

NATIONAL CONFERENCE "A Nation in Crisis: **Agenda for Survival**"

January 22-23, 2003
Club Filipino, Greenhills, San Juan

Documentation of Proceedings



REPUBLIC OF THE PHILIPPINES
OFFICE OF THE VICE-PRESIDENT

NATIONAL CONFERENCE

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Background and Rationale of the Conference

In December 2002, the Convenors of the Fair Trade Alliance (FTA) held a dialogue with Vice President Teofisto Guingona and his staff.

What came out of the dialogue was the crystallization of a grim reality -- the gravity of the present national economic crisis and the threats of more conflict-laden divisions in Philippine society. However, there was also a consensus that the crisis is rooted primarily in the failure by the Philippine economic policy makers to pursue an independent and nationalist program of economic development. Unlike what the leaders of our successful neighboring Asian countries did, our economic policy makers, the neo-liberal technocrats in particular, abandoned nationalism in favor of a narrow type of agro-industrial development model dependent on the exportation of light export products, the uncertain flow of foreign investments and a high level of dependence on foreign borrowings. The performance of the economy in the last three decades speaks volumes on the weaknesses of this model.

The Vice President of the Republic, Honorable Teofisto Guingona, and the FTA Convenors led by former Senator Wilberto F. Tanada, came to the conclusion that the three-fold challenge of reviving the economy, putting it back on the growth path and ensuring its capacity to create jobs and livelihoods for all Filipinos requires a basic re-thinking of the existing but failed economic policies and a revival of the nationalist ideas in the economic sphere. Hence, the idea of holding a National Conference on "A Nation in Crisis: Agenda for Survival", with the general objective of reviving and applying the idea of economic nationalism in the economy.

Of course, the economy is very much altered from what it was in the 1950s and 1960s. Thus, the Conference will address questions such as -

- How can economic nationalism be applied in an economy which has been debased, opened up and fragmented by three consecutive decades of neo-liberal program of economic liberalization, deregulation and privatization implemented in the Philippines in a one-sided, non-consultative and arbitrary manner?
- What should be the form and expression of economic nationalism in the era of globalization?
- What should go into a nationalist economic agenda, especially in the light of the super-liberalization agenda under AFTA and WTO this year up to 2005?
- How can the eroded domestic industrial and agricultural base of the country be restored, modernized and expanded?

- How can the consumers, who benefit from the flood of cheap imports, be enlightened on the central importance of protecting and nurturing local industries?

These are some of the questions, which proponents of economic nationalism must answer. The FTA and its partners, in a conference held last July at the University of the Philippines ('From Core to Periphery: An Inquiry into the Philippine Industrial Debacle'), tried to seek answers on the root causes of the present economic crisis and the general state of Philippine industrial and agricultural underdevelopment. However, while there was unanimity on the analysis that the Philippine economic failure is rooted in the abandonment of economic nationalism and the consequent enthronement of neo-liberal economics in the economic policy sphere, the Conference participants have not gone far and deep enough in providing answers to the above questions and what ought to be done.

Hence, Vice President Teofisto Guingona and the FTA Convenors led by former Senator Wigberto E. Tanada are convening a two-day National Conference on "A Nation in Crisis: Agenda for Survival" on January 22-23, 2003, at Club Filipino.

Objectives

The overall objective of the National Conference on "A Nation in Crisis: Agenda for Survival" is to gather representatives of industry and business, trade unions, farmers' organizations, consumer associations, local government units and other productive sectors of society who share in the belief of reviving economic nationalism as a way out of the present crisis and drawing up a national development agenda based on economic nationalism.

The specific objectives of the two-day conference are:

- To discuss the nature of the crisis the country is in
- To define national interest and clarify the nationalist stand on burning economic issues in the context of globalization, and
- To formulate a concrete nationalist agenda for the reform, recovery and sustainable growth of the economy.

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Senator Wigberto E. Tanada, Fair Trade Alliance, Welcome Remarks.

Maraming salamat, Freddie. Magandang urnaga po so inyong lahat, mga kasama at mga kaibigan. Marami pang salamat at kayo po ay nakadalo so ating pagpupulong na ito na sana ay maging makabuluhan at makahulugan para sa Sambayanang Pilipino.

My friends, last January 10, the President made a well-publicized stand against unbridled globalization punctuated by an order freezing Philippine liberalization commitments under WTO and AFTA to the so-called 'minimums'.

My friends, has our President seen the light? Is this the beginning of the long-awaited reversal of the long-enthroned policy of opening up, liberalizing and privatizing the Philippine economy in the name of global competition? Tatahak na nga ba ang ating bansa sa panibagong direksyon? So direksyon kontra sa liberalization at globalisasyon?

The truth is that the policy pronouncement made by the President comes relatively late in the day. Late in the sense that more than 90% of our tariff lines are already under the 0 to 5% tariff regime. Late in the sense that many of our industries, including agriculture, have already suffered serious reverses and losses with a large number irreparably shut down, permanently. It is precisely the unbridled, reckless and aimless globalization and liberalization of the economy in the 1980s and in the 1990s that has brought untold misery to our people, has stunted our growth as a nation and has precipitated a never-ending cycle of recessions in the country.

Nonetheless, my friends, it is never too late to amend, adjust or reverse a flawed economic policy. Moreover, we are facing existing and new threats in the regional and global economic firmaments. AFTA liberalization schedule, the WTO industrial liberalization schedule, the proposal to lower the tariffs for the Philippine agriculture, the continuing WTO efforts to open up our service industries, and so on.

In addition, we still do not have a readiness program in place. A program on how to deal with and tackle the challenges arising in a globalized and liberalized economic order such as the trade juggernaut that is the People's Republic of China.

I raised this 'readiness' issue some ten years ago, in 1994, during the Senate debates on the Philippine membership in the WTO. The proponents of the WTO ratification and the NEDA economists evaded this 'readiness' issue by saying that a safety net program for both industry and agriculture, especially for the workers and the farmers, would be in place.

Well, nasaan po ang safety nets program na iyan na sinasabi nila nitong nakaraang sampung taon? Dumaan ang Asian financial crisis dulot ng globalisasyon, may safety net bang nagsalba sa mga industriya at trabahong Pilipinong bumagsak? May safety net ba sa bigas, mais, gulay, manukan, babuyan at iba pang kabuhayan sa kanayunan na nagbabagsakan?

This is why, my friends, we are earnestly anticipating how the President's economic advisers and technocrats will translate her pronouncement against unbridled globalization into a concrete program of 'doables' in the shortest time possible, for time is running out.

Napakahabang panahon na na naghihirap at patuloy na naghihirap ang ating sambayanan. We need recovery and growth now and we want this recovery and growth

to be equitably shared by everyone.

This is why, my friends, we are holding this National Conference today, 'A Nation in Crisis: Agenda for Survival'.

We are in crisis and we shall continue to be in crisis as long as we are not changing the economic policy regime.



But what is our development agenda?

Ours is a different one. We want to draw up a development agenda based on the general principle of economic nationalism.

So kumperensiya pong ito ay hindi na tayo magpapaligoy--ligoy. Ang hinahanap nating agenda para sa pagbabago at panibagong pagpapalakas ng ating ekonomiya ay nakasalalay sa pilosopiya ng

economic nationalism o makabansang pangkabuhayan.

What is the meaning of economic nationalism?

It means, first of all, giving substance to the Constitutional mandate to have an economy effectively controlled by the Filipinos. This means recovering our economic sovereignty, our right to chart and determine our own economic destiny. We have long lost our economic sovereignty when our past leaders allowed this country to sink deeper and deeper into indebtedness, especially with the IMF and the World Bank, and to rely more on their poisonous policy prescriptions based on the economic orthodoxy of the so-called Washington Consensus.

Secondly, economic nationalism means building up our capacity as a nation to grow and develop as one. We have a large population and a fairly large land and sea territory which can sustain a vibrant economy. We have a talented people capable of creating world-class products and services, if only their skills are developed and harnessed. The problem is that our neo-liberal economic technocrats with the strong backing from the economists from the IMF and the World Bank have simplified the policy choices to us. Just open up your economy, let the ensuing liberalization make your industry efficient and wait for foreign investments to flow in and create jobs for everybody.

Of course, we all know what happened under three decades of the neo-liberal economic development paradigm. The promise of a jobful growth never materialized. Poverty and unemployment have worsened. And because there was no reversal of the neo-liberal economic policy regime, the economy kept deteriorating even after EDSA I and now EDSA II.

Thirdly, economic nationalism means we have to rekindle the spirit of solidarity, of helping one another. Paano mabubuhay ang industriya at agrikulturang Pilipino kung hindi natin susuportahan ang mga ito? At papaano talaga ang mga industriya at

agrikulturang ito kung ang mga may hawak nito ay walang commitment sa mga consumer na Pilipino at walang pagnanasa na mapabuti ang kanilang mga produkto hanggang sa mahigitan ang mga produkto at serbisyo ng ibang bansa sa kalidad at sa presyo? At papaano bubuti ang industriyang Pilipino at agrikultura kung wala ang pag-aaruga, pagtangkilik at suporta mismo ng ating pamahalaan? Tayo lang mga Pilipino ang makakatulong sa sarili natin.

Is economic nationalism passé especially under globalization?

Well, my friends, just look around us here in Asia. If China has not been practicing economic nationalism, it will not be where it is now. If Japan and Asian NICs did not practice economic nationalism, they will not be where they are today. If Malaysia, India and Thailand are not practicing economic nationalism, they would not have surpassed the Philippines as they did in the 1980s.

So my friends, our task today is to draw up a nationalist development agenda and help develop a road map on how this country can go back to the path of recovery, growth and development. We have identified at least six areas where a nationalist agenda must be fleshed out - industrialization, agricultural development, the service sector, education and culture, national governance and local governance

The idea, my friends, is to go beyond rhetorics. We need not preach to the converted and discuss over and over the roots of our national misfortunes which we already know are traceable to the abandonment of the principle of nationalism by our policy makers especially in the area of economic policy formulation.

We need to know the practical relevance and workability of the nationalist solution in addressing the major economic ills facing the country under globalization. Your presence here means the nationalists are prepared to roll their sleeves and draw up a real development agenda guided by the spirit of nationalism.

May I close by personally thanking all of you for giving time to this Conference despite the very short notice and some limitations in the preparation of this Conference.

You will understand that given the context of the times and the nature and the urgency of the topics that we have outlined that we cannot postpone this Conference. Time is not a luxury we have.

Finally, my friends, may I introduce to you the partner of the Fair Trade Alliance in convening this Conference. We had always known him as a fighter when it comes to issues of principle and issues affecting the national interest. He readily agreed to the idea of holding this Conference and even insisted that we should not avoid making a clear and categorical stand on the crucial role of economic nationalism in turning the economy around.

Kilala po natin siyang lahat. Utang panlabas, batas rnilitar, dayuhang base militar, pambansang dignidad, kalagayan ng mga maliliit, usapin ng corruption at usapin ng makabansang kaunlaran. Siya ay palaging nangunguna sa hanay ng mga makabansang aktibista sa pagtalakay at pag-ukit ng posisyon sa mahahalagang pambansang usapin na ito.

Siya ay kasama, kaibigan at kapatid natin, kinararangal ko pong ipakilala sa inyo si Ginoong Teofisto Guingona, Vice President ng ating minamahal na bansang Pilipinas.

Vice President Teofisto Guingona, Keynote Address:

Mabuhay and Fair Trade Alliance (FTA)!

Mabuhay lahat ng participants dito sa Conference ng Fair Trade Alliance!

Mabuhay si former Senator Wigberto "Bobby" Tanada!

Mabuhay ang ating moderator, Freddie de Leon ng rubber industry.

Mabuhay ang isang dating nasa serbisyo sa gobyerno, nakikita natin so public markets sapagkat gusto niyang makita kung talagang may increase ang presyo ng manok, baboy at kung ano-ano pa. E, ang balita ko ay iniwan na niya ang kanyang tungkulin sa gobyerno to be the representative of the farmers and fisherfolks in the agricultural sector. Kaya the government's loss, if I understand correctly, is the private sectors' gain, the nation's gain, Mabuhay si Ernie Ordonez!

Thank you Bobby for the wonderful introduction. I wish to congratulate and thank the Fair Trade Alliance for this joint undertaking with the OVP. Thank you all for your concern for the Philippines and the 80 million Filipinos.

We fight anew for independence, for sovereignty both economic and political and for sustained development.

Before we can really join the global economy, we must first build our own economy, integrate our own economy before we integrate with the challenges of WTO.



Because the global economy is harsh. Free trade means survival of the fittest, the strongest. But we cannot fight

globalization because we are already there and we have ratified it. I think Senator Tanada was in the Senate. I was not, fortunately or unfortunately, and you brought the case to the Supreme Court together with the Atty. Magallona but unfortunately the Supreme Court interpreted wrongly. Therefore like the Visiting Forces Agreement, natalo. Pero talo man, we will continue to fight for what we believe is for the best interest of the Filipino kaya mabuhay ang Filipino!

We fight for the nation. We fight for the Philippine interest in a global economy. Now, more than ever, the Pilipino should be a nationalist. There is nothing wrong with nationalism. It is not pass. It is vital in this day and age. It is more relevant now, more necessary to survive the crisis and to develop sustainably.

Other countries, as already pointed out - developed and rich, however, distort free trade. That is why free trade is a dismal failure. It is not fair trade, it is free trade by big, rich, developed nations versus small, poor and developing nations.

Para bang football. If we let, for example, the best football team in the Philippines, they say it is De La Salle, champion sa football, hindi sa basketball. If we let them play with Brazil, you know the consequences. Why? Because Brazil constantly trains, exercises periodically, is supported by their government for the vision of pride and prosperity in football. Four years to go but they are already training, no exercise, no support by our own government. That is why there is disarray. The rich nations have become richer and the poor have become poorer.

For example, manufactured goods. World Development Report states that manufactures account for three quarters of developing country exports but the tariff on our exports to developed countries are on the average four times the tariffs on exports of developed countries to us.

For example, rubber shoes. Nasaan ba ang taga-Marikina dito? Developing countries like the Philippines will impose zero to five percent tariffs on these shoes whether they come from Bangkok, whether they come from the United States or from Singapore. A developed nation like the United States or other rich, developed countries imposes 20% on the same shoes when imported from any country, a poor country like the Philippines. While developed countries protect their industries, we liberalize. In fact, the Philippines unilaterally reduced tariffs and eliminated non-tariffs barriers because these pressure to lower tariffs started in the 1980s in compliance with the pressure from the IMF - World Bank conditionalities in exchange for standby facilities and loans.

You want loans? We will give you loans but you have to reform. You have to liberalize. You have to lower the tariffs. Pero sila, the rich developed countries sustain their tariffs. Therefore the inequality has become worse and the rich nations continue to become rich, the poor, unfortunately, become poorer.

Tariffs of rich nations are not only higher for developing country exports, they also escalate with the level of processing. For example in Japan, in European Union, fully processed food products face tariffs twice as high as those on products in the first stage on processing.

For example, woven cotton fabric faces 16% tariff in Canada, the tariff becomes higher at 22% if the cotton fabric is processed into cotton shirts. The ratio is even higher with tariffs on fully processed food products and twelve times those on products in the first stage. In the face of this distortion and unfair trade how can the poor countries industrialize and compete?

And, as Ernie Ordonez knows, it is worse in agriculture. Developed countries continue to protect its farmers not only through tariffs but also through exports subsidies. Tariffs that developed countries impose on agricultural products from developing nations are almost five times higher than those on manufactures. Examples are meat, sugar, dairy products, tariffs on vegetables like sweet corn, okra and carrots imposed by developed countries range from 16% to 22%. On the other hand, because of AFTA commitments we have lowered our tariffs of these products from 0 to 5%. imbalance, De La Salle football team against Brazil.

There is no level playing field. Agricultural protection and subsidies by rich industrialized nations did not decline as expected. They said they were going to reduce but they did not reduce. As a matter of fact, in some cases, they even

increased. They have risen to 66% of the value of the production or equivalent to \$ 1 billion per day in 1999.

This resulted in costs and losses on poor countries like the Philippines of these distorted protection and subsidies by rich nation, our losses correspond to about \$ 19.8 billion in 1999. This is, therefore, a serious setback to farmers and industries in poor countries.

Poor developing countries cannot afford to subsidize their agricultural exports. How much do we give for the farmers? How much do we have appropriated for NFA? Barely 1 billion pesos. The farmers instead of selling to the NFA because it takes long and there are under-the-table deals prefer to sell to the traders. The Philippines therefore cannot afford to subsidize exports, cannot afford to fund marketing, cannot afford to fund cheap credit, not even infrastructure.

When we joined the WTO through the treaty in the Senate, there were arguments that anyway, there would be safety nets. Billions of pesos were supposed to be appropriated annually for these safety nets - irrigation, post-harvest facilities, farm to market roads - but most of these, I understand, went instead to the T-Bills. The banks instead of lending for these safety nets lent the money of the T-bill transactions to the government for the other needs. Today, we are just where we were, still basically without safety nets.

So, as Filipinos what do we do to survive, to enhance our competitiveness in the face of distortion. We demand fair trade not exchanges in the guise of free trade.

First, build on what the President has pronounced. Bobby says, in effect, this may be a new beginning and this may mean the start of the reversal of a policy. Although we cannot seem to increase the tariffs because there would be many complications there, we can do something because she has frozen tariffs, she has asked for a review. This means a review, product by product, classification by classification but in addition they ask for deferment while review is going on and implementation of things that we can do after we shall have established that product in the name of national interest really demands a higher tariff. We ask for the deferment for 5 years. We have to ask for specifics and it is your duty as members representing your group to take part in the review. To do this so that our farmers and industries will be prepared for globalization. We have to map out our plans in this forum that we are undertaking. Identify what government should do and what we should do to undertake and get ready.

Number two, stamp out smuggling. This is not the concern of the businessmen. This is the concern of government and if the national government cannot do it, the local governments will do it, the NGOs will do it and let us all cooperate in stamping out smuggling. I understand that in Nueva Ecija, onion is already a dying production because of smuggling. In Baguio and Benguet, vegetables are already dying because of inordinate importation. When shall we start protecting our own farmers from going to perdition? These smugglers are committing economic sabotage and there exists a bill in congress punishing smuggling as an act of economic sabotage. I propose, therefore, that we support that bill and I further propose that a task force consisting of private and public sector go after smuggling. Those smugglers' task force composed of lawyer volunteers to file case because the private sector must help even through surveillance, information, monitoring of the market within

the next five years. Ernie Ordonez is good in monitoring. Perhaps he can lead one team and we have to all pitch in.

If that bill passes we can impose the highest penalty of economic sabotage on smuggling. If there is a will, there is a way. If the President means to fight graft and corruption, and I think she does, then we must follow through by examples of actual practices for the benefit of the Filipino consumers, farmers and fisherfolks. Mabuhay ang Filipinos

Number three, create another task force to file cases with international bodies for countervailing measures and unfair trade practices. You know this countervailing measures and unfair trade practices hearings can last long and in the meantime the products come in to the prejudice of the farmers and fisherfolks and industrialist. If we do not expedite them, if they do not follow through then time will mean predition for our farmers, fisherfolks and agri industrialists.

Australia, for example, has planted their own men in key positions in the world trade organizations. Thailand has done the same. The Philippines has not. We have slept on this. If we file countervailing measures certainly those people who have been planted there by their own nations, If there is a case against them, will win against our own interest.

Fourth, we need bold measures. We need at least 5 years to prepare. Why not defer for five years the implementation of the AFTA and unilateral reduction of tariffs? Slap a 10% surcharge on imports to raise revenues for competitiveness programs. Surcharge is not prohibited. Malaysia did this. Malaysia slapped a 10% surcharge to protect their car and vehicle industry. Then we can use that money for the massive education and technology transfer to our farmers, fisherfolks and workers.

In the meantime we must focus on what we need to do. Set policies and programs, reform power, build infrastructure and transport, strengthen credit and marketing, build up information, get irrigation going, more warehouses, post-harvest facilities, educate our farmers and workers, acquire technology to modernize.

We do not say and we do not agree to the proposition that we do not have money because we already have the deficit. We have the money in ODA loan. We already have 15 billion dollars. Some of have should go to the massive education for our farmers and fisherfolks. Some of that should be left for the local governments to dispose off in accordance with their own economic development.

Number five, starting with the Cancun meeting this year, because there will be a Cancun meeting in Mexico, and in all global forums and organizations, we must work, for a voice, a voice for special and differential treatment of the poor and developing nations. We must band together with all similarly situated countries to have a vibrant effective voice. International institutions should also make information available. This is not a club; WTO is not a club for the rich developed nation and to announce to us only the decision that they have made. They must be transparent. We must participate. All developing and poor nations must band together and strengthen capacity to analyze the issues and effectively communicate our interest

to them. Tell them, 'we want this, we do not want that, we want fairness, we want justice, we want truth, we want equality'.

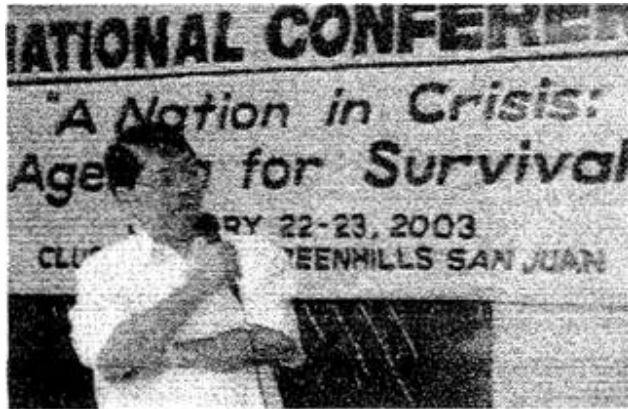
For example, poor countries are at a significant disadvantage in the present negotiations on the WTO level. We are at the disadvantage on such issues as labor, environment, intellectual property rights. Negotiating WTO is a continuous process but very few are on the table. With many meetings of the few mainly by developed nation in disregard of the majority of the developing and less developed nations. Poor countries lack the expertise to participate in technical terms in trade debates. It has been estimated that almost 60% of developing countries members of the WTO are handicapped in their participation. Poor nations must band together.

For example, in the Philippines we have only one representative in Geneva with I don't know how many staff members, 1 or 2? There is no policy of readiness. How can we have face WTO? How can La Salle face the Brazil football team if there is no plan, at least, no policy of readiness? When to have training? When to have exercises? Who support to give to the players?

Therefore, sixth, my humble suggestion is that we must speak out, cry out, shout for other poor developing countries to join us in this cry for survival, justice and truth. On experiences of poor people who will be affected on the global actions, we must speak out. Our local farmers, industrialist and businessmen should speak out. Although I understand that they are already tired sometimes because government does not listen, we should continue to speak out. If we are not ready then we must say so to the government. If we need something then we must advocate. If we deserve something, we must undertake a crusade. We will be here to fight for you, for the national interest, to build from a creeping sense of helplessness because the Filipino can rise again.

Lastly, may I invoke the provision of special and differential treatment under the WTO and constantly seek to provide specific provisions that will clarify and operationalize real special and differential treatment. Under paragraph 5 of enabling clause of WTO, it states and I quote, 'the developed countries, that means the rich, rich ones, the United States, Japan, European Union, do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to trade of developing countries. That is the developed countries do not expect the developing nations, in the course of negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs.

Developed contracting parties shall therefore not seek neither less-developed contracting parties be required to make concession that are inconsistent with the tatters development, financial and trade needs'.



Therefore, I say, if the very WTO rules allow special and offered treatment then we must cry out and say, let us invoke that and act accordingly'. We want access to their markets with lower tariffs. We need time to build and integrate our own industries, our own agriculture. We need time to integrate Basilan's rubber and algae, carageenan with

the other industries in Cebu where there is processing. We need to integrate our island industries with our national economy. Build food, basic food, clothing and shelter for our people before we export. Anyway, we export tuna to European nation where they are imposing 25% tariffs. It will be very hard for our people to sustain that kind of export. Let us feed our people first before we export. At any rate, the export if it is not indigenous, is limited by the multinationals who do not utilize indigenous products. They export computers to their sister company and microchips back to the Philippines therefore benefiting only a few of their corporations which are transnational.

We must fight for the Filipino. We must fight for our rights and we must strengthen the agricultural and industrial sector of this nation. As already defined by Bobby, we are mandated even by the Constitution to have effective control of the nation's economy.

We must build, not perish. We must be proud one day to be a Filipino manufacturer, a Filipino farmer or fisherfolk. We have this land of 7000 islands. We have these resources, God-given and blessed to our children. We must fight for them and proudly stand one day and say I am a Filipino. Thank you!

**Dr. Rene Ofreneo, FTA Co-convenor for NGOs,
Key Findings from the Conference on "*From Core to Periphery*'?**

Good morning everybody. As Ka Bobby has said earlier, we have discussed many times the roof of all our problems. We have discussed this over and over and the latest discussion on this was the Conference which the Fair Trade Alliance helped organize, it was held August of last year at the UP Solair Auditorium. A number of resource persons presented. Captains of industry starting with Meneleo Carlos, Tony Garcia, academicians like Prof. Jorge Sibal, a number of NGOs and labor leaders made presentations.

What I will do today is try to summarize what were discussed during the Conference last year on "From Core to Periphery". The title 'core to periphery' means that before the Philippines was in the core of development, now we are at the periphery.

Once upon a time, in the early 60s, the Philippines was considered one of the most progressive in Asia. As a matter of fact, some of the Korean and Taiwanese auto experts used to come to the Philippines just to study our automotive industry. If you remember, at one point, we had the Sakbayan and the Trakbayan and we also developed the Ford Fiera.

There were also a lot of people from Thailand and Vietnam who went to UP Los Banos to study how to green their agriculture and how to promote self-sufficiency on food.

That was in the 1960s. Now, what happened? Why does it seem like we were left behind by these countries? That was the focus of the Conference on 'From Core to Periphery'.

There were around 20 people who submitted different papers but the conclusion somehow converged. We are happy to point out that two of the economists from the UP School of Economics, who unfortunately are no longer with the UP School of Economics, one is already with Ford and the other one is with UNDP. Prof. Butch Montes and Prof. Joseph Lim, took a position that is very similar with the position of the Fair Trade Alliance. They ever, came out with many mathematical computations in their paper entitled 'Structural adjustment after structural adjustment, why is the Philippines is still poor?' (see annex 5)

Why did we not have structural transformation? Their paper was a major deviation from the usual neo-liberal paradigm.

So let me start the summation by sharing these statistics.

These are the GDP growth in Southeast Asia, in the 50s and 60s, we were ahead in Southeast Asia. If you look at the figures for that decade, the Philippines was averaging 6.5% GDP growth rate. But if you analyze if, the GDP growth rate during this time in industry was almost two-digit. Then, Singapore and Malaysia were averaging only 3.6, Thailand 5.7, Indonesia 4.

In the next decade, 60s to 70s, Singapore, Malaysia and Thailand posted substantial increase in their GDP. The Philippines still posted growth but the other three countries sustained their growth until the 80s.

In the case of Singapore and Malaysia, growth was sustained up to the year 2000 which is unlike what happened to the Philippines. This was the decade of globalization.

Employment by Sectors. The share of industry, in the case of Philippines in 1980, was about 15.5% which was also the share of industry to employment in the 60s. In other words, the share of industry to employment generation almost did not change. Up to the present, it is still around 15%. The sector increasing in terms of employment share is services. Agriculture has been decimating.

In the two decades, 80s and 90s, Thailand's share of industry to employment starting at a very low level of 10% exceeded that of the Philippines'. Indonesia also exceeded us although after the financial crisis it almost equaled the figures for the Philippines. Malaysia had a very substantial increase in industrial employment. It used to be agricultural. Korea's growth was consistent from the 60s to the present which is 33%.

If you will recall, in 1972-73, one agency that was created when Martial Law was declared, was NEDA. It was then that the neo-liberal economic paradigm flourished headed by Dr. Gerardo Sicat. He was assisted or influenced by Dr. John Powers who was loaned out to the UP School of Economics by Ford. Sec. Blas Ople that time brought with him, courtesy of the ILO, a certain guy by the name of Gustav Ranis from the YALE Growth Center.

I am mentioning all these economists because they were instrumental in forming the new development paradigm. They say that there is unemployment in the Philippines because there is not enough jobs being generated by industry and agriculture, that industry and agriculture were not doing well because they are servicing a very limited domestic market. So, why doesn't the Philippines adopt this new paradigm called labor-intensive, export-oriented industrialization? That was the reason why we put up the Bataan Export Processing Zone, the bonded warehousing manufacturing program, which have multiplied and are now sources of smuggling. All these initiatives make the economy outward looking. The point of all these initiatives was to decrease the rate of unemployment. What happened was, by the 80s, unemployment has increased.

Since 1972, in our Medium-Term Plan, the declaration was that unemployment will be reduced, specially the Yellow Plan of President Corazon Aquino in 1986. In the Yellow Development Plan, unemployment should have been reduced to 5% by end 91 - 92 but our unemployment now has increased to double digit. The latest, as of July 2002 is 11.2% and April last year, 13.9 Four million were unemployed, about 5 million underemployed.

Now some facts. These are the results of the Conference largely from the paper of Jorge Sibal.

The share of the industrial sector to Philippine employment has been fluctuating, between 14 to 17% from 1960 to the present. In other words, there is no meaningful structural transformation especially in terms of industrial expansion. Our industrial sector, composed of construction, gas and mining, and manufacturing, which is more important, fluctuates between 9 to 12%. What is increasing is the services sector but a large part of this is informal.

Local manufacturing has been in crisis, since the early 1980s. In the early 80s, the World Bank introduced the structural adjustment lending. We were the first recipient together with Turkey of the SAP or the structural adjustment program which during the 90s became better known as Globalization Program based on the Washington Consensus.

Agriculture performance was fairly good in 1970s, but in the early 80s, agriculture started to collapse and infrastructure was not developed, especially irrigation.

In the 80s and 90s, two export industries grew - garments and electronics - either through joint venture or subcontracting with transnational. Garment export grew in the 80s up to the mid 90s, after which electronics become bigger. The two together account or almost 90% of export with electronics accounting for more than 60%.

In the second half of the 1990s, we saw that many local manufacturers, although this was already happening in the 80s, started closing down, especially in the garments and textile industry. Before, we had Aries, which had more than eleven thousand workers. This transferred to China. We used to have around 250 textiles firms, the integrated, about 35. Now, less than a dozen are still around. A lot of them have relocated to Vietnam and some to as far as Nicaragua. The others closed down and shifted to trading or joined the capital flight.

Why has there been no major structural transformation in the Philippine economy when in fact that was the purpose of shifting to labor-oriented industrialization according to Gerry Sicat? That was also the contention of Winnie Monsod, Dondon Paderangga, Ciel Habito and Dante Canlas. But why was there no major transformation, especially the growth of industry? Industry was hardly growing, agriculture stagnating. Only services grew but mainly in the area of the informal sector.

We can summarize the Conference, based mainly on historical explanations.

Number one, the role of colonialism, mainly its lingering effects especially in our consumption pattern, the colonialism standard industrialization which fostered a certain form of behavior specially rent-seeking -- not often evident but sometimes very pronounced among leaders, some of our elite focused on extractive industries, import-export and our colonial mentality especially our slavious liking for imports.

In the 1950s, we saw the rise of some Filipino industrialist emerging from their 'land'. During the time of President Quirino, import and foreign exchange rules were introduced and implemented very strongly by Central Bank Governor Mike Cuaderno. This was when you will only be given dollars if you use it for developing new and necessary industries. This led to an explosive growth of industries in the 1950s. Although most of the industries were light such as assembly, but just the

same, this was the time that industry grew as well as trade unions. A lot of unions were formed at that time. This also ushered the rise of 'Filipino First' consciousness.

In the early 60s, when President Diosdado Macapagal assumed power, there was balance of payment crisis. In the early import substitution, it remained import dependent because we concentrated on light industries. We had to import machines and raw materials. In the case of car assembly, we were importing CKDs. Although an industrial culture is being developed, import dependence was there. Since we pay dollars for our imports, we had the balance of payment crisis.

This was the first time we went to the IMF, the first year of Pres. Macapagal, and we never left the IMF since then. The dilemma at that time was, after the initial stage of import substitution, the industrial structure such as in Japan and the NICs, should have developed the export industries. It seems like we never had an orientation on that. Also, we should have gone from light to intermediate products, intermediate industries and hopefully to some basic industries. Like in petrochem, we have upstream and downstream but we got stuck with light industries.

In the early 60s, we had the choice of going into exports or going into industrial deepening. What happened was the government accepted the IMF de-control policy.

The policy removed the foreign exchange and import control. But due to pressure from local industries brought about by their impending collapse caused by the policy and the initial devaluation of the peso, President Macapagal substituted for the import and foreign exchange control a very high and generalized system of tariff protection. We had then tariffs as high as 200% on certain products. The problem with the tariff protection that was set up was that it was not performance-focused nor time-bound. It was a protection forever on industries, whether they were making good or not. Whether they are innovating or not, they were enjoying some kind of protection. There was a crisis in industrial direction.

In the 1970s, the concept of labor-intensive, export-oriented industrialization was promoted based on labor-intensive investments of transnational corporations. It was also in the 70s that the ODA-driven development planning started.

If you will have the time to look at every development plan since the time of Gerry Sicat, the most important chapter of every development plan is the last chapter which is the plan implementation. It is there that the roles of the IMF and the WB are outlined, the infrastructures to be funded by the ODA. The whole plan was ODA-driven. This now was the rise of the technocracy which was very blunt in many of their papers. Local industries that were bred in the 1950s and 60s, instead of being labeled as pioneers and as industrialists, were labeled as protectionists and inefficient, starting the bias against local industrialist.

But the picture was not that simple. Marcos himself, in his own way, tried to carve out his own empire so he promoted his cronies. We were told by some who were very close to Pres. Marcos that his real model was the Meiji restoration, the promotion of some *saibatsus*, that is why he thought of the 11 industrial projects. Although, it turned out that some of the cronies that he depended on turned out to be just

carpetbaggers, some did turn out to be industrialists, and controversial like Lucio Tan, Danding Cojuangco.

In the 70s, because employment was not improving, they introduced the stopgap temporary measure of deploying workers overseas. We sent thousands of workers to the Middle East. We called them OCW, now OFW because there is some negative connotation to 'contract' workers.

In the second half of the 70s, because the economy was not improving, insurgency grew in some parts of the country.

In the 1980s, since we borrowed heavily in the 70s, debt crisis which became a political crisis, exploded.

There was one time between 1975-76 when Gerry Sicat was asked if we are not borrowing too much. He answered that we should not worry because if we are investing these loans to productive undertakings, the loan will pay for itself. Meaning growth will pay for these loans. But we did not grow.

This was the time when the WB came up with a new program, the Structural Adjustment Program. Trade liberalization program was also started. From an average tariff of 70%, tariff was reduced to 50%. Agricultural deregulation also started which also started the careers of Mon Clarete, Bruce Tolentino, Arsenio Balisacan.

There was also financial liberalization which introduced unibanking. Farmers used to be assured of loans from rural banks but there was monopolization. Commercial banks grew bigger which eased out the thrift banks and the development banks. There was concentration of banking in urban areas, commercial banks at that.

Marcos still tried to promote the 11 industries through Bobby Ongpin but the timing was bad. He was already surrendering to the IMF-WB and said that the 11 industries will be funded by foreign capital, completely abandoning his 'meiji' vision.

In the second half of the 1980s, Marcos was replaced but the new government continued the Structural Adjustment Program. In fact, it became easier to implement the SAP and agricultural deregulation program because there was no resistance anymore.

During the time of Marcos, there was some level of resistance with the SAP because he was trying to protect his cronies. We had faster industrial liberalization. There was a mini-boom due to consumption boom in the 1986 to 1988. In 1989, we had a full-blown crisis in agriculture as well as the power crisis.

In the 1990s, under President Ramos, liberalization and globalization was accelerated. When people say 'what is the effect of WTO on tariffs on industry?'. The fact is, it is very limited. We accelerated liberalization in the industrial sector on our own.

By 1997, the Economic Freedom Network declared the Philippines as one of the 'freest' in the world. 'Freest' in the sense that we have liberalized the foreign

investment regime. We have lowered our tariff to the levels of Thailand, lower than Indonesia and close to Malaysia and Singapore. There was explosive growth of export but there was no improvement in employment. The number of OFWs grew.

In 1994, at the height of the debate on the WTO, where Ka Bobby was our leading spokesman at that time, on the side of those who were very critical of joining the WTO without any preparedness, the DTI, DA and NEDA said 'that with WTO, starting 1995, we will be creating 500T new industrial and 500T new agricultural jobs per year and a gross value added of P60B per year'. But this did not happen. Actually, it was in 1995 that the Philippines became a net importer in agriculture and our agricultural imports keep on increasing.

From 1997 to the present, some were still gungho over the promise of free trade.

We thought we were the least affected by the financial crisis but in the middle of 1998, we found out that the effect on the Philippines was tremendous. Our unemployment was second to Indonesia. We also had a budget crisis that continues to grow up to now.

We now have a budget deficit that is almost 5% of our GDP. What we have now is the deepening of the industrial and agricultural crisis. Our country is drowning in imports.

Let me point out some features of our economy today. What are the major features?

We have four sectors, probably five - industry, agriculture, services plus export sector and the OFW sector, which is the main lifeline of the economy. We have five million overseas workers and about 3 million immigrants; totaling 8 million compared to about 2 to 3 million industrial workers. These OFWs who remit to the Philippines is the source of growth of SM, Robinson's Galleria.

The problem with these sectors - industry, agriculture and services, are that they are like islands unto themselves. They have very limited complementation, limited processing, limited value addition. Agriculture almost has no linkage with industry, domestic industry with the export industry. There is very limited value addition. The different regions also don't have linkages.

Most of the Filipino businessmen are shying away from long-term investment projects. We have many businessmen but they focus mainly on short-term investment projects because the environment is not conducive. They are wary of investing long-term. Many have become mere subcontractors for transnationals, going into trading or going into BOT and other government projects.

In the case of the Philippine banking industry, the biggest business is the buying of T-Bonds, treasury bills. Some of the richest people in Philippines today are the manpower recruiters although they don't often attend the PCCI or ECOP. Unemployment, underemployment and poverty remain endemic.

Another sad development in the Philippines is industries fighting one another, in recent weeks, we have seen battle of media releases, upstream versus the downstream, plastic versus petrochem, sugar versus the food processors, Lipa hog

raisers versus the meat processors. We have managed to pit one group against the other - the way it was done with unions, the way management pits a union against the other. We have done the same among industries. This is really very sad.

Some of the concerns.

Can the Philippines grow on the basis of only one 'export winner'? Our electronics is almost 70% of the total export but unfortunately something is developing in electronics. Electronics assembly is now transferring to China. So Mar Roxas now has this campaign promoting call centers but as far as I know it can only create some 10,000 jobs compared to India which provided about 100,000 jobs. In China and Vietnam, they are studying English now so they will probably be competing with us in a few years.

Can the Philippines remain only a sub-contractor of transnationals? The Philippines, unlike Taiwan, never graduated into what is called as 'original export manufacture'. One time, we tried to promote the Filipino car industry, requiring that car assemblies be sourced locally. We required 40% local content. This was never followed. Several of our car parts manufacturers closed down. With the AFTA this year, some of the car assemblers are thinking of relocating or consolidating their operations in Thailand, which is five times bigger than our assembly, and even China. Our remaining parts manufacturers are those producing globally like the Yazaki Torres.

Can the Philippine population depend mainly on OFW earnings? This is what keeps our economy alive. Of course, we also know that there are developments in the overseas labor market. Countries like China, India, those in Eastern Europe are eating into it. In the Middle East, they have a nationalization or localization program. We don't know how long we can send our people there.

Can the Philippines afford a continuing erosion of the traditional industrial and agricultural base? They say that with the global opening up and the global competition, industry will become more efficient and we will see the rise of stronger industry and stronger agriculture. That was the theory but it never happened.

Can the Philippines feel secure amid rising and continuing agricultural imports? Can the Philippine pay its way out of its huge debt crisis? Our debt now, like in the 80s, is almost as huge as our Gross Domestic Product. In Argentina, their debt is 50% of their GDP and look at where they are now. Maybe, because of the substantial remittances from our OFWs we still don't feel the problem related to this but until when can we sustain the stability of our monetary situation?

Can the Philippines sustain itself without a clear vision of an integrated development program crafted mainly on the basis of Philippine national interest?

That is the summary of the Conference. Now, some silver linings.

We have some homegrown Filipino companies capable of excelling locally and internationally like Jollibee, Central Azucarera. Unfortunately, these are very few. Some industrialists such as Philcor and Pamcar say they can excel in the global market. Unfortunately, Pamcar has already closed down two out of five factories and their industrial park in Santa Maria is being foreclosed. Philcor, on the other

hand, our model employer, modernized but after the debt crisis, they were no longer the distributor of Westinghouse.

Filipinos have a natural advantage in IT. However, we do not have a clear program on IT. Some people are saying that this can be a tool for leap-frogging_ But how? In the mid 1990s, we were ahead of other Asian countries but somehow the ICT sector was left behind. In the meantime, Vietnam now is coming out as a very big competitor in ICT. They have invested a lot and so has China. China is trying to master why India is good in IT 'Engineering. There is a growing realization that globalization requires more - not less economic nationalism.

But the question still is - how should nationalism be applied? That is why, as Ka Bobby said, the purpose of this Conference is to flesh out how will we apply nationalism on the various areas of economy and on the economy as a whole.

That, in brief, is the summary of the Conference 'From Core to Periphery'.

Thank you. Freddie de Leon:

Thank you Dr. Ofreneo. Let me just remind the participants that after lunch we will have six workshops. We would also like to remind you, if you have not done so yet, to sign up for the workshops because participants to each workshop will be limited. If you want to get into the workshop of your choice, sign up now.

Our next speaker was the Dean of the UP College of Law and is now in the office of the Vice President, former undersecretary of the Department of Foreign Affairs. He will make a presentation on Economic Nationalism and the National Treatment Clause: The Case of the Philippine Constitution vs. the WTO agreement. Ladies and gentlemen, let us all welcome, Atty. Merlin Magallona.

Dean Merlin Magallona, UP School of Law, presentation on economic nationalism:

(see Annex 6: Economic Nationalism, former National Treatment Clause: The Case of The Philippine Constitution vs. the WTO).

Good afternoon to all of you. I regret that there is difficulty in abbreviating ideas assembled for you in this paper. We don't have any powerpoint presentation so you have to concentrate on me.

The general theme of this presentation is Economic Nationalism and the National Treatment Clause: The Case of the Philippine Constitution vs. the WTO Agreement. I am sure you will readily appreciate the relevance of the general theme of this paper because of the present attempt to amend the 1987 Constitution.

Let me begin with the statement of the issue at once. How is the move to amend the Constitution related or connected to the World Trade Organization agreement?

This presentation consists of four parts. The first is a discussion on economic nationalism in the constitutional system. It is outlined here that economic nationalism is in the core not only of the national economy but it is also the main framework of our political system. Certainly, there is no need to advocate what is integral to our political system, namely, that nationalism is a fundamental principle of the Philippine Constitutional Law.

The second part deals with the war against economic nationalism mainly carried on by external forces ending with the culmination of their effort in the amendment of the Constitution to do away with economic nationalism as the framework of the national economy.

The third part deals with the national treatment clause under the WTO agreement. The national treatment clause is what we may call 'the parity'. We experienced parity in our history, with the Americans imposing on our Constitution the rights in the exploitation of natural resources on equal terms, with Filipino citizens. But this time, the parity is parity in favor not only of the Americans but of all foreigners who are members of WTO. The national treatment clause is discussed in this paper with respects to the GATT 1994, the General Agreement of Trade in Services, the Agreement on Trade-related Intellectual Property Rights and the Agreement on Trade-related Investment Measures.

I wish to emphasize that when we speak of the agreement establishing the World Trade Organization, we are not dealing with one single agreement. The WTO agreement is a constellation of major agreements, 26 in all, with accessory multilateral agreements.

The last part would deal with the political and economic consequences in the structure of power in the Philippine society and as a consequence the shift of congressional power into Presidential treaty making. Therefore, the implementation of the WTO agreement by the President will deal mainly with the shift of focus of power from congressional power, which would be republican in character, and

shifting to the concentration of power in the Presidency resulting in the erosion of republicanism.



Let me first deal with the first point. The first point gives you the coverage of the WTO agreement. It must be emphasized that the WTO agreement does not deal only with tariff, import and export of goods. A notable feature of the Uruguay Round resulting in the

WTO agreement is entirely the opening of a new area for international legal regulation to be imposed by the new world body, the World Trade Organization. I am referring to the trade in services. Services, in the context of the Uruguay Round, is an infinite listing of commercial and business activities, maybe ranging from gynecological services to funeral parlors.

The WTO agreement also deals with the Agreement on Trade-related Investment Measures and thereby establishing significant aspects of international regime on foreign investments.

The agreement on trade-related aspects of intellectual property governs intellectual property which used to be within the traditional coverage of national jurisdiction.

The General Agreement on Trade in Services institutes international standards for the practice of professions across national borders as well as regulate banking and other financial services, insurance, telecommunication, transport, construction, tourism, and a much broader field of other services. Philippine profession will be subject to international regulations under the General Agreement on Trade in Services including accounting and auditing, medicine, law, management, engineering and architecture. The impact on national culture will be considerable, generated by an impeded transborder data flow and information systems, in particular of television, movies, videos and other cultural goods.

The intrusion of multilateral decision-making into strategic and vital areas of the Philippine policy is by no means limited therefore to economic matters. It reaches into social and political relations in our society which will expectedly pass into the jurisdiction of the WTO. A question of deep going implication on our future as a people is raised by the fact that the WTO agreement in the Philippines is governed by the national treatment principle with respect to the treatment of certain categories of investments, intellectual property rights as well as in regard to the practice of profession, banking and financial services, insurance and a broader spectrum of services. This means that in these Matters, the Philippines is under obligation to

treat foreigners as having the same relevant rights as Filipino citizens as defined by the WTO Agreement.

In our history, the parity rights, in favor of American investors which the US government forced upon our Constitution, became an explosive controversy. Now, we are presented with parity rights in favor of all foreigners, as defined by the WTO agreement, covering a much broader and extensive field of rights and privileges.

In particular, national treatment in favor of foreign investors will strike directly on interest decisive on the future course of the national economy, in the same sense that this will accelerate the speed development towards a new century when foreseeably Philippine economy will lose its notional character.

Consequently in the WTO agreement, national treatment of foreign interest holds the inevitable prospect of superceeding economic nationalism as a fundamental premise of Philippine economy. Considering that the Constitution is founded on economic nationalism then the operations of global capital under the aegies of the WTO agree" agreement are on the way to sweeping away the very rational of Philippine nation state in our fundamental law.

By the way, under the WTO Agreement, there is a provision and therefore an expressed statement in the coordination of the WTO, the World Bank and the IMF. So, emerging in the WTO agreement is a triad. This is different from the triad based in Hongkong.

On the whole, the WTO agreement will have the effect of shifting the fundamental premises of our national life on two points. Firstly, the shift from economic nationalism to national treatment of foreign interest. Secondly, the transfer of decision-making from national to supranational authorities in matters vital to our economic, social and political life.

The first undermines the fundamental premises of the Constitution based on economic nationalism. The second entails a serious restriction of self-determination through the enactment of laws in policy areas covered by the WTO agreement. We are aware that if there is parity rights between Philippine citizens and foreign interest, there is a shift of the premises of the national economy into the globalized economy.

Let me give you a gist of how an authority on Constitutional law sees this parity rights. This formula, developed by Dean Cinco, our authority in Constitutional law, is addressed to the parity rights in relation to the Americans. He said and I quote, 'to give aliens the right to exploit the natural resources is to create a condition of inequality between them and the citizens. The alien will become a privileged individual for he does not have all the duties and obligations of the citizen. The citizen has more obligations and responsibilities. The government may not compel an alien to render military service to the country. He is not bound to pay taxes from his income or business abroad. The country may not expect him unstinted devotion and undivided loyalty. His loyalty is first and foremost to his own motherland'.

The situation involved in the national treatment principle under the WTO agreement is far more serious than what was contemplated by Cinco in relation to the parity rights for the Americans. The WTO national treatment clause covers small sectors and activities in the Philippine economy. The coverage of the WTO has encroached upon traditional domestic areas of policy, going into civil and social life of Filipino citizens.

Let me deal now with economic nationalism and the Constitutional system. The paper will outline to you the fundamental premise that economic nationalism as a foundation principle, culminating in the Constitutional principle in the 1987 Constitution that the purpose of the Constitutional framework is to build an economy effectively controlled by Filipino citizens.

Let me skip this part because this is just an outline of Philippine jurisprudence that will point out, in the hands of Congress and in the hands of the Supreme Court, how economic nationalism has been propagated and made in very concrete terms the operation principle of the policy-making in the Philippines. The second point I would like to emphasize under this topic is that the present Constitution has strengthened economic nationalism.

We have here listed, the principles of 1987 Constitution and full provisions that spell out the terms of economic nationalism. Beginning with the principle that it shall be the responsibility of the state to carry out its foreign policy, national sovereignty and territorial integrity on the basis of national interest. Here, we have the requirements of the 60-40 equity in the control of relevant corporations, economic nationalism and the exploitation of development of natural resources, the proposition that only the Filipino citizens shall own lands, that only Filipino citizens shall exercise profession, the nationalization or Philippinization provisions with the respect to the administration of schools, with the respect to the operation of mass media. Altogether, therefore, we have a Constitution based on economic nationalism. This part will merely deals with a long litany of economic nationalism in terms of its instrumental principles.

Let me now deal with part two of the paper, the war against economic nationalism. The Constitution is under assault and we know that at the present time, the whole nation is mobilized to concentrate on the amendment of 1987 Constitution. As a background, let me that emphasize that the IMF-WB sovereignty, together with our local leaders, are leading in the attack of economic nationalism as a provision in the Constitution.

There is outlined here a series of recent laws enacted to remove economic nationalism from the leading regulation in the economy: the amendment of the General Banking Act to provide, in the first place, for the operation of 10 biggest foreign banks in the world; the amendment of the Retail Trade Law; the introduction of 75-year lease for foreign investors even as this is a brazen violation of the Constitution; the ratification by the Senate of World Bank-sponsored Multilateral Investment Guarantee Agreement, which gives personality to transnational corporations. It is in this agreement that the Philippines becomes an insurance company for foreign investors with respect to expropriation and the consequences of civil strife in Philippine territory. This agreement, called the MICA, deserve little attention, but unfortunately the Public Treasury of the Philippines is a potential

source for operating as an insurance company on the part of the Philippines with the respect to losses of investments of foreign investors in the country. Finally, we can see, if we are going to allow the situation, the final overthrow of economic nationalism in the amendment of the Constitution.

In the last five years, public consciousness has been induced to recognize the need for changes in the Constitution. Curiously enough at that time, the demands of global capital for elimination of Constitutional restrictions to foreign investment have intensified. Public support for Constitutional changes may be enticed by non-controversial proposals for amendment but the intention is to pave the way for broader changes.

Is economic nationalism the real target for Constitutional revision? Are we facing the prospect of the WTO principles including its national treatment clause on the way to being enthroned in the Philippine Constitution for the 21st century?

There is an urgent need for us to transcend the deceptive presentation of the issues raised by the WTO agreement. We will increasingly realize that the stand we take now will determine the kind of fundamental law by which we can control our national destiny. The real choice is not between 30% to 50% tariff duty on garments or tomatoes, it is between a Constitution of economic nationalism and a Constitution of WTO principles.

Let me abbreviate the ideas presented under part three namely, the national treatment clause under the WTO agreement, in other words, it may be permitted parity rights for all foreigners. In addition to the national treatment clause which is a potential for implementation by the Philippines, it must be emphasized that the national treatment principle under the WTO agreement is to be applied in complement with the Most Favored Nation clause. This means that if the Philippines will grant the national treatment clause for one national group of foreigners, the WTO agreement will automatically operate, with the result that that grant or concession by the Philippines shall accrue to every member of the WTO. Therefore, the application of national treatment clause will have the consequence of eliminating any discrimination among WTO members. Therefore, we say that the national treatment clause, in operation together with the Most Favored Nation clause, will be a parity right for all the nationals of every member of the WTO. Therefore, there cannot be any discrimination on the part of the Philippines for granting only national treatment to Thailand citizens or American or the British.

By operation, by automatic operation of the WTO principle, the Most Favored Nation clause will operate. In the language of the General Agreement on Trade in Services, this principle will immediately and without reservation automatically apply.

Let me just cut short the discussion of the national treatment clause by referring to the formula under the national treatment under the General Agreement on Trade in Services 1994. In this respect, the GATT of 1947 is transported as part of the WTO agreement and it became GATT 1994.

To summarize the national treatment clause under GATT 1994, the Philippines is restricted in the exercise of its sovereign powers including taxation, to exercise its

sovereign rights with the respect to its industries which in application, will discriminate against foreign products. You can imagine that if the taxing power of the Philippines is restricted, this will cover a broad field of restrictions by which the Philippines is prohibited from undertaking and pursuing policies for the prosperity of its own industry if the effect of this is to discriminate against foreign products and foreign industries.

So you have here the national treatment clause in relation to the Most Favored Nation clause as the equalization principle. When we speak of the equalization principle, certain writers for globalization will say, this is merely a principle that will result or aim at leveling the field, but in practice and our historical experience will tell you that, we are the ones leveled. That is what we mean as leveling the field.

As a matter of fact, I think this is an understatement. We are going to be smothered by the bulldozer of the WTO. The national treatment clause under GATT 1994 applies to taxes and internal charges of any kind within Philippine territory which if adopted and pursued for Philippine products and Philippine enterprises may discriminate against similar or identical foreign products and foreign enterprises. In other words, the Philippines cannot adopt policies which will give favorable treatment to Filipino products as against foreign products. But the principle in the Constitution is the preferential use of Philippine materials, Philippine resources and Philippine labor.

In this respect, there is a direct contra-position between the WTO agreement and the Constitution. Of course, as a member of the WTO, the Philippines has accepted one fundamental principle written into the WTO agreement namely, that it is the duty of every WTO member that its laws and procedures shall conform to the WTO agreement as well as the multilateral agreements that accompany the agreement establishing the WTO agreement.

The national treatment under the General Agreement of Trade in Services, and by This time we realize what we mean when we say services. It is an infinite array of business, investment and economic activities. From one authoritative source who participated in the Uruguay Round formulation, let me give you the extensive coverage of the word 'services' that are now under the regulation by the General Agreement of Trade in Services.

The enumeration includes: advertising, market research, news gathering and reporting agencies, radio and television broadcasting, hotel and restaurant services, public utility services, shipping, car rental services, data processing, transmission, motion picture production, entertainment and recreation services, management and business consultancy, education, health services, publishing down to manpower search and employment agencies, investment analysis, brokerage service, real estate services and fashion design.

We may classify services into two categories, strategic and non-strategic. An example of strategic services would be education and mass media which has a direct impact on our political life. We should not forget that what used to be within domestic jurisdiction is now covered by the WTO agreement, namely professional

services, which will deeply affect the provision on the Constitution that the practice of professions shall be limited to Filipino citizens.

The mechanics of the coverage of the national treatment clause with respect to services is limited to what the Philippines, at one time, will included in the schedule of specific commitments. The schedule is devices: such that each member of the WTO can list down, in a very specific manner, what are the services that are available for purposes of national treatment, especially for purposes of the Most Favored Nation clause.

For example, I understand that the American Bar Association is batting strongly in the current negotiation for the inclusion of legal services with the result if this is realized that foreign lawyers are going to practice in the Philippines under certain conditions. This will be true with respect to accountants, architects. Fortunately, with respect to lawyers, they are protected by Constitutional Nationalization provision. The present rule is that only Filipino citizens can practice law in the Philippines. The central principle in the General Agreement of Trade in Services is to respect the policy objectives of the Philippines. Therefore, it the Constitution provides against the practice of profession for foreigners, that will be respected initially. But the purpose of the liberalization process under the General Agreement of Trade in Services is that the liberalization process will continue and that will include the changes in policy objective.

I suspect that the attempt to distort the Constitution on the basis of economic nationalism is the result of some pressure. Don't forget that even asked whether the Senators who concurred in the WTO agreement had read all the agreements before they concurred in, we know that in the background, the ratification of the WTO agreement by the Philippine was under tremendous pressure from the IMF. I think we can document that observation.

On the national treatment clause under the TRIPS agreement, this concerns the national treatment clause in the agreement on trade-related aspects of intellectual property rights. The impact of this can simply be summarized by saying that intellectual property rights that are covered by the TRIPS agreement are to be respected within Philippine jurisdiction. The discussion here will point out that a Philippine inventor holding a patent or a copyright may have less rights than a foreign copyright owner or patent holder.

Lastly, there is national treatment in the case of agreement on trade-related measures. This will have to do with certain aspects of investments. There are restrictions here which are well-known. For example, the Philippines as a matter of policy cannot require that a foreign investor in the Philippine shall engage in processing, assembly or manufacturing which will require the use of local product or local content. Activities of these shall be restricted and there is a listing in the TRIMS agreement of what are the policy areas on which the WTO principle shall prevail over the local policy formulation of the Philippines.

On congressional power versus Presidential treaty-making which will shift the structure of political power under the Constitution from Congress to the President. If we consider Congress as characterizing the Republican form of our government

under the Constitution then we are losing the fundamental aspect for Republicanism.

One example of this is with respect to tariff. Under the Constitution, we know that the Constitution gives the President very specific power with respect to tariff namely the power to fix tariff. Congress can exercise this power in terms of the enactment of tariff bills, not treaties. But if you will read the WTO agreement, even the manner by which the Philippines will enact laws is regulated by WTO agreement.

For example, in the agreement on implementation of Article 7 of GATT 1994, there is provided, "in framing its legislation, each member shall provide for the inclusion in or the exclusion from customs value, in whole or in part of the following:...". I don't have to complete that provision. The emphasis is that the WTO agreement is regulating the manner by which we are going to pass laws.

Is that within the power of the President? But it was the President who undertook the negotiation and the Senate was made to concur ⁱⁿ the Presidential action resulting in the Philippines being a member of the WTO agreement.

Another example under the same agreement, "legislation of each member shall provide in regard to the determination of customs value for the right to appeal ...". Here is a provision in the WTO agreement that regulates our manner of making legislations. Where in the Constitution can you find a Presidential power that will regulate Congress in its process of policy-making? But of course, our Senators and Congressmen never saw this.

Bobby Tanada raised this to the Supreme Court but the Supreme Court, for its own convenience, changed the statement of the issue. If dealt with an issue which was not raised, an issue which they can readily answer. Why did the Supreme Court change the issue? Because the issue presented by the petitioners, the Supreme Court could not deal with effectively and if it could deal with effectively it could have been resolved in favor of the petitioner.

An example of this, which is now enthroned in bad jurisprudence, is the Tanada vs. Angara. As I recall, the petition presented to Supreme Court contended that the exercise of presidential authority under the guise of treaty making which resulted in WTO agreement covered grounds that are reserved by the Constitution to Congress. Therefore, under the Separation of Powers Doctrine, it was no business of the President to deal with these powers. Practically the petitioners were saying, 'you, the President, in negotiating this agreement was usurping congressional powers.

One of the powers that was claimed as a usurpation was the fact that the WTO agreement was promulgating rules in the adjudication of customs and tariffs cases in the Philippines, adjudication measure which is far off from Presidential authority under the Constitution. I remember that the petitioners were anchoring their position on separation of powers.

How did the Supreme Court deal with this? The Supreme Court said we have examined the rules of the WTO agreement and it would seem that the rules stated

there in the adjudication of relevant cases were also in observance of the due process of the Philippine legal system. But that is an entirely different issue. They did not deal with the separation powers doctrine. They deal with sufficiency of due process under the WTO rules but you cannot deal with the sufficiency of the rules on the basis of due process unless you resolve the question whether the President was usurping congressional powers or not. You do not resolve the question of the due process requirement if in the first place the President did not have the authority to deal with the conclusion of this agreement. Let us now go to some concluding remarks and I hope this is relevant to our Conference.

Overall, the President's treaty-making power on matters within the coverage the WTO agreement intrudes into vast areas of internal legislation. Under resulting treaty rules that are in the WTO agreement cover very broad areas of, policy which has the effect of the President's treaty-making authority supplanting legislative powers of the entire Congress. At this time, the President's treaty-making power is not limited to the country's external relations. They are exercised in matters which spread throughout civil and economic relations of domestic jurisdiction.

In a sense, we can be bold to put forward the proposition that there may be nothing in our life that is not covered by the WTO agreement. Therefore, with the ratification by the Philippines of the WTO agreement, our entire civil, political and economic lives are now covered by the WTO agreement. Therefore, it is proper that the WTO agreement may as well become our Constitution, if you allow that.



In the country's history, there has never been any instance where the major dimensions of Philippine internal life are so extensible subject to rules of an international agreement resulting from the exercise of the President's powers and

concurred in only by one house of Congress and without the exercise of legislative authority vested by the power in the entire Congress. The exclusion of the House of Representative from decision-making in all matters which are traditionally known to pertain to the internal life of the people is a denigration of the most representative institutional system of our government. It is at war with the Republican democracy on which the Philippine State is founded. The foundation principle is established in Section 1 Article 2 of the Constitution, "The Philippine is a democratic and republican state".

Of course, we are giving so much credit, perhaps, to the House of Representative. You may question me on that.

In the light of Philippine membership in the WTO agreement, no amendments by Congress with the view to moderate or alter the adverse consequences of the WTO agreement will change the treaty rules and principles which bind the Philippines.

This is the presentation of our dilemma to us. Such enactments will not affect the rights and obligations of other state parties to the WTO agreement in relation to the Philippines. The Philippine laws, including the Constitution, cannot extend the jurisdictional reach to govern the relations with other states despite statutory enactment to the contrary. Therefore, the rights of the other WTO members with respect to the Philippine will remain intact and unaffected.

Whatever maybe the effects of these amendatory enactments within Philippine territorial jurisdiction, the Philippines will continue to be bound by its obligations under the WTO agreement, reinforced by the general norm of International Law now codified in Article 26 of the Vienna Convention on the Law of Treaties which state as follows, "a party to a treaty may not invoke the provisions of internal law as a justification for its failure to perform a treaty". That internal law, in International Law, includes our Constitution.

All these leave us to face the problem as to whether under the regime of the WTO agreement, the fulcrum of political power in the Philippines may have shifted from the duly constituted national organs of Constitutional authority to a supranational power. The organization of the WTO has reinforced the supranational power. In addition to the regime of the IMF and the World Bank, the WTO now has reinforced the supranational authority of the triad. If so, then the dismantling of the Philippine nation-state founded on economic protection of its own citizens may have entered a new phase. Salamat po.

I understand that the Secretariat will make available this copies of this paper, resources permitting. Thank you.

Freddie de Leon:

Thank you, Professor Magallona. Binabawi ko na iyong sinabi ko kanina that 90% of the lawyers give the rest of a bad name. 10% of the lawyers give 90% a bad name. Baliktaad ang ratio.

We will have a short break, maybe about 15 minutes. That should give us enough time to digest whatever intake you have gotten into your system. I would like to request the rest of you who have not signed up for workshops to please do so and come back at once so we can announce where the workshop sessions will be held.

Actually, your participation in the workshops is the more important portion of this Conference because we need your inputs, suggestions and ideas on how we can get the Philippine economy out of the present quagmire that we are in.

Day One started with the singing of the Philippine National Anthem.

Mr. Lito Rallistan, President of the Association of Democratic Labor Organizations, (ADLO), Prayer:

Ama, iniibig mo na kami ay magkatipon-tipon upang aming pag-aralan at makapaglabas ng mabuting resolusyon ayon pa sa nagaganap na kahirapan ng ating bayan.

So umaga pong ito, kaming lahat mula sa iba't ibang mga sector, mula sa propesyonal, mula sa sector ng mga manggagawa, mga magsasaka at iba pa mga kapanalig na mamamayang Pilipino ay nagnanais na bumuti ang ating bayan. Sa dakong ito ng umaga at hanggang sa darating na hapon, kami po ay inyong pagpalain na makaganap ng isang tunay na adhikain para sa ating bayan. Amen.

Mr. Freddie de Leon, Philippine Rubber Industry Association, master of ceremonies:

Magandang umaga po so inyong lahat. Ang isa pang layunin ng kumperensyang ito ay makapagbuo ng isang panukalang pangkabuhayan na makakalunas sa rnalalaking suliranin ng ating bansa. Magkakaroon po tayo ng pagkakataon ngayon na iharap ang ating kanya-kanyang paniniwala at kuro-kuro ukol sa paksang ito.

Ngayon, ang mga organisasyon po na represented dito ay ang mga sumusunod: PhilExport, Federation of Philippine Industries (FPI), AGRIWATCH, ChemPhil, NAMAWU, LUCWU, PCWC, NAFLU, Columbian Chemicals Philippines, ADLO, Congress of Labor Organization, FSM - NCL, Philippine Sugar Millers Association, NEPA, Sanib Lakas Foundation, Star Motors, Office of Congressman Teves, PATAMABA, LGU representatives from Boac Marinduque, Sugar Alliance of the Philippines, Coalition of Global Filipino, Magkape TAYO, UP Institute of International Legal Studies, Samahan ng Mcgsasapatos, DAWN - PMRW, KATAPAT, MASCO - CLO, Education Network, Foundation for Nationalist Studies, PMDG - RPM, Social Democratic Caucus, Philsteel Group, PEACE Foundation, PABI - Tyson, Confederated Labor Unions of the Philippines, PSIA, LAGMAN Federation, City Government of Marikina.



And from the media we have RMN News, Business World, Today. Those who will be coming in late will have the privilege to be acknowledged later. (see annex T: List of Participants)

Ito pang ating panayam ay nahahati so tatlong bahagi. This morning and

part of the afternoon we will have four speakers who will give the background and the directions

of the Conference. Then, in the later part of the afternoon, we will have workshops. Tomorrow morning, we will have the plenary session.

Dito po sa mga unang magsasalita, na pansin kong maraming abogado. Much have been said about lawyers. Actually, there is nothing wrong with lawyers. It is just that 90 percent of the lawyers give the rest a bad name. Biro lang po iyon. I just want to start with a light mood sapagkat ang ating paksa ay medyo serious. Pero si Merlin, tawa ng tawa, mukhang totoo iyon e. That is the only joke I will give today because I might be reprimanded.

For the welcome remarks, we have somebody who is well known to all of us, well-loved by all of us, ladies and gentlemen, former Senator Wigberto E. Tanada.