



Report FES Luncheon on Trade and Human Rights

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International trade and trade agreements do often impact on the enjoyment of human rights – this is a reality which can be observed in examples around the world. Whether those impacts will be positive or negative on the enjoyment of human rights depends largely on the policies of the trade partners and on the way they are realizing them.

To explore the topic in depth, FES Geneva is focusing on the linkages of trade and human rights since a number of years. Special attention is given to the work of the Committee on Economic, Social and Cultural Rights (CESCR) and to the World Trade Organization (WTO). This long-standing engagement was continued through a round table luncheon with Committee Members and WTO ambassadors, building on a workshop on the same topic which was held the previous year in collaboration with the secretariat of the CESCR.

The discussions of the meeting focused on the Trade Policy Review Mechanism (TPRM) of the WTO and possibilities for the Committee to use those reviews in strengthening the human rights of the population concerned by those trade policies. The idea behind it was not so much how human rights concerns could be included into this review – a request that would not find much appreciation within the WTO nevertheless, but rather how the Committee could use past or upcoming TPRM reports for their own review of Member State's performance respective their obligations under the Covenant. On the background of trade policies, future problems that might arise from the implementation of those policies could be identified and the states attention could be drawn to those – and to possibilities to avoid or remedy them.

Giving a background to the meeting, Mr. Boonekamp, Director of WTO's Trade Policy Review Division presented the approach of the TPRM. He stressed its dual nature with one report being prepared by the country concerned and the second in the responsibility of the WTO secretariat. He also pointed out that the TPRM was not a legal review, but rather an economic one, taking into account the level of economic development of the country concerned. Its increasingly analytical qualities have heightened the TPRM's importance and influence on national policies. In terms of human rights issues,

he mentioned the limited mandate of the WTO and the resulting practice of addressing e.g. the level of unemployment in a country rather than the fulfillment of the right to work.

Opening the discussion, Mr. Texier, the Chairperson of the CESCR, mentioned a declaration which the Committee had issued in the past, in regard to the work of the WTO. There, the CESCR had expressed its concern about possible negative impact of international trade policies on human rights and stressed the supremacy of human rights over trade agreements.

Questions arising from the further dialog included whether it might be helpful for the WTO secretariat staff to be informed about human rights indicators when preparing their report for a TPRM. The other way around, the option was mentioned to refer to the findings of the TPRM in the Human Rights Council's own country review, the Universal Periodic Review (UPR).

Delegations mentioned the problem of lacking coherence, which they are facing in the international system, but sometimes between their own national ministries as well. A concept of joint responsibility was therefore raised, pointing out three levels of coherence that should be observed in the work of the WTO: economic coherence relating to the policies of WTO and World Bank (an area where most success can be perceived); social coherence in regard to the ILO policies (which is slowly beginning to take shape); and political coherence between the trade and human rights

spheres. Those obligations of coherence, as was emphasized once again, have to be brought about by the Member States, as they are steering the policies in all of those areas and institutions, leaving only a limited space of policy formulation up to the secretariats of the organizations concerned.

Given the criticism on international trade agreements and their unresponsiveness to human rights concerns, a fundamental problem was raised: in view of the protection and promotion of human rights, would it be better to move away from the international trade agreements of the WTO to promoting rather bilateral or regional agreements which as of now, do already include human rights clauses? This is especially an issue arising in the trade policies of the EC, which is by now referring to human rights concerns in all of its bilateral trade agreements. On the other hand it would contradict the prevalent opinion, that a dismantling of the international system would leave developing countries in a much weaker position, when negotiating trade policies in favor of their populations.

Being only a two hour lunch session, those questions, which occupy countless trade and human rights lawyers alike could of course not all be answered, but the continuing dialogue, established through the meetings and workshops initiated a comparatively short time ago, proves to be a step in the right direction, strengthening coherence in the international system.

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