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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
THE TRADING SYSTEM AND
INTERNATIONALLY RECOGNIZED LABOUR STANDARDS



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ADDENDUM
Résumé

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THE TRADING SYSTEM AND
INTERNATIONALLY RECOGNIZED LABOUR STANDARDS

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Summary

There has been a heated debate in recent years over the social dimension of increased international trade. Underlying this debate is a fundamental suspicion which divides industrialized and developing countries over their respective motives. In particular there are reciprocal accusations of social dumping and hidden protectionism.

At the core of this issue is the deep structural change which is accompanying the increased liberalization of international trade. As the world's largest exporter, the EU is not immune to this change. It is leading to a more competitive and efficient European industry and creating new and exciting trade opportunities for Community exporters. It also makes available for consumption an increased range of cheaper and innovative consumer and industrial goods.

There is a perception, however, that not everybody is sharing equally in these positive developments. Workers in certain sectors in particular perceive that their jobs are under threat from imports from countries which allow unfair or unacceptable working practices. These concerns cannot be ignored and should be addressed by the world trading system. Otherwise the perception will be - wrongly - that trade liberalization is the problem and not the solution to the challenge to all societies to create a higher standard of living for all their citizens.

These misunderstandings can only be dispersed in an environment of mutual trust. Already, there have been a number of positive developments in international fora. Within the ILO, there has been significant progress in improving the understanding of the industrialized and developing countries' respective fears. The recent study of the Secretariat of the OECD has also served to clarify the issues concerned. Nonetheless, the issue must also be addressed within the World Trade Organization if the required transparency is to be achieved.

However, at present there is no agreed mechanism whereby the WTO can address this issue. This has led to calls from the Council, Parliament and the Commission and a range of international bodies, including the G7, for an appropriate WTO response to fill the resulting policy gap. If the WTO fails to take up the challenge, there is a real danger that unilateral protectionist measures could emerge as this failure is viewed as evidence of a refusal to tackle abuses. These measures could, in turn, serve to destabilise the progress already achieved in relation to trade liberalisation.

The European Union has a role to play in ensuring that this issue is addressed responsibly. It has consistently advocated the promotion of democracy, the respect of human rights and the rule of law. The social issue must be viewed in this context. In addition the Union has always upheld the view that there is a positive correlation between social progress, economic growth and trade liberalisation. However, there is no question of imposing on developing countries the higher wage levels and better working conditions which pertain in the industrialised world. Nor is this an action designed to erect new barriers to trade under cover of a social agenda.

It has been the stated policy of the European Commission for some time that the issue of the link between the international trading system and internationally recognized labour standards should be addressed in the context of the WTO. The forthcoming Ministerial Conference in Singapore provides an opportunity to begin this process. If the parties to the WTO approach this issue in a transparent and positive manner, the current concerns regarding the globalization of the world economy can be laid to rest. This in turn should contribute to a better functioning world trading organization which is in everybody's interest.

1. Introduction

At the end of the Marrakesh ministerial meeting in April 1994 the link between the multilateral trading system and internationally recognized labour standards was one of the subjects mentioned in the Presidency conclusions on which some participants requested the WTO to do further work.

Since Marrakesh, the question has been discussed and debated in international organizations and the Council. The Commission has stated its position in its communication on market access,¹ namely that "the Singapore ministerial conference ... could take the lead in the discussion and set up a WTO working party to look into the question of the links between international trade and working conditions."

The conclusions of the 113 Committee, which the General Affairs Council formally noted on 13 May 1996, state that the possibility of this question being discussed within the WTO should be explored. The Community would continue to take an active part in related work done in other international fora.

Meanwhile in Geneva, at about the same time and whilst preparations were under way for the ministerial conference to be held in Singapore this December, the United States and Norway submitted two non-papers which discuss the question of internationally recognized labour standards and the multilateral trade system (Annex I).

The paper submitted here goes into more detail regarding the prospects for a discussion in the WTO and addresses the key issue of respect for the comparative advantage derived by the developing countries from their access to large, low-wage workforces.

¹ COM(96) 53 final.

Economic development, which is promoted by trade liberalization, is a necessary condition of social progress. It is axiomatic that improved social protection becomes a political objective in the developing countries as soon as national income reaches a level capable of sustaining such protection. The long-term aim must therefore be to help these countries create the requisite conditions for promoting the growth of domestic demand and improving living conditions. Each state has the sovereign right choose what labour laws it will enact and the choice made will reflect both the country's level of economic development and its political and social priorities. However, the need for development must not be taken as a pretext for abusive practices at the workplace or, particularly, to justify non-adherence to a universally agreed core of labour standards.

The European Union's interest in the question of core labour rights stems from the social roots of the Union itself, namely the principles of solidarity, social cohesion and respect for fundamental rights. It also arises out of its duty to defend the principles of democracy and human rights, a duty reflected, inter alia, in its external policy taken in its widest sense. For instance, the objectives of the T.E.U. (article F2) of the CFSP and the development cooperation policy include developing and entrenching democracy and promoting the rule of law and respect for human rights and fundamental freedoms. And all the Union's Member States have signed the United Nations Charter, the Universal Declaration of Human Rights and the International Covenants on Civil, Political, Economic, Social and Cultural Rights, and a number of other universal and European human rights instruments. Among International Labour Organisation instruments, apart from the ILO Constitution, mention can be made of Conventions n°s 29 and 105 on prohibition of slavery and forced labour, Conventions n°s 87 and 98 on freedom of association and right to collective bargaining, Conventions n°s 100 and 111 on equal remuneration and non-discrimination and Convention n° 138 on minimum age for employment. The general principles common to these international instruments have been accepted by the international community as universally binding, taking also into account the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in June 1993, the Declaration of the Copenhagen Social Summit of March 1995, and other similar instruments approved by consensus by recent world conferences. The European Community insists that they be respected by all its partners and acknowledges its own corresponding obligations in this respect, as demonstrated by its current bilateral treaty practice.

Neither the European citizen nor the political authorities may therefore remain indifferent to infringements of human rights in the context of work, whether these take the form of slavery, forced labour, exploitation of children or the prohibition of association and collective bargaining.

Yet the European Union does not ask countries at a different stage of development from its own, or having different social structures, to align their social policies on those of the Union. Nor does it seek an economic outcome that would deprive countries with abundant, cheap, but comparatively unskilled labour of the option of exploiting these advantages. What it does seek is guarantees that fundamental freedoms will be respected since this will bring about working and living standards corresponding to the level of economic development and the social structures of the countries concerned.

2. The international debate and the definition of core labour standards

(a) Deliberations in the European Union

The Community has not yet issued a detailed statement on the substance of this question but some pertinent statements of the Commission's or the Community's position regarding the link between trade and core labour standards exist.

The Commission's White Paper, "Growth, competitiveness, employment - The challenges and ways forward into the 21st century", emphatically concluded that neither failure to respect international labour standards nor, more generally, labour cost differentials can be construed as contributory factors in Europe's difficulties in the areas of competitiveness and unemployment. The White Paper recognizes that these difficulties stem from structural distortion within the Community and, consequently, does not propose placing trade restrictions on countries with low wage costs. Rather, the measures it proposes relate to need to set multilateral rules instead of taking unilateral measures, to devise positive economic cooperation policies, to refrain from resorting to trade discrimination as a means of leverage, and to prepare discussions about the best way to promote adherence to existing and future agreements on social policy (Annex II).

Then, when he addressed Parliament's Committee on External Economic Relations on 29 March 1994, Sir Leon Brittan emphasized the fact that placing social matters on the agenda of the WTO was one of the Commission's clear aims.

The European Parliament has continued to contribute to the debate on this issue, most recently in a Social Affairs Committee opinion on the links between trade and social standards, which calls on the Commission to campaign for the creation of a working group on trade and social standards by the Singapore Ministerial Conference.

In Marrakesh, the Commission stated that the WTO should also discuss matters such as the exploitation of children, forced labour and refusal to allow freedom of speech or association. It underlined the need to ensure adequate safeguards against unilateralism or unwarranted protectionism and the right of developing countries to make the most of their comparative advantages.

There is also the 1994 White Paper on European social policy, which examines the link between social policy and international trade, advocates discussion of the question in the WTO and calls for observance of fundamental social rights - particularly those of collective bargaining and freedom of association - and the questions of forced labour and child labour to be taken into account. The conclusions of the June 1994 Corfu European Council consider that social aspects should be discussed by the World Trade Organization whilst the Social Affairs Council of 27 March 1995 held a major discussion on the subject and the General Affairs Council of 12 June that year issued the following conclusions:

"The Commission and the Member States will make an active contribution to the studies in progress, particularly within the OECD. To that end, the Council requests the Commission to provide its own assessment of the situation for the Union's internal discussions."

More recently, the Commission sent the Council a paper on a market access strategy for the European Union which mentions multilateral negotiations and the possibility of study programmes on some of the topics proposed by the Ministers in Marrakesh. In view of the direction taken by the international debate on the link between labour standards and trade, the Commission called for a gradual approach based on fundamental human rights which would not undermine the right of developing countries to use their comparative advantage of abundant, cheap labour. The Commission concluded by proposing that the Singapore conference should establish a WTO working party to look into the question.

Finally, as already mentioned, the 113 Committee looked into the possibility of these matters being discussed in the WTO and came to the conclusion that this merited consideration. The Committee communicated its conclusion to the Council which took formal note on 13 May 1996.

(b) The OECD study

This study began in 1994 following a Ministerial request to undertake an analysis of "areas where further progress with liberalization and the strengthening of the multilateral system may be required ...", these areas included "trade, employment and internationally recognized labour standards".

The discussion of the study took place under the responsibility of the OECD *Trade Committee and the Committee on Employment, Labour and Social Affairs* and lasted two years as the issue is a very controversial one. At the very end an agreement was reached on a joint report to the Ministers. No consensus was reached on the study itself which has been presented only on the responsibility of the OECD Secretariat General.

The Study is divided in three parts:

1. The Study lists a set of "core" labour standards: freedom of association and collective bargaining, elimination of exploitative forms of child labour, prohibition of forced labour, non-discrimination in employment.

These core labour standards have the characteristics of human rights, they are universally recognized and they are framework conditions for other labour standards. They are embodied in ILO Conventions and United Nations' instruments.

The OECD study innovates when it speaks of "elimination of exploitative forms of child labour" instead of "elimination of child labour"; it underlines that ILO Convention on Child Labour (No 138) sets out a minimum age for Child Labour but has no provision on exploitation and abuses. The UN Convention on the Rights of the Child (adopted in 1989) contains such provisions. As a matter of fact the Governing Body of the ILO has expressed its intention to include an item on child labour in the agenda for the 1998 International Labour Conference with the objective to strengthen the arsenal of ILO standards with a binding instrument geared to banning the most intolerable forms of child labour.

2. Part two of the study focuses on the role that core labour standards might perform in the economy. It is the "analytical part" of the study. The analysis is limited and the study itself refers to the difficulties encountered in this part.

The study concludes that the economic effects of core labour standards are likely to be small; developing countries must not fear that core standards would negatively affect their economic performance or their international competitive position. Regarding the relationship between trade flows and core standards, the study underlines that there is no evidence that low standards countries enjoy a better global trade performance than high-standards countries. The strongest finding is that there is a positive association over time between successfully sustained trade reforms and improvements in core standards.

On the question of foreign direct investment, the study concludes that while labour standards may not be systematically absent from the location decisions of OECD investors in favour of non-OECD destinations, aggregate FDI suggest that core labour standards are not important determinants in the majority of cases. Host countries may be able to enforce core labour standards without risking negative repercussions on FDI flows.

Regarding the unemployment question, especially the concern that trade with low standards countries has an impact on the unemployment of unskilled workers and/or growing wage inequality in the industrialized countries, the study shows that the shift in total employment associated with changes in trade patterns should be small although there is no consensus among researchers on the magnitude of the trade impact on sectoral employment patterns relative to the impact of other forces, e.g. technological progress and institutional changes.

3. Concerning the mechanisms, the main problem was the role of the WTO and to place on an equal footing the existing mechanisms to promote core labour standards (as ILO) and the possible inclusion of new mechanisms in the World Trade Organization. The final text approved recognizes the differences of opinion among the OECD Member States.

When discussed in Paris at the Ministerial Council (21/22 May), the Ministers have committed "to continue working for the promotion of core labour standards around the world. They welcomed the conclusions of the OECD report on trade, employment and labour standards as making an important contribution to the understanding of this issue. They encouraged Member governments to discuss these conclusions as well as the Secretariat's analytical report on the subject, with a wider, non-member audience, with a view to considering any further action; this discussion could start in the context of the Policy Dialogue with Dynamic Non-Member Economies due to take place in the autumn".

(c) The work of the ILO

(i) Working group on the social dimension of liberalizing international trade

In 1994 the Governing Board set up the above tripartite group to discuss all pertinent aspects of this question. After its first few meetings, because of the difficulties encountered, the group agreed that it would not pursue the aspect of trade sanctions and would suspend further discussion on whether to create a linkage between international trade and labour standards by introducing a social clause and a penalty mechanism.

At its last meeting, in March 1996, the group agreed guidelines for further work, particularly that it should examine the consequences of the globalization of the economy to see what might be done to take advantage of the positive consequences and attenuate the negative ones. It was also decided to send member states a questionnaire (since done), carry out country-by-country studies and analyse the work done by other international bodies such as the OECD.

The group will also press on with its work on the elimination of child labour and the ratification of core standards (see (ii)). It will be holding its next meeting in November this year just before the Singapore ministerial meeting, and the possibility of issuing a statement in advance of this meeting has been mooted.

(ii) Work in fora other than the ILO

Child labour: Here the need is beginning to be felt for a new convention to cover the harshest forms of child labour, since existing conventions cover only the minimum age at which children may begin to work. The Governing Body has decided to place the matter on the agenda for the International Labour Conference to be held in June 1998.

Examination of ILO policy on standards: In November 1995 a group established by the Governing Body made a detailed examination of ILO policy on labour standards. Similarly, the Governing Body is examining the possibility of extending the control mechanisms which apply to freedom of association to the areas of forced labour and equal treatment (although neither governments nor employers had expressed themselves in favour). Also in November 1995, the ILO launched a campaign to encourage ratification of its basic Conventions. This took the form of the Director-General of the International Labour Office sending all member states a questionnaire requesting them to explain what obstacles to ratifying the Conventions they had encountered.

(d) **The G7 conference on employment (Lille, 1-2 April 1996)
and the Lyons G7 summit (28-30 June 1996)**

The question of basic social standards was discussed at the G7 conference held recently in Lille. The communiqué agreed by the economy and labour ministers stressed the "importance of enhancing core labour standards around the world and examining the links between these standards and international trade in the appropriate fora".

The matter was raised again at the G7 summit in Lyons in the discussion on broadening the WTO agenda with a view to the forthcoming Singapore Ministerial Conference. The heads of state recognized "that there is a will to address the question of the relationship between trade and internationally recognized core labour standards."

(c) The social summit

Some guidelines are therefore already emerging from the debates within the OECD and the WTO. Firstly, it would seem that consensus is emerging regarding the principles which should be recognized as "core labour standards". These could be regarded as encompassing the fundamental human rights set out in the Universal Declaration and therefore recognized everywhere. They could directly improve working conditions and therefore represent a framework within which other standards could become established. They could be regarded as prerequisites for social development.

The principles underlying labour standards are best reflected in the relevant ILO Conventions, as was recognized in the final declaration of the Copenhagen social summit, which states that the countries concerned will make every effort to provide quality employment and defend the fundamental rights and interests of workers. To this end they will freely promote adherence to the provisions of the relevant ILO Conventions, namely those on the prohibition of forced labour and child labour, the freedom of association, the right to organise, collective bargaining and the principle of non-discrimination.

(f) Definition of core labour standards

The fact that heads of state and government throughout the world accept these labour standards is highly significant since it confirms their universality and helps consolidate their position as fundamental rights.

While the UN, the ILO and other international organizations have adopted a wide range of human rights as well as labour standards, some of which are quite detailed in nature, the international discussion on trade and fundamental workers' rights has during recent years focused on a minimum core of rights generally recognized as universally applicable. Particular attention has been paid to the prohibition of slavery and forced labour, freedom of association and right to collective bargaining, elimination of discrimination in employment and suppression of the exploitation of child labour.

Slavery and forced labour are prohibited in a number of international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Slavery Convention of 1926 with subsequent supplementary conventions as well as ILO conventions Nos 29 and 105. These prohibitions have a long and firm standing in international law and are part of the general principles of international law from which no derogation is allowed (peremptory norms of international law).

Freedom of association and the right to form and to join trade unions are recognized in the Universal Declaration of Human Rights and the ILO Constitution. Two ILO Conventions in particular, Nos 87 and 98, as well as the International Covenants of 1966, provide more detailed rules on the subject, including the right to collective bargaining. At least the general principles expressed in these instruments are part of the general principles of international law.

The elimination of discrimination is generally recognized in virtually all international human rights instruments. Article 26 of the International Covenant on Civil and Political Rights contains a general non-discrimination clause which is applicable to the field of economic and social rights as well. Moreover, discrimination with respect to the rights recognized under each particular instrument is prohibited in, *inter alia*, Article 2 of the Universal Declaration, Article 2(2) of the International Covenant on Economic, Social and Cultural Rights and in relevant ILO instruments. ILO Convention No 111 concerning Discrimination in Respect of Employment and Occupation and ILO Convention No 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value are particularly relevant in this context. It is beyond doubt that, for instance, the formal exclusion of segments of the population from the labour market on the basis of race or sex would be a violation of general international law.

As to the question of the exploitation of child labour, Article 10(3) of the International Covenant on Economic, Social and Cultural Rights and Article 32 of the 1989 Convention on the Rights of the Child provide that children must be protected from economic exploitation and from performing work of a hazardous or harmful nature. States are asked to provide for a minimum age for admission to employment. ILO Convention No 138 contains more specific rules in this respect. While, for instance, the use of young children in works that can be harmful to their health or development is clearly illegitimate and may in fact constitute slavery and forced labour as well, the ILO has started the preparations of a new convention which would clarify the question what constitutes illegal exploitation of child labour.

3. Action taken by the European Union

Given the principles underlying the European Union's own policy, what action can it take in this matter? We need to act on a broad canvas, because different social problems will require a different unit of EU policy instruments. For example, in the field of child exploitation, we must bear in mind that, while a small minority of children are exploited in export-driven industries, many more are being found in subsistence farming or local construction projects.

(a) Unilateral action

The issue of human rights and, more specifically, labour standards is already a feature of the new GSP arrangements,² which provide for two types of measures.

The first concerns the possibility of withdrawing some or all preferences granted to countries which countenance slavery or forced labour.

The possibility of withdrawing GSP benefits as a punitive measure is in itself not new. It is inherent in the unilateral character of the GSP and has been used in the past to sanction discriminatory commercial practices or fraud. In such cases, specific reference is made to forced labour in all its forms, as defined in the Geneva Conventions of 25 September 1926 and 7 September 1956 and in ILO Conventions 29 and 105.

The withdrawal of benefits is decided by the Council on a proposal from the Commission following an enquiry into the matter. This procedure gives each party concerned the opportunity to state his case after evidence has been taken by the management committee.

The second type of measure consists of "special incentive schemes" the main aim of which is to help beneficiary countries improve the quality of their development by adopting more advanced social and environmental policies.

Thus, in the area of labour standards, additional preferences may be granted from 1 January 1998 to countries which so request and which comply with ILO Conventions 87 and 98 on freedom of association and the right to collective bargaining and with Convention 138 on child labour.

The implementation procedures and the degree of preferences granted (supplementary margin) will be defined on the basis of a Commission report which will take into account the results of studies carried out by other international bodies such as the ILO, WTO and OECD.

² Council Regulation (EC) No 1256/96 of 20 June 1996 and Council Regulation (EC) No 3281/94 of 19 December 1994.

(b) Bilateral cooperation with third countries

Respect for and promotion of human rights and democracy is one of the general objectives of the Community's development cooperation policy.

At bilateral level the cooperation agreements concluded between the EU and third countries cover economic and social cooperation.

Thus, in collaboration with other international bodies (World Bank, ILO), the Union is organizing and financing financial and technical assistance programmes to promote education and jobs for women. These programmes include: a) the building of schools; b) vocational training; c) training for secondary school teachers (where positive discrimination in favour of women is common); d) "informal" education (targeting children who left school at a very early age, adults, people in rural areas, etc.). This assistance may be granted either to governments or to non-governmental organizations.

In the light of the international commitments entered into at the World Summit in Copenhagen and following the example of the recent agreements concluded with, for instance, Pakistan and Bangladesh, the Union intends to incorporate social development objectives into its cooperation agreements with third countries, making specific reference to the need to safeguard workers' basic rights as laid down in the relevant ILO instruments, including those banning forced labour and child labour and upholding the right to association and collective bargaining and the principle of non-discrimination.

In the same vein, the 1995 OECD Development Aid Committee Declaration on the "Development Partnership in the New Global Context" defines strategies for abolishing child labour in as efficient a manner as possible, which means combating poverty (by taking action at the level of individual families), investing in education, creating employment opportunities for adults and promoting the participation of women in economic development.

The International Labour Office has also suggested that families who send their children to school be compensated for loss of earnings.

Reference to Human Rights

The European Union has developed a policy on human rights and fundamental freedoms that covers a broad range of external relations activities. In November 1995, the Commission published a paper entitled "*The European Union and the external dimension of human rights policy: from Rome to Maastricht and beyond*".

Since 1992 all agreements concluded between the European Union and third countries have been required to incorporate a clause defining human rights as a basic element of such agreements. This clause, which relates to all rights - economic, social and cultural as well as civil and political - was further developed by the Commission in its Communication of May 1995 on "*the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries*".

4. Multilateral Action

Without playing down the importance of the contribution of major international institutions which through the medium of political dialogue are in a position to exert indirect influence on the promotion of universal labour standards, this paper focuses primarily on the International Labour Organization, whose specific role it is to assess issues related to the promotion of labour standards, and the World Trade Organization, which is the natural forum for debating the links between trade and labour standards.

The promotion of labour standards will entail improving the ILO's efficiency and upgrading its monitoring systems. Furthermore, without seeking to politicize the multilateral trade system, it is surely unacceptable for the international community to turn a blind eye to human rights violations in the name of trade liberalization?

This issue takes on even greater significance in the light of the links between economic development, trade liberalization and social progress, as highlighted by the OECD and the ILO. Thus, trade liberalization will boost economic development and thus improve living conditions, while social conditions maintained at an artificially low level will act as a brake on growth.

(a) **Consolidating the role of the ILO**

The ILO has mechanisms for monitoring the application of international labour conventions. The *Committee of Experts on the Application of Conventions and Recommendations* examines the reports that Member States are required to submit on a regular basis concerning their application of the conventions they have ratified. The conclusions of this Committee are then debated by the International Labour Conference. There is also a *Committee on Freedom of Association* which is competent to examine trade union issues arising in all Member States, regardless of whether they have ratified the relevant conventions or not. The ILO's constitution also provides for a complaints procedure that can be initiated by each of the tripartite members of the organization where a Member State fails to apply a convention it has ratified. This may lead to the case being referred to a *Commission of Inquiry*, although it must be stressed that none of these procedures result in the imposition of sanctions.

The Organization can deploy positive measures such as dialogue with the country concerned and technical assistance, and has developed a programme for the gradual elimination of child labour in the world - the "IPEC" programme.

The ILO system thus relies on persuasion and a pro-active approach. Its procedures have a moral impact, particularly on public opinion, but are not coercive. The pressure brought to bear by governments, employment bodies and the trade unions also plays a very important role.

The ILO has already initiated an internal debate on ways and means of making the Organization more effective. EU policy on labour standards must take due account of this debate, the main proposals of which include the following:

- Support for ILO dialogue and direct contacts with governments and for the Organization's technical assistance activities, particularly the IPEC programme, for which funding is required.
- Support for the idea of making respect for universal labour standards implicitly mandatory for all ILO members, regardless of whether they have ratified the relevant conventions or not. This would mean introducing a procedure similar to that applied to freedom of association, under which an inquiry can be launched without the prior consent of the government concerned.
- Targeting unacceptable forms of child labour. In 1998 the ILO will assess the options for conducting inquiries, producing reports and developing programmes aimed at encouraging children to attend school (direct aid to families, free meals at school).
- Improving the ratification rate. The International Labour Office has already launched a campaign to step up ratification by asking governments to ratify conventions or explain why they are unable to do so.

Other measures that might be envisaged include projects along the lines of the "Good Practice Codes" initiated by governments and by the private sector. For example the EU Code of Conduct, initially aimed at European firms operating in South Africa in particular, is applied on a voluntary basis, and concerns company policy on the terms of employment, the criteria for investing abroad and the conditions imposed on suppliers. In addition to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted by the International Labour Office, further measures could be taken to make these initiatives more transparent and to raise their profile.

Another area that might be looked into is the ILO's contribution to the issue of "social labelling". A growing number of private initiatives are being launched along these lines, and there are already programmes designed to inform consumers about the social conditions in which products have been manufactured. It is not a question of the ILO launching its own "social labelling" programme, but of providing technical assistance and safeguarding against such initiatives being hijacked for protectionist purposes. The rules of the WTO can also play an important part here.

(b) The WTO

The interdependence of trade liberalization, economic development and social progress has been the subject of intense debate in the international institutions since the Marrakesh Conference. The main issues under discussion are:

the convergence of the objectives pursued by the multilateral trade system and the promotion of labour standards;

a multilateral approach to respond to the emergence of unilateral trade policies linked to the promotion of labour standards;

the impact of the application of universal labour standards on international competition, particularly with regard to the products of developing countries.

(i) Convergence of objectives

In the current GATT/WTO texts, only Article XX(e) links prison labour and trade restrictions and authorizes contracting parties to impose or step up sanctions on products manufactured by prison labour. Article XX specifies that these measures may not be taken in such a way as to entail arbitrary or unjustified discrimination; applied between parties where the same conditions apply; or used as a disguised means of blocking trade.

Article XX is restrictive in its approach, authorizing measures that limit trade. The inherent risk is that this approach will be exploited for protectionist purposes which would be contrary to the objectives of promoting labour standards. Economic development, the growth of trade and social progress together form a virtuous circle, and the correct approach is therefore to liberalize, not restrict trade.

Seen in this light, the objectives of the multilateral trade system do not seem so incompatible with the promotion of universal labour standards.

It should not be forgotten that the membership of the WTO, the UN and the ILO is essentially made up of the same States; it is therefore safe to assume that the principles to which they have voluntarily subscribed under the auspices of these three bodies are complementary.

The Marrakesh Agreement which established the World Trade Organization emphasizes the link between free trade, economic development and social progress by echoing the GATT preamble in recognizing that "relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand".

Ultimately, given that trade liberalization goes hand-in-hand with the freedom of the individual to negotiate and conclude employment contracts, it is essential that it also be linked to the freedom of workers to negotiate their living and working conditions.

The Havana Charter (Annex III) referred to unfair working conditions and envisaged the introduction of labour standards, particularly with regard to export products. The General Agreement on Tariffs and Trade was initially confined to tariff questions, and it was not until the Tokyo Round that the impact of non-tariff measures on trade was acknowledged. This paved the way for the negotiation of codes on subsidies, import licences, customs value, and so on, thus extending the application of the GATT's multilateral rules to cover non-tariff issues.

The conclusion of the Uruguay Round ushered in a new era. The World Trade Organization is a very different animal to the GATT, not only because its sphere of application has been further extended to cover other areas such as services, but also from an institutional point of view. The WTO is more than just a collection of rules agreed by contracting parties; it provides an institutional framework for the discussion of every aspect of trade.³ The creation of a working group on the links between trade and internationally recognized labour standards therefore would not necessarily entail repercussions as regards trade disciplines.

The creation of such a group within the WTO should not be seen as an alternative to the reinforcement of the ILO. On the contrary, in view of the ILO's dual international role as a legislative and supervisory body, the two things should be seen as complementary.

³ The Marrakesh Agreement establishing the World Trade Organization, Article III, page 1: "The WTO shall facilitate the implementation, administration and operation, and further the objectives of this Agreement and of the Multilateral Trade Agreements".

(ii) The need for a multilateral framework

Examples of links between trade and labour standards in the real world of economics and politics can be found both in unilateral preferential policies (GSP - USA/EU) and in regional integration systems such as NAFTA. Unilateral, bilateral and plurilateral projects of this kind establish differing criteria and procedures, gradually building up a body of regulatory texts that are not always coherent, and not always consistent with the principles of free trade.

Another important factor is the pressure of public opinion, which, increasingly concerned by the humanitarian aspects of working conditions throughout the world, is calling on governments to intervene by imposing restrictive import measures. This trend has led to the creation of consumer organizations and activities such as "social labelling" and boycotts of products from certain countries. A well-known example of "social labelling" is the "Rugmark Foundation", which issues "social" certificates to makers of hand-made carpets. Boycotts, on the other hand, run the risk of being manipulated for protectionist purposes where similar products are manufactured locally.

The private sector has already started to respond, and some firms (particularly those active in the clothing and footwear sectors) have adopted codes relating to the labour standards applied by their subsidiaries and suppliers.

In the absence of a multilateral framework with regard to the links between trade and labour standards there is a risk that multilateral trade measures that can only have a destabilizing effect on the progress made in liberalizing trade with the conclusion of the Uruguay Round negotiations. In the years to come, the WTO must consolidate its position as the body responsible for managing the world trade system. This task will be rendered more difficult if the WTO has to contend with unilateral trade restrictions which are incompatible with multilateral rules and which will lead to a series of dispute settlements that can only sap the Organization's credibility.

(iii) Competitiveness and developing countries

Developing countries regard the debate on labour standards within the WTO as an attempt by the developed world to impose labour standards and pay levels which are out of proportion to their level of development, under threat of trade reprisals. As they see it, either they lose their competitive advantage, or the industrialized countries use labour standards as an excuse to raise trade barriers to protect the weaker sectors of their economies.

The debate thus tends to take the form of a North-South conflict between high pay economies and countries with low salaries. This serves only to muddy the waters, further reducing the chances of achieving the political consensus that is essential if a genuine debate is to be launched within the WTO framework.

It is therefore vital that the developing countries be reassured that the aim is not to weaken their competitive position on the international market by providing guarantees against protectionist abuses of the system. The first such guarantee would be to confine the debate to the promotion of universal labour standards, firmly ruling out any discussion of salary differentials.

This option is backed up by the findings of an OECD report which confirms that the developing countries' fears that the application of universal labour laws will affect their competitive position are not justified. On the contrary, the application of such standards could theoretically boost their economic performance in the long term.

In view of the unilateral initiatives being taken by governments and the private sector, the fact of discussing all these issues in a multilateral forum is in itself a guarantee that protectionist moves will be resisted.

It is important to stress that the WTO lacks the requisite expertise in the field of labour standards, and that coordination with the ILO is therefore essential.

Conclusions

The European Union has traditionally been at the forefront in promoting international human rights. Its partners clearly regard it as having historic responsibilities to discharge in this respect, and it does so with the means at its disposal under both its external policy and its development aid policy.

An international consensus is currently emerging on the need to promote certain core labour standards regarded as universal and comprising human rights-related aspects, specifically the abolition of forced labour and slavery, the elimination of child labour, freedom to organize, the right to collective bargaining and non-discrimination in employment. The EU Member States on the 113 Committee felt the possibility of raising the question of labour standards within the WTO was worth considering.

It is important to strike a balance between the strengthening of the International Labour Organization, as the specialist body for labour standards, and the opening of talks in the WTO.

The WTO has a key role to play with regard to the question of the comparative advantages enjoyed by the developing countries and their right to define their own national policies. Discussion of these issues within the WTO will promote free trade and limit the scope for abuse of unilateral measures or private initiatives liable to degenerate and play into the hands of protectionists.

The point of departure for these talks would be the convergence between the aims of the multilateral trade system and the promotion of core labour standards, as reflected in the preamble to GATT, incorporated in the Marrakesh Agreement, which links the liberalization of trade with economic development and social progress. The avenue of approach should therefore be the development of trade within an open non-discriminatory multilateral system, rather than trade restrictions.

Against that background, the incorporation of social issues within the WTO work programme should be a settled objective for the EU. The Commission therefore proposes that the Council agree to the Commission putting forward, at the Singapore Ministerial Conference, the creation of a working party to examine the link between the multilateral trading system and core labour standards, and to explore the areas in which the WTO might act in conjunction with other international bodies to help promote such standards.

With this in mind, the Commission would also suggest that the Council approve a written paper setting out the EU's position on these issues, with a view to registering it as soon as possible in Geneva.

WTO Ministerial Conference - Singapore, 1996
Core Labor Standards and the Multilateral Trading System
Elements of an Agreement

Non-Paper from the Delegation of the United States
May 15, 1996

1 An agreement at Singapore would recall the objectives of the multilateral trading system and the desirability of promoting internationally-recognized core labor standards. Noting that promotion of core labor standards is likely to strengthen the long-term economic performance of all countries, WTO members would recognize this in a declaration designed to take advantage of the opportunity to further strengthen and develop support for the trading system. At the same time, and in the same declaration, WTO members would reiterate their support for an open, non-discriminatory trading system, pledge to seek further trade liberalization and to avoid protectionist acts or actions calling into question the legitimate comparative advantage of WTO members. Such a multilateral policy statement would not in itself create new or enforceable WTO rights or obligations. The Marrakesh Declaration on Coherence in Global Economic Policy-making is a possible model.

2 The declaration at Singapore would be strictly related to "core" labor standards, based on the following human rights standards agreed to by WTO members in the U.N. and other multilateral fora.

- o Freedom of association
- o Right to organize and bargain collectively
- o Prohibition on forced labor
- o Elimination of exploitative forms of child labor
- o Non-discrimination in employment or occupation

Limiting the labor standards discussed to the above should ease the concerns of WTO members that addressing this issue could lead to an economic discussion of wage rate differentials.

3. The agreement in Singapore should set in motion a follow-on examination in the WTO (as a WTO working party) tasked with identifying linkages between the objectives and provisions of the WTO and core labor standards, related work in other organizations, primarily the ILO, and ways in which WTO might cooperate further in this area with other institutions. The results of the working party's efforts should be taken up at a subsequent Ministerial meeting with a view to considering how the WTO could contribute to furthering the observance of core labor standards and to define modalities for such action, within the context of maintaining an open, non-discriminatory trading system.

May 13, 1996

CORE

PROMOTION OF LABOUR STANDARDS IN THE CONTEXT OF INTERNATIONAL TRADE - Norwegian approach

Norway is deeply committed to the promotion of internationally recognized labour standards, viz. freedom of association, the right to organize and bargain collectively, prohibition of forced labour, elimination of exploitative forms of child labour and non-discrimination in employment or occupation. While primary responsibility for the promotion of these standards rests with national governments and the social partners, the international community has a shared responsibility to monitor progress and assist national efforts to improve these standards.

Globalization of the economy and a more open and dynamic international trading system have contributed to a renewed focus on labour standards in the context of trade. Trade is seen both as a means to improved standards through trade-led economic growth, as well as an area of international interaction based on a common obligation to respect and promote basic human rights, of which these labour standards are an integral part.

A recent OECD-study has indicated that trade can be associated with improvements in labour standards. Norway is interested in a follow-up of the study, with the objective of involving a wider circle of countries and especially the developing countries, in an open discussion of the most effective strategies for raising labour standards globally, and how trade can contribute to this end. Norway has taken the initiative to a workshop in the OECD, with participation of non-members, to introduce the study and the conclusions which can be drawn from it. Such discussions would also be supportive of the ongoing efforts of ILO to improve the monitoring and implementation of labour standard conventions, including a new convention on child labour.

Norway foresees a discussion in the WTO-context, to clarify the issues and to identify possible linkages which can be addressed within WTO's area of competence. In this context, we recognize the importance of avoiding the introduction of unilateral trade measures. A discussion in WTO, drawing on the work of other international organizations, could embrace efforts to improve labour standards as an integral part of a strategy for economic growth and increased trade. It could also contribute towards demystifying beliefs that low labour standards bring trade benefits.

Closer relations between national and regional labour research institutions could also contribute to a non-confrontational discussion in this area.

Norway believes that a strategy of non-confrontational dialogue involving all parties concerned and taking into account all effective means to assist national efforts to improve labour standards gradually would have the best chance of success in raising these standards globally and in improving the welfare of the people involved. The WTO, for its part, should examine how the multilateral trading system could contribute to the achievement of these goals.

(f) Improve competitiveness

Trade and economic policies cannot substitute for the development by business both of saleable products and of the means to deliver them to world markets on time and at the cost and quality needed. As to social costs, the fear of so-called social dumping would be misplaced if it related to a belief that in certain countries the level of social protection is kept artificially low in order to gain a competitive advantage elsewhere. We should not accept too simple a picture of high-wage industrial countries and low-wage developing countries. Differences in worker wages alone can be misleading. It is true that modern technology spreads much faster and more easily than in the past to different areas of the world. But poorer education, lower skill levels, lower levels of capital investment overall and inadequate infrastructure can all offset the possible advantage to be derived from low wages.

This is not to say that the Community has no difficulty in competing with labour-abundant countries. But European competitiveness is falling not principally because of the impact of international social cost differentials in some sectors, but because we ourselves suffer structural distortions in Europe. In developing countries, more elaborate social protection becomes a generally held political objective as national income rises to a level where those objectives are attainable. In the long run, a major part of the solution will consist in helping these countries to set up the conditions necessary for the development of domestic demand and rise in the standard of living.

The search for greater competitiveness both by trade and other policies does not imply that social protection should be undermined in Europe or ignored abroad. We are rightly proud of our record in this respect, which compares with the best in the world, and we are right to remain committed to establishing European-wide standards for social protection wherever appropriate.

The Community and its Member States can take every opportunity to raise with the countries concerned the need to bring forward their own legal changes. We can encourage this by positive measures, for instance by providing legal advice or technical cooperation where required. These are legitimate objectives of development aid and economic cooperation. But trade policy is not an instrument for the achievement of those objectives.

We rightly object to unilateral action by others to impose on Europe their view of how the world should be run. The international organizations responsible for multilateral rules must themselves judge Community compliance with these rules. The same principle must apply to judging others' compliance.

There are three fronts on which to act:

- (i) Inform better the current Community debates on social dumping, explaining why the Community wants multilateral rule-making and should not allow individual countries to set up as the unilateral judge of others' domestic laws or of others' compliance with international agreements;
- (ii) Develop a positive Community economic cooperation policy to increase social standards worldwide but without introducing unilateral trade discrimination as a lever;
- (iii) Prepare for the discussions that will be necessary, in the International Labour Organization and elsewhere, after the Uruguay Round, of how best to strengthen compliance with current and future agreements in the field of social policy.

United Nations Conference on Trade and Employment - Havana, April, 1948: - Article 7, Page 7:

Fair Labour Standards:

1. *The Members recognize that measures relating to employment must take fully into account the rights of workers under inter-governmental declarations, conventions and agreements. They recognize that all countries have a common interest in the achievement and maintenance of, fair labour standards related to productivity, and thus in the improvement of wages and working conditions as productivity may permit. 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.*
2. *Members which are also members of the International Labour Organisation shall co-operate with that organization in giving effect to this undertaking.*
3. *In all matters relating to labour standards that may be referred to the Organization in accordance with the provisions of Articles 94 or 95, it shall consult and co-operate with the International Labour Organisation.*