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THE LINK BETWEEN TRADE AND LABOR STANDARDS:
STILL AN UNSETTLED QUESTION

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Introduction

During the last decade, labor rights have gained increased salience in the international trade agenda. The issue of the linkage between trade and labor forcefully emerged during the 1990s at the domestic, regional and multilateral level, giving way to a highly polemical debate on whether or not a social clause should be included in trade agreements.

Various factors account for the increasing relevance of labor matters. On the institutional side, the question is part of a broader trend, namely, the expansion of the international trade agenda from traditional tariff issues to various subjects (state support policies, intellectual property rights, competition policy and so on) that in the past belonged exclusively to the domestic policy arena. Environmental and labor market policies, usually depicted as the "social agenda", are part of this trend. On more structural grounds, the closer integration of the world economy of the past two decades constrains the framework in which labor and wage policies are crafted, particularly in view of the need countries face to adapt to the increasingly stringent requirements of international competitiveness (Tokman, 1997). This is particularly telling in a context in which the rise of unemployment rates has become a virtually permanent feature of the policy agenda both in developed and developing countries.

The increase of unemployment in industrialized countries is precisely the main driving force behind the claims against the unfair nature of different labor standards across nations and the moves favoring their harmonization. Simply stated, the under-performance of labor markets in the industrialized world –which may take the form either of higher unemployment rates in Europe or precarious types of employment in the United States- has led many groups to view globalization and, particularly, competition from low wage countries as the source of their troubles (Rodrik, 1997). More concretely, the inability of developed countries' labor markets, in which workers enjoy relatively high levels of protection, to provide "decent jobs" to wide segments of the population is just one side of the coin; the other is the weaker protection granted

to workers in developing countries that underpins their competitive advantage based on lower labor costs. The corollary to this line of reasoning, fiercely opposed by many developing countries on different grounds, is that only the establishment of international disciplines on the subject will allow to thwart the deleterious consequences of different labor standards on trade and economic welfare.

However, like in many other issues of the current trade agenda (see, for instance, Hoekman 2002), the question is not as straightforward as the former lines suggest, involving several highly arguably ethical, economic and developmental considerations. This paper addresses some of these questions with the aim of providing an updated overview of the discussion. The first section succinctly depicts the evolution of international efforts to deal with the issue, focusing in particular on trade multilateral negotiations. Section two examines the debate about the harmonization of labor standards, pointing out its major threads and considerations. Section three looks at scholarly efforts to grasp the relationship between trade and labor standards, including empirical analyses seeking to measure the economic and welfare impact of differential labor standards. Section four addresses the way the issue has been dealt with in major initiatives of economic integration within the region. The paper concludes by discussing alternative ways that have been recently advocated to promote the rise of labor standards.

Background

The issue of the linkage between trade and workers' rights is hardly a new one, being the matter of several negotiation and regulatory initiatives for more than a century. Indeed, during the period running from the late nineteenth century to the 1930s various episodes took place, starting with the German invitation to other European nations to negotiate in Berlin common labor standards. The attempt, however, was not successful as an agreement could not be reached. In the wake of the twentieth century, the Treaty of Versailles meant the second significant instance in that direction, by including international labor standards in Part XIII of its text, largely as a result of the fears raised by the Russian Revolution (Woolcock, 1995). Unilateral initiatives followed suit during the 1920s as many European countries implemented

import duties against products made under poor working conditions. Likewise, the first “Fair Labor Standards Act” proposals appeared in the United States in the thirties (Von Beers, 1998). The International Labor Organization (ILO), created in 1919, somehow crowned all these efforts by placing discussions on the issue at the multilateral level and producing conventions and recommendations seeking global recognition (on this, more below).

Consideration of the issue in trade negotiation fora goes back, in turn, to the aftermath of the Second World War when the ill-fated Havana Charter -which created the International Trade Organization (ITO)- included provisions regarding labor conditions and even allowed for trade sanctions¹. Under the GATT framework, the only reference about the labor-trade issue was the ban on imports made by prison labor². During the 1970s, however, the United States started to pressure for the inclusion of labor issues in the trade agenda. In line with this, the 1974 Trade Act, which granted the President the negotiating authority for the Tokyo Round, mandated the inclusion of labor standards in the negotiations.

The United States’ efforts to place the issue on the multilateral trade agenda would materialize with French support during the Uruguay Round, where this contentious topic reemerged with considerable strength. During this Round, industrialized countries started to raise concerns about the unfair competitive advantage that lax or precarious labor regulations granted to developing nations. In 1994, the relationship between the trading system and internationally recognized labor standards was included in the work program of the World Trade Organization (WTO) Preparatory Committee, at the request of several delegations. The issue would prove to be a matter of bitter arguments at the Singapore and Seattle Ministerial Meetings in 1996 and 1999, respectively.

¹ Article I of the Havana Charter included as one of its goals the attainment of the higher standard of living, full employment and conditions of economic and social progress. Article VII highlighted the importance of satisfactory social conditions for the well functioning of the international trading system (Mah, 1997). However, the Charter did not provide any definition of unfair labor standards, nor established sanctions (Latin American Economic System, 1994).

² Article XX of GATT allowed the imposition of unilateral import ban on goods resulting from prison labor.

At Singapore, the United States attempted to create a Working Group on Labor Standards but opposition from developing countries thwarted American efforts. The Declaration resulting from the Meeting rejected the protectionist use of labor standards and recognized the ILO as the competent body to monitor the compliance and enforcement of those standards. The Declaration also stated the WTO countries' commitment to the observance of internationally recognized labor standards. This Declaration was a compromise solution that bridged the gap between the fiercely opposite stances of developed and developing countries on this matter³. Although at the moment it looked like the feud was settled, "the debate was not, however, to end in Singapore, and was to re-emerge across the three next ministerial meetings" (Wilkinson, 2002: 11).

At the Seattle Ministerial Meeting, the United States tried to revive the issue, reiterating its demand for a working group on labor standards. The European Union (EU), on the other hand, proposed a joint ILO-WTO Standing Working Forum to deal with this matter, while Canada suggested a WTO Working group on the relationship between appropriate trade, development, social and environmental policy choices, in the context of globalization. Again, opposition from developing economies, but also from some industrialized countries, blocked the American intention. Moreover, President Clinton's statement about endorsing trade sanctions in order to enforce labor standard was to a large extent responsible for the failure of the Seattle Ministerial to launch the Millenium Round.

The Doha Ministerial Meeting reached a compromise on the issue for the time being. The Declaration went back to the original commitment undertaken at Singapore in 1996, practically taking the issue of labor and trade out of the sphere of the WTO by effectively recognizing the competence of the ILO in this field⁴.

³ The paragraph referring to labor standards in the Singapore Declaration states: "We renew our commitment to the observance of internationally recognized labor standards. The International Labor Organization (ILO) is the competent body to 'set and deal' with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labor standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low wage developing countries must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration" (WTO, 1996).

⁴ The Declaration says in its 8th paragraph: "We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work

At the regional level, the United States' government pushed to include the signature of a side agreement on labor cooperation within the framework of the North American Free Trade Agreement (NAFTA) in order to overcome criticisms and complaints from unions and even his own party, and thus secure the approval of NAFTA in the American Senate. In the same vein, Chile and Canada signed, jointly with a free trade agreement, a side agreement on labor topics, very much alike the North American Agreement of Labor Cooperation.

The Labor Standards Debate

Labor standards can be defined as "the norms and rules that govern working conditions and industrial relations" (Mah, 1997: 774). The idea of "international labor standards" from an economic perspective is, in turn, closely related to the demands for policy harmonization in order to "level the playing field" and avoid unfair competitive advantages.

Labor standards are expressed in the Conventions and Recommendations emanated from the ILO.⁵ Up to date, the ILO has established 184 Conventions which country members choose whether or not to adopt. Although they are binding for those members that ratify them, the ILO does not have any enforcement mechanism to persuade or force countries to fulfill their obligations⁶. In other words, not necessarily ratification translates into effective compliance. Paradoxically, the main promoter of international labor standards, the United States, have only signed and ratified a few Conventions. Among those rejecting the inclusion of labor issues in the WTO Agenda, many point to the ILO as the appropriate body for the treatment of these matters. However, given this organization's lack of enforcing power and difficulties to build

under way in the International Labor Organization (ILO) on the social dimension of globalization (WTO, 2001).

⁵ This institution was created in 1919, just after the end of the First World War. Its primary goals include the promotion and protection of human rights in regards to the improvement of working conditions. One reason accounting for its creation was the need to prevent social and political disruption that could endanger international peace, arising from labor dissatisfaction. Not only governments, but also business and unions are represented at the ILO. The diversity in the membership and the tripartite nature of representation, have resulted in the difficult to reach consensus over trade and labor issues.

⁶ Although there is a complaint procedure available for governments, business and union delegates, the procedure has never resulted in the application of sanctions (Woolcock, 1995).

internal consensus, such a stance favors to a certain extent the maintenance of the status quo. This point of view was reinforced by the 1997 International Conference on Labor, where many developing countries rejected several initiatives seeking to strengthen the ILO surveillance process (Bensusán and Damgaard, 1999).

In 1998, this organization adopted the Declaration on Fundamental Principles and Rights at Work. This document states four sets of principles and rights, which ILO members are committed to respect, and discards the use of labor standards with protectionist aims. These principles and rights include five core labor standards and are also contained in the ILO Conventions as shown in Table 1.⁷

Table 1. Core Labor Standards and ILO Conventions

<i>Labor Standard</i>	<i>ILO Convention</i>
<ul style="list-style-type: none"> • Freedom of association • Right to organize and collectively bargain • Right to form organizations and negotiate freely their working conditions with employers 	Conventions 87 and 98
<ul style="list-style-type: none"> • Prohibition of all forms of forced labor 	Conventions 29 and 105
<ul style="list-style-type: none"> • Non discrimination in employment 	Conventions 100 and 111
<ul style="list-style-type: none"> • Child Labor 	Conventions 138 and 182

Source: OECD (2001), Panagariya (2000) and Mah (1997)

The Organization of Economic Cooperation and Development (OECD) holds a similar criterion, posing five core labor standards that are universally accepted. These include the prohibition of forced labor, freedom of association, the right to organize and bargain collectively, elimination of child labor and nondiscrimination in employment. Other standards like minimum wage, occupational health and safety in the workplace are deemed as less accepted universally.

The trade-labor issue has raised a heated theoretical debate which revolves around two main questions. Firstly, whether low labor standards favor exports and FDI. If empirical evidence reveals that sub-standards labor practices are positively

⁷ For an interesting analysis of ILO provisions see Moran (2001).

associated with export performance and FDI attraction, developing countries would have an unfair competitive advantage and then it would be reasonable to level the playing field in order to counter-balance "social dumping". The second relevant question refers to the means to reach such a leveling. Main points at stake in this regard concern whether a harmonization of labor standards should be sought, who should be in charge of enforcing them and which kind of incentives should be used to promote the accomplishment of those standards.

Arguments in favor of some common "floor" for labor standards involve both ethical and economic considerations (Garay, 1998). Ethical concerns have been present since the late nineteenth century in the struggles for workers' rights. This argumentation is based on the concept of human nature. Labor standards are in this sense linked to universal human rights and the notion of core labor standards expresses the idea of a minimum set of workers' rights, which are not related to the level of development and should not be trespassed.

The economic argument, as said before, heavily relies on the notion of "social dumping" contending that low-labor standard countries enjoy an unfair competitive advantage, which distorts trade and leads to a decline of labor rights/earnings in the developed economies.⁸ The argument is sometimes extended to FDI by posing that low labor standards favor the attraction of foreign capital eager to resort to cheap labor for production, thus placing at disadvantage those countries in which better labor practices prevail. In addition, there is the inherent risk of a "race to the bottom" as labor rights in industrialized countries could be eroded as a result of the continuous search for competitiveness. The argument therefore entails a sort of Gresham's law application to labor practices and rules: low standards drive out higher standards.

On the other extreme of the debate, opponents to the international harmonization of labor standards stress the protectionist flavor of campaigns favoring

⁸ From a theoretical standpoint, this argument builds upon the neoclassical postulate of factor price equalization developed within the framework of the Heckscher-Ohlin-Samuelson model. This postulate, however, has been seriously challenged due to its extremely stringent assumptions, among other, identical technologies and tastes among countries, lack of effect from scale economies and incomplete specialization. The Stolper-Samuelson model, that points out how salaries change as a result of variations in the international prices of goods, is thus considered more appropriate to address the issue. (see, for instance, Bhagwati and Kusters, 1994; Deardoff and Hakura, 1994; and Leamer, 1994).

it, as these are seen to be moved by the goal of restricting international competition.⁹ Standard trade theory underpins this argument by stating that countries tend to specialize in activities in which they enjoy a comparative advantage. Gains from trade are therefore positively associated with differences between countries. The more different two countries are, the more they will gain from trading. Although in the short term, trade liberalization will create winners and losers, gains for winners will surpass losses for losers in the long term. The imposition of labor standards would reduce, the argument holds, gains from trade by raising the cost of labor. Developing countries have a comparative advantage in low-skilled labor (an abundant resource) and therefore, they specialize in labor-intensive goods, while industrialized countries tend to specialize in the production of capital-intensive goods. Different levels of development account for the differences in labor standards.

In light of these considerations, the introduction of uniform standards would create a distortion by imposing artificial costs to consumers (in industrialized countries) and producers (in developing countries). Furthermore, labor standards could actually harm workers in the developing world. The rise in the cost of labor would translate in less jobs (and an increase in unemployment) or a reduction in wages (workers would be paying the higher standards out of their salary).¹⁰

Different actors align themselves behind each one of these arguments. Unions and development and human rights NGOs have been among the main supporters of international labor standards in the developed world. The greatest opposition against NAFTA in the early nineties and much more recently against the concession of the Trade Promotion Authority (TPA) to the President of the United States, came mainly from the AFL-CIO. An empirical study on the NAFTA voting in Congress shows that labor interest groups made representatives move away from free trade (Conybeare and Zinkula, 1996). Krueger (1996) analyzed Congress voting on the Child Labor

⁹ A counter-argument frequently used to dismiss this claim is that most of the low wage, low skilled intensive products that might be subject to some sort of sanction for labor violations are no longer widely produced in developed countries. Thus, any effort to amend that violation will simply shift production of the goods involved among places in the developing world.

¹⁰ Sometimes it is also raised the point that any enforcement of higher labor standards through trade sanctions would harm not only workers that are being mistreated at sub-standard locations when their exports are blocked but also workers whose work is properly treated.

Deterrence Act and found that representatives from states with higher union rates were more likely to cosponsor the Bill. He suggests two alternative explanations: workers in unionized sectors try to prevent foreign competition from eroding their rents; unionized workers and their representatives are worried generally about labor rights.

Although it is true that unions and import-competing firms from the north might be interested in restricting imports from the south, it is not less true that concern for labor rights has also arose among students with humanitarian intentions. The fact that the trade-labor agenda seems to be biased against the inclusion of certain issues, such as migrant labor, reinforces the distrust from developing countries.

Governments from many developing countries subscribe the view of a disguised sort of protectionism from developed nations behind the demands for labor standards harmonization or the introduction of social clauses in free trade agreements. It must be noted in this sense that developing countries' opposition to labor standards does not mean an endorsement to exploitation, but rather, that they are fearful of placing an instrument that may be used with protectionist aims by other countries, thereby creating another obstacle for their products' market access. Unions in the developing world despite their opposition to trade liberalization have not been generally supportive of international labor standards. The Third World Network, for instance, assumes that the promotion of international labor standards by the industrialized West attempts to blame cheap labor costs in Southern countries for unemployment, rather than pointing at technological change (Candland, 2002).

This controversy reflects, to a large extent, the complexities and nuances surrounding the debate. Actually, the issue may be even more intricate than the debate suggests. Indeed, although usually posed as an issue dividing developed and developing countries, wide disparities in labor rights between countries are frequently not as evident as they are within regions of the same country or from industry to industry. In other words, the issue might well cut across national borders and, more strikingly, levels of development.

The (missing?) link between trade and labor standards

Efforts to better grasp the link between trade and labor standards and rigorously assess its implications have proliferated in the last years, although they have fallen short of providing definitive answers to the question. Several factors account for these modest results.

To begin with, the very concept of “core labor standards” has not been free of criticisms on different grounds. As one author has stated: “This term gives the impression that the standards covered by it must be so basic that there could hardly be any disagreement on their desirability. Yet, the matter is not so simple. As Bhagwati [1995] argues cogently, once we get past slavery, universally agreed labor standards simply do not exist” (Panagariya, 2000: 10). The moral argumentation can be also attacked as a “northern” perception of fundamental rights and, therefore, can be quite easily depicted as a “value-related argument for suspending another country’s trading rights’ already protected” (Woolcock, 1995: 32). Further, ethical arguments in favor of labor standards entail the risk of readily relying on sanctions as a way of promoting the accomplishment of standards. In other words, there are certain rights that are independent of the level of development and therefore should be universally enforced.

When economic arguments are considered various reasons recommend cautiousness. A first problem lies in the fact that labor standards have proven highly difficult to measure, since no proxy appears to fully grasp the concept and existing ones are extremely difficult to be compared. Rodrik (1997), for instance, uses seven indicators to measure labor standards: the total number of ILO Conventions ratified by a country; the number of ILO Conventions ratified by a country among six conventions relating to “basic workers’ rights”; a synthetic indicator combining indicators of civil liberties and political rights; an indicator for child labor; the statutory hours of work in a normal working week in manufacturing and construction; the annual days of leave with pay in manufacturing and the percentage of labor force which is unionized¹. The OECD constructed a labor standard indicator based on labor regulations in eighteen OECD countries (Van Beers, 1998). The indicator is an index resulting from the addition of partial indices, which measure the stringency of government regulation in 4

variables: working time, employment contracts, minimum wages, and workers' representation rights. The index ranges from zero to ten. The lower the index, the less strict the labor regulations a country has.

A second problem, is that the difficulty in finding a valid and reliable measure of labor standards affects negatively the ability to reach any conclusive statement about the issue. The final result is that there is no definite evidence yet regarding the influence of labor standards on export performance and FDI attraction, as well as the impact of trade with developing countries on the labor markets of their developed counterparts (i.e., job losses or salary reductions). That is, empirical studies cannot, firstly, establish a clear association between low labor standards and a better record in export performance –fact that is confirmed by the experience of many developing countries itself. Neither those studies can convincingly show that, in line with the intuitive expectation, countries with higher standards are more attractive to FDI (Stern, 1999; Rodrik, 1997)¹¹. Finally, empirical studies have not been able to assert the determining role of international trade (in particular with developing countries) in the evolution of developed countries' labor markets (specially, low-skilled segments) vis-à-vis other factors such as technological change, educational and training policies and so on.

Similarly, the argument about the race to the bottom is challenged from different angles. To begin with, there is the fact that states within the United States differ in the stringency of their labor regulations but a race towards the lowest common denominator concerning labor protection has not ensued (Krueger, 1996). In addition, it is not necessary that the "race" will take place as there are different ways to prevent it. For instance, currency devaluation can reduce domestic costs in foreign currency terms and a wage downward adjustment also results in a reduction of labor costs. The other way around, the government can pay for higher standards through a tax increase (Rodrik, 1997). Furthermore, the OECD (2000) also highlights constraints to the race to the bottom: "Any firm that attempts to gain a competitive advantage by cutting benefits without paying increased money wages is essentially trying to cut

¹¹ It is interesting to note in this regard the increasing relevance in the past decade of new attraction factors, usually labeled as "strategic assets", that has little to do with labor costs, including the

wages below the workers' marginal value product. In competitive markets, pressure from other employers will ultimately force the firm to return to the original level if the firm expects to be able to hire workers." Finally, it appears that core labor standards are usually lower in non-tradable rather than tradable sectors. Those industries often deemed as worse for labor rights (textiles, carpets, garment, footwear, etc.) not always enjoy a large share of their countries exports (Carnegie Foundation, 2000).

From an institutional standpoint, certain labor standards can improve labor market efficiency and generate positive spillovers for the rest of society. Labor standards create incentives for entrepreneurs to seek productivity increases and invest in human resources (Bensusán-Damgaard, 1999). Free and democratic unions and collective bargaining impact positively on productivity by fostering cooperation and trust between employers and employees (Zoninsein, 2000). Collective bargaining, it is argued, can enhance the operation of the labor market and have positive political side effects (Krueger, 1996). Much more important, labor standards promote a more equitable distribution of the benefits from trade liberalization. A central element of the institutionalist argument is that a new institutionalization can ensure a more equitable distribution of the gains from trade, thereby granting a greater legitimacy for trade liberalization. The right to organize and collective bargain allow for the presence of representative unions, which is fundamental for the strengthening of a democratic society. Empirical evidence, however, has not confirmed the hypothesis that higher labor standards enhance productivity, and may even be counterproductive in certain occasions (Krueger, 1996).

It has been argued in favor of an international harmonization of labor standards that they could be useful for correcting market failures. Lack of information, unequal market power, discrimination based on race or gender among others, are reasons often cited as sources of market failure. However, it is arguable that harmonization would enhance market efficiency, since this would imply assuming that market failures are uniform across countries (Krueger, 1996; Stern, 1999). Harmonization could result, therefore, in considerable damage for the intended beneficiaries of higher labor standards.

skill level of the labor force, I&D facilities, educational standards, etc. (See, for instance, Chudnovsky and López, 2000).

Hemispheric Approaches to Labor Standards

Despite the fact that the trade-labor linkage appears to be an unresolved issue at the multilateral level, this has not prevented the emergence of regional or bilateral instruments on this matter. The most important initiatives of economic integration within the Americas suggest that there is no unique road to deal with differentials in labor standards, as they embrace approaches that differ in various dimensions. The first distinguishing aspect concerns whether or not the integration scheme includes a supranational instance of labor law harmonization. The second concerns whether or not such a scheme includes mechanisms to enforce existing labor standards, particularly trade sanctions.

Within the Free Trade Area of the Americas (FTAA) the issue has been part of the negotiation agenda. The idea of a social clause linked with the FTAA, however, was discarded by the Buenos Aires Ministerial Declaration: "We reiterate that one of our general objectives is to strive to make our trade liberalization and environmental policies mutually supportive, taking into account the work undertaken by the World Trade Organization and other international organizations, and to further secure, in accordance with our respective laws and regulations, the observance and promotion of worker rights, renewing our commitment to the observance of internationally recognized core labor standards, and acknowledging that the International Labor Organization is the competent body to set and deal those core labor standards" (FTAA Buenos Aires Ministerial Declaration, 2001: paragraph 4). The Declaration, although setting respect for labor standards as a goal of FTAA countries, rejects harmonization in the hemisphere and leaves in the hands of the ILO the management of labor issues. Latin American governments have rejected at the multilateral and regional level the entwining of trade and labor.

Largely because of the pressure exerted by American trade unions during the NAFTA debate, the US, Mexico and Canada signed the North American Agreement on Labor Cooperation (NAALC). This side agreement regulates labor issues among NAFTA countries. The treaty does not aim to harmonize the domestic legislation of country members, but to ensure that each country respects its own domestic norms. The

declaration of principles of the NAALC includes almost all basic labor rights. However, only trade related persistent violations in mutually recognized labor laws can be brought to a panel of experts. Furthermore, only violation of "technical norms" such as safety and health at the workplace, minimal wages and child labor is subject to evaluation. The violation, for instance, of the right to associate and collective bargain, the main concern for labor advocates in Mexico, is not a matter of trial. The dispute settlement procedure provided by the agreement is lengthy and its sanctions are negligible (0.007% of the value of trade between sides). Under the terms of the NAALC, any person or organization can complain about violations to another member country's national labor law. The complainant has no access, however, to the dispute settlement procedure but must have to resort to his own government which, after deciding to act on a complaint, brings the matter for consultation to the council of labor ministers. The Commission for Labor Cooperation is the main body created by the NAALC. Also, the agreement provides the establishment of National Administrative Offices in each country.

The NAALC has been severely criticized by labor advocates for being too soft. However, it is also true that it has been useful for enhancing transparency in labor affairs (Bensusán-Damgaard, 1999). In the same vein, Chile and Canada signed jointly with a free trade agreement a treaty on labor cooperation following a similar approach to NAALC's. This treaty practically replicates the NAALC and its consultation and dispute settlement procedure.

Initially, the Southern Common Market (MERCOSUR) did not include social issues in its agenda. This situation was amended in 1993 when a Working Group on labor affairs was created. This group was given the task of identifying main asymmetries between members and releasing proposals towards a harmonization of labor legislation within the block. The main instrument to achieve this goal was the ratification by all four members of a series of ILO Conventions. After the Ouro Preto Protocol of 1995, negotiations among countries pointed to the signature of a Social Charter for MERCOSUR, a long-standing demand of MERCOSUR unions. In the end, parties agreed to issue a Declaration, with the aim of avoiding the use of binding conventions with protectionist goals. The Socio-Labor Declaration of 1998 is an enunciation of workers' rights that includes not only core labor standards, but also the

right to strike and the right to an unemployment insurance, among others. The Declaration creates the MERCOSUR Socio-Labor Commission that is in charge of the surveillance of the Declaration. The Declaration has, nevertheless, a fundamental flaw: its provisions cannot be invoked in commercial, economic and financial matters; therefore, it is inconsequential in terms of harmonization or enforcement of labor standards in trade-related matters. For this reason, the recommendation to sign and ratify 34 ILO Treatises, submitted by Working Sub-Group 10 to authorities, could be more relevant in practical terms. At the time of writing, all four members have already ratified 11 of these 34 Treaties. This could be the first step towards the creation of a minimum framework of labor standards within the trade bloc on the basis of an approach that is more piecemeal and does not involve in practice the surrendering of authority to any intergovernmental instance to broker or supervise labor standards. However, the current crisis of the MERCOSUR economies, which has led the trade bloc to an impasse, and the non-binding nature of the Declaration have seriously affected this topic's further progress inside the bloc.

Instruments for the promotion of labor standards

Instruments for the promotion of labor standards range from corporate codes of conduct and labeling to trade sanctions. Labeling places the responsibility on the consumer, who ultimately will decide if he is willing to pay a surplus for a good produced under high labor standards. From this perspective, labor standards become a private good: consumers pay for what they consider as morally acceptable. It should be underscored that labeling prevents a protectionist use of labor standards, leaving the final decision with the individual. Several surveys have shown that in the United States people are willing to pay more (up to a 30% in a 100 US\$ product) for a good that is produced under sound labor conditions (Freeman, 2001).

NGOs have promoted the improvement of labor standards through campaigns and boycotts against companies accused of exploiting workers and violating their rights in the workplace. The anti-sweatshop campaign against brands like Philip Van Heusen or Gap for the working conditions in their Central American factories or sub-contracting firms is a good example of NGO/Human Rights Groups activities in this field. United

States Fruit companies like Chiquita or Del Monte have also been the focus of major NGO activism. Partly as a reaction to avoid the damage that knowledge of this kind of facts could cause upon their sales, firms have adopted codes of conduct that establish a set of principles governing labor relations inside the company. Notorious cases of this behaviors include Levi's, Wal-Mart, Nike and Reebok among others.

Punitive measures entail the adoption of trade sanctions against countries that do not respect core labor standards. This type of measures can be unilaterally or multilaterally imposed. Within the first type, it is worth highlighting the case of the United States trade legislation, which contemplates the imposition of sanctions in case of worker rights violations. The Trade and Tariff Act of 1984 establishes the failure to adopt internationally recognized workers' rights as a cause for a denial of trade preferences under the Generalized System of Preferences (GSP). The 1988 Trade and Competitiveness Act considers the persistent denial of workers rights as a reason for trade retaliation (Latin American Economic System, 1994). The use of unilateral action is not, however, free of criticisms. A crucial point in this regards is that the use of trade sanctions as a foreign policy instrument has blurred the ideal of promoting labor rights. Moral objectives thus become obscured or spoiled by *realpolitik* considerations.

Sanctions imposed at the multilateral level dovetail with the idea of creating a WTO-based regime on labor standards. This would be achieved through an expansion of the general exemptions under Article XX or the negotiation of a new specific agreement. Unlike the softness of ILO provisions, proponents of this solution underline that the WTO has a "big stick", as a result of the imposition of trade sanctions to the country in which substandard working conditions prevail. Very roughly, the system would work in this way: a country could file a complaint against another when the latter fails to provide and enforce any of the core labor standards, opening an investigation and dispute settlement procedure. The ILO assistance would be needed at this stage, as the WTO has not competency in investigating or adjudicating workplace conflicts. If a violation were found and the dispute-settlement mechanism were not able to rectify it, the complaining country (or eventually all WTO members if action were taken on a multilateral basis) would be allowed to apply trade sanctions (suspend trade obligations, impose quantitative restrictions or higher tariffs on that country's exports).

A WTO-based regime of this type has been challenged on various grounds. A first one is that the remedy can be worse than the illness as actions against violation of labor standards via trade sanctions threaten the jobs of the individuals whose rights and well-being the regime is supposed to improve. A second challenge is that trade sanctions would probably not discriminate between those exports from the offending country involving substandard labor practices and those that do not. As one author has put it, "The principal problem with the WTO-centered trade-sanctions system is not just that the WTO route is a blunt instrument, but that it relies for its clout on deliberately orchestrated efforts to interrupt host countries activities that extend upward and outward from the lowest-skilled 'dead end' jobs: semi-skilled in electronics, medical supplies, auto parts production, chemicals, machine tools, industrial equipment and data processing services are put at risk to improve substandard conditions at plants producing garments, footwear, toys, garden tools, or soccer balls" (Moran, 2001).

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