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**The Role of Core Labour Standards
and Decent Work in Addressing the
MFA/ATC Phase-Out**

in:

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By Esther Busser

1. Introduction

There remains an urgent need for the promotion of core labour standards. Despite lots of efforts to provide workers with basic rights, violations continue on a large scale and the situation seems to get worse with increased globalisation, including in textiles and clothing. Core labour standards are those set out in the Declaration of Fundamental Principles and Rights at Work, adopted in 1998 by the International Labour Office (ILO). Those rights are freedom of association and the effective right to collective bargaining, elimination of forced and compulsory labour, elimination of child labour, and the elimination of discrimination in employment and wages.

It is striking to note that we live in a world today where, on the one hand, the large majority of people want stable jobs, decent wages, opportunities for improvement (training), unemployment benefits, safe and healthy working conditions but where, in reality, the opposite is true. Economic growth and growth in trade have not led to a more equal distribution of income, rather globalisation has excluded a large majority of people from its benefits.

Increased competition has put downward pressure on wages and working conditions. Governments both in developed and developing countries are increasingly pushing towards flexible labour markets, under pressure of both International Financial Institutions (IFIs – International Monetary Fund and the World Bank Group) and investors, thus taking away the necessary protections for workers, and which has resulted in casualisation and precarisation of work. In addition to this, autonomous trade liberalisation in developing countries, under structural adjustment programmes, has led to disruption of domestic industries without the necessary social safety nets or creation of new employment opportunities. The challenge we face today is to find ways to provide a decent job for all workers in this world, of which half does not earn more than two dollars a day.

2. The Importance of Core Labour Standards

This brings us to the importance of core labour standards. Increased global competition without protection of basic workers' rights has led to a race to the bottom. Following the phase out of quotas in textiles and clothing, there have been many job losses in developing countries, often in the poorest ones. At the same time a lot of pressure has been put on governments to relax labour legislation. In the Philippines for example, smaller companies in textiles and clothing have been exempted from the minimum wage legislation. In Bangladesh the maximum number of hours of work per week has been increased to 72, and several other flexibilities have been introduced in other countries. Many companies put pressure on workers and threaten workers with dislocation to China. But this is not limited to textiles and clothing. In other sectors, such as agriculture, similar developments take place, where increased competition for market share in export markets has led to deterioration of wages and working conditions.

The ILO World Commission report¹ referred to the WTO (World Trade Organization) Singapore Ministerial Declaration of 1996, when the WTO member states affirmed their commitment to the observance of the core labour standards. "These standards should not be used for protectionist trade purposes and the comparative advantage of any country should not be called into question". But, implicitly, the report says, "this means that no country should achieve or maintain comparative advantage based on ignorance of, or deliberate violations of, core labour standards"².

It is clear that fairer economic rules are not sufficient to ensure equal benefits from globalisation and the intensified competition on labour standards is a major cause for concern. The exploitation of (mainly) women workers in Export Processing Zones (EPZs) has expanded dramatically, including low wages, interference of workers trying to get organised, violence and sexual harassment, a high work pace and forced overtime. Competition for Foreign Direct Investment (FDI) has led to the provision of incentives such as labour flexibilities and exemptions from labour regulations (whether in law or in practice) and non or insufficient enforcement of labour legislation. Trade union rights are systematically undermined in EPZs.

1 The World Commission report on the Social Dimension of Globalization: A Fair Globalization, was released in February 2004. The World Commission was composed of 26 people from different backgrounds.

2 Idem. Paragraph 421, page 92

As suggested by the World Commission report, “the main international organisations and other actors concerned”, including unions and employers, should “work together to develop proposals for effective international policies to promote decent work, investment and trade both in EPZs and more generally in global production systems. Such proposals should address issues of labour standards, backward linkages to the domestic economy, and the ways that enterprises can move up the “value chain” through investment and technological upgrading”³.

“There is a consensus that core labour standards provide a minimum set of global rules for labour in the global economy”⁴. “Core Labour Standards are regarded by many developing countries as part of a broader development agenda, both as a goal and also as a principal means of development.”⁵ Labour standards provide the means to empower workers to gain a fair share of the increased productivity they are creating in all countries.

Besides the fact that core labour standards are fundamental human rights for all workers irrespective of countries’ level of development, they provide numerous benefits which outweigh their superficial cost, such as higher productivity, more social and political stability, fewer accidents and a lower level of absences due to illness. Accordingly, respect for core labour standards needs to become a *sine qua non* for development strategies in all countries⁶.

3. Beyond Core Labour Standards: Decent Work

Core labour standards are thus an absolute minimum but respect for core labour standards is not enough. They are part of a broader framework that improves lives of workers and contributes to sustainable development. This broader framework is the Decent Work Agenda of the ILO. Decent work involves “opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men”⁷. Decent work is based on a broad perspective

3 Idem, paragraph 501, page 112

4 Idem, paragraph 415, page 91

5 Idem. Paragraph 425, page 94

6 See also Werner Sengenberger, *Globalization and social progress: the role and impact of international labour standards*, FES, 2005, Chapter 4.

7 ILO, Decent Work-the heart of social progress, <http://www.ilo.org/public/english/decent.htm>

that – in addition to fundamental workers’ rights – includes not only decent wages, but also a sound working environment and fair working conditions, with a particular emphasis on women-friendly policies negotiated among the parties. Decent work “is central to efforts to reduce poverty, and a means for achieving equitable, inclusive and sustainable development”⁸.

The Decent Work Agenda is based on four strategic objectives or pillars: (I) Standards and fundamental principles and rights at work, (II) employment, (III) social protection and (IV) social dialogue. In each of these areas people worldwide face deficits and gaps, such as unemployment, underemployment, poor quality and unproductive jobs, unsafe work, insecure income, denial of rights, gender inequality, exploitation, lack of representation, inadequate protection in case of disease, disability and old age, etc.

The Decent Work concept relates to trade and investment in different ways. First of all with regard to core labour standards the linkage to trade is a controversial one, however, without a social floor in the system, the increased competition has deteriorated lives of workers. Many workers do not share in the benefits of trade liberalisation. Worse, they very often face exploitation, and an increase in casualisation can be noted. Moreover, core labour standards are an integral part of the development agenda, and are a means for development.

With regard to the second aspect of the Decent Work Agenda, which is employment and its relation to trade, it is important to highlight that trade liberalization has the potential to be a means for economic growth and employment, and should, therefore, be part of the overall development strategy, rather than being an objective in itself. Moreover, trade liberalisation should not undermine policy space for governments.

With regard to social protection and trade, it is important to note that social protection not only benefits workers, but also makes adjustment to shifts in trade more acceptable and easier to deal with. Examples of social protection are unemployment benefits, job matching, retrenchment benefits, and safety and health standards. Governments should be able to set clear rules in the area of social protection and on safety and health, and should enforce these rules. Trade rules, instead of undermining these policies, should support adjustment policies and provide policy space for governments to implement these. Furthermore, there is a need for trade adjustment funds for developing countries, without further indebteding countries or attaching conditionalities to it.

8 Idem

With regard to social dialogue it is first and foremost important to improve dialogue between workers and management. This requires training of both workers and management. The role of the government is one of legal enforcement. A clear position should be taken by governments in favour of balancing the rights of investors and workers.

Within the textiles and clothing sector, multistakeholder dialogues are needed, which involve buyers, suppliers, trade unions and government representatives, in all trade related talks, to discuss measures that ensure fair trade in textiles and clothing. More dialogue is also required at the international level between WTO and ILO. The ILO Decent Work Agenda should not be undermined by agreements in the WTO. Each organisation having a different mandate should strive to work together and ensure that benefits of trade liberalization are more equally distributed.

The ILO has started a Decent Work Pilot Programme in Textiles and Clothing in Morocco⁹. In December 2003, a national action plan was adopted by the tripartite constituents with the aim to improve competitiveness of the textiles and clothing industry through the promotion of decent work, by responding to the challenges that globalisation and trade liberalisation impose. Activities have been launched to promote decent work through social dialogue, with an aim to improve the quality and quantity of employment. These activities include: (I) Training on collective bargaining and dispute resolution; (II) Training on productivity and occupational safety and health; (III) The development of a gender strategy by the social partners; (IV) The review of existing training programmes with a view to maximising their impact and improving their coordination; (V) a rapid assessment of the prevalence of child labour; and (VI) The development of a social management upgrading project in a selected number of enterprises. Management and trade unions in Morocco are increasingly aware that there is a close linkage between raising economic efficiency to meet the demands of global competitiveness on the one hand and social progress on the other. Improving the social climate is an important factor in raising productivity structurally. Similar Decent Work programmes in textiles and clothing are now developed in Romania and the Philippines.

9 See also the Decent Work Programme in Textiles and Clothing in Morocco: <http://www.ilo.org/public/english/bureau/dwpp/countries/morocco/>

4. Instruments to Improve the Respect for Core Labour Standards

Trade unions have access to a number of instruments that can enhance respect for core labour standards. They include the instruments in the ILO, the OECD (Organization for Economic Cooperation and Development) Guidelines for Multinational Enterprises, the ILO Tripartite Declaration on Multinationals and International Framework Agreements. The ILO instruments provide for regular and special supervisory mechanisms, and these can be used by trade unions to report on cases of violations of core labour standards. This requires, however, the need for setting up a mechanism for collecting information and reporting.

More and more companies are entering into corporate social responsibility and make use of Codes of Conduct, which set standards for workers' rights and conditions in supply chains. Although these are voluntary initiatives and in some cases actions of pure publicity, Codes of Conduct could, in certain situations, play a positive role. Trade unions in companies where a Code of Conduct applies could seek to use this Code in case of problems. In a few cases, buyer pressure has led to improvements in the factory, but results depend of course on the buyer and on the level of information that can be gathered by the unions. On the other hand, by no means should such voluntary action replace the role and responsibility of the government for the enforcement of legislation. Preferably, the OECD guidelines for multinationals and the ILO tripartite declaration on multinational enterprises, which are both a set of recommendations for good corporate behaviour for multinationals, should be used more widely. In particular, the National Contact Points (NCPs) should be used in case of violations by OECD country based enterprises.

Another instrument available for trade unions are the International Framework Agreements (IFAs). These are agreements negotiated between a multinational company and a global union federation concerning the international activities of that company and which establish a formal ongoing relationship between the two. The most important aspect of IFAs is the commitment it embodies by the company to recognise trade union counterparts at a national level and to engage in genuine collective bargaining. IFAs may also contain elements such as the effective application of other core labour standards, payment of living wages, no excessive working hours, decent working conditions, skills training and the welfare of workers. They apply to all activities of the enterprise and its contractors, subcontractors and suppliers. In the area of textiles and clothing dialogues with major international buyers could be undertaken to conclude such framework agreements.

5. Using Trade Agreements to Promote Labour Standards

In theory, another option for trade unions could be the use of labour provisions in free trade agreements such as the African Growth and Opportunity Act (AGOA) and the EU Generalized System of Preferences (GSP) agreement or in bilateral and regional trade agreements. Examples of many different forms of such labour provisions can be found in trade agreements with the US such as US-Jordan, and North American Free Trade Agreement (NAFTA), with the EU, such as EU-Mercosur, and in regional agreements such as Mercosur. Such provisions could in theory be used to put pressure on governments to improve and enforce labour standards. However, in virtually all the above cases, these clauses are merely promotional and so, unsurprisingly, results have rather been disappointing. One positive example of labour provisions in trade agreements is the US-Cambodia agreement¹⁰. The US-Cambodia agreement rewarded improvements in the area of core labour standards with additional quotas for clothing exports to the US. This has led to increased exports from Cambodia, as well as to an improvement of working conditions and wages. An important requirement for success is the monitoring of factories, which, in the case of Cambodia, is done by the ILO. Other requirements are the improved social dialogue at the company level, training of management and workers, and an agreement, which covers all relevant producers, which, in the case of Cambodia, were producers of clothing (every factory had to register in exchange for an export license). The Cambodia example shows a clear link between improvement in working conditions and improvement of productivity and quality of products. The monitoring by the ILO has provided a safer space for workers to organise, but requires a national presence. Monitoring should be unannounced and has to be independent, transparent and credible. Another important element is training. Training is needed to improve the situation in the factory, and joint management / workers training is part of the strategy to mainstream social dialogue. The project is supposed to be self-sufficient by 2009.

The positive example of Cambodia is also recognised in the WTO report on options for least-developed countries to improve their competitiveness in the textiles and clothing business¹¹ where it notes that “The commitment of LDC governments to comply with international labour standards may, therefore, be a positive signal for international investors. If international labour standards are

10 See also the Better Factories Cambodia project : <http://www.betterfactories.org/ilo/>

11 WT/COMTD/LDC/W/37, paragraph 269, page 83, 28 June 2005

respected, monitoring costs and the risk of bad publicity are low for international retailers. Cambodia's experience is a good example of how LDCs can benefit from the premiums that markets may offer for products that are produced with acceptable labour standards or in environment friendly conditions".

An online discussion¹² earlier in 2005 amongst trade unions on social issues in bilateral and regional trade agreements showed that once an agreement is signed, which includes labour provisions, such provisions are not used effectively. The discussion also showed that few trade unions are engaged in discussions around FTAs, and if they are engaged in the process, this engagement is too often limited to labour provisions, but does not extend to impact of trade agreements on employment or on restrictions with regard to economic and social policies, clear exceptions being South African trade unions and the Mercosur Trade Unions. Because FTAs have far reaching impacts on employment and policies, trade union engagement in FTAs should go beyond the labour issues. Furthermore, trade unions should also focus on investment provisions in trade agreements and on bilateral investment treaties, which increase protection for foreign investors at the cost of protection of workers and the environment.

6. Beyond Labour Standards and Decent Work

There needs to be a stronger focus on sustainable development, the role of trade liberalisation in achieving this, and the necessary policy space to attain this. Trade unions should become more involved in policymaking and assessment of policies. This requires an understanding of the trade issues, an assessment of the impacts of trade liberalisation, continuous dialogue beyond labour issues with policymakers, and mobilisation and campaigning efforts to ensure that the voices of workers are heard. With regard to textiles and clothing this requires an assessment of the NAMA (Non Agricultural Market Access) negotiations. These negotiations will particularly impact on the preference receiving countries and on countries with an important domestic industry. At the same time, there is an urgent need to address adjustment issues in the context of trade liberalisation, which requires coordination among countries, among international organisations, and among

¹² See also the report of the online discussion:
http://www.gurn.info/topic/trade/news/online/report_mar05.pdf

the different employers' and workers' organisations, and other representative civil society organisations, in countries facing adjustment. The example in textiles and clothing has shown that we are still far from such a joint response.

7. Conclusions

Continued efforts need to be made to enforce core labour standards in the textiles and clothing sector, through the use of different instruments currently available, and through increased awareness raising of the importance of respect for labour standards for sustainable development. More importantly, there is a need to look beyond core labour standards and to promote the Decent Work Agenda more widely, including a focus on decent employment creation, on social protection, in particular safety and health issues and unemployment benefits, and on social dialogue. Insufficient response to the quota phase-out in textiles and clothing should not be repeated in the future, and a more coherent approach should be used in reply to current and further developments in the sector. All stakeholders have to be involved in discussions around further liberalisation of this sector. Liberalisation impacts on quantity and quality of employment have to be assessed properly, and adequate solutions have to be in place to address any adverse effects. Moreover, countries should be allowed to protect domestic markets in the interest of development, and special provisions should be in place for those facing preference erosion.