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LABOUR STANDARDS AND WTO : A NEW FORM OF PROTECTIONISM

Amit Dasgupta

Abstract: The paper attempts to explore the implications of introducing a non-trade issue like labour standards into the trade agenda. It argues that the moral or humanitarian arguments are quickly picked up by labour and trade lobbies because it is a convenient manner of camouflaging the 'real' or 'core' motivation, which the paper asserts is a new form of protectionism. Studies have suggested that withdrawing the children from the work force may in fact disadvantage them. Moreover, child labour is only one aspect of labour standards and conveniently, issues such as collective bargaining appear to be ignored when talking about labour standards.

This paper suggests that competition against imports from low wage economies is the prime motivation behind raising the issue of labour standards (i.e., child labour) and insisting on its inclusion in the trade agenda. There will be increasing pressure not only at WTO Sessions but also through domestic legislation as is evidenced in the case of the US and the EU. Developing country delegations need therefore to be well prepared when the stage is set for Seattle Part II.

1. Introduction

Post-mortems of the aborted Seattle Ministerial Conference appear to suggest that the insistence by some countries for the inclusion of labour standards in the trade agenda was the proverbial last straw that broke the camel's back and precipitated the collapse of the Conference. Some have however, argued that the brilliance of the so-called Seattle fiasco was that there were no losers in the battlefield, since both sides went home happy that they had not conceded anything and had played out their agenda in full to the gallery! (Panagariya, 1999).

It would, however, be naïve to assume that countries which sought to establish the linkage between trade policy and labour standards were going to be deterred by their apparent lack of success at Seattle. Indeed, the issue continues to be very

much alive as far as the advocates of the linkage are concerned and if anything, we are likely to witness renewed and invigorated attempts on their part in ensuring that this linkage is accepted as an integral part of trade policy when the Ministerial Conference is reconvened. It is relevant to note that after Seattle, the US and the European Union have engaged in a consultation process to bridge differences that they have with each other on different issues. On May 31 this year, they issued a Joint Statement in which they agreed on the need to include social issues like labour in the trade agenda.

Reconvening the Ministerial Conference is thus likely to be a major priority for the next US President and it would be reasonable to assume that labour standards would once again make its presence felt, and this time with even greater vigour. There is also no evidence to suggest that if the next President of the US is a Republican, his policies on labour standards would be any different from the one advocated by President Clinton and his administration. This makes it all the more imperative that developing and Least Developed Countries urgently re-group and reassess their strategies so that they are more than fully prepared when the stage is set for Seattle Part II.

2. The Seattle Conference

A series of events related to labour standards took place either during the Seattle Conference or uncomfortably close to it, which cast doubts about the unstated intentions behind the call to link labour standards with trade policy. Indeed, so vigorous were the attempts prior to the Conference that Professor Bhagwati referred to the arm-twisting tactics as "cajoling, bamboozling, and punishing other nations" (Bhagwati, 1998). While provocations at Seattle through the setting-up of so-called "informal working groups" or "green-room consultations" and a total lack of transparency have been gone into in some detail,¹ there were several other related incidents and factors, which like pieces of a jigsaw puzzle, cannot be overlooked.

First, US Presidential elections are due. A successful conclusion of the Ministerial Conference would have been a feather in the Clinton, and hence, Al Gore camp. However, months before Seattle it had already become fairly apparent that there were several issues in which there were sharp differences of opinion that the US had with the Europeans as also with developing countries,

¹ Chakravarti Raghavan *SUNS* Various Issues during and immediately after the Seattle Conference.

suggesting that Seattle would more likely than not be inconclusive. A Seattle without tangible gains for the US would not have augured well for the Democratic Party especially during the election year. It is speculated, therefore, that when it became apparent that the US would not be in a position to dictate the Final Document, the easier way out was to abandon Seattle Part I and to pave the way for Seattle Part II.

It may be recalled that labour lobbies in the US, principally the AFL-CIO, have been lobbying hard for quite sometime on the issue of linking labour standards with trade policy. It is however, interesting to note that the AFL-CIO can hardly boast of being the most representative labour lobby in the US, but remains nevertheless, one on which the Clinton-Gore administration closely depends. Initially, US negotiators had proposed (on 1st November 1999 in Geneva) the setting up of a working group (as demanded by AFL-CIO). However, in an interview to *Seattle Post* at the time of the Conference, President Clinton appeared to force the pace when he said that the working group should *define* core labour standards, which should *then* be part of every trade agreement. "Ultimately" he further added, "I would favour a system in which *sanctions* would come for violating *any* provision of a trade agreement." (emphasis added).

Delegations at Seattle are reported to have said that the Clinton interview clearly upset developing countries, especially the threat of sanctions, and helped close ranks to reject any discussions on labour standards through the WTO.² In any case, the position of the developing and Least Developed Countries on the subject was well known well before Seattle and should not have come as any great surprise to US trade negotiators. Their reaction to President Clinton's statement ought therefore, to have been anticipated. Was the US intentionally trying to scuttle the Seattle Conference? Was there a well-thought through game-plan to it after all? Was the proximity of the US elections purely coincidental or did it have a major role to play in aborting the Seattle Conference? While the lack of evidence would make it extremely difficult and indeed, speculative to respond conclusively to such questions, they nevertheless appear to give credence to the view that Seattle was in fact, doomed from the very start, for abortion.

² "Analysis of Seattle Meeting" *SUNS*, 7th December 1999.

Second, of the seven key ILO Conventions that have set out the core international labour standards (Nos. 29, 87, 98, 100, 105, 111 and 138), only one i.e., the Abolition of Forced Labour Convention 1957 (No. 105) had been ratified by US Congress before President Clinton arrived in Seattle. Interestingly, the Worst Forms of Child Labour Convention was signed by the US on December 2nd 1999 during President Clinton's visit to Seattle! There was understandable scepticism, therefore, among developing countries with regard to the genuineness that the US Government or its labour lobbies were evincing about the 'social good'.

Indeed, national interests and domestic compulsions are powerful persuaders in any negotiation and are rarely, if ever, abandoned for international welfare or the common good. It would, of course, be quite naïve to dismiss off-hand the humanitarian concerns that citizens from developed countries may have about child labour in developing countries. However, this paper argues that it would be equally naïve to believe that the linkage sought to be established by labour and other interest groups in the US and in Europe between trade policy and labour is driven purely by humanitarian considerations or that the humanitarian considerations when manipulated by labour lobbies and business interests succeeds in helping children. Indeed, the evidence and concerns of the developing countries seem to suggest that the advocacy of the proposed inclusion of labour standards in the trade agenda is at best a new form of protectionism.

Third, barely one week before the Seattle Conference the *International Herald Tribune* carried a report on the effect that the new 'living wage' ordinance was having in the US and the pressure it was putting on management to cope with rising wage costs. The report argued that "the living wage movement has begun to broaden from a simple emphasis on higher wages into a wide range of requirements involving health insurance, vacations, sick pay, job security and incentives to unionize".³ In short, the new 'living wage' was going to impact on production costs and contribute to its increase in the US. This would make imports from low wage economies even more competitive with its consequent fallout on the US job market.

³ "Wage War Spreads to Cities" *International Herald Tribune*, November 20-21, 1999.

3. Labour Standards and Trade Policy

It may be recalled that the attempt to establish a linkage between labour standards with trade policy, within the earlier GATT and WTO framework, was first made by the United States, with some European support, at Marrakesh where, in fact, it posed a serious threat to the signing of the Uruguay Round Final Act. A renewed attempt was made by the United States and France, with Norwegian support, at the Singapore Ministerial Conference. Strong opposition from developing countries led by Egypt, India, Malaysia and Pakistan was successful in ensuring that the Singapore negotiated text, while expressing support for the observance of "internationally recognized core labour standards", rejected the use of labour standards for protectionist purposes. It furthermore, identified the International Labour Office (ILO) as the relevant organization to establish and monitor these standards and acknowledged that "the comparative advantage of countries, particularly low-wage developing countries, must in no way be put in question".

The Chairman of the Singapore meeting dispelled any ambiguity that may have existed by making a statement that labour standards were not on the WTO agenda and that no new work would be commenced and further, that WTO had no competence in the matter. In other words, the agreed decision in Singapore was first, that ILO was the competent body to discuss and monitor adherence to "internationally recognized core labour standards", second that WTO had no jurisdiction over the matter and hence, it was not part of the trade agenda and finally, that market access could not be denied to products emanating from low-wage economies.

Despite Singapore, however, the issue has remained alive and remains a highly sensitive and emotive one. It has, for instance, been regularly raised by both the Americans and the Europeans in their various discussions. President Clinton referred to it in his address at the GATT/WTO 50th Anniversary Meeting in Geneva in May 1998 and in his State of the Union Address in January 1999. The President also raised it during his March 2000 visit to India. US trade negotiators have regularly raised it at meetings of the Trade Policy Review Committee of the WTO. The European Commission, similarly and regularly, referred to labour standards in their statements, including their most recent regulation on the grant of GSP facility, which provides for "special incentives" to those who follow labour standards. However, within the EU not all Members share the same view or are advocates of a linkage.

4. Domestic Legislation

Recognizing that developing countries are not likely to agree to labour standards as being part of the trade agenda of WTO, a parallel track has been adopted by the European Commission and by the US. The European Commission, for instance, opted simultaneously for a "special incentives" scheme to acknowledge and reward subscribers to the linkage. The US too adopted a similar strategy through domestic legislation.

Not long ago, for instance, the US inserted a clause, (Section 633) under the Postal Services and General Governmental Appropriation Act, 1998 according to which "*None of the funds made available in this Act for the United States Custom Service may be used to allow the importation into the United States of any goods, wares, articles or merchandise mined, produced or manufactured by forced or indentured child labour, as determined pursuant to Section 307 of the Tariff Act of 1930*". Approved in October 1997 by the President of the United States, this amendment has become a law. A complaint has been lodged in US courts calling for investigation into India, Pakistan and Nepal's carpet industry for violating the law and urging a ban on their products for using forced or indentured child labour. Various US based NGOs have joined this ban call and argued that there is ample evidence to support the view that all hand-knotted carpets from the three above mentioned countries may be barred from entry into the US according to the law.

In addition, there are several other bills which are on the anvil in the US such as the Child Labour Free Consumer Information Act of 1997 which would make it mandatory i.e., a *standard*, to certify that the product is free from child labour, the International Child Labour Elimination Act of 1997 which not only prohibits US developmental assistance to countries that use child labour but also specifies civil and criminal penalties for such imports. The domestic legislation would enable the US the 'right' to prevent market access to those products that do not comply with standards stipulated by the US and is therefore, *de facto* the imposition of a sanction.

It is not clear as to whether such domestic legislation is compatible with WTO provisions. Some may argue for instance, that there is indeed a violation since Article XI.1 of GATT does not permit prohibition or restriction to import other than through duties, taxes or other charges. Additionally, it may be argued that the US law violates GATT Articles XXXVI, XXXVII and XXXVIII, which were

meant to ensure that barriers to imports from developing countries are progressively dismantled. Likewise, it may also be argued that the Agreement on the Technical Barriers to Trade has also been violated. Furthermore, that this clearly violates the negotiated text in Singapore. But it would be equally opportune to recall the unilateralism the US exercises through Section 301 or Super 301 provisions of its domestic trade legislations and that its incompatibility with WTO provisions has hardly served as a deterrent for the US. It needs to be remembered that the US (as indeed, each country), would naturally place its own domestic interests and compulsions foremost and would, therefore, engage in every effort to ensure its protection under all circumstances - even if this regrettably, means erecting new barriers to trade.

It would, accordingly, be no exaggeration to say that while labour standards is today not (yet) a *formal* part of the WTO agenda, it is a subject in which the US and some European countries hold strong views and as such, its advocacy is well near certain at every possible forum and further, that it would in any case be introduced by them as part of domestic legislation.

5. Arguments For and Against Linkage

It is important at this stage to consider what kind of arguments are forwarded, in defence of the linkage, by such countries. The arguments essentially seem to have two aspects - those which are overt and as such peripheral, and those which are unstated and hence, constitute the principal or core motivation. This paper argues that the overt argument is flawed and is, in fact, nothing short of a protectionist barrier which contradicts the underlying spirit of multilateral trade i.e., *freeing* trade.

The overt aspect is basically posited as a *moral* argument based on humanitarian considerations and goes something like this: We need to improve working conditions; we need to fight against the deployment of certain categories of labour; why should children work when they should in fact, be in school; etc. In other words, the moral argument may be summarized as follows: It is our collective moral *obligation and responsibility* to *ensure* that certain basic pre-conditions are met and *in order to facilitate this*, if trade sanctions, for instance, are required, *it is justified*.

This is a powerful argument. No country would, for instance, advocate that children should be in the work place and not in the school. Indeed, all countries

are concerned about the welfare of its citizens, especially in democracies. It is important therefore that the existence of the problem needs to be acknowledged and hence, addressed. In absolute terms, Asia (excluding Japan) has the most child workers - approximately 61 per cent of the world's total compared with 32 per cent in Africa and 7 per cent in Latin America. It is also feared that expansion of world trade may result in increased exploitation of children in developing countries as a result of increased competition. There has accordingly been growing public concern in the industrialized countries, particularly the US. However, this concern has essentially advocated the invocation of import restrictive measures on products emanating from developing countries, so that exporting countries may be prevented from using child labour.

Unfortunately, such an argument is based on a number of untenable assumptions. First, it assumes that the lot of the children would in fact *improve* if they were withdrawn from the work force when however, in most developing countries, it is the opposite which in fact may be true. The backfire was seen in Bangladesh for instance, around three years ago, when US NGOs boycotted garments made by child labour and is worth recalling because as DFID put it in a recent document on child labour, the intervention needs to *help* and not *hurt* children.⁴

The garments sector in Bangladesh had grown rapidly over a 10-year period contributing the largest share not only in export earnings but also in employment generation. Interestingly, a relatively small percentage of children were deployed in the garment sector in Bangladesh. In 1993, US television broadcast pictures of Bangladeshi children manufacturing clothes for Wal-Mart. This led to consternation and protests in the US. As a result of associated pressure, Wal-Mart stopped sourcing garments from Bangladesh. The Bangladesh Manufacturers and Exporters Association (BGMEA), heavily dependent on the US market, undertook to eliminate child labour in the industry by 31st October 1994. Over 50,000 children were thrown out of work, some without pay. This also included those who could not produce proof of age (which is a fairly common and widespread handicap in South Asia). The MoU signed between BGMEA on the one hand and UNICEF and ILO (with US involvement) on the other, *inter alia* stipulated that the child workers under 14 years of age would enter NGO run schools. What happened finally was quite different. Most children did not go to school. Social and other pressures forced the children to take to crime and

⁴ 'Helping not Hurting Children – An Alternative approach to Child Labour', DFID, 1999.

prostitution to compensate for the revenue loss. Bangladesh lost an estimated \$0.5 billion in export revenue. Kamal et al⁵ in their household study in Bangladesh point out that the overwhelming majority of children once thrown out of the garment industry, simply found work elsewhere and that the replacement work was, more often than not, more strenuous, less safe and lower paying. The import ban did not succeed in helping children. On the contrary it pushed them into crime and prostitution.⁶

The overt/moral element fails to see the linkage between poverty and child labour. Policies aimed at removing children from the workforce need to recognize, as the Bangladesh experience so succinctly demonstrated, that the alternatives available for the child and his/her family taking the decision to deploy the child in the workforce are severely limited. Indeed, in view of the abject poverty in most developing and Least Developed Countries, the alternatives available are in fact, almost entirely non-existent. Trade ban on the use of goods produced by child labour could therefore have a serious and unintended effect on children essentially by forcing them into other paid work at lower wages and demeaning work conditions.⁷ Furthermore, abject poverty puts increasing pressure on families to explore different avenues for income generation. Indeed, in conditions of extreme poverty that characterize most of South Asia, the employment of children (additional economic activity) has provided some security against the fluctuations in the income of the adult family members. Families accordingly find that they are unable to 'afford' the loss in income through the withdrawal of their children from the workforce. This empirical fact is a matter that needs to be considered carefully when import restrictive policies are adopted or advocated by industrialized countries in an attempt to ban child labour.

There is ample evidence to suggest a direct correlation between low economic performance and low labour standards. In other words, that labour standards would rise in the longer term as countries achieve higher rates of economic development and per-capita income. In other words, poor economies would find it difficult to move away from child labour or additional income because of the

⁵ Kamal, Ghulam, Paul Mazumdar, Pratima & Rahman M. Khalilur, 'Economic Active Children in Bangladesh' 1993 quoted in Ulrike Grote *et al*, 1998.

⁶ Eradicating Child Labour While Saving the Child – Who will Pay for the Costs? *CUTS*, No.5, 1999.

⁷ *CUTS ibid*.

prevalent poverty. Sending a child to work is therefore a rational choice as indeed, is the decision not to send them to school. Economic growth and well-being is therefore a necessary pre-condition for children not being sent to work. As DFID pointed out⁸ the loss of US \$0.5 billion in export revenues that the Bangladesh government suffered as a result of the trade ban on the garments sector reduced the resources available for tackling poverty and thus, addressing the root cause of child labour. Trade sanctions therefore only aggravate poverty; they end up hurting children and not helping them.

Furthermore, the assumption seems to ignore the established sociological fact that in developing countries family-based work is a matter of tradition and practice, where traditional skills are passed on from generation to generation within a family-working environment. The child works as an apprentice and his/her father or elder is the teacher or *guru*. In South Asia, the handicrafts industry is almost entirely family-based. Indeed, in almost all developing countries, children learn from their family members “given” traditions and practices, which are an integral part of our culture and our heritage.

The argument against child labour makes no distinction between those who are employed in hazardous forms of labour and those who are not. A joint study by CUTS and the Centre for International Trade, Economics and Environment (CITEE)⁹ revealed that the majority of the children liked their work. Furthermore, the data indicated that there was no overwhelming evidence of the work conditions being hazardous, the work hours being long or the employer abusing the children. There were also no reports of any accidents on site. It needs mentioning that several developing countries have in fact, fairly tough legislation regarding the deployment of children in hazardous activities.

Some have argued that to wean away children from work, the government should provide free education and provide the necessary infrastructure to that end. The enormous cost implications of such an effort, particularly for the developing and Least Developed economies are an important point to note in this regard. The Government of India, for instance, approved 100 new National Child Labour Projects (NCLP) in April 1999 under the ILO's International Programme on the

⁸ DFID *op cit*.

⁹ CUTS *op cit*.

Elimination of Child Labour. While launching these projects, the Labour Secretary to the Government of India said that in order to provide all the villages with schools having more than one teacher would cost US\$12 billion per annum. The estimate is based on the fact that of the 600,000 villages in India, 50,000 do not have schools and the remaining had only functional schools with only one male teacher. If the schools are provided with the necessary facilities including teachers, the annual expenditure is estimated to be in the range of US\$18.94 billion. Providing schools is not enough. Incentives in order to attract the child to come and stay in school (through a mid-day meal and some allowances) as also a subsidy to the family to compensate for the loss in income also need to be factored in. The costs involved are staggering by any standard and in the case of the vulnerable and fragile economies of developing and Least Developed Countries would impose a major burden on the exchequer.¹⁰

It is also relevant to mention that the entire debate on labour standards has so far focused on child labour in the export industries of developing countries. However, the majority of the children are in fact deployed in the informal sector and covers a wide range of activities. Statistics of total numbers of children engaged in such diverse economic activities are neither available, nor indeed where estimated, reliable. These activities would range from family-based agriculture, to jobs in rural and urban areas such as street vendors, shoe-shine boys, domestic help, help in local street restaurants (*dhabas*), helpers in the trucks, small-scale manufacturing industry, as also in the illegal trade such as prostitution, begging etc. Children are also used for criminal activities, particularly as carriers of banned drugs (hashish, heroin, etc.). Import restrictive policies would completely by-pass and ignore this huge chunk of child labour. Furthermore, as has been illustrated through the Bangladesh case, if the children are thrown out of the formal sector, they end up in the informal sector which by definition is an unprotected and unregulated sector. As Grote et al point out, "if the underlying economic mechanisms compelling these children to work are not addressed, they will simply seek employment in the (by definition) unregulated informal sector, where jobs are generally more dangerous and lower paid, as regulation of the formal sector increases (Grote et al, 1998).

While it would be churlish to dismiss the importance of the moral argument or the fact that a large cross-section of the population in industrialized countries has genuine concern for the welfare of children the world over and that this is driven

¹⁰ *CUTS ibid.*

by purely humanitarian considerations, overwhelming evidence suggests that trade ban or trade restrictive measures do more harm than good to the children and, to borrow a phrase, literally throws them from the frying pan to the fire. Indeed, as Grote et al suggest it is important to address the underlying mechanisms that *compel* these children and their families to make the rational choice in the first instance that children should enter the work force (emphasis added) (Grote et al, 1998).

It may accordingly be argued that countries with low economic levels of development would discourage active policies against child labour. Ehrenberg concludes that labour standards cannot raise the welfare of the country as a whole, although they can increase the prosperity of some workers at the expense of other workers, consumers or employers (Ehrenberg, 1994). There is little to indicate, therefore that the moral/overt or argument, translated into trade ban, would lead to improving the well-being in the developing countries. It would seem to suggest therefore that the emphatic assertion by the US and some European countries, backed by certain labour lobbies, for linking trade with child labour has an unstated motivation and that the moral argument is essentially peripheral in nature and a smoke-screen for a covert or hidden objective motivated primarily by competitiveness concerns and the denial of market access to the products from the developing countries (Dasgupta, 1994).

6. Linkage and Protectionism

It seems to us that the 'real' motivation behind seeking to establish a linkage between labour standards and trade policy is primarily aimed at protecting the living conditions in developed countries by raising the cost of imports from low-wage economies. The trade restrictive policies based on humanitarian considerations were, therefore, a camouflage for what is at best a new form of protectionism. As already argued, trade protection is counter-productive to improving the living and working standards of workers. Additionally, if labour standards are used as an import protection strategy, it is likely to have disastrous consequences for the global economy. This is principally because raising domestic prices for import competing goods (and services) would necessarily result in the resources of the developing countries being reallocated across the board and hence, an erosion of their comparative advantage (nullifying thereby the negotiated text at Singapore). Reducing markets for imports from developing countries would, furthermore, cause the exports from the developed countries to decline as the GNP of the developing countries would fall. This would also

negatively impact on the international specialization and efficiency (Debroj ed., 1999; Dasgupta, 1999; Robertson, 1999).

As Srinivasan argues increased competition from low-cost imports from developing countries imposes an adjustment cost in terms of declines in output and employment in import-competing industries of developed countries (Srinivasan, 1998). Linking trade with labour standards would force exporting (i.e., low-wage developing) countries to raise their labour standards. This would increase the costs of production and thus, shift most, if not all, of the costs of adjustment to the developing countries. Srinivasan concludes that the social clause (labour standards) is nothing but "a thinly veiled protectionist device".

Furthermore, the selective nature of the contents of the social clause seems to substantiate that the real or core agenda behind labour standards has little to do with 'social good'. The only issues that the social clause is currently concerned with are child labour where, as Bhagwati argues the developing countries are expected to be defendants rather than plaintiffs (Bhagwati, 1999).

Issues such as the enforcement against domestic sweatshops, which is notoriously miniscule and lax in the United States, where they abound in the textiles industry are not in the social clause; nor are the rights of migrant labour which is subject to quasi-slavery conditions in parts of US agriculture; nor indeed of the low level of unionization of the labour force in the US. It may be recalled that "the core labour standards" which are in the ILO Declaration of 1998, includes as the first 'fundamental right' the "freedom of association and the effective recognition of the right to collective bargaining", in other words, the right to unionize. The US has less than 12 per cent to 14 per cent of its labour force in unions today. It could *prima facie* be argued that the absence of unions in an industry suggests some kind of *de facto* deterrence to union formation. As it happens, unionization in the US has almost certainly been handicapped by legislation (on matters such as the right to hire replacement workers during a strike) that has seriously impaired unions from using their chief weapon - the ability to strike.

Furthermore, Bhagwati argues that the selectivity approach in administering the social clause contaminates the moral agenda principally because agendas are selected from the viewpoint of trade competitiveness concerns. As a result, "the moral face of these developed country lobbies agitating for higher labour standards in the developing countries, whether they are labour unions or

corporate groups, is little more than a mask which hides the true face of protectionism. They stand against trading and hence, the economic interests of the developing countries and are advancing their own economic interests; and they need to be exposed as such" (Bhagwati, 1999).

This takes us back to the fundamental points made earlier; first as Grote et al pointed out that there are underlying mechanisms that push children into the work force (Grote et al, 1998) and second, that it is these mechanisms that need to be addressed if children are no longer to be part of the work force. Regrettably, as we have argued, including labour standards in the trade agenda does not further the cause of labour standards; indeed, it plays a direct role in harming the cause of the multilateral trading system. Bhagwati, in his inimical style, argues that if you try to kill two birds (of labour standards and of trade) with one stone, we would end up missing both birds (Bhagwati, 1999).

The point needs elaboration. Unfortunately, genuine humanitarian concerns in the US and elsewhere in the industrialized world appear to have succumbed to obfuscating the distinction between the two birds. Developing and Least Developed Countries have consistently argued that issues extraneous to trade need to be kept out of the trade agenda and any attempt to introduce them would seriously jeopardize the multilateral trading system. Accordingly, such countries have argued that the issue of labour standards needs to be kept out of the WTO.

It is further argued by such countries that GATT rules are meant to promote economic efficiency and as such, have jurisdiction only over such subjects that pertain to it. Labour standards does not and should legitimately be the concern of ILO. This, by definition, would suggest that specialized agencies were set up to deal with specialized subjects. Srinivasan argues that such specialization makes eminent sense as it is conducive to addressing the different issues efficiently (Srinivasan, 1998). Thus, WHO deals with health, UNDP deals with aid, UNESCO deals with education, ILO with labour and WTO with trade. Singapore recognized this and the subject of labour standards remained accordingly within the legitimate jurisdiction of ILO *not* of the WTO.

7. Conclusion

In this paper the following points have been made:

1. The US interest in establishing a linkage between trade policy and labour standards is motivated by domestic (trade) compulsions and not by any interest in improving conditions in developing countries.
2. Not succeeding in introducing the linkage in Seattle is not going to act as a deterrent either for the US or for some European countries. The linkage is going to be introduced through domestic legislation and would act as a barrier to trade.
3. Import protection strategies through trade bans are counter-productive to improving the living and working conditions of those whom it seeks to help.
4. The labour standards advocacy by the US and some European Countries is biased in its approach in that its selectivity principle seeks to exclude all categories other than child labour.
5. The so-called moral argument is a barrier to trade and is a smoke-screen for a protectionist agenda by developed countries to prevent market access to cheaper products from developing and Least Developed Countries.
6. The multilateral trading system would be seriously hurt through such a protectionist measure.

In view of the above, the negotiating agenda and strategy for the developing and Least Developed Countries may encompass the following:

- Attempts to introduce labour standards or the Social Clause in trade policy may be firmly opposed as it is totally extraneous to trade.
- Concerted attempts be made to involve all sections of civil society in developing and Least Developed Countries so that developed countries may be made acutely aware of the opposition to such a linkage being established.
- Delegations to ILO, UNCTAD and other fora, including WTO be aware that attempts will be made in trying to smuggle in the linkage at multiple fora by the US with support from some European countries.
- An international campaign needs to be launched on the fact that the linkage is being introduced through domestic legislation and the kind of fallout this has, not only for the vulnerable and fragile economies of the Third World, but also for the future of the multilateral trading system which we are all committed to strengthen.

It is argued by some that Seattle did not sound the death-knell for the multilateral trading system and that it was at best "a setback". Unfortunately, for those of us

who subscribe to greater liberalization and the dismantling of protectionist barriers, the atmospherics prevalent not only at Seattle but both before and after, are a cause of serious concern.

It is now fairly well acknowledged that developing countries are apprehensive of the implications of globalisation, principally because there is widespread evidence that the gains are not equitably distributed; in other words, that free trade is not necessarily *fair* trade. UNDP points out that when proper checks and balances are not put into place to govern the market, "the opportunities and rewards of globalisation spread unequally and inequitably - concentrating power and wealth in a select group of people, nations and corporations, marginalizing the others" (UNDP, 1999). Such perceptions would slow down the pace of globalisation and may even, irrevocably harm it in the immediate term.

The insistence by the US and some other industrialized countries that labour standards must necessarily be a part of the trade agenda is clearly aimed against the comparative advantage of the developing countries. The so-called moral argument appears, in fact, to suggest that democratically elected governments in the developing countries are demonstrating little, if any, interest in the welfare of its people and that it now becomes the moral obligation of the Western world to set things right. This is not a new argument and regrettably was a syndrome many thought was left behind in the sixties and early seventies. Indeed, the immediate fear of the post-Seattle fallout is the resurrection of the North-South divide. This augurs ill for the multilateral trading system.

It is imperative therefore, that Seattle Part II first allays the fears and concerns of the developing countries and begins with an exercise in confidence building. Seattle saw a systematic alienation of the developing countries, essentially through the manner in which the US conducted the meeting. It is thus, with considerable reticence, if at all, that they would approach Seattle Part II. If the multilateral trading system is to survive, it is essential that the developed countries make the effort to demonstrate that the system is a win-win situation for all parties concerned. For this, they would need to rethink their insistence to include labour standards in the trade agenda. If they do not, the bells may indeed have started tolling for a rule based global trading system.

Trade is a critical variable for economic growth. It would be a shame if the US and others were to curb it through protectionist measures.

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