



## **NGLS/FES Workshop on Trade and Employment Geneva, WMO Press Room, 20 May 2009**

### **Concept Note**

#### **Background**

This workshop, co-organized by the United Nations Non-Governmental Liaison Service (NGLS) and Friedrich-Ebert-Stiftung (FES), is part of a longer-term project by NGLS to promote policy dialogue with civil society on “decent work and a fair globalization” (specifically on the nexus between global finance, macroeconomic and trade policies and the UN objective of “full and productive employment and decent work for all” to support a “fair globalization”). This workshop focuses on the trade dimension, but touches on global financial issues as well.

The workshop will be held the day after UNCTAD’s first Public Symposium on *The global economic crisis and development – the way forward*, held on 18-19 May 2009 in Geneva (organized in cooperation with NGLS and other partner organizations including FES). Many workshop participants will have also attended this symposium (see [www.unctad.org/publicsymposium](http://www.unctad.org/publicsymposium)), where the discussion of the employment implications of the economic crisis, including the trade dimensions, will obviously feed into the range of issues discussed in the workshop. The three main agenda items of the workshop are the following:

1. Trade and investment agreements, which include provisions on financial services and capital account liberalization: Do they contain commitments that circumscribe the ability of developing countries to respond effectively to the current crisis?
2. How to make trade policies and rules more consistent with the objective of full and productive employment and decent work for all?
3. What strategies could help shift bargaining relations with respect to labour and capital interests transnationally?

#### **1. Trade and investment agreements and effective crisis response**

In its preliminary recommendations, the Commission of Experts of the President of the UN General Assembly on Reforms of the International Financial and Monetary System (also known as the “Stiglitz Commission”) expressed concern about the obstacles contained in various trade agreements for effective crisis response in developing countries:

*“Many bilateral and multilateral trade agreements contain commitments that circumscribe the ability of countries to respond to the current crisis with appropriate regulatory, structural, and macro-economic reforms and rescue packages, and may have exposed them unnecessarily to the contagion from the failures elsewhere in the*

*global economic system. Developing countries especially need policy frameworks that can help protect them from regulatory and macro-economic failures in systemically significant countries. Developing countries have had imposed on them not only deregulation policies akin to those that are now recognized as having played a role in the onset of the crisis, but also have faced restrictions on their ability to manage their capital account and financial systems (e.g. as a result of financial and capital market liberalization policies); these policies are now exacting a heavy toll on many developing countries.” (Para. 37)*

This issue will have been addressed during one of the breakout sessions of the UNCTAD Public Symposium. The workshop will review some of the main conclusions and action points to address this issue, insofar as they relate directly or indirectly to employment concerns.

## **2. How to make trade policies and rules more consistent with the objective of full and productive employment and decent work for all?**

### *The trade and labour debate in context*

In the recent history of multilateral trade governance, the relation between trade and labour issues has been primarily treated through the lense of linkages between trade and labour standards. This approach has remained in an impasse since the Singapore WTO Ministerial Conference of 1996. On the one hand, the concern is that differential labour standards between trading partners create competitive disadvantages for those countries and actors that apply higher standards insofar as they are well enforced. On the other hand, there is concern (especially from developing countries) that the introduction of a labour standards-related “social clause” in the WTO could be instrumentalized for protectionist purposes – and increase asymmetric bargaining relations between member countries.

Many observers argue that progress toward a common understanding on this issue has been made in the recent (tripartite) ILO Declaration on Social Justice for a Fair Globalization adopted in June 2008 which states that “the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.”

Many bilateral trade and investments agreements, in particular by the US, include a chapter on labour standards. This trend may gain some more momentum with the new US administration. In addition, there are still proposals on the table to refer to labour standards in WTO agreements (such as amending the WTO Agreement on Subsidies and Countervailing Measures to include labour standard abuses as comparable to a non-permissible export subsidy<sup>1</sup>). However, the general thrust of recent discussions on the subject suggests that it is not for the WTO to ensure the implementation of labour standards: What is needed is a genuine strengthening of the capacity of the ILO and governments to support the development of labour laws, institutions and compliance mechanisms at the national level.

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<sup>1</sup> See speech delivered by James Howard, in: “What Future for Global Economic Governance? – Potential Role of the WTO” Report of the session at the WTO Public Forum 2008, jointly organized by Friedrich-Ebert-Stiftung / Evian Group / CUTS International, Geneva, 25 September 2008.

### *The impact of trade liberalization on employment*

This workshop will not focus on the social clause issue *per se*, but will address the related problem of asymmetric bargaining relations between labour and capital (see next section). It will also look at a different (and often overlooked) facet of the trade-labour nexus, namely the impact of trade policies and agreements on employment and decent work. ILO Director-General Juan Somavia recently noted that a major mistake made by advocates of free trade has been to ignore the fact that intensified international competition increases the pace of both job creation and job destruction - and does so in very uneven ways (see Box 1). Mr. Somavia proposed notably that there should be an analysis of both the positive and negative employment impacts of the issues on the trade negotiations agenda.

#### **Box 1**

A joint report of the WTO-ILO Secretariats<sup>2</sup> which consisted of a broad overview of the literature on trade and employment noted that the predictions of conventional trade theory that expanded trade will be equalizing no longer hold true. Instead, *“there appears to be widespread tendency for wage and income inequality to increase in the wake of trade liberalization and contemporaneous developments such as the increase in trade in services and intermediate goods, increased flows of FDI and outsourcing, and the diffusion of skill-biased technological change.”* Moreover, the recent literature indicates that “labour market adjustments” following trade liberalization occur not only between sectors but also within sectors, thereby increasing the extent of job reallocation that is required. This implies that jobs are at risk in all sectors and not, as conventionally thought only in the import competing ones. This may explain why there is widespread increase in perceptions of job insecurity as countries undergo trade liberalization<sup>3</sup>.

As awareness that the social dislocations caused by trade liberalization are much greater than assumed in mainstream trade theory, much of the current policy discussions and research on trade and labour is increasingly focusing on how labour markets can better adjust to trade reform (trade liberalization). These concern national measures to deal with negative distributional effects, including through strengthened social protection and active labour market policies to help better match labour supply and demand, including through skills and retraining programmes.

The above measures are only beginning to receive the attention they deserve in mainstream economic policy discussions. They are in fact essential irrespective of purely trade factors, as social dislocations are also the result of other factors such as technological change, the obsolescence of demand for certain products and financial instability and crisis.

However, the other side of the equation is equally important: How should trade policies and rules be adjusted to be made more consistent with the objective of full

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<sup>2</sup> Jansen, M. and Lee, E. International Labour Office and Secretariat of the WTO (2007) *Trade and Employment: Challenges for policy research*, a joint ILO/WTO Secretariat study, Geneva.

<sup>3</sup> See also Jenkins, H., Lee, E. and Rodgers G. (2007), *The Quest for a Fair Globalization Three Years On: Assessing the Impact of the World Commission on the Social Dimension of Globalization* (ILO/IILS DP/175/2007).

and productive employment? This concern was already expressed in the 2004 Report of the ILO's World Commission on the Social Dimension of Globalization<sup>4</sup> which stated that in order to achieve fairer multilateral trade rules, one essential principle is that:

*"Trade liberalization should not be enthroned as an end in itself. It is but a means for achieving ultimate objectives such as high and sustainable growth, full employment and the reduction of poverty. As such, trade policies should be framed with these ends in mind and be evaluated accordingly."*

#### *Policy space for decent work*

A key operational dimension of this principle is to ensure that developing countries have enough *policy space* to tailor national measures (including trade policies) to local conditions and needs, as part of the principle of special and differential treatment for developing countries. The issue of policy space remains controversial and would benefit from a more systematic and explicit treatment from the angle of its contribution to the goal of decent work for all.

Since UNCTAD XI (held in São Paulo in 2004), there is an initial, albeit limited, multilateral consensus on the concept of policy space that was reaffirmed at UNCTAD XII (held in Accra in 2008) (see Box 2).

#### **Box 2: Agreed text on policy space**

"The increasing interdependence of national economies in a globalizing world and the emergence of rules-based regimes for international economic relations have meant that the space for national economic policy, that is, the scope for domestic policies, especially in the areas of trade, investment and industrial development, is now often framed by international disciplines, commitments and global market considerations. It is for each Government to evaluate the trade-off between the benefits of accepting international rules and commitments and the constraints posed by the loss of policy space. It is particularly important for developing countries, bearing in mind development goals and objectives, that all countries take into account the need for appropriate balance between national policy space and international disciplines and commitments."

*Paragraph 5 of the "Accra Accord", adopted on 25 April 2008 and based on the 2004 São Paulo Consensus, paragraph 8.*

Many observers have described the São Paulo text as an important step forward in that it was the first multilateral consensus text that recognizes the need for policy space as a development concern. However, the main limitation of the agreed text is that it treats policy space as a "trade-off" vis-à-vis the benefits of international commitments and disciplines, rather than proposing the integration of policy space into global rules and disciplines as a necessary step to make such rules fair and equitable<sup>5</sup>.

<sup>4</sup> World Commission on the Social Dimension of Globalization, established by the ILO (2004), *A Fair Globalization: Creating Opportunities for All*, Geneva.

<sup>5</sup> It also does not address constraints on national policy choices due to an *absence* of rules to adequately govern global financial markets, an issue that will not be treated in this workshop. See also Jenkins *et al* (2007) *op cit*.

### *Special Safeguard Mechanism*

A key proposal in this respect is the discussion in the WTO's Doha Round on the integration of a Special Safeguard Mechanism for agricultural products that would enable developing countries – when faced with an import surge that *inter alia* risk undermining the livelihoods of small farmers – to raise tariff levels on those products above those bound in WTO agreements. This is an important proposal given that it links aspects of the decent work agenda from a development perspective. Although it has proven technically difficult and politically very sensitive to agree on the specifics of such a mechanism<sup>6</sup>, there may be lessons to be learnt for other trade areas as well.

### *Negotiations on NAMA*

A case in point is the current Doha Round negotiations on Non-Agricultural Market Access (NAMA), which principally concerns industrial tariff liberalization. While a NAMA agreement would further open industrialized countries markets by reducing tariff peaks and tariff escalation, there are concerns that the current formula used would lead to greater reductions of applied industrial tariffs in a number of developing countries<sup>7</sup>. Moreover, many analysts, including from trade unions, have voiced concern that a number of developing countries would risk losing a high number of manufacturing jobs – and could even end up locked into low value-added production growth paths given that they would not have any more the option to build up their domestic manufacturing capabilities with appropriate tariff protections, as practiced in the past by many now industrialized countries (infant industry protection argument). Would this reduce the scope for decent work creation in the countries concerned?

These two examples will provide a basis to examine how trade agreements can be adjusted *ex-post* as well as *ex-ante* to be made more consistent with full productive employment and decent work for all<sup>8</sup>.

### *Foreign Investor Protection*

A related concern that will be explored during the workshop relates to foreign investor protection provisions in North-South free trade agreements and bilateral investment treaties. There are concerns that these provisions undermine the sovereign State's ability to introduce regulatory measures, for instance to react to social and environmental concerns (that may include enhanced worker protection, occupational health and safety laws and other worker protection provisions). There is a potential danger that such measures could be found illegal by an international tribunal because they reduce the expected profits of foreign investors (and be interpreted as tantamount to expropriation). There are cases documented, for instance in relation to race-related non-discrimination (or “affirmative action”) measures in South Africa<sup>9</sup>. Moreover they can entail a so-called “chilling effect” on the introduction of new social and environmental legislation even without a case being brought. This problem is likely to

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<sup>6</sup> It was widely held that disagreements on the specifics of this mechanism were the main “trigger” for the collapse of ministerial negotiations at the WTO in July 2008.

<sup>7</sup> Some observers have also argued that tariff peaks and tariff escalation are part of inherent inequities left over from the Uruguay Round and should not be subject to *qui pro quo* negotiations.

<sup>8</sup> Another possibility to assess the implications of trade on employment-related issues could be to include a chapter on that issue in WTO's regular Trade Policy Reviews.

<sup>9</sup> See Peterson, L. E. (2006). South Africa's Bilateral Investment Treaties. Implications for Development and Human Rights. FES Occasional Paper No 26, Geneva.

take on even greater importance as efforts are made to bring bilateral treaties into the multilateral system.

### **3. What strategies to shift bargaining relations with respect to labour and capital interests transnationally?**

While trade liberalization offers new opportunities and risks, its associated patterns of socioeconomic dislocations and rising inequalities worldwide are also intimately linked to technological changes, and most importantly with the ascendancy of finance. This ascendancy was greatly facilitated by widespread financial and capital account liberalization in many parts of the world in the last two or three decades.

In its *Trade and Development Report 1997*, UNCTAD had already warned that rising inequalities within and between countries could trigger a “political backlash against globalization”. It noted that there was a “common set of forces unleashed by rapid liberalization that make for greater inequality by favouring certain income groups over others.” These included:

- Growing wage inequality between skilled and unskilled workers, which it noted “is not just a problem for the North”
- Growing share of income accruing to capital at the expense of labour, translating into increased job and income insecurity: “corporate restructuring, labour shedding and wage repression have become the order of the day in much of the North and parts of the South.”
- Increased concentration of income had also meant a “hollowing out of the middle class” as a prominent feature of income distribution in many countries.
- Emergence of a new “rentier class” as a result of substantial expansion of international capital flows and the rapid rise of public and private debt: “finance has been gaining an upper hand over industry, and rentiers over investors.”

These warnings were by and large ignored in mainstream policy circles and the above trends have become even more entrenched in the last twelve years. With the advent of the global economic crisis, wage *deflation* (not just repression) is now becoming a reality, and could be even more damaging than a spiral of beggar-thy-neighbour protectionist policies.

The final session of this workshop will brainstorm on strategies to shift bargaining relations to address this ascendancy of finance over the real economy, of capital over labour. What strategies are workers organizations pursuing to address this problem transnationally? What alliances can be formed with other actors, including from civil society, international organisations (and perhaps real economy actors such as Small and Medium Enterprises associations) to support common advocacy positions? What prospects exist for avoiding wage deflation through coordinated systems of collective bargaining, as suggested in the ILO Office proposal for a “Global Jobs Pact”? Could the goal be that wages in national economies as a whole should rise in line with productivity developments? Could regional strategies support this goal? What complementary policies (such as capital account management) are needed to ensure more balanced bargaining relations?