

Improving Labour Standards through Development: A Positive Agenda



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through Development:
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Abbreviations & Acronyms

AFL-CIO	American Federation of Labor – Congress of Industrial Organizations
CLS	Core Labour Standards
CUTS	Consumer Unity & Trust Society
DSB	Dispute Settlement Body
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GSP	Generalised System of Preferences
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organisation
IPEC	International Programme on the Elimination of Child Labour
ITO	International Trade Organisation
MFN	Most Favoured Nation
NAFTA	North American Free Trade Agreement
NALCA	North American Agreement on Labor Cooperation
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
PPP	Purchasing Power Parity
TBT	Technical Barriers to Trade
TRIPs	Agreement on Trade-Related Aspects of Intellectual Property Rights
TWIN-SAL	Third World Intellectuals and NGOs Statement against Linkages
UNDP	United Nations Development Programme
US	United States of America
WTO	World Trade Organisation

Introduction

The fundamental aim of every individual and organisation concerned with development is to improve standards of living. Several approaches can be taken towards the achievement of this objective, most importantly the eradication of poverty. Recent years have seen a shift in the identification of poverty from the so-called monetary approach, which mainly focused on income, to more inclusive ones. Although this has led to problems in the definition of poverty, it has provided a new focus towards a more comprehensive conception of poverty as a “lack of access to services, lack of personal security, low social status, and lack of control over labour and working conditions”.¹

The February 2004 report of the World Commission on the Social Dimension of Globalisation highlights the importance that decent work has on the perceptions of people regarding the opportunities of globalisation. Over the last few years, there have been calls for greater coherence between economic, social and environmental policies. Declarations and treaties signed and ratified by the majority of member states in international bodies have established a framework that should lead the international community to apply their mandates in accordance with this objective.² Core labour standards play an important part in the newly globalising world.

However, although their aim is to improve the situation of workers worldwide, their forceful imposition has come under great scrutiny and criticism.

When exploring the issue of labour standards and their observance in developing countries there are several issues to be considered, including history, religion, and social structures. The objective of this paper is to advocate against the inclusion of a social clause – sanctions on trade in response to violations of labour standards – in the World Trade Organisation (WTO).

From the outset, it should be noted that even though Consumer Unity & Trust Society (CUTS) regards labour standards as intrinsically important and beneficial, their implementation and successful observance is subject to a positive strategy of national development and poverty reduction.

Poor countries have to tackle poverty first by expanding educational systems, enhancing health standards and improving basic infrastructure and devote the majority of their human and financial resources to this target. Labour standards have to be tackled at the domestic level, although this does not rule out any international assistance.

The WTO agreement proposes that trade should play a significant role in improving standards of living. However, it is crucial not to confuse means with ends: international trade is the means to development and not the end in itself.

A large amount of literature on the trade-labour linkage and on trade and poverty reduction is already in place. The selected bibliography bears witness and provides useful references for the interested reader.³ The main objective of this paper aimed at the development community at large is to inform. Hence, all key issues will be outlined. As a research and advocacy institution CUTS wants to provoke debate, leading to discussion and hopefully a better understanding of the issues.

The paper is divided into five parts: Sections I to III outline the three major subjects this paper deals with, namely poverty, labour standards, and the WTO. Section IV reviews the debate and presents the main points. Section V provides the main conclusions. Since it is an advocacy paper, we do not aim to be objective, although we trust to positively acknowledge several points of view.

The approach we suggest is clear: CUTS believes that the best way of improving labour standards is through a comprehensive development strategy, where poverty reduction is at the forefront.

Core labour standards are human rights, however, their implementation is subject to a certain level of development. In order to avoid the possibility of them being misused for protectionist purposes, labour standards should not be reviewed at the WTO. The ILO is the competent body to deal with the issues. Likewise, if industrialised countries' governments are so concerned about low labour standards, their constituencies should be prepared to pay a higher price that partly finances the implementation and observance of these standards.

I

The Challenge of Poverty

Poverty confronts humanity with a challenge. The United Nations and the international community of states identified this in the year 2000, with the Millennium Development Goals (see Box 1). In September 2000, 189 countries signed the final declaration of the United Nations Millennium Summit. This Declaration sets out eight goals to be achieved by 2015.

The first one establishes the eradication of extreme poverty and hunger – by halving the proportion of people living on less than one dollar a day and the proportion of people suffering from hunger. The last goal aims to develop a global partnership for development

Box 1: Millennium Development Goals	
1	Eradicate extreme hunger and poverty Halve the proportion of people living on less than one dollar a day. Halve the proportion of people who suffer from hunger.
2	Achieve universal primary education Ensure that boys and girls alike complete primary schooling.
3	Promote gender equality and empower women Eliminate gender disparity at all levels of education.
4	Reduce child mortality Reduce by two-thirds the under-five mortality rate.
5	Improve maternal health Reduce by three-quarters the maternal mortality ratio.
6	Combat HIV/AIDS, malaria, and other diseases Reverse the spread of HIV/AIDS.
7	Ensure environmental sustainability Integrate sustainable development into country policies and reverse loss of environmental resources. Halve the proportion of people without access to potable water. Significantly improve the lives of at least 100 million slum dwellers.
8	Develop a global partnership for development Raise official development assistance. Expand market access.
<i>Source:</i> UNDP 2003	

– by raising official development assistance and expanding market access. Thus, according to the international community, both, poverty reduction and trade enhancement need to go hand in hand.

Whilst the eradication of poverty is a laudable goal, the question remains as to how attain this objective. If the plan is to reduce poverty, a working definition of poverty would be needed. However, there is no single agreed upon definition. The definition used in the Millennium Development Goals classifies poverty as a quantitative measure. Whereas poverty can be described in many ways, there are four approaches of defining and measuring poverty: a monetary, capability, social exclusion and participatory approach.⁴

For the purpose of this paper, two definitions in particular are useful and relevant: the monetary and capability approaches. The monetary approach has conventionally been the economists' way of measuring poverty. The focus in this approach is to increase incomes by economic growth or redistribution. The capability approach, on the other hand, which builds primarily on work by Amartya Sen, gives more importance to the provision of public goods and the significance of public action for better access to these.⁵

Traditionally, economists have identified poverty with respect to the attainment of a certain standard of living. The percentage of the population with less than one dollar a day (valued at PPP) is deemed to constitute the 'poor'. Data are usually drawn from household surveys or national income data. The World Bank for instance has several household data studies where "the minimal standard of living is proxied by the level of consumption expenditure that will enable the household or individual to attain their basic needs.

This usually means being able to purchase a basket of goods containing the minimum quantity of calories and non-food commodities."⁶ The fundamental flaws with this definition are the fact that neither is utility an adequate measure of well-being nor is poverty an economic category.⁷

The so-called capability approach, which has largely benefited and effectively developed from work by Sen, has sought to include different non-monetary measures of poverty. Emblematic of this approach is the Human Poverty Index of the United Nations Development Programme, which is calculated by taking the geometric average of percentage of people, not expected to live to 40 years,⁸ the adult illiteracy rate, and the average lack of access to safe water and sanitation. Sen drew attention to the fundamental link between development and freedom, stressing that poverty "must be seen as the deprivation of basic capabilities rather than merely as lowness of income".

The social exclusion and participatory approaches provide complementary ways of identifying and measuring poverty. These approaches maintain that "individuals' understandings of poverty and their aspirations follow from" a contextual definition of poverty. Different societal contexts may therefore render the same person poor or non-poor.⁹ Case studies undertaken on the subject show the importance of considering different approaches, since different measurements render different poverty estimates.

The lesson to be learned is that a single definition would greatly benefit those concerned with reducing poverty. However, up until such a definition is established, all approaches should be considered when talking about poverty. In particular since “different definitions of poverty ... may lead to the identification of different individuals and groups as poor and require different policy solutions for poverty reduction”.¹⁰

Nevertheless, and leaving definitions aside, the fact that millions of people suffer from hunger and are not able to lead a dignified human life, to cover their basic necessities, that deprivation prevails and disparities in living standards continue to increase, should be a sufficient source of preoccupation. More accurately, poverty can be defined as: “...a human condition characterized by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.”¹¹

However, how does one reduce poverty? Which policies are needed? The World Bank in its Development Policy Review for India¹² has outlined four major priority reforms, which it regards as fundamental for poverty reduction:

- Fiscal policy;
- Delivery of Public Services;
- Investment Climate for Industry and Services; and
- Agricultural Policy and Rural Development.

These “reforms” are central to any poor country. Although they need to be complemented with political stability and conflict resolution. Moreover, and as the World Bank maintains, investment in human development is crucial in the fight against poverty. It is only when the poor are able to benefit from health and education that they will be able to escape the vicious circle of poverty by taking on skilled and higher remunerative jobs.

This is the only way that the poor will be able to take advantage of higher economic growth. Moreover, social safety nets, so often lacking in developing countries, are necessary. However, the question is: How to pay for these social safety nets? The role of the government in providing social services and elaborating social policies is fundamental.

The link between levels of poverty and poor labour standards is not easy to establish. The main reason is the difficulty on agreeing on a single definition and proxy measurement for both poverty and labour standards. As already stated above, the measurement of poverty relies on different methods. Similarly, the measurement of effective implementation of labour standards is problematic. Whilst this issue will be discussed at length in the following section, it is relatively uncontroversial to state that according to the traditional Western definition of labour standards, the higher the poverty rate (however measured), the lower the level of development and the lower the observance of labour standards will be. The large informal economy of developing countries makes even the implementation of the so-called core labour standards (CLS) difficult.

In the informal sector, the employer-employee relationship, upon which traditionally CLS have been based is usually lacking. Further, CLS’ effectiveness is difficult to measure. Ratification of ILO Conventions is not necessarily a sign of successful implementation.

II

Labour Rights as Human Rights?

The Core Labour Standards

Established in 1919 through the Treaty of Versailles, the International Labour Organisation (ILO) seeks to improve workers' employment conditions worldwide. It should be stated from the outset that the original founders of the ILO were countries, which are nowadays known as being "industrialised" or "developed". Notwithstanding certain historical differences, the ILO initiators shared a common culture and were almost all colonial powers.

The development of labour standards was corollary to several changes in employment structures. Rising incomes, the shift "from agriculture to manufacturing sectors and from rural to urban areas, some relative expansion of the suffrage in most countries, a widespread increase in educational levels and literacy, and the expansion of a widespread, legally acceptable, labor movement" were all essential antecedents.¹³

Two more things should be noted: Firstly, the level of development determines the adoption, implementation and ratification of ILO Conventions, i.e. there seems to be a direct correlation between economic performance or higher GDP per capita¹⁴ and more Conventions ratified.

Nevertheless, whereas many poor countries have signed many conventions and do not observe their contents, the US has not, does however, follow the precept. Secondly, there is a more or less clear demarcation between industrialised countries, which have originally campaigned for the inclusion of labour standards in the WTO and developing countries that have not.

The ILO's responsibilities include the formulation of international labour standards in the form of Conventions and Recommendations. The tripartite structure of the ILO, which apart from governments includes workers' and employers' associations is unique among UN agencies. Over the years the ILO's Conventions have aimed to enhance working conditions and cover issues such as health and safety provisions and minimum wages.¹⁵

Furthermore, the ILO provides technical assistance to countries lacking essential and necessary human and financial resources. It does so, for it believes that the best way to combat poverty is high-quality employment.¹⁶

The ILO also sets minimum standards for basic labour rights, including those known as the “core labour standards”, namely freedom of association, the right to organise and bargain collectively, the abolition of forced labour, equality of opportunity and treatment, and the effective abolition of child labour (see Box 2). This has proved to be a meaningful division, between those labour standards, which can arguably be categorised as human rights, and others.¹⁷

In 1998 the ILO Declaration on Fundamental Principles and Rights at Work was adopted. The ILO maintains that this declaration is an expression of commitment by governments, employers’ and workers’ organisations to uphold basic human values. Notwithstanding non-ratification of the relevant ILO Conventions, the ILO’s Declaration is binding on all ILO member states.¹⁸

Box 2: Fundamental ILO Conventions (Core Labour Standards)				
Convention Concerning	No.	Adopted	Entered into Force	Ratifications (No. of countries)
Freedom of association				
Freedom of Association and Protection of the Right to Organize	87	9 July 1948	4 July 1950	139
Right to Organize and Collective Bargaining	98	1 July 1949	18 July 1951	151
The Abolition of Forced Labour				
Forced or Compulsory Labour	29	28 June 1930		160
Abolition of Forced Labour	105	25 June 1957		157
Equality				
Equal Remuneration for Men and Women Workers for Work of Equal Value	100	29 June 1951	23 May 1953	156
Discrimination in Respect of Employment and Occupation	111	25 June 1958	15 June 1960	154
The Elimination of Child Labour				
Minimum Age for Admission to Employment	138	26 June 1973	19 July 1976	116
Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	182	17 June 1999		116
<i>Source: ILO</i>				

Core labour standards are widely regarded as fundamentally important. It is, therefore, not “whether” but “how” they should be observed that is subject of controversy.¹⁹ Two broad cases in favour of labour standards are usually identified, a social and an economic case.²⁰

The former, which is linked with moral arguments put forward by Western NGOs and trade unions, originates from the importance of core labour standards as fundamental rights and freedoms. Central moral arguments have been to aid the poor and powerless. This argument is linked with Amartya Sen’s notion of development as freedom. Sen sees development in relation to individual well-being. This well-being is “viewed as entailing certain basic freedoms irrespective of cultural context:

- Freedom to engage in political criticism and association
- Freedom to engage in market transactions
- Freedom from the ravages of preventable or curable disease
- Freedom from the disabling effects of illiteracy and lack of basic education
- Freedom from extreme material privation

According to Sen, these freedoms have both intrinsic and instrumental value.”²¹

Box 3: ILO Initiatives	
Year	Initiative
1992	International Programme on the Elimination of Child Labour
1995	Working Party on Social Aspects of Globalisation set up
1998	Declaration on Fundamental Principles and Rights at Work adopted
1999	Convention No. 182
1999	Article 33 invoked in case of Myanmar
2001	The ILO report on forced labour entitled “ <i>Stopping Forced Labour</i> ” was published
2002	World Commission on the Social Dimension of Globalisation established
2003	Report “Investing in Every Child: An Economic Study of the Costs and Benefits of Eliminating Child Labour”
2004	The World Commission releases its report entitled “ <i>A Fair Globalization: Creating Opportunities for All</i> ”
<i>Sources: Various</i>	

The economic case for labour standards has been linked to the correction of market failures, “Arguments for market failures are either that there are some externalities in the form of social benefits or else that there are difficulties generated by unequal bargaining power that can be adjusted by the state.

The social benefits from the enforcement of labor standards include public health, population growth, education, economic growth, and political stability, each of which, it has been argued, requires some form of legislative intervention.

The private benefits to those directly influenced will include better health, more opportunities for education permitted by fewer working hours, and an opportunity to become more productive workers, thus earning higher incomes.”²²

Hence, by implementing and observing labour standards the economy will become more efficient. Moreover, the implementation of labour standards as a poverty reduction strategy has been recognised: “Social and political stability, to which labour standards can contribute, increases private investment, including foreign investment. Freedom of association can enhance market effectiveness by increasing freedom of choice, equality of bargaining power and availability of information. Freedom from discrimination reduces the risks of skills and capabilities being wasted. Elimination of child labour improves economic prospects by getting children more educated.”²³

The effectiveness of international labour standards is dependent upon the acceptance of universal agreements set by an international organisation. However, labour standards need to be acknowledged by the sovereign states first. Provisions in a country’s constitution may provide for these already, although this is not always the case.

Thus, the attempt by an international agency to impose labour standards may not necessarily be successful. It is within this context that the idea of linking labour standards with trade arises.

If an agency, such as the ILO is ineffective in implementing labour standards, the threat of trade sanctions may be effective in raising awareness, but not in solving the situation. Trade sanctions are a negative approach towards labour standards, whose efficacy has so far not been empirically proven. This is partly because it is impossible to implement and observe labour standards overnight. Different levels of development and cultures may not allow for a swift and comprehensive implementation of core labour standards straightaway.²⁴

A related argument is that trade may not be linked to a significantly large section of an economy which observes low labour standards. This is true for many poor countries.

Another contention is that given their level of development, cheap labour may be the only source of comparative advantage that these countries have. However, as has been mentioned, membership of the ILO implies general acceptance and support for these standards.²⁵ Moreover, by virtue of membership the 1998 Declaration binds all members. OECD findings have determined that core labour standards have no adverse effect on export performance and economic growth and may even have positive effects.²⁶

A further difficulty arises since the measurement of labour standards compliance is not straightforward. Ratification of ILO Conventions is not a valid proxy (see Box 4).

Box 4: Measurement of Core Labour Standards

The measurement of labour standards' compliance is not straightforward. It is difficult to translate ILO Conventions and Recommendations (standards) into quantifiable measures. Ratification of ILO Conventions is not necessarily a sign of successful implementation. Several countries that have signed and ratified key conventions may not have been able to implement them fully.

Conversely the opposite is also possible. A case in point is the US. The US has only ratified two so-called Core Labour Standards one of them being No.182, which is not per se part of the Core Labour Standards. Indeed, the US has a very low trade unionisation rate. However, to presume that labour standards in the US are less observed than in many other countries would be incorrect.

The investigation of forced labour, inequality at work or the incidence of child labour is complicated since these activities are often hidden and take place in the informal or unregulated sectors, which are notoriously difficult to regulate and monitor. Moreover, the countries in which low labour standards prevail do often not have a very developed statistical system that could translate ILO standards into statistical definitions. For these reasons, the attempt has been made to develop proxies which aim to measure compliance and observance of labour standards. A proxy often used with respect to child labour is the occurrence of economic activity among children.

In a landmark paper "Labor Standards in International Trade: Do they Matter and What Do We Do About Them" (1996), Dani Rodrik developed a set of indicators which can represent the disparities among countries. In his paper Rodrik made use of the total numbers of ILO conventions ratified by a country; the number of conventions ratified by a country among six of the conventions relating to basic workers rights (29, 87, 98, 105, 111 and 138); the Freedom House indicator of civil liberties and the Freedom house indicator of political rights; the extent to which child labour is condoned – based on US embassy and ILO reports; the statutory hours of work in a normal working week in manufacturing or construction (when no data for manufacturing was reported); the day of annual leave in manufacturing and the percentage of labour force that is unionised.

With these eight statistical indicators Rodrik was able to draw the following conclusions: Labour costs tend to increase as standards become more stringent, the idea that labour standards influence comparative advantage can not be dismissed summarily out hand. However, low labour standards seem to be a hindrance, rather than an attraction for foreign investors.

More recently, the research organisation Verité (Verification in Trade and Ethics) published a study of country level compliance with international labour standards,

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“Emerging Markets Research Project Year-end Report” prepared for the California Public Employees Retirement System (CalPERS) in November 2002. This study, although very comprehensive addressed only the formal economic sectors of 27 countries.

Thus, leaving out the informal sector, which in more than half of the countries represents more than 50 percent of the labour force. Verité is currently implementing, with funding from the U.S. Department of Labor (DOL), a programme to develop tools to track country progress toward compliance with international labour standards. The Department’s Bureau of International Labor Affairs (ILAB) is administering the project.

Sources: The National Academic Press, Dani Rodrik (1996), Verité (2002) and (2004)²⁷

III

The Role of the WTO: Trade Liberalisation

The World Trade Organisation (WTO) is a permanent inter-governmental body that facilitates “the negotiation and implementation of trade-related agreements between sovereign states”.²⁸ The WTO has a legal basis and enjoys similar privileges and immunities as other inter-governmental organisations such as the International Monetary Fund and the World Bank.²⁹

The Agreement establishing the WTO was signed in Marrakech in 1994 following the Uruguay Round of negotiations. The central role of the WTO is to administer trade agreements and settle trade disputes through the Dispute Settlement Body (DSB). The promotion of trade stands high on the agenda, at least in letter, if not in action.³⁰

The economic principle upon which the WTO is based, namely comparative advantage, occurs when one country can produce something at a lower opportunity cost than another country. The case for free trade is strong, because “a country serves its own interests by pursuing free trade regardless of what other countries may do”.³¹ Following the economic case for trade liberalisation, the WTO has been nonetheless accused of being a mercantilist organisation.³²

As the successor of the General Agreement of Tariffs and Trade (GATT), the WTO includes the GATT 1947 text, although it incorporates the modifications undertaken during the Uruguay Round and is therefore known as the GATT 1994 text.³³ Three major sets of agreements comprise the WTO, these are: the Multilateral Agreements on Trade in Goods, the General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). Furthermore, the WTO includes the Understanding on Rules and Procedures Governing the Settlement of Disputes, the Trade Policy Review Mechanism, and several Plurilateral Agreements. Not all members are signatories to these agreements.

The fundamental and overriding principle of the WTO is the so-called Most Favoured Nation Principle (MFN). Essentially, this rule requests all signatories to treat all WTO members non-discriminatorily, i.e. as equal trading partners. Nevertheless, it is subject to some caveats, i.e. flexibilities for poor countries, most importantly regional organisations and the generalised system of preferences (GSP).

The WTO decisions are taken by consensus at the Ministerial Conferences, where each country has one vote hence making it democratic to a fault. The WTO Secretariat is in Geneva and works under the guidance of a Director-General. Apart from the Secretariat which comprise around 400 people, the organisation consists of:

- A General Council
- A Dispute Settlement Body
- A Trade Policy Review Body
- A Council for Trade in Goods
- A Council for Trade in Services
- A Council for Trade-Related Aspects of Intellectual Property Rights

There is no set list of issues that the WTO has to take up. In order to work on an area the issue needs to be identified first. Any new issue to be introduced has to be thoroughly discussed by the members. The usual procedure is as follows: A country or group of countries put forward a submission on a subject to the WTO General Council to set up a working group on the subject, which then discusses related and relevant issues. The working group is required to prepare and submit a report to the General Council. The WTO Ministerial Conference will then take a decision, after discussions, on proceeding with negotiations or otherwise. Negotiations start if there is a consensus. However, after negotiations conclude, agreement is not mandatory.

As already stated, with the exception of prison labour, there is no reference to labour standards in WTO agreements. The attempt to introduce a working group or negotiations on the issue has failed mainly on the refusal of developing countries to accept such a proposal. The issue was firstly mentioned during the Singapore Ministerial Meeting in 1996. Another attempt to introduce it under a working group was made again at Seattle in 1999, and at Doha in 2001. However, at the Fifth Ministerial Conference in Cancún in 2003 the issue did not come up. The most important reason is the following: The WTO is already overburdened with several non-trade related issues, which slow the process significantly down.

Box 5: Criteria for Inclusion of New Issues into the WTO
<ul style="list-style-type: none"> • There must be a discernable positive welfare impact to undertaking the collective action. • At least one domestic constituency in each of the major trading partners must support the negotiation of the initiative at the WTO. • Reasons must be advanced as to why the proposed multilateral obligations must be binding (i.e. as to why hortatory language expressing best intentions is insufficient). • The obligations must be codified precisely, their implementation observable, and where the collective action at issue permits some discretion for national policymaking, the latter must be relatively transparent. • The obligations created must be amenable to enforcement through the WTO's dispute settlement understanding.
<p><i>Source:</i> Simon Evenett (2003)</p>

The Uruguay Round Agreements for example, have yet to be fully implemented. The asymmetrical trading system is to blame for the failure of the last Ministerial Conference at Cancún. For this reason, the inclusion of issues, which withhold rather than promote the process is not commendable.

Another point to take into consideration would be the form that trade sanctions in the WTO would take and how they could be initiated. Moreover, the inclusion of possible trade disputes through the costly and time consuming dispute settlement mechanism would result in a high implementation burden for a poor country, where both human and financial resources are often scarce.

As there is no possibility of measuring the observance of labour standards in member countries, the question remains as to how subjective the impositions of such sanctions would be. The acquiescence by the WTO for countries to apply sanctions against those, whose laws they do not like, could result in arbitrariness. On the other hand, the consent to give trade preferences (e.g. the European “Everything but Arms” Programme) to countries whose laws they like would be a euphemistic way of actually applying mild sanctions to the rest. This approach is already underway.

Box 6: Social Clause in Trade Agreements	
Trade Agreements	Social Clause
Generalised System of Preferences (GSP)	<ul style="list-style-type: none"> • Under 1984 US GSP legislation, it was mandatory for the US President to take into account, amongst other things, whether the concerned partner country was taking steps to ensure internationally recognised workers’ rights while determining eligibility for GSP. • The EU established a link between trade and labour standards under its GSP programme in 1994 when additional GSP preferences were offered to countries committing themselves to respect international labour standards.
NAFTA	<ul style="list-style-type: none"> • Under the North American Agreement on Labor Cooperation (NAALC) of the NAFTA agreement the parties are required to effectively enforce their own labour laws, and are subject to specialised dispute settlement processes and ultimately fines enforceable through trade sanctions in the event of non-enforcement.
US-Jordan FTA	<ul style="list-style-type: none"> • The agreement contains trade-related labour provisions. The two countries have affirmed the importance of not waiving or derogating from their labour laws in order to encourage trade, and committed to effective enforcement of their domestic labour laws.

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US-Singapore FTA	<ul style="list-style-type: none"> • Provision for establishment of a Labour Cooperation Mechanism as the two parties recognise that cooperation provides enhanced opportunities to improve labour standards, and to further advance common commitments, including the June 1998 ILO Declaration on Fundamental Principles and Rights at Work and its follow-up.
CAFTA	<ul style="list-style-type: none"> • The parties establish a Labour Affairs Council and Labour Cooperation and Capacity Building Mechanism to deal with labour standards. • There are provisions of mutual consultation followed by conciliation and mediation by the Council and finally recourse to dispute settlement if any member fails to conform to its obligations on labour standards.
<p><i>Sources:</i> Trebilcock (2001), The White House (2004), US-Singapore Free Trade Agreement, Draft CAFTA Agreement³⁴</p>	

Labour standards do not belong into the WTO, but should be dealt with by the ILO. Suggestions on how to implement and observe labour standards should come from the ILO, the competent body to do so. Trade restrictions, imposition of tariffs etc. can be advised by the ILO Secretariat, which has the necessary human and financial resources to do so.

However, and most importantly, a more positive approach towards the implementation of labour standards is needed. Firstly, the mandatory poverty reduction, which has to be dealt with by the national governments in the context of sustainable development. Secondly, pro-active programmes such as the International Programme on the Elimination of Child Labour (IPEC).

IV

Improving Labour Standards through Development: A Positive Agenda

The objective of every individual concerned with development is to improve standards of living in accordance with sustainable development. An important part is played by the employment conditions of workers. To improve these conditions is the aim of the Conventions on labour standards as identified and developed by the International Labour Organisation (ILO).

The most effective way of implementing these standards is by reducing – and ultimately eradicating – poverty, since it is primarily poverty that impedes the successful implementation of labour rights.

On the other hand, the imposition of trade sanctions will unlikely lead to the expected outcomes. It is for this reason that the inclusion of a social clause in the World Trade Organisation (WTO), whose fundamental aim is the administration and promotion of trade agreements, is inappropriate.

Notwithstanding this statement, it should be recognised that the Establishing Agreement of the WTO acknowledges that trade will contribute towards the enhancement of living standards and the creation of full employment in accordance with the goal of sustainable development.³⁵ That is to say, the member governments of the WTO see trade as the means towards development and not an end in itself.

Moreover, most of the voices against low labour standards have claimed to be of an altruistic, moral and social nature. Proponents of the inclusion of a social clause have often not necessarily been protectionists, but NGOs and trade unions, such as the AFL-CIO, or the ICFTU. Consumers in the developed countries are becoming increasingly aware of some of the appalling working conditions faced by some workers in developing.³⁶ Moral concerns are often justified and cannot be brushed away so easily.³⁷

However, as has been concisely stated by Robert Stern, “labour standards are multi-faceted and may vary from country to country depending on stage of development, per capita incomes, and a host of political, social and cultural conditions and institutions”.³⁸ Consequently, labour market policies and hence labour standards naturally vary across countries, reflecting differences in factor endowments, income levels and growth, values, and culture thus revealing underlying social differences.³⁹

These differences are only consistent with the case for free trade. Divergences in preferences present extra opportunities to gain from trade. As Bhagwati and Srinivasan have remarked, “nations may legitimately have different ideas about what is reasonable standard. Moreover, even nations that share the same values will typically choose different standards if they have different incomes: advanced country standards for environmental quality and labor relations may look expensive luxuries to a very poor nation.”⁴⁰ Another argument, also put forward by Bhagwati has been the fact that the so-called social clause is fundamentally a non-trade issue and hence should not be a part of the WTO.

The linkage between trade and labour standards has a long history.⁴¹ In 1919 the Preamble to the ILO Constitution stated that, “... the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries”.

Almost thirty years later, the Final Act of the United Nations Conference on Trade and Employment in 1948, also known as the Havana Charter, which was to set up the International Trade Organisation (ITO), specifically dealt with the issue. Article 7 on “Fair Labour Standards” provided for it, “... The Members recognize that unfair labour conditions, particularly in production for export, create difficulties in international trade, and, accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory ...”

However, it also added that “In all matters relating to labour standards that may be referred to the [International Trade] Organization ... it shall consult and co-operate with the International Labour Organisation.” Hence reinforcing and corroborating the competence of the ILO on the matter.⁴² The ITO was never established.

The issue resurfaced again soon after the creation of the WTO in 1995. As of now core labour standards are not subject to WTO rules and disciplines. In 1996, during the first Ministerial Conference the member states recognised the ILO as the competent body to deal with the issue. All WTO members stated their commitment to core labour standards and agreed that they should not be used on protectionist grounds. They further aimed to reinforce and enhance the role of the ILO when they stated that both Secretariats should continue with their existing collaboration. In 1998 the ILO received a further boost with the Declaration on Fundamental Rights and Principles at Work.

According to classical economic theory, increased trade and therefore trade liberalisation should lead to economic growth. Consecutively, economic growth should lead to poverty reduction (see Box 7).⁴³ Indeed, economic growth could translate into higher government revenues, which could in turn be invested in health, education and infrastructure – fundamental in order to promote the well being of citizens and the reduction of poverty.⁴⁴

And yet, agreement on the positive relationship between trade and economic growth appears to be moving from “near universal to more qualified acceptance”.⁴⁵ Academic research and empirical evidence have contested this linkage recently.⁴⁶

Box 7: Trade & Poverty Linkages

McCulloch *et al* identify three broad means through which trade liberalization can have a direct effect on poverty:

- Through its impact on the prices of liberalized goods,
- Through its impact on profits and hence on employment and wages,
- Through its impact on the government's fiscal position.

The outcome depends on whether the poor are net consumers or producers of liberalised goods, what types of labour they supply, and where their wages lie relative to the poverty line. However, although it is possible to describe how each aspect of trade liberalisation might affect poverty, the impact of trade liberalisation is very country-specific.

Source: McCulloch et al (2001) Trade Liberalization and Poverty: A Handbook, p.11

Trade flows have augmented exponentially over the past 20 years. As the recent report by the Commission on the “Social Dimension of Globalization” has highlighted, the social aspects and repercussions of globalization cannot be ignored. Its impact on employment and income distribution are central elements.⁴⁷ Stagnant unemployment in Western Europe and the widening of the skilled-unskilled wage differentials in the United States, have led to renewed calls for protectionism from strong lobby groups. In the context of increased trade between countries with large disparities of wages, harmonization of labour standards has been called for.⁴⁸ Several studies have dealt with the issue.⁴⁹

The conclusions seem to point out, that whilst increased trade with low wage countries may have been one of the contributing factors of increasing unemployment and rising wage differentials, the impact of trade has been negligible.⁵⁰ The impact and attributable effects to trade are difficult to measure. However, at least in the US the major reason for the increase in wage disparities has been biased technical change.⁵¹

A common argument has been that the competitiveness of countries with lower labour standards will receive an “unfair competitive advantage”.⁵² In fact, this argument can be refuted in three different ways:

- the notion of countries being competitive is a fallacy.⁵³
- even if one pursues the argument, the belief that lower labour standards in some developing countries have played a role in increasing their comparative advantage and hence have forced workers in industrialised countries out of their jobs, can be dismissed as erroneous. Empirical research dealing with the subject has found this correlation to be very weak.⁵⁴
- if low wage labour is unfair competition, highly skilled labour forces, highly developed infrastructure, large public investments in education, research and development, extensive health care systems, effective law and order and superior institutions can be regarded as unfair competitive advantage from the “industrialised” countries.⁵⁵

Moreover, as has been rightly pointed out “from the perspective of importing countries, generically lower labour costs in exporting countries enhance consumer welfare in importing countries and by more than reductions in the latter”.⁵⁶ Indeed, from an economist’s point of view, “the diversity of working conditions between nations is the norm and is by no means in itself “unfair” as long as the extant labor standards are consistent with efficient resource use”.⁵⁷

This debate has in turn influenced the “trade-labour-linkage-debate” by claiming that the inclusion of a social clause in the WTO is necessary in order to prevent weak labour standards from providing “an illegitimate boost to competitiveness” and resulting in a “race to the bottom”. However, the argument that this may lead to competition among countries and/or ultimately result in “social dumping” is mistaken and flawed.⁵⁸

Empirical evidence provides no support for the claim that liberal international trade and investment regimes are leading developed countries to relax their labour standards or labour standards generally or that foreign investors are investing in countries with weak core labour standards.⁵⁹

Past experience also shows that with the exception of China, foreign direct investment does not mainly flow into countries where core labour standards’ enforcement is weak. In this context it is worth quoting Martin and Maskus (2001) at length:

“... if the violation of labor standards results from discrimination against particular workers in export industries, employment, output, and competitiveness will be reduced since employment is determined by the short side of the market. If the problems arise from abuse of market power by employers, competitiveness will be similarly reduced. Only if freedom of association and collective bargaining were intended to allow workers in some sectors to restrict output and drive up wages would the absence of these standards raise competitiveness.

However, if product markets are competitive, it is likely that association rights would increase output and competitiveness by raising productivity. The competitiveness argument seems either to reflect analytical confusion or to represent a cover for protectionist interests.”⁶⁰

In industrialised countries moral concerns of consumers have emerged with vehemence. Even though freer trade might be favourable from an economic point of view, the fact that imported goods might have been produced under low labour conditions is the same as importing workers from abroad and allowing them to work in poor conditions. For this reason, the willingness of Western consumers to pay is affected on two grounds. Firstly, (one would hope) some kind of international solidarity and secondly, if the risk that the West’s own labour standards could be as a consequence be negatively influenced.⁶¹

Low levels of income, exacerbated by high levels of poverty, make the observance of labour standards extremely difficult. In many cases, developing countries do have provisions for labour standards in place and indeed enshrined within their constitution. The adoption and enhancement of core labour standards should only have beneficial economic results, which will eventually lead to an improvement of the social conditions.

However, their enforcement is very often weak for three reasons:

- cultural and social values do not contribute to create the necessary awareness.
- the human and financial resources in order to promote these standards are frequently lacking.
- the large informal economy makes their observance and adherence very difficult.⁶²

The informal sector in non-OECD countries employs an average 60 to 90 percent of the labour force. Activities in this sector range from family-based and subsistence agriculture to “small jobs in rural and urban areas, such as street vendors, shoe-shine boys, domestic helpers, helpers in local street restaurants, helpers in the trucks, small-scale manufacturing industry, as also in the illegal trade such as prostitution begging etc.” In addition, empirical studies suggest that only 5 percent of child labour is located in export-orientated sectors. As a result, import restrictive practices in the form of a social clause would completely bypass and ignore this large part of labourers.⁶³ There is a risk of being pushed into more hazardous and less regulated activities, if the standards set in the formal sector are too high.

Given their level of development, it is unrealistic to expect the same infrastructure, safety nets and human and financial resources in developing countries as in most member states of the Organisation for Economic Co-Operation and Development (OECD). The establishment of safety nets (comparable to the welfare states of some OECD countries) is therefore a necessary element in order to contribute towards the well being of the workers.⁶⁴ However, as different editions of the Human Development Reports of the United Nations Development Programme (UNDP) show, priorities in public expenditure vary widely across countries.

If the aim is to reduce poverty the focus should be in increasing incomes (long term growth rate of per capita income) but also in increasing public expenditure. Indeed the Millennium Development Goals have correctly identified this. Reducing poverty will be instrumental in the achievement of higher labour standards. Poverty reduction has to be tackled in different ways: On the one hand, economic growth is essential.

Recent research by Rodrik and Subramanian has shifted the centre of attention; whilst earlier the emphasis was on theoretical models that generate self-sustaining growth and endogenous technological advance, nowadays more prominence is being given to the diversity of experiences in economic growth. On the empirical front, the search for correlates of growth has gone beyond empirical variables (such as physical and human capital, and price distortions) to examine “deeper” determinants of economic performance (such as geography and institutions).

Institutions, is being asserted, are paramount for long-term growth. And sound institutions are indeed fundamental in order to support governments to improve their public expenditure mechanisms. As already stated above, developed countries depend on highly skilled labour forces, well developed infrastructure, large public investments in education and research and development, extensive health care systems, effective law and order, and superior institutions. This may be a sign of different social values, but for the most part this reflects a size of collective and public investments that goes beyond the capacity of most developing countries.⁶⁵

Box 8: Five Points for the Promotion of Labour Standards

Norton, Schultz and Wood propose a 5-point agenda for the promotion of workers' rights and labour standards by the international development community:

- Support workers' rights, and labour standards for poverty reduction through policy dialogue.
- Support workers' rights through technical assistance and capacity building.
- Create alliances between workers in the formal sector and those not traditionally protected by labour institutions.
- Strengthen international political and legal mechanisms to deal with states that persistently abuse human rights.
- Broaden the global coalition for poverty reduction.

Source: Norton et al (2003) Labour Standards and Poverty Reduction, DFID, London

The ILO asserts that, "High quality employment is the most effective means to reduce poverty in a sustainable manner."⁶⁶ However contentious this statement may be, the fact is that good quality employment can play an important part towards raising living standards. The four so-called core labour standards, namely freedom of association, the abolition of forced labour, equality and the elimination of child labour, should be provided for and supported.

Indeed, if the implementation of these standards is successful, it will certainly have beneficial effects. However, this avowal is subject to a fundamental caveat: Only the universal adoption of core labour standards will lead to the desired outcome of improving the workers' plight.⁶⁷

A partial implementation of core labour standards is likely to backfire, when employers, faced with more stringent laws dismiss workers, and these then turn to unregulated jobs in the informal economy. Moreover, real wages would be pushed down safety standards in the unregulated sectors could worsen and job security would deteriorate. As for child labour, the positive outcomes of stronger child labour standards are not assured if displaced children are forced into activities that are less than desirable. A fractional implementation of core labour standards thus would hurt the groups they aimed to protect.

Hence, one might argue that on welfare grounds there is no clear case for pursuing universal labour standards. Indeed, the internationalisation and harmonisation of labour standards could result in unintended but devastating consequences for those in greatest need of assistance.⁶⁸

It is for this reason that the role of the ILO needs to be strengthened: It is the appropriate forum of discussions and it has expert human and adequate financial resources.⁶⁹ The ILO has the means in order to launch sustainable and sound initiatives that promote the observance of core labour standards.

The critique centres on the fact that voluntary compliance and moral suasion, the “name & shame” approach that the ILO typically takes, and its enforcement and administrative mechanisms are too weak.⁷⁰ On the other hand, according to critics, a social clause would ensure compliance.⁷¹

Jagdish Bhagwati, CUTS and other intellectuals and organisations have refuted this argument in the “Third World Intellectuals and NGOs Statement Against Linkages” (TWIN-SAL). To begin with, even if the ILO “has no teeth” it has a tongue, which it can use.⁷² Indeed, as the recent case in Myanmar shows, ILO recommendations can have a clear effect (see Box 9). Labour standards are not a trade issue per se.

More importantly and as already mentioned, there is no evidence that trade sanctions will lead to a successful and universal implementation of labour standards, make them acceptable and recognised. Cases of trade sanctions following non-trade issues⁷³ show that in some cases the imposition of trade sanctions does not lead to a development for the better of the situation it hopes to improve. Coercive demands using trade restrictions will ultimately hurt the poor most.⁷⁴

Box 9: The ILO and the Case of Myanmar

Myanmar has been under military rule since 1962. In 1990, multiparty elections resulted in a decisive victory of the opposition party. However, the military junta that had seized power in 1988 refused to hand over power. This Southeast Asian country has been repeatedly accused of a low human rights record. Amongst other things, it is the only country whose government authority has made widespread use of forced labour in the recent past. It seems that the military has forced villagers to work as porters for soldiers or on construction projects to build installations. Some reports state that workers have been paid a nominal amount for their work. However, the work is still extracted under threat and labourers are not allowed to refuse.

As a Member State of the ILO Myanmar has contravened its obligations in respect of the Forced Labour Convention, 1930 (No. 29). For this reason, in May 2000 under the terms of Article 33 of its Constitution, the International Labour Conference passed for the first time a resolution to secure compliance with the recommendations of the Commission of Inquiry. The measures, which sought to compel Myanmar to abolish forced labour, took effect from November 2000. They included amongst other things an indication to Myanmar’s trading partners to take into consideration the breach of Convention No. 29 and review its relations with the country.

The Conference entrusted the Governing Body with the task of examining the legislative, executive and administrative framework of the Myanmar. Previously the commission had attempted to compel Myanmar to act in accordance with Convention No. 29 by May 1999 by banning it from ILO meetings and prohibiting technical assistance.

Contd...

This tongue-lashing by the ILO appears to have been effective and as a result, Myanmar has been significantly ostracised internationally. In May 2003 Mr Francis Maupain from the ILO and the Myanmar Prime Minister, General Khin Nyunt, the Minister of Home Affairs, Colonel Tin Hlaing, and the Minister of Labour, U Tin accorded a plan of action for the eradication of forced labour. The plan envisaged the abolition of legislation from the colonial past as well as the exposure of forced labour practices as illegal. The situation continues to be serious and the plan's process has been stalled for almost a year. Most recently, however, the ILO has reported the commitment of the Myanmar Government to reactivate the plan.

Sources: New York Times, Rebound 88, Myanmar Times, ILO⁷⁵

The WTO's primary concern should be trade. An attempt to burden the WTO with issues that are the focal point of other international organisations will unnecessarily slow it down, as the Ministerial Conference celebrated at Cancún in 2003 showed, the inclusion of further issues (in this case the Singapore issues) to deal with.⁷⁶ Nevertheless, the dialogue between international organisations should be strengthened in order to promote the successful implementation of core labour standards as well as to enhance international trade and the trade liberalisation process.

The solution to this problem is straightforward, a serious promotion and support of the ILO and its Conventions needs to take place. Its role needs to be reinforced with close cooperation between national governments and ILO offices and professionals. In addition, developing countries need to play a more active role at the ILO, if it is true that they are serious about labour standards. The approach taken by the ILO has to be a positive and not a 'negative' one – as is the case with trade sanctions. It can assume a more 'positive' approach, as is the case with for example the International Programme on the Elimination of Child Labour (IPEC). It is important to tackle the mechanisms that lead children and/or their families to take the choice to enter the workforce.⁷⁷

Box 10: IPEC Programme

The eradication of child labour is one of the chief priorities of the ILO. To this end the International Programme on the Elimination of Child Labour (IPEC) was constituted in 1992. Since its adoption on June 17, 1999, Convention No. 182 – “Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour” – has been ratified by 147 countries. This Convention aimed to supplement Convention No. 138 “Minimum Age for Admission to Employment”, which entered into force in 1976.

IPEC's activities can be divided into four main clusters:

- Institutional development & capacity building;
- Direct action;
- Research, documentation and monitoring; and
- Sub-regional cooperation & joint action.

Contd...

Although it depends ultimately upon the individual governments to put Convention No. 182 into practice, the IPEC programme has been designed to promote and support its correct implementation. IPEC sets out four preparatory activities for this purpose:

- Identify which forms of child labour exist and how prevalent they are;
- Determine what constitutes hazardous work;
- Review current legislation to determine if existing laws – criminal, labour, military, and child protection – conform to the provision of the Convention; and
- Create a national structure for the purpose of following through with the Convention’s implementation

Once the preliminary actions have been undertaken, the achievement of the Convention’s objectives is dependent upon:

- Awareness raising;
- Law enforcement;
- Labour inspection;
- Educational support;
- Support for children and their families; and
- Cooperation with international activities.

According to a recent report by the ILO “Investing in Every Child” the benefits of eliminating child labour far outweigh the costs. The social benefits of investing in children’s education have been known for long. This report, however, states that the economic gains of the eradication of child labour would accrue to benefits of around \$60 billion by 2020.

Sources: ILO

The link between the failure to observe core labour standards and poverty appears to be fundamental. However, low labour standards contribute to the perpetuation of this poverty, thus creating a vicious circle.⁷⁸ It is for this reason that poverty reduction efforts need to go hand in hand with the enhancement of labour standards. Financial and technical assistance need to be stepped up, since in many cases, given the financial and administrative constraints developing countries are actually doing the best they can.

It has been argued that trade can contribute to lift people in developing countries out of poverty. Indeed, international trade, which should ultimately lead to welfare gains irrespective of absolute costs, is based upon the principle of comparative advantage. If the comparative advantage of developing countries rests on a comparatively cheaper labour force, for which demand exists, then that may help them to get out of the “vicious cycle” of poverty and into the “virtuous cycle” of trade liberalisation.

Trade liberalisation is thus one of the contributing factors towards raising living standards.

Most countries’ governments agree with core labour standards. Their implementation might however be difficult, due to the above mentioned problems concerning

infrastructure of the country, poor institutions, lacking educational system, as well as a large informal economy. As a result, and as Paul Krugman has argued, further consequences of the implementation of labour standards could be the creation of a “privileged labour aristocracy leaving the poor majority no better off.”

Moreover, one of the only sources of comparative advantage that developing countries have is their cheap labour force. “Deny them that ability, and you might well deny them the prospect of continuing industrial growth, even reverse the growth that has been achieved. And since export-oriented growth, for all its injustice, has been a huge boon for the workers in those nations, anything that curtails that growth is very much against their interests. A policy of good jobs in principle, but no jobs in practice, might assuage [...] consciences, but it is no favor to its alleged beneficiaries.”⁷⁹

If ‘developed’ countries concede so much importance to the implementation of core labour standards, their requirements could be accompanied by an implementation “package”.⁸⁰ This package could take the form of financial assistance, capacity building and technical cooperation through courses, seminars and grassroots projects.

The issue of child labour is a delicate case in point. It would be extremely controversial to support the view that child labour is not “that bad”. However, what many people in industrialised countries seem not to be aware of is that a) only recently did they abolish child labour themselves and b) there cannot be a “one-size-fits-all” approach. Each country is the result of particular cultural, political and religious circumstances. Slavery, forced or compulsory labour and the worst forms of child labour, as identified by ILO, cannot be justified (see Box 11).

However, some children have the necessity to work in order to survive. Their income is in many cases essential for the family. What are the alternatives if they are excluded or forced to leave from their workplace? The possibilities – even more hazardous work, prostitution, stealing – look bleak. As already noted more than 95 percent of child labourers work in non-tradable sectors. Hence, trade sanctions are not likely to have a direct impact. Furthermore, the majority of children workers are employed in the informal economy, which is notoriously difficult to regulate.⁸¹

Box 11: The Worst Forms of Child Labour
<ul style="list-style-type: none"> a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
<p><i>Source:</i> ILO</p>

Poor working conditions leading to the non-ratification or implementation of core labour standards is a consequence of poverty. There is no immediate remedy against poverty, just as trade sanctions are not the panacea for the non-implementation of core labour standards.

V

Conclusions

We agree with the fact that core labour standards are fundamental and should be taken care of, but at the appropriate forum. The point is not “whether” core labour standards should be observed but “how this observance can be strengthened”.⁸² The international community of states has established several organisations concerned with different things.

A continuous dialogue should exist between these organisations, but they should deal with what they were created to do. Trade sanctions imposed because of low labour standards beg the question whether it will not be rather some kind of disguised protectionism. The monitoring and enforcement of labour standards has been taken up in global, regional, national and other arrangements.⁸³ However, and as already stated at the beginning, the pursuance of all this arrangements necessitates human and financial resources, which are often scarce or simply lacking in developing countries.

We would like to make clear that whilst labour standards are fine and fair, their ‘observance’ should not be forced upon countries, which lack the financial and human resources to implement them. The ILO, supported by developing and industrialised countries alike, should continue to work on positive ways of approaching the issue and helping countries, which lack capacity to observe these standards. However, it should avoid the pursuance of an interventionist social agenda and acknowledge the national sovereignty of its member states. The inclusion of a social clause in the WTO is unnecessary and may indeed be pernicious.

This paper has argued that poverty reduction should be the foremost way of improving core labour standards. As has been correctly identified, the achievement of higher economic growth, along with adequate distributive mechanisms and safety nets, will rise per capita incomes and thus ultimately lead to the institution of pro-active social policies, hence improving the conditions of work and workers’ rights significantly.⁸⁴ The focus therefore should be on education, health and infrastructure. The Millennium Development Goals, and the Declaration on Fundamental Principles and Rights at Work provide further useful stepping-stones.

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TRADE, ECONOMICS AND ENVIRONMENT

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Given this background, this paper examines how the failure of 1980s codes, regulated by international bodies, resulted in the proliferation of corporate codes of conduct and an increased emphasis on corporate social responsibility.

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These sanctions were exercised to alleviate the problem of child labour by US policy-makers and also by some countries in the EU. But, the question arises – have the trade sanctions imposed by these countries in any way helped eliminate this

problem? This research report of CUTS Centre for International Trade, Economics & Environment tries to address this question.

It has explored the impact of these trade sanctions and finds that these sanctions resulted in the contradiction of the basic objective, i.e., elimination of child labour.

Besides highlighting the causes of child labour, the report makes some very useful recommendations on how the issue of child labour can be addressed best at the domestic as well as international level. (Rs.100/US\$25, ISBN 81-87222-82-4)

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This research document tries to find an answer to one specific question: what genuine choices do policymakers in South Asian developing nations now have, more so after the linkage between the trade regime and pharmaceuticals? Starting with a brief overview of the key features of the corporate model of pharmaceuticals, the paper provides some insight into the challenges faced by the governments in South Asian countries. The aim is to anchor the present discussion of public health and the impact of TRIPs in the socio-cultural environment of this region.

(Rs.100/US\$25, ISBN 81-87222-83-2)

18. Bridging the Differences: *Analyses of Five Issues of the WTO Agenda*

This book is a product of the project, EU-India Network on Trade and Development (EINTAD), launched about a year back at Brussels. CUTS and University of Sussex are the lead partners in this project, implemented with financial support from the European Commission (EC). The CUTS-Sussex University study has been jointly edited by Prof. L. Alan Winters of the University of Sussex and Pradeep S. Mehta, Secretary-General of CUTS, India.

The five issues discussed in the book are Investment, Competition Policy, Anti-dumping, Textiles & Clothing, and Movement of Natural Persons. Each of these papers has been co-authored by eminent researchers from Europe and India.

(Rs.350/US\$50, ISBN 81-87222-92-1)

19. Dealing with Protectionist Standard Setting: *Effectiveness of WTO Agreements on TBT and SPS*

Sanitary and Phytosanitary Safeguards (SPS) and Technical Barriers to Trade (TBT) Agreements — enshrined in the WTO — are meant to keep undesirable trade practices at bay. These Agreements try to ensure adherence to standards, certification and testing procedures, apart from technical protection to the people, by countries while trading in the international arena.

This research report is a sincere attempt to fathom the relevance of SPS and TBT Agreements, their necessity in the present global economic scenario and, of course, the development of case law related to the Agreements, along with a brief description of the impact of this case law on developing countries.

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20. Competitiveness of Service Sectors in South Asia: *Role and Implications of GATS*

This research report attempts to emphasise on the relevance of GATS for developing economies, particularly in South Asia. It also examines the potential gains from trade liberalisation in services, with a specific focus on hospital services, and raises legitimate concerns about increases in exports affecting adversely the domestic availability of such services. It highlights how the ongoing GATS negotiations can be used to generate a stronger liberalising momentum in the health sector.

(Rs.100/US\$25, ISBN 81-8257-000-X)

21. Demystifying Agriculture Market Access Formula: *A Developing Country Perspective After Cancun Setback*

At the Cancún meeting, a draft ministerial text on agriculture emerged, known as the Derbez Text. It was not surprising that at Cancún the WTO members failed to accept a ministerial text on agriculture. The Derbez Text had made the framework very complex, which the paper, “Demystifying Agriculture Market Access Formula” tries to demystify. (#0417, Rs. 100/US\$25, ISBN 81-8257-033-6)

22. Trade-Labour Debate: *The State of Affairs*

The purpose of the study is not to rehearse the never-ending story on the pros and cons of the trade-labour linkage. It not only seeks to assess the current and possible future direction of the debate from the developing countries’ perspective. It is hoped that this approach will provide developing countries with concrete policy suggestions in terms of the way Forward

(#0410, Rs. 100/US\$25, ISBN81-8257-025-5)

23. Liberalising Trade in Environmental Goods and Services: *In Search of ‘Win-Win-Win’ Outcomes*

Trade in environmental goods and services has assumed a centre-stage position. The excellent analysis of this issue involved in environmental trade concludes with soundly reasoned policy recommendations which show the direction that future negotiations must take if the originally envisaged ‘win-win-win’ situation is to be achieved. (#0402, Rs. 100/US\$25, ISBN 81-8257-019-0)

24. Protectionism and Trade Remedial Measures

This paper examines how protectionism has influenced the use of trade remedial measures. It examines the trends of imposition of trade remedial measures. In order to highlight the protectionist nature of anti-dumping measures, the paper looks at the manner in which the countries have interpreted the WTO agreement on anti-dumping. The paper also makes a comparison between anti-dumping measures and safeguard measures. It demonstrates that countries have preferred using anti-dumping measures over safeguard measures because the former can be easily used for extending protection to domestic industry for a longer time.

(#0420, Rs. 100/US\$25, ISBN 81-8257-039-5)

25. FDI in South Asia: *Do Incentives Work? A Survey of the Literature*

The present paper has looked at the understudied issues of FDI policies in South Asia, particularly from the point of view of the effectiveness of performance requirements imposed by host countries and the costs of accompanying incentives.

As regards the costs of incentives, which a country offers to foreign firms, so far, only a few studies have tried to quantify them. These incentives are normally given as quid pro quo with performance requirements. But, in the bargain, it has been found, these incentives tend to be particularly costly over a period of time.
(#0403, Rs. 100/US\$25, ISBN 81-8257-037-9)

26. WTO Agreement on Rules Of Origin: *Implications for South Asia*

The importance of rules of origin (RoO) has grown significantly over the years. RoO can be divided into two categories: non-preferential and preferential.

The paper tries to critically examine the WTO proposal on the harmonised rules of origin. The study has looked at its implications on South Asian countries, especially India. Further, in view of the contentious nature of the RoO pertaining to textiles, and the big stakes involved for South Asia, the study places special emphasis on textiles and clothing. (#0422, Rs. 100/US\$25, ISBN 81-8257-038-7)

27. WTO Agreement on Agriculture and South Asian Countries

Agriculture, in all its manifestations, has always been a sensitive and emotional issue for all countries, but it is more so for the poor countries of the South.

This paper looks into various commonalities in the economic situation of South Asian countries, their sensitivity attached to agriculture, and above all, a common approach to globalisation. In view of these realities, the paper tries to explore a common agenda that South Asian countries can follow during future negotiations on the WTO Agreement on Agriculture. Now the Doha Round of trade negotiations has entered into a crucial phase after the July developments. The “July Package” has resulted in agreement over the framework for establishing modalities in agriculture. In light of this, there cannot be a more opportune time for publishing this paper.
(#0423, Rs. 100/US\$25, ISBN 81-8257-040-9)

28. Agreement on SAFTA: *Is It Win-Win for All SAARC Countries?*

One of the major objectives of this study is to sensitise various stakeholders (state as well as non-state actors) on the need for better regional cooperation, as it has been proved that such cooperation gives huge peace dividends. It provides a good account of existing trade between SAARC countries and highlights lessons learnt from the efforts so far made for better intra-regional trade within South Asia. It also discusses possible implications of SAFTA on South Asian countries. (#0424, Rs. 100/US\$25, ISBN 81-8257-042-5)

29. Trade Facilitation and South Asia: *The Need for Some Serious Scenario Planning*

This paper tries to bring to the fore some practical political, economic and operational issues from the point of view of South Asian countries in particular and which may arise as a result of future multilateral agreement on trade facilitation. It throws light on some of the major policy issues and recommends approaches that would fit with the interests and priorities of South Asian countries. One of the major issues the paper tries to emphasise upon is that the problems of improving customs administration in the region are only a small part of a much greater problem relating to border management and domestic tax and revenue enforcement issues.
(#0425, Rs. 100/US\$25, ISBN 81-8257-041-7)

30. Movement of Natural Persons and South Asian Countries

The study looks at the case of South Asian countries, which have got huge potential to increase their export of services through Mode 4. It focuses mainly on four countries – Bangladesh, India, Pakistan and Sri Lanka. However, there are several constraints that South Asian countries face in exporting their services under Mode 4 to developed countries.

It focuses on the significance of Mode 4 for South Asia, the kinds of barriers faced by these countries in supplying services through Mode 4, and how the GATS negotiations can be used to advance their export interests under this particular mode of service supply. Besides, the study also highlights the role of complementary domestic policy reforms and measures, which are equally important for harnessing benefits if trade under Mode 4 is liberalised.

(#0427, Rs. 100/US\$25, ISBN 81-8257-044-1)

31. Enhancing Collective Export Competitiveness on Textiles and Clothing

The paper tries to underline the importance of enhancing collective export competitiveness of South Asian countries. It makes a strong case for enhancing collective competitiveness through cooperation rather than competition. Still, there is a need to promote healthy competition among firms within the region, and countries, for continuous improvement of efficiency and expertise.

The study also recommends the necessity of having an effective institutional arrangement for making such cooperation meaningful and successful. Over and above, the cooperation on textiles and clothing could be a good beginning to fulfil our long-term objective of enhanced cooperation on economic, trade and investment under the auspices of South Asia Free Trade Agreement (SAFTA).

(#0428, Rs. 100/US\$25, ISBN 81-8257-045-X)

DISCUSSION PAPERS

1. Existing Inequities in Trade - A Challenge to GATT

A much appreciated paper written by Pradeep S Mehta and presented at the GATT Symposium on Trade, Environment & Sustainable Development, Geneva, 10-11 June, 1994 which highlights the inconsistencies in the contentious debates around trade and environment. *(10pp, #9406, Rs 30/US\$5)*

2. Ratchetting Market Access

Bipul Chatterjee and Raghav Narsalay analyse the impact of the GATT Agreements on developing countries. The analyses takes stock of what has happened at the WTO until now, and flags issues for comments. *(#9810, Rs.100/US\$25)*

3. Domestically Prohibited Goods, Trade in Toxic Waste and Technology Transfer: Issues and Developments

This study by CUTS Centre for International Trade, Economics & Environment attempts to highlight concerns about the industrialised countries exporting domestically prohibited goods (DPGs) and technologies to the developing countries that are not capable of disposing off these substances safely, and protecting their people from health and environmental hazards. *(ISBN 81-87222-40-9)*

EVENT REPORTS

1. **Challenges in Implementing a Competition Policy and Law: *An Agenda for Action***

This report is an outcome of the symposium held in Geneva on “Competition Policy and Consumer Interest in the Global Economy” on 12-13 October, 2001. The one-and-a-half-day event was organised by CUTS and supported by the International Development Research Centre (IDRC), Canada. The symposium was addressed by international experts and practitioners representing different stakeholder groups viz. consumer organisations, NGOs, media, academia, etc. and the audience comprised of participants from all over the world, including representatives of Geneva trade missions, UNCTAD, WTO, EC, etc. This publication will assist people in understanding the domestic as well as international challenges in respect of competition law and policy. (48pp, #0202, Rs.100/US\$25)

2. **Analyses of the Interaction between Trade and Competition Policy**

This not only provides information about the views of different countries on various issues being discussed at the working group on competition, but also informs them about the views of experts on competition concerns being discussed on the WTO platform and the possible direction these discussions would take place in near future. It also contains an analyses on the country’s presentations by CUTS. (Rs.100/US\$25, ISBN 81-87222-33-6)

MONOGRAPHS

1. **Role and the Impact of Advertising in Promoting Sustainable Consumption in India**

Economic liberalisation in India witnessed the arrival of marketing and advertisement gimmicks, which had not existed before. This monograph traces the the impact of advertising on consumption in India since 1991. (25pp, #9803, Rs.50/US\$10)

2. **Social Clause as an Element of the WTO Process**

The central question is whether poor labour standards result in comparative advantage for a country or not. The document analyses the political economy of the debate on trade and labour standards. (14pp, #9804, Rs.50/US\$10)

3. **Is Trade Liberalisation Sustainable Over Time?**

Economic policy is not an easy area for either the laity or social activist to comprehend. To understand the process of reforms, Dr. Kalyan Raipuria, Adviser, Ministry of Commerce, Government of India, wrote a reader-friendly guide by using question-answer format. (29pp, #9805, Rs. 50/US\$10)

4. **Impact of the Economic Reforms in India on the Poor**

The question is whether benefits of the reforms are reaching the poor or not. This study aims to draw attention to this factor by taking into account inter-state investment pattern, employment and income generation, the social and human development indicators, the state of specific poverty alleviation programmes as well as the impact on the poor in selected occupations where they are concentrated. (15pp, #9806, Rs. 50/US\$10)

5. Regulation: Why and How

From consumer's viewpoint, markets and regulators are complementary instruments. The role of the latter is to compensate in some way the failings of the former. The goal of this monograph is to provide a general picture of the why's of regulation in a market economy. (34pp, #9814, Rs.50/US\$10)

6. Snapshots from the Sustainability Route — A Sample Profile from India

Consumption is an indicator of both economic development and also social habits. The disparity in consumption pattern has always been explained in the context of the rural urban divide in India. The monograph analyses the consumption patten of India from the point of view of the global trend towards sustainable consumption. (16pp, #9903, Rs.50/US\$10)

7. Consumer Protection in the Global Economy

This monograph outlines the goals of a consumer protection policy and also speaks about the interaction between consumer protection laws and competition laws. It also highlights the new dimensions about delivering consumer redress in a globalising world economy, which raises jurisdictional issues and the sheer size of the market. (38pp, #0101, Rs.50/US\$10).

8. Globalisation and India – Myths and Realities

This monograph is an attempt to examine the myths and realities so as to address some common fallacies about globalisation and raise peoples' awareness on the potential benefits globalisation has to offer. (40pp, #0105, Rs.50/US\$10)

9. ABC of the WTO

This monograph is about the World Trade Organisation (WTO) which has become the tool for globalisation. This monograph is an attempt to inform the layperson about the WTO in a simple question-answer format. It is the first in our series of monographs covering WTO-related issues and their implications for India. Its aim is to create an informed society through better public knowledge, and thus enhance transparency and accountability in the system of economic governance. (36pp, #0213, Rs.50/US\$10)

10. ABC of FDI

FDI — a term heard by many but understood by few. In the present times of liberalisation and integration of world economy, the phenomenon of Foreign Direct Investment or FDI is rapidly becoming a favourite jargon, though without much knowledge about it. That is why CUTS decided to come out with a handy, yet easy-to-afford monograph, dwelling upon the how's and why's of FDI. This monograph is third in the series of "Globalisation and India – Myths and Realities", launched by CUTS in September 2001. "How is FDI defined?" "What does it constitute?" "Does it increase jobs, exports and economic growth?" Or, "Does it drive out domestic investment or enhance it?" are only some of the topics addressed to in a lay man's language in this monograph. (48pp, #0306, Rs.50/US\$10)

11. WTO Agreement on Agriculture: *Frequently Asked Questions*

As a befitting reply to the overwhelming response to our earlier three monographs, we decided to come out with a monograph on *WTO Agreement on Agriculture* in a simple Q&A format. This is the fourth one in our series of monographs on *Globalisation and India – Myths and Realities*, started in September 2001.

This monograph of CUTS Centre for International Trade, Economics & Environment (CUTS-CITEE) is meant to inform people on the basics of the WTO Agreement on Agriculture and its likely impact on India.

(48pp, #0314, Rs.50/US\$10)

12. Globalisation, Economic Liberalisation and the Indian Informal Sector – *A Roadmap for Advocacy*

CUTS with the support of Oxfam GB in India, had undertaken a project on globalisation and the Indian Informal sector. The selected sectors were non-timber forest products, handloom and handicraft. The rationale was based on the premise that globalisation and economic liberalisation can result in potential gains, even for the poor, but there is the need for safety measures as well. This is mainly because unhindered globalisation can lead to lopsided growth, where some sectors may prosper, leaving the vulnerable ones lagging behind. (ISBN 81-8257-017-4)

13. ABC of TRIPs

This booklet intends to explain in a simple language, the Trade-Related Intellectual Property Rights Agreement (TRIPs), which came along with the WTO in 1995. TRIPs deals with patents, copyrights, trademarks, GIs, etc. and continues to be one of the most controversial issues in the international trading system. The agreement makes the protection of IPRs a fundamental part of the WTO. This monograph gives a brief history of the agreement and addresses important issues such as life patenting, traditional knowledge and transfer of technology among others.

(38pp, Rs. 50/US\$10, #0407) ISBN 81-8257-026-3

14. Trade Policy Making in India – *The reality below the water line*

This paper discusses and concludes the issues, in broad terms, that India struggles with trade policy making, essentially because domestic and international thinking on development and economic growth is seriously out of alignment, and that there are few immediate prospects of this changing, for a variety of entirely domestic political reasons. (#0415, Rs. 100/US\$10, ISBN 81-8257-031-X)

15. ABC of GATS

The aim of the GATS agreement is to gradually remove barriers to trade in services and open up services to international competition. This monograph is an attempt to educate the reader with the basic issues concerning trade in services, as under GATS. The aim of this monograph is to explain in simple language the structure and implications of the GATS agreement, especially for developing countries.

(#0416, Rs. 50/US\$10, ISBN 81-8257-032-8)

16. WTO Agreement on Textiles and Clothing – *Frequently Asked Questions*

This monograph attempts to address some of the basic questions and concerns relating to the textiles and clothing. The aim is to equip the reader to understand the fundamentals of and underlying issues pertaining to trade in textiles and clothing. (#0419, Rs. 50/US\$10, ISBN 81-8257-035-2)

GUIDES

1. Unpacking the GATT

This book provides an easy guide to the main aspects of the Uruguay Round agreements in a way that is understandable for non-trade experts, and also contains enough detail to make it a working document for academics and activists. (US\$5, Rs.60)

2. Consumer Agenda and the WTO — *An Indian Viewpoint*

Analyses of strategic and WTO-related issues under two broad heads, international agenda and domestic agenda. (#9907)

NEWSLETTER

Economiquity

A quarterly newsletter of the CUTS Centre for International Trade, Economics & Environment for private circulation among interested persons/networks. Contributions are welcome: Rs.100/US\$20 p.a.

BRIEFING PAPERS

Our Briefing Papers inform the layperson and raise issues for further debate. These have been written by several persons, with comments from others. Re-publication, circulation etc. are encouraged for wider education.

Contributions towards postage (Rs.20/US\$5) are welcome.

1995

1. GATT, Patent Laws and Implications for India
2. Social Clause in the GATT - A Boon or Bane for India
3. Greening Consumer Choice? - Environmental Labelling and the Consumer
4. Trade & Environment: the Inequitable Connection
5. Anti-Dumping Measures under GATT and Indian Law
6. Rational Drug Policy in South Asia - The Way Ahead
7. No Patents on Life Forms!
8. Legislative Reforms in a Liberalising Economy

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5. The Circle of Poison - Unholy Trade in Domestically Prohibited Goods
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9. WTO: Beyond Singapore - The Need for Equity and Coherence

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5. Textiles & Clothing - Who Gains, Who Loses and Why?
6. Trade in Agriculture — Quest for Equality
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8. TRIPs and Pharmaceuticals: Implications for India
9. Movement of Natural Persons Under GATS: Problems and Prospects

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5. Movement of Natural Persons and Regional Trade Agreements

*For more details visit our website at
www.cuts-international.org.*