

REPORT FROM INDEPENDENT OBSERVER

On the Adidas stakeholder dialogue
Malaysia 12 – 13 October 2004

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Context

Adidas started its first stakeholder dialogue in year 2001. The main objective of the stakeholders dialogue is to obtain feedback and recommendations from Adidas's stakeholders to improve its practice. They also provide inputs to Adidas's Social and Environment Report. This is the company's effort to make its business transparent.

This year Adidas organises its stakeholders dialogue in Malaysia. The main objective of this Stakeholder Dialogue is to obtain information, feedbacks and comments from its stakeholders, including migrant workers from Indonesia and Vietnam; factory managers; recruitment agencies; Indonesian and Vietnamese embassies representatives in order to work out some effective recommendations to further improve the working & living conditions of migrant workers in Malaysia. Staff in the Social and Environment Affairs department (SEA) facilitated the dialogues and the Independent Observers from NGOs recorded the discussion process.

Adidas invited ActionAid, an international NGO interesting in and working on corporate sector and corporate social responsibility (CSR) issues since 1999, to be one of the Independent Observers to observe the dialogue and produce a comprehensive report with some practical and effective recommendations to further enhance Adidas's Standards Of Engagement (SOE) programs globally. With its commitment to work on CSR, ActionAid agreed to act as the Independent Observer of the dialogue without getting fee from the company. The report below is the results from the two days dialogues.

The first day dialogue

General observations:

It was designed by SEA that there would be participants from Embassies, recruitment agencies and factory managers, where workers are also invited for the second dialogue. It is observed that 3 of 4 invited factory managers attended while there are only a representative from an embassy (Vietnam) and two from recruitment agencies (one from host country and one from home country - Vietnam). It is also noted that the factory managers participated more actively in the dialogue while the participant from the Embassy and the recruitment agent from home country mostly provided clarifications. One recruitment agent from host country had no chance to participate in dialogue because of language barrier. It is also observed that the embassy's representative and the recruitment agent from home country stayed for the morning section only while all the participants from factories stayed till the end of the dialogue. The dialogue seems over focus on the issues relate to legal requirement and agent's services from Vietnam. This may be because there is no participant from either the Indonesian embassy or recruitment agent from Indonesia.

It is noted that the dialogue was conducted in a friendly and open manner. The facilitating team seems to well prepare for the dialogue, including drafting detail agenda;

setting basic rules for the dialogue; preparing questions to be asked etc. In fact the dialogue went well according to the agenda. However, it was more focus on raising issues and less on solutions. And because there is no embassy representative and recruitment agent in the afternoon (solution) section, it seems that the solutions and recommendations raised in this dialogue are “one side” solutions.

It is also noted that the common concern from the factory managers is that migrant workers’ take home income is reducing because they have to pay a lot of items such as agent’s service fee (10%); Malaysian Government levy; induction fee; medical test etc. to outside parties. There is no initiative to raise basic salary for migrant workers or employers pay the above items for their workers.

Issues raised by participants include:

- ? The Vietnamese Government Tax (VGT) which is 10% of the basic salary. Most of the factory managers are not clear whether it is a kind of tax that VN government levies on the migrant workers or it is the one for the recruitment agent. Some felt that it is not fair for the workers when they have to pay on monthly basis such high amount hence their take home amount is less. It is clarified in the dialogue that there was misunderstanding the term as it is actually the fee imposed by the agents on employees.
- ? The recruitment agencies: they are state owned or from other sectors? It is clarified by a participant that most of the recruitment agencies (in Vietnam) are state owned enterprises.
- ? Malaysia Government levy: every migrant worker has to pay a lump sum of Ringit1,200 per year. It is high compared to the personal high income tax that the Malaysian citizen have to pay.
- ? Induction programme introduced by Malaysia government: the programme is compulsory for migrant workers who stay in Malaysia for less than a year and or for the workers yet to come to Malaysia. The fee that workers have to pay to Malaysia government is only USD10 (about 38 Ringit) but workers have to pay the authorized trainer about 200 Ringit. Most participants felt that is good to have such induction plan so that foreign workers are aware about the culture of host country. However, the majority of participants think that the implementation of this policy is not effective, such as it takes too long (3 days) or there is only 4 organisations are authorized to be trainer of this programme.
- ? Loan to the workers: factories have to pay in advance the levy for their workers then deduct from monthly salary.
- ? The role of the recruitment agent after recruitment: it is raised by some factory managers that migrant workers complaint that they receive no or very little support from the recruitment agent after the recruitment.
- ? Migrant workers have to fulfill annual medical test as per government regulation. The fee is about 180 ringgit for man and 190 ringgit for woman. This fee is borne by the employee. It is noted that the Malaysia workers don’t have to fulfill such test.

- ? The reliability of the health check certificate as there is the information that it could be bought. This links to the responsibility of the agent in making sure that workers recruited as per requirements.
- ? The lives of migrant workers after work: one participant raised the issue that some groups of workers drink a lot of alcohol in their living premise. Other participant raised the issue that some groups of migrant workers even kill dogs and cats raised by local communities for food. This mainly is because the lack of understanding of the migrants on culture of the host country and creates unpleasant to the local communities. One participant also raises concern about the sexual relationship that causes pregnant of female workers.
- ? The harassment to migrant workers by the local policemen. One participant said that his workers came to him and talked about the incident that local policemen stop the migrant workers and ask for passport. After that they ask for money. There was even a case that the worker did not have money with him so was put into the police's car and being threatened. Although the participant asked for not recording this incident but as it is seriously affected the lives of migrant workers, I wanted to put it in the report.
- ? Passports kept by factories: it is noted that almost all factories keep passports of their migrant workers. Factories' managers explained that this is for safety reason as workers might lose their passports when they keep them at their living premises. However this links to the issue above, where workers have been asked by the police to produce their passport when they travel around.

Recommendations made by participants:

Participants are asked to discuss solutions for the issues raised in the morning and early afternoon sections. It is highlighted that there is not enough time for all the issues so discussion should focus on important ones.

- ? Factories should not deduct VGT from their migrant workers' salaries. It's the business of the recruitment agents and the workers. For the ones who currently deduct such item, managers should contact the agent and negotiate for stopping this practice.
- ? Employers should involve more in the recruitment process, including interviewing workers as well as looking at the contracts signed between agents and workers to ensure there is no term that is contradiction to the SOE.
- ? Most factories managers felt that there is nothing to do with levy as it is regulation from the government. Some participants recommended that employer should consider to pay levy on its workers' behalf as an incentive instrument for outstanding performance or seniority. However, it is noted that this is up to the employer to decide.
- ? Induction programme: participants felt that it is regulation issue so difficult to change. However the implementation process may be more effective by getting the syllabus from Malaysian government and provide to recruitment agents to conduct training in home countries. It is also recommended that employers should also provide on going induction training to their migrant workers.

- ? Loan to employee: this issue should be treated with care as it may relate to bounded labour issue.
- ? Migrant workers should be trained on their basic rights as per Malaysian regulation so that they may be more confident to confront with harassment from police. It's also recommended that employers should seriously pay attention to this matter as workers need help from managers to deal with such situation.

The second day dialogue

General observations:

In the second day dialogue, 12 Indonesian and 12 Vietnamese workers from 4 factories, who have contracts with Adidas, participated in the dialogue. The selection process seems good in which, 4 factories that have the largest numbers of Indonesian and Vietnamese workers were selected. The workers are then selected by members of SEA when they interacted with workers in September. This helps avoid pre-arrangement by the factory.

The dialogue was divided into 2 parts: part one, in the morning section, is training section where participants were trained on the SOE and the rights of migrant workers as per Malaysian law. Part 2, in the afternoon, is the dialogue where all participants have chance to talk about their working environment; living conditions and other issues they are facing. It is observed that the dialogue is very open and effective although it more focus on issues rather than solution. This may be because that the participants and facilitators have had an informal interaction in the previous evening. Therefore participants had chance to know each other then they feel easier to share their opinion in the dialogues.

The dialogue with Vietnamese workers revealed that most of participants satisfy with the working conditions in their factories. But they are not happy with the recruitment agents as they receive few assistants from such companies. Most participants are also pleased with the living conditions in their premises provided by factories except for one group, where there is not enough water for them to use in their living place.

Issues raised by participants:

- ? Although working conditions in factories are generally good, there is still situation that workers are scolded by supervisors. When coming to work late (5 to 10 minutes), worker will be fined via salary deduction.
- ? In some factories, workers do not have annual leaves although it was said in Malaysian regulation that migrant workers are entitled to minimum 8 days annual leaves.
- ? In one factory, the guards even search workers' body when going out of the factory.

- ? The term of payment in contracts signed between workers and employers is daily wage. Therefore workers have no salary for Sunday (if not work overtime). However they are paid for during public holidays. In one factory, workers are not provided with a copy of employment contract, signed with employer. They are given a copy of the contract signed with recruitment agent.
- ? The wage rates vary from factory to factory (ranging from 13.5 ringgit/day to 18 ringgit/day). Particularly for some factories, the workers were informed different rates at home but they are actually paid lower rate. There is no minimum wage for Vietnamese worker agreed between the two governments.
- ? There are clinics in all 4 factories for treatment of simple disease. However, for the serious ones, workers have to pay most of treatment expenditures. Particularly in one factory, worker has been paid only one fourth of his/her salary for sick leaves.
- ? All participants affirmed that they had to pay fee for recruitment agents in order to have a chance to work in Malaysia. Apart from a “one off” fee, which ranges from US dollar 600 to US dollar 1,500 most of them have to pay additional monthly service charge (known as VGT) of 10% basic salary. This amount are either deducted from their monthly salary or paid in advance before going to Malaysia. Further to that, the workers have to pay training fee; health check expense; passport etc. depending on particular recruitment agent they engaged with. The important thing is that workers receive very few assistants from agents after coming to Malaysia.
- ? It’s also difficult for migrant workers to ask for support from the Embassy.
- ? Most of Vietnamese workers don’t know foreign languages. So when communicating to supervisors or factory boss, they have to ask for support from workers’ representative, who is worker too but knows either English or Mandarin.
- ? When traveling around, there are many incidents that workers are stopped by policemen. After asking for passport, in many cases, they ask for money. Although normally the workers don’t have lot of money with them, this incident makes them scared whenever going out. This issue has been reported to factory managers but the problem has not yet solved.
- ? There are incidents that migrant workers are attacked by local community for robbery. Hence workers feel insecure when going out in small group.
- ? As migrant workers are young and far from home, there are situation that they pair up together. As the result, many female workers suffer pregnant. And most of them go for abortion even though it is very risky to do so because abortion is illegal in Malaysia.
- ? In other direction, workers gather for drinking wine, gambling and sometime they fight each other after getting drunk.
- ? When facing conflict with supervisor or among the group, workers don’t know where to go for counseling.

Recommendations by workers:

When being asked for recommendation to overcome the mentioned issues, workers had little to say. What came out clearly from their talks was that they wish to have enough

work to do (including overtime work) so that they can save as much as possible. It is noted that most of participants said they don't wish to extend their contract after completion of the first ones.

Comments and recommendations by independent observer

The stakeholders dialogue is good practice that Adidas initiated several years ago and should be continued in the future as it helps to improve the working conditions for workers and promote good publicity for Adidas. Particularly for this dialogue, the agenda "working and living conditions of migrant workers in Malaysia" is global issue as the mobility of labour, from poorer to richer countries, is increasingly important in the time of globalisation. The comments and recommendations made below are based on the observations from the dialogues as well as experiences of working on the CSR theme.

The participants:

The wider ranges of participants, especially the workers, make the dialogue more effective as the issues are taken and discussed from various aspects. However issue relating to migrant workers requires involvement from some other stakeholders, who have power on and responsibility to the matter, i.e. at policy level. The recommended participants should be invited include:

- ? The government agencies involving foreign labour (in the case of Malaysia, they are ministry of human resource and ministry of home affairs). These agencies can make clarification and or take action about levy, induction programme and even the misconduct of local police.
- ? The NGOs working on the migrant issue from host/home countries. Such players help to put pressure on other players and provide help to migrant workers.
- ? The government agency involving labour issue in the home country (for Vietnam it is the ministry of labour, invalid and social affairs - MOLISA). This agency may have solution for the issues such as fee collected by recruitment agents; negotiation with host country about minimum wages or standard living conditions for migrant workers etc.

The process:

The stakeholder dialogue is Adidas initiative and of course should be facilitated by Adidas. However since Adidas wanted to take the agenda "working and living conditions of migrant workers" not as country specific but as a global issue and that the issue is big and not only links to Adidas factories (contractors), it is good if Adidas organises the dialogue in collaboration with other player and advisably it is a NGO working on migrant issue from host country.

The length of the dialogue is two days seems enough. At the first look the way to conduct the two dialogues separately seems reasonable, as migrant workers may feel more confident to talk without the presence of other stakeholders. However, since the agenda is around the migrant workers, it would be more appropriate for them to talk to

relevant agencies, who are able to answer their questions as well as to help them overcome their problems. It's also a chance for other stakeholders to have better understanding about the migrant workers and the issue they are facing with.

The follow up actions:

After listening to the issues and recommendations from the two dialogues, it is recommended that there are some follow up actions that need to be followed up by relevant parties but required support and or pressure from Adidas.

- ? The recommendations made by participants in the first day dialogue are very relevant, especially the ones relate to the removal of 10% VGT and more involvement of employers in recruitment process. These recommendations should be carefully studied then translated into workable plan of action.
- ? It is good to add an article in contract between employer and recruitment agent that the agent is responsible for organising training to workers on basic language skill and custom/culture of the host country.
- ? Adidas should study further to ascertain if there exists the violation of the code of conducts in its factories such as not provision of annual leaves to its workers; scolding at workers etc. If it is the case, Adidas should put pressure on that factory to ensure there will be no more violation.
- ? Training to migrants workers should be planned for and conducted. The topics to be trained include: i) Basic rights and entitlements as per the government regulation; ii) Respecting culture and practices of the host country; iii) Safe sex and reproductive health; and iv) HIV/AIDS prevention.
- ? The roles of worker representative as a “communication mean” are highly appreciated by the factory managers and workers. However, that roles are not formally defined. Hence defining and recognising the roles of worker representative by the employers is in need. When defining the roles of the worker representative, it is worth to not limit them within the "communication mean" - translation, but to expand to areas outside working place and outside working hours such as understanding the workers' needs; conflict solving; counseling etc. The worker representative should receive more and deeper training than the ones mentioned above so that they are able to give advise to workers when needed. If that mechanism is applied, responsibility allowance should be paid to the representative.
- ? It was clearly seen from the dialogue that there is no close and regularly linkage between stakeholders (employers - recruitment agencies - embassies - government agencies - NGOs - Adidas). In order to achieve the objective "improve working and living conditions of migrant workers", such network should be in place to discuss and find out the ways to cooperate effectively.