

Trade and labour standards: A view from the south

THE WTO AND MARKET ACCESS

As the world's trade organization, the WTO is essentially about broadening and deepening market access. It has however, been argued that while developed countries have succeeded in prying open markets in developing countries, they have simultaneously succeeded in denying access to their own markets through tariffs and quotas and, more recently, through non-tariff measures. Indeed, the total share of exports from least-developed countries (LDC) is barely 0.25 percent of total world trade.

With an agreement to dismantle tariffs and a proposal to consider duty-free and quota-free access to products from LDCs, non-tariff measures are likely to emerge as the new form of protectionism and the denial of access to markets in developed countries.

LABOUR STANDARDS

One of the most powerful non-tariff barriers under discussion in various fora is labour standards. Discussions on the subject tend to be highly emotive and over the years the debate has become increasingly contentious and politicized. Indeed, post-mortems of the aborted Seattle WTO Ministerial Conference suggest that the insistence by the United States for the inclusion of labour standards precipitated the collapse of the conference.

Let us consider the issues in terms of the arguments forwarded, either in defence of the linkage or in opposing its inclusion in the trade agenda. Essentially, there seems to be two aspects to the argument for the trade-labour standards linkage: those that are overt and, as such, peripheral and those that are unstated and, hence, constitute the principal or core motivation.

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THE MORAL ARGUMENT

The overt argument is essentially "a moral argument" and is NGO and consumer driven. It argues that there is a collective moral responsibility to improve working conditions and that children should be in school and not in the workplace. They argue further that in

order to facilitate this, pressure needs to be put on errant governments and companies so that they comply and further, if required, such pressure may also be in the form of trade sanctions.

Unfortunately, the argument is based on a series of flawed assumptions. First, it assumes that the welfare of the children would, in fact, improve if they were withdrawn from the workforce when, in fact, empirical evidence seems to suggest that the opposite may be true. The case of Bangladesh in this regard may be recalled when the Bangladesh Manufacturers and Export Association (BGMEA), which is heavily dependent on the US market for its exports, undertook to eliminate child labour in the garments industry under pressure from US NGOs, consumer protection groups, and the US government. Around 50,000 children were thrown out of work, some without pay. The majority of these children did not end up in schools but rather found replacement work that was more strenuous, less safe, and offered less pay. Indeed, many of them were pushed into crime and prostitution.

Second, the moral argument fails to recognize the linkage between poverty and child labour. There is ample evidence to suggest a direct correlation between low economic performance and low labour standards. In other words, labour standards are likely to rise in the long term as countries achieve higher rates of economic development and per capita income. Poor economies, on the other hand, would find it difficult to move away from child labour or additional family income because of the prevalent poverty. Sending a child to work is, therefore, a rational economic choice.

Third, the overt argument by recommending import restrictive measures

and trade sanctions is directed against the export sector. However, in developing countries the majority of children are in fact deployed in the informal sector, which is a non-export-oriented sector. These activities would range from family-based agriculture to jobs in rural and urban areas such as street vendors, shoe-shine boys, domestic help, help in local street restaurants, helpers in trucks, small-scale manufacturing industries, automobile workshops, etc., and also in illegal trade such as prostitution, begging, etc. Children are also used for criminal activities, particularly as carriers of banned drugs and even illegal, locally manufactured guns. The overt argument is not targeted against this sector. Furthermore, as has been illustrated through the Bangladesh case, if the children are thrown out of the formal sector, they end up in the informal sector, which is by definition unregulated and unprotected, and where working conditions are generally more demeaning.

THE PROTECTIONIST ARGUMENT

Given these assumptions, the unstated or core motivation behind trade-labour standards advocacy needs to be looked at. This is essentially a protectionist argument and is aimed at raising the cost of imports from low-wage economies. Firms in developed countries argue that they suffer a competitive disadvantage because of the low standards in developing countries. This raises their cost of production. Pressure on developing countries to comply or adopt higher and acceptable levels of labour standards would raise the cost of imports from these countries and thereby provide a level playing field. This is nothing short of a protectionist argument aimed at denying market access to goods from developing countries.

It would, however, be churlish to dismiss the importance of the moral argument or the fact that a large cross-section of the population in industrialized countries has genuine concern for the welfare of children and further, that this

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is driven by purely humanitarian considerations. At the same time, it is essential for consumers and NGOs in the developed countries to recognize that governments in developing countries do not derive any sort of vicarious pleasure in exploiting their people or in denying their children school education. Indeed, as we have pointed out, overwhelming evidence suggests that trade bans or trade restrictive measures do more harm than good and furthermore,

that labour standards need to be seen in the overall context of poverty and the developmental dimension. This suggests that unless development is put at the heart of the global trading regime and the distribution of gains directly addressed, labour standards cannot be effectively dealt with.

EARLY ATTEMPTS TO LINK LABOUR STANDARDS AND TRADE

It is worthwhile recalling that the attempt to establish a linkage between labour standards and trade policy within the earlier GATT and WTO framework was first made by the United States with some European support at Marrakesh where, in fact, it posed a serious threat to the signing of the Uruguay Round Final Act (1994). The United States and France made a renewed effort, with Norwegian support, at the Singapore Ministerial Conference (1996). Strong opposition from developing countries led by Egypt, India, Malaysia, and Pakistan succeeded in ensuring that the Singapore negotiated text, while expressing support for the observance of “internationally recognized core labour standards” rejected the use of labour standards for protectionist purposes. The text further identified the ILO (International Labour Organization) as the relevant organization to establish and monitor these standards.

Despite Singapore, however, the issue has remained alive and continues to be raised at regular intervals. At the Seattle WTO Ministerial Conference, the United States took a hard-line position in the matter and threatened sanctions against those countries that did not adopt labour standards. However, the US track record is more than dubious. Of the seven key ILO conventions that have set out core international labour standards (nos. 29, 87, 98, 100, 105, 111, and 138), only two have been ratified by the US Congress so far!

Furthermore, Jagdish Bhagwati points out there is a selectivity in the contents of the labour standards. Today,

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labour standards or the social clause are concerned primarily with child labour. Issues such as the enforcement against domestic sweatshops, which is notoriously miniscule and lax in the United States, where they abound in the textiles industry, are not in the social clause. Also not in the social clause are the rights of the migrant labourer, who is subject to quasi-slavery conditions in parts of US agricultural sector, nor indeed the low levels of unionization of the US labour force.

POST-DOHA

Despite overwhelming logic on the need to keep non-trade issues out of the trade agenda and to avoid insertion of protectionist measures through camouflage or other means, business lobbies would work toward identifying and invoking non-tariff measures and barriers to market access. This is likely to have serious and adverse implications on the credibility of the WTO. Indeed, barely seven years into the WTO's existence, there is growing skepticism with regard to its manner and style of functioning. The Doha Ministerial Conference tried to allay developing country concerns by giving the development agenda special emphasis and agreeing on a work program post-Doha. This could be seri-

The Doha Ministerial Conference tried to allay developing-country concerns by giving the development agenda special emphasis and agreeing on a work program post-Doha. This could be seriously jeopardized if the causes and consequences of poverty and underdevelopment are not recognized. As Amartya Sen pointed out, the global trading regime is distinguished by acute asymmetries of unprecedented prosperity on the one hand and abject poverty on the other.

ously jeopardized if the causes and consequences of poverty and underdevelopment are not recognized. As Amartya Sen pointed out, the global trading regime is distinguished by acute asymmetries of unprecedented prosperity on the one hand and abject poverty on the other. It is essential therefore, if trade

liberalization as represented through the WTO is not to be slowed down, for the developed countries to desist from innovative means to deny market access to the products emanating from developing countries. For a global trading regime to succeed, it needs to be truly global and not selective. 

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gricultural policy within Europe and therefore only provided for reductions in export subsidies. "With a view to phasing out" might not have determined the end of this negotiation but it would have been perceived as a signal in relation to decisions the Community has yet to take on some of its regimes, notably those based on high prices but-tressed by quotas. So, to avoid any suggestion that the way in which the agenda was described was intended to prescribe the outcome of the negotiation, it was finally agreed to add the words "without prejudging the out-

come of the negotiations." Although the controversy, which led to this addition, related to the reference to export subsidies, the phrase was inserted into the text in a position, which made it qualify the reference to all three pillars, neither emphasizing nor excluding the words on export subsidies.

SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES

Interestingly, there was no controversy at Doha over the biggest innovation in the agriculture text compared with arti-

cle 20, the much stronger reference to special and differential treatment for developing countries. It wasn't controversial because all developed countries agree that the new round should improve the position of developing countries, and no developing country would wish to contest this. But how to give effect to this objective may prove to be one of the most difficult and controversial questions in the negotiations. Possibly the widest disagreement may emerge among the various groups of developing countries themselves. 