

A SURVEY ON DISPUTE INCIDENCE AND RESOLUTION IN SMALL AND MEDIUM ENTERPRISES

Rafael A. Rodriguez*

The paper analyzes data on reported incidence of disputes in small and medium enterprises in the National Capital Region of the Philippines from a survey conducted by the Social Weather Stations (SWS) in late 2006. The paper examines the incidence of disputes with customers, suppliers, employees, local and national government agencies, competitors and communities or civil society organizations, in these enterprises. Survey data show that the enterprises resort to internal mechanisms as well as to third parties and legal processes to resolve disputes. Finally, the paper finds a role for external non-government organization to assist these enterprises in dispute reduction or resolution.

Keywords: dispute, dispute resolution, small and medium enterprises

I. INTRODUCTION

Interest in small and medium enterprises (SME) has increased in recent decades principally because of their potential for greater contribution to a growing economy. This paper examines survey data on the incidence of disputes in small and medium enterprises, with a view towards identifying potential areas of assistance in dispute settlement in such enterprises given that judicial settlement of disputes can be both protracted and costly in this country.

The data for this study was generated from a survey conducted by SWS involving 213 SME (112 small and 101 medium) in the National Capital Region between October 13 and November 14, 2006. The identified parties with whom the SME could potentially come into conflict with were

comprised of external sectors that business enterprises interact with, namely, suppliers, customers, competitors, the community and non-government organizations, local and national government agencies, as well as the firm's own employees.

The survey was conducted in partnership with the Asia Foundation, with funding support from the United States Agency for International Development. Also a partner in this effort is the Conflict Resolution Foundation, a non-government organization, which conducted a number of focus group discussions prior to the design of the survey. The list of respondent enterprises was also provided by the Conflict Resolution Foundation.

II. OVERALL FINDINGS

The extent to which SME experience disputes with the various sectors in their

environment are summarized in Table 1. The majority reported of having disputes with

* Professor of Strategic Management, College of Business Administration, University of the Philippines, Diliman, Quezon City. (Email: rafael.rodriguez@up.edu.ph).

three sectors, namely their customers, their employees, suppliers, and not surprisingly, their own

Table 1
% of Companies Reporting Disputes With...

	<i>Total Enterprises</i>	<i>Small Enterprises</i>	<i>Medium Enterprises</i>
Customers	77%	71%	84%
Suppliers	74	64	85
Employees	62	53	72
Local Government	42	36	47
National Government	42	36	50
Competitors	26	26	26
Communities or Civil Society Organization	12	11	14

Source: Social Weather Stations, Survey on Conflict Resolution Systems in Small and Medium Enterprises, NCR, October 13 – November 14, 2006 [Powerpoint presentation].

The frequency in the reported incidence of these disputes generally cluster in the “A few times a month” to “A few times in the

last twelve months” range, with only a minority reporting frequencies of “Daily” and “A few times a week” (see Table 2).

Table 2
Frequency of Reported Disputes

	<i>Daily</i>	<i>A Few Times a Week</i>	<i>A Few Times a Month</i>	<i>A Few Times in the Last 12 Months</i>
Customers	10%	18%	48%	23%
Suppliers	4	20	50	26
Employees	6	11	45	38

Source: Social Weather Stations, Survey on Conflict Resolution Systems in Small and Medium Enterprises, NCR, October 13 – November 14, 2006 [Powerpoint presentation].

Though not as numerous as those reporting conflicts with customers, suppliers, and employees, Table 3 also shows that significant numbers of the respondents reported conflicts with local and national government agencies and to a lesser extent,

with competitors as well as with the community and or non-government organizations within the last three years. Among the SME reporting disputes with these sectors, the modal response in terms of frequency is “Sometimes”.

Table 3
Frequency of Reported Disputes

	<i>Regularly</i>	<i>Sometimes</i>
Local Government	5%	37%
National Government	6	36
Competitors	4	23
Communities or Civil Society Organization	0.5	12

Source: Social Weather Stations, Survey on Conflict Resolution Systems in Small and Medium Enterprises, NCR, October 13 – November 14, 2006 [Powerpoint presentation].

Most of disputes with the non-government sectors above, which are handled directly by company employees, are resolved quickly (i.e., within 5 days). (Refer to Table 4).

Table 4
Number of Conflicts Resolved Within 5 Working Days Handled by the SME's Staff

	<i>All of them + Most of them</i>	<i>Some of them + Very Few of them</i>
High	83%	19%
Low	81	17
Average	81	18

Source: Social Weather Stations, Survey on Conflict Resolution Systems in Small and Medium Enterprises, NCR, October 13 – November 14, 2006 [Powerpoint presentation].

The firms reported a high degree of satisfaction with the effectiveness of their internal dispute resolution mechanisms (see Table 5).

Table 5
Satisfaction with the Company's Internal System of Resolving Disputes with Specific Organizations by Size of Enterprise

	Total Enterprises			Small Enterprises			Medium Enterprises		
	Satisfied	Dissatisfied	Net	Satisfied	Dissatisfied	Net	Satisfied	Dissatisfied	Net
Customers	92%	3%	+89	92%	3%	+90	92%	4%	+88
Suppliers	92	5	+87	92	6	+86	93	5	+88
Employees	87	5	+82	86	7	+80	88	4	+84
Civil Society Organization	88	8	+81	83	17	+67	93	0	+93
Competitors	80	11	+70	69	17	+52	93	4	+89

Source: Social Weather Stations, Survey on Conflict Resolution Systems in Small and Medium Enterprises, NCR, October 13 – November 14, 2006 [Powerpoint presentation].

Despite the generally high satisfaction with the effectiveness of the SME internal dispute handling mechanisms, a significant proportion of the firms reported of resorting

to either third party interventions (Table 6) or to filing of legal suites or formal complaints (Table 7).

Table 6
% of Companies who had to Get Help from a Third Party in Order to Resolve Disputes by Size of Enterprise

	<i>Total Enterprise</i>	<i>Small Enterprises</i>	<i>Medium Enterprises</i>
High	22%	19%	27%
Low	13	11	14
Average	19	16	21

Source: Social Weather Stations, Survey on Conflict Resolution Systems in Small and Medium Enterprises, NCR, October 13 – November 14, 2006 [Powerpoint presentation].

Table 7
% of Companies who had to File a Legal Suit or Other Formal Complaints in Order to Resolve Disputes by Size of Enterprise

	<i>Total Enterprise</i>	<i>Small Enterprises</i>	<i>Medium Enterprises</i>
High	22%	13%	31%
Low	6	1	7
Average	14	8	18

Source: Social Weather Stations, Survey on Conflict Resolution Systems in Small and Medium Enterprises, NCR, October 13 – November 14, 2006 [Powerpoint presentation].

In all categories of disputes, medium-sized firms tend to resort to these external

mechanisms than small enterprises.

III. AREAS OF DISPUTES

The subject matter of the disputes differs according to the nature of the SME's relationship with the parties/sector. In this section, we summarize the areas of dispute by sector.

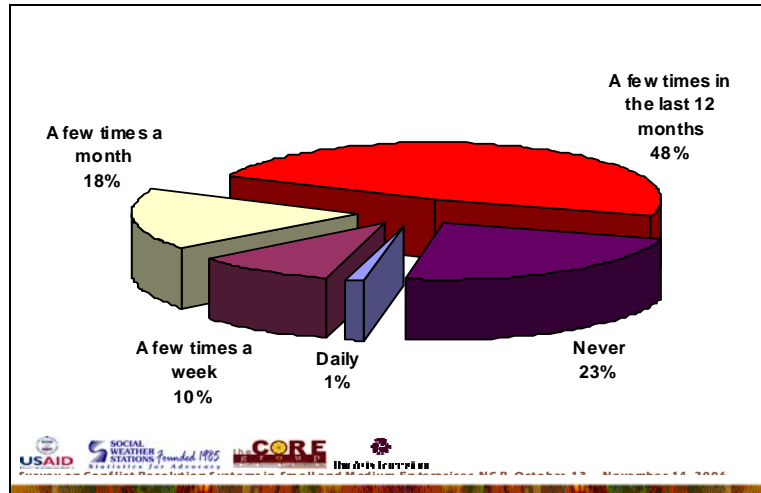
Customers

The highest incidence of disputes reported by SME is with their customers (77%). The modal frequency of these

disputes is “a few times in the last 12 months.” although a significant proportion (18%) also reported of having disputes with

customers “a few times a month” (see Figure 1).

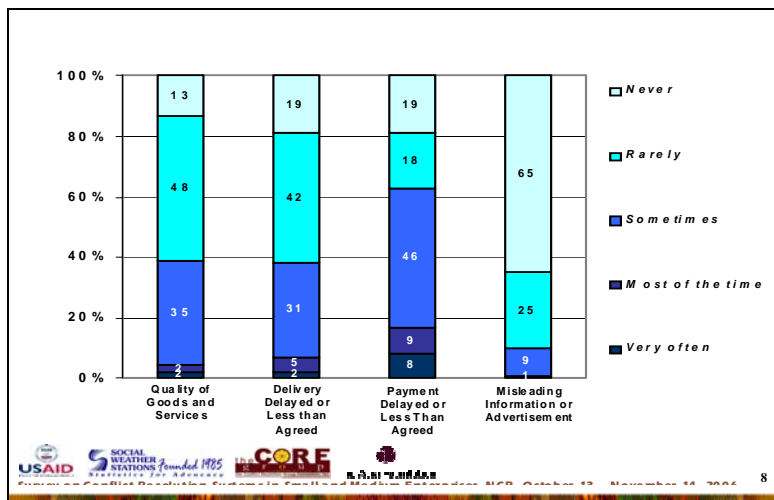
Figure 1
Frequency of Having a Dispute of Any Kind with Customers Over the Last Twelve Months



The nature of SME conflicts with their customers have to do with the quality of the goods or services provided, delivery, delayed payment and to a lesser extent, misleading information or advertisement. Of these,

conflicts about delayed payment have the highest combined frequency of “Very often”, “Most of the Time”, and “Sometimes” responses (63%). (Refer to Figure 2)

Figure 2
Frequency of Having Disputes with Customer, By Type of Dispute



Eighty three percent (83%) of the establishments reported that “all” or “most” of the conflicts handled by their staff are resolved within five days and (92%) reported being “Very Satisfied” or “Fairly Satisfied” with the staff’s handling of these conflicts.

Nonetheless, 22% of the SME resorted to third parties to mediate disputes with customers (Figure 3) while 31% reported of filing legal suits or formal complaints to attempt to resolve them (Figure 4).

Figure 3
% of SMEs that Asked Help from a Third Party to Amicably Settle Disputes with Customers by Size of Enterprise

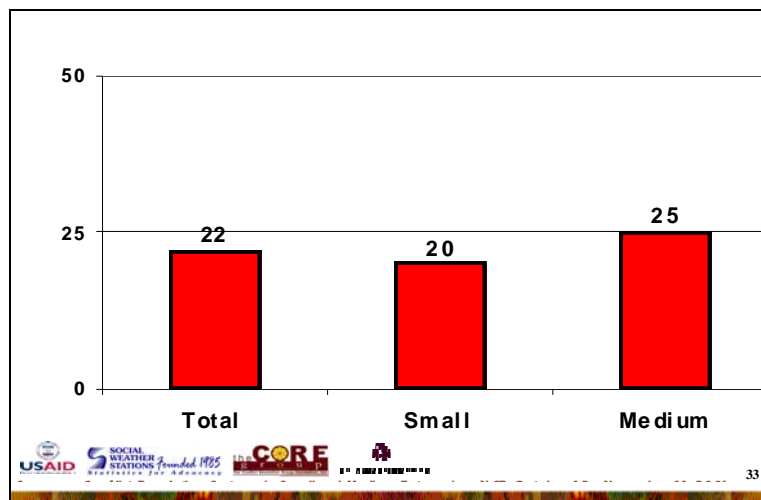
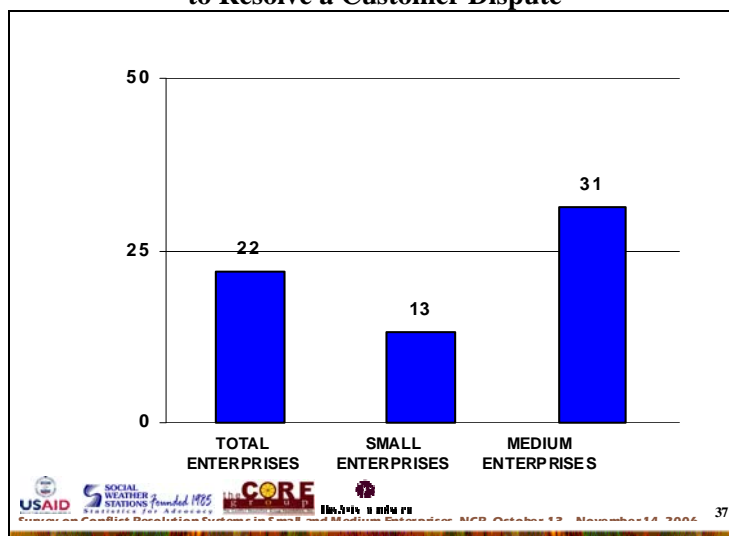


Figure 4
% of SMEs that had to File a Legal Suit/Formal Complaint to Resolve a Customer Dispute

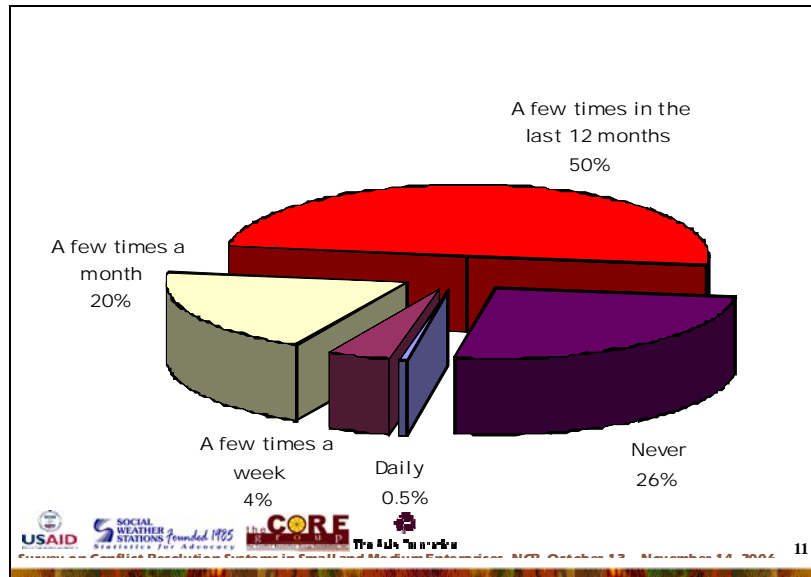


Medium-sized enterprises are more than twice as likely to file a legal suit or complaint against customers than the small enterprises. This difference could be due to the smaller firms' inability to afford the cost of legal proceedings.

Suppliers

Conflict with suppliers has the second highest reported incidence in SME, with half of the SME reporting disputes with their suppliers "a few times" during the last 12 months (see Figure 5).

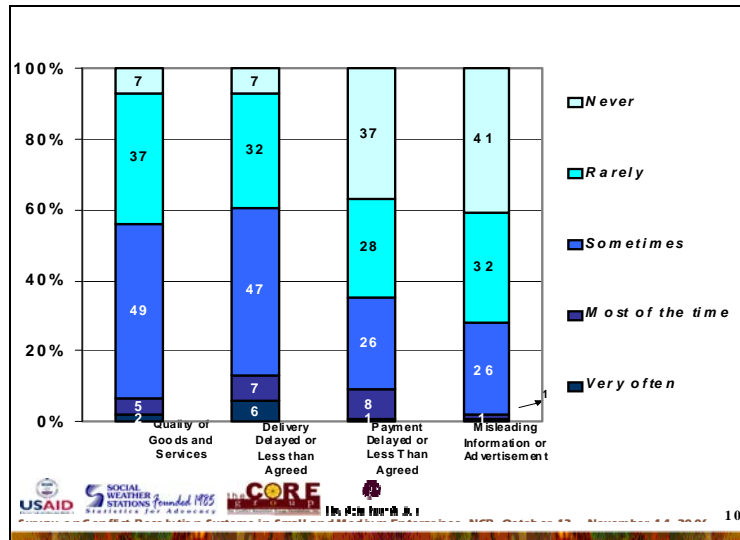
**Figure 5
Frequency of Having a Dispute of Any Kind with Suppliers
Over the Last Twelve Months**



As in the case of their customers (for whom SME act as the supplier of goods or services) SME disputes with their suppliers are mainly over the quality of goods delivered (93%) or delays in delivery (93%).

Delayed or incomplete payment and misleading information or advertisement also figure significantly in these disputes, 62% and 59%, respectively (Figure 6).

Figure 6
Frequency of Having Disputes with Suppliers,
By Type of Dispute



Compared to disputes with customers, there is a lower tendency to resort to third parties to settle disputes with suppliers (13%)

(Figure 7) and to file a legal suit or formal complaint (6%) (Figure 8).

Figure 7
% of SMEs that Asked Help from a Third Party
to Amicably Settle Disputes with Suppliers, By Size of Enterprise

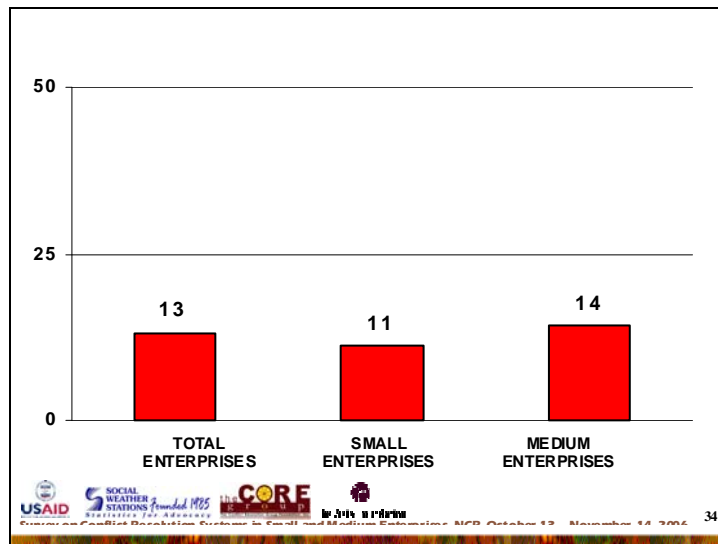
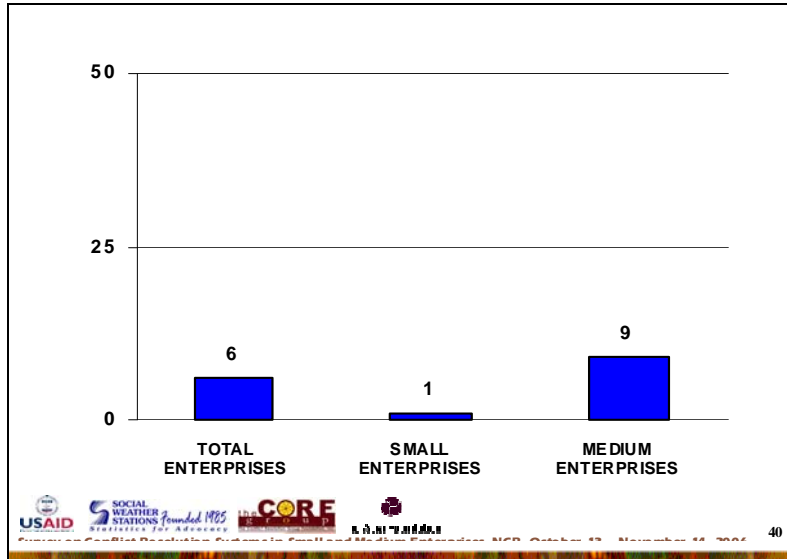


Figure 8
% of SMEs that had to File a Legal Suit/Formal Complaint
to Resolve a Supplier Dispute



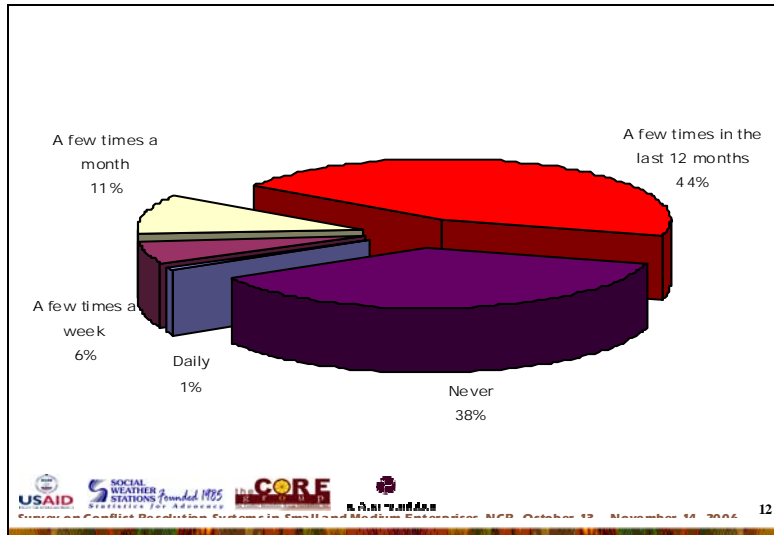
As in the case of disputes with customers, medium-sized enterprises are far more likely to resort to legal suits than the small enterprises.

Employees

A relatively high proportion of the responding firms (62%) reported of having

conflicts with their employees (Figure 9), with the medium-sized firms reporting more disputes with their employees (82%) compared to the smaller firms (53%). A significant proportion (17%) reported of having disputes with their employees as often as “daily” up to “a few times a month”.

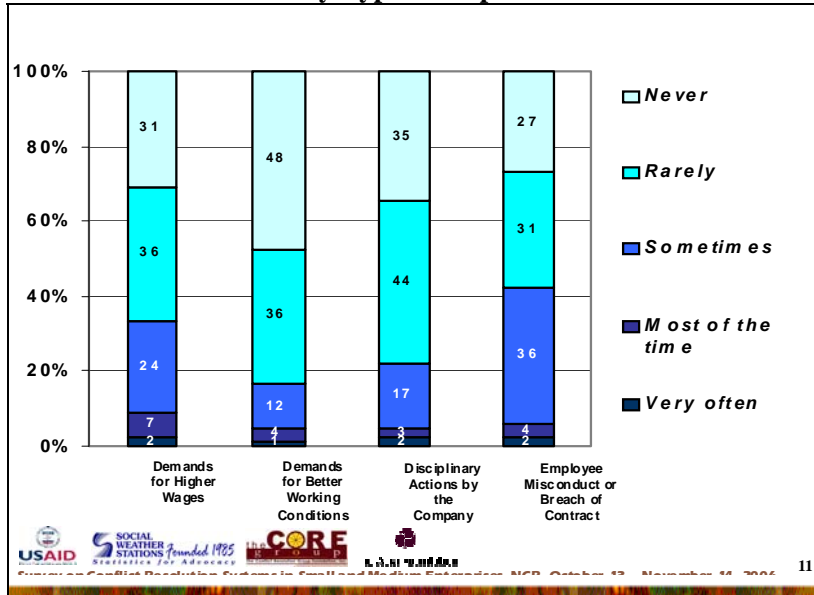
Figure 9
Frequency of Having a Dispute of Any Kind with Employees
Over the Last Twelve Months



Employee complaints tend to be equally distributed among demands for higher wages (69%) complaints about disciplinary action (65%) and demands for better working conditions (52%). On the other hand, 72% of the survey respondents reported of having complaints against their employees for misconduct or breach of contract. As in the

other dispute areas, the bulk of these conflicts are handled internally (98%). However, in 21% of these cases, third party intervention or mediation was involved, and to a lesser extent (16%), filing of a legal suit or formal complaint was resorted to (Figure 10).

Figure 10
Frequency of Having Disputes with Employees,
By Type of Dispute



Medium-sized companies were again more than twice as likely (23%) to file a legal suit or formal complaint against employees than the small enterprises (7%).

Figure 11
% of SMEs that Asked Help from a Third Party
to Amicably Settle Disputes with Employees, by Size of Enterprise

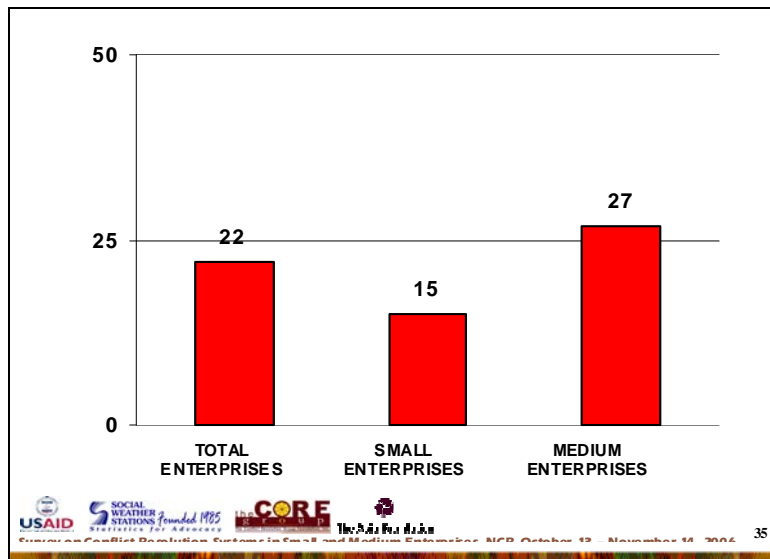
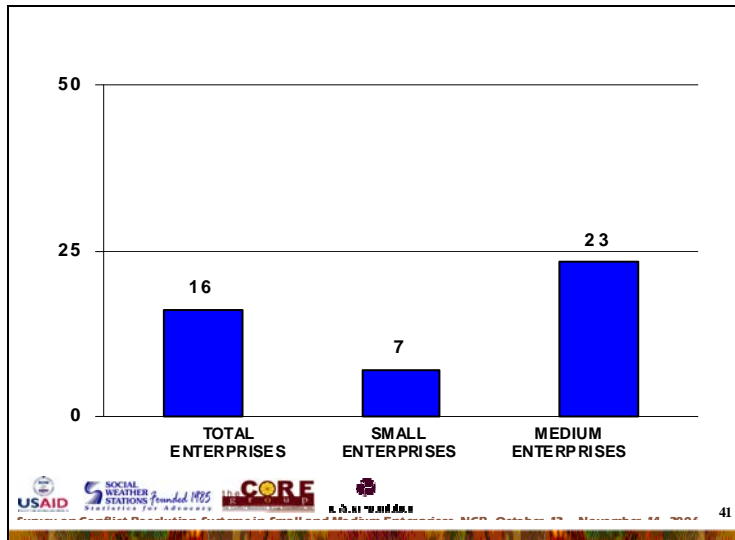


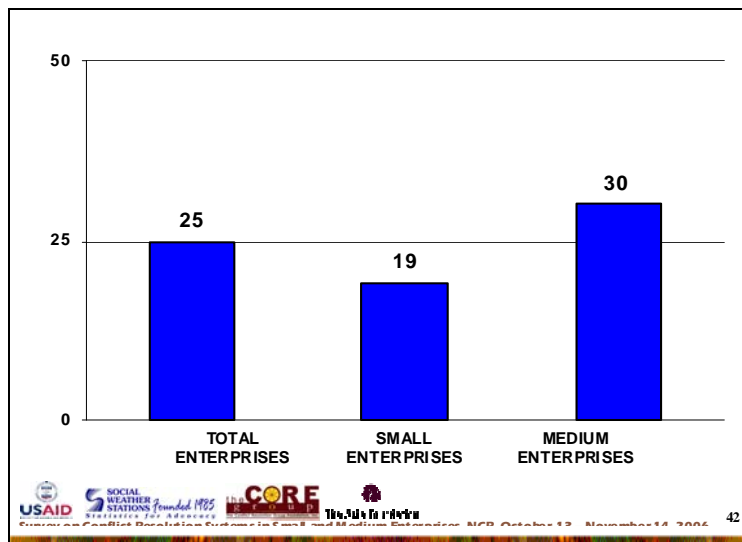
Figure 12
% of SMEs that Had to File a Legal Suit/Formal Complaint to Resolve an Employee Dispute



A fourth (25%) of the SME report having received legal complaints from employees. Medium enterprises (30%) received more

legal suits or formal complaints than small enterprises (19%). (See Figure 13).

Figure 13
% of SMEs that Ever Received a Legal Suit/Formal Complaint from an Employee to Resolve a Dispute



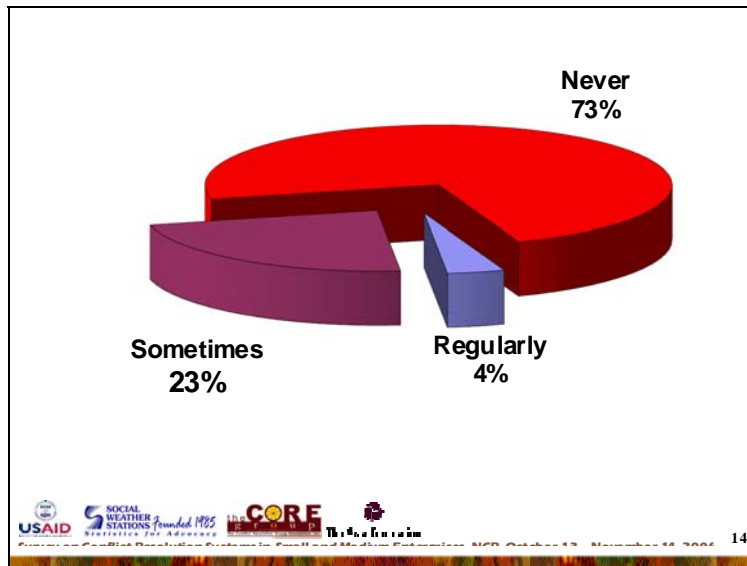
Competitors

SME reported significantly lower dispute experience with their competitors as compared to their experience with customers and suppliers.

Disputes with competitors also tend to be more intermittent in character, with 23% reporting that conflict occurs “sometimes”

and only 4% reporting conflict with competitors “regularly”. These need not, however, indicate the absence of strong competition in the SME sector. Firms may compete vigorously in the market (e.g., in terms of prices or in terms of product or service quality, without referring to this as “disputes” or “conflicts”).

Figure 14
Frequency of Having a Dispute of Any Kind with Competing Companies
Over the Last Twelve Months



Conflicts with competitors tend to center on unfair pricing (59%), unequal access to markets (52%), on infringements of

trademarks, trade names, and product designs (37%), as well as on unequal access to materials (22%). (See Figure 15)

Figure 15
Frequency of Having Disputes with Competing Companies
By Type of Dispute

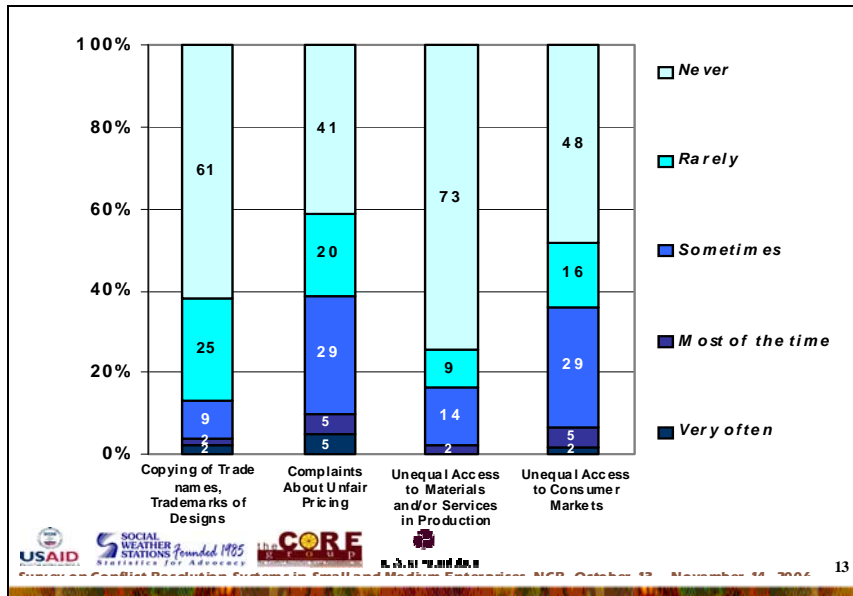
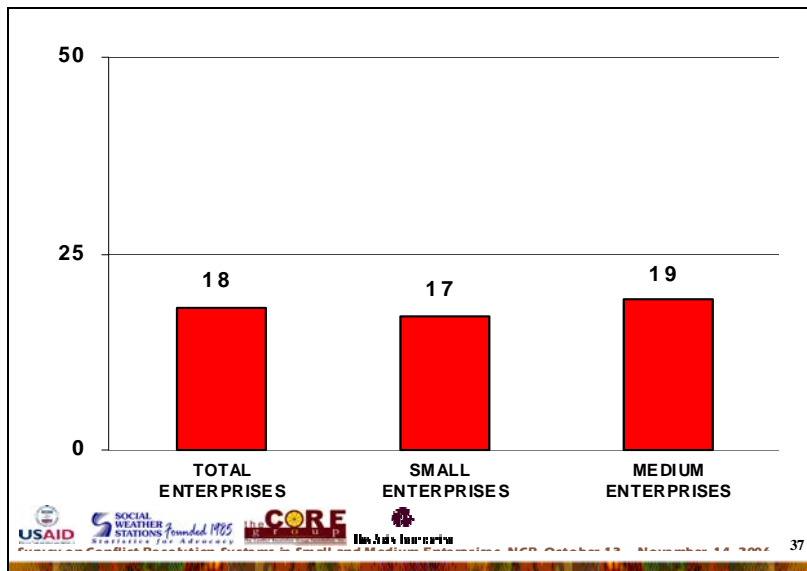


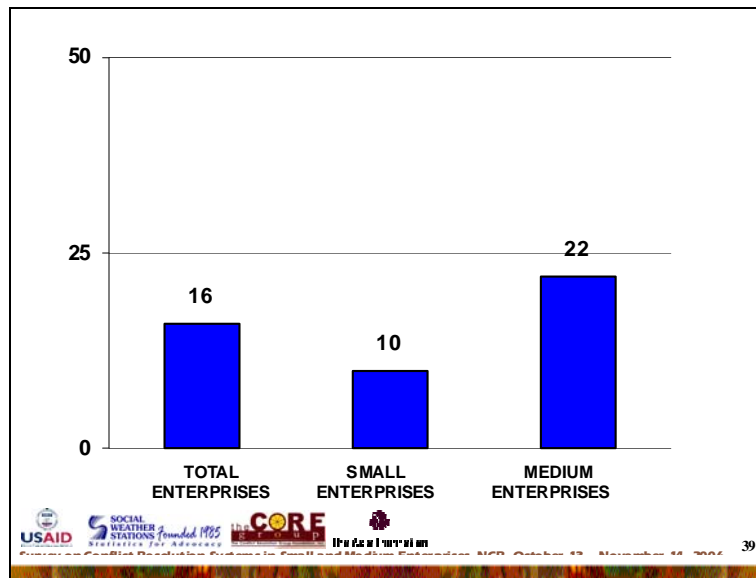
Figure 16
% of SMEs that Asked Help from a Third Party
to Amicably Settle Disputes with Competing Companies, by Size of Enterprise



Compared to conflicts with customers or employees, a smaller percentage (18%) of the SME resorted to third parties to settle or mediate the disputes (Figure 16) while an

almost equal number (16%) resorted to legal suits and/or filing of formal complaints (see Figure 17).

Figure 17
% of SMEs that Had to File a Legal Suit/Formal Complaint to Resolve a Competitor Dispute



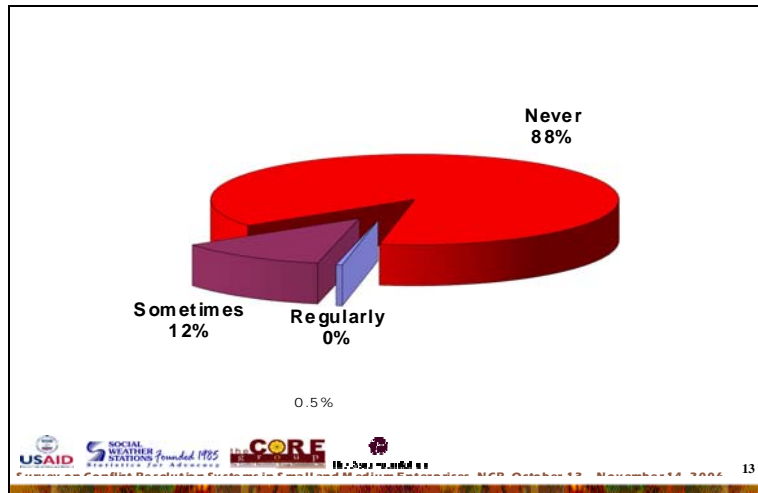
As in previous cases, medium- sized firms are more likely to undertake legal proceedings compared to their smaller counterparts.

Civil Society Organizations

The lowest incidence of reported conflict

in SME (12%) is with the community and/or with NGO's. The incidence of conflicts is also preponderantly intermittent with only one of the 26 respondents claiming to have conflicts with the community "regularly" (Figure 18).

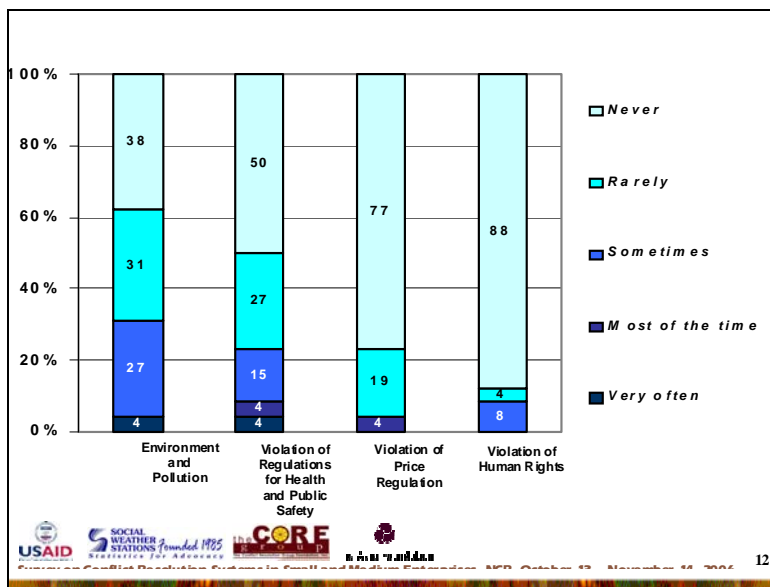
Figure 18
Frequency of Having a Dispute of Any Kind with Civil Society Organizations Over the Last Twelve Months



SME disputes with communities and NGOs mainly concern environmental pollution issues (62%) and violations of public health and safety regulations (50%).

Violations of price regulations and human rights are less frequent areas of dispute, 23% and 12%, respectively (see Figure 19).

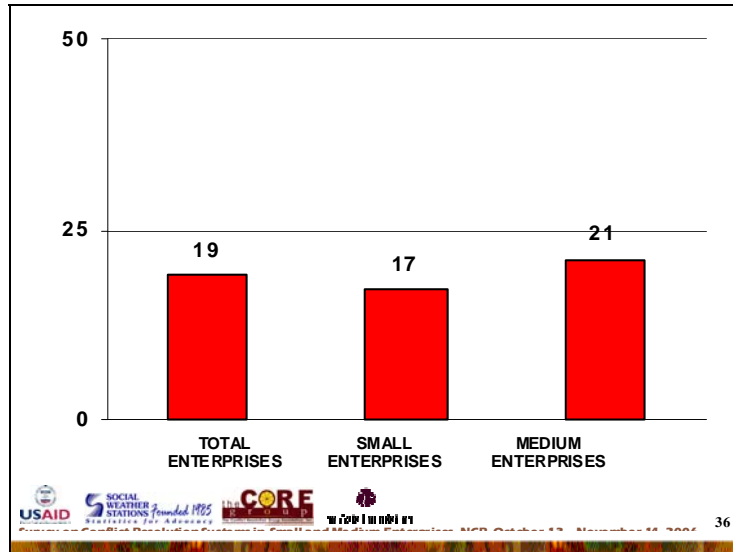
Figure 19
Frequency of Having Disputes with Civil Society Organizations By Type of Dispute



Despite the low reported incidence of conflicts with the community, a significant proportion of those experiencing such

conflict resorted to third party mediation in the last three years (19%). (Figure 20)

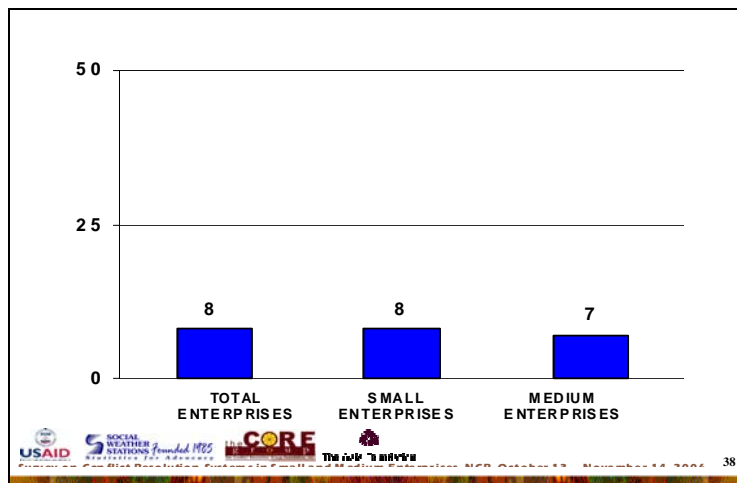
Figure 20
% of SMEs that Asked Help from a Third Party to Amicably Settle Disputes with Civil Society Organizations By Size of Enterprise



Only two respondents of the 26 reporting conflicts with the community resorted to

legal action or the filing of formal complaints to settle the dispute (see Figure 21).

Figure 21
% of SMEs that Had to File a Legal Suit/Formal Complaint to Resolve a CSO Dispute



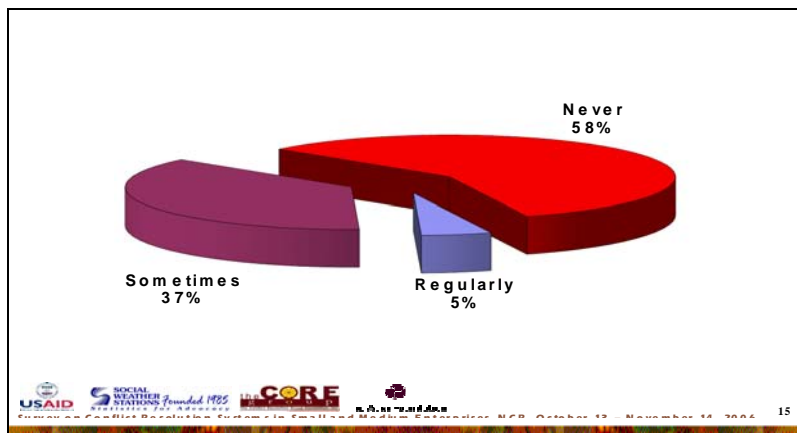
Government

Local Government

SME reported about equal incidence of conflict with local government as with

national government agencies (i.e., 42% for both). This is generally lower than the level of disputes with private parties in the SME environment, though clearly still significant (see Figure 22).

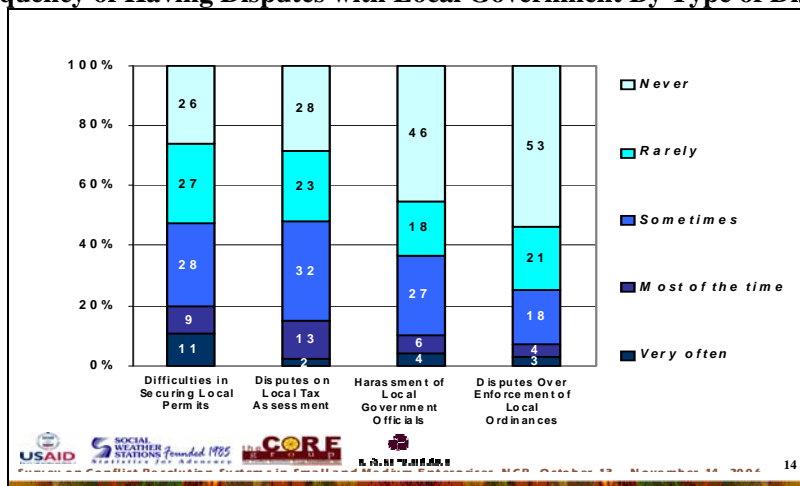
Figure 22
Frequency of Having a Dispute of Any Kind with Local Government Over the Last Twelve Months



Among those who reported experiencing difficulties with local government over the last three years, most reported difficulties in securing permits to build or operate (74%), and disputes about local tax assessments

(71%). Forty six percent (46%) also reported disputes over the enforcement of local ordinances. Forty-one firms (54%) reported experiencing “harassment” by local government officials (see Figure 23).

Figure 23
Frequency of Having Disputes with Local Government By Type of Dispute



Interestingly, among respondents who have conflicts with local governments, there is a tendency to report relatively higher frequency of occurrence of conflict (i.e., under “very often” and “most of the time”) as compared to disputes with other sectors.

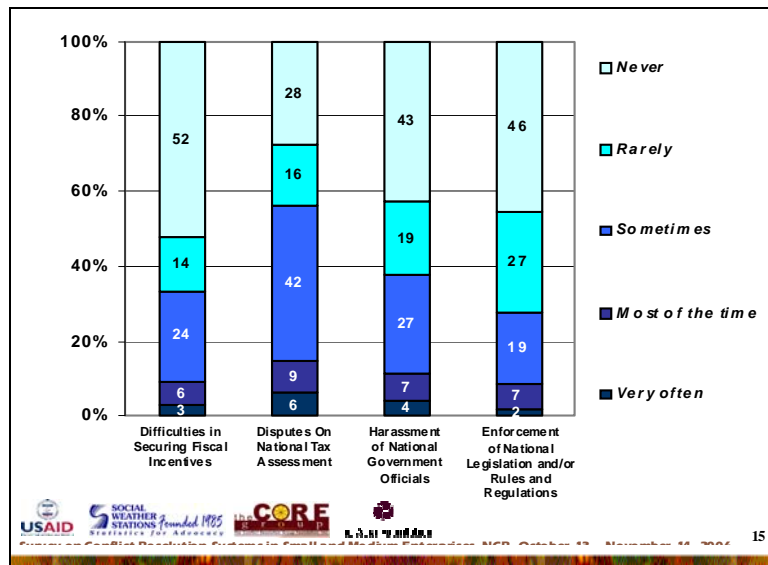
In all of the above disputes with the local government, the medium-sized establishments reported relatively higher incidences of disputes than their small-enterprise counterparts.

National Government

Similar to the experience with local

governments, SME who reported disputes with national government agencies cited tax assessments as the largest single source conflict (72%). This is followed by disputes over the enforcement of national laws and/or their implementing rules and regulations (54%) and disputes regarding the grant of fiscal incentives (48%). Fifty six percent (57%) of the firms reported of experiencing “harassment” from officials of national government agencies, higher than the figure for local governments (see Figure 24).

Figure 24
Frequency of Having Disputes with National Government
By Type of Dispute



Medium sized firms also reported higher incidence of disputes with national

government agencies than their smaller counterparts, (50%) and (36%) respectively.

IV. CONCLUSIONS

Significant numbers of small and medium firms in the survey reported recurring or intermittent disputes on a variety of issues with all seven sectors in their environment, namely, customers, suppliers, competitors, the community and civil society organizations therein, employees and local and national government agencies. While most firms reported high satisfaction with their internal systems for handling disputes with all five non-government sectors, there is also a significant number that resorted to third party intercession and to the filing of legal suits and complaints to settle disputes with all these parties. While the use of third parties and legal proceedings to settle disputes with national and local government agencies were not included in this survey, there is no reason to believe that these external mechanisms are not used as well by SME in disputes with these agencies.

The findings of this survey suggest a role for external non-government organizations to assist small and medium enterprises in their efforts to contain or resolve conflicts with the sectors with which they interact. The smaller firms who appear less able than their medium-sized counterparts to afford legal assistance may especially benefit from the availability of such assistance.

Such assistance needs to be affordable in order to be attractive and beneficial to these firms. To be attractive to the small enterprise sector, dispute mediating non-government organizations must also have a credible track record. This suggests the need for a strategy to focus the type assistance to a narrower range of dispute areas, say employee relations and/or tax advice. Other areas of assistance may be in the form of information seminars, e.g., in quality assurance and product labeling, and formal contracts which may prevent or reduce disputes with customers and other parties. As the assisting organization gains experience and visibility in the small enterprise sector, it could broaden the areas of dispute and consulting assistance to cover the other dispute areas suggested in this survey.

In assisting small and medium enterprises, the assisting firm probably cannot rely on consulting fees from these organizations to survive in the short run. For this reason, they may need to tap grant assistance from national and international sources in order to tide them over their start up period, as many non-government organizations operating in other sectors have done.

ACKNOWLEDGEMENT

**The author gratefully acknowledges the Social Weather Stations (SWS) and the Asia Foundation for permission to publish this material.*

REFERENCE

Social Weather Stations (2006). *Survey on conflict resolution systems in small and medium enterprises*. October 13 to November 14, 2006.