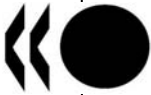


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Submission by the Trade Union Advisory Committee to the OECD

TRADE, OFFSHORING OF JOBS AND STRUCTURAL ADJUSTMENT: THE NEED FOR A POLICY RESPONSE

Paris, 19 October 2004

This paper has been submitted by the Trade Union Advisory Committee to the OECD. The views expressed herein are those of the author and are not necessarily shared by Members of the OECD.

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TRADE, OFFSHORING OF JOBS AND STRUCTURAL ADJUSTMENT: THE NEED FOR A POLICY RESPONSE

Submission to the OECD Trade Committee by Trade Union Advisory Committee to the OECD

October 2004

Summary

1. The acceleration of international offshoring and the relocation of industrial and service sector activities have heightened the sense of job insecurity amongst many groups of workers. Offshoring is only one factor amongst many in explaining the lack of job growth or job losses in some OECD regions. Moreover lack of reliable data makes serious analysis difficult. But the threat by employers of relocating activities to other countries, together with hype by many commentators in the business world about the scale of changes taking place, is creating a breakdown of confidence in the long-term relationship between companies and their employees. In addition the *laissez-faire* approach of some governments to the offshore outsourcing of jobs threatens to undermine support for the multilateral trade and investment system.

2. In response, the international trade union movement have not called for national borders to be permanently closed to flows of physical capital or goods. Nor have they passively accepted the working of economists' "relative price effect" in terms of labour, leading to a "race to the bottom" in employment standards.

3. Instead unions have stated that the appropriate response must be for a "whole of government" policy response encompassing the international institutions. Governments must guarantee core workers' rights on a global basis. A specific focus is needed on stopping the proliferation of labour rights abuses in export processing zones and ensuring the respect for workers rights in China which has become a magnet for foreign investment. OECD governments must encourage space for dialogue and negotiations between trade unions and businesses, supported by targeted regional and industrial policies along with active labour market policies to help those communities whose jobs may be affected by change. The OECD Guidelines for Multinational Enterprises should be observed as a benchmark for good practice in managing change. Trade unions and forward-looking employers are negotiating these issues both at the national and international level through the sectoral Global Union Federations. The focus of these international framework agreements must be to achieve early negotiations to maintain sustainable employment, avoid compulsory lay-offs, and to promote internal firm-level redeployment and up-skilling, whilst at the same time ensuring that workers rights are respected and developed everywhere and that companies recognise and negotiate with trade unions in their different locations.

Governments have a role to support the outcome of negotiations. Sufficient time must be allowed for the socially acceptable management of change. Appropriate use should be made of trade safeguards as set out in the WTO Agreement on Safeguards to allow this.

4. The OECD Trade Committee horizontal project on Trade and Structural Adjustment also has a key role to identify the gaps and reform requirements within the architecture of the global trade and investment system, and to promote socially inclusive flanking policies at the national level, with an active role for the social partners. The OECD and the ILO need to step up cooperation on these issues and transform the project into a continuing process of exchanging good practice beyond its cut-off date in 2005.

5. The OECD should establish a clearing house to improve the current situation of data, information and analysis regarding the implications of changing patterns of production networks in manufacturing and services. In particular this should monitor how shifts and prospective shifts in production networks and supply chains impact on employment, incomes and industrial relations.

The scale of global offshoring

6. Since the fall of the Berlin Wall and the emergence of China and India as major producers on world markets, the number of potential participants in the global trade and investment system has doubled from three to six billion people. The potential world labour force has also doubled. This initially affected on the low cost sectors of production and the workers employed in them, - the employment impact in parts of the textile and clothing sectors has been clear in OECD countries over the past twenty years but is now confronting many developing country producers with the ending of the MFA. However technology is increasingly allowing international outsourcing and offshoring in the service sector and on white collar jobs previously thought immune to international relocation. Pressures on employment standards have therefore for the first time had a more generalised effect across different categories of jobs. Moreover, foreign investment now drives or operates in conjunction with trade - workers are confronted by the same firms, either directly as employers or indirectly through supply chains.

7. The serious discussion of the scale of potential offshoring of jobs is hampered by the absence of reliable data on employment developments. The ILO 2001 Employment Report estimated that between 1 and 5 per cent of service sector jobs in the US and Western Europe (2-10 million) could potentially be offshored to low wage economies. The British Chancellor of the Exchequer recently stated that up to 5 million service sector jobs in the US and Western Europe (2-3 per cent) could be off shored by 2015. A much quoted report by Forrester Research estimated in November 2002 that 3.3 million US service sector jobs would move offshore by 2015. The sectoral impact could be much larger and a recent Deloitte Research survey of financial services firms predicts that 20 percent of the financial services cost base will be offshored by 2010.

8. The European Foundation for the improvement of working and living conditions now publishes a quarterly restructuring monitor that tracks cases of industrial restructuring in 18 of the EU countries; the data covering the second quarter of 2004 found 163 case of company restructuring leading to nearly 60, 000 job losses compared to the creation of slightly more than 16,000 new jobs. A part of this is identified as being due to a shift to new member states. (ERM Quarterly Issue 2, summer 2004). These figures are partial and lack historical perspective,

moreover offshoring is only one factor amongst many in explaining lack of job growth or job losses in some OECD regions. However they are not insignificant and require serious policy responses.

9. The hype of many commentators in the business world goes way beyond the data. The statement - "There has never been an economic discontinuity of this magnitude in the history of the world - these powerful forces are allowing companies to rethink their sourcing strategies across the entire value chain" (Mark Gottfredson, Bain & Co. quoted in the NY Times of 19 August 2004) is representative of some business thinking. Some of this hype is also marketing by the whole business services industry to facilitate outsourcing that is springing up.

10. The hype about outsourcing has also led to significantly worsening the daily relations between trade unions and employers. The attitude of employers towards unions generally, including attitudes to union recognition, their policy on labour costs and their attitude to technological change and work organisation are increasingly dictated by international competitiveness and international "fashions". The threat of relocation to an offshore site is now the standard ploy in negotiations or in anti-union campaigns and in some cases has become the reality.

11. A study by Cornell University in 2000 found that despite the longest boom in US history, workers were feeling more insecure than ever before. More than half the firms surveyed, when faced with union action, had threatened to close the plant and move to another country. In some sectors the figure rose to 68%. The fact that only 5% of firms actually moved away does not lessen the perceived risk of the threat, increasing the imbalance of relative power of unions and employers in the labour market. (*Uneasy terrain: The impact of Capital Mobility on Workers, Wages and Union Organizing, US Deficit Review Commission, 2000*).

12. The use of threats clearly violates the OECD Guidelines for Multinational Enterprises which state that: Enterprises should "In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned ...". (*Guidelines for Multinational Enterprises, Chapter IV, Paragraph 7, OECD, 2000*)

13. The pressures on labour standards from these developments are greatest along the three North/South, East/West geographical "frontiers" where there are significant differentials in wage costs and relatively low transport costs - Mexico/US, Central/Eastern Europe, and China/East Asia. But the offshoring of service activities is also made possible by the fact that information technology removes geographical proximity as an issue. Furthermore the issue of transfer of industrial locations is not just a North-South issue; it also affects both industrialised and developing countries. The rapid emergence of China, due to low wages in many sectors based on the suppression of union freedoms and workers rights, as a major destination for FDI and member of the WTO, is having a chilling effect on the improvement of labour standards in East Asia and elsewhere. Trade unions in Malaysia, the Philippines and Indonesia have raised a series of cases over the last two years of violations by foreign investors of the OECD Guidelines on Multinational Enterprises. The victimisation and firing of union representatives and members, removal of recognition of unions and anti-union campaigns by some employers have been driven by the threat of relocation to China.

14. The harshest examples of competition to attract investment are often found in export-processing zones (EPZ's) where semi-manufactured products or raw materials are processed into goods for export by foreign companies operating outside normal laws and regulations of the host country. They may operate very differently in different parts of the world, but EPZ's tend to have one over-riding common characteristic: the right of workers to join trade unions is denied either by law or practice. The most recent OECD report on trade and labour standards noted that the number of export processing zones worldwide had risen from some 500 in 1996 to about 850 in 2000, not counting China's special economic zones. (*International Trade and Core Labour Standards, OECD, 2000*) EPZ's have become commonplace in many parts of Asia and Central America and now Africa as a development model – but they attract essentially footloose investment. Moreover the negative effects are in some cases aggravated by negative policy competition between governments to attract foreign investment.

The need for a “whole of government” strategy for managing global employment change

15. The international trade union response has not been to call for national borders to be closed to flows of physical capital or goods. But neither has it been passively to accept the working of economists' “relative price effect” in terms of labour, leading to a “race to the bottom” in employment standards. We need a four-pronged “whole of government” approach:-

16. Firstly, the enforcement of rules for global labour markets to ensure that certain core labour rights are taken out of competition and that economic development sets in motion a “race to the top” regarding employment standards;

17. Secondly, the establishment of enforceable intergovernmental regulation covering the accountability of corporations and their employment practices as well as the development of a negotiating space in international industrial regulations through the conclusion of global framework agreements between global union federations and multinational corporations;

18. Thirdly, the adoption of far more active adjustment policies supported by targeted regional and industrial policies along with active labour market policies to help those communities whose jobs may be affected;

19. Fourthly, the use where appropriate of trade safeguards as set out in the WTO Agreement on Safeguards so as to allow sufficient time for the socially acceptable management of change.

Guaranteeing Fundamental Human Rights at Work

20. The focus on offshoring and relocation of activity has drawn dramatic attention to the need to guarantee core workers' rights on a global basis. The agreement in the ILO in 1998 of the Declaration on “Fundamental Principles and Rights at Work” focusing on core rights (cf.:- freedom of association, rights to collective bargaining, freedom from forced labour or prison labour, freedom from child labour exploitation and non-discrimination) has provided a floor for employment regulation in the global economy and a standard that should be applied throughout the international governance system. Such rights are vital for human dignity and self respect to be applied at the workplace. These are fundamental requirements that have to apply before more extensive employment regulation can be put in place. Without respect for freedom of association it is hard to apply even basic labour, or health and safety laws, or operate effective factory

inspection. The Core labour rights have also been agreed by the vast majority of countries operating in the global economy - the 177 members of the ILO – and it cannot be argued that they infringe upon national sovereignty. The issue is whether or not they are enforced in practice.

21. The international labour movement has for long advocated “workers’ rights clauses” in trade and investment agreements and in the constitution of the WTO. The purpose of a workers’ rights clause is to ensure that fundamental workers’ rights embodied in the ILO Declaration on Fundamental Principles and Rights at Work become an integral part of trade agreements. This would require close co-operation on implementation between the WTO and the ILO. At the moment there is a lack of coherence between different parts of the international governance system. The same governments can profess support for labour rights at the ILO whilst undermining them in their activities at the WTO. A workers’ rights clause could make it easier for workers to form unions, and would ensure that all governments took serious measures to tackle the abuses of basic workers’ rights. It would provide a partial counterweight to the negative pressures on good labour relations in the global economy and could influence the behaviour of corporations.

22. However the issue has remained blocked in the WTO. If the multilateral system is to regain broad public support, WTO members must recognise that trade is only one of the elements in the three pillars of sustainable development and give full attention to the social dimension of development including the respect of fundamental workers’ rights.

23. Other intergovernmental institutions also have to treat core labour rights as criteria that they apply in their own activities. Both the G8 Labour Ministers meeting in Stuttgart in December 2003 and the ILO’s World Commission on the Social Dimension of Globalisation have made strong pleas for far more attention to be paid to the social dimension of globalisation. Both have called for coherence to be established in the multilateral system to ensure respect for workers rights by all international institutions including the lending and conditionality policies of the IMF and World Bank as well as the WTO. The ILO Commission called for Policy Coherence Initiatives by the different institutions and the establishment of a “Globalisation Policy Forum” to establish coherence.

24. But action must go beyond strengthening dialogue and coherence to:-

- Continue to strengthen the ILO machinery for the ratification and supervision of core labour standards;
- The continued use of labour rights machinery in preferential trade arrangements ;
- Integrate obligations for core labour standards into all of the World Bank's lending policies as well as in the bilateral lending policies of DAC countries;
- Extend labour standards clauses in hemispheric and regional trade agreements;
- Establish a forum to work on coherence between the ILO and the WTO;
- Incorporate consideration of sustainable development (including core labour standards) into WTO trade policy reviews;

- Modernise the Article XX of the GATT to exclude from WTO disciplines goods made not just by prison labour – but any labour in abuse of core labour standards.

25. None of these propositions are revolutionary in nature, yet they are all attainable and would make a difference. Over time with productivity growth it would allow unions to ensure that workers have the incomes to buy back and consume the goods that they are producing.

26. The United States–Cambodia textile agreement, whereby labour rights in Cambodia’s apparel exporting factories are monitored by ILO Inspectors and their findings published has helped both raise labour standards and increase trade. It shows what can be achieved by cooperation on labour standards. (*Sandra Polaski, Carnegie Papers N°51, October 2004*).

International Social Dialogue and effective rules for Multinational Companies

27. Enforceable rules are also necessary to cover the processes by which multinational enterprises handle the process of change. Intergovernmental rules for MNE’s do exist in the form of the OECD Guidelines on Multinational Enterprises and the ILO Tripartite Declaration on principles concerning multinational enterprises and social policy. Meanwhile, several NGO’s are campaigning for a binding code on human rights to be adopted by the United Nations and the Global Compact launched by UN Secretary-General Kofi Annan is in a process of reform.

28. Since the revision of the OECD Guidelines on Multinational Enterprises in 2000, TUAC and our Global Union partners have been working to transform the Guidelines into a more operational, more usable instrument that could be an important tool to manage in a socially acceptable way employment change in multinationals.

29. Although the Guidelines are not legally binding in a formal sense of international law, they nevertheless set out governmental expectations on how their companies (that is companies which are based and have their origins in the 38 signatory countries) should behave wherever they operate. These companies cover 85 % of global foreign direct investment. They are therefore not optional; they are political commitments by governments as to their expectations of the behaviour of their country’s firms wherever they operate. There is a key difference between taking the attitude that an instrument is voluntary, so it does not matter if you do not obey it, and saying that it represents a governmental expectation of what should be done.

30. The Guidelines specify the need for respect for human rights and the observance of the core standards of the ILO; but they go a long way beyond this in terms of how companies are expected to operate, and set out prescriptions on attitudes to union recognition, relative employment conditions, procedures for plant closures, and health and safety issues, to mention only a few elements. The Guidelines specify the process by which changes in company activities should take place involving prior consultation and negotiation. Enterprises should “In considering changes in their operations which would have major effects upon the livelihood of their employees ... provide reasonable notice of such changes to representatives of their employees ... it would be appropriate if management were able to give such notice prior to the final decision being taken (*Guidelines for Multinational Enterprises, Chapter IV, Paragraph 6, OECD, 2000*) to transfer the whole or part of an operating unit from the country concerned ---- in order to influence unfairly those negotiations or to hinder the exercise of a right to organise.” (*Chapter IV, Paragraph 7*). As

seen above – if implemented this recommendation would do much to stem the negative threats associated with relocation.

31. In the first three years following the 2000 Review some fifty cases have been raised by trade unions with National Contact Points. The cases cover a range of issues such as labour rights in developing and industrialised countries, plant closures, lack of information or lack of consultation before closures take place. Of the 50 cases raised by trade unions about a dozen had been resolved by early 2004. The priority is to get more cases resolved positively. Some have been resolved through the active involvement of National Contact Points, others because a company did not want potentially bad publicity, but some have not been resolved and could not be resolved because governments do not take their responsibilities seriously. A key priority is that more NCP's must deal effectively with cases if the Guidelines are to remain a living instrument.

32. It is also essential that future granting of public subsidies and export credit guaranties be made conditional on the observance of the OECD Guidelines. Seven OECD countries now require a company, when it receives export credits or investment guarantees, to notify the government that it is aware of the Guidelines. Further progress on the issue of conditionality is necessary.

33. The Guidelines are not an alternative to legal regulation of companies but they can be an important complement and the OECD governments have to take their implementation seriously.

34. Limited international social dialogue has already started notably with individual enterprises around some of the issues associated with offshoring. On the trade union side, structures already exist – the Global Union Federations (GUF's) - which can form part of the basis for international industrial relations at both industry and company levels. Many GUFs have already established structures that deal with particular multinational enterprises, usually company councils. In Europe, the law also requires a more formal structure for consultation through European Works Councils.

35. Approximately 30 Global Framework Agreements - formal agreements signed between a GUF and a multinational enterprise - have been concluded since 1998. Unlike unilateral company initiatives, agreements are a way to resolve conflicts or problems before they become serious or damaging, based on the agreement, dialogue and the establishment of a certain amount of confidence inside the relationship. The intention is to implement common, agreed principles in a way that leads to conflicts being resolved or even anticipated. The adoption of framework agreements can be seen as the start of international collective bargaining. The trade union movement is also having to become global in its reach where assistance in capacity building and action on trade union rights and around multinational corporations is not seen just as a form of "solidarity" but rather as part of normal daily activity of unions.

36. In sectors such as clothing and textiles, trade unions cooperate actively in certification initiatives such as Social Accountability 8000 including certification schemes in China, because there is no other way for independent trade unions to enter factories in China. Certification bodies influence whether purchasers are prepared or not to buy products from certain factories. Trade unions have to be involved in this process. On the other hand, some certification schemes can be misleading when information cannot be validated and verified properly. Inspectors may be present one day in a year but can't verify what happens on the other 364 days in the factory. An independent judgement on each instrument is needed to make sure that they are not mere PR tools.

37. Market pressure for decent employment standards has also come from investors' concern over the potential risk of unsustainable social or environmental performance by companies in which they invest. The collapse of ENRON and other corporate governance scandals have made the quality of corporate governance a key issue for investors. The locus of decisions in corporate governance structures as well as the diversity of profiles of board members and their accountability can ensure more balanced long-term decisions by corporations.

38. A major campaign has developed in the trade union movement to mobilise the market pressure that potentially exists in workers pension funds. The ICFTU, TUAC and the GUF's have created an international network to facilitate cooperation on workers' capital strategies. Socially responsible investment – and in particular the behaviour of companies on workers' rights - is one of the main concerns of the committee. Companies are increasingly vulnerable to direct shareholder actions, and are therefore more and more concerned about their reputation. Trade unions have been very active over the last few years in initiating these shareholder actions. The Committee raises support at the international level for these campaigns. There are also initiatives to improve information tools in which unions are participating. These include the Global Reporting Initiative's (GRI) work to apply and have applied common international standards for corporate reporting on social and environmental sustainability. The UK, France and Germany now require their pension funds to disclose their policy on socially responsible investment. The challenge is to make the link between SRI and the processes by which relocation issues are handled.

39. The process of European regional integration has required cross-frontier processes for consultation and information to move well beyond those in existence at international level. For many in Europe, the European Union's "Social Dimension" is the response to globalisation. The European trade union movement has sought:- (i) to establish a framework of standards to stop "social dumping"; (ii) to achieve progress in the harmonisation of social standards through both European legislation and social partner agreements; (iii) to establish consultation, information and negotiation rights with multinational companies at a European level; (iv) to expand the structural funds of the European Community. One significant development in this process has been the creation of more than seven hundred European Works Councils in the multinational companies operating across the EU. EWC's working with trade unions are at the forefront of the ETUC and TUAC have established a joint project with the support of the European Commission to encourage the use of the OECD Guidelines by European Works Councils.

The Socially Acceptable Management of Change

40. It is simplistic to assume that all countries and regions automatically gain from trade and investment liberalisation. There can be permanent losers as agreed recently by Paul Samuelson (*"Where Ricardo and Mill Rebut and Confirm Arguments of Mainstream Economists Supporting Globalisation"*, *Journal of Economic Perspectives*, Summer 2004).

41. If change globally is to be perceived as positive it has to be demonstrated that it is possible to manage change in firms, industries, regions and labour markets in socially equitable ways. An industrial organisation "model" has to be developed which is both competitive and socially acceptable. OECD countries have to restructure on the basis of a high set of labour standards not on the basis of a low wage model of development whilst developing countries have to ensure that

productivity growth is used to raise living standards, reduce poverty and contribute to sustainable development. To allow sufficient time for the socially acceptable management of change, where appropriate use should be made of trade safeguards as set out in the WTO Agreement on Safeguards.

42. The OECD's Growth Study and the recent growth and employment performance of a number of European countries, in particular those in the Nordic area that have chosen a "high road" to reform, shows that labour market success and high employment rates can be achieved through appropriate and interlinked policies in the fields of social dialogue, macroeconomic policy, regional development and labour market policy.

43. Of central importance is the need to adapt and raise skill levels. The OECD governments must deliver on past commitments to invest in lifelong learning by:-

- Implementing active labour market policies in order to allow socially acceptable restructuring and company-based schemes for paid educational leave;
- Providing adequate financing for education and lifelong learning, ensuring that employers also invest in skills and that all individuals have the motivation to undergo lifelong learning, overcoming the well-known tendency for the market to under-provide training;
- Encouraging and facilitating agreements between employers and trade unions to make participation in lifelong learning feasible;
- Pursuing policies to strengthen equal opportunities and close gender gaps and other forms of discrimination in education, training and employment;
- Pursuing policies to promote both high performance work systems and the effective use of the skill potential of the workforce, especially workers' insights and experience.

44. Trade unions are prepared to step up their action as negotiators of training and manage change in order to support the "high-road" approach; but they must be given the role of key actors in this process.

45. In many developing countries the adjustment problems are even more acute. With the Agreement on Textiles and Clothing (ATC) set to expire at the end of 2004, the governments of many textiles exporting countries are deeply concerned, as shown by their request (denied) for an emergency debate at the WTO. The jobs loss in countries from Mexico and South Africa to the Philippines and Bangladesh, once they are in free competition with China, stands to run into several millions. It provides an example of the result of the lack of a floor level to maintain a basic level of labour standards. As a minimum, the WTO should enter into a discussion process together with the ILO, OECD, World Bank, IMF and relevant UN agencies, to anticipate the social impact of the textiles sector developments and to propose counter-measures, backed by international assistance. The example of Cambodia, referred to above, that hopes to adjust to the post-quota environment by promoting its garment industry as a role model of decent labour standards as certified by ILO inspectors is one that should be supported.

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