish by the post workers union for example.

But this is only a start, and we need a variety of strategies.

One of the public sector unions has had a programme of "rescue operations" for nurses from Philippines, also India and Zimbabwe, to help them escape from care homes which are using their work permit status to keep them trapped, by holding on to their documents (for which there is no legal remedy). The TUC has been running an advice and advocacy programme with the CGT Portugal and Portuguese Workers Association for 3 years - this is building up membership levels amongst Portuguese workers in Britain.

Improved rights for migrants will assist in organizing - following media exposes over agricultural workers conditions the Ethical Trading Initiative got supermarkets, farmers' union, packers, some labour providers together with unions to campaign for controls on agencies (called gangmasters). This has led to new laws requiring agencies to be

registered (code of practice for registration in development - will include right to organize).

Need migrant workers associations as a bridge into communities, but also need to develop a cadre of migrant union activists

More attention is needed to the idea of mutual recognition of union cards in sending and receiving countries-the ETUC is looking at "badging" membership of affiliates. This will only work where there are independent unions in both countries, of course.

At the heart of this is the organising/servicing debate regarding trade unions' functions. Are we there to provide services for our existing members, or to assist workers to find and use their collective strength.

Migrant workers may need unions, but unions also need the vitality that the migrants can bring to the movement. It is also a real example of internationalism in practice, which makes a reality of our sometimes formal rhetoric about solidarity.

**W9: BUILDING CROSS REGIONAL LABOUR SOLIDARITY
AND COOPERATION AMONG AUTOMOBILE WORKERS
AND INDUSTRY IN ASIA AND EUROPE**

Workers in the global war of competition

by Wolfgang Schaumberg

Autokoordination/Labournet/TIE, Germany

About twenty-five years ago, management in that General Motors/Opel factory where I was working at, started to surprise us with a new kind of information at the workplace. On the line, in all the departments of the factory, there are information boards, and we could read, for example, 'your wage here in this factory may be seen as 100%. For the same work, General Motors pays in England 75%. GM pays in Portugal 50%. And in the end, 'in Mexico, General Motors pays 12%.'

What had happened? At that time, the multi-nationals had begun to organize production in a new way. With the help of electronic systems, new technology, management was now able to compare the costs on a global level within seconds. And they started to blackmail us more and more: 'if you don't stop your demands, if you don't agree to concessions, we will give this or that part of production of the next model to another plant.' For example, the car being built in my town, in Bochum, is called Zafira, and General Motors has one plant in the world where that same model is being built, and that plant is situated in Thailand. We the workers began to discuss, what we can do against this new kind of blackmailing, of playing us off against one another. So we started, with the help of organizations like TIE (Transnationals Information Exchange) to build a network within the General Motors Corporation. We had international conferences of GM workers in the Netherlands, in England, an Autoworkers conference in Sao Paolo, Brazil. We organised exchange visits to colleagues in Spain, in Belgium, United States, Canada, in the Philippines, and so on. And we tried to publish an international GM workers newspaper in three languages. The change of capitalist production forced us to look at the situation in the other countries. To defend our interests, we had to learn a lot about the situation of the workers worldwide, and about their struggle.

The management couldn't avoid that we'd tried to come together, to close up in a new global context. A substantial part of our international activities was to inform and involve the colleague in the factory, and to challenge our union to join or support our activities. But our union, the IGM, Metalworkers Union, really did not want to bring workers from

different countries together on a grassroots level. To characterize the union policy, you must know in Germany there is a very long tradition of bureaucracy, and of the ideology that unions and government, especially under leadership of the social democratic party, and employers, should cooperate very closely. A typical idea our union leaders always repeat is, for example, the German employers must keep on being the world champion in export. If the first aim of a union is to save the role of the German economy in the world market, how could the union be interested in organizing an international workers' struggle for our rights and demands?

So we were forced to build up an international network without our union. What did we achieve? We could use some of our connections to inform our colleagues on struggles in other factories in other countries, and send resolutions of solidarity. Sometimes we got useful information for our negotiations with our management. Rarely, we could achieve common actions or strikes at the same time in different countries. Our network is not very vivid, nor effective right now. Only a few contacts are still being used. Why?

First, the problem we had with our union exists in other countries, especially in the leading industrialized countries like the United States, too. Many workers' representatives on the plant level think or define themselves as so-called 'co-managers' and try to help the company in the war of competition.

Second, most of the workers, too, are ideologically bound to the same idea of corporate identity. They are anxious to fight for their interests, hoping the plant they are working at might be able to survive.

Third, my colleagues ask: What is the alternative? How can we survive without considering the profit situation of our company? So my last point and conclusion is building up a network among workers from European and Asian and other countries necessary. But we must not only discuss the question of defending what we have achieved. We must not only ask how to get better wages or rights.

We must discuss and find colleagues in other countries who are willing to discuss the real reason for that damned worldwide war of competition and how to approach another kind of world. What do we want to be produced. How do we produce the goods. How they are distributed. How we help one another across national borders that all people can take part in production and consumption on a higher level. In the end, this means fight for another, noncapitalistic work. We should take into account that the capitalists offer us a lot of means to approach that vision. For example, the capitalists bring us together by globalization. Secondly, we have got the internet to discuss our experiences and opinions better than ever before. Third, we have learned how to produce the goods. We know how to use the modern technologies. In the large factories, we learned to organize our works

in groups. By outsourcing, we have become a part of the new division of labour. We know that we are working together hand in hand, on the national level and even in production chains on an international level, but not with human dignity. Why shouldn't we be able to work and live one day without the disturbing role of private owners of the factories workers have built?

Workers in the global war of competition

by *Alain Baron*

SUD-PTT

(French Trade Union in postal activities and telecommunication services)

The challenge workers have to day is to be able to face the global offensive put in force by the multinationals against their rights. This is especially so in their foreign subsidiaries where they impose harsher conditions on their employees than in their native country. It is for instance the case of France Telecom, which- cuts jobs abroad not only through attrition, but also through redundancies.

For these reasons, the working class needs to build up a strong worldwide network.

Better than a long theoretical speech, it is better to give some examples about how SUD tried to oppose the policy of top management.

At the beginning of September 2002, France Telecom announced its intention to cease financial support for MobilCom, its German subsidiary, placing 5 550 jobs at risk. At MobilCom, the staff were in a state of shock Like many other start-up companies, this one has for some time experienced an euphoric and rapid development. The announcement of probable insolvency in case of France Telecom withdrawal was a real thunderbolt.

Trade Union presence was recent and fragile with few members by German standards. The workforce had no experience of struggle, so the battle was very hard. As members of the mother company, it was our duty to help our German co-workers. The first reason for this was that we want to promote unity within the working class, not only on a national level.

The second reason was we guessed the attack against the employees at the German subsidiary was only a stage in a future "recovery plan" which would make the employees of the corporation, on a worldwide scale, pay for their employer's negligence. The German issue was for the group's management something like a training session before an attack against other employees in France and other countries. It had to be turned into training for trade unionists too.

Establishing links between German and French trade unions was in no way obvious, because inside the trade union world, existing international structure are usually not very effective.

And it was thanks to the links our trade union had made some months ago in Brazil at the World Social Forum that we could within a week contact representatives at MobilCom by e-mail. Thanks to these e-mails, all French employee representatives within France Telecom Board of directors voted against the plans put forward by the management.

The announcement of such a vote had a great importance in Germany, and it got big headlines in German newspapers. That gave confidence to MobilCom employees and enabled to organize a large demonstration in Germany on the same day than the Board of directors meeting in France.

Around 1 500 people rallied in front of MobilCom headquarter. This was enormous. It represented nearly 100% of the people at work that day in the region where the German office is located.

Our common struggle contributed to put pressure on the German government, which then intervened with the French government. All these events took place just one week before the national election in Germany, so the German government finally announced that the banks linked to the German state would grant a 400 billions US \$ credit to MobilCom. Immediate insolvency was so averted, and to-day, MobilCom is still alive.

Such a cross boarder unity is a key issue if we want to be able to fight against multinational companies.

For years ago again, the support of French trade unions was one of the main reasons for the victory of the workforce at the Senegalese subsidiary of France Telecom. We tried to do the same last year to success the strike against redundancies at the France Telecom Swiss subsidiary.

The traditional trade unions often find it hard to establish contacts which can mobilize employees in several countries against the same employer. One of the reasons for this is that they are usually too much enclosed in their local routine interests. International trade union structures, as well, are often not very effective. Nothing can replace direct contacts between trade unionists. It is what my union wants to promote. The power of multinational companies is huge, but the example of the Vietnamese people prove than even when the enemy is much more stronger it is possible to win if we have the political will to do so.

Against the global strategies of multinational companies, we must build a global network, not only within the trade union movement, but also with the whole social movement, and on a worldwide scale. Not only within the companies belonging to the same group, but also among their subcontractors, and the subcontractors of their subcontractors, as well than among their suppliers.

All together we can be stronger than our enemies. The examples of the German and Senegalese subsidiaries of France Telecom prove that internationalism is not only an ideological point of view. It is also a key issue for day-to-day trade unionism; - On the one hand, we have to struggle against the transformation of companies into multinationals ;

- On the other hand we can use the existence of multinationals to empower the workforce throughout the world. ASEM V people's forum, as well as World as Continental forums, can be significant steps toward the building of a strong network within the workforce worldwide.

Philippine Toyota workers struggle

by Ed G. Cubelo

*President Toyota Motor Philippines
Corporation Workers Association(TMPCWA)*

From the very beginning, the Toyota Motor Philippines Corporation never respects the workers right to self-organization. After several attempts of the workers to form a union, always, the management intervenes and seeks legal remedies to discourage the workers to form any labor organization inside the company. Toyota management also promotes the Labor Management Council (LMC) as the legitimate voice of the workers inside the company.

In the case of TMPCWA, the Toyota management feels a nightmare because of genuine advancement of TMPCWA for the workers basic rights and interest. That is why they took all their knowledge in busting it. From the certification of election process the company has managed to form challenge voters, to make sure they could control the conduct of Certification Election. But with the dismay of the company, the union won in the election in March 8, 2000.

After winning in the Certification Election, the Toyota management never stopped to challenge every decision of the Court, from the lower body to the final decisions of the Department of Labor. The Secretary of Labor and Employment issued the decision denying the appeal of the Toyota management and declared the TMPCWA as the Sole and Exclusive Bargaining Agent for all the rank and file workers of Toyota.

In the March 16, 2001 Decision of the Secretary of Labor Patricia Sto.Tomas, the Union submit a CBA proposal to the Toyota Management and wrote a letter, requesting for a CBA negotiation. On this very same day, the company did not allow the workers to enter the company premises.

The Union had nothing to do but to defend the workers from illegal dismissal of the management. The union staged a two weeks picket protest to give time to the company to reinstate the workers. But the management remained in his pride not to reinstate the dismissed workers. What the union did was to stage a strike in defense to the illegally dismissed workers. The strike happened in March 28, 2001.

Immediately after this, the Toyota management, together with some Japanese Companies threatened the Philippine Government to pull out their investment if the labor dispute would become worst. The Secretary of the Department of Labor Patricia Sto. Tomas,

then, assumed jurisdiction and issued a Return to Work Order with an option for the company to choose whether or not to accept the workers who joined the strike. Some 227 union members and officers were not accepted to work by the management and were put in the payroll reinstatement.

Not satisfied by the dismissal of the workers, the company unleashed another blow. It then again attacked the union by filing fabricated criminal cases against 25 union members and officers. The Metropolitan Trial Court entertained these nonsense criminal cases as Grave Coercion. While some workers with criminal cases were threatened by the warrant of arrest. The Toyota Management continued to offer severance pay to all the dismissed union members in exchange of surrendering the struggle.

And because of the strong influence of the company, they managed to hold the proceedings of CBA negotiation by using the Court of Appeals Writ of Preliminary Injunction and by paying big amount of money as Bond to issue the Injunction for a half million pesos (P500,000.00).

The Toyota management also manipulated the case in the National Labor Relation Commission (NLRC) in which the management filed Illegal Strike to the TMPCWA. In a matter of two months the NLRC issued the decision that TMPCWA committed Illegal Strike. But what was funny about the decision, the NLRC was focusing the issue of Illegal Strike during the time that the workers attended hearing on February 21-23, 2001 and not the date of the actual strike of the workers that transpired in March 28-April 12, 2001.

While the union was facing the rotten system of legal battle in the court, on September 2003, the Supreme Court ruled in favor of the Union, lifting the Injunction Order of the Court of Appeals. The workers arise again with new hope. The Union immediately wrote a letter to the company and demand to sit and start the CBA negotiation. The Toyota Management legal counsel answered all the letters of the union reiterating the management's stand not to set the negotiation instead, to wait the final decision of the court.

Following the recommendation of the Committee on Freedom of Association - ILO on November 2003. The Government never constituted any concrete action regarding the recommendation.

On November 24, 2003, the TMPCWA and the Japanese support groups launched protest action simultaneously in front of the Philippine Toyota's Bicutan plant and in front of Toyota Motor Corporation in Japan to denounce what Toyota management did to his workers. Because of the lack of respect to the decision of the court, many organizations in the international community sent messages of support to TMPCWA, as well as letters

to demand to the Philippine Toyota, to its President Nobuharu Tabata, to respect the decisions and reinstate the illegally dismissed workers.

What Toyota did was to use all these activities of the union and the supporters of TMPCWA as evidence and submitted them as manifestations in the Supreme Court with their Motion for Reconsideration, asking the court to reinstate the Writ of Preliminary Injunction. The company reiterated that TMPCWA together with other support organizations were creating coercive actions and were forcing the company to sit in the premature CBA negotiation.

On March 2004, the union got a copy of the Supreme Court's final decision, promulgated on January 28, 2004. According to it, "the Court Resolve to Deny the Motion for Reconsideration of Toyota Management with Finality. There is no more legal basis for the Toyota Management not to sit in the negotiation."

The Union again submitted a letter to the management requesting to start the CBA negotiation but the company still refused to cooperate. What management did was to launch a simultaneous attack against the union. The union members were placed in the floating status. They were assigned to clean and sweep the flooring for eight hours and were replaced by contractual workers in the production line.

The company organized a labor forum about the labor dispute that arises between the company and the Union. But the company was only mind setting and misleading the workers to divert the real issue of CBA negotiation.

The Union in good faith filed Preventive Mediation on the National Conciliation and Mediation Board (NCMB) again, to gave time and chances to the Toyota management to face his defeat, several dialogues through the NCMB was held in the hearings but nothing was heard from the management except the company remained in his very hard line position not to negotiate with the union. The Union withdrew the Preventive Mediation in the NCMB last May 5, 2004 to seek other recourse.

The union did every effort to settle the longtime labor dispute but the management never wanted to finish it. The Toyota management placed heavily armed military and policemen to guard the front gate in both Bicutan and Sta. Rosa plant. There were many times that the management intimidated the workers with their regular plant tour inside the plants by the members and officials of the military and Philippine National Police.

TMPCWA and The Support Group for TMPCWA discovered another legal remedies and took initiatives to immediately file another complaint to the OECD Guidelines for Multinational Enterprises. Japanese National Contact Point Of OECD, Japanese Foreign Ministry immediately contacted the union and made a quick response in the complaint.

The reaction of the Toyota management to the new complaint filed by TMPCWA was to launch Labor Forum and madly campaigning that the TMPCWA's Union President lied in filing it and only campaigning to destroy the good image of Toyota Motors in the international community. The management has been campaigning together with the yellow union (company union controlled by Toyota) that the TMPCWA would stage another strike and has been threatening the workers not to join the TMPCWA, because the management would kick them out from the company, like the 233 dismissed union members and officers.

Last May 12, 2004, there was one union member who suffered death because of Bacterial Meningitis disease (Mr. Benny Bering assigned in Welding Line Section in Bicutan Plant). He was one among the illegally dismissed workers who faced the difficult situation of being unemployed. This Union member was very active in helping the union to advance the struggle, unfortunately he could no longer enjoy the fruits of his sacrifices.

Like the other families that lost six (6) children because of the struggle, his family has remained firm to carry on his very valuable struggle for the future of their children.

It is not a straight and shining path that TMPCWA walks in its struggle, since the beginning of its formation. Much more if we can add the evolution of the struggle, from the yellow union that has a strong influence by the Toyota management, transforming to become independent organization, with the guiding principle to advance the genuine interest of all the workers of Philippine Toyota.

There are founding workers who formed the union who are already gone. There are those who left the company, while others left the union and surrendered-- maybe because they are already tired. What is worthy, in every worker who gave up and tired, the replacement are doubled. For all times, the fundamental interest of workers under democratic rights can never be compromised.

It is more than twelve years now, since the Philippine Toyota workers struggle to have a union in the rank and file section. From the start of forming the union, it took eight years before it obtained and won the Certification Election in March 8, 2000. From Certification of Election up to this time, the union has struggled for its recognition.

Notwithstanding the stark workers' reality, the company remains deaf and hardheaded. Instead of heeding the workers grievances, it busied itself in finding ways to destroy the workers organization. Everybody knows that when disputes arise in companies, the workers always get the blame, never the company's anti-labor practices and blatant union busting.

It is lamented that the present Philippine Government which has been largely installed by militant struggle of workers is busy campaigning itself to the rotten National Election system but never ever hears and take action to implement both local and international law for the workers of Philippine Toyota and accepts to get hostage by bullying of multinational companies who became more powerful than any government in the world.

The TMPCWA and the Support Group for TMPCWA, as well as those workers in the world who believe in the struggle of Philippine Toyota workers are shouting to resolve and are vowing to heighten the campaign all over the world until the illegally dismissed workers are reinstated, until the company recognized the TMPCWA as certified by the Labor Department, until they start the collective bargaining agreement negotiation and until an immediate stop to the strings of harassments like the withdrawal of all fabricated criminals cases against TMPCWA's union members and officers. For the struggle of Philippine Toyota is also a struggle of workers all over the world.

LONGLIVE THE WORKING CLASS!

W10: ALTERNATIVES TO WATER PRIVATIZATION

Making the Public work: Alternative to Manila Water Privatization

*by Frances TC Lo
Bantay Tubig, Philippines**

Brief History:

The Metro Manila water privatization in 1997 was considered the biggest private venture in the world, with 11 million consumers in the coverage area. The size of the concession area alone caught the interest of four big international water companies to bid for it in partnership with Filipino firms. United Utilities and Bechtel in partnership with the Ayala Corporation (Manila Water Company, Inc.) and Suez/Ondeo in partnership with the Lopez group (Maynilad Water Services, Inc.) won the 25-year concession by submitting two of the lowest bids. These bids were even lower than the tariff of the Metro Manila Waterworks and Sewerage System (MWSS) of P8.78/cubic meter at that time.

The contract entered into by these companies committed to 100% coverage of their concession areas within the first 10 years of operation, capital inflow of \$7.5 billion during the life of the contract, reduction of non-revenue water (NRW) from 56% to 32% in the first 10 years, and providing high quality water to consumers, meeting the standards set by health agencies. With the assurance that there would be no unnecessary price increases other than the automatic adjustment of the basic rate for inflation every year, the public got excited with the possibilities presented by the concessionaires. However, after only two years of operation, both companies already petitioned for a price adjustment blaming the 1997 Asian Financial crisis for their woes. There was a 100% depreciation of the peso during that period which affected the companies' capacity to service the loans they inherited from MWSS. The government gave in by allowing the companies to increase prices in 1999. It also accepted the proposal to include a mechanism that allows the companies to recover foreign exchange losses, called the Foreign Currency Differential Adjustment (FCDA) even if this is not part of the original contract. To this date, Manila Water increased its

* Bantay Tubig (Philippine Water Vigilance Network) is a citizens' coalition for adequate, accessible and affordable water in the Philippines. Organized in April 2002 in response to the worsening water crisis in the country, Bantay Tubig started as a collaborative effort among civil society organizations.

tariff to a total of 700% while Maynilad had a 500% increase. This package of "assistance" from government constituted Amendment No. 1 to the concession agreement. Included also in the first amendment is the early resetting of prices (schedule for rate rebasing was moved from the first 10 years to first 5 years of the concession) and a lowering of service targets (scaling down of coverage schedule as originally committed in the contract).

Maynilad: The case of the West Zone:

Despite the accommodations made by the government at the expense of consumers, Maynilad Water, the West Zone concessionaire still could not manage to keep its company afloat. Since March 2001, Maynilad has unilaterally decided not to pay the concession fees it owes MWSS because of financial constraints faced by the company. Getting the bigger slice of the two zones, Maynilad agreed with the provision in the concession agreement that it should shoulder the payment of 90% of MWSS' loans to its creditors. These concession fees pay for part of the operation expenses of MWSS and the Regulatory Office and the old loans of MWSS. Because of this unilateral decision, MWSS was forced to borrow money to pay the maturing loans with its creditors namely the World Bank, Asian Development Bank and the Japan Bank for International Cooperation. In May 2002, MWSS acquired loans amounting to \$100 Million from Deutsche Bank to cover up for the unpaid concession fees. The government through the Department of Finance has already issued a sovereign guarantee cover for these MWSS loans.

Not content with this default, Maynilad sought to terminate the contract in December 2002 by filing a case with the Arbitration Court, claiming that MWSS failed to deliver its part of the concession agreement. MWSS filed its counter-suit in January 2003 which led to the convening of the International Arbitration Panel. In November 2003, the Arbitration Panel found no merit on the case filed by Maynilad and issued a decision for the continuation of the concession agreement and for the water firm to pay the concession fees including interest amounting to P6.77 Billion as of September 15, 2003. Maynilad, however, did not adhere to the decision and instead, filed a petition for corporate rehabilitation (temporary debt relief) at the Regional Trial Court. The Court granted the petition by placing the company under receivership thereby preventing its creditors from collecting payment of its maturing debts.

In the middle of all this, MWSS tried to collect \$98 Million on the performance bond of Maynilad deposited at Citicorp International as payment for the unpaid concession fees. This, however, was not done because Maynilad filed a petition to the Court to stop MWSS from drawing on the bond. The MWSS, on its part, filed a petition with the Supreme Court asking for an interpretation of whether the performance bond is covered

by the halt order of the regional trial court. The petition was still being heard when Maynilad and MWSS officials filed a joint statement declaring that they are trying to look into an "amicable" settlement that would be beneficial to both parties. In June 2004, the Supreme Court came out with the decision ordering the MWSS to draw on the performance bond.

The amicable settlement:

Both Maynilad and MWSS officials were busy drafting a rehabilitation plan for the private company that would allow the majority stockholders to get out of the "mess" alive. This rehabilitation plan would be considered Amendment No. 2 to the contract and had the rehabilitation court approved it earlier than the Supreme Court decision, the following would have happened:

- MWSS will draw only \$50M of \$120M performance bond
- Convert P5.25B of uncollected concession fees into equity in Maynilad
- Forego \$70M of performance bond
- No further legal action should Supreme Court decide favorably or unfavorably towards its petition
- Receive concession fee payments from Maynilad on a regular basis beginning May 2004
- Government to assign its shares in Maynilad to the Development Bank of the Philippines (DBP), who will act as its trustee

By doing this, the government would have given the Lopez family the following concessions:

- Freed from P8B of contingent liabilities
- No payment of guarantee on performance bond
- Retain P167M in equity, with Metrobank as trustee
- Freed to resolve its debt woes with all its other creditors

Government claims that the reason why they want to "settle" the issue quickly without waiting for the Supreme Court decision was because of the threat of service interruptions in the West zone. The government negotiators argued that since the Supreme Court usually takes a long time to decide on cases, it would be beneficial for everyone to enter into this settlement so as not to disrupt the operations of the West zone. However, the June 2004 decision of the Supreme Court refutes the assumptions of the government and therefore, Amendment No. 2 is with no basis anymore.

Series of "Bailout":

This is not the first time, though, that the government tried to bailout the Lopez-owned Maynilad. In 2001, after intense lobbying and pressure from Maynilad, the government allowed Amendment Number 1 to the concession agreement allowing the company to:

1. recover losses and increased costs of operations resulting from devaluation, over a shorter period of two years rather than spread it out in the remaining life of the contract (referred to as the Accelerated Extraordinary Price Adjustment);
2. impose a foreign currency differential adjustment (FCDA) which is a continuing adjustment in water tariffs due to fluctuations in the peso-dollar rate;
3. hasten the rate rebasing in the fifth year of the contract, instead of on the tenth year; and
4. revise the service obligations.

All these meant an increase in water tariff being paid by consumers to as much as 500% (from P4.26 per cubic meter to P26.76) despite the inefficient services the company provides. With this rate, "Manila has one of the highest costs of piped water in the region, and relative to average per capita income of consumers, the cost of water outranks Singapore and other developed countries signifying the greater burden shouldered by Maynilad consumers in proportion to their income." Maynilad was also found to be overcharging its customers when it continued to impose foreign exchange loss recovery beyond the allowed period. Yet, even with over-collection of fees, Maynilad failed to keep its finances back on track and has stopped paying its loans - it is estimated that the water firm owes its creditors P7-8 Billion, its suppliers P2 Billion, and the government P8 Billion (as of this writing, total unpaid concession fees to government has reached \$180 Million).

Decisive Intervention:

Given this scenario, Bantay Tubig has already come out with its proposal to the government, calling on them to draw on the entire performance bond immediately and to desist from entering into another deal with Maynilad. This would entail that the Lopez group should pay up its liabilities to the government and guarantee to the performance bond. The Supreme Court decision has given the government a strong leverage to deal decisively with Maynilad with regard to their concession fees. Bantay Tubig also calls on the government to: a) terminate the contract with Maynilad Water Services Inc. and b) blacklist the Lopez group from any water concession in the future (including areas outside Metro Manila).

But these calls do not substantially answer the question that is hanging on the air: how is the west zone going to look like and who will run it? To these questions, Bantay Tubig believes that a public takeover is the answer. Government should intervene by making sure that a public agency should take on the reins and immediately implement a program

to revive the west zone to the level of service that it should be providing. This should be done in the immediate even as MWSS is exploring new institutional arrangement(s) for the west zone.

Challenges for a viable public set-up:

Clearly, the west zone or for that matter, the entire Metro Manila, could not go back to the pre-1997 set-up where MWSS ran it inefficiently - limited water supply to households, no service improvements, high NRW, and delayed coverage expansion of household connections - a situation that led some urban poor communities to welcome Maynilad with open arms rather than continue to wait for MWSS connection. These are the constituencies who buy water from private vendors at a very steep price, more expensive than the water paid for by residents in upper class subdivisions. The challenge posed to civil society organizations and consumers then is to ensure that a public company or agency should meet a minimum set of standards, namely:

1. Operational Viability - It is assumed that government/ public company has a longer financial capability than a private firm, with its access to national funds and other sources, it would be logical to institute the following:

- There should be a clearcut capital expenditure program which should not be postponed (Maynilad has not spent on capital expenditure for the last two years) to ensure that targeted households will have their connections. In line with this, there should be a required mapping of vulnerable areas (cholera- and other waterborne disease prone areas) and should get priority investments for rehabilitation or service improvements.
- To ensure efficiency and so as not to repeat the previous dismal performance of MWSS, there should be a clear performance target that managers should meet. If these targets are not sufficiently followed, sanctions have to be imposed. Incentives and disincentives have to be credible: the threat of removal from office and replacement of qualified and highly-motivated managers must be used whenever targets are not met; inversely, provision of merit bonus or other benefits should be part of the incentives to encourage above-level performance. (This provision could either be stipulated in the contract or by an enabling law.)
- If and when needed, water tariff may be adjusted upward, to ensure that the capital expenditure program is undertaken according to schedule. Cross-subsidies can be used in the computation of tariff structure so as not to overburden the poor households - richer clients should pay more than urban poor consumers.

2. Legitimacy - As in any other set-up, it should pass the test of acceptability to its consumers by ensuring that it caters to its constituents with integrity and accountability. To this end, there should be:

- Participation of all stakeholders in both MWSS and the water distribution utility in policy and decision-making; stakeholders include the local government officials of the areas covered, consumers groups, and other relevant players in the area.
- Explore various mechanisms and incentives that would ensure that different stakeholders act as checks and balances on each other in order to avoid conflict of interests and ensure the desired quality of service.
- Service-oriented institutional culture
- Developing community organizers in the field that would ensure that consumers know their obligations and can draw responses from the constituents in the form of community participation in water resource management, prevention of leakages and illegal connections, efficient collection of payment, etc.

3. *Financial sustainability* - Considering the magnitude of investment needed to ensure universal access to households, financing possibilities and options should be well studied and explored. This could take the form of co-financing arrangements where the national government and local government unit jointly spend for infrastructure and other investments while the share of consumers can take on the form of tariff adjustments as long as this would redound to service improvements and expansion. A further study should also be made to explore possibility of converting whatever tariff increases into consumer shares to strengthen their say in policy and decision-making processes.

4. *Legal Framework* - There should be a clear set of rules and guidelines that must be followed in order for a public set-up to fulfill its responsibility. One proposal is to craft a bill/pass a law that will require certain performance standards and obligations, including penalties for failure to comply with such, in whatever new contractual/institutional arrangement(s) the MWSS decides to enter into. These performance standards should have the necessary incentives whenever they are met or even perform beyond target, and penalties when they are not complied. Concretely, there should be provisions for the following:

- Universal access to water in five years, following President Arroyo's commitment in her 10-point program. This should prioritize poor households and should be household-level connection, and not bulk selling.
- Zero connection fees for poor households.
- Non-revenue water should be decreased progressively, depending on the computations done by the regulators.
- Water pressure should be at a proper level so as not to repeat the outbreak of water-borne diseases in urban poor communities.

- A law creating an independent regulator that will not be subject to the whims of politicians and should impose the international standards of best practices.
- For those communities in the "periphery" that cannot be served by the company (due to distance, terrain difficulty, or other so-called "non-viable" factors), community participation in setting up water associations or cooperatives should be encouraged and should not be viewed as competition or with hostility. Cooperation between the company and these associations can be done through a contract or a law where provisions for benefits and incentives are part of the deal. In cases where these areas will already be connected to the main system, the investments of these associations should be paid before taking over or explore options that can either maintain the set-up or other mutually beneficial arrangement.

Government should know that the option to bailout the Lopez family is not acceptable and must not even be considered. Certainly, Maynilad's scaling down of service targets cannot meet even Goal 1 of the Millennium Development Goals (MDGs) where it calls for decreasing in half "the proportion of people with no access to safe drinking water or those who cannot afford it by 2015." Rehabilitating Maynilad in its current structure runs counter to the avowed goals of President Arroyo of bringing water to all within the next six years, an even ambitious target than that of the MDGs. Calling on the government to provide water for the people requires that civil society organizations and consumers exact the best deal available, and this could only be done with the implementation of the right structural and organizational reforms and changes in the water sector. The challenge is to formulate the steps that would lead to strategic and far-reaching reforms beneficial to the people.

W11: WOMEN WORKERS IN THE INFORMAL ECONOMY

Indonesian Labour Law, The plight of women homebased workers

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I - INTRODUCTION:

For more than 15 years advocacy empirically effort to protect home-based workers officially has been done in Indonesia to no success.

This leads Homenet Indonesia to analyze the existing labor Laws that normatively covers and protect this workers. It is important to note that home-based workers are invisible yet reality they are there. Home-workers have established a working relation with their employers between workers and workers and between workers and their superiors the major problem is whether they are recognized by law and obtain their rights as workers stated by Soepomo (1985). The latter stated that labor laws is a set of rules and regulation, verbal on written, related to evidence where by a person works for other person and receive some pay in return.

Refer to the 1996 ILO convention on Home-workers that is equivalent to international treaty defines home-workers as follows

- (i) in his or her home or in other premises of his or her own choice, other than the workplace of the employer,
- (ii) For remunerations
- (iii) Which result in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other input used.

This article explores this issue particularly related to the latest Indonesian Labor Law (Law No 13/2003) organized as follows. Characteristics of home-workers is describe in part II. Part three analyzes Home-workers Law protection within the Indonesian labor laws. Conclusion is descript at the end of this article.

II. CHARATERISTICS OF HOME-WORKERS:

Home-workers show specific characteristics, which is different remarkably from workers in the factory of a manufacturing industry whose establishment belongs to the

factory owners.

In Indonesia however, we notice three type of home-based worker

1. home-workers who in the putting out system (POS) work in their home which work is obtained from the employers or, in most cases immediate employers
2. home-workers who act as middle person, employ others home-workers and too employing themselves in the similar type of work.
3. home-workers who are self employed and independently in producing goods according to their designated products having full rights on their production procure and something and marketing their product themselves.

To mention several characteristics similarity of the three type of workers are:

- long working hours
- low return
- often involving family laborers
- no social security
- home as their base of production process

The differences between them are as follows

No	Homework in POS	Home-worker as the middle person	Self employment
1.	Written working contract	None	None
2.	Work regularity	Irregular	Relatively regular
3.	Frequency of orders	1- 7 days	Daily
4.	Wage	Piece rated/volume rated quantity rated pay	Piece rated/volume rate/quantity rate pay
5.	The piece rate decision marker	- The immediate employer - workers lack/have not any bargaining	- The immediate employer - workers lack or have not got any bargaining

6.	Criteria of job order/standard	Determined be immediate employer	Immediate employer	The self employed workers themselves
7.	Payment of work performed	Upon satisfactory product	Upon satisfactory product	Upon sold products
8.	Risk bearer	The home-worker	The home-worker	The self employed women themselves
9.	Contribution in the production process	- labor component of variable costs - working place (home) - equipment	- labor component of production costs - working place (home) - equipment	In most cases the entire product process
10.	Rules regarding - Working hours - After hours - Weekly holiday - Menstruations leave - Maternity leave	None None None None None None	None None None None None None	Free choice decided by the self employer themselves
11.	Long working hours is not compensated with standard after hours	Yes	Yes	
12.	Total amount of money received compared to Minimum Regional Wage	Lower	Lower	Often lower
13.	Provision apparatus for safety and health from the employer	None	None	None
14.	Social security	None	None	None
15.	Supervision	None	None	
16.	Risk upon product	None	None	Yes

Within the above mentioned characteristic, we can only pursue how the existing laws can accommodate the home-workers particularly in POS.

Protection to home-based worker within the Indonesian Law for workers:

Taking into account its characteristics, the working relation pattern between home-based workers and their immediate employer is specific. Its features are distinct from employer-employee relation in the industrial sector or formally registered companies, such as

1. the working contract between the employee (read : home-workers) and their immediate employer is only a verbal agreement, and it only covers extremely short time (1 day - 1 week. Yet because there is a constant repetition of job provision, eventually it is perceived as a routine job that goes on continuously)
2. the employers do not practice supervision to home-workers *who* are employed. However quality control upon the submitted product is applied based on their standard on expected result
3. the home-workers do not have any bargaining power to mutually determine agreed contract with the immediate employer
4. Home-workers who work as similarly do intermediaries, too, they do not have any bargaining power to determine the term of the contract.

We learn that this characteristics turn out to be not easily be fitted in the new Indonesian labor law. The main question is whether rights as workers are met and that a working relation pattern of the labor law and the expectation that home-workers are protected are provided, is in that the same time. Or, the working relation pattern fall outside the existing Labor law.

At glance, reading the definition only, it seems that the latest Indonesian Law (Law No. 13/2003) regarding Manpower covers the home-workers. Chapter 3, bullet 3 that reads

"A worker a laborer is a person who work and receiving a wage or a return in other forms"

Applies to home-workers since they work for pay. This definition is consistent with other law *which is* For example, number 9 of chapter 1 Law 2/2004 regarding the Industrial Relation Dispute solving similarly read in the Law No. 21/2000, chapter 1, number 9 concerning Labor Union/Workers Union.

The consistency of this definition also applies within Law No. 3/2003 it self In chapter 1 no. 4 it is define that

Work provider is an individual or entrepreneur, corporate body or other type of institution that employ worker and pay by wage or other form of return.

Again, it fits with the home-workers intention to work for a pay.

Further definition is put forth regarding entrepreneur (chapter 1, number 5, Law No. 13/2003) which read:

"An Entrepreneur is:

a. an individual, an alliance or a corporate body who operates enterprise that belongs to them

b. an individual, alliance or a corporate that privately operates enterprise do not belong to them

c. an individual, alliance or a corporate operates in Indonesia representing enterprises as defines within point a and b, based in outer Indonesia. "

An enterprise is also defined (chapter 6, number 6, Law No. 13/2003) *"An enterprise is:*

a. Every business undertaking, be it a corporate body or not, belongs to an individual, to an alliance, or corporate, be it private ownership or Government owned employ workers/laborers and pay wage or other form of return.

b. Social businesses and other form of businesses that run by board of committee and employing other people with pay or other form of return. "

It seems that generally these definition should cover not only the employers, but also the middle person employing women home-workers.

In addition, those definition also consistent with other laws, such as

– Chapter 1, number 6 and 7, Law No. 2/2004 regarding Industrial relation Dispute Solution, *juncto'* which is the same as

– Chapter 1, number 7 and 8, Law No. 21/2000 regarding labor Union/Workers Union, some content with

– Chapter 1, number 3 and 4 law No 3/1992 regarding Workers Social Security.

It implies that entrepreneurs/employers who employ home-workers are included in the above mentioned definition. Because it applies to both type of employers, registered and or nonregistered as one long as they employ other people in the production process.

However, at the empirical level, usually the entrepreneurs do not admit transparently that they employ home-workers. This is very much possible since the production process is not done in the factory establishment, but in the house of the home-workers away from the entrepreneur establishment. In the mean time, the working contract supposedly is covered within the real of Law No. 13/2003 that states *"Working Contract is an agreement between workers/laborers with employer or work provider that covers work conditions, rights and responsibilities of all parties. "*

(Chapter 1, no. 14)

It can be perceived more over that this definition is broader than the coverage of labor laws in the past. In particular it explicitly it state that working contract is not only applies to laborers/workers with employer, but also between the workers/labors with work provider which in the case of POS it is the middle person. The main difference between the two lies on enterprise ownership. Entrepreneurs may own the enterprises, while the work providers are not necessarily enterprise owners.

Unfortunately, it seems this chapter is nullified by chapter 1, no. 15, Law 13/2003 which reads:

"Working relation is relation between entrepreneurs and the workers/laborers, based on working contract that spells out items of work, wage and order,

Coupled further with that of chapter 50:

"Working relations occur because the existence of working agreement between entrepreneurs and workers/laborers. "

Taking this definition in to consideration, the value of protection to home-workers comes to nothing, because this is precisely home-workers are not accounted for. Based on the above mentioned definitions within Law 13/2003, that working relations only exist before the law when there is a working agreement between employer and employee.

Based on the empirical evidence of common practice, whether home-workers have working agreement leading to working relation between employer and home-workers as employees is perplexing. Normatively, Soepomo (1985 and Djumialdji, 2002) for many school of thought believes that working agreement exists when worker/laborers has agreed to work for employers who agree to provide job and receives pay upon job performance. It is not necessarily a written contract (chapter 51, verse 1, Law 13/2003 along this thought reads *"Work agreement maybe a written agreement or a verbal agreement"*

The elements of work agreements are:

1. Job implementation, it means the worker agree to perform job designs on. In the case of home-workers it is appropriately because the work is exist as provided by the employer or the immediate employer
2. There are workers or laborers who work under the leadership of others. As working relations is characterized with authority to instruct from the employer/immediate employer to the workers. This means that the position of the workers is lower than their employer Thus it is a sub-ordinate relationship.

Exploring further, the working relations within the homework system is a contractual work system. This system cannot be classified as working relations. Rather, it seems

fit better with the category of working-contract agreement-relation as reads within chapter 1601b, Book of Civil Rule of Laws as follows

"Work-contract-agreement is an agreement in which first party, namely the contractor, binding it self to conduct certain kind of work with the second party, namely the contract provider and receive particular payment. It is characterize with coordination between the employer on one side and the contractor on the other side. "

This contract definition at case with the home-workers-employers relations due to the following characteristics

- a. The employer do not apply supervision to the work performed by the workers
- b. The employer only examine the result of the work completed by the laborers whether it is in accordance with the agreement or not. When the result is satisfying as the agreed upon standard, the employers pay, otherwise it is not only that the employer would not willing to pay. In the case of home-workers, the employer/immediate employer is not only willing not to pay but also they would the home-pay with the money value of the disqualified product of home-workers. This is because the home workers are the party who are responsible for the risks during t he production process with **no supervision**.

By contrast , when the contractor usually have bargaining power it is not the case with the home-worker.

The home-workers have no bargaining power when it comes to in the terms of the contract agreement. Thus home-working relation cannot be purely classified as a work contract agreement. Perhaps, it is close to than work contract agreement is the element of work agreement which provides a base for a working relation.

Another feature that characterized home-work relation is that the work is very much short term, and replicable continuously. Within long span time, it seems that home-work relation maybe better included in the working relation category. Particular reference is chapter 1601c, verse 2 KUHP (Book of Rule of Civil Law a) which states

"When a work-contract-agreement is followed with other agreement in which there is with a time gap in between or if' during the time of the drafting workcontract-agreement both parties clearly meant to materialize further a number of agreements, such that all work-contract-agreement all together is considered as one work agreement, thus, the one that applies is stipulation regarding all of those agreements similarly applied to each agreement. However if in that case the first agreement is put forth as an experiment, this agreement is considered remainintact as a work contract agreement. "

It is clear that such relation may be categorized as work relation, because it involves leadership element or authority to instruct by employers to workers such as home-workers.

3. With respect to within certain time frame, Workers should complete the work within agreed time frame. Dead line is stipulated, and upon work completion, workers shall be back to its nature as an and independent free and human being. This element is met in the case of home-workers.

4. Wage Payment

Law No. 13/2003 mentions the following definition of wage or pay.

"Wage is the workers/laborers rights in the form of many as return from employers or work provider to the workers/laborers which is determined and paid according to a work agreement, join agreement, or rules of laws, including bonus for workers/laborers and their families upon a job and/or tendered service. "

Definition on wage as such points out work provider as the party who are capable to pay the workers/laborers, this is truly meaningful to cover the case of home-workers in the putting out system (POS). It is quite convincing that home-workers in the POS shall be covered in the protection structure of Indonesian labor laws. Automatically, we may claim that home-workers in the POS are eligible to assume all rights as workers as stipulated in the current labor laws. Consequently, employers denial so far that homeworkers in POS shall no longer true. In other works it is now invalid before the law.

In the case of workers in the Putting Out System employ other home-workers, as long as the word laborers is applied, the law remain works to them. This has been already proven empirically during advocacy in the real world.

For the home-workers in the putting out system in particular has district feature, that it is different from the self-employed workers. The earlier is better suited category of laborers, because they work for the "employer" to obtain payment or wage. The pay is one among other things which is paramount important in the set of workers rights. Luckily, pay is the only element regulated by the Ministry of Manpower:

"for the laborers with contract system on piece rated payment, for over and above month, the minimum monthly wage should be equivalent the minimum wage rate at the said company" (Minister of Labor Regulation No. Per. OIIMEN/1999) Chapter 15, verse 1.

We believe that price rate has become explicitly mention in this derivative is the ... of our .. Of advocacy on hand workers to the ministry of manpower. Although the term of home workers is neither specifically nor explicitly mentioned, this verse means a lot for the home-workers.. Although it is not an end but only one of a means to an end. Consequently,

other rights as workers should be applied to the home laborers including social security. This has been seriously under taken with the promulgation of implementing regulation No. Kep.150/Men/1999, a Decision Letter of the manpower Minister regarding operation of Social Security Program for Daily Paid Workers, contract laborers and certain time agreement.

Homenet Indonesia will work based on these derivatives, as these are not annulified by Workers Law No. 13/2003. As for the self-employed workers, although it does not fit within the structure of workers law, they are supposed to be covered for social security using (Law No. 3/1992, regarding Workers Social Security, Chapter 3 verse 2 says:

"Every worker has rights to obtain worker social rights. "

Its mechanism for the implementation is organized by and under the responsibility of PT Jamsostek (Workers' Social Security Limited Enterprise). However, it is not readily available to them because, the same Law, that is Law No. 3/1992, Chapter 4, verse 2 states:

"Workers Social Security Program for workers who do works outside working relations will be regulated further under a Government Regulation. "

So far, there has not been any regulation as such stipulated by the Government yet. For Homenet Indonesia this is also area to continue for advocacy work.

CONCLUSION:

Although empirically it has not been observed in practice, and technically Home-workers is not specifically mentioned by the laws, we claim that the workers (or laborers/in the putting-out system they existing laws is opened to cover their protection. It implies that a lot still has to be done to make social protection in general, and Social security in particular be materialized for the home-workers, particularly advocacy to the stake holders.

Important also to be noted is the question of : "Who is the employer?" as they the employer invisible for the home-workers, and in the case "immediate employer", denying the responsibility.

For the self-employed workers the advocacy should be directed to the drafting and stipulation of social security program for workers outside working relation in compliance with Law No. 3/1992, chapter 4, verse 2. In the meantime, to fill the gap indigenous social protection may should be continued.

Security of women workers in the informal economy

I. THE SITUATION OF INFORMAL ECONOMY:

- The Philippines has a total population of 86 M Filipinos today.
- Since 1997, the onset of the Asian Crisis, the poverty incidence increased to 32% in 2001 (according to NSO). With globalization and trade liberalization, more workers are being absorbed in the informal economy.
- The latest employment statistics show that there are 22.5 M people belonging to the informal sector, representing 75% of the total employed population and 49% of whom are female.
- They account for about half of the GNP

The Essence of Informality:

- Represents employment creation by necessity and survival not by choice, with focus on income generation rather than job generation
- Emerged not in search of lucrative employment or business opportunities but out of necessity to create one's own employment or one's own source of income to meet at least the daily subsistence
- Because of lack of sustainable and remunerative employment opportunities, it has become the main source of employment and income especially of the poor.

Roots of the Informal Sector:

- The rise of informal economy can be traced back to policies which limited job-creating capacities and growth opportunities for small enterprises, these include:
 1. the import substitution strategy in the 1960's of which only a few large industries that were urban-based and capital intensive which opened limited job opportunities and led to unemployment and underemployment among job seekers.
 2. The economic liberalization where large number of people was employed in services, not all of these were in the production nature that directly beaded the economy.
 3. Intense competitive pressure that resulted in downsizing and merging of companies.
- Informality pervades most sector of the Philippine economy
- The workers in the informal sector contribute to the Philippine economy, however poverty is still seen and felt.
- They are exposed to exploitative terms and conditions of work

II. STRATEGIC ISSUES:

- Invisibility/recognition
- Lack of access to productive resources: credit, technology, market, capital and training
- Lack of social protection, justice and protection at workplaces

III. GENDER ISSUES:

- Multi-role in productive and reproductive work
- Domestic violence
- Unequal remuneration of work
- Poor working condition
- Harassment in the workplace
- Exploitation in terms of working conditions and employment
- Very low wage
- Maternal and Health care

IV. POLICES OF ENABLING ENVIRONMENT:

Cross Sectoral:

- The Phil. Constitution states that, "The state shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations"
- The Labor Code: Presidential Decree 442 "The state shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work"
- Local Government Code: Republic Act 7160. Empowers local authorities to create development committees in order to strengthen the participation of its constituents in the development process

Social Reform and Poverty Alleviation Act: RA8425

- States that the protection and welfare of workers in the informal sector shall be one of the flagship programs of the Social Reform Agenda
- RA 8425 National Anti-Poverty Commission-creation of the Workers in the Informal Labor Sector Council which serves as an advisory body on the poverty

eradication program of the government particularly concerning workers in the informal sector.

- Social Security Act of 1997: RA 8282-principle of contributory social insurance
- Cooperative Code of the Phils. -formation of cooperatives in the Philippines.
- National Health Insurance of 1995: RA 7875-provides universal coverage health insurance to all Filipino.

Country Program for the Informal Sector:

- Institutionalizing Programs and Projects for the Informal Sector through the Local Governments
- Department of Labor Roll-out Programs
- Workers in the Informal Sector Council-issue based organizing, monitoring of programs and projects, job generation through community enterprise development

Homeworkers/Women:

- RA 7192: Women in Development and Nation Building - seeks to provide a substantial portion of official development assistance funds received from foreign government and multi-lateral agencies and organizations. Also provides equal opportunities for women, including matters related to conditions of work and welfare.
- RA 6977: Magna Carta for Small Business-promote small and medium enterprises by creating a Small and Medium Enterprise Council and a Small Business Guarantee and Finance Corporation. Informal sector enterprises can avail of credit guarantee by the corporations, and all banks must allocate 5-10 percent of their loan portfolios to lend to small and medium enterprise.
- RA 7882: An Act Providing Assistance to Women Engaging in Micro and Cottage Business Enterprises-this legislation provides assistance to women engaging in micro and cottage business enterprises and mandates all government financing institutions to allocate at least 5% of their total loan portfolio for a low interest, non-collateral credit program for women.
- Department of Labor and Employment (DOLE) # 5Employment of Homeworkers: The right to self-organization of homeworkers and the registration of homeworkers' organizations which "shall be entitled to the rights and privileges granted by law to legitimate labor organizations".
- DOLE Department Order # 25: confers judicial or legal personality to rural workers organizations as having all rights and privileges as a legitimate labor

organizations.

VENDORS

– Executive Order # 452: Providing the Guidelines That Will Ensure the Security of Registered Vendors in the Workplace. This law in the long run prove beneficial to women, majority of whom earn their income as vendors in the informal sector. One unique promulgation is security at the workplace which is properly the concern of the Local Government Unit. Some LGU actually provided vending sites around municipal halls and other vacant government spaces for their vendor constituents.

Republic Act 6685 for Non-Corporate Construction Workers.

RA 7607: Magna Carta for Small Farmers

RA 7883: Barangay Health Workers" Benefits and Incentives Act of 1995-grants benefits and incentives to all accredited barangay health workers who are acively and regularly performing their duties and responsibilities.

V. STRUGGLES AND CHALLENGES:

1. Organizing:

- Self (as a woman-gender bias)
- Within the family (husband and children)
- Community
- Over populated growth

2. Legal policies advocacy:

- Male dominated legislators/implementers
- LGU Autonomy
- Gender discriminating policies
- Bureaucracy

VI. CONCLUSION AND RECOMMENDATIONS:

1. Legislation:

- Support for the campaign of the Magna Carta for the Informal Sector
- Support for the passage of International Instrument that will protect the informal sector
- Lobby for the effective implementation of the different instrument in the Local Government Units

- 2. Strengthening Organizations and Institutional Mechanisms*
- 3. Implementing the Country Program for the Informal Sector*
- 4. Tapping LGU-NGO Alliance*
- 5. Productivity Enhancement and Entrepreneurship*
- 6. Micro-financing*
- 7. Just and Fair Trade*

W12: ECONOMIC GROWTH AND ENVIRONMENTAL SUSTAINABILITY

Renewable energy as key to sustainable development

by Jurgen Maier

German NGO Forum Environment & Development

When you talk about sustainable development there is often this discussion of a conflict between economic growth and the environment, as if you had to choose: we must pollute now, we can take care of the environment (or what's left of it) when we are rich, so it is often said. While this may be true in the short run, in Europe we have had time and again to accept that you pay a heavy price for this mindset. It is difficult enough for ordinary citizens to think in longer terms, for politicians it is often even more difficult. However, today I want to elaborate on an issue where "business as usual" is becoming too costly even in the short term, and that is the energy issue.

Economic growth as we know it from the example of today's industrial nations and Asia's tiger economies is to a large extent based on cheap fossil energies. The problem, however, is that the supply of mineral resources and the capacity of the atmosphere to absorb carbon dioxide emissions is rather limited. You simply cannot develop the whole world based on fossil fuels, only a small part of it. This realization is neither new nor revolutionary. The leaders of the world, from Bush all the way to Castro, gathered in 1992 for the Earth Summit in Rio and signed Agenda 21. This voluminous document recognized that the Western growth model is not sustainable and that we need a new North-South partnership for a new development paradigm called sustainable development.

However, these leaders traveled home and continued business as usual. But the energy sector is now rapidly coming to the point where business as usual is no longer possible. With the oil price now at almost \$50 per barrel, and many other raw materials also jumping to record prices, it becomes obvious: we are reaching the limits. The oil exporters are pumping at almost full capacity, but demand is simply growing much faster than they can supply. The main reason for this massive surge in demand is the rapid growth in China's demand for energy, and that will not be a temporary phenomenon. The situation is similar in the coal market. If you base your country's development on imported oil and coal, you must accept now that you have a problem. At the same time we have dumped already so much carbon dioxide into the atmosphere that climate change is beginning to have serious impacts in many parts of the world. This also shows: business as usual is no option.

Now when I say "we" have dumped carbon dioxide into the atmosphere it is obvious that this

means not everybody but primarily the industrial countries. Energy consumption and carbon dioxide emissions are a very unequal affair. For reasons of ecological justice it is clear that the North cannot tell the South "we're sorry you cannot develop any more because that is too much for the atmosphere". At the same time it is clear that in this century those economies and nations who first successfully manage the transition to a sustainable energy system will be the leaders.

The energy system is the key to economic prosperity as well as to ecological justice. Energy is the basis of all modern economies, is the reason for massive environmental degradation and is also the reason for many wars and conflicts_ If the Iraqis would sit just on sand and not on oil, they would likely have enjoyed peace for the last 100 years.

The key to a sustainable energy system are renewable energies and energy efficiency. It is not enough to switch from coal and oil (and sooner or later natural gas) to renewables, we also must make our economies much more energy efficient. If we continue to need so much energy per unit of GDP as we do almost everywhere in the world now, It is simply impossible to generate the large amounts of renewable energy at such a massive level without causing equally dramatic environmental and social impacts -just look at the massive displacements caused by large megadams.

The international conference "Renewables 2004" in Bonn in June has shown: wherever countries have embarked on a determined policy of promoting renewable energies, they have seen many benefits. In my own country, in Germany, RE's have within a few years become an unparalleled success story, the economic sector with the highest growth rates and at the same time massive environmental benefits. More than 100,000 jobs have been created, more than in the entire conventional energy sector, and renewables today deliver 10 percent of our electricity - without large dams for which there is no space in our country. It is mainly wind energy and the utilization of biomass, and a growing portion of solar energy. This has been the result of determined government policies that have prompted tens of thousands of people to invest in renewables because it is profitable. Make money by helping the environment, who could object to that (apart from the fossil fuel industry)?

For a long time economists have argued that a growing GDP requires growing energy consumption. This is just one of the many errors that economists have proclaimed. The GDP is blind how money is spent. When you waste energy you increase the GDP, when you save energy you lower the GDP. But when you invest the money saved by energy conservation into more useful things, you have indeed increased the GDP and reduced energy consumption. Indeed, the energy taxes gradually being introduced in many countries are very important to correct the market imperfections of still too cheap energy and thus create the incentives for energy efficiency. If energy is cheap, or even artificially cheap as in the US and Russia, why should you save it? Tapping the huge potential of energy efficiency and

renewable energies combined with the right policies is becoming a key driver for technological innovation as well as an ecological imperative.

Let me also add that RE's also have the inevitable consequence of decentralizing the energy sector enormously. While the conventional energy sector is dominated by a few transnational companies with enormous political power, the renewable energy sector is largely dominated by small and medium-sized enterprises. "Power to the people" gets a completely new dimension: people are literally empowering themselves. My own photovoltaic system produces enough electricity for my household, while still being connected to the grid as seller and buyer at the same time. Tens of thousands of people in Germany now are independent power producers with priority access to the grid, making a sizeable amount of conventional megawatts superfluous.

This decentralized generation of energy is quickly becoming the only realistic option to bring modern energy services to the poor, especially the rural poor. Renewable technologies by and large are not so high-tech that developing countries could not manufacture these technologies domestically. What should also not be underestimated is the strong potential of RE's to reduce conflicts: it is simply inconceivable to fight a war for controlling 100,000 solar modules or wind turbines, and even more difficult to imagine how decentralized RE's should fill the pockets of corrupt regimes.

Finally I would like to make a quick reference to the international NGO network on renewable energies called CURES (Citizens United for Renewable Energy and Sustainability, www.cures-network.org) It was formed last year to prepare for the Renewables 2004 conference by more than 200 NGOs from around the world. Some copies of the CURES declaration are available here, and you are welcome to participate in it and share your RE experience with others.

NGOs' Role in the Sustainable Development in Tibet

by *Dyalmo Drugpa*

China Association for Preservation and Development of Tibetan Culture

I'm DYALMO DRUGPA, from China Association for Preservation and Development of Tibetan Culture. Because my English is not good enough, I can only express myself in Tibetan language and Mandarin. I would like to kindly ask my friend to be my interpreter.

I'm very glad to see that ASEM People's Forum has attached sufficient importance to the issue of "economic growth and sustainable development". The topic of my speech is "**NGOs' Role in the Sustainable Development in Tibet.**"

Tibet lies on the Qinghai-Tibetan Plateau. The climate and the environment are unique. Quite a number of big rivers in Asia are originated in Tibet, so environmental changes in Tibet will exert significant effect on the ecological environment in its peripheral areas. Tibet possesses abundant forest, hydraulic, mineral resources, natural prairie and vast land resources. Working and living for generations on this land, Tibetan people have created rich, colorful and unique Tibetan culture. In the past 20 years, Tibetan economy experienced rapid development and people's living standard has been greatly improved. However, the natural environment in Tibet is quite fragile. Once damaged, it is difficult to be restored. For instance, in order to develop forestry in the region of three headstreams, i.e., Yangtze River, Yellow River and Lancang River, forests were once over felled. This led to severe soil erosion and flood overflow in the lower reach region. In another case, livestock breeding quantity overweighed the accommodation capacity of pastures, which caused soil desertification. Therefore to guarantee the sustainable development of Tibetan economy, society and environment in the process of Tibetan modernization has become an important issue.

In Chinese traditional culture, there has been the ideology of rehabilitating. In 15th century, Tibetan local authorities issued the decrees and regulations on the program of annually "isolating mountains and rivers", and appointed a Forest

Protection Guard with the name of Jiang Chong Ba. Nowadays, environmental protection is one of China's fundamental state policies. The government of Tibet Autonomous Region issued several regulations and rules like *Nature Forest*

Protection Project for the Upper Reach of Yangtze River in Tibet, The Construction Programming for the Forestry Ecological System in the Middle and Lower Reaches of

Yaluzangpo River, The Construction Programming for Afforestation and Tree Planting in Tibet Autonomous Region, the Construction Programming for the Ecology and Environment of the Grassland in Tibet Autonomous Region and Protection Programming for of Desertification of Land in Tibet Autonomous Region.

It has also set up 18 nature preservation regions to protect natural and ecological environment.

China is still a developing country, and the economic development level and the experience of dealing with environmental problems are limited. This leaves places for NGOs to engage in the sustainable development of Tibet. For instance, besides the Tibetans, many members of other nationalities in our China Association for Preservation and Development of Tibetan Culture, including the Lama of great wisdom, the experts and scholars, the entrepreneurs and the Tibetans living abroad. The benefit of human and information resources allow us to do what government can not do. For example, with the appeal of NGOs and other parts of civil society, a cement plant near Lhasa was removed which greatly improved environment of this historical city. What's more, NGOs and the civil society have been planting trees for more than ten years to change large area of sandy banks of the Yaluzangpo River area into a Greenland. And many experts from the academics give advices to the sustainable development of the Tibetan stock raising, and many civil society organizations and volunteers devote themselves into the protection of the Tibetan antelope and cleaning the garbage on the Mount of Chomolangma.

In the future, with the improving of people's life, and with the aim to protect the sustainable development of Tibetan society and to find the balance between tradition and modernization, protection and development, we think the NGOs could devote more in the following areas:

1. Publicize the concept of protecting the nature, protecting the environment and sustainable development among government officials and in civil societies.
2. Protect and develop the Tibetan culture by introducing the Tibetan culture to the whole world, and to promote the culture industry with Tibetan characteristic to make the harmony of man and nature.
3. Asia and Europe are closely linked, both civilizations should learn from each other, both economies are mutually-complemental, and the peoples enjoy frequent exchanges. We call on people and NGOs in Asia and Europe who care about the protection of the Tibetan culture, to strengthen cooperation so as to create the bright future in the sustainable development of Tibet.

Thank you!