



## A Labor View on the Social Clause

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**ABSTRACT.** The article argues for the need for a social clause in the last General Agreement on Tariffs and Trade (GATT) treaty. Experts assert that social clauses and related sanctions cannot effectively compel the enforcement of labor laws. Also, there exists a contention that workers' rights could become the basis for putting up unjust barriers to world trade. In spite of these, the paper insists that a social clause is necessary to ensure the protection of fundamental laborers' rights in GATT member-countries. It condemns the governments and employers that seek the elimination of the social clause, decrying their complicity in the exploitation of laborers and the rejection of trade union rights in order to gain an unfair advantage over countries that are more conscientious about the needs of their workers. It chastises the Philippine government for implicitly siding with these governments, despite its averred advocacy of workers' rights. It seeks an appreciation of the assertion that providing laborers with a means to combat abuses against their basic rights is in line with the development of a level playing field in international trade. While a social clause may not be a priority at present, there is hope that there will be deliberations about it in future trade agreements.

**KEYWORDS.** GATT · workers' rights · international trade · Philippines

### INTRODUCTION

I will speak from the heart. I will deal with workers' simple, gut concerns and misgivings. We need a social clause.

Labor needs instruments and tools to be able to do its job of promoting workers' welfare and protecting their interests. The work is huge and complicated. There are too many problems involved, too many realities which have to be confronted.

We have rules and regulations, we have laws, we have labor codes, we have the Constitution. We have all their guarantees. Sadly, these are not enough to compel compliance with even the most basic labor laws.

On another level, we have the International Labour Organization (ILO) Conventions and Recommendations, the International Covenants, and the International Declaration of Human Rights. However, these and their implementing mechanisms are not enough to safeguard human and trade union rights.

We need more tools, we need a social clause to help us force the enforcement of labor laws. The social clause may not be enough, but surely, it will help. Unfortunately, there are too many objections, too many reservations on the social clause.

We are deluged by expert opinions calculated to discourage us from trying this peaceful approach in asserting our rights. Experts say that social clauses and related sanctions are not the best way to achieve the desired ends. So, what is the way, what is the better way, what is the good way? These are proven, perceived, speculated difficulties in the operationalization of a social clause. There are questions in the choice of basic international standards, in supervising the observance of the chosen standards. Experts say that social clauses did not work, that social clauses do not work, and that social clauses will not work. We say, in this environment, social clauses will not be allowed to work.

Our perception is that the world is unwilling to give us an alternative avenue to cause compliance with the laws the world passes, nor another to seek redress for grievances. Our perception is that there is no political will to give what is due us. Our perception is that there are too many entrenched vested interests working against us. There are more efforts spent in discouraging us than in finding out how to make social clauses work. Perhaps, things will be different if the existence and budgets of bureaucracies were dependent on finding a way for social clauses to work.

## WHAT WE WANT

What we want is simple: “that the international community address the issue of the relationship between labor standards and international trade . . . to ensure that international trade . . . to ensure that international competition is not distorted by exploitation of workers, but rather that workers share fully in the benefits accruing from continuing trade liberalization and growth.”

Unions seek an enabling mechanism for the General Agreement on Tariffs and Trade (GATT) and the ungratified Havana Charter of 1948.

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world, and expanding the production and exchange of goods.

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 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 the territory.

The International Confederation of Free Trade Unions (ICFTU), World Confederation of Labor (WCL), and European Trade Union Congress (ETUC), in their joint statement prior to the Marrakesh meeting, said:

[T]he rapid increase in the level of international exchange of goods, services, and capital has reintroduced or strengthened the link between employment and social costs. [There is] strong pressure throughout the world to reduce these costs and, therefore, wages and working conditions in order to bring down prices, particularly of exports. This type of competition . . . is often characterized by social dumping.

[T]he most appropriate way to prevent social dumping are social clauses in trade agreements.

[T]hese social clauses . . . guarantee adequate level of working conditions, based on the universally recognized labour standards creed through the International Labour Organization (ILO).

There are countries, governments, employers, even trade unions, which disagree with the ICFTU/WCL/ETUC formulation. Disinformation from non-progressive governments and employers use protectionist warnings, scare tactics, outright lies, and grave misrepresentation of factors, including allegations that what social clause proponents want is “[to] pay our workers close to the five-to-six dollars an hour” that American workers get. Equivalence with

industrialized nations' wages—an international minimum wage—was never in the agenda.

The Philippines is among those misguided countries opposing means to ensure justice and equity for their own workers, objecting without appearing to object, relegating social clauses to other fora which do not exist, and pushing to make sure that the social clauses dies.

[The Philippine Government] is seriously concerned over suggestions to include workers' rights and international labour standards in the agenda of the WTO. There are other fora which already discuss these subjects.

[T]he Philippines has a well-entrenched national policy to promote the welfare of workers and uphold their rights. We believe, however, that relating these issues to trade could also give rise to the possibility that workers' rights and international labor standards could be used as unjustifiable barriers to international trade. This linkage all the more becomes alarming if redress for perceived violations of workers' rights and international standards is sought through unilateral and extraterritorial trade measures.

These governments and employers would take away a sure thing to prevent the likes of Asian, African, American, and other countries from overwhelming us with their unfair advantage: they have little regards for workers' and trade union rights.

Their low labor cost is not the issue here. We cannot take that advantage from them. It would be foolish to compete with these countries on the basis of labor cost, as employers keep on warning us with every wage campaign in every forum, but for different reasons. The contracting parties of the GATT agree that in order to encourage the growth of trade, there need to be agreed rules to ensure fair competition.

The unions insist that the right to participate in world trade places certain duties on countries to observe international regulations, including internationally recognized minimum labor standards. This will make sure that developing countries, like the Philippines, which are genuinely trying to improve basic working and living conditions are not beaten in the world market by those which do not, or would dearly not like to, comply with international labor standards, particularly those regarding freedom of association, collective bargaining, and child labor.

## RULES OF THE GAME

These countries do not play by the rules; they insist on playing in another league. Why should we let them get away with it? Why should we let them profit from our own scrupulous concern with workers' rights?

The Philippine government has always insisted on leveling the playing field. It should not miss this excellent chance to contribute to the leveling of the international trade playing field. Does government find it dangerous to provide workers and unions the tools for liberating themselves?

The unions are reasonable; they do not insist on compliance with any and all international convention, only the very basic ones.

THE ICFTU/WCL/ETUC proposed a selected list of ILO-recognized minimum labor standards which are absolutely not industrial country standards, particularly those on freedom of association (Convention No. 87) and the right to organize and bargain collectively (No. 98), as well as the minimum age for the employment of children (No. 138), discrimination, and forced labor.

These standards are ILO standards, originally adopted by a full scale ILO Conference following careful tripartite negotiations in two years of committee work. They are principles that governments of all countries regardless of their stage of development should legitimately be expected to observe.

The unions are reasonable. In the GATT Uruguay Round Ministerial Meeting in Marrakesh, Morocco on April 12-15, 1994, we only asked to place the link between basic labor standards and trade on the work program of the new World Trade Organization (WTO) and for a special Working Party to be set up to study the question.

We stressed that the time is right for an objective study of this issue and the possible means of action by the WTO, in collaboration with the ILO, and that the misunderstanding and apprehension about the concept can only be allayed by dispassionate, intelligent discussions in the proposed WTO/ILO mechanism.

This initiative originated from the ICFTU, an umbrella organization of 120 million workers in 174 affiliated organizations in 124 countries and territories throughout the world, and to which the TUCP is extremely honored to be affiliated, concurred in by the WCL, to which the Federation of Free Workers (FFW) is affiliated, and reflects the common interest of workers all over the world. The Americans (the

unions and the government), in their good sense, support and actively seek other governments' support for their own versions which correspond very closely with the workers' initiative, including a s list of selected ILO minimum standards and the need to provide adequate time for governments to cause compliance with minimum standards before the option of trade action is considered. The European Commission (EC) and at least 10 of the 12 European Union member states support the inclusion of labor standards in trade in the WTO work program.

With strong objections from India, Malaysia, Brazil, Singapore and other developing nations, the Marrakesh meeting merely assured that the subject will be taken up by a WTO preparatory committee.

## NO ILLUSIONS

We are disappointed, but not daunted. We had no illusions; we have always thought that the complex and sensitive questions required several rounds of discussions and dialogue over some time.

We would like to believe that the Philippines has a little more conscience in this area compared to others, or if not, that Philippine unions can shame or induce the Philippine government and employers to support our position. *Hindi pala.* (An appropriate translation of the last mentioned phrase would be: This expectation was never met to our chagrin and disgust.—Eds.)

Nevertheless, new things, like social clauses in trade agreements, are treated like that. A social clause's advantages and benefits takes some time to be felt. It may be an idea ahead of its time. Eventually, we will probably have a social clause in one form or another.

We have to. We need to. ❀

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