

**BUILDING  
WORKERS' HUMAN  
RIGHTS INTO  
THE GLOBAL  
TRADING SYSTEM**

1999

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Over the past fifty years, the ICFTU has generally supported the process of reducing trade barriers through the World Trade Organisation (WTO) and its predecessor the GATT, while always emphasising the importance of respect for core labour standards to allow freer trade to result in better working and living standards for the world's work force. However, at the present time popular support for trade liberalisation through the WTO is extremely fragile in many countries as evidence of rising social inequalities mounts and the pace of adjustment in employment accelerates, particularly in the wake of the world economic and financial crisis.

Under such circumstances, the proposals to launch a comprehensive round of trade negotiations at the third WTO Ministerial Conference in Seattle face considerable difficulties. Despite the general support of industrialised country governments, prospects for a new round are far from assured. The majority of governments of developing countries remain unconvinced of the value of a new round. In addition, many trade unions as well as major and influential non-governmental organisations (NGOs) are concerned that trade liberalisation has exacerbated income inequality and undermined democratic decision-making mechanisms by national governments. Many of the organisations which campaigned against the OECD sponsored Multilateral Agreement on Investment (MAI) in 1998 are opposing a new round.

In this booklet you will find the ICFTU's proposals for changing the world economy by giving it a genuine social dimension. It contains an extensive description of the ICFTU proposals for linking basic workers' rights to trade liberalization through a workers' rights clause. We explain the rationale for the proposals and answer the critics, we summarize the history of our campaign and we point to the next steps forward in the run-up to the third WTO Ministerial Conference in the USA in December 1999.

The ICFTU Campaign on Labour Standards and Trade focuses on a short list of basic human rights at work. Aimed at preventing repression, discrimination, forced and child labour, they are fundamental rights which all countries regardless of their level of development can and should apply. With these rights, the cruellest forms of exploitation are addressed and workers have a voice, an opportunity to have their say about their working conditions. It is a simple but powerful demand that anybody who professes to believe in democracy and

human rights can accept. But these rights are all too often abused, and as a result legitimate grievances and aspirations are suppressed.

I hope this booklet will be widely read by trade unionists and all who are interested in ensuring that the world economy is founded on fair rules as well as competition. Our arguments are making headway, even though a lot of work still needs to be done to convince those who have genuine doubts about the workability of our ideas. We must build on and strengthen the acknowledged competence of the International Labour Organization on labour standards as emphasised in the Declaration of Fundamental Principles and Rights at Work adopted by consensus at the 1998 ILO Conference. We must break down the barriers which separate the world of commerce from the everyday concerns of working people.

1999 will be the year when governments prepare for a new round of trade negotiations, which could be decided at the Ministerial Conference in December 1999. They will not get far if they do not take heed of workers' fears that globalization is for a rich few and promises only more insecurity for working people. They will not get far if they do not address the need for the world trading system to promote the development of developing countries and to ensure that world trade is environmentally sustainable. This booklet shows how the international community can begin to respond to the needs and aspirations of hundreds of millions of working people in the developing and the industrialised countries for a say in their future.



Bill Jordan  
General Secretary  
ICFTU

## PART I

### **CHAPTER ONE: THE NEED TO UPHOLD WORKERS' RIGHTS IN INTERNATIONAL TRADE AGREEMENTS**

#### **BASIC WORKERS' RIGHTS IN THE GLOBAL ECONOMY**

Until late 1997, trade, investment and economic growth were all booming, according to the world's leading economic institutions the International Monetary Fund (IMF), the OECD and the World Trade Organization (WTO). Globalization of the world economy was stimulating massive investments by transnational corporations (TNCs) which acted as a dynamo to produce more jobs and higher profits worldwide. The onset of the Asian crisis put an end to this illusion. And somehow, the experiences of individual workers never corresponded to this rosy view of world developments. Poverty and inequality had been on the increase in the developing world for a long time and growing insecurity and mass unemployment had scarred the industrialized world for two decades or more.

These contradictions have a simple explanation - we are seeing a worsening of the two-tier economy, with the divisions between rich and poor widening as income distribution worsens everywhere. The world economy is producing wealth and dividends for some but poverty and insecurity for many others.

The recent financial and economic crisis has led to social turmoil in several Asian countries and shown the weakness of simply pursuing economic growth which does not take the needs and demands of civil society into account. It has led to a serious questioning of the process of economic growth without a social dimension.

Yet experience to date shows that the only answer countries can find seems to be more of the same. Governments, made increasingly desperate to increase their countries' exports and attract foreign investment after the Asian crisis, are finding themselves in a buyers' market dominated by companies who can name their price. And that price all too often includes cheap labour, low standards and no trade unions. Too much of global competition seems to take the form of governments competing for the attention of companies, rather than enterprises competing for the attention of consumers.

#### **DEFENDING FUNDAMENTAL TRADE UNION RIGHTS**

The most recent edition of the ICFTU's Annual Survey of Trade Union Rights shows that 132 trade unionists were murdered in 1998. There

is no doubt that many of these murders took place as a result of governments' failure to protect trade union rights and, in some cases, with the tacit agreement of certain governments. Trade unionists in Colombia, where 98 of their colleagues were killed during the year, say that the security forces were implicated in many of the killings. They add that violence against union members was never investigated.

The persecution of trade unionists in Colombia is extreme but not unique. It is merely one example of a pattern listed throughout the Survey: workers carrying out normal trade union activities are accused of threatening the country's economic progress, and then find themselves the victims of repression by their own governments, by paramilitary forces or by company thugs. In many countries, the trade union movement's scope of action is being steadily curbed by batteries of new laws, special powers, and so-called "labour code reforms", with trade unionists being treated as criminals and accused of sabotage, subversion, and even terrorism. These accusations are used to justify repressive legislation against trade unions, or the persecution of individual trade unionists. The Survey records over 1650 cases of union members being harassed or injured in 1998, 3660 being arrested, and a massive 21,427 sacked for trade union activities recognized in international law and codified by the International Labour Organization. Each year the numbers of countries violating trade union rights is increasing - the 1998 total stood at 119 countries.

Some countries will not tolerate free trade unions at all. China is now a powerful player on the global economic stage, with many experts predicting it will have the biggest economy in the world within the next 25 years. There are 153 million manufacturing workers in southern China alone powering an economy unencumbered, as the regime would see it, by any kind of independent voice demanding higher standards or fair wages. Many factories in China are run by the army, and the country has an extensive system of forced labour camps where labour is unpaid. It is difficult to see how any other government could compete with that, no matter how tightly it restricted workers' rights.

Yet that is what many governments seem to be doing, especially those who are competing for foreign investment. Throughout the world, governments are investing heavily in Export Processing Zones (EPZ), and touting them as sources of cheap, mainly female labour where unions are often suppressed. Some Asian leaders have tried to portray trade unions as alien institutions that are threatening Asian culture - though this is not a view their citizens seem to agree with, whenever they have the liberty to organize free trade unions. In Central and Eastern Europe, there is widespread hostility to trade unions, with governments designing labour laws so as to frustrate, rather than encourage collective bargaining, and to place limits on trade union activity.

#### THE MALAYSIA REPORT

The ICFTU report on Malaysia's respect of core labour standards made damning reading. It said that Malaysia was using union busting tactics as a clear plank in their export policy. The employment of young women, who could be more easily threatened, and immigrant workers who were badly treated were also aspects of the government strategy.

In 1992, the Prime Minister, Dr Mahathir Mohamad emphasised that the low labour costs in this industry were a comparative advantage for any country wanting to attract foreign investment.

In the electronics industry, which is Malaysia's biggest export industry, accounting for 40% of Malaysia's exports, workers have been denied the right to organise a national union since the early 1970s. Here, the mainly young women workers are employed by companies from Japan, Chinese Taipei, the US and European countries, as well as Malaysia itself. 83% of workers in Malaysia's free trade zones are women, with an average age of 21.7 years. In the main they perform the low-skilled jobs in the zones. Because of their youth, and the lack of trade union support, they can be more easily bullied to accept poor working conditions and low pay.

Motorola, the country's biggest electronics' manufacturer, is reputed to have sent company spies to meetings organised by the Malaysia Trade Union Confederation, and workers were threatened with dismissal if they joined.

Workers in the textile and footwear sector, where 29% of the workers were migrants, sometimes have to work up to 54 hours nonstop to complete orders. Many of these workers complained of exhaustion, lack of sleep, illness and cancerous dyes in the workplace.

Multinational companies use migrant workers as cheap labour. Nike, which operates a "Memorandum of Understanding" and a "Code of Conduct" stating that neither Nike or its subcontractors would on the basis of race or ethnic origin, paid its migrant workers from Bangladesh lower wages and gave them fewer benefits than local workers.

The ICFTU's report made clear that the government was pursuing an export policy, particularly in the electronics industry based on low wages and poor conditions to attract multinationals. And when the government attempted to relax this policy once in the early 1990s, multinational companies threatened to pull out in order to prevent unions. The government hastily reimposed its curbs on union activity.

Malaysia's general non-respect for core labour standards which it had agreed to respect at WTO meetings undermines the credibility of the WTO as a rules-based multilateral market system.

An important part of the explanation for this downward pressure on trade union rights is the global competition for trade and investment. Rather than trade being the well-spring for the improvement of living and working conditions through the resources provided by higher exports, it is all too often the source of misery as governments actually reduce workers' rights out of their belief that minimising labour costs is the best way to attract foreign investment and compete suc-

cessfully with countries such as China. This “beggar-thy-neighbour” competition has effects on all countries, including the industrialized, but it goes without saying that the countries most affected are those developing countries genuinely seeking to protect workers’ human rights and raise basic living standards, for these are the countries most vulnerable at the margin to being forced out of the world market, particularly if multinational companies close down production in order to move to a cheaper location.

It’s hurting, but is it working? Ironically, despite so many governments’ efforts to emulate the EPZ model of development, its long-run success is far from proven. According to the OECD, countries that suppressed union rights did not improve their economic performances in the long term, and “concerns expressed by certain developing countries that core standards would negatively affect their economic performance are unfounded”. The OECD also said that “host countries may be able to enforce core standards without risking negative repercussions on FDI [Foreign Direct Investment] flows”.

The conclusion is irresistible: never was so much inflicted on so many for so little and so needlessly. A workers’ rights clause as suggested by the ICFTU would end this downward spiral in living and working conditions. The international labour standards we propose constitute basic human rights for workers. We do not advocate global minimum wages and working conditions - what we seek to stop is governments trying to gain competitive advantage through the repression, discrimination, and exploitation of workers, and instead to ensure that globalization does result in gains for all workers.

#### SETTING A MINIMUM AGE FOR EMPLOYMENT

Almost every country has laws against child labour, and virtually all have signed the UN Convention on the Rights of the Child, protecting children from exploitation. Many countries respect this Convention as well as ILO Convention 138 on the Minimum Age for Employment and an increasing number are taking steps to enforce their own child labour laws. Some are not, however; and a minority of countries is still prepared to tolerate child labour in the belief that it will give them a competitive edge. Of the 250 million child labourers in the world, at least 15 million are producing goods for international markets, and tens of millions more are making products for sale within the countries where they work.

There is no evidence that child labour does anything other than exploit the children and enrich a handful of unscrupulous employers. The short term gain will easily be outweighed by the long-term damage being done to a country’s skills base if it puts its children in factories

rather than in classrooms. In other words, today’s child labourers are tomorrow’s unskilled and unemployed young workers. Around one billion adults worldwide are today illiterate because they had to work as children instead of going to school.

Opponents of a workers’ rights clause also deploy the same argument in the case of child labour as in the case of free trade unions: they say that child labour is a part of the culture of some countries, and that those who want to get rid of it are trying to impose “Western values”. But child labour is a world-wide problem, as successive reports by the ICFTU and other organisations make clear. It exists throughout Latin America and it exists in North America, Africa, Asia and Europe. There is nothing “cultural” about it. Loving your children and wanting the best for them is not a “Western value”. Families put their children out to work because the family needs their income to survive. In every case investigated by the ICFTU, child labour is found alongside high adult unemployment, low adult wages and violations of union organising rights.

The cruelties inflicted on children who work illegally are well-documented. In Brazil children work in the tin and charcoal industries, where they have to dig by hand for cassiterite, and as debt slaves raking up charcoal. Some of those who have tried to escape have been murdered.

In the Bangladeshi capital, Dhaka, children are locked into garment factories for 10 - 14 hours at a time. Some of them are not even paid, but forced to work for nothing as ‘apprentices’. In Peru, gold prospectors buy child slaves from contractors in the Peruvian Sierra. There are media reports of secret graves of unidentified children in the forests, and children who have escaped tell of the treatment they have received: girls are raped, boys are beaten; they get just one meal a day; there is no medical service and no education; all they do is work. A child from a carpet factory in the Indian state of Rajasthan described the primitive medical care he and his friends received. The employer would put turmeric paste on their fingers if they got cut. Not for any medical reason – but to stop blood dripping on the carpets.

.In the United Kingdom unions found that 20% of 11 year olds and 25% of 12 year olds work, and 1.5 million children are thought to be working illegally.

All these and countless other examples point to a multilateral world problem that cannot be solved by unilateral action alone. This is not to say that specific initiatives have no value; the ICFTU, the International Trade Secretariats, and individual trade unions and

national centres are all involved in and committed to projects designed to stamp out specific instances of child labour. But all these initiatives risk being undermined by the few countries who turn a blind eye to child labour for sake of short-term competitive advantage.

The most effective way to protect children would be through a workers' rights clause that would remove the competitive advantage from using child labour. Countries where no effort is made to stop the abuse and exploitation of children would become outcasts from the world trading system – no more than they deserve - while those who are trying to work their way out of poverty and eliminate child labour at the same time would be given help.

The workers' rights clause would also help eradicate child labour because it would protect and encourage free trade unions. Trade unions have a daily presence at the work place which ensures that child labour will not be used. Exploitation of any sort flourishes where organizing rights and collective bargaining rights are weak.

#### ENDING DISCRIMINATION IN EMPLOYMENT

All over the world, in both industrialized and developing countries, women workers have become the main victims of unemployment; they are often confined to the jobs requiring the lowest skills; and most still do not receive equal pay for work of equal value, or even equal pay for equal work. And most of the workers in the new bastions of the global economy – the informal sector, the export processing zones and home working – are women.

Two ICFTU reports in recent years have logged the growing number of women who are working. Women now make up nearly 50% of the world's labour market, and 35% of union members. Their contribution to the economies of developing countries may be even higher because of under-reporting. In Africa alone, the International Fund for Agricultural Development (IFAD) says that women produce 70 per cent of the food.

Yet they have paid a heavy price to get into the labour market. Many governments, after pressure from trade unions and women's groups, have tried to remove inequalities. But their efforts have been undermined by employers who still see women, especially young women, as a source of cheap labour. Many in developing countries rely on labour-intensive industries with a predominantly female workforce to boost their exports. To keep up with international competition, the average wage paid to these women can be half of what men get. Some countries even boast in advertising aimed at attracting foreign investment about the fact that they employ women workers, pointing out that not

only are the women cheap, but they are more docile and less likely to become trade union activists. Some multinationals, keen to escape higher wages, stricter laws and stronger unions in the industrialized world, have been only too happy to take advantage of such opportunities for exploitation.

The main culprits are the factories in the export processing zones – special zones where foreign companies are offered tax breaks and, in many cases, exemptions from labour laws if they invest. On average, 80 per cent of the workers in these zones are women, and in Panama, nearly 95% of them are women. They are subject to a level of abuse, exploitation and humiliation which would cause a public scandal if it happened in the investor's home country. Working conditions in zones are characterised by bullying, unpaid overtime, and often the requirement that the women must undergo a pregnancy test before being hired. Working hours are long and safety protection is usually poor. The discipline is harsh and arbitrary, and sexual harassment is a common problem. The ICFTU report quotes the case of a young Salvadorian woman who died after an attack of gastro-enteritis for which her employer refused her treatment. Another woman working at a Korean factory in the same country was beaten so badly by a supervisor that she suffered a miscarriage.

These women have been forsaken by their own governments. Once they start work in the zones, they are often beyond the protection of their national laws. Nor do they find it easy to protect themselves. Trade unions are nearly always denied access to the zones, and women who try to join or form unions face, at best, dismissal, and, at worst, persecution. For example, in the San Pedro de Marcoris EPZ in the Dominican Republic, Ingrid Bastado and Carmen Rosaria tried to set up a union in a textile factory. Their initiative did not go unnoticed, as one night they were attacked with clubs, leaving them seriously wounded. Ingrid Bastado was pregnant.

Countries with higher standards cannot hope to compete fairly with the export processing zones. Whatever advantage the zones bring is only temporary: South Korea, for example, once benefited from its low wages, but it soon found itself undercut by workers in countries like Indonesia, China, Sri Lanka or Vietnam. The only real winners in this game are the transnational corporations which can move from country to country as soon as the going gets too expensive.

This is a problem that will have to be tackled internationally by a workers' rights clause. Nearly all the countries in the world have signed up to the ILO convention on discrimination in employment. Nearly all of them were represented at the United Nations Fourth World Women's Conference in Beijing in 1995. There is a clear inter-

national commitment to ending the injustices inflicted on women; and a clear need to end the unfair competition that is threatening to undermine what has already been achieved, and what women in many countries are striving to achieve.

A workers' rights clause would help women to join together in trade unions to protect themselves; and it would make it clear to every country and every transnational corporation that exploiting women was no longer economically viable.

### FREE TRADE OR SLAVE TRADE?

The media image of the global economy is of a technology-driven, high-production free market gearing itself up for the 21st century. But how free is a market that tolerates forced labour?

In August 1998 the International Labour Organisation published a report *Forced Labour in Myanmar (Burma)*. The 400 page report, which was the result of a two year investigation, showed widespread and systematic use of forced labour by Burma's ruling military junta, and concluded that the violations were so serious as to constitute crimes under international law.

The ICFTU and Amnesty International were able to corroborate the report's findings with film footage shot clandestinely inside Burma, which showed children and women unloading heavy sacks of cement from a barge, building roads under soldiers' supervision in Rangoon, working on an irrigation site in Mandalay City, as well as men displaying horrendous scars suffered after extended portering for the army in the Burmese jungle. All people carrying out this work did so as slaves.

The ILO's report also charged that the practice of forced labour often gives 'rise to extortion of money ... threats to the life and security and extrajudicial punishment of those unwilling to comply, which could range from money demands to ... beatings, torture, rape and murder'.

Since 1994, Burma's military dictatorship, the State Law and Order Restoration Council (SLORC) has been building a railway line that will connect the town of Ye in the southern part of Mon state, to Tavoy. The railway will be used to transport troops to and from a pipeline linking huge natural gas deposits in the Gulf of Martaban with customers in Burma and Thailand. The pipeline itself is alleged to have been built under similar conditions. Thousands of villagers have been thrown off their land to make way for the pipeline, and thousands of others have been press-ganged into working on the project. The total value of the project is estimated at over \$12 billion.

Foreign companies involved include the French-based TOTAL-FINA, and the US-based UNOCAL.

The workers are supervised by armed guards. They have to forage for their own food and firewood. Hundreds have died of cholera, and countless others have been beaten and tortured by the guards.

Following the publication of the ILO report, the ICFTU once more called on multinational companies to disinvest from the country as long as the army remained in power, as they could no longer claim ignorance of Burma's disastrous human rights' record.

### PAKISTAN, BURMA AND THE EUROPEAN UNION'S GSP

Pressure by the ICFTU and the ETUC persuaded the European Union to attach a workers' rights clause to its Generalized Scheme of Preferences (GSP), in effect since 1995. This provides further scope for European trade unions to co-operate with trade unions in developing countries on ICFTU campaigns to improve labour rights. In June 1995, the ICFTU and the ETUC, along with the textile workers' international, the ITGLWF and its European section the ETUC/TCL, submitted a complaint under the European GSP over the use of forced labour in Pakistan and Burma. As a result Burma has had its tariff preferences withdrawn

However, the European Commission has not set up a similar investigation into Pakistan, partly because its government has spared to effort to try and block an investigation using a combination of diplomatic pressure and disingenuous responses to the trade union investigations. In February 1998 the same trade unions submitted further filmed evidence of enslaved children working in brick kilns and making carpets in Pakistan, but once again the European Commission has declined to take action, citing evidence of willingness on the part of the Pakistani government to take measures.

These campaigns depend very heavily on the commitment and courage of the unions in the producer countries. The Pakistani trade unions operate under a barrage of restrictive legislation. Trade unionists who have worked to free children from bondage have been attacked, and hospitalised as a result. Because the economic stakes are high, unions face accusations of being wreckers and even traitors. Western countries buy 97 per cent of carpets produced in Pakistan, India, and Nepal. In 1992 and 1993, Pakistani exports to the European Union amounted to about 1.7 million Ecus each year. Textile and clothing imports – both sectors where child labour and bonded labour are widely used – account for over 60 per cent of Pakistan's products that benefited from the GSP. The Pakistani trade unions and their allies in other campaigning organizations are taking on powerful vested interests. They deserve and need the backing of the whole international trade union movement.

The free trade unions in Burma face even harsher opposition. Unions are banned in the country itself. The Federation of Trade Unions of Burma operates underground, working in the border areas, and maintaining a secret network of workplace branches. Its activists are under surveillance by the police and the intelligence services and live in permanent fear of arrest and torture.



**CUTTING UP ROUGH**

At least 15 million child labourers worldwide are producing goods and services for international markets, and in Sialkot, Pakistan, 15% of the workers in surgical instruments production are children, in an export industry which earns Sialkot \$61.6 million in export revenue. Over 69 million units<sup>1</sup> of surgical goods are exported from Pakistan every year, mainly to OECD countries, with the USA as the largest importer. The surgical instruments are stamped out of sheets of steel imported from France, the United Kingdom, Germany and Japan.

In May 1998, international trade unions released video evidence showing children crouching in cramped workshops, grinding scissors, and polishing, cutting, and filing other surgical instruments, without any protection.

The child workers, all of whom were boys, said that they had had minimal schooling, and had been working for several years.

International trade unions are working together to fight child labour in this industry. The International Metalworkers' Federation is supporting its Pakistani trade union affiliates in their efforts to organise adult workers in the industry, to bargain for fair wages, and for safe working conditions. In a co-ordinated campaign by the Public Services International (PSI), unions in the health sector are taking the issue up with health purchasing authorities around the world. The PSI is calling on the major companies in the sector to help deal with the problem, and to give preference in supply contracts to local companies which join the effort to stop the exploitation of children. Pakistani trade unions are now taking steps to organise adult workers in the sector and to help rehabilitate the children, working with the ILO and other agencies.

Burma is an extreme case, but it is not the only offender. Forced labour exists in Latin America, Africa, the Middle East and elsewhere in Asia. In 1993, the ILO said that "Pakistan is beset with some of the most critical problems in the world in terms of forced labour". Forced labour is used in several sectors, including the brick kilns (where whole families are enslaved), carpet-weaving, shoe-making and agriculture. The problem is caused by a loan system, known as bonded labour, under which outstanding debts bind the creditor to the debtor. The interest is so high that the debt is passed on through generations, and in fact, is never paid off. The employer gets free labour not just for life but for several lives, with whole families working to repay the debt.

Several of the products made using this kind of labour find their way onto world markets, and it is the international connection that enabled the trade union movement and human rights groups to take action.

In the cases of Burma and Pakistan, the ICFTU, the relevant International Trade Secretariats and the European Trade Union

Confederation (ETUC) have framed complaints about forced labour under the European Union's Generalized System of Preferences (GSP). This allows preferential access to certain goods from developing countries into the EU's markets, and makes such access conditional upon respect for basic workers' rights as set out in ILO conventions. As a result of the trade union complaint, Burma was formally suspended from the European Union's GSP in March 1997.

Withdrawal or the threat of withdrawal of GSP benefits can contribute to eradicating forced labour. But in a global economy, any such system has to have global coverage.

Burma's efforts to secure its membership of the Association of South East Asian Nations (ASEAN) show how international approval does matter to repressive regimes. Other ASEAN countries argued that the SLORC would modify its behaviour after joining the club. But the opposite has happened. The ICFTU says that it has treated its membership as a "license to increase repression", sentencing an activist of the Free Trade Unions of Burma (FTUB) to life imprisonment on trumped-up charges of terrorism and other pro-democracy activists to long jail terms.

A workers' rights clause would turn countries like Burma into outlaw states. But it would have enough flexibility to help countries that were genuinely trying to deal with the problem of forced labour, while removing the economic incentives that make forced labour so attractive to unscrupulous employers and foreign buyers.

**THE HUMAN RIGHTS CASE FOR A WORKERS' RIGHTS CLAUSE**

The moral case for a workers' rights clause is unanswerable. Globalization promises a great deal, but delivers insecurity and cruelty to millions. The world cannot tolerate an economic system that depends on repression for profit; that exploits children and young women; and that makes slavery a sound business option. A workers' rights clause would create the potential for a different future, one that creates a basis for really achieving workers' rights and economic development and growth on the basis of respect for human rights and improvement in living and working conditions for all world citizens.

The international community already agrees that the global economy needs global regulation. That is the whole basis for the World Trade Organization; for international standard-setting; for laws banning the manufacture and sale of counterfeit goods and protecting intellectual property; and for the environmental initiatives following on from the Earth Summit. Many of the mechanisms set up to enforce these regulations are expensive for the companies to operate, and operate across the jurisdiction of nation-states.

### ICFTU/SOLIDAR - WORKING TOGETHER ON WORKERS' RIGHTS AND TRADE

In March 1999 the ICFTU and Solidar, the NGO campaigning on labour standards organised a joint signing of a giant "Charter Against Child Labour" at the March session of the European Parliament. Giant copies of the charter in English, French and Spanish were signed by 120 MEPs, from all political parties, and from all 15 countries of the European Union. Pauline Green, the leader of the Parliament's Socialist Group led the signing.

Copies of the charter were given to all those who signed over a two-day period, and this provided a good opportunity to publicise the issue of child labour, and of labour rights in the Parliament.

There seems no justification for global regulation to protect property rights, while claiming that the same type of international regulation cannot operate to protect basic human and trade union rights.

But what of the economic case? What of the accusation that a workers' rights clause is a protectionist device designed to safeguard Western workers from the more competitive and efficient developing countries? This is the argument we confront in Chapter Three. First, we look at some of the other development, environment, democracy and gender issues which have so far been undermined or neglected by the world trading system.

<sup>1</sup> The Asia Pacific Labour Network (APLN), a grouping within the ICFTU represents over 30 million workers throughout Asia-Pacific nations.

## PART II

### THE PROPOSAL FOR A WORKERS' RIGHTS CLAUSE

#### COMPLACENCY IN THE FACE OF IMPENDING FINANCIAL MELT-DOWN

Globalisation isn't all that it was cracked up to be. Most people now agree it has failed to deliver overall benefits for everyone.

The past three years have seen the worst financial crises since the years of Depression in the 1930s. Asia, Russia, and Latin America have or are facing financial crises. Africa is experiencing a fall in growth and a setback to prospects for employment and poverty reduction. Look at what has happened in the name of globalisation.

#### Asia

Asia's economic and social catastrophe began in the summer of 1997, when Thailand had to stop shoring up its currency the baht, against the dollar. As it plunged downwards, the Thai currency dragged those of Indonesia, Malaysia and South Korea with it. The main cause of this crash was the bursting of the speculative bubble precipitated by a lack of transparency and the vested interests of the region's elites. From a financial crisis, it became an economic and a social crisis which engulfed whole swathes of the region's economies, plunging millions of people into abject poverty. The cause of the financial crisis in the region was the single-minded pursuit of financial liberalisation, without a proper regulatory framework to prevent mismanagement, speculation and corruption. This was combined with social neglect and repression of basic human rights, while governments left the responsibility for managing their economies to financial markets.

Thailand, Indonesia, the Republic of Korea, Malaysia, the Philippines and the People's Republic of China have all been affected. In all these countries the most vulnerable are having to suffer the worst effects.

In Thailand and Indonesia, families are sending their children and grandparents to scavenge on rubbish tips, while the adults search for casual labour. A recent World Bank report said that the effect of the crisis had been worse for female workers since they worked in many of the sectors which were dependent on international finance. Women in several sectors were often the first to be thrown out of work, and growing poverty resulted in a disproportionate number of girls being withdrawn from school.

In Indonesia, which is the world's fourth largest nation, half of the population is now living on an income below the poverty line, and the minimum wage is equivalent to 2.6 kilograms of rice.

Migrant workers are another vulnerable group affected by the crisis. There is tension in the main host countries of migrant workers, especially Thailand, Malaysia and Singapore, because of the large numbers of unemployed migrant workers, who do not want to return to their country of origin because of the lack of job opportunities there. From the other side, the Philippines, one of the main countries which supplies migrant workers in the region, is finding itself with high unemployment because of the forced return of migrant workers.

The political response to the crisis was inadequate. The situation worsened as millions of workers did not benefit from even minimal social safety nets. In one report to the WTO, the ICFTU stated that 'the financial crisis has revealed the short-comings of the pursuit of economic development at the expense of broadly based social development targeted at reducing poverty.'

### Russia and the CIS

In Russia a new elite has built massive fortunes from privatisation and the growth of a largely unregulated financial sector. Individuals have transferred a large proportion of their assets into foreign currency accounts in Switzerland and Cyprus, while 50% of the Russian workforce is not receiving regular wages. In many areas a barter economy has replaced one based on currency, as millions of Russian workers have been paid in kind - coffins, can openers and manure are just some of the more bizarre examples.

A worrying addition to this phenomena is the growing number of children who are now working in Russia in order to help their families to survive.

#### CHILD LABOUR INCREASING IN THE RUSSIAN FEDERATION

Research by the ICFTU's Moscow office found that more and more children are being forced into work because of economic circumstances and the serious decline of the country's education system.

Most of the children are employed in small business (motor garages, kiosks, cafes, laundries, etc) or street vending, but more and more are being used by criminal syndicates to sell or distribute illegal drugs because children under 14 are below the age of criminal responsibility.

There are also many "Dungeon Children" living on the streets of St Petersburg. Vitalki, a boy who lives in one group (average age 13) left his parents because he was raped by his stepfather while his mother looked on. He earns money through prostitution, as does Lena, a 10-year old girl in the group.

In the countryside, 12-year-old Nikolai works all summer on a large state farm in Samara, for up to 14 hours a day as an assistant combine harvester operator. He is paid in grain and fodder for his mother's two cows. He still goes to school during term time but wants to start full time work.

Payment in kind is increasingly common throughout Russia, where up to 50% of the Russian workforce has not received regular wages, and survives by bartering the "in-kind" payments they get from employers and cultivating small-holdings.

The impoverishment of Russia has meant a startling increase in child illness. In 1996, 2,300 pre-school age children were infected with Tuberculosis in Samara Oblast alone, while the number of hospital beds is falling.

The fast deteriorating Russian education system is the other main factor pushing children into child labour. In 1996 the authorities admitted that only half of the necessary 100 million school books for the country had been printed, and in 1997 teachers faced an average delay of three months before being paid.

### Latin America

Latin America has been hard hit by natural as well as man-made disasters in recent months. Hurricanes Mitch and Georges have devastated entire regions, justifying the appeals of the local communities for international assistance and debt relief. At the beginning of this year there was a threat that natural disasters would be followed by an economic crisis as the Brazilian Real was halved in value and there were massive currency shifts out of the country.

In Brazil the social cost has been high, interest rates were hiked to 45% in the wake of their devaluation, unemployment is rising, and the education budget has been cut by 10% and the health budget by 6%.

#### HEALTH DECLINES AS VIOLENCE INCREASES

In Brazil, the devaluation of January 1999 hit the population badly, and affected such vital items as the price of medicine. "Even before the devaluation a packet of antibiotics cost 50 reals, already prohibitively expensive. After devaluation, some pharmacists promptly pushed prices up further" explains Rosely, a doctor working in the favelas (shanty towns) of Rio and a feminist activist. "The way a lot of pharmaceutical companies think is that those who have money have so much of it they can afford to pay exorbitant prices. The poor have so little that they cannot pay for anything anyway. Respiratory diseases (pneumonia, tuberculosis...) are very common among these people. With a shortage of supplies in clinics, the lack of health education, coupled with malnutrition and the humidity of unhealthy housing, these diseases are wreaking havoc."

"The link between the crisis and the general rise in violence is also obvious. This morning on TV they were talking about a young couple. The woman was pregnant, they had no money and out of desperation they attacked a taxi driver. He refused to hand over his money, and so the couple set on him with knives. The driver met a bloody death. In this district (the Rio suburbs) 8 per cent of all

deaths are linked to crime.” Rosely adds: “In the 15 to 25 age group, one death in five is linked to crime, with a ratio of 8 to 1 between men and women. That is not to say that women do not suffer from the violence, far from it. As the mothers or wives of the young men who are killed, they are they ones who have to bear the burden.”

Even before the crisis, the International Monetary Fund acknowledged that Brazil had one of the world’s worst records for social justice. According to the barometer used by economists to measure the rate of inequality - the Gini index - Brazil is top of the league with a rate of 0.59, far higher than the Asian average of between 0.35 and 0.39. And the crisis is bound to create further inequality.

### Africa

Of the 45 countries classified by the United Nations as least developed, 32 are in Africa. These 32 countries account for about 46 per cent of the total continental population, but only about 16 per cent of its GDP. More than half of the 360 million people in Eastern and Southern Africa live on less than \$1 a day, four years after their leaders committed themselves to eradicating poverty at the World Summit on Social Development in Copenhagen in 1995.

These people are also affected by structural adjustment programmes, many of which were brought in as a condition of loans from international financial institutions, which had to lend to countries after former dictators left having milked the country dry of all their resources. The massive foreign bank deposits of ex-President Mobutu in the - now renamed - Democratic Republic of Congo provide an example of this phenomenon.

#### DROWNING IN DEBT

The current debt for Africa is over \$350 billion. Countries like Rwanda and Tanzania spend as much as 60 per cent of their revenues on servicing foreign debt, six times the amount they spend on education.

Thelma Awori, Director of UNDP, Africa, recently expressed her frustration at the situation as follows: “We should ask ourselves today, whether Africa, a place of diamonds, gold forests, oil and abundant beauty should be the home of people living in miserable conditions”.

Many of these countries have found themselves owing debts hundreds of times their annual earnings, which they have absolutely no chance of repaying. To deal with this the Highly Indebted Poorest Countries (HIPC) initiative was brought in to reduce and in some cases to write-off the debt. However, its implementation has been very slow and disappointing. The \$7 billion promised mainly to

African debtors over the next four years contrasts starkly with the \$100 billion loans mobilised for Asia over just one year.

### TRADE AND DEVELOPMENT

Given the present world economic crisis, most developing countries feel lukewarm, at best, at the prospect of a new round of WTO negotiations. They know that as things stand at the moment, they will find it hard to make their views count. Low-income developing countries have little negotiating strength in the WTO process.

Two-thirds of ICFTU affiliates come from these countries and the ICFTU is very much aware of those trade unions’ concerns about a new round. If developing countries are to support the new WTO round, they need effective guarantees that they will benefit from it.

The ICFTU proposes that a new WTO Negotiating Group on ‘Treatment of Developing Countries’ be set up in the new Round. This would review the WTO’s current mechanisms and functioning in order to make it more flexible in dealing with the needs of developing countries, especially the Least Developed Countries, and in protecting their rights. WTO industrialised country members will have to make a much greater financial commitment to assist developing countries so that they can obtain a positive impact from trade.

#### The ICFTU advocates the following measures for developing countries:

- a much more generous financial commitment from the industrialised country members of the WTO to help developing countries, including trade assistance programmes that are gender-sensitive;
- assistance in using the trade disputes mechanism of the WTO;
- the use of capital controls to prevent financial destabilisation;
- the opening up of world trade in agricultural products;
- strengthened provisions on food security in the WTO Agreement on Agriculture, with attention to the situation of women agricultural producers;
- renegotiation of the Trade-Related Intellectual Property Rights (TRIPs) Agreement to provide improved protection for developing countries, especially LDCs, including exemptions for life-saving drugs and particular regard to the problems of indigenous peoples and rural communities;
- urgent removal of tariffs and import quotas for least developed countries respecting core labour standards;
- acknowledgement of the need for a multifaceted development strategy which stimulates internal demand at the same time as export production while maintaining food security.

These measures would provide developing countries with some assurance that their interests will be taken into account in the new WTO negotiating round.

Furthermore, the ICFTU supports the NGO Jubilee 2000 initiative on debt relief. It agrees that the process must be speeded up to provide debt relief for all potential qualifying countries by the year 2000. Large scale concerted action is essential to avert the risks of a deep and long world recession, through :

- a major increase in financial assistance to the developing and transition countries in the front-line of the crisis, targeted on social programmes and the restructuring of private and public debt;
- substantial reforms to the architecture of the global financial system;
- a coordinated cut in interest rates across the OECD countries;
- support for the building of democratic institutions and the principles of good governance, including the respect for fundamental workers rights; and
- a determined drive to eradicate poverty.

#### TRADE AND THE ENVIRONMENTAL PERSPECTIVE

Since the Singapore WTO Conference various other factors have become central to the debate. The first concerns the environment. The presence of smog which obscured the sky over much of Indonesia and Malaysia during autumn 1997, brought home to people the importance of controlling the rape of the environment by the race for a quick buck.

The WTO lacks any legal clarity to make sure that its trading regulations are compatible with trade provisions of multilateral environmental agreements such as the UN Convention on Climate Change (UNCCC). In other words, countries which agree to comply with targets for reducing ozone or greenhouse gases risk being found guilty of trade discrimination because they are not in line with trading regulations of the WTO.

At successive UN Environmental meetings like the Commission Sustainable Development (CSD), where the trade union delegation is a strong force, trade unionists have been forcing home the point that ensuring sustainable development depends, to a very large extent, on respecting core labour standards. One way to reduce greenhouse gases is for trade unions to work with employers to achieve agreed targets at workplaces, and to promote political support for other measures within their communities around the world.

It was a major success for the trade union movement when, in 1998, the CSD defined a sustainable workplace as one that respected all the core labour standards. This definition was stated again at the Commission for Sustainable Development in April 1999.

In addition, the ILO has developed a body of sustainable development indicators which link health, safety and environment issues with core labour standards, which have been used extensively at the CSD.

The WTO Committee on Trade and Environment needs to be strengthened. While the WTO Committee has provided an important forum for discussion since it was set up in 1994, it has so far not made sufficient progress in harmonising emerging global rules on the environment with trade policy.

Environmental concerns need to be mainstreamed throughout the WTO, and this should be done in Seattle by establishing a formal WTO Negotiating Group on 'Environmental Protection and Trade'.

Formal recognition is needed of the importance of the precautionary principle in environment and health-related trade questions, including preventing hazards at work.

The ICFTU has stressed how important trade unions can be in protecting the environment. Not only are they crucial to worker involvement, they are in a strong position to facilitate education and communication as well as to intervene with governments and employers as well as other stakeholders.

#### WORKERS AND TRADE UNIONS IN THE WEB OF TOURISM

The ICFTU/TUAC produced a book for the 1999 United Nations Commission of Sustainable Development (CSD) entitled "The Web of Tourism", which was the subject of debate at this year's CSD.

The publication's arguments clearly illustrated the links between the need for a workers' rights clause and the environment. It argued that sustainable tourism would only succeed if it involves workers who felt that they have a stake in it, which means being democratically involved at work. In addition, the book argued that incorrectly managed tourism leads to the universally criticised aspects of tourism such as child sex tourism. Therefore, implementation of core labour standards, such as that banning child labour, is needed to achieve sustainable tourism.

The book said that tourist workers have great potential for shaping the understanding and perception of the tourists they serve. Through the use of education, workers can be proponents of sustainable tourism.

## THE TRADE AND GENDER PERSPECTIVE

The absence of social considerations in WTO negotiations to date has meant that WTO procedures and mechanisms proceed as if trade was gender-neutral. Therefore, in spite of the fact that hundreds of millions of women work in export sectors or are affected by trends in international trade, no attention was paid in the Uruguay Round, or so far in any part of the WTO work programme, to the gender implications of trade liberalisation. As a result, trade policies that are not gender sensitive adversely affect women and increase the gender segmentation of the labour market. For example the expansion of export processing zones and clothing, textiles and light manufacturing industries has generally been based on low-wage female labour working in unacceptably bad conditions, often without any protection of their right to organise into trade unions.

In other countries, traditional agricultural products mainly produced by women often cannot compete with imported goods when trade barriers are reduced, as has been shown by work of the Informal Working Group on Gender and Trade (IWGGT). This can also result in decreased food security. The reduction in revenue when import tariffs are reduced frequently results in fewer public services, which tends to have its most negative effects on women who depend on services such as health care, child support, maternity assistance payments and so on. Local producers, often women, may be replaced by TNCs. Export promotion measures, including subsidies and access to credit, may also adversely affect women's income and employment positions.

According to the ILO 'Since the 1980s women have been providing the bulk of all new labour supply in most regions of the world. However, although women's employment has been growing they still have higher unemployment rates than men and far outnumber men among the poor and the underemployed....Women are crowded into low-skilled, low-status, low-paid and atypical jobs under precarious forms of employment arrangements.'

### WOMEN ALWAYS COME OUT WORSE

Whatever the economic situation, their level of education or the type of job they have, women always earn less than men, in both rural and urban areas. In the service sector, women earn 70% of the monthly income of their male colleagues. In industry the difference is even greater as women receive on average 56% of the male salary. In total, women receive only 25% of the wealth they have helped to create.

Women's labour is the staple of the burgeoning export zones, which now number over 850. The expansion of these zones has generally been based on low-wage female labour, in unacceptably bad conditions, without any protection to organise into trade unions. ICFTU reports have described how some countries deliberately advertise these zones as places where women can be 'bought' very cheaply to carry out work, often in the textile or electronics sector. For example a recent campaign to encourage investors described Salvadorian women as 'submissive, hard-working, skilful and non-unionised'. This, they believe, gives a country competitive edge over rivals. However, although the combination of direct investment, employment and technology transfer are presumed to stimulate development of the host country, there is virtually no link between the EPZ and the economy of these countries.

Export zones were originally established in Central and South-East Asia. They have now gained a foothold in all regions of the world, particularly in Africa and in Central and Eastern Europe. According to the ILO, women, who represent 90% or more of the EPZ work force in the textile, clothing and electronic assembly sectors, suffer more disadvantages than men, long working days, low wages, lack of social facilities and the often arduous nature of the work.

### DISCRIMINATION IN BOLIVIA

Elvira starts her day at 4am. She prepares breakfast and lunch, before helping her children to get ready for school. At 6.30 she goes to the factory, returning home only having worked 12 hours non-stop at her sewing machine. At the end of the month she brings home 500 bolivianos (\$80). Juan, her husband, does the same work in another clothing factory. However, in his case he only works the statutory eight hours, and at the end of the month he is paid 650 bolivianos (\$110). As well as earning less, women like Elvira are forbidden by their bosses to become pregnant, in order not to have to pay them maternity leave.

However, it is clearly not simply in the Export Processing Zones that women are discriminated against at work. Women, who make up the bulk of public service workers, have also felt the effects of the recession. The public sector is a sector where there have been major cutbacks.

For example in Russia, and in the rest of the former Soviet Union, state coffers are empty. Public expenditure on education has been slashed, basic social services have stopped and the public sector has collapsed. In 1997, even though women comprised 53% of the population of the Russian Federation, they represented 70% of the jobless total.

In practical terms as well, women's share of unpaid work, mainly in the home, has grown. Once again women are finding themselves confined to a gender-based system of dividing labour where the man is the 'powerful' one, the 'breadwinner' and women have become entirely responsible for the family, bringing up the children and doing all the housework.

The 7th ICFTU World Women's Conference, which took place in Rio de Janeiro, Brazil in May this year (1999) took as its theme Women in the 21st Century: Demanding our Space, Taking our Place. The discussion at the Conference centred round how to change the face of globalisation so that it responds to women's needs. Current research shows that of the 1.3 billion people living in poverty worldwide, more than 70% of them are women and girls.

As part of the trade union lobbying of the WTO, the ICFTU is cooperating with NGOs and other social groupings to defend the interests of women workers. It is also part of the Informal Working Group on Gender and Trade (IWGGT) which comprises more than 30 women's groups.

It submitted a Declaration on Gender and Trade to the WTO's Second Ministerial Conference in Geneva, drawing attention to the way in which trade liberalisation adversely affects women. For example, it stressed that when social service provision is reduced, the burdens are shifted on to the household, and inevitably, to the woman. The statement also drew attention to the way in which, historically, the expansion of trade has been based on access to low wage female labour.

Fundamental to defending the working standards of women, is the ban on any form of discrimination against women, a ban which is central to the objectives of equality and development which were defined at the 4th United Nations' Women's Conference in Beijing 1995, in which the ICFTU played an active part.

As a follow-up to Beijing, the ICFTU is continuing to call on governments to respect the pledges they made there. It will also be taking an active part in the UN General Assembly debate "Women 2000 - Gender equality, development and peace for the 21st Century" which takes place in June 2000 .

Because of growing pressure for women's groups to make globalisation adapt to women's needs, there is likely to be a demand at the Third WTO Ministerial that these issues are clearly addressed within the WTO, and that gender concerns must be mainstreamed within the WTO's structure. One way to do this is for the WTO to build

into its functions the respect of the core labour standards on discrimination - Convention 100 on equal pay, and Convention 111 on discrimination.

#### TRADE AND TRANSPARENCY

The last factor to surface has been an increasing impatience from the world outside the WTO with the undemocratic mechanisms of the organisation. Among the measures to begin opening up the WTO are efforts to involve NGOs more directly. One move has been to open up its website to contributions from NGOs.

However, the WTO system still needs to become much more democratic. It needs to set up proper channels for involving trade unions and other democratic representatives of civil society, and it needs to recognise that they have legitimate concerns.

A proper consultative process should be established to ensure that international union, business and other non-governmental organisations can present their views to WTO committees and discuss issues of mutual concern with trade ministers, on occasions such as WTO Ministerial Conferences. The WTO General Council should furthermore take immediate measures to improve public access to information emanating from the WTO. This should entail automatic derestriction of documents except under exceptional circumstances.

#### BANANAS - LABOUR, SOCIAL AND ENVIRONMENTAL STANDARDS

So far, the US-EU banana trade dispute has failed to talk about the social and environmental problems in banana exporting countries. This illustrates a major gap in the international machinery for resolving the dispute.

Central American bananas are produced on large 'industrial' plantations which employ large numbers of poorly paid workers. In some cases workers trying to organise unions have been murdered by para-military gangsters and thugs. The large quantities of fertilizers used, and the rerouting of natural water sources have also caused huge environmental problems.

On the other hand Caribbean bananas are produced on small family farms, mostly farmed by women in mountainous districts at relatively high cost. Many of these islands are dependent on the banana industry.

An innovative programme is needed to improve the observance of labour and environmental standards in Central America, and to broaden the employment base in the Caribbean, as well as ensuring that the governments and powerful multinational companies contribute to sustainable development in Central America and the Caribbean..

At the moment there are no WTO guidelines which allow it to look beyond a narrow trade definition of a dispute. The trade system is threatened by trade sanctions because politically well-connected multinationals have pushed governments into being champions in a battle for market share in consuming countries.

The WTO's dispute settlement procedures need to be opened up for public information and involvement. The relevant civil society groups concerned by any dispute settlement process should be able to engage in direct participation in the procedures. There should be a swift public release of the findings and conclusions of disputes settlement procedures.

Developing countries, too, find it hard to participate in the WTO system. A much more generous financial commitment is needed from the industrialised country members of the WTO to enable developing countries to better participate in the process. A package of financial, technical and legal assistance needs to be made available to developing countries, especially the least developed, to assist them in capacity-building so as to maximise the benefits of their participation in the global trading system. Many developing country members of the WTO should also be provided further assistance to help them to take a full part in the technical negotiations involved in areas such as intellectual property rights and investment measures.

The global economy needs global rules. Although it could be a powerful mechanism for dynamic development, it can also lead to the exclusion and marginalisation of millions of ordinary citizens. Achieving progress on development, environment, gender, transparency and international workers' rights and trade is one of the keys to the future of the world trading system.

### PART III

## THE PROPOSAL FOR A WORKERS' RIGHTS CLAUSE

### WHY DEVELOPING COUNTRIES WOULD BENEFIT MOST FROM RESPECTING WORKERS' RIGHTS

The accusation most commonly leveled against those campaigning for linking trade and workers' rights is that it is an attack on the up-and-coming developing countries by the hidebound economies of the West.

However, competition is not simply between developing countries and industrialized countries. Low-wage economies are in direct competition not with countries producing high value-added goods, but with other low-wage countries. And the labour on the other side of the border will always be cheaper.

The world's financiers have developed an investment strategy where out of \$100 billion for all the developing world, China alone gets \$38 billion and all of Africa gets just \$5 billion. The attractions of China are obvious. There, the labour isn't just cheap; some of it is free. The country has a vast network of labour camps. Whole factories are being run by the army. Who can compete with that?

Developing countries struggling to emerge from economic crisis, many of which have governments which would genuinely wish to raise working and living conditions, are in a difficult position to compete with other countries with development models based on Export Processing Zones – where cheap labour, use of young female workers and, often, lack of union rights are among the main selling points. Unfettered competition leads to a race to the bottom. Without a mechanism to link core labour standards to the world trading system such as a workers' rights clause, this is the shape of things to come for low-wage economies.

Many developing countries aren't even at the starting gate. Countries in sub-Saharan Africa and Latin America are still struggling to emerge from the economic crisis of the 1980s and have so far been excluded from the benefits of globalization.

Those who have aren't getting the return they deserve. Around the world, income and wage inequalities continue to expand with societies polarized between those who have the wealth or skill to gain from global integration and those who remain trapped in poverty without productive employment or basic labour standards.

Apart from a handful of countries, the investments made in Export Processing Zones have generally failed to spill over into the rest of the economy.



### THE ICFTU ASIA PACIFIC LABOUR NETWORK

The ICFTU/APLN was established in 1995 to support and promote the work of trade unions of the Asia Pacific Economic Cooperation (APEC) region in their dialogue with governments, business and other groups involved in the APEC process. Its aim is to achieve an improvement of the conditions of work and life of the citizens of this populous region. The APLN consists of all the affiliates of the ICFTU in APEC countries, together with the ITS, TUAC and the ICTU regional organisations ICFTU/APRO and ICFTU/ORIT.

Since its creation, the ICFTU Asia Pacific Labour Network has held meetings with the Prime Ministers or Presidents of all the countries which have hosted the APEC Leaders' Meetings; Japan (1995), the Philippines (1996), Canada, (1997), Malaysia (1998) and New Zealand (1999). At the same time the trade union centres affiliated to the ICFTU/APLN have lobbied strenuously for recognition of the need to tackle inequality (both within countries and within the region as a whole), a wide distribution of the benefits of growth, employment creation, broad-based participation and gender perspectives.

The work of the ICFTU/APLN was thrown into sharp relief by the 1997 environmental disaster in Indonesia and Malaysia, and more importantly by the 1998 economic and social crises in the region. These are examples of reckless industrial development in a lawless free market, which could have been avoided if the countries involved had the kind of checks and balances that follow from allowing democratic and trade union organizations to have some say in how the economy is run. During the 1997 meeting APEC leaders had appeared to have learnt the lesson of the importance of building popular support and addressing equity concerns for economic cooperation in the regions, but the trade unions felt that APEC Leaders missed a vital opportunity at the 1998 Summit in Kuala Lumpur. Instead of learning the lessons of the economic and financial crisis, and recognising the need for democratic consultation for restoring social development and economic growth, social concerns were hardly mentioned in the Leaders' declaration, and there was no mention of consultation with trade unions or any other members of civil society.

The APEC process needs opening up so that the labour movement and civil society can take part in decisions on the economic future of countries on the Asia-Pacific rim. A workers' rights clause would make such an opening up inevitable.

Anyone from a developing country who harbours doubts about this should look at what has happened in the merchant shipping sector since the Flag of Convenience system started. The system allows shipowners to register their vessels in countries which allow low wages and standards. Flags of convenience exist specifically for the purpose of enabling shipping companies to avoid national taxation, social, safety and environmental legislation, and they have resulted in an industry which is largely outside the influence of national legislation. By providing OECD country shipowners with easy access to exploited labour they have also seriously impeded the development of effective domestically owned shipping industries in most developing coun-

tries. The system has undermined safety standards at sea, and it has kept wages in the industry down. But while it has undoubtedly helped the shareholders of many of the world's shipping fleets, it has bought no long-term benefits to the countries that have sought to exploit it for obvious reasons: first, European seafarers were cheaper than American; then Asians were cheaper than Europeans; now Eastern Europeans are cheaper than some Asians, and some Asians are cheaper than other Asians...

And there are some developing countries which have never bought in to the model of progress through exploitation. Mauritius, which has used its Export Processing Zones to develop an impressive industrial base, has emphasized the improvement of skills and working conditions of its workforce. A Director of a Mauritian promotional agency for the zones has stated: "It is not our aim to attract foreign investors with cheap labour. In the long term, it is always counter-productive, because unskilled workers produce goods with no value added which do not sell well on the export market". In Mauritius too, however, trade unions continue to be excluded from most EPZs because unions are denied access to the workplace premises by the employers. This is particularly regrettable because the experience in those EPZs in Mauritius where there are unions is that employers and unions in EPZs are quite able to forge a mutually rewarding long-term relationship, to the benefit of the workers and of higher productivity.

The Philippines is another country where there have been some positive experiences of unions organising, against immense odds, within free trade zones. In November 1998, another union agreement was signed in the economic zone of Victoria Wave near Manila City.

International rules which protect workers rights help governments which do respect workers rights, against those which don't. Without an international framework of rules governments which allow their workers to be exploited will, in effect, be rewarded. For example the carpet industry in Nepal has been severely affected by competition from India, where carpets are produced with a high degree of child labour, and are cheaper.

### PROMOTING PRODUCTIVITY AND ENCOURAGING COLLECTIVE BARGAINING

Much of the concern about a workers' rights clause is the result of a misunderstanding about what a workers' rights clause is and how it would work. A workers' rights clause is protective – it will help protect workers and children from exploitation – but it is not protectionist. Its aim is not to undermine economic competition, but to

enhance it by removing unfair advantages. It will not restrict free trade, but will bring more people into the global economy. And it will work to close, rather than to widen, the gap between the developing and the developed world.

The aim of a workers' rights clause is to ensure that companies which trade agree to abide by seven basic rights, and these rights proposed by the international trade union movement are among the most highly ratified of the International Labour Office (ILO). Six of the seven have been ratified by over 120 states. Universal adherence to these would not alter developing countries' legitimate comparative advantage but prevent the most extreme forms of cut-throat competition and exploitation.

What is crucial about the rights to organise and bargain is that they are enabling rights. They give workers and employers the means to negotiate improvements in wages and working conditions as trade and development expand.

In those negotiations, workers would obviously take note of how their employer was doing and how much their country could afford; negotiations don't take place in an economic vacuum. Unlike fly-by-night transnationals who are only interested in making cheap goods for a quick profit, workers have a long-term interest in their country's prosperity. They would expect a fair share when things are going well; and if they were allowed a genuine say in economic policy, they would be more likely to accept and carry out difficult decisions when there were problems.

There is no possibility that a workers' rights clause would bring about an international minimum wage that will drive the industries in poor countries to bankruptcy; split the world market into two camps and undermine global free trade. No one can seriously suggest that giving workers in the developing world the basic rights enshrined in a workers' clause will lead to their wage costs spiraling up to European levels. It just won't happen. Developing countries will still be able to enjoy comparative advantages from their abundant supply of labour. All that will happen is that governments will not be able to keep these costs down by oppressing their workers; and transnational corporations will not be able to bully countries into competitive repression.

In any event, it is not true that low wages will give countries a guaranteed competitive edge. Labour costs obviously figure in the final price of any product entering the world market. The exact weight of labour costs, however, depends on productivity; a poor country with low per capita income and low wages may still not have much competitive advantage on world markets because of low productivity.

Likewise high wages matched by high productivity may make the output of rich countries very competitive.

The best way for developing countries to guarantee prosperity is to base their economies on high productivity and high skills; and the best way to do this is to allow workers and employers to set high standards, and fair wage levels. It makes sense that as trade and productivity grows, wages and other conditions of work also rise as national conditions permit, rather than be kept down by exploitation and repression.

#### THE OECD AND KOREA

The observance of core labour standards has now become a key issue in OECD membership negotiations, thanks to the efforts of TUAC, the Trade Union Advisory Committee to the OECD. But the controversy surrounding the Republic of Korea's membership highlights the need for strict enforcement mechanisms as proposed for a workers' rights clause.

On December 12 1996, Korea was admitted as an OECD member after committing itself to bring its labour laws in line with international standards. Korea had already made similar commitments when it joined the ILO just a few years previously.

Immediately after joining, in a breathtaking display of contempt for the OECD and the ILO, the Korean National Assembly met in secret and passed new draconian labour laws that would make the KTUC union centre illegal until the year 2000. The meeting took ten minutes. It was held at six o'clock in the morning. No opposition members were present.

The ICFTU and TUAC and their Korean affiliates, the FKTCU and KTUC, together with ITS, launched an immediate solidarity campaign. There was a call for a general strike, a wave of demonstrations shook the country and arrest warrants were issued for senior trade union leaders. Three trade union solidarity missions visited Korea and massive letter writing and intensive lobbying campaigns with the OECD, European Union and international financial institutions were initiated.

In March 1997 and again in January 1999, Korea made some changes to the draft legislation but the current law still falls far short of international standards. Since November 1997, labour market developments in Korea have been dominated by the impact of the economic and financial crisis. The effects of the deep economic recession, economic restructuring, Chaebol reform and reduction of employment protection have produced an explosive atmosphere, which resulted in industrial disputes in the autumn of 1998 and again in 1999. As of 5 June 1999 there were 61 trade unionists imprisoned for trade union activity, 51 of whom had been imprisoned this year.

Korea is abusing its own workers and making a mockery of those countries who have played by the OECD's rules to become and remain members. International solidarity efforts co-ordinated by the ICFTU, TUAC and ITS have had a major impact but the Korean workers' quest for freedom of association continues. The international community itself needs the power to take action against governments who flout the law. A workers' rights clause would give them that power.

Cheap labour is not all that developing countries have to offer the world. Not only is that an insulting picture of their economies; it is also inaccurate. To take just one example, India turns out 250,000 science graduates a year. Many of the world's leading companies are hiring Indian computer programmers to write their software and to process their data. Cost is a factor; but so are skill-levels. This is the kind of competition developing countries will have to offer in the information age. A workers' rights clause will give them the space to do that by easing the constant downward pressure on standards brought about by the present system.

It is surprising that the arguments against workers' rights in the WTO are being put forward with such fervour by governments in the developing world; and it is interesting that this view is not shared by the citizens of these countries. Workers in the developing world make up some of the most committed members of trade union organizations; their women workers are among the most passionate advocates of equal treatment; and the campaign against child labour and forced labour has strong roots in the developing countries.

Countries that take the high road to development will become more efficient, more competitive and more prosperous as long as their efforts are not undermined by countries who try to cut corners by exploiting their citizens. A workers' rights clause will help close off the short cuts.

#### RESISTING PRESSURE ON NATIONAL SOVEREIGNTY

Another concern is that pushing for workers' rights which have universal application will weaken the national sovereignty of developing countries; and it will undermine their national culture by imposing "Western values" on traditional societies. But the notion that a workers' rights clause would violate national sovereignty is simply not true. In today's global economic environment, national sovereignty is, anyway, something of a myth.

How much national sovereignty does a country have when it dare not protect its own citizens' trade union rights for fear that foreign investors will shut down their factories and pull out? How much power does it have when it feels compelled to put areas of its own territory off-limits to its own laws in Export Processing Zones? What's left of parliamentary accountability when citizens going into those zones have to surrender their rights in order to get a job in their own country?

The real beneficiaries of the current world trading system are not the developing countries, but the transnational corporations - TNCs. Out

of the 100 top economies in the world, only 49 are countries. The rest are TNCs.

The combined sales of the world's top 200 corporations surpass the combined economies of 182 countries - every country on earth minus the nine biggest. Annual sales by the foreign affiliates of transnational corporations of \$7 trillion now exceed total exports of \$6 trillion. These corporations have almost twice the economic clout of the poorest four-fifths of humanity. They control well over a quarter of the world's economic activity. But nobody effectively controls them other than their management - often not even their shareholders.

#### A SOCIAL DIMENSION TO FREE TRADE IN THE AMERICAS

The ICFTU regional organization for the Americas ICFTU/ORIT has been intensifying its work in the context of the Free Trade Area of the Americas (FTAA) over the years since the inception of the FTAA in 1994. Parallel trade union summits have been held on the occasion of the FTAA Summits in Denver (US) in 1995, Cartagena (Colombia) in 1996 and Belo Horizonte (Brazil) in 1997. In 1996 the ICFTU/ORIT created a working party on "Hemispheric Integration in the context of Globalization". ICFTU/ORIT and its affiliates have been calling for the FTAA member states to set up an FTAA working party on labour issues as well as a Labour Forum as an official consultative body. Trade unionists, who held an alternative forum on the eve of the 1998 Summit of the Organisation of American States (OAS) in Santiago Chile, felt that Summit proposals to introduce a vast free trade zone between all the countries, by the year 2005 did not pay enough attention to workers' fundamental labour rights. ICFTU/ORIT is holding a major conference to coincide with the FTAA Summit at the end of October 1999 in Toronto.

Trade unionists from Latin America, Spain and Portugal have also been critical of the FTAA because its remit does not include the concerns of civil society, and so presented proposals to the Ibero American Summit which met in Lisbon in October 1998 for setting up a formal structure for social dialogue between unions and employers, so that business development have a social dimension. This was followed by a major ICFTU/ORIT Conference of European, Latin American and Caribbean trade unions, held in Rio de Janeiro in May 1999.

Many of these increasingly powerful and mobile TNCs can play one country off against another in search of the best deal. The long-term value of the kind of investment some of them are offering is questionable; they will pull out at the slightest economic shock or change in the regulatory environment; and they are unlikely to develop strong links with the rest of the economy. This problem is especially acute in low-skill industries such as garments and footwear, where exit costs are low.

Unregulated, the labour market in the global economy will become nothing more than a vast shopping mall for the TNCs, with countries forced to cut their costs to bargain-basement levels.

The reality is that much sovereignty has already been surrendered and policy is being shaped to an increasing extent by the demands of the global market. The issue is not whether but how policy will be determined internationally - by the market alone or with some real participation from representative institutions.

A workers' rights clause will help bring the TNCs under the rule of law. It will create an environment where countries can compete without fear, and where companies can invest for the long term. A workers' rights clause would provide something of a counterweight to the enormous economic muscle of TNCs.

A workers' rights clause would be based on core labour standards, and enforced within countries in the same way. This would put sovereignty back where it belongs: with the people, rather than with the TNCs or with the repressive governments which are often ready to sacrifice the interests of their own people for the sake of profits.

A workers' rights clause would give countries a powerful weapon with which to assert their independence against the pressures of international trade and investment.

### PROTECTING WOMEN'S RIGHTS THROUGH THE WTO

Often the expansion of trade is based on access to low wage female labour. Historically trade liberalisation in the least developed countries has tended to increase women's employment in labour intensive industries like manufacturing of electronics, clothing and textiles. Manufacturing plants are often located in special Export Processing Zones, where standards of health and safety are low, working hours are extremely long and workers have no rights to organise.

The ICFTU recently sent a researcher to study the flower producing export sectors in Colombia and Uganda. Here, flower workers suffered miscarriages and had been blinded because of the use of toxic chemicals - banned in industrialised countries and shipped abroad - in flower sprays. Garment workers in Bangladesh suffer gastric ulcers, backaches, eyestrain and urinary infections because of their poor working conditions, which include long hours, poor working conditions, and lack of adequate sanitary facilities.

Women in maquiladoras in Central America are forced to give details of the types of contraception they were using, and the timing of their

menstrual cycles. Minimum wage laws and other labour laws do not cover these areas.

Sub-contracting is a typical strategy which multinational and national corporations use because they can avoid being directly responsible for the workers, since they can get out of paying health insurance or other benefits. Subcontracting makes it very difficult for women to organise on their own as they are not allowed to organise into unions. Thereby, trade liberalisation may bring greater pay inequality between men and women, and increasingly dangerous working conditions for women.

At present economic liberalisation tends to consider most social regulation as "trade barriers", but the WTO could help to protect women's rights. It could begin to develop a statistical data baseline so that the effects of trade liberalisation on women's well-being could be monitored over a number of years.

### AFRICAN TRADE UNIONS FOR THE WORKERS' RIGHTS CLAUSE

African trade unions have demonstrated strong support for a workers' rights clause, recently at the May 1997 Congress of the ICFTU African Regional Organization (ICFTU/AFRO) held in Dakar (Senegal) which adopted a strong statement calling for a workers' rights clause in the WTO. Subsequently, the seminar of the Organization for African Trade Union Unity (OATUU) on globalization and labour standards, held in Tunis (6-8 September 1997) stated that, "the participants confirm and support the implementation of a social clause which has to be consolidated through links between the requirements of the respect of the core standards of ILO and the mechanisms and agreements which should regulate international trade."

More recently, ICFTU/AFRO has held major pan-African conferences in Nairobi (March 1998) and sub-regional meeting for Southern and Eastern Africa (Johannesburg, March 1999), North Africa (Tunis, July 1999) and West and Central Africa (Accra, October 1999) which have seen further support for a workers' rights clause and discussion of how to advance the debate in the different countries concerned.

Many ICFTU/AFRO affiliates have been campaigning for a workers' rights clause for very many years. These efforts have borne fruit in a number of cases where African governments have agreed to their arguments. At the ILO Conference, the proposal to advance the debate on international labour standards and trade has been supported by seven African governments: South Africa, Mauritius, Malawi, Tunisia, Madagascar, Gabon and Senegal. At the World Summit for Social Development (Copenhagen, March 1995), President Nelson Mandela expressed South Africa's full support for the workers' rights clause.

Through the introduction of a workers' rights clause the WTO could ensure that non-discrimination and equal pay was built into the world trading system. In countries where there are no laws to make sure women workers are treated equally to men, it would result in legislation to make sure that multinational corporations as well as domestic employers were required to apply ILO Convention 100 on Equal Remuneration, and Convention 111 on discrimination in employment.

#### TACKLING CHILD LABOUR IN A WORKERS' RIGHTS CLAUSE

According to even the most conservative estimates there are now 250 million children working who should be given the chance to go to school and who should be replaced in the workforce with adults. Of these nearly half work full time, and at least 60 million children are engaged in extremely hazardous work.

There is a serious danger that if urgent and concerted action is not taken, child labour will become a permanent part of the global economy, as multinational companies, usually using complex subcontracting arrangements, profit from child labour and other labour rights violations. With the entry of new countries into the world economy child labour is resurfacing in industrialised countries, as well as increasing in the transition economies, especially in the CIS and Central and Eastern Europe.

So far, the WTO has not felt that it was within its remit to look at the inter-relationship between trade and child labour, even though at least 15 million children are producing goods for international markets, in agriculture and in industrial production. The WTO could begin work now by joining with the ILO to link programmes of assistance to measures to end child labour through WTO action on the basis of ILO Convention 138 (minimum age of employment) and the new Convention 182 (on the Worst Forms of Child Labour). With a workers' rights clause which outlawed child labour no country could be more competitive in one field than another country which did not use child labour.

Some developing country governments have consistently used the argument in the WTO that Convention 138 sets unattainable targets for poor countries. However, Convention 138 has now been ratified by over 60 countries including many developing countries such as Malaysia, Zambia, Niger and Uruguay. The Convention says that countries must implement a policy to bring about the effective abolition of child labour and that countries will set their minimum age for employment at the age of at least 14 years. It adds that countries can if necessary exclude certain branches or activities, provided that they submit regular reports on their programmes to apply the Convention there.

The trade union movement is campaigning world-wide for the ratification and implementation of the new ILO Convention 182 which will require immediate action on the Worst Forms of Child Labour, and which targets the most hazardous and exploitative forms and sets clear requirements for action. It provides important support to the existing main ILO Convention 138 on the minimum age for employment.

#### CHILD LABOUR IN A WORKERS' RIGHTS CLAUSE

The ICFTU would expect a workers' rights clause to lead all governments to undertake genuine efforts to address child labour. A three-pronged approach to the elimination of child labour is needed. Laws need to be adopted and implemented to ensure that children who should in their own, their families' and the nation's interest be at school, are not at work; the priority must be to get rid of the most blatant forms of commercial exploitation of children. The availability of school places needs to be increased. The problem of family poverty which can drive parents to send or even sell their children for work needs to be addressed, in part through guaranteeing trade union rights so that workers can bargain for a higher wage.

The ICFTU has drawn up a Five Point Child Labour Charter.

*Stolen Future*: The Charter describes the employment of children as a stolen future, where whole generations are being deprived of their place in the society of the 21st Century. If the recruitment of child workers ended now, child labour will disappear in a decade.

*Education For All*: Without an education, children become locked into a life-long cycle of poverty. At the start of the 3rd millennium, getting all children into school is still one of the great challenges, for Governments and the international community.

*No More Exploitation*: Those who gain from child labour must be stopped and must help undo the damage they have done, by paying for the rehabilitation and education of the child workers. National and international laws against child labour must be enforced.

*Economic Security*: Child labour can only be ended when adults have decent jobs and social support. National governments and the international institutions need to do much more to ensure that adults can go to work and children can go to school.

*Rights for Children and Rights for Adults*: Child labour is usually found where adults' rights are also violated. Child labour can only be ended when universal human and trade union rights are respected.

*Everyone Has a Part To Play*: Governments, consumers, employers, trade unions, non-government organisations, religious groups, teachers, students and the general public, working together, can end child labour.

### ILO ADOPTS NEW CHILD LABOUR CONVENTION

In June 1999, the International Labour Conference adopted a new Convention (number 182) and Recommendation which call on governments to work together to "take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour".

The treaty aims to eliminate the use of under-18s in forced labour, including the forced recruitment of children in armed conflict, the sale and trafficking of children, debt bondage, prostitution, drug trafficking, pornography and hazardous work.

The Convention comes into force one year after its ratification by at least two States, and is expected to become one of the "core" ILO standards.

Trade unionists who had been instrumental in discussions on the new Convention warned governments that they would not hesitate to use the complaints procedure in the surveillance mechanisms for the Convention's application.

The new Convention, along with the full application of Convention 138, provides the basis for a genuine international effort to rid the world of the scourge of child labour.

### THE WTO WORKING ALONGSIDE THE ILO?

The ICFTU's conception of the operation of workers' rights in the international trading system is that the ILO should be brought in to work with the WTO. This uses the established competence of an existing specialised international agency, which is also the only UN agency which is tripartite.

Both the WTO and the ILO proceed by consensus. This can mean that they move slowly at times; but it also means that they move very surely – and that their legitimacy is unquestionable. The WTO negotiations have a timetable designed to take account of the needs of ministers to report back to their citizens, and to consult all their constituents. Throughout the ILO's 80-year history, it has developed standards which are elaborated through a two-year process of discussion and adopted by a full Conference of all its 180-odd member-states.

In June 1998, the International Labour Conference adopted the ILO Declaration on Fundamental Principles and Rights at Work. This Declaration was strongly supported by trade unions, employers and governments. It makes clear that all ILO member states have an obligation to respect a number of fundamental rights including the freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimina-

tion of discrimination in respect of employment and occupation. These are the same fundamental rights which should be incorporated in a workers' rights clause.

The Declaration makes it clear that the ILO must help its members to attain these objectives and must encourage other international organisations to support its efforts. Its follow-up mechanisms give it new powers to supervise member states' performance in respecting these rights. For the first time the ILO will be able to examine the fundamental rights situation in all countries - even if they have not ratified the relevant ILO Conventions.

On this basis, each year the ILO will publish a Global Report setting out a comprehensive review of one of the fundamental rights. This could provide a good basis for the the WTO and the ILO to work together.

At the same time, the experience of many years has made it clear that in addition to such follow-up at the ILO, the international trading community needs to devise procedures to resolve the question of what to do about countries which continually disregard recommendations from the ILO concerning their respect for core labour standards.

Such countries are, in effect, "free riders" on a world trading system where the majority of countries do respect labour standards. Gross and persistent abuse of labour standards is a form of trade restriction. It creates resistance to trade barriers and it inhibits the spreading of the potential benefits of open trade. The international community has to come up with an effective and enforceable way of getting the ILO's core labour standards respected by all the world's trading partners. As trade tensions increase with countries world-wide facing pressure to increase their exports in the aftermath of the Asian crisis, the issue of labour standards is a priority issue for the next trade round.

However, trade unions do not have a seat at the trade negotiations and we need to seek the support of governments. The ICFTU, its affiliates, and its regional organizations are making every effort to get governments to examine and discuss our proposals. Some who have done so have been convinced, others need to be.

The idea of a WTO working group to examine the case for such a clause, has been supported at various times by governments from Argentina, Honduras, Venezuela, Barbados, Chile, Mauritius, Senegal, Gabon and Tunisia, in addition to virtually all the industrialised countries.

## WORKING TOGETHER, THE WTO AND THE ILO COULD GET COUNTRIES TO RESPECT WORKERS' RIGHTS

The aim behind a workers' rights clause is to ensure that the promotion of free trade goes hand in hand with the improvement of workers' rights. Implementation should therefore be a joint operation between the World Trade Organization (WTO) and the ILO. The ILO has obvious competence in setting standards and in supervising their application; and the WTO would make sure that failure to enforce the basic standards does not lead to unfair competition.

Our proposal is that a joint WTO/ILO Advisory Body could be set up to oversee the implementation of a workers' rights clause. This body would have the authority to undertake periodic reviews of how countries were applying the principles enshrined in a workers' rights clause; or to step in if there was a well-justified complaint.

This side of the operation would be the particular responsibility of the ILO team on the joint advisory body; the ILO already does much of this anyway, although there would be a need to reinforce its existing procedures.

The reviews would typically show either that the standards were being followed – in which case, no further action would be needed – or that the country concerned was in breach of its obligations, and certain changes in labour law and/or practice were necessary.

In the latter case, the ILO report would make recommendations to the country concerned on these changes and, if necessary, offer technical assistance and make additional resources available to help countries put things right.

The government of the offending country would then have a period of time in which to change its ways. We are suggesting two years, following which there would be a second report. This second report would typically reach one of three conclusions. It could show that the country was applying the standards; or that while the problem had not yet been solved, progress was being made; or that the government had failed to co-operate with the ILO and that the standards were still not being met.

So what exactly are the rights which would be included in a workers' rights clause? The clause contains seven of the most universally ratified conventions, universal standards applicable for all countries whatever their level of development. How they are translated into law and practice can vary according to the institutions and customs of the country concerned. The ILO in its supervision of

the standards does not attempt to impose a global harmonization of labour laws; it examines whether the effect of laws and practice achieve the objective of ensuring that the principles are applied.

### WHAT ARE THE CORE RIGHTS IN THE WORKERS' RIGHTS CAMPAIGN

<b>Convention 87:</b>	<b>Freedom of Association and Protection of the Right to Organise</b>
<b>Convention 98:</b>	<b>The Right to Organise and to Collective Bargaining</b>
<b>Convention 100:</b>	<b>Equal Remuneration</b>
<b>Convention 111:</b>	<b>Discrimination (Employment and Occupation)</b>
<b>Convention 138:</b>	<b>Minimum Age for Employment</b>
<b>Convention 29:</b>	<b>Forced Labour</b>
<b>Convention 105:</b>	<b>Abolition of Forced labour</b>

In terms of implementation, the ILO and not the WTO would be responsible for reviewing the respect for the core ILO Conventions concerned. The impartiality of the ILO and its expertise on international labour conventions in law and practice is beyond question. Because the ILO would have a key role in any workers' rights clause, that would give trade unions a right to launch complaints and representations about the violation of workers' rights.

In addition, practical measures are needed for strengthening co-operation between the ILO and the WTO. The ILO should have observer status in WTO General Council meetings, working parties and committees. It should provide its expertise on core labour standards and employment-related considerations as part of the WTO's trade policy reviews, meaning that the ILO should effectively take over the work of producing reports on core labour standards for the WTO's Trade Policy Reviews which the ICFTU is doing at the moment.

The WTO, in conjunction with the ILO, needs to undertake social impact assessments of the results of trade policy. For example the WTO and ILO should collaborate on a gender impact assessment of the effects of trade policy on women workers; collect gender disaggregated data as a statistical baseline to follow future years; and promote gender aware and sensitive policies, including technical assistance that promotes technological and skill upgrading opportunities for women and legislation and positive action programmes to ensure that effect is given to international conventions on non-discrimination and equal remuneration.

## HOW INTERNATIONAL PROCEDURES WOULD DEAL WITH WORKERS' RIGHTS TRANSPARENTLY AND EQUITABLY

This is a crucial question at the heart of a workers' rights clause. If a workers' rights clause is to command respect, it must be open and transparent; and it must be strictly and fairly enforced. It must not be seen as a stick with which aggressive countries can beat their commercial competitors; nor must it be seen as simply a pious declaration to which countries and corporations need only pay lip service.

For many countries and many companies, it will be business as usual. No country which is keeping to its legal obligations under the UN Charter and which is applying the core conventions of the ILO has anything to fear from a workers' rights clause.

When it came to deciding on the appropriate measures, the WTO should have a range of options which could be escalated over time if the government carried on offending. A first step might be to suspend the countries' right of access to the WTO's new binding rules for dispute resolution.

The procedure places the emphasis on helping countries reach the required standard, rather than on punishing each and every failure. Trade measures are only used as a last resort, and even there, the measures would initially be quite mild. If, on the other hand, there are countries which are wilfully profiting from repression; these countries have to know that at some stage, there will be measures taken to stop such actions.

This step-by-step procedure has all the elements of clarity, predictability and objectivity that an effective multilateral system requires. It builds on the established competence of an existing specialised international agency – the ILO. It also provides enough time for problems to be solved by dialogue. It avoids the danger of the big players trying to dictate terms for market access to small countries. And it is even-handed; because it refers to universal standards, all countries would be subject to equally close scrutiny. Fully transparent procedures would be used which would leave no opening for misuse for protectionist purposes.

One of the complaints by some of the opponents of a workers' rights clause has been that of this type of review places more emphasis on punishment than on assistance. On the contrary, experience of the WTO system has shown that it is not an organisation which likes to work by sanctioning country's behaviour. It works by suggesting measures to be followed to amend laws. Exactly what our procedure is suggesting!

## RESOLVING TRADE TENSIONS IN A CONSTRUCTIVE WAY

It is increasingly clear that popular support for trade liberalisation through the WTO in many countries is extremely fragile. Evidence of rising social inequalities mounts and the pace of adjustment in employment accelerates, particularly in the wake of the steep devaluations that have taken place due to the Asian economic and financial crisis.

We believe that a workers' rights clause will reinforce the global economy. The universal application of basic labour standards will help to ensure a more balanced expansion of world trade and a smoother process of adjustment to changes in the global division of labour. High-wage countries would still face the challenge of competition from low-wage countries. But that competition would at least be based on a broader-based expansion of markets and the knowledge that the women and men who work in competitor countries were not being exploited or abused, and weren't being forced to subsidize the TNCs.

And a workers' rights clause would make it impossible for some irresponsible TNCs to leap from country to country in search of a government prepared to violate workers' rights. If there was no reason to move on, they might stick around. This would encourage a more sustainable process of foreign investment which would bring increased benefits to the host country, and long-term, stable profits to the investor.

### INITIATIVES TO SUPPORT DEVELOPING COUNTRIES

The International Labour Office (ILO)'s International Programme on the Elimination of Child labour (IPEC) has been operating over 150 projects in more than two dozen countries.

In the Philippines thirty six action programmes and 19 mini programmes were implemented during the period 95 - 97. half of them with working children and their families.

In Latin America governments, employers, workers organisations and NGOs have signed up to programmes to eliminate child labour throughout the production process of their operations. In Brazil there has been special programmes in the charcoal yards of Mato Grosso do Sul, in the sugar-cane industry in Rio de Janeiro, and sisal production in Bahia to remove children from hazardous work.

## THE WTO IS THE ALTERNATIVE TO UNILATERALISM

Many people in the industrialised world blame competition from cheap manufactured goods from the developing countries for job losses. This is increasing the support for populist demands for protection in one form or another. If unemployment worsens, there is like-



ly to be increased public pressure to restrict the flow of what are perceived to be “unfairly” produced goods. Whether these allegations have an economic basis or not, they pose a serious threat to the world trading system.

Recent years have seen an increase in national or regional laws linking trade to labour rights and in codes of conduct in particular companies or sectors. While being an important response to the lack of a multilateral alternative, it is high time for the WTO, together with the ILO, to create a multilateral framework for core labour standards in the international trading system.

All women are entitled to equal treatment; all children should be protected from child labour; all workers must be allowed to join trade unions, and must be free from the threat of forced labour (often described as a contemporary form of slavery). To argue that the rights of workers in developing countries are inferior to the rights of workers in the industrialized countries is to promote global economic apartheid. It will divide the world as surely as a workers' rights clause will unite it.

To argue that the principles themselves are “Western values” is offensive and dangerous. It splits the world's workers into first- and second-class citizens. It legitimizes the notion that workers in the “West” are more “advanced” than workers in the developing world, while the people in the developing world neither need nor deserve any protection of their basic rights.

A workers' rights clause could rein in unilateral measures and provide a more open and fair means for settling disputes. It could resolve rather than increase protectionist tendencies and help keep markets open by sharing out the benefits of trade more fairly. By guaranteeing fair trade, a workers' rights clause would promote open trade.

## PART IV

# THE CAMPAIGN FOR WORKERS' RIGHTS IN INTERNATIONAL TRADE AGREEMENTS

## INTRODUCTION

Ever since world trade began, merchants have dreamt of a borderless economy around which goods and capital could flow without let or hindrance; a free-market Shangri-La, uncluttered by rules or restrictions. Political and technological changes are at last making that dream a reality. We are living in the global village with its own global market-place. According to the free market acolytes, the role of governments and international institutions now is to refine and accelerate the process of globalization by removing all the remaining barriers to trade. Anything else is irrelevant; it has no place on the world's economic agenda.

That might be how some people like to tell it; but it's not how it is. In fact, the kind of concerns being raised by the trade unions have been connected with the whole globalization project from the very beginning. They were raised during the attempt to set up the International Trade Organization at the end of the Second World War; and while it is true that the international business community managed to sideline them during the years of the GATT, they have remained central to wider attempts to create an international community – as opposed to an international shopping mall. More and more people are beginning to see that globalization will fail if it has no social dimension.

## THE HAVANA CHARTER

Between 1946 and 1948, the United Nations held a conference on Trade and Employment. The agenda was ambitious. The aim was to create a third institution along with the World Bank and the International Monetary Fund that would handle international economic co-operation. More than 50 countries were involved. The new institution was to be a specialist United Nations agency known as the International Trade Organization (ITO). Its charter would cover employment rules, commodity agreements, restrictive business practices, international investments and services. Known as the Havana Charter, this draft document included a workers' rights clause that specifically linked economic progress and trade liberalization to fair labour standards. The text read as follows:

1. The Members recognize...that all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, and thus in the improvement of

wages and working conditions as productivity may permit. The Members recognize that unfair labour conditions, particularly in the production for export, create difficulties in international trade and, accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory.

2. Members which are also members of the International Labour Organization shall co-operate with that organization in giving effect to this undertaking.
3. In all matters relating to labour standards that may be referred to the Organization....[under dispute settlement provisions of the Charter] it shall consult and co-operate with the International Labour Organization .

The unions which shortly afterwards became the ICFTU's founder-members backed the ITO, and its Workers' rights clause. Unfortunately, although the draft was approved at the UN Conference on Trade and Employment in Havana in 1948, some national legislatures refused to ratify it. Opposition by the US Congress proved to be the fatal blow; the US government, which had been one of the driving forces behind the ITO, announced in 1950 that it would not seek Congressional ratification of the Charter. The ITO was dead, and with it died a workers' rights clause. For the time being.

#### GATT – THE PROVISIONAL ITO

Even while the ITO talks were going on, 23 out of the 50 participants began negotiations on reducing customs tariffs. With the war having just ended, they wanted to give an early boost to liberalizing the world economy, and to start hacking down all the protectionist barriers that were still in place from the 1930s. The first round of these negotiations, which took place in Geneva, brought about 45,000 tariff concessions affecting \$10 billion worth of trade. The participants also agreed that they should “provisionally” accept some of the trade rules in the ITO Charter to protect some of the tariff concessions they had negotiated. The “Geneva 23” became founding members (known officially as “contracting parties”) to the General Agreement on Tariffs and Trade (GATT).

Even though it was provisional, GATT remained the only multilateral instrument governing international trade until the WTO was set up in 1995. Its agenda was limited to traditional commercial aspects of trade in goods and since it was assumed that the ITO

would eventually supersede GATT, the ITO chapter on employment and labour (among many others) was not included in GATT. Apart from Article XX(e) which permits governments to ban trade in goods produced by prison labour, GATT makes no further reference to labour standards – though the trade union movement has pressed repeatedly for their inclusion.

The GATT did a great deal to promote the liberalization of trade, as during the 1950s and the 1960s, tariff reductions alone boosted world trade by an average of eight per cent per year. But a series of recessions in the 1970s and the 1980s led to factories shutting down, and unemployment soared, so governments sought new protectionist devices to safeguard their industries, made bilateral deals with other governments and extended subsidies to keep their hold on trade. These tactics undermined the GATT's credibility and effectiveness.

While a workers' rights clause would not have eliminated these difficulties and the tensions they caused, such a clause would have provided a potential mechanism for dealing with the problem. At the very least, it would have removed any suspicion of unfair competition based on violation of fundamental workers' rights. The most recent stage in the evolution of GATT was the mammoth Uruguay Round of trade talks, launched in Punta del Este in September 1986. It took seven and a half years; involved 125 countries; and covered almost every product and service that could be made and traded. It was the biggest trade negotiation in history – probably the biggest negotiation of any kind.

The Uruguay Round ended in Marrakech in April 1994. The Marrakech meeting was a significant success for the trade union movement, as while there was no formal declaration referring to the link between trade and labour standards; a workers' rights clause was firmly on the agenda, being the single issue that dominated discussions all week long. The issue received extensive press coverage, and there were at least 20 governments (not all from the industrialized countries) who spoke in favour of discussing the need for the clause. Another ten governments were receptive to and interested in the idea, but concerned about whether the WTO was the proper forum for this debate, and were anxious about protectionism. Twenty-two countries spoke out in opposition to a workers' rights clause.

In January, 1995, the agreements signed in Marrakech began to take effect in Geneva with the creation of the World Trade Organization (WTO).

## THE WTO – A WINDOW OF OPPORTUNITY?

The WTO is the legal and institutional foundation for a multilateral trading system. It provides a contractual framework which determines how governments shape and implement domestic trade laws and rules. It is a platform on which trade relations among countries can evolve through debate, negotiation and consensus.

It is a rules-based organization, dedicated to maintaining a system of rules for open, fair and undistorted competition. Those rules will be worked out in “trade rounds” where trade concessions are negotiated in a package. This means that concessions which are necessary but would otherwise be difficult to defend domestically can be made and sold within a package which contains other politically and economically attractive benefits.

It is a genuinely global organization. 76 governments became members of the WTO on its first day, and by the end of 1998 the WTO had 132 members. With talks underway with China and Russia, the WTO is well on the way to becoming universal. It is no longer a club of mainly developed countries.

Both the “package deals” and the way the WTO operates as an organization mean that the ICFTU and our affiliates can target our lobbying campaigns much more clearly. The recent pressure on the WTO has led it to try to improve its cooperation with Non Governmental Organisations. The WTO has had a number of meetings with the trade union movement and its Director General has addressed a number of ICFTU seminars.

The WTO also has a disputes mechanism.

The WTO monitors national trade policies through its Trade Policy Review Mechanism (TPRM). The purpose of the TPRM reviews are to increase transparency and understanding of trade policies, to stimulate public and intergovernmental debate on the issues, and to assess the effects of policies on the world trading system.

The reviews are conducted regularly. The four biggest traders - the EU, the US, Japan and Canada - are examined approximately once every two years. The next 16 countries in terms of their share of world trade are examined every four years, and the remaining countries every six years; with a longer interim period for most least-developed countries.

The TPRM shows that the WTO is an organization that means to monitor its members' activities to make sure they are sticking to the rules. One method by which the WTO, in cooperation with the ILO,

could reinforce internationally recognized core labour standards is through the examination of the effects of non-observance in the context of the regular country trade policy reviews. Labour standards should be considered among the trade-related issues which are discussed by the WTO General Council when it undertakes a debate of the trade policies of WTO members. In 1997 and 1998 the ICFTU produced 43 reports on core labour standards in the countries subject to TPRs as a basis for encouraging an informed debate on the issue.

## THE WTO STRUCTURE

The highest authority in the WTO is the Ministerial Conference, composed of representatives of all WTO members. This meets at least every two years and can take decisions on all matters under any of the multilateral trade agreements. The day-to-day work of the WTO is done by the General Council, the Dispute Settlement Body and the Trade Policy Review Body.

Decision-making in the WTO is by consensus and not by voting, although votes are allowed under some circumstances when consensus is not possible. In such circumstances, decisions are taken by a majority of votes cast and on the basis of “one country, one vote”. Four specific voting situations can take place: a majority of three-quarters of the WTO members can vote to adopt an interpretation of any of the multilateral trade agreements; by the same majority, the Ministerial Conference can waive an obligation imposed on a particular member by a multilateral agreement; decisions to amend positions of the multilateral agreements can be adopted through approval either by all members or by a two-thirds majority depending on the nature of the provision concerned. (These amendments only apply to those WTO members who accept them.) Finally, a two-thirds majority in the Ministerial Conference can admit new members.

Eventually the ICFTU would like to see these reports replaced by similar ones from the ILO itself and this could be one method of developing cooperation between the two organisations. In the meantime, the ICFTU will continue its complementary reports which are a reminder to the WTO of the need to address the relationship between core labour standards and trade.

The Marrakech meeting followed by the creation of the World Trade Organisation in January 1995 provided progress towards incorporating rules on workers rights into the world trading system. In March 1995, the United Nations Social Summit provided yet another sign of the way the pendulum is swinging in our direction.

## THE UN SOCIAL SUMMIT

In March 1995, leaders from 115 countries gathered in Copenhagen for the United Nations World Summit for Social Development. Known as

the “Social Summit”, this meeting was the first time that world leaders had sat together and held a thorough discussion on how to put social concerns at the centre of economic and political development. It was a massive international endorsement of a social dimension for the world economy.

At the end of the Summit, governments signed up to a series of commitments that entailed both international obligations, and action at home.

The extracts below are taken from the commitments which relate to the ICFTU campaign for a workers' rights clause:

*“We commit ourselves to create an economic, political, social, cultural and legal environment that will enable people to achieve social development.” (Commitment 1)*

#### **Internationally, governments promised to:**

- Promote social development through international co-operation in economic policies and agreements on trade, investment, technology, debt and development aid; Reaffirm and promote all human rights, which are universal, indivisible, interdependent and interrelated.
- The national action promised under this commitment includes a promise that governments will provide: full respect for human rights, freedoms and the rule of law; equality and equity between women and men; transparent and accountable government; and that they will work in partnership with free and representative organizations.

*“We commit ourselves to promoting the goal of full employment as a basic priority of our economic and social policies, and to enabling all men and women to attain secure and sustainable livelihoods through freely chosen productive employment and work.” (Commitment 3)*

#### **Internationally, governments promised to:**

Ensure that migrant workers are protected against exploitation, in line with international instruments on migrant workers;

Promote sustained economic growth through international co-operation on economic policy, trade and investment, and through exchange of experiences on successful approaches. The national action promised under this commitment includes a promise that governments will:

- put job creation at the centre of government policy, with full respect for workers' rights and with the participation of employers, workers and their organizations, and with special attention to long term unemployed people, the disadvantaged and those subject to discrimination; expand work opportunities, productivity and access to resources in the rural and urban sectors, including in the informal

sector and small and medium enterprises; ensure that workers and employers have the education, information and training needed to adapt to changing conditions; ensure that women have access to employment, protection in the labour market and equal treatment, especially equal pay; promote quality jobs, and safeguard workers' rights in line with relevant ILO Conventions and to this end, freely promote respect for relevant ILO Conventions, including on forced and child labour, freedom of association, the right to organize and bargain collectively and the principle of non-discrimination.

*“We commit ourselves to promoting full respect for human dignity and to achieving equality and equity between women and men, and to recognizing and enhancing the participation and leadership roles of women in political, civil, economic, social and cultural life and in development.” (Commitment 5)*

#### **Internationally, governments promised to**

- Promote and protect women's rights and encourage the ratification of the Convention on the elimination of all forms of discrimination against women and other relevant instruments; Recognize the full extent of women's work and all their contributions to the national economy, including unpaid and domestic work; Assist developing countries to achieve equality and equity and the empowerment of women.

#### **The national action promised under this commitment includes a promise that governments will:**

- promote gender balance and equity in decision-making and integrate a gender perspective in economic and social policies; promote equal partnership between women and men and full and equal access of women to education;
- Work to eliminate all obstacles to human dignity, equality and equity; Enhance the equality of girls; combat and eliminate discrimination, exploitation, abuse and violence against women and girls; support gender equality in the labour market through positive action, legal protection, child care and other support services.

The trade union movement is campaigning and lobbying to make sure that governments keep their word on these commitments. It has presented a set of proposals for implementing the Commitments to the Preparatory Meetings of the 'Copenhagen + 5' Special Session of the UN, to be held in June 2000. This Special Session will be looking at how far the 10 Commitments have been put into practice.

In the proposals the ICFTU stresses that the commitments governments entered into at the Social Summit will never be fully realized unless inter-

national agencies including the IMF, World Bank, the regional development banks and the WTO observe core labour standards based on the ILO Declaration on Fundamental Principles and Rights at Work, which are the standards in the workers' rights clause. No country, however much it acknowledges the importance of the social dimension, will take an initiative which it thinks may threaten its economic well-being. A workers' rights clause will enable the international community to move forward collectively on the commitments made at Copenhagen as a community.

#### WORKERS' RIGHTS IN THE INFORMAL SECTOR

In many developing countries, a majority of workers are in the informal sector, engaged in production for the domestic economy. Any workers' rights clause should include measures to benefit those workers as well. It should simply state that all WTO members would fully respect the basic workers' rights included in the workers' rights clause - not just in export production but throughout the economy.

A workers' rights clause would therefore lead governments to confront a problem which many have so far largely ignored. Governments would have to start an effort to apply the basic labour standards covered in the workers' rights clause to all workers in their countries, including those in the informal sector. This should be complemented with a range of supporting policies to upgrade the living and working conditions of people in the informal sector.

#### FROM COPENHAGEN TO SINGAPORE

The Social Summit gave a powerful boost to a workers' rights clause campaign. The UN Fourth World Women's Conference in Beijing in September 1995 reaffirmed the principles adopted in Copenhagen, especially respect for basic workers' rights including the core ILO labour standards. The next key date was the WTO Ministerial Summit in December, 1996.

Singapore was a difficult meeting. But the final Declaration that came out of the meeting included a paragraph as follows:

*"We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization is the competent body to set and deal with these standards and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries,*

*particularly low wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO secretariats will continue their existing collaboration."*

Both sides were giving their own views of this text after the meeting. But what is unquestionable is that for the first time in the fifty-year history of GATT, a commitment to core labour standards had been made.

#### THE SECOND MINISTERIAL CONFERENCE OF THE WTO AND THE ILO DECLARATION

In early summer 1998 two significant meetings took place in Geneva. The first was the Second Ministerial Conference of the WTO (May 18 - 20), and the second was the Annual International Labour Conference (June 2 - 16).

Prior to the WTO Conference, a special three-day ICFTU Conference was held in Geneva on the eve of the Ministerial itself. The ICFTU Conference was addressed by the Director-Generals of the WTO, and the ILO, the Secretary-General of UNCTAD, the trade ministers of South Africa and Italy and the US Ambassador to the WTO.

The Ministerial Meeting focused mainly on a Commemorative Session marking GATT's 50th Anniversary, with speeches by Heads of Governments. However, several heads of Governments and Ministers made speeches supporting including references to workers' rights in trade.

#### President Clinton:

I propose the WTO, for the first time, provide a forum where business, labour, environmental and consumer groups can speak out and help guide the further evolution of the WTO. The WTO and the International Labour Organisation should commit to work together to make certain that open trade lifts living conditions and respects the core labour standards that are essential not only to workers' rights but to human rights everywhere

#### President Mandela:

It is imperative that we build confidence in the system. It would be unwise to ignore the increased frustration of ordinary people... There can be no refusal to discuss matters such as labour standards, social issues and the environment.

This viewpoint was also supported by Jacques Santer, then President of the European Commission, as well as Romano Prodi, Italian Prime Minister who is now the President of the European Commission. Norwegian Prime Minister Kjell Magne Bondevik offered to organise a forum outside the WTO to review the effects of globalisation.

Against the backdrop of the Asian crisis which put globalisation on trial, this Ministerial was an opportunity for world leaders to show that they were ready to meet the challenge of building a new stronger, fairer system for the governance of trade and investment. It is clear that a significant number wanted to find a way forward to boost the authority of the ILO and discourage countries from trying to extract a competitive advantage from the gross and persistent abuse of basic human rights at work.

In June 1998, the International Labour Conference, the annual Conference of the ILO with its tripartite structure, after many hours of debate and dissention, adopted a Declaration on Fundamental Principles and Rights at Work and its Follow-up, which the ICFTU saw as a historic step in that it established workers' fundamental rights as the ground rules of globalisation (see Chapter Three).

The Declaration was important because it makes it clear that all ILO member states have an obligation to respect fundamental workers' rights. The Declaration also gives the ILO important new powers to supervise the performance of all member states in respecting fundamental rights, such as giving them the right to examine the fundamental rights situation in all countries - even if they have not ratified the relevant ILO Conventions.

Additional support for promoting core labour standards came with the June 1998 Conference discussion on the new Convention on the worst of child labour which was adopted at the ILO Conference in 1999.

### THE GENERALISED SYSTEMS OF PREFERENCES (GSP)

The trade union movement's final goal is to get a workers' rights clause enacted within the WTO. But the WTO is not the only show in town, just the biggest. The battle to defend workers' rights is being fought on several other fronts.

There are the Generalized System of Preferences (GSP) arrangements operated by the USA, the European Union and other industrialised countries. These are deals by which certain developing countries get preferential access to US and European markets. The US and EU GSPs include references to observance of basic labour standards.

#### OTHER WTO INITIATIVES

As well as the policy reviews and the general preparatory work for the Seattle meeting, the WTO has a work programme in other areas where labour standards and other labour issues arise, such as investment, competition and environmental protection. They are clearly relevant areas to workers and in which trade unions have both interests and expertise, especially in the developing countries.

The idea of preferential trading systems between countries is not new. It developed in the 1960s, an era when many former colonies became independent countries. In order to help new countries get in on international trade and promote their economic growth, the UN Conference on Trade and Development (UNCTAD) suggested that industrialised countries reduce or remove customs duties on goods from developing countries. This system was accepted by GATT in 1971 and the first GSP was created by the European Community in 1971.

### THE GSP OF THE UNITED STATES

The GSP was adopted by the US Congress in 1974. It provides duty-free treatment to certain products from developing countries. A country cannot get GSP status if it "has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country".

Organizations and individuals can petition the government at public hearings to review the behaviour of countries benefiting from GSP status. The Committee examining these petitions looks at information on workers' rights in the State Department annual Country Reports on Human Right Practices, findings of the ILO, reports from US Embassies and Consulates, and US International Trade Commission reports on the economic effects of GSP decisions. In a number of countries of Central America and the Caribbean, and most notably in the Dominican Republic, the threat of US GSP sanctions brought about changes to the labour code and improved rights to collective bargaining and freedom of association for workers. There is no doubt that potentially, the GSP is a powerful instrument for enforcing international labour standards.

At present six countries are suspended from the US GSP for violating workers' rights: Burma, Liberia, Maldives, Mauritania, Sudan and Syria. In the case of Pakistan, violations of core labour standards in three sectors led to those products - surgical instruments, carpets and footballs - being made ineligible for GSP benefits.

Further petitions filed by the AFL-CIO on Belarus, Swaziland, Indonesia and Thailand are under investigation, and the AFL-CIO has two other petitions in the process which the US government is considering whether to investigate, on Cambodia and Guatemala.

### THE GSP OF THE EUROPEAN UNION

In 1994, the European Union integrated some workers' rights into its own GSP. Countries which respect core labour standards can get

additional GSP benefits, while countries denying certain core labour standards face suspension.

As from 1 January 1995, countries which tolerate forced labour, or which export goods made by prison labour could face trade sanctions in the form of temporary suspension from the GSP scheme. Investigation by the European Commission can be initiated by member states or any natural or legal persons or associations able to demonstrate a bona fide interest in the case. Sanctions, if any, cannot be implemented before a year of investigation and a decision by the (qualified) majority of the Council.

In March 1997, the European Union formally suspended Burma's trade privileges on the grounds that Rangoon's military regime sanctions the use of forced labour. This action set a precedent in the Commission's bilateral trade relations by linking trade and core labour standards for the first time.

Since 1995 international trade union organisations have been trying to get the European Union to investigate Pakistan under the GSP mechanism for the use of forced labour. In February 1998 they submitted filmed and written evidence of the use of bonded labour in the brick kilns. However, so far the European Union has accepted Pakistan's promises of making improvements, and has refused to open an investigation.

From May 1998, countries have been able to apply for "special incentive arrangements in the form of additional preferences", provided that they have adopted and apply the substance of ILO standards concerning freedom of association and collective bargaining and the minimum age for employment.

#### THE NAFTA SIDE AGREEMENT ON LABOUR

The North American Free Trade Agreement (NAFTA) is a further stage in the process of economic integration in North America. There is much evidence that NAFTA is bringing downward pressure to bear on wages and working conditions. However, NAFTA does contain a "side" or "parallel" agreement on labour standards. The North American Agreement on Labor Co-operation (NAALC), also commonly known as the NAFTA Side Agreement on Labor, came into force at the same time as NAFTA on 1 January 1994.

The NAALC provides for a commitment to uphold existing labour laws in basic areas of workers' rights including freedom of association, the right to collective bargaining and the right to strike; prohibition of forced labour; discrimination; protection of migrant workers; health and safety; child protection; and minimum employment

standards. In the areas of minimum wages, safety standards and child labour, fines of up to \$20 million can, in theory, be levied on countries that allow their companies to gain a competitive advantage by violating labour laws in these areas. There is no effective enforcement mechanism to protect freedom of association and the right to collective bargaining.

As of June 1999, twenty submissions had been filed for review under the NAALC, but so far without any positive results. The findings of the first four cases at Honeywell, General Electric, Sony and Sprint, largely concerning dismissal of workers as a result of their efforts to organise in unions, did not help to get the sacked workers reinstated. To date, the NAALC has failed to protect freedom of association or to promote its objective of "compliance with, and effective enforcement by each party of, its labour law."

#### INTERNATIONAL COMMODITY AGREEMENTS

Some international commodity agreements also refer to core labour standards: the International Sugar Agreements, the Tin Agreement of 1981, the Cocoa Agreement of 1986 and the International Rubber Agreement of 1987.

These clauses are essentially statements of intent. They contain no special sanctions or control mechanisms. They are therefore of limited use, but they do nevertheless add strength to the trade union argument that there is nothing unprecedented about linking trade to labour standards.

#### CODES OF CONDUCT

Codes of conduct for international business activity are not new. In the 1970's concern over the growing power of multinational companies led to calls for an international code of conduct governing the behaviour of multinational companies. The United Nations established a Commission on Transnational Corporations which conducted negotiations for a "UN Code of Conduct for Transnational Companies". Although these negotiations failed and a UN Code was not adopted, two international organisations did adopt codes of conduct for international business during this period: the OECD Guidelines for Multinational Enterprises in 1976 and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy in 1977.

These international instruments sought in part to protect the sovereignty of countries by defining the social responsibilities of international business. Unfortunately, international business has

interpreted the "voluntary" nature of these instruments to mean that they were "optional." Both instruments have follow-up procedures that fell into disuse due to the opposition of business and for other reasons. However, in terms of the behaviour expected of TNCs, these instruments were meant to be definitive. - they are voluntary only in the sense that they are not legally enforceable. The ILO Declaration is important for several reasons: it is the only comprehensive and universally applicable code defining the social responsibilities of TNCs. Because the Declaration is based on ILO standards and their accompanying jurisprudence, its meaning is especially clear. It also shows that although ILO Conventions are meant to apply to governments, the principles embodied in these standards can be applied by multinational companies.

#### INTERNATIONAL LABOUR STANDARDS IN CODES OF CONDUCT

In the early period, the new codes of conduct covering labour practices rarely went beyond pledging not to use child labour and to respect national law. Pledging to observe national law, or to require suppliers to observe the law, is unnecessary because this is already and always the minimum obligation of any legitimate enterprise. Only codes having provisions that are internationally rooted and applicable constitute recognition of international responsibility.

Following revelations about the use of child labour in the stitching of soccer balls, the international soccer federation FIFA agreed to negotiate a code of labour practice for the production of FIFA-licensed products with the ICFTU the ITGLWF and FIET. The three international trade union organisations developed a draft code based on all of the fundamental ILO standards and, in September 1996, the text was agreed with FIFA.

The FIFA agreement was a major development in the codes of conduct debate. Its most immediate effect was on the sporting goods sector where the World Federation of the Sporting Goods Industry (WFSGI) intensified its efforts to address the issue on behalf of its member companies, the largest of which were well-known athletic shoe companies that were subject to pressure concerning the labour practices of their sub-contractors. In November 1996 the WFSGI organised a conference on child labour and announced its intention to develop its own "model code" for the industry. In February 1997 an agreement involving some 56 soccer ball manufacturers, the ILO, the Sialkot Chamber of Commerce and Industry and UNICEF announced a programme to assist manufacturers in identifying and removing child labourers from the soccer ball industry in Sialkot where 80% of the world's soccer balls are made.

The ICFTU/ITS Basic Code of Labour Practice and the FIFA code were the first of the new codes of labour practice meant for companies to explicitly reference all of the fundamental ILO standards. The ICFTU/ITS Basic Code influenced the subsequent development of other "base codes" such as CEP AA's SA 8000 and the code adopted by the Ethical Trading Initiative. A version of this code was adopted as an objective of the Clean Clothes Campaign, an alliance of over 160 NGOs and trade unions in 9 European countries. Similar codes have been used by a number of sporting organisations to apply to their licensees. Following discussions with the ACTU and the New South Wales Labour Council, the Sydney Organising Committee for the 2000 Olympics Games (SOCOG) and Sydney Paralympics Organising Committee adopted a code based on the ICFTU/ITS code.

Beginning in the early 1990s, companies involved in the marketing or manufacturing of brand-name goods produced internationally through outsourcing began to formulate and adopt codes of conduct covering labour practices that were meant to apply to their subcontractors and suppliers. The companies adopting these codes were responding to negative publicity generated by reports of dangerous working conditions, inhumane working hours, starvation wages, brutality and the widespread use of child labour involved in the production of clothing, footwear, toys and other labour-intensive manufacturing as well as in the production of many agricultural products.

Companies operating in other sectors are now adopting similar codes. Indeed, throughout the 1990's the number and variety of company codes of conduct covering labour practices proliferated and they became an important issue in larger debates over corporate responsibility and over globalisation. Many NGOs campaigned for companies to adopt codes and codes attracted both support and opposition from business and trade unions. Codes also attracted the attention of governments and international organisations some of which began to promote them. Codes became the object of study by academics and they spawned an entire new industry of consultants and enterprises offering "social accountability" services to companies.

Labour practices are central to these codes which constitute a significant departure from earlier codes of conduct for multinational companies. Although the ILO and OECD codes were voluntary, they are part of an international framework of principles agreed to by governments, employers and trade unions and recommended to companies. The new codes are being formulated and adopted by individual companies. Indeed, when formulating the earliest new codes, most companies ignored established standards in favour of creating their own. Also different is that the purpose of the new codes does not include protection of the sovereignty of governments but is to address situations created by the failure of national governments and of the international community to adopt or enforce acceptable labour standards.

The new codes address situations created by the changing organization of business in the global economy. Traditionally company policy with respect to labour practices was based on national law and practice but the new codes are meant to be applied internationally regardless of where the work is being performed. In this the most significant feature of many of the new codes is that they are supposedly meant to protect workers whether or not they are employees of the company adopting the code and, in particular, they are meant to apply to the labour practices of the company's suppliers and subcontractors. The international treatment of labour practices and



their application to enterprises other than the company that has adopted the code are the two most significant characteristics of the new codes of conduct and distinguish them from company personnel policy or more traditional statements of a company's "mission" or philosophy.

The new codes are central to an expanding concept of corporate responsibility in part driven by increasing public access to information about working conditions in developing countries and evidence that significant numbers of consumers do not want to buy products made by exploited and abused labour. Also behind the unilaterally-adopted codes is the widely held belief by business that a company's reputation and image of its brand-name products are significant assets to be protected.

The new codes have been surrounded by controversy concerning what provisions should be included in them, what the company should do to give them effect and whether or how they should be monitored and their observance verified. For trade unions another question is the relationship of the new codes to collective bargaining.

With respect to content there is a growing recognition that multinational companies should not make up their own standards but should base their codes on internationally-recognised standards including all of the fundamental ILO standards. The ICFTU/ITS Basic Code of Labour Practice has been developed by the international trade union movement for use as a benchmark in evaluating company codes of conduct.

A frequent criticism of the new codes is that most are public relations exercises and that the companies adopting them appear to have little intention of doing anything to make good on what essentially are their promises to the public. This failure led to calls for independent monitoring of codes. It is generally recognised that a company must be responsible for monitoring workplaces as part of implementing its code but that code compliance and the company's implementation programme must be subject to some form of verification if the code is to be credible. It is also generally accepted that verification should be rule-based but what these rules should be and who should establish them remain controversial.

Codes of labour practice should not become a substitute for collective bargaining but should promote collective bargaining by among other means creating space for workers in repressive conditions to form their own trade unions. The low level of trade union organisation in many of the industries and countries where codes are meant to apply suggest that insisting that codes must always be negotiated with trade unions is not realistic. The international scope of the new codes makes it questionable whether it is either practicable or appropriate for national trade unions to seek to negotiate these new codes.

#### THE ICFTU/ITS BASIC CODE OF LABOUR PRACTICE

The 111th meeting of the ICFTU Executive Board (Brussels, December 1997) adopted a text for a "Basic Code of Conduct covering Labour Practices". The text of this code was developed by the ICFTU/ITS Working Party on Multinational Companies in a process that involved extensive consultations with various trade union organisations and other interested individuals and organisations. It aims to establish a minimum list of standards that ought to be included in all codes of conduct covering labour practices. It is not meant, and should not be interpreted to mean, that codes of conduct that are the result of a collective bargained agreement with an appropriate trade union organisation should be limited to the provisions of this code.

Copies of the full code are available from the ICFTU and are on the ICFTU Web-site at the following URL:

<http://www.icftu.org/english/tncs/tncscode98.html>

Trade unions cannot ignore codes of conduct covering labour practices even if they are not negotiated agreements. For this reason the ICFTU believes it is useful to distinguish between unilaterally-adopted company codes of conduct and framework agreements. A framework agreement is an agreement negotiated between a multinational company and an International Trade Secretariat (ITS) concerning the international activities of that company. Although an international code of conduct can be part of a framework agreement, the main purpose of a framework agreement is to establish an ongoing relationship between the multinational company and the ITS which can solve problems and work in the interest of both parties.

#### GUIDELINES FOR THE MULTINATIONAL CORPORATIONS

International negotiations took place at the OECD over 1995 to 1998 on a global investment instrument (Multilateral Agreement on Investment — MAI) to set rules governing the treatment of foreign direct investment.. The Trade Union Advisory Committee (TUAC) to the OECD was working to ensure that any new agreement should contain a clause to stop governments promising cheap labour and a union-free environment to attract investors. Trade unions in OECD countries kept pressure on their governments to ensure that trade union demands on the MAI were taken into account. However, because of the lack of balance in the agreement and very strong opposition from a number of non-government organisations, and a shift in interest by some of the large corporations which had initially supported the MAI, some countries within the OECD, such as France, withdrew their support for the MAI, and negotiations ended.

The failure of negotiations at the OECD has increased the pressure for the third WTO Ministerial Conference to put investment onto the agenda of the WTO. UNCTAD is also involved in the consideration of how a global instrument might be negotiated.

#### FRAMEWORK AGREEMENTS

An early example of a framework agreement is the 1988 agreement between the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and the France-based MNE Danone. This agreement set forth union company co-operation in four areas and pledged the company and the IUF to implement trade union rights as defined by ILO Conventions Nos. 87, 98 and 135. Five subsequent implementation agreements based on the 1988 agreement have been signed. Of particular note is the 1994 agreement consisting of a joint charter guaranteeing full exercise of trade union rights throughout the entire operations of this global company. In June 1995, the IUF signed a similar agreement with the ACCOR hotel and catering chain on trade union rights that also applies throughout the global operations of this company.

The International Federation of Building and Wood Workers (IFBWW) reached an agreement with IKEA which covers suppliers. The agreement incorporates ILO core standards and provides for an annual review by a joint committee. The sanction for violations is cancellation of the supply agreement. An agreement negotiated between the International Chemical Energy and Mine Workers' Federation (ICEM) and the Norwegian oil company Statoil commits the company to respect the principles contained in ILO core conventions. The agreement explicitly provides that the company shall not oppose the organisation of its employees.

The ICFTU considers that international investment policies should also include strong workers' rights and environmental clauses to ensure that incentives for TNC investment do not include violation of core labour standards or lax enforcement of environmental protection. The ILO Tripartite Declaration of Principles on Multinational Enterprises and Social Policy and the OECD Guidelines on Multinational Companies should inform the drafting of any WTO agreement on investment. Furthermore, any international framework agreement on investment should include a development clause allowing developing (and transition) countries which respect fundamental workers' rights to create time and space for national companies to develop before full exposure to the force of global competition from large and well-established multinational companies.

<sup>3</sup> op cit., ICFTU (1996), p.25 and 26.

<sup>4</sup> Havana Charter for an International Trade Organisation.

<sup>5</sup> The ICFTU has published a "Users' Guide to the Social Summit. Available from the ICFTU, or on our World Wide Web site at <http://www.icftu.org>

## PART V

### THE WAY FORWARD

#### THE NEXT STEP

The campaign for a workers' rights clause is now at a critical phase. The trade union movement made significant gains from the Marrakech, and Singapore meetings. These gains were the result of careful planning, a lot of media work and intensive lobbying during the negotiations. Trade ministers left the 2nd WTO Ministerial in Geneva knowing that core labour standards and their relationship to the WTO would figure prominently in talks about the next round of multilateral trade negotiations.

The third WTO Ministerial Conference will be held in the United States from November 30 - December 3 1999. The purpose of this meeting will be to review progress in the implementation of the Uruguay Round of trade talks and to consider launching a new round of WTO negotiations, which will last into the next decade. Campaigning around the issues to be raised at this meeting has already started, and will intensify over the intervening months.

The ICFTU's aims are to keep up the pressure for core labour standards and trade nationally and at world level, and to create and use opportunities to keep the issue in the headlines, such that the Seattle meeting takes decisive measures to move forward on labour standards. The ICFTU is further calling for development, environment, gender and other social issues to be fully included when the decisions are taken at Seattle on the content of the new round (see Chapter Two).

#### THE RIGHT TIME FOR WORKERS' RIGHTS

Support for a workers' rights clause is growing. Public awareness of international social issues is high. The growth in media and communications technology has shrunk the distance between countries.

The Asian crisis has illustrated the flaws in trying to build up an economy without taking into account the views and needs of civil society, including trade unions. Governments have learnt that they cannot simply pursue growth, without taking human and trade union rights into account. And that the free market cannot simply be left to operate unchecked and ungoverned. As we have argued earlier, the international business community itself campaigns vigorously for global regulation when it comes to matters like copyright control, or the manufacture of counterfeit goods that affect corporate profits. This sits rather uneasily alongside their opposition to a workers' rights clause.

Globalisation is a key concern of the whole spectrum of NGOs - and trade unionists have found that at most meetings they attend, whether organised by environmental or women's groups, globalisation is discussed.

#### INTERACTING WITH THE ASIA-EUROPE DIALOGUE IN ASEM

"ASEM" consists of the 15 members of the European Union (EU) (Sweden, Finland, Denmark, Germany, Netherlands, Luxembourg, Belgium, France, United Kingdom, Ireland, Austria, Italy, Spain, Portugal and Greece) plus the European Commission; the 7 members of ASEAN prior to its latest enlargement (Indonesia, Singapore, Malaysia, Brunei, Philippines, Thailand and Vietnam); and three other Asian countries: China, Japan and Korea. The first ASEM Summit of heads of state or government took place on 1-2 March 1996 in Bangkok.

The ICFTU/APRO prepared a Statement to the 1996 ASEM Summit in Bangkok calling on governments to include the social dimensions of economic co-operation on their agenda. .. An international trade union delegation representing trade unionists from APRO, the ICFTU and the ETUC presented the Second ASEM Summit in London in 1998 with a Social Action Plan for Asia. In particular the unions emphasised that restructuring in Asia must begin with domestic reforms, with a much wider role for social democracy, and said that investment or assistance plans to help the ailing economies must include the protection of core labour standards.

Women's organizations have begun campaigning on these issues because of their awareness of the negative links between the global economy and exploitation and discrimination against women. There have been a number of campaigns to raise awareness about equal wages and treatment for women workers, improving their working conditions and organization into trade unions, including the ICFTU's international campaign on the rights of working women and the campaigns of the ICFTU Asian and Pacific Regional Organization, ICFTU/APRO on "Women Know Your Rights" and "1 + 1 = Women Power". Women trade unionists and women's organizations were effective at the United Nations Fourth World Women's Conference in Beijing in 1995, in ensuring that the final declaration included a strong reference to the importance of guaranteeing workers' rights, including rights to protection against discrimination, in international trade agreements.

Ethical consumerism, fired in part by energetic and imaginative campaigning from the trade union movement and other civic groups has also helped dispel the image of the all-powerful, all-conquering TNC. People are beginning to see that activism can generate political will. All this has created a fertile environment to address workers' rights in the international trading system.

#### THE MESSAGE

One reason that the message on a workers' rights clause is making progress is that it is a very simple message. Despite (or, perhaps, because of) the vehemence of the opposition, few people doubt that trade and labour standards are connected in just the way that the trade unions maintain - that unscrupulous employers and governments are paying low wages and oppressing workers to maximize profit. It sounds like common sense - and it matches people's experience.

Many of the abuses of workers' rights take place behind closed doors and barbed wire. The abusers are always on the defensive; ministerial pronouncements about "traditional culture" ring hollow when set against images of young children toiling their childhood away in sweatshops and factories; and claims by big companies that they have no control over what happens all the way down the production chain rarely convince. TNCs cannot at the same time boast to their customers about the rigours of their quality control, while maintaining they have no control over what goes on in their sub-contractors' factories.

#### BUILDING ALLIANCES

Because of the growing concern among different groups in civil society, the time is now ripe for the trade unions to broaden their agenda and to build alliances. The ICFTU is increasingly working together with NGOs on issues of common concern such as debt write-off, transparency; environmental issues; food security and human rights. This is also a means of emphasising the importance of enlarging the circle of participation in decision-making.

#### TRADE UNIONS BUILDING ALLIANCES

SOLIDAR is an international organisation which is made up of an independent alliance of non governmental organisations working in social welfare, development and humanitarian assistance. Its members have links to the trade union movement and to social democratic organisations.

It is working closely with the ICFTU on its campaign "workers' rights are human rights", which seeks to include core labour standards in international trade treaties. It is aiming to increase collaboration between Northern and Southern NGOs, and between European institutions and NGOs. It has good links to European Women's NGOs, and has been able to sensitise more European organisations on the importance of core labour standards. It has been organising seminars, and meetings to raise awareness on the issue, and through its website gives its members suggestions and ideas for future campaigning. It organised a joint activity with the ICFTU at the European Parliament on child labour. It lobbies governments on the issue of core labour standards, and will be present at the Third WTO Ministerial.

## EMERGING AREAS OF CONSENSUS

As this document has shown, the debate about whether and, if so, how to encourage the simultaneous improvement of basic workers rights and the opening up of global markets is not new. It was a major topic of discussion and agreement in 1947 in Havana at the first post-war international conference on trade. It gained significance since the signing of the Uruguay Round agreements in 1994 in Marrakech. The ILO, UNCTAD, the World Bank and the OECD have discussed the issue extensively and a number of serious studies have been produced. There are some signs of an emerging, if partial, consensus upon which trade ministers can build.

Firstly, there is widespread agreement on the ICFTU's proposals for the following seven core ILO standards, supported by the Copenhagen UN Social Summit, the Beijing UN 4th World Women's Conference, the Singapore (1996) and the Geneva (1998) Declarations by WTO trade ministers, and the ILO Declaration of Fundamental Principles and Rights at Work. As points of reference:

- Conventions 29 and 105 on the abolition of forced labour;
- Conventions 87 and 98 on the rights to freedom of association and to bargain collectively;
- Conventions 111 and 100 on the prevention of discrimination in employment and equal pay for work of equal value; and
- Convention 138 on the minimum age for employment (child labour).

These standards are amongst the most highly ratified of the ILO. Over 100 states have ratified at least six of the seven. They are not industrialised country standards; they constitute the most accepted standards in the world for the following reasons:

- they assert the right of workers to form and join unions and to negotiate conditions of employment that are fair and appropriate for their country's level of development;
- they outlaw forced labour or slave labour, which prevent workers from having any say in where they work or in the terms of their employment;
- they seek to end discrimination in employment which stops particular groups of workers such as women or migrant workers, from benefiting from trade growth; and

- they seek to end the commercial exploitation of children, and will lay the foundation for a programme of aid aimed at communities and families who presently depend on child labour to survive.

Adherence to the seven basic ILO standards would prevent the most extreme forms of exploitation and cut-throat competition. It would not end developing countries' comparative advantage, but it would establish a process by which conditions of employment could gradually be improved as trade increases. This would encourage the growth of consumer markets, stimulating both domestic and foreign investment and, most importantly, jobs.

This would help to ensure a more balanced expansion of world trade and a smoother process of adjustment to changes in the global division of labour. At the Copenhagen Social Development Summit in 1995 there was a very broad consensus that these are core labour rights to which all countries should and can commit themselves. Furthermore, as stated in the Programme of Action adopted at the Summit (paragraph 6), "...social progress will not be realized simply through the free interaction of market forces. Public policies are necessary to correct market failures, to complement market mechanisms, to maintain social stability and to create a national and international environment that promotes sustainable growth on a global scale."

### KNIT ONE, CARRY ALL

There have been some examples of the way in which a Code of Conduct can help workers. For example the Trade Union Congress of the Philippines successfully used a Code of Conduct adopted by a multinational enterprise to support its union-organising among 275 workers in Monasteria Knitting, Inc, in the Bataan EPZ. Union organisers convinced local workers and the management that if buyers, which included the GAP clothing retailer, learned that the company was violating its own code of conduct they would cancel their contract with the local supplier.

The threat eventually paid off, because after first sacking or transferring 63 union activists, Monasteria Knitting backed down, in the face of workers' support for the union and faith in the code of conduct. The union was recognised, and the dismissed activists reinstated

A second point of growing consensus is that the global market is set to enlarge and will affect significantly an ever increasing number of workers. Such intensification of competition is already causing trade tensions to rise between states. This calls for a much closer interaction between trade policy and policies in such fields as the environment, foreign direct investment, business practices and labour. The WTO therefore must adapt to these pressures and increase its collaboration with other agencies, such as the ILO.

The third area of consensus is that the international community should exert pressure on countries that violate basic standards not only out of concern for basic human rights but also because such violations call into question the legitimacy of a trading system that allows unscrupulous companies to gain short-term competitive advantage by abusing fundamental workers' freedoms. Already a number of governments and some socially aware companies and trade associations are responding to such concerns by introducing workers' rights provisions into national or regional trade laws or into codes of conduct. However such actions cannot provide a general solution. It is high time for the WTO, together with the ILO, to create a multilateral framework to stave off the danger that even well intentioned unilateral measures could be used for protectionist purposes.

A fourth area of common ground is that fears that core labour standards could negatively affect economic performance are unfounded. Studies of the relationship between trade liberalisation and labour standards show a positive two-way relationship over time in which improved observance of basic workers' rights acts as an incentive to raise productivity through investment, especially in education and training, and helps to create a more stable social framework attractive to foreign direct investment. Nevertheless efforts to extend basic labour standards can be undermined by governments which seek to gain a short-term advantage by suppressing labour rights, typically in Export Processing Zones. The countries most at risk from such behaviour are typically developing countries with similar levels of labour productivity and which are consequently under pressure to weaken established workers' rights. International action is therefore needed to promote adherence to basic standards and prevent destructive competition which is damaging both for the country and the workers concerned as well as the international system.

### THE ILO

The link between the ILO and the WTO is crucial to the success of a workers' rights clause. The final declaration of the Singapore meeting clearly gives the WTO a mandate to co-operate with the ILO.

The ILO's pre-Seattle work programme will therefore provide some vital occasions to follow-up on the gains made at the Trade Ministers' Meetings in Marrakech, Singapore and Geneva. The ILO Governing Body Working Party on the social dimensions of globalization meets regularly. The priority at the ILO Governing Body will be to continue the pressure to enhance ILO supervision of the core conventions.

The ILO Conference itself brings together representatives from all the main players in the workers' rights clause debate – governments, business, and unions. It is a perfect platform from which to highlight

the link between trade liberalization and labour standards. One of the main centres of attention in 1998 was the debate on strengthening the supervisory mechanisms for the core Conventions which led to the adoption of a Declaration on Fundamental Workers Rights, and of new supervisory mechanisms which give the ILO the capacity to examine the situation in respect of those rights in countries which have not ratified the relevant conventions.

It is also significant for the ILO's future that its new Director General is Juan Somavia, past Chilean Ambassador who was the moving force between the UN Social Summit and its "Ten Commitments" to uphold social standards.

In the late 1990's, the ILO was thrust into the international spotlight as attention worldwide focused on the issue of child labour. A major factor in this was the hugely successful Global March Against Child Labour, a coalition of non-government organisations and trade unions which mobilised millions of people in every continent.

In 1998, the ILO's annual Conference started debating a new international treaty on the subject and on the opening day of the Conference, children from all over the world marched into the opening session and Kailash Satyarthi, the leader of the Global March, addressed the delegates in front of the world's media.

In 1999, the new treaty, ILO Convention 182 on the Worst Forms of Child Labour was adopted by the tripartite Conference, for the first time in living memory that an ILO Convention was approved by unanimous consent. Trade unions, supported by the NGO's, managed to push through a range of key proposals, which bind governments to take immediate action on child slavery, forced military service, sexual exploitation and hazardous work. Children involved in these forms of exploitation must be withdrawn from work and put into school. The new Convention works alongside the existing Convention 138 on minimum employment age, and reinforces the role of the ILO in dealing with exploitation and abuse in the global economy. Unions are now planning their strategies, along with NGO's, to hold governments to the promises they made at the ILO and to make sure that the work of the WTO and other international institutions supports the ILO's efforts to end child labour.

### THE NEED FOR DIALOGUE

There is clearly a need for further dialogue. The ICFTU and its affiliates have had extensive discussions with governments, international organizations, employers and many other interested experts and non-governmental organizations. These have revealed widespread recog-

inition that a problem exists and that practical solutions need to be found which reinforce the integrity of the open trading system and improve the observance of basic workers' rights. We are convinced that the elements of consensus that are emerging could be enlarged through a deeper and more considered examination of the options and in particular the procedural mechanisms for co-operation between the ILO and the WTO.

Developing countries working to improve the rights of their citizens at work at the same time as increasing their participation in the global market have most to gain from a reinforcement of basic workers' rights. Responsible business, that recognises that the security and productivity of their investments ultimately depends on the degree to which the system in which they operate produces social justice, would also benefit. In 1998, the European employers' confederation UNICE said in their statement on "Forthcoming WTO Multilateral Negotiations - Preliminary UNICE Objectives" that, "In order to win balanced results, that can be supported by political leaders to secure the widest possible endorsement by public opinion, the negotiators should aim simultaneously at reconciling liberalisation of international trade and investment with realisation of other objectives of general interest, such as economic development of the least developed countries, application of internationally accepted labour standards and protection of consumers or the environment".

Support could also be expected from industrial country governments that are trying to adapt to a new global world economy and stave off the dangers of a protectionist backlash. And workers everywhere would be able to face rapid and sometimes intimidating changes with a greater degree of confidence. This basis of support was and remains vital to the GATT system and for the future of the WTO.

The ICFTU, for its part, is more than ready to participate in an open dialogue with all concerned. What is needed is an organized forum for such discussions so that by the time ministers or heads of state and government meet again at the WTO for the first time in the 21st century, they can examine specific policy options for the international community. A WTO Working Party should therefore be set up with a remit to study and report on how the Organisation can contribute to furthering the observance of basic international labour standards in an open trading system with well-defined non-discriminatory mechanisms for action.

The promotion of trade and enabling workers to exercise their basic rights are mutually reinforcing. There is no evidence that respect for workers' rights weakens the competitive position of developing

countries, indeed by laying the foundations for co-operation between workers and employers, core labour standards contribute positively to trade and development. A workers' rights provision would strengthen the political authority of the WTO and break, rather than build, barriers to world trade. It would provide a means of solving disputes that, if allowed to persist, might increase pressures for protectionism. And it would serve to reinforce the case for enlarged access for developing countries to world export markets. A workers' rights provision in the WTO would need to be backed up, where necessary, by international financial and technical assistance through the ILO, particularly to fund programmes designed to eliminate child labour through the expansion of education facilities and increased income-generating opportunities of the poorest families.

The Seattle Trade Ministers' Conference of the WTO in November 1999 is an opportunity to move on the process of finding a way forward on a issue which threatens to provoke serious disagreement. What is required is a cool objective examination of how the WTO, working closely with the ILO, can take action to improve the likelihood that the benefits of trade growth will be more broadly spread within and between countries, thus widening the constituency of support for trade liberalisation. Such an initiative is vital to ensuring a non-protectionist means for securing basic workers' rights in an increasingly competitive world market.

#### THE NEXT WTO SUMMIT: AN OPPORTUNITY TO MAKE PROGRESS

The WTO talks in Seattle should incorporate a range of issues including strengthened provisions for preferential treatment for developing countries and for internationally-recognised core labour standards and environmental clauses. An assessment is needed of the effects of trade liberalisation on economic growth, income and wealth distribution, respect for human and democratic rights and the ability of countries to determine and pursue their own social and economic objectives.

**The 3rd WTO Ministerial Conference should explicitly make provisions to:-**

- include core labour standards on the agenda of future WTO negotiations;
- start an examination of how to incorporate the issue of labour standards and trade into WTO mechanisms and processes. Such a work programme should enhance ILO-WTO collaboration, on an equal basis, in areas such as WTO trade policy reviews and disputes settlement procedures and oversee the incorporation into

the WTO's existing mechanisms of core labour standards. It should consider issues such as the gender implications of trade liberalisation. A monitoring committee should meet at regular intervals to review the results of the process and make recommendations to ensure its success.

The 3rd WTO Ministerial should therefore establish a WTO committee on the relationship between trade (and investment) and core labour standards, along the lines of the WTO Committee on Trade and Environment (CTE) established at the Marrakech Ministerial Conference in 1994. The CTE has accomplished significant progress during its six years of existence, clarifying the issues surrounding the relationship between trade and environment and laying the basis for a likely consensus at Seattle on the establishment of a negotiating group on outstanding trade and environment issues. It provides a promising precedent for the establishment of a committee on trade and labour standards which would similarly seek to clarify the issues and arrive at a consensus for WTO decision-making. In view of the subject matter and the acknowledged expertise of the ILO in monitoring and reporting on observance of core labour standards, the WTO should provide a full role for the ILO in such a committee's work.

## CONCLUSION

The campaign for a workers' rights clause is probably the most wide-ranging in the history of the trade union movement. It is a campaign that goes a long way beyond the confines of that movement. It touches every aspect of the global economy at every level.

In this campaign, the trade unions are asking governments and corporations whether the global economy as it stands now really represents the kind of a world they want to create; or whether they have the courage to face a different vision; and whether they have the courage to face the facts about the global economy, rather than the fantasies; to look behind the sound-bites and the buzz words at the reality of globalization.

### THE RIGHT TO AN ETHICAL PUBLIC PURCHASING POLICY - BURMA (MYANMAR)

The European Union has recently invoked a WTO panel against the US state of Massachusetts, concerning a 1996 act which imposed a penalty on any company bidding on a contract with the Massachusetts state government if that company was doing business in Burma. While the EU panel is presently in abeyance, pending a legal challenge to the Massachusetts legislation within the US itself, the case raises important questions of principle.

The ICFTU, together with the European Trade Union Confederation (ETUC), stated at the time of the EU panel request that, "If the actions of the state of Massachusetts in putting the human rights of the Burmese people above the interests of a few multinational companies are at variance with the rules of the WTO, then it is the rules of the WTO that need changing and not the actions of Massachusetts. In the long run, of course, such changes to WTO statutes to introduce the notion of respect for core labour standards are just what the European and international trade union movement have been advocating for many years. The case of Burma and Massachusetts may at least have the effect of making it even more clear to world opinion that it has become imperative to modify world trading rules in that way."

In essence, the Massachusetts law amounts to an ethical purchasing policy. The ICFTU considers that all consumers - whether individuals, local authorities or indeed governments - have the right to take into account the processes used to make a product when they take a decision on what to purchase. Consumers anywhere should have the right to express their views through their right of choice not to buy a product made under conditions of slave labour, child labour, denial of freedom of association or other violations of basic human rights. Indeed, it is their moral duty to do so. In the same way, consumers have the right to refuse to purchase any goods made by a company that is making part of its profits from activities which are violating human rights. Consequently, we believe that the rules of the WTO need urgently to be amended. Any negotiation on government procurement within the WTO must establish the principle that an ethical purchasing policy is absolutely legitimate.

The global economy is asking people too many people to make too high a sacrifice for too uncertain a reward. The injustice of all the trappings of the global economy - the export processing zones, child labour, discrimination, persecution of trade union activists - could not be plainer. We have to confront the international community with those injustices, and we have to ask them to choose between that vision and between ours; between looking backwards and facing the future.

The global economy needs global rules. In an era when multinational corporations have more money, better technology, and more raw power than many nation-states, it makes no sense to pretend otherwise. Responsibility must come with opportunity.

There is a wide consensus that such rules should apply to tariffs, standards, and all the practical paraphernalia of getting goods and services across borders and into as many market places as possible; there is broad, if grudging agreement that they need to cover the environment - no country can keep its own air pure, and few can keep their own water clean; and there is passionate agreement (especially among the multinationals) that they should cover copyright and the protection of intellectual property. Why should these rules not cover workers' rights?

The ICFTU is focusing its efforts on the Seattle meeting in December 1999. The events of the last year - the WTO Meeting in Geneva, the ILO Declaration of Principles, and the heightened interest in fighting child labour are all signs that the tide is flowing in our favour. And we intend to achieve a commitment that workers' rights are important and are discussed in the next round of WTO trade negotiations. **It is no longer possible to separate trade policy from equally vital issues such as progress on international workers' rights, development, environment and gender. The 3rd WTO Ministerial Meeting must reach agreement to integrate trade policy with development goals and social and environmental issues, including core labour standards.**

## GLOSSARY

AFL-CIO	American Federation of Labor - Congress of Industrial Organizations
APEC	Asia Pacific Economic Co-operation
ASEAN	Association of South East Asian Nations
ASEM	Asia-Europe Meeting
ETUC	European Trade Union Confederation
ETUC/TCL	European Trade Union Committee: Textiles, Clothing and Leather
FDI	Foreign Direct Investment
FIET	International Federation of Commercial, Clerical, Professional and Technical Employees
FIFA	International Federation of Football Associations
FKTU	Federation of Korean Trade Unions
FTAA	Free Trade Area of the Americas
FTUB	Free Trade Unions of Burma
FTUC	Fiji Trade Union Congress
G7	Group of Seven largest industrialized countries
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
ICFTU	International Confederation of Free Trade Unions
ICFTU/AFRO	ICFTU African Regional Organization
ICFTU/APLN	ICFTU Asia Pacific Labour Network
ICFTU/APRO	ICFTU Asian and Pacific Regional Organization
ICFTU/ORIT	ICFTU Inter-American Organization of Workers
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IMF	International Monetary Fund
ITGLWF	International Textile, Garment and Leather Workers' Federation
ITO	International Trade Organization
ITS	International Trade Secretariats
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
KCTU	Korean Confederation of Trade Unions
MAI	Multilateral Agreement on Investment (of the OECD)
NAALC	North American Agreement on Labor Co-operation
NAFTA	North American Free Trade Agreement
NGO	Non-governmental Organization
NIC	Newly Industrializing Country
OAS	Organization of American States
OATUU	Organization for African Trade Union Unity
OECD	Organization for Economic Cooperation and Development
SLORC	State Law and Order Restoration Council (Burma)
TNC	Transnational Corporation
TPR	Trade Policy Review (of the WTO)
TUAC	Trade Union Advisory Committee to the OECD
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNICEF	United Nations Children's Fund
WTO	World Trade Organization



## USEFUL ADDRESSES

### ICFTU REGIONAL ORGANISATIONS

- **APRO the Asian and Pacific Regional Organisation**, with headquarters in Singapore. ICFTU Asian and Pacific Regional Organisation, Trade Union House (3rd Floor), Shenton Way, Singapore 068810. Tel.: 65-222.62.94 - Fax: 65-221.73.80 - E-Mail: [icftu-apro@icftu-apro.org.sg](mailto:icftu-apro@icftu-apro.org.sg)
- **AFRO the African Regional Organisation** with headquarters in Nairobi, Kenya. ICFTU African Regional Organisation (AFRO), P.O. Box 67273 - Ambank House (14th floor), University Way - Nairobi, Kenya. Tel.: 25-42-22.13.57 - Fax: 25-42-21.50.72 - Internet: [icftuafro@form-net.com](mailto:icftuafro@form-net.com).
- **ORIT the Inter-American Regional Organisation of Workers**, with headquarters in Caracas, Venezuela. Avda. Andrés Eloy Blanco (Este 2), Edificio José Vargas - Piso 15 - Los Caobos, Caracas, Venezuela. Tel.: 58-2-574.57.52 - Fax: 58-2-574.85.02. Poptel: [orit@ven.net](mailto:orit@ven.net)

### INTERNATIONAL TRADE SECRETARIATS ASSOCIATED WITH THE ICFTU:

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- **International Federation of Commercial, Clerical, Professional and Technical Employees (FIET)** - Tel.: 41-22-979.03.11 - Fax: 41-22-796.53.21 - Internet: [hqinfo@fiet.org](mailto:hqinfo@fiet.org) - Compuserve: 100441.1236@compuserve.com.
- **Universal Alliance of Diamond Workers (UADW)** - Tel.: 32-3-232.48.60 - Fax: 32-3-226.40.09
- **Media and Entertainment International (MEI)** - Tel.: 32-2-223.55.37 - Fax: 32-2-223.55.38 - E-mail: [mei@pophost.eunet.be](mailto:mei@pophost.eunet.be)
- **International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)** - Tel.: 41-22-793.22.33 - Fax: 42-22-793.22.38 - E-mail: [iuf@iuf.org](mailto:iuf@iuf.org)
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- **International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM)** - Tel.: 32-2-626.20.20 - Fax.: 32-2-648.43.16 - E-mail: GEO2:ICEM - Internet: [icem@geo2.poptel.org.uk](mailto:icem@geo2.poptel.org.uk)
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