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INTERNATIONAL TRENDS ON LABOR STANDARDS: WHERE DOES MERCOSUR FIT IN?

Pedro da Motta Veiga (CNI, Brazil)
Miguel F. Lengyel (LATN/FLACSO)

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1. Introduction

During the 1990s, the issue of the diffusion and improvement of labor standards in an increasingly integrated world economy -that brought closely developed and developing countries- became more and more relevant in international fora. A myriad of attempts by developed countries, labor unions and NGOs (mainly from the North) to legitimize the trade-labor link became a distinctive trait of that period. According to these initiatives, trade measures, negotiated or not, could be used as incentives for the adoption of higher labor standards in countries allegedly refractory to those kinds of rules.

The idea of furthering the trade-labor link generated an intense controversy –actually, a North-South polarization. The opposition of developing countries to deal with the topic in multilateral negotiations did not mean, however, that the issue remained outside the boundaries of the trade agenda (and, by the way, outside the domestic policy agenda of those countries). Actually, the issue is being addressed through preferential trade agreements, developed countries' unilateral measures and non-compulsory initiatives involving governments, firms, labor unions, NGOs –from both North and South- and even multilateral organisms.

At the same time, the improvement of labor standards was addressed in non-trade fora and instances. At the international level, the ILO and its Conventions played a crucial role in the definition of a set of basic or "core" labor standards and that organization increasingly became the focus of multilateral negotiating efforts to the detriment of initiatives seeking to bring the issue to the WTO. Moreover, the treatment of the issue of labor standards improvement (LSI) significantly moved forward through a continuous and decentralized rule-making process that unevenly mobilizes firms, worker organizations, NGOs and consumer movements, and cuts across the local, national and international dimensions.

MERCOSUR did not remain at the fringes of these developments. Its member countries officially oppose any attempt to link trade and labor issues and, particularly, the claim that the diffusion of higher labor norms should be fostered through trade sanctions. Notwithstanding this position, the way MERCOSUR deals with LSI issue has also evolved, mirroring to some extent international trends. Indeed, some

institutional developments occurring since 1998 have meant a reorientation in the sub-regional approach to the issue as well as in the procedures and mechanisms to improve labor standards in practice. Member countries have also become more active in the international arena: the ratification of several ILO Conventions and the Argentine and Brazilian signature of the 2000 OECD Declaration on International Investment and Multinational Enterprises substantiate such a move.

During this period, the issue became more important in the domestic policy agenda of MERCOSUR member countries. Government initiatives at the national and sub-national levels, particularly in Brazil, have been geared to improve some basic labor norms (for instance, eradication of child labor). At the same time, firms, business associations, NGOs and labor unions have crafted initiatives that either move at the margins of official positions or attempt to get intertwined with them.

Both domestic and international and factors are at the root of these developments within the bloc. Domestic pressures, mainly from labor unions and other organizations of civil society, are frequently relevant to get the LSI issue in the government agenda. Trade concerns and international pressures seem to have played only a minor role in fostering initiatives on LSI and monitoring and improvement of labor rules within the sub-region. Situations in which these factors were influential include: firms that may be hurt by developed countries' decisions to tie the benefits of their Generalized Systems of Preferences (GSPs) to compliance with certain labor standards and firms in some sectors that may face pressures from importers or foreign investors to adopt work practices that show their commitment to respect "appropriate" labor rules.

The aim of this paper is to discuss major trends and developments on labor standards in MERCOSUR with a view to underscore their main implications for the bloc' international negotiations in the subject. In keeping with this goal, the paper is organized as follows. Section II looks at the treatment that international negotiations and initiatives have given to labor standards –and their relationship with trade- in the last decade, attempting to draw some stylized trends. Section III discusses the case of MERCOSUR, seeking to place its experience within the ongoing international debate and bringing into the analysis both public and private initiatives in the sub-region aimed at rising labor norms. Finally, Section IV discusses the options MERCOSUR countries

face today to deal with the issue, putting forward some reflections on alternatives to craft a proactive position in negotiation fora.

2. Labor standards in the international negotiation agenda

2.1. How the issue has evolved

2.1.1. Labor standards in the multilateral sphere: the growing relevance of the ILO and private initiatives

The relationship between trade and labor standards and, particularly, the issue of unfair competition stemming from heterogeneous labor norms across countries was addressed in Article 7 of Chapter II of the ill-fated Havana Charter, which would establish the International Trade Organization (ITO) in the aftermath of the Second World War.[1] Less ambitiously, the GATT only refers to the labor-trade issue in Item e) of Article XX, which bans imports made by prison labor.

Since 1953, the United States has been pressing in all trade negotiation rounds to include an article or provisions on labor rights in the GATT (Stern, 1999). In December 1996, a statement on fundamental labor standards was included in the Ministerial Declaration of the WTO at the First Ministerial Meeting held in Singapore. The WTO member countries renewed there their commitment to fundamental labor rights, supported collaboration between the WTO and the ILO, rejected the use of labor standards with protectionist purposes and recognized the ILO as the competent body in the subject. In the WTO Third Ministerial Meeting, held in December 1999 in Seattle, the United States proposed the creation of a working group on trade and labor while the European Union proposed a joint ILO-WTO Standing Working Forum. Canada, in turn, suggested a WTO Working Group on the relationship between appropriate trade, development and social and environmental policies. Several WTO members, particularly developing countries, frontally opposed these initiatives. The polarization between them and developed countries became particularly stiffer when the President

[1] Article I of the Havanna Charter included the attainment of higher standards of living, full employment and conditions of economic and social progress as one of its goals. 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).

of the United States –host country of the meeting- made a speech supporting the use of trade sanctions against countries that infringe fundamental labor standards -even named some of these countries, which were also WTO members. The Doha Ministerial Meeting (2001) reached a compromise on the issue for the time being. The Meeting's Declaration went back to the commitments adopted at Singapore in 1996, practically taking the issue of labor and trade out of the sphere of the WTO.[2]

In parallel to the initiatives fostered by the main players in international trade fora, the issue of the trade-labor link also evolved in non-trade multilateral and plurilateral negotiations. The dominant vision in those ambits gradually moved towards the goal of improving basic labor standards and fostering their diffusion rather than of turning trade rules into the disciplining factor to enforce their adoption.

The Declaration of Copenhagen on Social Development –the first to identify the fundamental labor rights and establish their universal character in 1995 -, the inputs of several OECD studies and the WTO Ministerial Declaration at Singapore, provided the background for the ILO Declaration of 1998 on Fundamental Principles and Rights at Work. Succinctly, this Declaration defines four fundamental labor rights while asking member countries to respect them regardless of whether they have ratified the specific conventions related to each right. It also underlines that those rights should not be used with protectionist aims. These "core" labor rights include:

- Freedom of association and the right to organize and bargain collectively;
- Prohibition of forced labor;
- Eradication of child labor;
- Equality of treatment and non-discrimination in employment.

The number of countries that have ratified the (seven) ILO Conventions supporting these core standards more than doubled from 1995. The eight fundamental convention (Nº 182), that prohibits the worst forms of child labor, in force since November 2000, was rapidly ratified by the majority of ILO member countries. Yet, the 1998 ILO Declaration and the ratification of its conventions did not mean that the implementation

[2] 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 underway in the International Labor Organization (ILO) on the social dimension of globalization" (WTO, 2001).

of rights quickly followed suit, even when the Declaration established a new methodology to further implementation based on the submission of annual reports. On the other hand, a 2000 broad review of the OECD guidelines for multinational corporations –adopted firstly in 1976- included recommendations on fundamental labor standards, especially on forced and child labor. The new document was signed by all OECD member countries and by four non-member countries, among them Brazil, Argentina and Chile.

In addition to trade agreements and intergovernmental regulations, several forms of private regulation emerged with the goal of propelling patterns of business behavior compatible with some basic labor standards. According to Haufler (2001), several factors induce the private sector –firms and business associations- to adopt these forms of self-regulation, including (i) the perception of the risks involved in public regulation and pressures from "anti-globalization" activists; and (ii) the purpose of improving firms' reputation –and turning it into a global corporate competitive asset- and responding to new ideas in the business community. As a result, both American and European companies are increasingly adopting, for instance in manufacturing sectors such as textiles and shoes, codes of ethic or social responsibility negotiated between employers and employees.[3] At the same time, large firms are resorting to private labeling programs both in developed and developing countries to promote the eradication –or reduction- of child labor or, more generally, to improve relationships with small suppliers from developing countries upon arguments of fair trade.

It is important to note that these arrangements and mechanisms have a positive rather than negative retionale, in that they focus on the promotion of a few and punctual universal rights instead of punishing an overall non-compliance with labor rules via trade. It needs to be stressed, however, that codes of conduct and other private regulatory mechanisms are extremely heterogeneous not only in terms of the rules and standards they address but also of the level of enforcement and the monitoring and assessment mechanisms they provide for. According to an ILO survey, "...only a third of the codes of conduct proposed by non-governmental actors refers to fundamental labor standards or to the rights included in the ILO Conventions and Recommendations." (quoted in Senarclens, 2000).

[3] See, for instance, Sabel et al (1999).

2.1.2. Labor standards and trade: regional agreements, unilateral trade policies and private initiatives

Struggling to make some progress in the multilateral sphere, the United States pushed forward the trade-labor link at the international level through unilateral trade measures and preferential trade agreements. In line with this, its GSP establishes since 1984 that any preferential treatment will cease in cases of forced or child labor and violation of freedom of association rights, that is, in cases of "internationally recognized worker rights".[4] The rights included in the American legislation do not exactly match those addressed by the ILO Conventions on fundamental labor rights, although they are inspired by the multilateral definition (OCDE, 2000). Eleven countries lost in 1996 their right to the benefits granted by the United States' GSP, although five of them recovered their former status later on.

A side agreement on labor issues (NAALC) was adopted within the framework of NAFTA in order to curb domestic opposition to the free trade agreement. It basically seeks to promote compliance with and effective enforcement of national labor legislation through government action. According to Aggarwal (1995), the NAALC contains a broader number of labor rights than the ILO Conventions and the United States' trade policy provisions. Indeed, it considers eleven general labor standards that must be promoted, from freedom of association to immigration policies, wage levels and working time. The NAALC proposes neither common labor rules nor uniform criteria to assess policies and practices; it establishes, instead, a specific dispute settlement procedure to which complainants may resort only in cases involving trade-related labor matters covered by mutually recognized laws. The procedure may be set in motion by a violation of the relevant national legislation, provided that the lack of compliance is a recurrent pattern and not just one isolated episode. Fines and trade sanctions (suspension of trade preferences) can be imposed only when three types of labor standards (minimum wages, child labor and safety and health) are at stake. Between 1994 and 1999, 22 public communications were submitted to the national administrative agencies of the NAALC. The majority of controversies involved alleged violations of the rights of freedom of association, to organize and bargain collectively

[4] The 1983 Law for the Recovery of the Caribbean Basis and the 1988 United States' Law of Foreign Trade refered to labor rights and provided for mechanisms for their promotion in countries that benefitted from preferential programs.

and to strike, although no fine or trade sanction was imposed as a result (OCDE, 2000).[5]

In the negotiations on the FTAA, the United States presented a negotiating draft text at the Negotiation Group on Investments by which signatory countries would commit themselves not to disregard or lower their domestic labor laws and standards in order to attract investments. A similar proposal on environmental standards was put forward. In turn, the 2002 Trade Promotion Authority Act (TPA) mandates the inclusion of labor and environmental issues in trade negotiations with the same priority status that the rest of topics in the agenda. The Act concerns the fundamental labor rights enshrined by the ILO and asks for compliance with their domestic labor laws by signatory countries.

The free trade agreement the United States struck with Chile in December 2002 –the first after the TPA was passed- seems to substantiate the view that the trade-labor link is gaining weight in the current American trade goals. In this sense, the American strategy essentially resorts to bilateral agreements in order to define a paradigm to deal internationally with labor standards, providing an alternative pattern to the prevailing in the multilateral arena.

The chapter on labor in the US-Chile agreement explicitly addresses the duties of the parties as ILO members and their commitments in view of the 1998 ILO Declaration on Fundamental Principles and Rights at Work. At the same time, it encompasses a broader set of principles and rights than the ILO Declaration, including "acceptable work conditions with regards to minimum wages, work hours and occupational health and safety."[6] A crucial element of the chapter is the parties' guarantee that national laws will recognize and protect those principles and rights, which in turn will provide the yardstick for assessing compliance with the agreement's provisions. Actually, the agreement acknowledges each party's right to establish its own labor norms as well as to modify them, without the latter entailing an infringement of the rights and duties included in the text. Finally, the agreement provides for a consultation procedure and does not rule out the possibility that parties resort to the dispute settlement mechanism

[5] This agreement was the pattern for the inclusion of labor issues in the free trade agreement recently signed by the United States and Jordan.

[6] The agreement states, in turn, that "the establishment of patterms and levels regarding minimum wages by each party will no be subject to the duties in this Chapter."

whenever one of them recurrently fails to effectively enforce its labor legislation, affecting thus bilateral trade.

With a less aggressive stance in the multilateral fora than the United States, the European Union also adopted measures to improve labor standards in its developing trade partners. The European GSP provides for supplementary trade preferences to countries that demonstrate their respect for fundamental labor rights while allowing, under certain circumstances, the temporary suspension of preferences as a result of labor practices deemed inappropriate. For instance, the European Council temporarily suspended in 1997 the benefits granted to Myanmar due to the extended use of forced labor in that country. In the Cotonou Agreement, signed by the European Community with the African, Caribbean and Pacific countries (ACP countries) in February 2000 and in the Development and Cooperation Agreement signed with South Africa in 1999, the signatory parties reasserted their commitment to comply with fundamental labor standards.

During the last years, the European Union has been explicitly detaching itself from proposals advocating the use of trade sanctions to enforce internationally agreed labor standards, while supporting at the same time the central role of the ILO in rule-making and the improvement of basic standards. In this sense, the European Commission's Program of Action for next years stresses the need of turning the ILO surveillance and promotion functions more effective the world over. It promotes, therefore, to by strengthen its monitoring mechanisms and procedures for submission of complaints and suggests the need to devise new incentives for improving fundamental labor standards. These moves could be crucial for countries that wish to definitively move labor standards away from the WTO and its enforcement mechanisms.

In line with the above approach, the European Commission (EC) proposes to strengthen the mechanisms included in the European GSP, which focus on compliance with specific fundamental labor standards by beneficiary nations. Moreover, it proposes that the European Union uses similar mechanisms in future bilateral agreements on trade and development, placing special emphasis on measures for the eradication of child labor.

A recent Communication of the EC defined the main elements of "an strategy for the improvement of social governance and the promotion of fundamental labor norms with a view to increase the contribution of globalization to social development and the respect for fundamental rights" (CE, 2001). This document frames the issue of fundamental labor rules within the broader purpose of promoting the social dimension of globalization by taking the 1995 Copenhagen Declaration on Social Development as a foundational text in the subject. As mentioned before, this declaration was the first to identify the fundamental labor rights and to affirm their universal nature, making all governments responsible for their fulfillment, no matter whether they have ratified the corresponding ILO Conventions or not.

2.2. The international approach to the issue: The "state of the art"

Some stylized facts serve to depict how the treatment of the issue has evolved at all institutional levels in recent years.

- The issue "labor standards" has gradually been circumscribed to the subset "fundamental labor standards," such as they were defined at the ILO, an institution that does not address trade issues. This post Uruguay Round[7] evolution removes the risk that the topic comprises not only rules on work conditions and processes but also on work remuneration and, hence, that undermines the comparative advantage of many developing countries;

- Multilateral discussions and negotiations have increasingly moved away from proposals stressing the use of trade sanctions against countries that violate agreed labor rules, thus reducing the potential use of standards for protectionist purposes. In turn, discussions at the ILO have leaned towards strengthening this organization's capabilities to monitor and enforce its member countries' compliance with multilateral conventions;

- Notwithstanding the above trends, attempts to link trade and labor standards have not receded. To the contrary, they have made substantial progress through preferential trade agreements, such as those recently signed by the United States,

[7] As Maupain (2000) notes, this distinction between fundamental and non-fundamental standards was not rosen by any national delegation to the Marrackech meeting, that ended the Uruguay Round.

that increasingly bring the issue within their purview: while NAFTA added a side agreement on labor to the agreement's main text, the chapter on labor in the US-Chile FTA is part of the main text and its disciplines are subject, among other things, to the agreement's dispute settlement mechanism;

- Even in agreements that endorse the link between trade and labor standards, the idea of uniform rules or convergence of national regulations around "best practices" has made way to proposals taking national norms as the agreement's rules. As part of this evolution, the agreements' jurisdiction lies on inter-governmental mechanisms to monitor compliance with their provisions;

- Although multilateral and preferential negotiations have different rationales and goals, they share the emphasis on a stronger monitoring and enforcement of rules; in the case of the ILO, those rules seek to be universal while, in the case of trade agreements, are national but may include the rights enshrined in the ILO fundamental conventions;

- A growing set of non-governmental initiatives is developing at the local, national and international levels as a result of business concerns and pressures from labor organizations, NGOs and activists. Only a few of these initiatives link trade and labor issues.

In sum, two patterns of rule making on labor issues have consolidated at the international and national levels since the late 1990s. One of them is informed by a top-down rationale and implies intergovernmental consensus-building on the content and implementation of rules. Within this pattern, the dominant views in the multilateral sphere, preferential trade agreements and developed countries' trade policy on the trade-labor link significantly differ.

The pattern unfolding in the multilateral arena sees the ILO as the institutional locus to deal with labor standards, de-linking them from trade negotiations and restricting them to basic labor rights. On the other hand, at the regional level, particularly in the American hemisphere, the issue is becoming gradually integrated in the trade agenda; that is, within the purview of trade agreements and their enforcement mechanisms.

These agreements stress compliance with national laws while instituting, at the same time, increasingly robust monitoring mechanisms.

The central rule-making role the ILO has been increasingly playing at the multilateral level –in detriment to the WTO- and the path taken by recent trade agreements suggest the limits of the prevailing approach on labor standards during the 1990s, which attempted to blend the harmonization of rules and policies with enforcement via trade sanctions.

The second pattern of rule making gathers non-governmental initiatives shaped by interactions mixing cooperation and conflict among firms, labor unions and NGOs. That is, in parallel to the state (*cum* international organization)-led pattern of rule-making, a continuous, decentralized and more "impatient" process is expanding with a rather different rationale. Indeed, it seeks to develop "credible and rigorous programs of workplace monitoring" –concerned, as state-led efforts, with the ILO fundamental rules but also with occupational health and safety issues- instead of arriving to consensual standards and uniform regulations or "rules of the game." (Fung, 2003).

There are no *a priori* contradictions between the rationales underlying the two patterns of rule making. Both might well be linked and, actually, some governmental and non-governmental initiatives are seeking to build bridges between formal and centralized processes of rules production and the decentralized monitoring and enforcement initiatives –which sometimes are also concerned with the continuous improvement of business-labor relations.

The following chart summarizes the current situation regarding the production of labor rules and standards.

Instruments	**Type of regulation**	**Link with trade**	**Main enforcement Actors**
Multilateral rules (ILO)	Public	No Only as a last resource (sanctions)	Government agencies
United States trade agreements	Public / bilateral or regional	Yes Fines and trade sanctions	Institutions created by the agreements, national authorities, labor unions, NGOs.

Firm codes of conduct and Social Responsibility initiatives	Private	Potential Vectors are inter-firm relations	Firms consuming products and using inputs from developing countries, NGOs, labor unions
Labor and trade union national legislation	Public	No	Government agencies
GSPs of developed countries	Public / unilateral	Yes Reduction or elimination of trade preferences	Authorities of the importing country

Note that the ILO Conventions are the sole international public regulations in the field while other rules are either just private –codes of conduct and the like- or public but national.

The above chart also suggests that only some of the vectors through which the process of international production and diffusion of labor standards is moving forward have, or seek to have, an impact on trade flows:

- Trade agreements between developed countries, especially the United States, and developing countries. Agreements involving the United States are gradually expanding their disciplines and increasingly accepting the use of trade sanctions;

- Developed countries' domestic legislation, which unilaterally makes the concession of tariff preferences to developing countries contingent on the latter's compliance with certain labor norms and standards; and

- A steadily growing demand in developed countries for final goods produced according to certain labor standards. This trend creates incentives for producing firms or retailers to push their suppliers along the production chain to adopt higher labor practices. This very trend is at the root of the private forms of regulation that seek to push firms to comply with pre-established norms and standards.

Yet, there are other production and diffusion vectors of labor standards that have little or nil impact on trade flows and whose rationale relatively bypasses the trade-labor link:

- The ILO rules such as they were finally crafted in the Conventions defining the core labor standards;

- The codes of conduct adopted by firms working for the domestic market;

- The greater lenience of developed countries' labor legislation with downgraded work practices and conditions in their home markets (the "flexibilization" issue); and,

- The pressures from Northern and Southern labor unions, worker organizations and NGOs for the adoption of higher labor standards in developing countries. Frequently, these actors get together in international networks around this goal.

3. Labor standards in MERCOSUR

3.1. The agenda on labor issues in MERCOSUR countries

MERCOSUR countries have systematically and officially rejected the idea of linking trade and labor norms while supporting proposals for strengthening the ILO and its conventions. This does not mean, however, that the situation in the sub-regional ambit has remained frozen during the last years. Indeed, negotiations and initiatives have been underway, bringing some modest but interesting changes in the official approach to the issue. Simultaneously, governments are developing (although with different degrees of success) their own programs to improve labor rules, some of them in partnership with civil society organizations and firms. Furthermore, non-governmental initiatives to monitor compliance with labor norms are usually accepted and even welcomed by public authorities, provided that they do not favor any link between trade and rule enforcement.

Labor laws have been an important part of the domestic policy agenda in MERCOSUR countries, independently from any connection with the trade agenda. In this sense, the debate about the "labor and union reform" got into the Brazilian and Argentine domestic policy agenda as part of the package of structural reforms of the 1990s and mobilized various interests and actors. Promoters of the reform called for the

elimination of the rigidities that the fifty-year labor legislation poses for managers to (re)-organize work and the use labor, on grounds that they impaired the competitive improvement of domestic production. Detractors, mainly workers and labor unions, labeled the reform as the “work flexibilization agenda” that basically sought to erode protection to worker rights, thus likely triggering a “race to the bottom” particularly in those economic activities in which workers were poorly organized. That is, they warned about the same risk that today concerns developed countries’ advocates of the link between trade and labor standards. It should be also note that the debate on labor law flexibilization took place in labors markets, particularly Argentina’s, where unemployment rates more than doubled during the 1990s (from about 8% to 18%) while precarious forms of employment and working conditions (temporary hiring, strenuous working time, overtime work without additional compensation, etc.) considerably expanded, whether allowed by legal provisions or not. This debate receded in the late 1990s after yielding some changes in labor laws, but is not settled. The larger partners of MERCOSUR continue to have sophisticated labor and union laws, that were “precociously” adopted and whose suitability in the current context of ever-changing conditions of competition and production practices is the subject of recurrent discussions.

In light of the former, the central issue on labor standards in MERCOSUR seems to be the effective compliance with existing rules rather than the introduction of new legislation. In other words, there is an institutional problem at stake that concerns the enforcement of domestic laws. It is not surprising therefore that both current public and private initiatives in the field have been generally driven by that concern. Government programs seeking the eradication of child and forced labor and private endeavors concerning codes of conduct, corporate social responsibility and publication of social balances are illustrative of this trend. Yet, the scope and level of development of these multiple initiatives varies within MERCOSUR and, particularly, between Brazil and Argentina, the two major partners in the trade agreement.

In addition to the enforcement of basic labor standards, that essentially involves farming and urban service activities, a series of initiatives geared to improve work conditions both in “mature” and modern economic sectors have recently emerged with the involvement of firms and unions. Actually, firm restructuring during the 1990s and the adoption of new production practices –outsourcing, subcontracting, firm

networking- have posed new challenges for labor unions, which tend to perceive these practices as a “move” to erode well-entrenched labor rights.

Similarly, the issue of business “social responsibility” is increasingly relevant in MERCOSUR, addressing mainly the question of firm relations with workers and their unions. Initiatives such as the publication of social balances, the implementation of codes of conduct and the participation of companies in public and/or private projects that seek the eradication of work practices banned by ILO Conventions are spreading, particularly among big firms.

In sum, several initiatives that seek compliance with or the improvement of labor rules –diverse in terms of goals, operative rationales and actors involved- are taking place simultaneously within MERCOSUR and its member countries. This complex dynamics is an increasingly important source of production and diffusion of higher labor standards, although only a few initiatives are related to the debate on the trade-labor link or are understood by public and private actors as involving an “international relations” dimension. These efforts to enforce and improve domestic labor laws hardly mesh, of course, with the “labor and union reform” agenda. A more detailed account of ongoing initiatives to rise labor standards serves to substantiate the scope and intricacies of the issue within MERCOSUR.

3.2. The evolution of sub-regional arrangements on labor

The Treaty of Asuncion, which laid the ground for the establishment of MERCOSUR, neither included social issues in its provisions nor provided a specific space in its institutional architecture for addressing them. This situation was amended in 1991 due to different stakeholders’ complaints (mainly labor unions) about the overly economic and trade biases of the arrangement. The so-called Working Sub-Group 11 (renamed Working Sub-Group 10 on “Labor relations, employment and social security” since 1995) was thus created by the executive authority of MERCOSUR (the Common Market Group) to deal with labor affairs. In line with the overall spirit of the sub-regional agreement, this institutional change did not involve, either formally or in practice, the surrendering of national authority to any MERCOSUR instance to broker or supervise

labor standards. However, it departed from the agreement's original criterion of involving only government officials in its institutional organs by broadening participation to business representatives and unions.

The Sub-Group's initial approach to the issue was basically "legalistic", i.e., driven by the concern to identify main asymmetries among the labor legislation of member countries and to release proposals towards its harmonization. To that end, the Sub-Group submitted to MERCOSUR authorities the recommendation to sign and ratify 34 ILO Conventions, including the fundamental ones. This bunch of conventions, several of which all members had ratified by mid-1990s, would provide the basic parameters guiding harmonization efforts, although it did not mean that other rights enshrined in the national laws were to be ignored.

This approach to the issue was deepened after the signature of the Ouro Preto Protocol in 1994, aimed at consolidating the institutional structure of MERCOSUR.[8] In response to long-standing and increasing demands of unions, the adoption of a Social Charter for MERCOSUR got into the negotiation agenda. However, because of the opposition of business representatives and governments' feeble political will, the initiative never took off (Klein, 2000). Instead, parties agreed three years later to issue the less ambitious Socio-Labor Declaration of MERCOSUR, which recognized a whole set of labor rights including prohibition of forced and child labor, freedom of association, collective bargaining, non-discrimination and occupational safety and health in the workplace, among others. Crucially, the Declaration kept the spirit of avoiding linking labor issues with trade by establishing that its provisions could not be invoked on commercial and economic grounds.

The impact of these initiatives, particularly the Socio-Labor Declaration, has been rather modest in terms of creating a common framework of labor standards within the trade bloc. To be sure, they have brought about some progress in that member

[8] As part of this effort, the Economic and Social Consultive Forum was created as an instance of representation of the economic and social sectors of MERCOSUR. As indicated by its name, its role is only consultive and it addresses regional authorities by means of recommendations. In practice, the Forum works as a space for deliberation and its agenda goes beyond the issue of labor standards to include, for instance, employment and industrial policies, consumer protection and the relationhsip between MERCOSUR and the FTAA.

countries ratified the same group of ILO Conventions, generating thus a higher degree of compatibility among national labor laws "by coincidence" (OIT, 1999). Yet, they have failed to set in motion a gradual process of convergence towards a set of uniform labor rules within the sub-regional space.[9]

Even though, the impact of the Socio-Labor Declaration went beyond the issue of law harmonization by placing a novel emphasis on the enforcement of labor standards. Indeed, it created the Socio-Labor Commission in 1998 with the main goal of establishing a formal sub-regional instance to monitor and enforce compliance with the principles enumerated in the Declaration. The Commission enlists labor unions and business representatives and works on the basis of what some of if its participants have called a "constructivist" approach. Succinctly put, this entails the definition by the Commission of least-common denominators of compliance with labor standards, which provide the yardstick for assessment of labor practices in each member country. While National labor inspection agencies are responsible for monitoring compliance, the involvement of local worker and business representatives in this task is also sought, taking place in practice unevenly across sectors. Such agencies are also in charge of elaborating annual assessment reports (memories), on the basis of which the Commission may upgrade least-common denominators of compliance every two years. The Commission is endowed with the right of "insistence" upon national governments when agreed thresholds are not observed, although the authority to apply sanctions in the case of violations remains wit national governments, as no delegation upwards to the sub-regional body has been established.

The work of the Commission has so far progressed slowly and in a piecemeal way. It has been able to define least-common denominators of compliance for a few labor standards in particular good or service-producing activities. Memory production has followed the same path and it has led to a redefinition of denominators for assessment only in a few cases. To a considerable extent, this performance has to do with the fact that the Commission was not able to detach itself from the ebb and flows of the integrationagreement as a whole, when the economic crises disrupted Brazil-Argentina

[9] It is worth noting that the agenda of Working Sub-Group 10 has inlcuded topics such as the creation of a Labor Observatory and a system of occupational certification, the development of comarative assessments of labor laws and industrial relations systems and the formulation of proposals for the establishment of regional labor laws.

relationship since 1999 on. However, this modest performance may be also related to shortcomings in the design and procedural criteria of the Commission. Just to mention a few important ones, the Commission neither has adopted a basic but rigorous methodology to assess and compare results nor has it developed an information base to pool and take stock of monitoring outcomes. It also relies too heavily on government monitoring and enforcement capacities at a moment in which these are in a clear shortage, while lacking effective mechanisms to get a broader and more systematic participation of labor and business representatives in those tasks. It should also be borne in mind that "informal sector" activities account today for roughly 50% of GNP in the two larger MERCOSUR partners, substantially raising the burden of monitoring. Finally, the Commission has not either addressed the issue of the incentives to motivate collaboration at the firm level.

The former should not underestimate the novelty and valuable traits of the Commission as a sub-regional institutional initiative to foster compliance with and improve labor standards. Some aspects need to be highlighted in this sense. First, it conceptually departs from the idea of a fixed and homogeneous regulatory system of labor rules, being thus potentially well endowed to deal with dynamic and diverse production practices. Further, it provides a window of opportunity to establish an ordering and coordinating instance at a time when manifold, even disparate, regulatory experiences on labor standards are proliferating at more dissagregated levels of the MERCOSUR economies. In other words, operative and instrumental shortcomings should not conceal the conceptual strengths of this institutional innovation.

In addition to the work of the Socio-Labor Commission, more punctual initiatives on labor standards have recently started to unfold at the level of the sub-regional agreement. That is the case with the eradication of child labor, addressed during the 2002 MERCOSUR Labor Summit, on which the elaboration of a Guide to Inspect Child Labor was agreed. The first draft of this guide was discussed in December 2002 and at present countries are working to get a refined version of it. Further, the Sub-group 10 has recently started discussions to harmonize the national laws of member countries on the issue (see more on this issue below). Similarly, the Labor Summit has also stressed the need to set in motion a sub-regional labor market observatory as a technical agency in charge of identifying and keeping track of the major impacts of the trade integration agreement on the labor markets of member countries. According to

union representatives attending the summit, the preparatory work to set up the observatory should shortly start.

3.3. A map of current initiatives and positions on labor standards in MERCOSUR

3.3.1 Government initiatives and programs

A. Brazil

Brazil is known at the international level as one of the most ardent critics of the idea of including labor issues in the trade agenda. The Brazilian official view, maintained during the 1990s and shared by many other developing countries, holds that developed nations could use the inclusion of those issues either in the WTO and/or in preferential trade agreements as a vehicle for trade protection.

In line with its support to the ILO as the appropriate forum to take care of labor issues, Brazil adopted a proactive position in the ILO negotiations and decisions on labor standards. Accordingly, Brazil has already ratified five out of the seven ILO fundamental conventions by the end of 1995, the exceptions being those on union freedom (Convention Nº 87) –that clashes with constitutional provisions- and minimum age (Convention Nº 138). In addition, Brazil ratified what would become the eight ILO convention (Nº 182) in November 2000, which bans the worst forms of child labor.

The ILO objected Brazil's behavior with regards to Conventions Nº 29 and 105 on forced labor. Also, the country faced complaints for violations of such conventions under the special procedures the ILO provides for. According to an OECD report (2000), "In Brazil, the government took seriously the ILO comments and established new procedures for control and other measures in order to identify, prohibit and punish violations to the principles on forced labor." Brazil is also quoted in the ILO monitoring documents as a country that restricts union freedom due to its constitutional principle of "labor unity", which is being gradually abandoned in practice.

Still at the international level, Brazil joined the 2000 review of the OECD Guidelines for Multinational Corporations and Foreign Investments, even when it is not member of such organization. As a result, Brazil set in motion the National Point of Contact within

the Ministry of Finance in May 2003. This point of contact is responsible for promoting those guidelines at the national level, responding to information requests about them and discussing issues concerning the working of the instrument in particular situations. Therefore, its establishment was a central element in the OECD review of the Guidelines implementation procedures in Brazil. (Vilmar, 2002).

During the 1990s, the Federal Government implemented several programs geared to increase the enforcement of ILO Conventions. The most relevant in terms of scope and results is the Program for the Eradication of Child Labor, coordinated and financed by the federal government and implemented be state and municipal governments. The Program reached national status after it was implemented on a trial basis in five states located in different Brazilian regions. Its goal is to withdraw children between 7 and 15 years old from hazardous, distressing, unhealthy or degrading activities, such as they were defined by national laws and ILO Convention Nº 182 on the worst forms of child labor. Among the activities classified as such, several are related to export sectors (orange, cotton, tobacco, stone extraction, etc.). Families with income levels falling within the "extreme poverty" category are beneficiaries of the Program. Those families receive subsidies that seek to substitute for the income accruing from child labor, thus allowing children to attend school. The Program's results have been usually deemed as highly satisfactory. Indeed, it has virtually achieved the eradication of child labor in some activities that are geographically concentrated, such as orange cropping in Sergipe.

Notwithstanding this success, 12,7% of all children between 7 and 15 years old were still working in Brazil in 2001, a high although declining figure from the 19,6% in 1992. Obviously, this reduction cannot be credited only to the Program or to government initiatives, although it seems clear that they largely contributed to reduce the extension of the phenomenon in Brazil.

B. Argentina

While holding an official position opposing the inclusion of labor issues in the trade agenda, Argentina has adopted a lower profile than Brazil in international trade negotiations over the past decade. That is, it has usually joined other developing countries' declarations on the issue at the international trade fora or declarations of its

own vintage have been milder and less categorical than the countries' heading the opposition to the trade-labor link. To a large extent, this mirrors Argentina's standing in other highly sensitive issues for developing countries in trade fora (i.e., TRIPs and export subsidies) and reflects an still unsettled domestic controversy on how to deal with differentials in labor standards across countries.

In line with this, Argentina's endorsement of the ILO as the pivotal institutional ambit to address labor issues has been less emphatic and explicit than Brazil's. Notwithstanding, the country has been ready to ratify a broader number of ILO Conventions than its larger MERCOSUR partner, including all conventions on fundamental labor rights. Yet, as in the case of Brazil, Argentina has been subject to several ILO objections with regards to worker freedom of association because of the mandatory unionization and single representation principles enshrined in the national union laws. However, such objections have receded in the last years as those principles have gradually been relaxed in practice.[10]

As Brazil did, Argentina joined as a non-member country the 2000 review of the OECD Guidelines for Multinational Corporations in 2002. As a result, it set up the National Point of Contact within the Ministry of Foreign Relations to carry out the tasks of promoting and disseminating the Guidelines as well as mediating among parties on conflicts emerging from their application. To be operative, however, this initiative has a long way to go; indeed, as noted by public officials recently interviewed, specific procedures need to be established particularly regarding the dispute-mediating function. So far, the Argentine Point of Contact has met last April with its Brazilian and Chilean peers to discuss their previous experiences. It is expected that the initiative will gain momentum once the new Argentine government takes office in late May.

As in Brazil, the most ambitious Argentine government initiative on labor standards concerns the eradication of child labor. It should be borne in mind that this type of labor had its peak in Argentina by the end of the XX century: about 21% of children between 5 and 14 years old were then working (20% and 32% in urban and ruralareas, respectively) accounting for nearly 10% of the total working population (National

[10] For instance, the government granted a *de-facto* recognition to two labor confederations, the Argentine Worker Central (CTA) and the Dissident General Work Confederation, that emerged with a critical stance towards the legally recognized General Work Confederation.

Agency on Social Security Policy, Ministry of Labor, 2002). The initiative was framed within the Argentine ratification of the ILO Convention Nº 138 and involved the implementation of a National Program for the Eradication of Child Labor in 2001, under the aegis of the newly-created National Commission for the Eradication of Child Labor (CONAETI). In addition to the Ministry of Labor, the Commission comprises national ministries from related areas (Economy, Social Development, Education, among others). It also gathers the participation of labor unions (labor confederations and the rural worker, construction, shoe and textile unions), business associations (the Argentina Rural Society and Argentine Rural Confederation) and the catholic church, and gets the advise of international organizations (ILO and UNICEF).

The Commission is the coordinating agency of programs to be designed and implemented at the regional, state and local levels according to the National Program's guidelines. The Program main goals are to identify the use of child labor all over the Argentine territory, monitor and enforce compliance with existing rules and increase social awareness about the problem. To those ends, it provides for the establishment of a centralized database on child labor and the creation of inter-sectoral networks at the regional and local levels that should coordinate their work with national and state public inspection agencies.

There is no conclusive evidence yet about the impact of this initiative, although it has shown some limits to smoothly move forward. According to public officials, fiscal strains at the national and state levels have impaired inter-jurisdictional coordination and the development of fully working links between public inspection agencies and inter-sectoral networks. As a result, only in a few states (Misiones, Tucumán and Salta) joint monitoring efforts have taken-off and relevant state agencies are coordinating actions. At the same time, the design and implementation of complementary policies (for instance, subsidies for parents to withdraw children from work and send them to school) are still in the pipeline.

3.3.2 Non goverment initiatives and proposals

A. Brazil

It is almost impossible to make an exhaustive list of non-government initiatives to improve labor standards in Brazil. This is so due to their decentralized nature and to the fact that sometimes they address specific standards (i.e., child labor) and sometimes address the issue within the framework of a broader question (i.e., firm social responsibility).

With this cautionary note in mind, those initiatives can be classified in four types:

- Initiatives seeking to eliminate “archaic” forms of people’s insertion in the labor market, such as child labor, forced labor, fully “informal” forms of unemployment, etc.;
- Initiatives seeking to monitor or enforce fundamental labor standards and standards on work health and safety in the modern sectors of the economy and, particularly, in transnational companies;
- Programs to install and develop “social responsibility” practices in firms, such as assessment and self-assessment mechanisms, audits, certifications, etc.;
- Actions by exporting sectors or firms to respond to requests or pressures from importers.

The first type of initiatives is usually related to government projects. However, among the autonomous ones, the constitution of the Fundaçao Abrinq in the mid 1990s stands out. Its main goal is the eradication of child labor, within the broader concern of promoting the social inclusion of children. The Fundaçao developed the Selo Abrinq (Abrinq label), that is granted, after verification, to firms that do not to use child labor and are thus classified as “friend-of-child companies”. It is worth noting that firm commitment is related just to in-house production; therefore, the label a firm obtains does not imply that its part and input suppliers do not employ child labor.

The most encompassing and systematic second-type initiative is the one developed by the Observatorio Social (OS, Social Observatory in English) since 1997. The OS is an institution linked to the Central Única dos Trabalhadores (CUT), a trade union closely

related to the Partido dos Trabalhadores (PT), currently in power. Its goal is to monitor labor and environmental practices of large national and foreign firms in Brazil. The ILO fundamental conventions and conventions on occupational health and safety as well as various environmental issues are pivotal parameters for the OS work. The OS strategic prospect is to be part of ongoing efforts for the "globalization of rights."

The birth of this initiative is closely linked to developments on labor standards at the international level. Trade and international integration issues got into the agenda of the CUT leadership by the mid-1990s, emerging in discussions on the organization's stance in MERCOSUR and the inclusion of a "social clause" in international trade agreements –a debate promoted by some labor unions from developed countries in trade-union fora. The issue of the social clause was raised by the International Relations Secretariat of CUT within the Brazilian labor union, following the Marrakech Agreement and pressures from the United States and France to include the issue in the WTO. The Executive Office of the CUT passed a decision favoring the clause with certain reservations because of its fears about developed countries' protectionist use of the mechanism. In 1997, the CUT created the OS even when its adherence to the social clause proposal was partial. At that time, the labor (or social) agenda was also gaining momentum in MERCOSUR.

The initial discussions to set up the OS involved the CUT, some Brazilian research institutes related to the labor movement and the Holland labor confederation (FNV). The greater relevance of negotiations on labor in MERCOSUR raised the possibility to set up the OS for the whole sub-region, although the idea has yet to materialize. The ILO and labor unions from developed countries such as the United States, Holland and Germany financially support the OS. Support from external sources has led its inquiry and monitoring work to focus on multinational corporations mainly from the countries where funds were coming.

The OS has made several inquiries, with and without multinational firms' cooperation. According to technicians at the OS, firm collaboration varies a lot, although it has been lately on the rise due to managers' increasing awareness of the risks involved in non-cooperation. The precondition to start an inquiry is a request from a Brazilian labor union or an expression of interest by any of the foreign labor confederations to which the CUT is related. Inquiry reports are handed in to firms for analysis and adoption of

recommendations, and are made available to the public whether or not firms accept them. According to OS representatives, recommendations sometimes trigger a reorientation of human resource policies; pressures from the headquarters –frequently subject to pressures from unions in their home countries- are crucial for this to occur. Some of the strongest unions in Brazil (metallurgic, chemical and, to a lesser extent, food-processing unions) often appropriate the OS inquires to use them as a tool for negotiations with managers.

The OS has recently been working on issues and initiatives stemming from business and non-governmental circles, such as the business-promoted social responsibility actions. In those cases, the aim of the OS is to assess the limits and possibilities of these lines of action. Acknowledging that they may open new spaces for business-labor negotiations, the OS managers are however intrigued by the fact that none of these initiatives has involved suppliers along the production chain.[11] At the same time, the OS is discussing a partnership with Fundaçao Abrinq with the aim of linking the former's inquiries to the latter's labeling activities.

In addition to all the former, the OS acknowledges that a set of non-binding initiatives, such as the OECD Guidelines, open promising possibilities for improving labor standards and their enforcement. In line with this, the OS is organizing several workshops to discuss with unions how to best use the Guidelines. Further, the CUT grounded on the Guidelines a notification it made to the Brazilian government in 2002 reporting an European firm's lack of compliance with the practice of informing in advance the closure of one of its production facilities in Brazil.

The bottom-up dynamics of the OS actions does not exclude efforts to influence the top-down rationale of government rule-making on labor rights. Accordingly, the OS as well as the CUT are seeking that the public National Bank for Development (BNDES) ties its long-term loans to firms' appropriate labor and environmental practices. Similarly, they are pressuring state pensions funds to take labor conditions into account when they make their investment decisions. These efforts have not been very successful so far.

[11] Actually, they recognize that the fact that the OS never made an investigation on production chains is a severe gap in its own experience.

In sum, the OS provides a very interesting example of a bottom-up initiative to monitor work conditions. While emerging from the CUT's international relationships with other labor trade unions –that support the inclusion of a social clause in trade agreements-, it has developed its own analytical tools and evolved into a network-type of organization that links initiatives from the business community, NGOs, the federal government and intergovernmental organizations such as the ILO.

The third type of initiatives, which revolve on the social responsibility issue, has mushroomed in Brazil in recent years. The elaboration and disclosure of social balances is a case in point. Two particular experiences, the Instituto Ethos de Responsabilidad Social, (the Ethos Institute on Social Responsibility) and the Instituto Brasileiro de Análises Sócio-Económicas, IBASE (Brazilian Institute of Socio-Economic Analysis) are illustrative of this trend.

The main goal of the Instituto Ethos is to support firms' efforts to internalize social management practices in their strategies and management tasks. The Instituto was created in 1998 after the BSR (Business Social Responsibility) model with the impulse of eleven businessmen from the Pensamento Nacional das Bases Empresariales, PNBE (National Thought of Business Bases), an organization that severely criticizes traditional businessmen. The Instituto gathers today 750 companies and gets its funds from associated firms and diverse foundations and sponsorships. It does not sell services and its priority is to jointly act with the media, enterprises and the academic community, considered the "inducing groups",

The Instituto developed a tool for firms' self-assessment, the Indicadores Ethos (Ethos Indicators), that comprises seven broad areas of social responsibility, among them "relationships with the internal public" (including relationships with unions), "health care", "work conditions and safety" and "participatory management." In addition, it designed a methodology to elaborate companies' social balances. Although the tool is not a certification device and is thought for self-evaluation, the Institute can compare performances under request of firms. It does not make results available to the public, although its website contains a database on firms' performance that describes, upon companies' authorization, some of the best practices in various social responsibility areas.

According to the Institute's Deputy Director, the interest of international investors -including institutional ones- in firms' social performance, particularly in those aspects that may strongly affect returns to investments (i.e., the environment and corporate governance), is an increasingly strong incentive for the adoption of social responsibility practices and assessment methods. In this view, pressures coming from trade links –that is, from the need to respond to importers' requirements or consumers' exigencies in export markets- would be just a secondary motivating factor for the firms associated with the Institute.

The IBASE came to the forefront on the social responsibility issue by its pioneer design of a methodology to elaborate and disclose firm social balances. This practice -first adopted in Brazil by the state chemical firm Nitrofértil- was circumscribed up to the 1990s to a few public enterprises using different methodologies. The methodology that IBASE created in 1997 establishes that social balances should be disclosed to allow public assessment of firms' practices and their evolution. IBASE launched its Social Balance Label in 1998, to be conferred to all firms that made and published their social balances according to IBASE's methodology. Two hundred public and private, national and multinational companies from different manufacturing (chemical, steel and minerals, paper, food and machinery, among others) and service sectors (power generation and distribution, telecommunications, financial services) were credited with the label in 2001.

The fourth type of initiatives, driven by trade considerations, is much less widespread than the former three and there is scant record of actions taken on those grounds. Yet, initiatives whose goal is, for example, the reduction of child labor may work in export-oriented activities as preventive mechanisms of adjustment to situations in which pressures or complaints from importing countries are highly likely.

A case in which trade crucially motivated higher labor practices is orange juice export, an activity in which Brazil ranks first at the world level. Since mid-1990s, exporters of this product became increasingly concerned with ongoing discussions on child labor and the eventual use of trade sanctions to curb this practice. In addition, some large American companies supplied by Brazilian orange juice requested ABECITRUS –the business association representing orange juice exporters- to organize a visit of their managers to production zones, including those employing child labor. In response,

ABECITRUS not only started a systematic effort to made it known to the Brazilian public and abroad that its members did not employ children but also signed a public commitment with the ILO and UNICEF to encourage its members and all firms along the production chain to eliminate such kind of labor. As a result, all contracts signed between ABECITRUS members and orange juice producers include a clause providing for its rupture if children are employed in the orange harvest. In addition, exporters financed the construction of schools in orange production zones that would work all the year around. These actions were complemented by government initiatives, particularly in Sergipe (an orange production area in the Brazilian Northeast that accounts for about 1% of total exports and where child labor recorded the country's highest levels), within the framework of the Program for the Eradication of Child Labor.

b. Argentina

Private initiatives in Argentina seeking to improve labor standards or their enforcement have emerged later, have a narrower scope and slightly differ from Brazil's in terms of goals, driving forces and procedural rules. These initiatives may be grouped in three main types:

- Initiatives seeking to improve work condition standards and increase compliance with them in traditional sectors of the economy;
- A program to induce large firms working in various good and service-producing sectors to adopt "social responsibility" practices; and
- Internationally prompted initiatives to develop codes of conduct in multinational firms operating in Argentina's service sectors.

The first type of initiatives includes a program to improve working conditions in the construction industry and an instance of institution building to curb "informal" employment practices in rural activities that, by extension, has become concerned with higher labor standards. The program, titled as Integral Program on Safety and Work Conditions, was jointly designed by the construction workers' union (UOCRA) and building companies in 1997 to deal with the increasing number of accidents at building sites following the reform of the regulatory regime of risks at work in mid-1990s.[12] It

[12] The reform modified the National Law on Work Accidents, slashing historical average compensation levels by two thirds, allowing its payment in several shares and making private insurance for risks at work

focuses on worker training on safe work practices (in line with existing regulations) to prevent accidents at the workplace and provides for in-class, distance-learning and on-the-job training modalities. The Program also offers standardized and customized training activities and favors joint actions with technical and specialized research and educational institutions to improve training quality. Furthermore, it has implemented a periodical survey to keep track of changes in technology and work practices and to adjust course contents therein. The Statistical and Register Institute for the Construction Industry (IERIC) -created by the same parties following the government decision in mid-1990s to privatize control activities in the building industry- is in charge of the program. In 1998, the Integral Program established standards on training and criteria on labor categories that were later approved as national standards by the National Institute of Technical Education from the Argentine Ministry of Education.

Although a formal monitoring mechanism is not provided for, the design of training activities often involves visits by IERIC's members to building sites that serve to check and assess health and safety conditions. Assessing minutes have to be approved by both union representatives and firm managers, and the Ministry of Labor may intervene as an appeal instance when conflicts on assessment emerge. To further strengthen its monitoring tasks, the IERIC is developing a scheme of monthly workplace inspections and a practical guide to assess compliance with health and safety rules that includes recommendations to gradually bridge gaps between norms and practice.

The Argentine Union of Rural and Stowage Workers (UATRE) propelled the second endeavor while the farm business associations readily joined it. It involved the creation of the National Register Office of Rural Workers and Employers (RENATRE), jointly run and financed by the founding parties, to keep record of employment relations involving permanent, temporary and seasonal rural workers. The RENATRE is entitled by the Ministry of Labor to provide the Work Card to all rural workers, provided that they are employed under conditions that fully meet existing legislation. To that end, the

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mandatory for all firms. It significantly lowered firms' motivation to reduce risks at the workplace while not providing for any insurance companies' inspection or monitoring obligation. Notwithstanding its mandatory nature, many small firms have opted for not contracting any insurance at all, preferring to face an eventual compensation payment that to afford high insurance primes on a regular basis. It is important to note that the law reform was complemented by moving jurisdiction on lawsuits regarding accidents at work from the taditionally "worker protective" labor courts to newly-created and more lenient retirement pension courts.

RENATRE conducts periodical surveys on employment conditions the rural labor market. The Work Card, in turn, is the document that entitles workers to qualify for social security benefits. As a by-product of its main task, the RENATRE also monitors from time to time working conditions (health and safety, working hours) and the use of child labor in rural areas, handing in the information to the national or state inspection agencies.

The second type of initiative gathers a growing number (around thirty at present) of both national and foreign large firms that mostly produce final goods or services (soda, cookies and candies, beer, petrochemicals, steel products, automobiles, dairy products, credit cards, telecommunications, etc.) and turn over around 15 billions a year. Mainly motivated by concerns to improve their corporate image and reputation and thus obtain a competitive edge, these firms firstly adopted social responsibility practices on an individual basis and later jointly established with the Ecumenical Social Forum (comprised by different churches) a contest on companies' best practices. To that end, they commissioned to external consultants this year the elaboration of the Index of Firm Social Responsibility (IRSE), on the basis of which performance will be pondered and a prize will be annually given to the company ranking the highest. The Index comprises a series of common social performance yardsticks mostly referred to firms' activities that are deemed beneficial for society as a whole (voluntary social work, support for child health and education, technical assistance to NGOs, contributions to maintenance of local infrastructure, environment protection and the like). Yet, the Index also includes a couple of performance yardsticks addressing company work environment (health and safety conditions, working time) and compensation policy. The initiative provides for the participation of private auditing companies or research institutes as monitoring agents and its ultimate goal is to issue a "label of social endowment", modeled after ISO norms on production practices.

The last type of initiative has its roots in the global agreements the Union International Network (UNI)[13] made with the Spanish telephone company, Telefónica, and with the Spanish largest banks, Santander (BSCH) and Vizcaya (BBVA) in 2001 for the adoption of codes of conduct in these companies' branches around the world. In the

[13] The UNI is the largest union network the world over, gathering around 800 unions from the service and information technology sectors and 15,5 million members from more than 140 countries. It has headquartes in Geneva and regional offices in the American, African, Asian-Pacific and European areas.

first agreement, the Director General of the ILO, Juan Somavía, acted as mediator between the parties and regarded the resulting code of conduct as a turning point in the history of industrial relations (Press release ILO, 01/09). This code encompasses, among other, the ILO Conventions on fundamental labor rights. It also included the commitment of Telefónica's branches to develop local suppliers and extend those conventions to them and their obligation to recognize union rights to represent workers in collective bargaining or, in non unionized sites, the right of workers to organize. The Agreement does not require modifications of national laws if they suffice to meet the above standards. Although it establishes that UNI Regional Offices will be responsible for monitoring compliance with standards, it does not spell how this will be made operative in each of the countries where Telefónica has facilities. In Argentina, the implementation of the Agreement has made little progress. Negotiations to that end among UNI's representatives, the Argentine telephone workers' union (FOETRA) and the local branch of the company were held in 2001. However, they were halted as a result of the deep socio-economic crisis that plagued the country since December of that year and has not been reassumed yet.

A very similar situation holds regarding the implementation of the UNI-Spanish bank agreement in Argentina, in which the local bank workers' union, the Asociación Bancaria, is involved. This agreement provides for the implementation of a Social Protocol (code of conduct) that includes the ILO Conventions on fundamental worker rights as well as conventions on health and safety at work, minimum wages and working time. According to the agreement, codes of conduct in Argentine branches must include these conventions at a minimum, although they may also be extended to rights enshrined either in other ILO Conventions or in national labor laws. The provisions of the codes will also hold for all suppliers of local branches of the banks. As its equivalent in the telephone sector, the agreement does not establish specific and operational monitoring mechanisms, leaving the issue to be defined in the local process of implementation.

4. Conclusions

The diffusion and improvement of labor standards in an increasingly integrated world economy is a question that goes beyond the use of trade instruments to enforce them.

As shown by the following chart, the latter is just one of the policy options to deal with the issue at the international level.

Link with trade / Rationale	Yes	No
Top down	SGPs – US and EU US trade agreements	ILO Conventions National laws
Bottom up	Importing firms' policies: contracts with suppliers, auditing of production chains, etc.	Initiatives at local, national and international levels involving multiple actors, networks, etc. (i.e., eradication of child labor)

The analysis of the experience in MERCOSUR shows that the gap between these policy approaches –labors standards on their own, on one hand, and the trade-labor link, on the other- is particularly acute in the sub-region. The diffusion, improvement and enforcement of labor standards were and are part of the agenda of several institutions and actors. It is therefore at the root of different top down and bottom up initiatives entailing varied forms and degrees of articulation among stakeholders. In turn, motivating factors are varied as well: firms' concerns with their domestic and international reputation; the need of more cooperative work relations for potential productivity gains to obtain; labor confederations' international strategies; workers' concerns with new forms of work organization, mainly promoted by multinational firms; social demands for the elimination of the most degrading forms of work, etc..

On the other hand, the link between trade and labor standards is virtually a non-issue in MERCOSUR. Business' interest on it has been highly focused and defensive, driven just by a few firms' or business groups' need not to lose markets. In turn, the issue only got into the international agenda of one of the Brazilian labor confederations, the CUT, largely as a by-product of its links with Northern pro-social clause trade unions and, to a lesser extent, of the increasing salience of the labor issue in MERCOSUR. The issue prompted some CUT's formal initiatives, such as the decision to create the Observatorio Social, but gradually lost weight in the union's agenda. According to a CUT's former representative, at the Preparatory Sessions for Doha some developed

countries' unions proposed to include the social clause issue in the WTO agenda, but the North-South polarization on the whole agenda led many developing countries' unions to refuse it and eventually to reject the launching of a new Round, breaking the prospects of a North-South labor coalition.

The upshot of this experience was twofold: driven by governmental and non-governmental initiatives –and surely by debates about the labor and union reform-, labor standards became an increasingly weighty issue in the domestic agenda of the main actors in MERCOSUR. At the same time, the issue got increasingly detached from the trade-labor standards agenda. As for MERCOSUR countries' position in trade negotiations, this evolution nurtures their traditional approach to the issue, namely, to reject any link between trade and labor standards. There is virtually no advocate at the domestic level of an alternative position, as most manufacturing agents either oppose or are not concerned with such a link. In addition, there are not consumer groups' pressures favoring such an option and NGOs are not politically mighty to push for it.[14]

In the current situation, two hypothetical axes of articulation between the international and domestic agendas on labor standards may be thought for MERCOSUR countries:

- The first brings together the multilateral/ILO consensus on core labor standards with the generation or diffusion of higher labor standards at the domestic level via public and private initiatives;

- The second axis combines the inclusion of clauses linking trade and labor standards in trade agreements with domestic initiatives supporting that connection.

The first axis is hegemonic among decision-makers, business and unions while support for the second axis is confined to a few public and private actors. This suggests that encouraging ongoing initiatives on labor standards would be consistent with prevailing social preferences. This would imply, at the international level, an increasing government commitment with the institutional upgrading of the ILO and initiatives such as the OECD Guidelines; and, at the domestic level, to further develop

[14] Following the rationale of Putnam's (1998) argument, there are no domestic constituencies in MERCOSUR pushing for the trade-labor standards link in the international agenda; this means that the field of possible win sets is virtually unexistent, turning the domestic approval of any international negotiation attempting to establish such a link almost impossible.

and refine governmental and non-governmental experiments already underway with a view to improve local labor standards as well as monitoring and enforcement mechanisms. However, at the same time, MERCOSUR countries are involved in the FTAA negotiations where they will surely face strong pressures from the United States to accept the second option (the non-option for them), whether those negotiations finally move forward at the hemispheric level or through bilateral agreements. In sum, MERCOSUR countries face a tension between two paths to improve labor standards: one that is strongly embedded in society and another that is being increasingly pushed in the agenda of hemispheric trade negotiations in which they are engaged.

This tension, however, should not be overestimated. The breach between the two paths is clearly more about means that ends (although such a sharp distinction between means and ends may be questioned both on epistemological and practical grounds). At least at a general level, both paths share the indisputable ethical purpose of moving standards upwards. Moreover, assuming protectionist intentions away, the US concern with rising standards abroad to avoid unwanted deleterious effects in their labor market, may be legitimately grounded in each country's right to protect its own social arrangements.

In light of this, MERCOSUR countries might take an important step to both overcome the seeming dilemma they face and to broaden the feasibility of their preferred option at hemispheric trade negotiations. Essentially, it would consist of setting in motion a process to turn current initiatives to raise labor standards into a workable sub-regional regime, whose credibility grows as it unfolds. How this could be done? Drawing on arguments already made elsewhere,[15] some preliminary and tentative criteria may be put forward.

The guiding criteria would be to develop today missing connections both among ongoing experiments within MERCOSUR countries and between them and the work being done by the MERCOSUR Socio-Labor Commission. The underlying rationale of this two-fold move is that connections among local initiatives would allow them to know each other, contrast their experiences and draw on the knowledge acquired to improve each one's performance. In turn, connections between those initiatives and the Commission would allow the latter to build on local experiences to strengthen its

assessment, monitoring and enforcement capabilities, while providing those experiences clear yardsticks to gauge their own performance. The idea is that the Commission becomes the coordinating agent of a process of structured regulatory competition among local initiatives, whose final result is a sub-regional regime on labor standards that brings consistency among, and improves current disperse and heterogeneous efforts.

Of course, the rules governing participants' behavior and interactions would be crucial for this to occur. To begin with, the Commission should be in charge of gathering information about the practices and results of the local initiatives. It should also refine therewith its current least-common denominators of compliance so that to turn them into basic benchmarking criteria for comparison, evaluation and ranking of initiatives along substantial (job safety, wage equity, skill development, worker association, etc.) and procedural dimensions (monitoring scope and accountability, indicators reliability, etc.). It is important to note that these steps are not meant as a one-way, one-time process. Rather, it is expected that, over a certain span of time, several rounds of assessment and redefinition occur in which both the practices of local initiatives and the Commission's benchmarks are fine-tuned and improved. It is also relevant to mention that, in order to tap on existing technical knowledge and raise the trustworthiness and legitimacy of its role, the Commission might convey the participation of independent experts from regional and international organizations (e.g., ECLAC, IADB, UNCTAD, World Bank, and regional specialized networks).

Second, at the national level, participatory instances of deliberation should be created in which relevant public officials, agents involved in ongoing initiatives and other stakeholders may exchange ideas so that to enable mutual and incremental learning and collective tackling of problems. Rules of engagement and deliberation would be an obvious building block for this task in that they structure the participation of actors, set the tone of their relations and define criteria for assessment and redefinition of positions. In other words, the idea is that these instances work as institutionalized learning spaces.

Third, transparency would be a crucial ingredient for the credibility of the processes at

[15] See, for instance, Sabel et al (2000) and Lengyel (2003).

the Commission and the newly-created national institutional spaces but, equally important, to turn connections and exchanges into a vehicle of useful inputs and ideas for improvement. The Commission might be thus in charge of building a database on criteria for assessment, initiatives involved and results as well as of fully disclosing that information. Local initiatives should, in turn, fully open to scrutiny their monitoring and assessment practices and their results as well as the certification procedures on which they rest.

Finally, the scheme might provide for carrots and sticks to induce firms already (wittingly or unwittingly) engaged in local initiatives to increase their cooperation and, most important, to motivate the large number of firms still not engaged to jump into ongoing efforts or to implement their own alternatives. This would likely require enhancing the strained capacity of government agencies to keep track of, and eventually sanction, firm behavior. Enlisting the collaboration of stakeholders, such as unions, NGOs and advocacy groups, could thus be key to alleviate the burden on governments. Innovative actions, such as the CUT's proposal to tie BNDES loans and investment decisions of public pensions funds to firms' labor practices might be also useful to motivate reticent firms to participate. Similar criteria on government procurement's decisions might also play a role. Of course, non state-led efforts, such as the extension of codes of conduct to production chains and firm subcontracting practices, could well complement public-sector initiatives.

Surely, the former principles and criteria are in need of further development and refinement, and the construction of a regulatory regime on labor standards along the above lines will not be free of intricacies and challenges. After all, it would entail substantial process of reform at different institutional levels and novel patterns of interaction among a myriad of public and private actors. Moreover, its effectiveness could only be tested once in place. In any case, it offers some hints to deal with the hard choices to which MERCOSUR countries are supposedly doomed in international trade negotiations, particularly on the FTAA: either to accept agreements that heavily rely on trade sanctions to move labor standards upwards and ensure compliance or to risk the gains in market access to be obtained through those agreements. This is particularly so in view that the (second-best) option so far taken by negotiators, i.e., to craft very tortuous mechanisms that make virtually impossible the application of sanctions, only seems to address half of the problem. That is, it has enabled

agreements to be struck, although it raises serious doubts about its effectiveness to actually promote higher standards. The question of the means to deal with this problem cannot (and should not) thus be divorced from the ends at stake.

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