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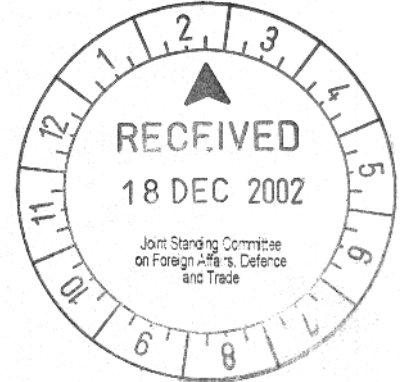
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18 December 2002

Mr Cliff Lawson  
Secretary  
Foreign Affairs Sub-Committee  
Joint Standing Committee on  
Foreign Affairs, Defence and Trade  
Parliament House  
CANBERRA ACT 2600



By E-mail: [jscfadt@aph.gov.au](mailto:jscfadt@aph.gov.au)

Dear Mr. Lawson,

Please find attached copy of the ACTU's submission to the Review of Australia's Relations with Indonesia.

Yours sincerely,

**ALAN MATHESON**  
International Officer

**Australian Council of Trade Unions (ACTU)**

**Submission on**

**Australia – Indonesia Relations**

**December 2002**

**D No. 36/2002**

## **1. PREAMBLE**

- 1.1. The Australian Council of Trade Unions (ACTU) welcomes the opportunity to present a submission to the Parliament's Foreign Affairs Committee's Inquiry into Australia's relations with Indonesia.
- 1.2. The relationship with Indonesia is one of the most critical issues confronting both the Australian Government and Australian civil society organisations. For Indonesia is not only a close neighbour and trading partner, it is a part of the broader issue of maintaining a rim of stability involving East Timor, Papua, PNG, Solomon Islands, Vanuatu and Fiji.
- 1.3. Unions as an accepted part of the broad grouping of organisations within civil society, have a significant role in contributing to that relationship and stability.
- 1.4. The ACTU is aware that a number of submissions will be focusing on the contributions of civil society to the relationship between Australia and Indonesia. The ACTU strongly supports the views that a comprehensive, across Government strategy can be the only way for a mature relationship between Indonesia and Australia. And to be effective and coherent such a strategy will be complemented by the building and development of bilateral relations between civil society organisations and institutions.
- 1.5. This submission therefore will briefly focus on a review of Australian union relations as a part of the broad Australian relationship, and secondly, how both unions and the Government of Australia can contribute specifically within the industrial context "to building mature bilateral relations."

## 2. ACTU AND GLOBALISATION

- 2.1. The ACTU recognises that increased trade and economic growth is necessary for the future of both Australia and Indonesia. However globalisation and its associated elements of trade liberalisation, technological change, financial and labour markets deregulation and the development of a huge speculative capital market are placing serious pressures on the ability of national economies to act independently and to balance the increasing gulf between winners and losers. In many countries there is downward pressure on living standards, reduced government services, job losses and efforts to deny workers fundamental rights as governments are forced to compete with each other through the lowering of standards. A lack of transparency, corruption of the judicial system and serious flaws in governance also contribute to the injustice and lack of protection for workers and their families.
- 2.2. Working people in responding to increasing globalisation need the protection of strong, independent and representative unions. According to one of the international unions active in Indonesia, *“trade unions are unique organizations and their philosophy and values are of critical importance to the maintenance of a just and progressive society. The respect for human rights and workers’ dignity were valid in the past and remain very much so in today’s interdependent world.”*<sup>1</sup>
- 2.3. Fundamental to the struggle for the promotion and protection of workers rights whether in Indonesia or other parts of Asia, is the recognition and effective implementation of the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work and its Follow Up.

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<sup>1</sup> Facing Up to the Challenges of A Globalizing Asia-Pacific region (Background Report), Union Network International Asia-Pacific 3<sup>rd</sup> – 5<sup>th</sup> June 2002 Kuala Lumpur, p24

- 2.4. The Declaration recognised and supported by all member governments of the ILO, including both Indonesia and Australia, consists of the core labour conventions related to freedom of association and legislation (C87 and 98), forced labour (C29 and 105), equality and discrimination (C111 and 100), and child labour (C138 and 182). The support of all members of the ILO of this Declaration is an acknowledgment of the fact that they are seen to be of a fundamental nature and integral to a democratic society.

### 3. CURRENT INDONESIAN INDUSTRIAL CONTEXT

- 3.1. The *Australian Financial Review* reflecting in a recent editorial on a case before the Central Jakarta Commercial Court, noted, *“the best result from the Manulife saga would be if the Indonesian Government seriously addressed the issue of corruption in the judiciary and set about purging judges who took bribes. It would take only a few firm examples to send a very clear message to others. But that would be only the beginning of a plan to eliminate the deeply entrenched corruption that operates at every level of government, weakening Indonesia’s institutions and allowing the privileged elite to continue to rob the country for their own benefit. It will take a long-term plan and long-term commitment to accomplish the task – but if it is not done, Indonesia will be susceptible again to the sort of economic collapse that hit the country in 1998.”* (18/06/02)
- 3.2. The International Confederation of Free Trade Unions (ICFTU) *Annual Survey 2002 of Violations of Trade Union Rights*<sup>2</sup> provides a brief overview of the situation of Indonesian workers and their families. In summary, the Survey found that during 2001 *“There were many disputes over the year, against a background of rising unemployment and continuing economic, social, political*

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<sup>2</sup> ICFTU Annual Survey 2002 of Violations of Trade Union Rights, <http://www.icftu.org/survey2002.asp?Language=EN>

*and security problems. 'The labour relations landscape appears to be getting worse' said the ILO Jakarta Office in a statement. Disputes were often marred by violence resulting in injuries and fatalities. There was much criticism of the inappropriate role of the government, police and army." (p144)*

3.3. An additional detailed analysis by the US Department of State which in its last *Country Reports on Human Rights Practices 2001*<sup>3</sup>, noted the following:

(i) *"The [Indonesian] Government continued to allow new trade unions to form and operate; however, enforcement of labor standards remains inconsistent and weak in some areas. Millions of children work, often under poor conditions. Forced and bonded child labor remains a problem, although the Government continued to take steps during the year to remove children from fishing platforms, on which bonded child labor most commonly occurs. Trafficking of persons into and from the country for the purpose of prostitution and sometimes for forced labor is a problem." (p2)*

(ii) *Female workers in manufacturing generally receive lower wages than men. Many female factory workers are hired as day laborers instead of as full-time permanent employees, and companies are not required to provide benefits, such as maternity leave, to day laborers. Women's rights activists report that there is a growing trend in manufacturing to hire women to do work in their homes for less than the minimum wage." (p23)*

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<sup>3</sup> Country Reports on Human Rights Practices 2001, US Dept o State, <http://www.state.gov/g/drl/rls/hrrpt/2001/eap/8314.htm>

- (iii) *According to the Department of Manpower, the number of working children increased from approximately 2 million before the economic downturn began in 1997 to an estimated 2.5 million by mid-1999. The State Bureau of Statistics (BPS) stated that 1.9 million children through age 14 were working in 1998. The ILO and the NGO World Vision argued that official estimates were too low, citing the fact that between 11 and 12 million school-age children (up to age 18) were not attending school, and a large number likely were involved in some form of work. The ILO estimated that between 6 and 8 million children worked, and over 3.4 million children work 10 hours of more per week. World Vision estimated that there were 6.5 million children working. Of these 6.5 million children, 4.1 million worked in the informal sector, and 2.4 million worked in the formal sectors. Other NGO's estimate that more than 10 percent of children worked more than 4 hours per day, and that over 35 percent of these children worked over 35 hours per week. Other NGO's estimate that 8.5 million school-age children are not enrolled in school and most are employed in the underground economy with no legal protection and poor compensation. (p33)*
- (iv) *The police and the army continue to be involved in labor matters, although since the mid-1990's there has been a shift from open intervention and demonstrations of force by uniformed troops to less visible measures. On at least two occasions, security forces fired on striking workers in 2000 (see Section 6.a.). However, the most common form of military involvement in labor matters, according to union and NGO representatives, is a longstanding pattern of collusion between police and military personnel and employers, which usually takes the form of intimidation of workers by security personnel in civilian dress, or by youth gangs. The military also employs baiting tactics: infiltrating workers' ranks and encouraging protests or worker actions, and in some cases attempting to provoke a violent worker action, to which the military then forcefully responds." (p32)*

## 4. AUSTRALIA AND THE ILO

- 4.1. Australia through both its membership in the ILO and through the other social partners of the ILO – employers and workers – is actively involved in workplace issues including those in Indonesia.
- 4.2. The ILO Jakarta Office currently has an Australian, Justice Alan Boulton (on leave from the Australian Industrial Relations Commission) as its director. The priority objectives of the office include:
- Development and implementation of employment creation strategies by national, provincial and local governments with particular regard to the position of:
    - ◆ Women
    - ◆ Indigenous people and
    - ◆ the informal sector
  - Continued support for labour law reforms and improved industrial relations based on respect for fundamental labour rights.
  - Improvement in the social security system (JAMSOSTEK) and in the protection and support accorded to Indonesian migrant workers.
  - Encouragement of the development of representative organisations of employers and workers and their effective involvement in economic and social affairs at national, provincial and local levels.



- 4.3. Major programme initiatives of the ILO Jakarta Office include the provision of technical co-operation assistance around issues of youth employment, child labour, HIV-AIDS and industrial relations. Currently a major focus is on the training of workplace level union representatives. Some 6,000 have been trained; 74% below the age of 35 and 32% women. In 2003-4 the focus, depending on resources, will be on training for senior union officials on strategic planning and policy issues.
- 4.4. Economic growth, investment and a stable industrial relations system are integral elements in ensuring peace and security not only for Indonesia but also for the region as a whole.
- 4.5. The ILO is the only part of the UN system, with the equal involvement of governments, employers and workers, which can significantly contribute to the development and maintenance of a stable industrial relations system.
- 4.6. It is therefore important that:
  - (a) the Australian and Indonesian ministers and departments related to industry, labour, employment, occupational health and safety (including HIV-AIDS) and industrial relations strengthen their relations;
  - (b) Australian employer organisations develop effective working relations with their counterparts in Indonesia; and
  - (c) Australian unions continue to work co-operatively with Indonesian unions to ensure the promotion and protection of worker's rights in the workplace.

- 4.7. Through co-operation and support Australian institutions can play a significant role in the development of viable and effective Indonesian government, employers and workers organisations related to industrial relations, as well as effective and workable tripartite commitments to issues including youth employment, occupational health and safety (including HIV-AIDS), training, culturally appropriate arbitration and conciliation systems and dispute settling mechanisms without the interference of army or police.
- 4.8. Particular programmes focusing on the workplace which can only be effective when they involve all of the industrial partners include initiatives related to child labour, occupational health and safety (including HIV-AIDS), discrimination and equality in the workplace, and effective transparent dispute settling mechanisms.

## **5. AUSTRALIA AND THE OECD**

- 5.1. The broader role and responsibility of multinational enterprises in countries such as Indonesia, is very much on any agenda related to democratic governance, anti-corruption, transparency, human rights and economic and political stability.
- 5.2. In response a range of strategies are increasingly being integrated into corporation consideration and policy, including the UN's Global Compact; industry or company-based codes of conduct; the UN's Commission on Human Rights draft "*Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises*"; and "*proposed rules of conduct of multinational enterprises*" within the WTO.

- 5.3. However, it is the OECD Guidelines on Multinational Enterprises (MNEs) which the ACTU believes the Australian Government could promote in ensuring a more effective role for MNEs in Indonesia.
- 5.4. The OECD Council at Ministerial Level in its Communique (16 May 2002) noted that *“the integrity of corporations, financial institutions and markets is central to the health of our economies and their stability.”*
- 5.5. The Council, recognising the significance of corporations and in particular, multinational enterprises, in both democratic governance and stability, agreed *“to continue to promote implementation of the OECD Guidelines for Multinational Enterprises, which provide recommendations for responsible corporate behaviour ...”*
- 5.6. In line both with Australia’s commitment to the OECD, and its role in promoting the Guidelines, the ACTU believes that the Government should take a more active role in ensuring the Guidelines are implemented by multinational enterprises operating or intending to operate in Indonesia.

## **6. UNIONS AND DEMOCRATIC DEVELOPMENT IN INDONESIA**

- 6.1. The Australian union movement relations with its counterparts in Indonesia is multi-layered and multi-faceted and includes:
- multilateral relations within the auspices of the ILO, i.e. there are regular exchanges and meetings between Australian and Indonesian unions at sectoral, regional and international meetings.
  - regional, within the international organisations of the union movement; the

President of the ACTU is President of the Asia-Pacific Regional Organisation of the International Confederation of Free Trade Unions (ICFTU-APRO), and a significant number of senior union officials are serving on executives of regional and international executives of industry sector unions (Global Union Federations).

- direct institutional support for example, through the Bandung-based Labour Education Centre.
- responding to requests for assistance including food and welfare, in industrial disputes.
- training programmes, for example, forestry regional organisation of workers in Kalamantan.
- regular training experiences in Australia for groups of unionists.

6.2. All civil society organisations in the post Suharto era are confronted with issues of democratisation, organisation, development, and defining roles and responsibilities. The Indonesian union movement is no different. It is confronted with particular challenges including:

- its own development into an organisation which is democratic independent and representative.
- a refusal by many employers to fulfil their legal obligations in terms of wages and working conditions.
- a corrupt legal and industrial system, and

- the continuing active involvement of the police and army authorities in industrial disputes.

6.3. At the work place, workers:

- experience inadequate safety and health standards and poor enforcement mechanisms, e.g. workplace accidents increased by 10% between 2000-2002 (Jakarta Post, 26/11/02) i.e. some 414 accidents every day (Jakarta Post, 7/11/02).
- legal requirements regarding wages and working conditions are ignored, and
- they frequently belong to a union movement with few resources and skills.

6.4. HIV/AIDS is an emerging major work place issue. While not as yet, having the disastrous impact on economic and political stability as in Africa, the issue needs to be urgently addressed in Indonesia. As in Africa a multifaceted strategy needs to be developed. As in Africa the workplace must be a part of that strategy and this can be done as it is in Africa through unions. The Australian union had developed considerable expertise and experience in both Africa and Asia in delivering workplace based HIV/AIDS programme.

6.5. If Indonesian workers do not receive, or perceive that they are not receiving, the benefits from investment, economic growth, the further integration of Indonesia into bilateral (including Australia), regional or international economic and trading arrangements, then the resulting instability will be a major problem for the region including Australia.

- 6.6. Indonesian unions are an integral dimension of civil society and as such have a significant and complementary role to play in combating anti-corruption, promoting and protecting human rights and ensuring equality and gender equity.
- 6.7. It has been noted that just a little over 5% of the overseas aid budget is channelled through some 60 non-government development organisations (NGDOs). However, three privately owned, for profit, commercial consultancy companies received more than all of these development organisations together. Analysis, assessment and evaluation for these commercial companies is not as transparent as for the non-government sector.
- 6.8. By expanding both the aid budget, and reallocating an increasing percentage to NGDOs, including unions, the Australian Government could be encouraging not only increased bilateral community relations but also deepening understanding between similar organisations in both countries.
- 6.9. Trade, economic regional integration, understanding of cultural values in each of our two countries, commitments to peaceful resolution of conflict and the broader development of a relationship that is positive and mutually beneficial are issues which involve not only governments of both countries but all parts of civil society which have bilateral relations.
- 6.10. Aid programmes including those in the UK, Scandinavian, Germany, Canada, USA and Italy recognise that trade unions play an integral role in sustainable and democratic development. First, they enable working people and their families maintain and defend wage justice and working conditions, and therefore improve their living conditions and contribute to the broader wellbeing of the community. And secondly, independent and representative unions, strengthen civil society and therefore further enhance human rights and democratic structures.

## **RECOMMENDATIONS:**

- 1.** That the Australian Government reaffirm its commitments to strengthening and expanding its role and place within the ILO, both as a significant part of the UN system, but also as an integral part of furthering the campaign for peace and security in the region.
  
- 2.** That the Australian Government, recognising that the ILO has a unique role to play in building mature bilateral relations convene a special session of the National Labour Consultative Council and its International Labour Consultative Committee to develop a strategy for strengthening the relations and support for the counterparts of the NLCC in Indonesia.
  
- 3.** The Australian Government as a part of its contribution to the technical co-operation programme with the ILO expand its support to include assistance to the ILO's worker education programme.
  
- 4.** That the Government take steps both to increase its overall aid budget but also to re-order the distribution of its aid and development budget to ensure:
  - that at least 10 per cent of aid be directed through the non-government organisations.
  
  - that there is effective transparency of all aid and development contracts, including the commercial, for profit companies.

- that the strengthening of democratic civil society organisations and institutions, including unions, is a priority.
- that the workplace and particular occupations such as teachers, be a priority in combating HIV/AIDS in Indonesia.
- that within the health aspect of the aid budget for Indonesia the issue of occupational health and safety be considered as a priority.

**5. That the Australian Government:**

- (a) take steps to ensure that all Australian companies operating in Indonesia are effectively implementing the OECD Guidelines on Multinational Enterprises.
- (b) provide assistance only to companies and enterprises prepared to implement the Guidelines.
- (c) enter into contracts within Australia's aid and development Indonesian programme only with those Australian companies prepared to adopt and implement the Guidelines.