BRIEFING PAPER

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Trade, Labour, Global Competition and the Social Clause

Introduction

The debate over the social clause has often been a very peculiar one. On one side have been the outright protectionists who have argued that employers paying wages below those being paid in the industrialised countries are guilty of "social dumping". On the other side lie the ideological neo-liberals who have argued that there is no link between trade and labour standards.

The social clause debate comprises of an economic argument and a moral argument. The forces lined up in favour of the social clause have often mixed up their economics and their politics. However, the economists studying the issue have fairly conclusively established that there is a relatively small link between import competition, and unemployment.

This Briefing Paper is an abridged version of a research report with the same title, which attempts to tread the path between these "straw man" positions and to draw together evidence, theory and practical experience of social clause.

The Economics of Trade-Labour Link

For most modern observers of trade policy the development of neo-classical economics of most relevance to the trade-labour debate is the Heckscher-Ohlin-Samuelson model. The long and short of the model stipulates that, other things being equal, each country will produce that good in which it has a factor abundance. This may mean that it has a factor abundance of capital or land over labour (i.e. a high capital-labour, land-labour ratio).

Based on that model, Stolper and Samuelson argued about the impact of protective tariffs on the relative earnings of each factor of production. This theory/result is immensely important for the utilisation of protective tariffs on the relative earnings of each factor of production. Stolper and Samuelson argued that placing a high tariff on the imported good would increase its domestic price. This would increase the real return to the scarcer factor of production in the importing country and thus reduce the real return to the abundant factor of production used intensively in the production of exported goods.

Setting aside core economic theory, it is extremely difficult to pinpoint the effect of trade on labour in an accurate manner. The following three questions need to be answered specifically:

- What is the relationship between a changing exposure to international competition and the conditions and quality of employment of all workers?
- What part does cross-border trade play in this dynamics?; and
- What can be done at the international level to respond to this dynamic development?

International Competition and Wages

There is a little dispute that wage differentials between skilled and non-skilled workers have increased markedly since 1970. However, there is considerable dispute about the cause of this rising inequality. Borjas and Ramey argued that the literature on the subject, dealing with the US situation, breaks down into the following strands:

- The decline in the baby boom forcing up wages to college graduates;
- The shift from manufacturing to service employment;
- The de-unionisation of employment and the removal of "safety nets";
- The increasing openness of economies to trade and immigration; and
- 'Skill-biased' economic change.

What Does the Empirical Analysis Tells Us?

The studies of the issue have generally shown that:

- Overall trade only explains a small share of any decline in employment;
- In concentrated sectors this impact is considerably larger; and
- Trade explains only a small amount of the growth in wage inequality in developed economies.

However, the impact of globalisation on employment is a much wider question than the impact of trade on employment. The trade element is an important one, but not the only deciding factor. Many opponents of finding a link between trade and employment point to the fact that technology helps to explain more of the decline in employment than trade. Any analysis of the basic Structure-Conduct-Performance model of industrial market structure would indicate, the impact of competition at the firm level can have a number of sources. Increased trade penetration, investment penetration and consumer expectation and demand are important elements of this. Thus, change in the structure and conduct of business cannot simply be captured in a normal trade model.

At the most, the spread of globalisation and its popularism in the media has lead to a climate of fear among most workers in developed economies about the effect of trade and foreign competition. The base threat that firms will transfer production to another corner of the world is often more a threat than a reality.

Development of the Issue

Contrary to the popular belief, the debate on social clause dates back to the 19th Century. A history of the debate has been outlined by Stephen Woolcocks. He says, the first concerted effort to draw a link between trade and labour standards was made in 1880s. In order to diffuse social tension and to face the growing popularity of the socialists, Kaiser Wilhelm of Germany invited other European governments to the "Berlin Congress" to negotiate on international labour laws.
In 1920s, faced with social and political unrest at home, the European governments called for international labour standards under the Treaty of Versailles. Part XIII of the Treaty dealt with international labour standards and envisaged common provisions for:

- Right of association;
- Wages for a reasonable standard of life;
- An eight hours day, 48 hours week and rest of 24 hours in each week;
- Abolition of child labour; and
- Equal remuneration for men and women and equal rights for migrant workers.

Furthermore, the issue of internationally recognised labour standards and their relationship with trade was also recognised by the holding of a special conference on the issue at the League of Nations in 1927. Even further, the United Nations Conference on Trade and Employment noted in Article 7 of the International Trade Organisation Charter (the predecessor of GATT 1947 treaty) that the existence of unfair working condition was a problem for international trade.

However, what is important to note is the fact that there was never a clear consensus on the meaning of labour rights, and the definition of 'unfair' was never made clear. More notably, their enforcement through trade mechanisms has also been an issue that was never properly addressed nor spelt out.

The Debate at the GATT/WTO

The issue did not die with the International Trade Organisation. In 1954, the US Committee on Foreign Policy recommended the use of sanctions against countries for the payment of unfair wages.

The issue was raised in 1979 at the end of the Tokyo Round negotiations, and was raised again in 1986, 1987 and during the first half of 1990s. In June 1986, the US tried unsuccessfully to get the issue onto the original agenda of the Uruguay Round at Punta del Este. In 1987, the US attempted to persuade the GATT Council to establish a Working Group on the issue of international labour standards, their relationship to the trading system and their possible relationship to the objectives of the GATT system.

Despite failing to get the Group established, it is important to note the scope of the proposal put forward. The following labour standards were targeted for inclusion:

- Freedom of association;
- Freedom to collective organisation and bargaining;
- Freedom from forced or compulsory labour;
- A minimum age of employment for children; and
- Measures setting minimum standards in respect of conditions of work.

The latter two issues were the most contentious and was evidence of the two-fold split on the issue—between basic human rights and secondary economic rights. By 1990, the US had scaled down its request for a Working Party, which again was rejected. The new remit of the US focused on the human rights based principles only (the first three one).

During the closing months of the Uruguay Round and again at the Marrakesh Summit of April 1994, the US continued to make unsuccessful attempts to get the idea of a Labour Standards Standing Committee off the ground. This time they had the partial support of a number of European Union governments, most notably the French. At that time, the US unveiled their latest proposal to get progress on the issue at the WTO.

The proposal does not mention the use of negative sanctions (i.e. blocking of trade), but instead concentrates on positive sanctions. The latter are defined as bearing those sanctions that entail the denial of a benefit otherwise available. The proposal bears a striking resemblance to the existing US and future EU regimes for the granting of GSP (Generalised System of Preference) benefits.
The position on the social clause at the Singapore Ministerial Conference was a re-run of the Marrakesh situation. The final result at Singapore was far from a success, but managed to keep the issue alive at the WTO for a while longer (see Box 1).

Box 1: Singapore Ministerial Declaration
"We renew our commitment to the observance of internationally recognised core labour standards. The ILO is the competent body to set and deal with these standards, and reaffirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalisation contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that comparative

advantage of countries, particularly low-wage developing countries, must in no way be put into question."

The Southern Perspective

From the very beginning the debate on the issue of social clause has a North-South dimension (see Box 2). The Southern proponents of the debate argue that increased exports from the South is not as a result of low labour costs but due to competitive advantage of the South in the production of certain goods.

Furthermore, the debate at the South revolves around the question: whether trade retaliation would secure the human rights of workers or not. Mention should be made that the Southern proponents do not disagree with the fact that core labour standards are important.

Box 2: Why Renewed Interest on the Debate?

According to Peter Madden, there are four reasons for a 'renewed' interest on the debate in the developed countries (and as a reaction to it, in the developing countries). They are as follows:

- Liberalisation: The Uruguay Round had brought down the rate of tariffs to a great extent. As traditional trade barriers (imposition of import tariffs) has lost import, countries are looking for more and more 'new' complications that a number of domestic policies have for trade.
- Globalisation: The technologically facilitated globalisation of markets and production have led to national economies becoming more integrated and the gradual relaxation of border controls on the movements of capital, goods and services. This led to the fear that there may be a race-to-the-bottom by the Northern companies to take advantages of low wages in the South.
- Unemployment: It is true that there is a coincidence between increased unemployment in the OECD countries and increased imports from the South but, the question still remains—is there a causal relationship?; and
- Communications: Increased and improved global communication network has raised the concern about labour conditions in the South.

Source: *Madden, Peter, What are the Social Clauses?: Background and Definition,* in Should Working Conditions Be Linked to International Trade? —A Report from a Seminar on 1995 Social Clauses in the WTO, Centre for Trade and Development, Stiftelsen Alternativ Handel, Oslo,1995

Muchkund Dubey has argued for at least three reasons for why trade sanctions would not secure universal human rights of workers:

- International labour standards do not cover the unorganised and informal sectors where the majority of the Southern work force is concentrated. What about the human rights of this vast majority of workers?;
- Workers engaged in the international trade-related production constitute only a small percentage of workers in the entire production activity. Trade-linked upgradation of labour standards would, therefore, exclude a large part of the workforce which is not engaged in export production; and
- Trade-restrictive effects will adversely affect the interests of workers in both the developed and the developing countries. In the developed countries, higher import costs would result in low real wages of workers. In the developing countries, it would result in restrictions on employment opportunities.

The Way Out

If most countries accept that core labour standards are important for their workers and they tend to accept that forced labour is wrong and that freedom of association and freedom from discrimination are universally acceptable human rights, then the question: how to promote these rights? (see Box 3 for core labour standards). This is the most complex question in the debate. The three approaches open to the international community are as follows:

- Leave it to the ILO;
- Incorporate it into the WTO (possibly through Article XX of the GATT); and
- Opt for a hybrid solution.

Box 3: Ratification of 'Basic' ILO Conventions
As of October 31, 1994

Conventions	Numbers*
Freedom of Association	
No. 87—Right to organise	94
No. 98—Right to Collective Bargaining	105
Forced Labour	
No. 29—Forced labour	114
No. 105—Abolition of forced labour	94
Discrimination	
No. 111—Employment and occupation	106
No. 100—Abolition of forced labour	106
Employment Policy (No. 122)	78
Minimum Age for Employment (No. 138)	41
Tripartite Consultation (No. 144)	60

*Note: * Number of countries ratified*
Source: World Labour Report, ILO, Geneva,1995

A report of the Dutch Advisory Group gives some useful pointers to evaluating the options:

- Economic advancement: The agreement must be capable of creating conditions in which the observance of basic labour standards could be preserved;
- Dispute settlement: The agreement has to establish a mechanism by which disputes about the observance of these standards can be resolved; and
- Reciprocity: The enforcement of these standards has to be based on reciprocity, namely no country could enter into a dispute if it did not recognise the standards.

Furthermore, the report also argued that the conventions were important core standards if they could pass a three-fold test:

- Social test: Were the conventions targeted at human rights and basic human needs?
- Political test: Was there widespread international acceptance of the conventions? and
- Economic test: Would the standards impose undue economic hardship or impede economic development?

Option A: Leave it to the ILO

The argument is that the ILO is a tripartite body with representations from workers, government and employers. However, the core problem for the ILO is that of maintaining its legitimacy in the face of the

social clause debate. In other words, the ILO is faced with the "razor edge" problem—how to maintain the balance between the developed world's demand to enforce labour standards vice-versa the developing economies' position to limit the role of the ILO as that of an advisor only. Moreover, the greatest drawback of the ILO is its lack of enforcement capacity. Then the question is does the ILO option allow for the passing of the Dutch test.

There is no gainsaying of the fact that the ILO conventions on core labour standards are aimed at economic development of the Member states. Furthermore, there is an in-built reciprocity in the ILO conventions as it can act against the Members who, even after ratification, does not comply with the conventions. However, the ILO does not have a dispute settlement procedure.

Option B: Incorporate labour rights into the WTO

It is a fact that the WTO option passes all three tests mentioned by the Dutch Advisory Group. First, the overall objective of the WTO is economic development *(raising standards of living)*. Secondly, the WTO has an institutionalised dispute settlement mechanism. And thirdly, the reciprocity clause was there in the GATT 1947 treaty *(being entering into reciprocal and mutually advantageous arrangements).* It was further strengthened by the single undertaking clause of the GATT 1994. However, it is also true that the WTO can only entertain disputes which arise out of the agreements already signed by the Members. As on today, there is no agreement on social clause.

Option C: Hybrid scheme

In recent years, countries have developed the opinion that neither the ILO nor the WTO *per se* can deal with the issue of social clause. The ILO, on its own, cannot make much progress on trade-related issues. On the other hand, the WTO can, at the best, take into account the trade-related aspects of the social clause (it is not an institution to deal with the human rights aspects of the social clause).

This ambiguity makes route for a hybrid option. The proposal is that the ILO should act as a first instance court in case of labour disputes, and then pass on the report of the dispute to the WTO (as a court of final resort) for looking at its trade-related aspects.

Two Others

Apart from the options mentioned above, there are two others. The first is to leave it to the consumer. There are initiatives mainly by the civil society in the North, to promote labour rights through social labels (e.g. Max Havellar, STEP, Veillon in Switzerland; Rugmark, Kaleen in India) or Codes of Conduct signed by the TNCs. Even the ILO has suggested a social label.

The second option is to promote labour rights through positive measures. Some 'positive' measures are better market access, increased Official Development Assistance, educational programmes, debt reduction etc. This option stems from the strong negative correlation between poverty and low standards, especially regarding child labour.

Conclusions

The social clause issue has remained one of the most heated areas of international debate for a number of years. There is little doubt that the impact of imports on employment and wage inequality in the developed world is considerably less than is imagined. There are number of other factors (notably globalisation) that have far greater impact. The wider impact of globalisation (i.e. greater economic contestability) is a far more important psychological factor in the debate on trade and labour standards.
In conclusion, the following are the arguments of the paper:

- International trade is not a significant cause of unemployment in the developed world. However, this impact is disproportionately felt in certain industries and in certain geographic regions;
- A social clause based on the desire to protect workers in developed countries from trade would be a bad thing;
- Some basic labour rights are human rights and are worthy of promotion and protection;
- A simple WTO route for a social clause will not produce the desired results, as far as the promotion of labour rights are concerned; and

- A simple ILO route for social clause is unworkable without the ILO being given far more teeth to enforce agreements. However, giving the ILO these teeth would be optimal approach.

Recommendations
• Recognise the fact that globalisation has far more impact on employment in the South than the so-called absence of labour standards in the South. • Approach the issue from human rights angle rather than from economic or political ones. • Recognise certain core labour standards as universally acceptable. • A hybrid approach, recognising all the complex elements of the debate would be preferable than placing it entirely in the WTO or in a toothless ILO. • Promote labour rights in the South through social labels and positive measures, and not through trade sanctions.

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