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Steve Charnovitz

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INTERNATIONAL TRADE AND WORKER RIGHTS

Steve Charnovitz

LINKING WORKER RIGHTS TO INTERNATIONAL TRADE is not a new idea. Its roots stretch back into the nineteenth century in both Europe and the United States. The earliest congressional attention to the issue came in 1890, when the McKinley Tariff prohibited imports manufactured by convict labor. Despite this long history, the rapid reemergence of worker rights as an issue in U.S. trade policy in the last few years has surprised trade and labor experts alike. Consider how quickly events have moved. Since 1983 the U.S. government has applied a labor standard to four trade or investment laws: in 1983, to the Caribbean Basin Initiative (CBI); in 1984, to the Generalized System of Preferences (GSP); in 1985, to the Anti-Apartheid sanctions against South Africa and to the operations of the Overseas Private Investment Corporation (OPIC). In 1986, the U.S. House of Representatives passed the Trade and International Economic Policy Reform Act (H.R. 4800), which would make the denial of "internationally recognized worker rights" by foreign governments an unfair trade practice subject to possible U.S. countermeasures.[1]

Used in the context of international trade, the term "worker rights" is of recent vintage. In the nineteenth century the issue of unfair competition stemming from the poor conditions of foreign employment was known as the "pauper labor" problem. At the World Economic Conference of 1927 this export practice was termed "social dumping." When the Charter of the International Trade Organization was completed in

1. H.R. 4800, 99th Cong., 2d sess., 22 May 1986, Section 112 (5).

Steve Charnovitz is an international relations officer at the U.S. Department of Labor. He has recently written on international trade issues for the *Journal of World Trade Law* and the *California Management Review*. The views expressed here are not necessarily endorsed by the Department of Labor.

1948 under United Nations auspices, it included a special article under the rubric of "Fair Labor Standards."

Although the transformation of the longtime concern about foreign working conditions into an assertion that all workers possess certain "rights" is a decidedly contemporary approach, the ideals invoked by these different terms have remained fairly constant over the years. Basically, there are two motivations behind worker rights. One is the argument that domestic workers should not have to compete against foreign goods produced by coerced or sweated labor. The other is the belief that improving conditions of labor will advance social justice. While the emphasis placed on these motivations by worker rights advocates has shifted over the years, both ideals have always been present.

WHY HAS THE ISSUE OF WORKER RIGHTS suddenly achieved such prominence in U.S. trade policy? Mainly because worker rights stands at the nexus of two very important issues—unfair trade and human rights. First the trade problem: The mushrooming trade deficits of the mid-1980s and the concomitant increase in U.S. industrial unemployment have necessitated an examination of the factors that give foreign countries their competitive edge. One obvious factor is that many of these countries have the advantage of very low labor costs, often less than 15 percent of U.S. wages. While lower labor costs established by a free market might be viewed as a legitimate comparative advantage, some of these foreign wages are, in reality, set by government policies that ban unions or otherwise inhibit workers from seeking a just wage. Moreover, while U.S. manufacturers are bound by certain minimum standards for child labor and employee hours, foreign competitors are sometimes free to extract whatever toil they can from whoever will provide it.

Unfair or repressive labor laws can thus confer real benefits to foreign producers. Implicit subsidies in the form of unfair labor standards can make exports as artificially advantageous as do explicit subsidies, such as low-interest loans or export rebates. Yet while these subsidies are punishable under U.S. trade law through the imposition of countervailing duties, labor subsidies are not. Conversely, the suppression of local labor costs can effectively protect the domestic market by making home goods artificially cheap. Repressive labor laws can thus serve as a type of nontariff barrier.

The other impetus to worker rights has come through the increased attention to human rights in making foreign policy. Trade unions are important in this regard because they are an indigenous, usually constructive force in favor of peaceful political change. For example, many national independence movements, particularly in the British colonies, were led by labor leaders. But in the past several years, something very

significant has happened. Unions have become potent agents of democratization in nations governed by authoritarian regimes.

Consider the current cases of South Africa and Chile, where the unions are among the most active participatory institutions opposing the existing repressive governments. In South Africa, the black trade unions, which were granted legal status only in 1979, have been increasingly politicized since unrest in the townships began in September 1984. The largest black federation, the Congress of South African Trade Unions (COSATU), has over 500,000 members and has forged informal links to the United Democratic Front. Since its founding in November 1985 COSATU has denounced apartheid and the homeland system, called for the legalization of black political organizations, and supported disinvestment. In 1986 all three black labor federations challenged the South African government by calling for nationwide "stayaways" or general strikes. Mindful of the threat the unions pose, the government has suppressed labor activity and detained hundreds of union leaders under the state of emergency imposed in mid-1986.

In Chile, active democratic and communist unions are often subject to harsh government interference. In September 1985 a group of unions, political parties, and professional organizations launched demonstrations against the Pinochet regime. In July 1986 the opposition, including most unions, led a moderately successful general strike, which received a great deal of international publicity.

While neither of these two governments seems likely to yield power soon, the ability of labor leaders to call strikes or work stoppages is one kind of economic pressure that could possibly topple these regimes. Moreover, trade unions have sometimes been freer to operate as opposition groups than banned or illegal political parties. This potential for working class rebellion explains why some authoritarian regimes, for example those in Paraguay and Taiwan, allow very little independence in their national labor movements. Similarly, Poland, despite its firm military grip, had to clamp down on the Solidarity union.

Most of the lobbying for a more active U.S. worker rights policy is being done by a loose coalition including the AFL-CIO, a few individual unions, and human-rights groups like Americas Watch. The coalition has won the support of several members of Congress, including Senator Paul Simon (D-Ill.) and Representative Don Pease (D-Ohio), who cosponsored a congressional conference on the subject last March. Pease is a member of the House Ways and Means subcommittee on trade and the author of much of the worker rights legislation. Although many Republicans opposed the worker rights provision in the House trade bill, other congressional actions have received strong bipartisan support. In late 1984, for example, thirty-five members of Congress, including such conservatives

as senators Jesse Helms (R-N.C.) and Steve Symms (R-Idaho), joined a lawsuit to force the Reagan administration to ban all imports from the Soviet Union made by forced labor. These imports have been estimated to be worth between $11 and $138 million annually. The lawsuit was dismissed for lack of standing but is now under appeal.

Connecting worker rights to commercial policy, however, remains controversial. Although it was the Reagan administration that proposed the CBI labor standard, the administration backpedalled in 1984 and has since opposed the provisions in GSP, OPIC, and the House trade bill. Because the issue has moved so quickly, the two sides have had little opportunity to discuss their differences, a fact that has led to considerable confusion about the issue and the specific points of contention.

THE HISTORY OF INTERNATIONAL LABOR STANDARDS began in 1788 when French statesman Jacques Necker warned that Sunday rest could not be maintained unless all nations observed it.[2] Necker proved to be right. Sunday work—as well as long working days, child labor, and unsafe workplace conditions—became common during the Industrial Revolution.

The high-water mark of international concern about worker rights came at the 1919 Paris peace conference. One part of the Treaty of Versailles established the International Labor Organization (ILO) and proclaimed a list of worker rights known as "Labor's Magna Charta." Given the current weakness of organized labor, it is hard to imagine a time when the world powers would have endorsed such radical notions as the right of association, a wage "adequate to maintain a reasonable standard of life," an eight-hour day, and the principle that "men and women should receive equal remuneration for work of equal value."[3]

Yet 1919 was such a time. At the end of World War I and in the wake of the Bolshevik Revolution there was a legitimate fear among the Allied governments that the returning soldiers might follow the sirens of communism unless they received something tangible from the peace. As president Woodrow Wilson explained to an American audience, "The profound unrest in Europe is due to the doubt prevailing as to what shall be the conditions of labor, and I need not tell you that that unrest is spreading to America."[4]

The fruit of the treaty for labor was the creation of the ILO. Now part of the UN system, the ILO has a unique tripartite membership consisting of employer, worker, and government delegates. Each nation

2. Jacques Necker, *Of the Importance of Religious Opinions* (Boston, Mass.: Thomas Hall, 1796), 112.

3. Treaty of Versailles, Part XIII, Section II, Article 427.

4. "Addresses of President Wilson," U.S. Senate, 66th Cong., 1st sess., document number 120, 61.

receives four votes, two for the government, one for employers, and one for workers. The votes can be cast separately. At present, 150 nations belong to the ILO. The most important nonmember nations are Hong Kong, North and South Korea, South Africa, and Taiwan.

Following World War II, the worker rights issue resurfaced in the negotiations on a new regime for world trade. The charter for the proposed International Trade Organization acknowledged that "unfair labor conditions, particularly in export, [can] create difficulties in international trade."[5] The representatives at the UN conference were, however, unable to agree upon any solution.

Before turning to worker rights in the 1980s, it will be useful to review two important domestic milestones. The most extreme conception of worker rights in trade was proposed in the National Industrial Recovery Act of 1933, which provided for industry-wide codes to define and enforce fair competition, including labor standards. The law gave the president the authority to restrict imports that would undermine these new codes. In effect, this meant that U.S. standards would have become the basis for judging the fairness of foreign labor conditions. How this restriction would have operated will never be known, since—for other reasons—the law was declared unconstitutional before the import provision was used.

A more successful attempt to promote worker rights took place in 1954 when president Dwight D. Eisenhower announced that the United States would "withhold reductions in tariffs on products made by workers receiving wages which are substandard in the exporting country."[6] Although this policy may seem anomalous for the conservative Eisenhower administration, it should be remembered that organized labor at that time was one of the most determined advocates of trade liberalization. One instance when Eisenhower's directive came into play was the tariff negotiation with Japan in 1955 in which the Japanese agreed to maintain wages at "fair levels."[7]

THE FIRST OF THE RECENT STEPS IN SUPPORT OF WORKER RIGHTS occurred in late 1982 after the Polish government banned the Solidarity union movement. On the following day President Reagan sharply criticized the Polish government, stating that "they have made it clear that they never had any intention of restoring one of the most elemental human rights—the right to belong to a free trade union."[8] As a response to the

5. UN Document. E/CONF.2/78 (1948). Article 7(1).

6. *Public Papers of the Presidents,* Dwight D. Eisenhower, 1954, 355.

7. "Foreign Economic Policy," Joint Committee on the Economic Report, 84th Cong., 1st sess., 1955, 295.

8. *Public Papers of the Presidents,* Ronald W. Reagan, 1982, 1290.

crackdown, the United States withdrew its most-favored-nation treatment of Polish exports, thereby increasing the duties on these goods.

When Congress passed the CBI in mid-1983, it linked favorable tariff treatment of exports from the nations included to the observance of worker rights. Before granting duty-free benefits, the president was charged with reviewing eighteen criteria for entry, some of which were mandatory and the rest discretionary. The labor criterion is discretionary and asks the degree to which workers in each nation are afforded "reasonable workplace conditions" and enjoy the "right to organize and bargain collectively."[9]

Within five months the administration had reviewed the twenty-seven potentially eligible countries and completed negotiations with the twenty countries that asked to be included. In countries where there were no worker rights problems, for example, Costa Rica, the discussion of labor was perfunctory. But in the seven countries with serious violations of worker rights—the Dominican Republic, El Salvador, Grenada, Guatemala, Haiti, Honduras, and Panama—the U.S. negotiators sought commitments for reform. Three countries with a history of denying worker rights—Guyana, Nicaragua, and Suriname—chose not to apply.

The CBI negotiations dealt with a variety of labor problems. In the Dominican Republic, for example, there had been continuing allegations of "forced labor" on sugar plantations. As a result of the CBI talks, the Dominican government agreed to use its national police to make sure that plantations were not holding workers against their will; in El Salvador, where several union leaders had been murdered, the government promised to set up a new organization to investigate these crimes; in Guatemala, where the new Confederation of Labor Unity had failed to receive government recognition, the United States insisted that the confederation be granted full legal status. The U.S. agencies also looked into allegations that some of the export processing zones in the Caribbean region banned unions. The Honduran government, for example, agreed to investigate charges that one company had obligated its employees to sign a contract that forbade them to join a union.

The most significant achievements of the CBI negotiations, however, were the reforms obtained in Haiti. From the U.S. perspective the timing was propitious; Haiti keenly wanted to qualify for the CBI in order to attract more investment. Furthermore, Haiti was undergoing a period of political liberalization to undo some of the increased repression that had begun in late 1980. Even with this apparent leverage, however, the magnitude of the concessions wrung from Haiti astonished many close observers of Haitian politics. The most important concessions were:

9. Caribbean Basin Recovery Act (P.L. 96-67), Title II Section 212 (c) (B).

(1) the amendment of the Haitian Labor Code provisions that impeded the free operation of unions, (2) an agreement to use a weekly radio show to explain the Labor Code's protections to illiterate workers, and (3) an official notice advising the unions that they could form federations and affiliate with international trade union organizations.

Soon after these agreements were concluded, the nine timid Haitian trade unions established the independent Federation of Union Workers under the leadership of President Joseph Senat. Although the unions acted cautiously during the uprisings that led to the departure of the Duvalier family, they did call numerous strikes that, together with business shutdowns, severely disrupted the economy. In mid-January 1986 a Haitian official attempted unsuccessfully to bribe Senat to sign a newspaper endorsement of Duvalier. When the government printed the endorsement without Senat's permission, he sent a protest that was aired on the Catholic radio station. By late 1986 the federation had increased to fifteen unions, which have become a growing force in a country without a tradition of political pluralism.

In 1984 Congress made worker rights a new condition for developing countries seeking to receive duty-free benefits under GSP. This new condition is tougher than the discretionary eligibility criteria for CBI in that it is mandatory and in that the GSP law specifically lists the "internationally recognized worker rights" toward which a country must be "taking steps."[10] These rights include: (1) freedom of association, (2) freedom to organize and bargain collectively, (3) the prohibition of forced labor, (4) a minimum age for child labor, and (5) "acceptable" conditions of work with respect to minimum wages, hours, and occupational safety and health. The 1985 OPIC law is similar to the GSP law in that it makes OPIC insurance and guarantees conditional upon whether a country is taking steps to adopt or implement laws that grant these five rights. No decisions regarding GSP or OPIC eligibility are expected until the end of 1986.

Another action has moved along a different track—the growing interest in improving working conditions in South Africa. In 1977 the Reverend Leon Sullivan devised a code of conduct for American corporations operating in South Africa that became known as the "Sullivan Principles." The original Principles called for desegregation of the workplace, fair employment practices, equal pay for equal work, training programs, more supervisory jobs for nonwhites, and business efforts to improve schools and health facilities. Since then the Principles have been expanded to include, among other things, recognizing unions, influencing other companies to provide equal rights, and supporting the

10. Tariff and Trade Act of 1984 (P.L. 98-573), Section 503.

free movement of Black workers. Although adherence to the Principles is voluntary, virtually all large subsidiaries of U.S. companies now subscribe to them and allow themselves to be inspected and audited for compliance. While the Sullivan Principles cover only a small percentage of South African workers, other multinationals as well as some South African companies have adopted its elements. It has also encouraged the formation of Black labor unions. Besides providing tangible benefits to workers, the Sullivan Principles have offered a constructive vision of the future. For many Blacks, the workplace has become an oasis of equality in a land of discrimination.

In 1985 the Congress nearly passed an Anti-Apartheid bill that would have required American firms to follow a set of employment principles similar to the Sullivan Principles and would have directed U.S. government agencies to cut off export marketing assistance to firms violating these Principles. In order to prevent passage of the bill, President Reagan announced his own set of sanctions in an executive order. These sanctions did not require firms to follow the Principles but did cut off government assistance to those that refused.

The employment principles contained in President Reagan's executive order are quite broad. Some of the rights mandated are: (1) equal employment opportunities and equal pay without regard to race, (2) the establishment of a minimum wage that takes into account the needs of employees and their families, and (3) the right to form, join, or assist labor organizations without penalty or reprisal. In August 1986 the Senate passed a South African sanctions bill that requires American companies with over twenty-five employees to follow a code of conduct based on the Sullivan Principles. This bill became law in October 1986, when President Reagan's veto of the sanctions bill was overturned by both houses of Congress.[11]

WHAT ARE "INTERNATIONALLY RECOGNIZED" WORKER RIGHTS? Although the GSP legislation lists five specific worker rights, the Congress has not elaborated on their interpretation except to make clear that they do not mean the same working conditions prevailing in the United States. The term "internationally recognized" is derived from past foreign aid legislation, which conditions U.S. assistance on whether countries have violated "internationally recognized human rights." As with worker rights, this human rights standard is not precisely defined by its legislative history.

Of course, the only reason why the issue of worker rights has come up is that there is no universal agreement upon its definition. If all countries recognized and adhered to the same set of rights, there would be no

11. Comprehensive Anti-Apartheid act of 1986 (P.L. 99-440), Title II, Sections 207-8.

international labor problem. Thus, in searching for the meaning of worker rights, one needs to look for standards that have been affirmed by a community of nations, but not necessarily by every nation. Moreover, the correct test is not what standards these nations currently follow, but rather what standards they seek to attain.

If there is any community of nations with the competence to proclaim a universal worker right, it has to be the ILO. Since 1919 the ILO has enacted many comprehensive conventions ranging from number 1, "Hours of Work" to number 162, "Safety in the Use of Asbestos" (passed in 1986). Each convention receives years of deliberation and a two-thirds vote before approval. ILO conventions become international obligations only for the governments that ratify them. While the U.S. government has voted for most conventions, only seven have become treaties through Senate approval.

While many of the opponents of worker rights point to the United States' poor ratification record to suggest that ILO conventions fall short of international recognition, this argument misses the rationale behind the current initiatives. Their aim is not to persuade other nations to ratify ILO conventions but rather to encourage them to comply with the standards they contain. The Soviet Union, for example, though a signatory to forty-three conventions, including freedom of association, has clearly failed to provide basic worker freedoms. The United States, on the other hand, has ratified very few conventions but certainly lives up to the ILO's standards in almost all areas.

In promulgating the first *International Labour Code* in 1939, the ILO explained that it was "not primarily a code of international obligations, but a code of internationally approved standards."[12] The ILO has been quite successful in getting these standards adopted far beyond the number of ratifications obtained. Indeed, this success was recognized in 1969 when the ILO was awarded the Nobel Peace Prize.

Despite these achievements, the American relationship with the ILO has been strained in recent years. While the labor-management tensions inherent in the organization were difficult enough, the international politics of the early 1970s enmeshed the ILO in volatile North-South and East-West problems. Following some bruising battles in which the ILO abandoned its due process procedures, the United States gave notice of withdrawal in 1975 and quit two years later. After several significant reforms were made, the United States rejoined in February 1980. Under the Reagan administration the U.S. government has pressed the ILO to apply its labor standards more forcefully to communist countries.

It is ironic how opponents have denigrated the concept of international labor rules while putting international trade rules on a pedestal.

12. *The International Labour Code* (Montreal: ILO, 1939), xii.

The United States joined the ILO and accepted its constitution pursuant to statutory authorization by the Congress. By contrast, the U.S. entry into the General Agreement on Tariffs and Trade (GATT) was the result of a mere executive agreement in which the United States, like other nations, agreed to apply the GATT only "provisionally." When labor complaints are brought to the ILO they are usually discussed with reference to the conventions and years of precedents. While GATT sometimes proceeds in this manner, it is much more prone to rewrite the rules in politically difficult cases through the granting of waivers. Of course, there are disputes in interpreting ILO conventions, but no more so than in interpreting GATT articles.

The closest thing to an official U.S. definition of worker rights is found in the *Country Reports on Human Rights Practices* prepared by the State Department. Although the State Department's definition generally conforms to ILO conventions, the report adopts the stronger protection for minimum wages found in the UN International Covenant on Economic, Social, and Cultural Rights. According to the State Department, foreign wages should "provide a decent standard of living for the workers and their families."[13]

The problem is not that there are too few internationally recognized rights, but rather that there are too many. At present, the United States has not condensed the separate UN and ILO declarations, covenants, and conventions into a definitive list of worker rights that could be announced. While this has preserved flexibility in bargaining, it breeds suspicion among U.S. trading partners, who may feel that they are being treated inconsistently. To remedy this problem, Senator Max Baucus, (D-Mont.) successfully sponsored an amendment to a textile trade bill that directed the secretaries of labor and commerce to determine what rules should be included in an international labor law code. President Reagan vetoed the textile bill, however, so U.S. worker rights decisionmaking remains less transparent than it could be.

The most fundamental worker right is freedom of association. This right, however, is also the most difficult to apply because it cannot be met by any communist country and is unlikely to be met by any nondemocratic one. In drafting both the GSP and OPIC provisions, the Congress recognized the limits of worker rights conditionality by providing for a presidential waiver in cases of national economic interest. While this waiver offers the needed flexibility for a bilateral system, it raises the question of how a multilateral system could hope to deal with vital

13. *Country Reports on Human Rights Practices* (Washington, D.C.: Government Printing Office, 1986), 1431.

trade from countries that do not respect worker rights but that supply essential commodities.

Another question that arises with respect to freedom of association is what to do about brutal attacks on union leaders when such acts are part of a more general pattern of repression. In other words, in a country with very serious human-rights abuses, it is debatable whether labor violations should be singled out for conditionality. Undoubtedly, worker rights negotiations would proceed more amicably if they could be limited to technical matters, such as labor-management disputes. But there is little point in niggling over an issue like union recognition in talks with officials of a ruthless government that shoots outspoken labor leaders along with other political foes.

THE LAST ISSUE TO BE EXPLORED IS HOW WORKER RIGHTS might influence U.S. trade policy. As with all unfair trade practices, the denial of worker rights undercuts the mutual benefits of trade. Secretary of Labor William E. Brock explained this connection when he told the 1986 ILO Annual Conference,

> I must say, those countries which are flooding world markets with goods made by children, or by workers who can't form free trade unions or bargain collectively, or who are denied even the most minimum standards of safety and health—those countries are doing more harm to the principle of free and fair trade than any protectionist groups I can think of.[14]

An aggressive stance on worker rights abuses could reduce public opposition to imports by clarifying the distinction between fair and unfair factors in foreign competitiveness. Foreign products that are cheaper because of the low wages inherent to underdevelopment are fairly traded goods. Foreign products that are cheaper due to government policies exploiting workers are unfairly traded, however, and should be kept from entering the international trading system.

Exploitative policies can be acts of commission or omission. For example, the government of Malaysia does not permit workers in free-trade zones producing for export to join unions. These prohibitions form part of a series of guarantees made to attract foreign investors. Since the rest of the Malaysian labor force can form unions, the privileges granted to the free zones are clearly a hidden export subsidy. The case of omission occurs when a government fails to take certain actions, such as neglecting to protect workers from exposure to toxic substances. Assuming that a nonlethal occupational environment is a "right" of workers, countries have a positive obligation to see that minimum standards are met. A Third

14. U.S. Department of Labor, Office of Information and Public Affairs, June 1986.

World government that solicits foreign investment by advertising its lack of safety standards violates worker rights in a way that a government that advertises its low wages does not.

While a greater focus on worker rights has the potential for reducing protectionism, poor implementation of the new programs could be counterproductive. This might happen in two ways. First, an American approach that emphasizes punitive measures over incentives for the expansion of worker rights would simply result in higher trade barriers. If the developing countries see worker rights as just another protectionist barrier put in their path, many of them will refuse to pay the unpredictable costs of changing their investment climate and loosening their political grip by allowing free, active labor unions. Second, if the new GSP and OPIC provisions do not achieve their intended effects, the sentiment for barring goods produced under unfair working conditions could be strengthened. Indeed, the failure of worker rights negotiations would solidify the moral justification for punishing foreign exploitation.

HOW DO U.S. TRADING PARTNERS VIEW WORKER RIGHTS? The industrial countries see it mainly as a way to resist lowering their own working conditions in order to regain lost competitiveness. While the idea of worker rights draws much sympathy, particularly from the Scandinavian countries, there is some fear that the issue is so politically charged that it could jeopardize the new GATT trade round. This fear is hardly groundless: when the European Economic Community (EEC) tried to incorporate worker rights into its Lomé Convention with developing countries in 1978, the EEC was stung by charges of protectionism and hypocrisy in continuing to trade with South Africa. So far, the EEC has shown no eagerness to reopen the matter.

The nations with the greatest stake in the debate are the highly export-dependent newly industrializing countries (NICs), for example, South Korea and Taiwan. If protectionist pressures increase in the industrial countries, it will be the NICs that suffer most. Yet what seems to trouble the NICs is not that better working conditions would reduce their competitiveness, but that removing their unions from the yoke of government repression might destabilize the authoritarian regimes now in power.

While the less developed countries (LDCs) are likely to oppose worker rights reflexively as interference in their national sovereignty, their attitude might change if they thought that better working conditions would be rewarded with loosened import restraints in the industrial countries for goods produced under international labor standards. Many LDCs want to improve working conditions in order to increase their productivity. They would welcome ILO assistance in areas like dispute settlement,

manpower training, and occupational health regulation. At present, the ILO is unable to fulfill all the requests for technical assistance because of budgetary constraints. If the ILO was able to secure increased funding for assistance to countries prepared to improve their record on worker rights, the LDCs would have an additional incentive to make such improvements.

WORKER RIGHTS WILL PROBABLY BE ON THE AGENDA of the new GATT trade round. But the prospects for agreement are mixed. While skeptics point to the U.S. failure to make any progress on the issue during the most recent multilateral trade negotiations, the 1973-79 Tokyo Round, there are two differences now. First, congressional interest in the issue is much stronger, a fact that will lead to closer oversight of the issue by legislators. Second, the labor negotiations under the CBI can be cited as a practical example of how worker rights could be implemented.

Still, the path ahead is uncertain. The LDCs have kept worker rights off the agenda of the United Nations Conference on Trade and Development (UNCTAD) despite attempts by international labor federations to include it. While the LDCs have less control over GATT's agenda, a united resistance to worker rights would be difficult to overcome. Clearly, any consideration of worker rights would raise a whole mélange of perenially unresolvable issues like the "rights" of immigration, full employment, and nondiscrimination. Moreover, as GATT has often been unable to settle even minor disputes, it is difficult to imagine how it would find the means to adjudicate such a complex, controversial issue as worker rights. Certainly, GATT attention to this problem is long overdue. But the next step should be shifted to another forum where the United States can exert more influence.

The most logical arena is international trade in textiles and apparel, much of which is governed outside of the GATT by the Multi-Fiber Arrangement (MFA). This sector is perfect for testing labor conditionality because all parties to the current quotas have legitimate complaints. The industrial countries are justified in pointing to the use of child labor and the sweatshop working conditions common in Third World textile production. And the LDCs are correct in protesting that they cannot improve their social conditions—or pay off their large debts—without more export opportunities in a sector in which they have a clear-cut comparative advantage and in which trade liberalization has been stalled for over two decades.

Fifty years ago, the ILO held a special conference in Washington, D.C. to consider the predicament of the textile industry. The two worries at that time were "surplus capacity" and "underconsumption." To relieve these problems, the conference proposed that trade barriers be

reduced and that commercial policies take into account the improvement of working conditions. The "agricultural countries" (as LDCs were then called) would be helped by greater exports that would in turn increase their domestic purchasing power. The industrial countries would protect their labor standards as they gained more trade through new sales to agricultural countries.

This prescription is as warranted today as it was in 1937. But one country, for example, the United States, needs to take the lead in abandoning all textile quotas for countries willing to work toward meeting international labor standards. Unfortunately, U.S. policy seems to be moving in the opposite direction. In July 1986 the Reagan administration renewed the MFA after broadening its coverage and tightening its procedures on import quotas.

At the ILO annual conference in 1936 Juitsu Kitaoka, a Japanese government delegate, offered an observation that still has a good deal of importance for the issue of international worker rights. At the time Japan was under pressure by other countries because of its low wages for textile workers. Kitaoka asked:

> I wonder if there is any guarantee of being treated fairly in trade, through reduction of tariffs or mitigation of other trade restrictions, to those countries which realise a certain standard of working conditions—for example those which ratify certain international labour conventions. If such a guarantee existed, I am sure that international labour conventions would soon dominate the world.[15]

While it may be too late for labor conventions to "dominate the world," it is never too late to seek greater international attention to worker rights in order to make trade fairer and, ultimately, freer.

15. *Record of Proceedings,* International Labour Conference, 20th sess. (Geneva: ILO, 1936), 187.