



**POLICY  
FOCUS**

## Third World Worker Rights and U.S. Trade Policy: Should They Be Linked?

- Poor working conditions in developing countries, such as child labor and government prohibition of unions, may harm workers and impede economic and social progress in the Third World.
- Such conditions can also damage the American economy by depressing domestic wages and employment and by retarding Third World economic growth, which reduces demand for U.S. exports.
- Some say that guaranteeing various worker "rights" is too difficult for many developing countries, and consider the tying of trade policy to international labor standards an excuse for protectionism. Others perceive certain foreign actions as human rights abuses and deliberate unfair trade policy and believe that new rules are necessary to remove such obstacles to international trade.
- To date, U.S. legislation linking worker rights to trade policy has applied only to bilateral trade and investment relationships. Pending proposals go further, defining abuses of labor rights as unfair trade practices subject to U.S. countermeasures.
- The United States should press for multilateral agreement to incorporate labor standards into the General Agreement on Tariffs and Trade (GATT) and to establish an international system of sanctions and incentives that promotes social reform and fosters fair trade.

In recent years, the status of worker rights in foreign countries has emerged as a significant issue in U.S. trade policy. Since 1983, Congress has made eligibility for certain trade and investment benefits conditional on whether or not foreign governments meet prescribed labor standards. In May 1986, the U.S. House of Representatives

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went further by passing a comprehensive trade bill known as H.R. 4800. It designates the denial of worker rights as an unfair trade practice and authorizes the President to take countermeasures against governments failing to provide such rights. The Reagan Administration has strongly opposed this bill, and the Senate did not act on it. Trade and labor rights, however, are likely to appear on the agenda of the 100th Congress.

The issue of worker rights is important because of its potential impact on both the global trading system and Third World development. While some see international labor standards as an excuse for protectionism or as an unrealistic attempt to improve employment conditions in poor countries, others see such standards as positive measures that increase mutually beneficial trade and foster freedom and economic well-being in other countries.<sup>1</sup>

Worker rights legislation has drawn political support from a coalition including the AFL-CIO, some unions, church groups, and human rights organizations. Several reasons have been advanced in support of further U.S. action. First, poor working conditions in other countries can depress domestic wages or employment when U.S. firms cut labor costs in order to compete. Second, ameliorating labor standards in developing countries can raise productivity and enhance distributional equity. Third, trade liberalization can be facilitated by improving unfair, repressive labor practices that are political obstacles to U.S.-Third World trade.

Opponents of the House trade bill (H.R. 4800), including the Reagan Administration and some business leaders, see poor working conditions not as unfair trade practices, but rather as an inherent condition of underdevelopment. They perceive the linkage of market access to worker rights as offsetting the competitive advantage of the developing countries, and therefore counterproductive to the world economy. It is also noted that lower-priced imports produced abroad under poor working conditions may benefit American consumers.

<sup>1</sup>Workers rights abuses obviously are a problem in non-market economies, but the difficulties of encouraging change in communist countries are not discussed here.

## The Labor Factor in Competition

The idea of taking labor exploitation out of competition is not new. In 1919, the Treaty of Versailles proclaimed that "the failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries." Seeing the need for collective action, the Allies established the International Labor Organization (ILO).

The labor standards in ILO Conventions do not try to deny comparative advantage in trade. Rather, it can be argued that they implicitly distinguish between the illegitimate advantages gained from policies such as forced labor or union bans and the legitimate advantages gained from conditions intrinsic to underdevelopment. Thus, the ILO has never set a uniform, real minimum wage, but does state that each country should establish its own minimum wage system. From the outset, the ILO recognized the special difficulties of the developing countries and allowed them more flexible standards.

Although many proposals have been advanced for international wage adequacy standards, they have not attracted much support. In 1977, for example, former Secretary of Labor Ray Marshall floated the idea of a global "living wage." In recent Congressional initiatives, however, the emphasis has shifted away from government efforts to raise wages toward steps to remove the obstacles to forming unions.

## U.S. Action on Worker Rights

### Existing Trade and Investment "Conditionality"

Worker rights "conditionality"--the linkage of certain labor standards to eligibility for trade or investment benefits--has been incorporated into four U.S. programs:

1. Caribbean Basin Initiative. In an attempt to gain AFL-CIO support for the CBI, the Administration proposed a labor criterion for determining eligibility for the new duty-free treatment. That discretionary criterion called on the President to consider the degree to which workers in each country are afforded "reasonable workplace conditions" and enjoy the "right to organize and bargain collectively."

During the five months after the CBI became law in 1983, the Administration negotiated agreements with twenty countries, seven of which had serious worker rights abuses. In six of these countries, the U.S. negotiators obtained commitments for reform that in many cases were implemented immediately. The most notable success occurred in Haiti, where the Duvalier government agreed to allow the establishment of an independent labor federation. Today, that federation is a respected voice of worker interests in a country with limited participatory institutions.

2. U.S. Generalized System of Preferences.  
In 1984, Congress renewed the GSP, which provides duty-free treatment for many products from developing countries. Over the opposition of the Administration, Congress added a mandatory labor criterion requiring

the President to withdraw GSP benefits (or invoke the statutory waiver) from any country "not taking steps to afford internationally recognized worker rights." These worker rights are defined to include: 1) the right of association; 2) the right to organize and bargain collectively; 3) a prohibition on forced labor; 4) a minimum age for child labor; and 5) acceptable conditions of work with regard to minimum wages, hours, and occupational health and safety. The rights apply to export processing zones as well as to domestic industries and services.

It is clear that Congress did not intend "internationally recognized worker rights" to match all of the rights prevailing in this country. For instance, nations do not have to pay the American minimum wage or meet our workplace safety standards to qualify for GSP benefits.

## Digest of Worker Rights

Extracted from ILO Conventions except where noted.

Child Labor--Minimum age for work is 15 years in industrial countries, 14 in developing countries. For dangerous work, the minimum age is 16 years; for light work, there is an exception of 13 years in industrial countries, 12 years in developing countries.<sup>a,b</sup>

Collective Bargaining--Governments should encourage voluntary negotiation between employers and unions and protect against anti-union discrimination.<sup>a,b,c</sup>

Employment Policy--Governments should pursue policies to promote full, productive, and freely chosen employment.<sup>a</sup>

Equal Remuneration--Equal pay for men and women for work of equal value.<sup>a</sup>

Export Industries--Labor standards in industries producing for export should not be inferior to those prevailing in industries producing for domestic consumption.<sup>d</sup> (Not an ILO Convention)

Forced Labor--Work that is exacted involuntarily under the menace of any penalty. Excludes military service.<sup>a,b,c</sup>

<sup>a</sup>Included in the 1984 Netherlands study.  
<sup>b</sup>Included in the 1984 GSP and 1985 OPIC legislation.

Freedom of Association--The right of workers to establish and join organizations of their own choosing. Governments may not interfere with trade union activities.<sup>a,b,c</sup>

Hours of Work--The work week should not exceed 48 hours. Workers should receive a full day of rest once a week.<sup>b</sup>

Minimum Wage--A minimum wage should be set in relation to the needs of workers and their families and to the requirements of economic development. Applies to both manufacturing and agricultural sectors.<sup>b</sup>

Non-Discrimination--Governments should take measures to forbid discrimination based on race, color, sex, religion, political opinion, national origin, and social origin.<sup>a,c</sup>

Occupational Safety and Health--Protection against specific risks (e.g., toxic substances and dangerous machinery) including a system of inspection and adequate penalties.<sup>b</sup>

Toxic Substances--Specific minimum exposure levels for chemicals (e.g., mercury and benzene) that would apply to all countries.<sup>d</sup>

<sup>c</sup>Included in the European Parliament resolution of September 9, 1986.

<sup>d</sup>Included in the 1979 U.S. proposal to the GATT Consultative Group of 18.

The GSP law established a formal procedure whereby at least once a year interested groups and individuals could submit petitions and testimony to the U.S. Trade Representative concerning foreign labor conditions. Also required was an annual report by the President on the status of worker rights in all countries receiving GSP benefits. The Administration is expected to announce its findings on eleven GSP petitions in early 1987.

3. Overseas Private Investment Corporation. OPIC provides political risk insurance to American companies investing overseas. When the program was reauthorized in 1985, OPIC was prohibited from insuring investment in any country not "taking steps to adopt and implement laws" that extend internationally recognized worker rights (using the GSP definition). As with GSP, the President can waive this requirement. OPIC is expected to announce new eligibility decisions in early 1987.

4. U.S. Companies Operating in South Africa. The final labor standard applies to American companies rather than to foreign governments. A 1985 Executive Order directed U.S. companies operating in South Africa to follow a set of fair employment practices--or lose their export-marketing assistance from the federal government. The fair practices are based on the "Sullivan Principles," a voluntary code of conduct designed to assist American employers in improving South African society. Among other points, the Executive Order requires that companies with over twenty-five employees pay a minimum wage "based on the appropriate local minimum economic level which takes into account the needs of employees and their families." In October 1986, Congress made this code mandatory in South Africa and Namibia as part of U.S. anti-apartheid sanctions.

Despite these four provisions, many advocates of worker rights are skeptical that much progress is being achieved. They claim that some countries that continue to receive GSP and OPIC benefits--Chile and Korea, for example--are taking little or no action to improve worker rights.

### HR 4800: New Rules of Trade

In 1986, two new provisions passed the House, but not the Senate, as part of H.R. 4800, the omnibus trade bill that

gives the President negotiating authority and makes other reforms in trade policy. First, the bill states that one U.S. objective in the new trade round will be the adoption of a GATT article or code declaring that the denial of worker rights is an unjustifiable means of gaining advantage in international trade. Second, the bill lists the denial of worker rights as an unreasonable trade practice that can lead to U.S. retaliation. In effect, this would announce that if no multilateral agreement on worker rights is reached, the United States might take unilateral action.

The CBI and GSP laws impose labor standards on imports receiving U.S. preferences. The House bill goes beyond this, calling for a change in the rules governing all imports. At present, the only provision in the GATT regarding the treatment of labor grants nations permission to ban imports made by prison labor. The House bill would seek to revise the GATT to allow action against imports produced under other unfair labor conditions. Whereas the test under GSP is whether a country is "taking steps" to improve worker rights, the test in the House bill is whether a country "denies" worker rights, measuring labor conditions against a common threshold.

In introducing the worker rights provision, Representative Don Pease (D-Ohio) explained: "Currently the GATT spells out rules in practice with regard to capital subsidies and dumping to promote fair competition, but not for labor practices. Anything goes. The current rules in world trade condone competition at any cost as far as workers are concerned."<sup>2</sup>

## International Reform

Several American initiatives have been introduced in the past to deal with worker rights on an international basis. In 1956, for example, the United States proposed a prohibition of international trade in goods produced by forced labor, but the ILO did not adopt it. More recently, in 1979, the United States submitted a code of minimum international labor standards to be placed on the GATT agenda for future discussion. Only the Nordic nations backed the idea, however, and it failed. Bureaucratic disputes prevented U.S. negotiators from making a concerted effort to garner support.

<sup>2</sup>Congressional Record, H1159, March 13, 1986.

The United States raised the worker rights issue again at the beginning of the current trade round, but consideration of this topic met with foreign opposition, particularly from developing countries. Although the present agenda for the Uruguay Round does not include labor standards, new issues may be raised later in the negotiations.

The move to incorporate worker rights into the GATT might be more successful now than in the past. One difference is that the European countries are showing renewed interest. In September 1986, the European Parliament recommended that a new GATT article be negotiated to cover fair labor standards.<sup>3</sup> In addition, Congress can be expected to keep a closer watch on this issue than it did during the Tokyo Round.

## The U.S. Debate

The current worker rights debate has raised a number of questions about the desirability of linking trade to worker rights.

### Defining Worker Rights

Opponents of the new legislation have questioned the existence of any "internationally recognized" worker rights, since ILO Conventions are binding only on the countries that ratify them. Moreover, it is alleged that the United States is in a weak position to try to enforce ILO Conventions when it has ratified only seven minor ones concerned mainly with maritime workers.

Proponents respond that ILO standards are internationally recognized because they have been approved by a two-thirds vote in the multilateral organization specifically established to adopt them. The absence of U.S. ratification of the major ILO Conventions is no bar to using them as a basis for judging the fairness of imports. After all, the GATT is not a treaty obligation and has not been ratified, yet the United States works to enforce GATT rules. Furthermore, existing U.S. law acknowledges that ILO Conventions "serve as international minimum standards for labor and social legislation" within member countries.<sup>4</sup>

<sup>3</sup>Resolution on the new round of multilateral trade negotiations within GATT, September 9, 1986, paragraphs 11, 64, 65.

<sup>4</sup>62 Stat. 1151 (1948).

Nevertheless, it seems clear that effective trade conditionality cannot be based on all of the ILO's 162 Conventions. Some are more important than others. A recent Dutch study on international labor standards in trade found just eight Conventions that met the triple test of widespread ratification, appropriateness to developing countries, and social importance.<sup>5</sup> These Conventions included four of the five GSP/OPIC standards.

### Effects on Developing Countries

Probably the strongest challenge to worker rights is the theory that developing countries are too poor to improve their working conditions. According to this line of reasoning, higher labor standards evolve only from economic growth. Government attempts to improve standards would deter investors and disrupt the labor market. Stronger unions may help their members get better wages, but if compensation costs are pushed too high, this will result in fewer jobs for other, perhaps poorer, workers.

There is also controversy as to whether promoting the rights of foreign workers, such as the right to organize, would really benefit the U.S. economy. One negative assessment comes from Dr. Richard Leshner, President of the U.S. Chamber of Commerce, who remarked that "We need to make our industry much more competitive rather than trying to preserve the inefficiency by forcing others to be inefficient."<sup>6</sup>

These are powerful objections to the concept of worker rights. In rebuttal, proponents maintain that poverty is no excuse for failing to grant basic human rights. Poverty may possibly justify a twelve-hour day, but cannot justify a ban on freedom of association.

The argument against unions presupposes that workers in developing countries are being paid the "economically correct" wage. Yet in the surplus labor markets typical of developing countries, many workers in the formal economy may be paid less than what their productivity would

<sup>5</sup>"Recommendations on Minimum International Labor Standards" (The Netherlands: National Advisory Council for Development Cooperation, 1984), pp. 82-83.

<sup>6</sup>U.S. Chamber of Commerce, "It's Your Business," October 8, 1986.

## A Sampling of Worker Rights Abuses

From "Country Reports on Human Rights Practices for 1985," Report Submitted to the Congress by the U.S. Department of State, February 1986.

### Freedom of Association in Paraguay:

"The [Paraguayan labor] Federation is carefully controlled by the Government and does not actively attempt to defend the interests of the Paraguayan work force." (p. 656)

### Collective Bargaining in Taiwan:

"Walkouts and strikes are prohibited under martial law. Collective bargaining, although provided for by legislation, does not in fact take place." (p. 760)

### Forced Labor in Mauritania:

"Efforts to implement Mauritania's 1980 Declaration of the Abolition of Slavery have been limited and only partially effective." (p. 209)

### Child Labor in Egypt:

"The minimum age for full-time employment is 12, which is also the minimum school-leaving age....[Egypt] reported that over half a million children aged 6 to 12 were regularly employed, a majority in the agricultural sector." (p. 1219)

### Working Conditions in Indonesia:

"An extensive body of labor law and ministerial regulations provides for minimum standards of industrial health and safety. In practice, these statutes are rarely observed." (p. 784)

warrant. As AFL-CIO President Lane Kirkland recently pointed out: "Too many less developed nations enjoy booms because workers are paid rock bottom subsistence wages, are forbidden to organize and bargain collectively and have no health and safety protection, no pensions, no security."<sup>7</sup> Collective bargaining can make a difference by providing workers with a counterweight to the great advantages that employers hold in hiring labor, particularly in export sectors dominated by a few large firms.

While it is true that any one country might suffer competitively if it alone pushed up its standards, joint action by developing countries to end the most egregious workplace abuses might not result in any loss of investment or trade. Common standards would curtail the ability of multinational corporations to shop around for the lowest labor conditions.

Higher labor standards could also improve productivity--both by avoiding needless injury and by giving employers a greater incentive to strengthen management. And higher income shares to workers might

<sup>7</sup>Lane Kirkland, "The Free Trade Myth Is Ruining Us," New York Times, September 26, 1986.

increase domestic purchasing power and keep money in the developing countries that otherwise flows to foreign banks.

## Sovereignty

Another common objection to making worker rights a trade issue is the view that the United States has no business interfering in the domestic affairs of other nations. It is argued that the United States can properly raise matters like government subsidies during trade negotiations, since these directly affect our commerce, but should treat labor as a "purely internal" matter.

Others counter that unfair trade is unfair trade, whether stemming from labor or capital factors. When a foreign government suppresses its labor costs by banning unions, it can injure U.S. competitors in the same way as if it had subsidized exports through public grants. Besides, almost every U.S. goal in the new trade round is premised on the belief that the GATT should interfere more, not less, in sensitive national policies.

## Appropriateness of Linkage to Trade Policy

Opponents of worker rights legislation also question whether foreign labor laws are an appropriate issue for trade policy. It is said that neither an explicit government action to restrict unions nor a lack of action to improve working conditions should be viewed as an unfair trade practice unless it confers a special benefit to exports.

There are some countries (e.g., Malaysia) whose export processing zones have more repressive labor rules than apply elsewhere in the country, to the clear economic benefit of exporters. But more often, the issue is how far U.S. policy should go in barring imports that are offensive for moral as well as economic reasons. For example, current U.S. law bans foreign goods made by convicts or produced from endangered animals. It can be argued that exploited children should receive equivalent protection, whether or not child labor abuses are the customary practice in the country.

## Trade Negotiations

Many of those who disagree with worker rights standards worry that a major U.S. push on labor conditions could be detrimental to more financially important policy goals. Administration officials have argued that while the huge U.S. market does give the United States some leverage in negotiations, this should not be spent on labor matters when much more income is at stake in prying open foreign markets for U.S. exports.

Others declare that this places worker rights in too narrow a context. If international rules were revised to make a clearer distinction between fair and unfair labor practices, then a key justification for today's protectionist pressures--the popular belief that domestic workers should not have to compete with "sweated labor" abroad--would be diminished. Since the consumer cost for U.S. protectionism is very high, anything that could reduce domestic resistance to fairly traded imports--such as a stronger emphasis on worker rights--would yield high dividends in U.S. economic growth.

Furthermore, we should consider the longer-run benefits to the United States of improved Third World working conditions. If developing countries take steps to raise

labor standards, then the industrial countries might be more willing to admit exports from the Third World. Greater exports would improve developing-country economies that, in turn, would expand the market for U.S. products. The broader distribution of income resulting from enhanced worker rights might also increase the demand for American-made goods.

## Future Reform Efforts

So far, the new labor conditionality has applied to bilateral trade programs only. There is no GATT problem because foreign countries are free to take or leave the preferences. The House bill does raise GATT questions, however, in permitting (but not requiring) the President unilaterally to define labor abuses as unfair and to restrict the imports involved. While the U.S. government can offer a legal defense in the GATT, such action could antagonize many of our trading partners. As U.S. Trade Representative Clayton Yeutter has said, "Though worker rights are a legitimate issue for negotiations, it is arrogant to attempt unilaterally to impose standards --of any kind--on the rest of the world."<sup>8</sup>

At this time, it is premature to gauge developing-country attitudes. Past negative reactions on the part of some developing countries to the U.S. emphasis on labor standards was based largely on what was perceived to be a punitive, protectionist approach. A new formulation of worker rights might attract developing-country support, particularly if it offered greater market access in return for progress on labor standards. Certainly the Brandt Commission--with half of its members from the developing world--saw potential benefits from international fair labor standards.

The most constructive approach would be to attain GATT agreement on new rules to secure worker rights. Joint action would assure a broad consensus on the rights to be protected and would tighten the sanctions against countries refusing to cooperate. If this proved impossible, a group of market-oriented countries might agree on a separate code of worker rights, analogous to the codes supplementing the

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<sup>8</sup>Clayton Yeutter, "It's So Bad, the Sponsors Must Want It Vetoed," Washington Post, May 18, 1986.

GATT that were devised during the Tokyo Round. Developing countries might be willing to improve worker rights in order to obtain greater trade preferences and employment and training assistance from industrial countries.

## Conclusion

Government actions that fail to uphold worker rights should be regarded as unfair trade practices. The United States should continue to press for solutions to this problem during the multilateral trade negotiations. To facilitate these talks, the U.S. government should present a detailed proposal on how to incorporate worker rights into the GATT. To signal the seriousness of its intent, the United States should withdraw GSP and OPIC benefits from countries unwilling to make labor reforms. Further unilateral action should be taken only if multilateral efforts fail.

An effective worker rights policy would require the judicious use of both the carrot and the stick. Linking international labor standards with the carrot of liberalized trade in sectors like textiles and apparel could give developing countries the capital needed to boost labor conditions. The stick of withholding trade preferences or imposing other penalties in cases where labor standards are not observed might counteract the existing incentives to suppress unions and maintain sweatshops. A real breakthrough would come if the U.S. government could promise greater market access to countries willing to abide by internationally recognized worker rights.

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### OVERSEAS DEVELOPMENT COUNCIL

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