

Escape Clauses and Social Conditions in the WTO System as the New Threat

Heidi Ullrich, Ph.D.

International Centre for Trade and Sustainable Development

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I would like to focus on what I see as a *recurring* threat to the WTO system – and indeed the broader global trading system – namely, the issue of incorporating labour standards into trade agreements at the multilateral level of the WTO as well in bilateral and regional trading agreements and its impact on economic growth and competitiveness.

My presentation has three parts:

- 1) Introduction to the issue of social conditions and labour standards and the Heiligendamm G8 Summit;
- 2) The recurrent threat of incorporating labour standards within global trade agreements;
- 3) Suggested recommendations for ensuring that global governance mechanisms such as the WTO, ILO, and G8 promote economic and social progress in an effective and complementary manner.

Introduction to the Issue of Social Conditions/Labour Standards and the Heiligendamm G8 Summit

Given that Germany, as chair of the G8 in 2007 and host of the G8 summit in Heiligendamm, set out three themes for this year's summit:

1) investment, innovation and sustainability; (2) Africa: good governance, sustainable investment, peace and security; and (3) Cooperation with Emerging Countries, one would not be blamed for wondering why the topic of social conditions – and in particular the historically extremely contentious issue of labour standards within the WTO – would merit a panel discussion at this roundtable.

The answer is to be found in the topics discussed by the G8 Ministers of Labour and Employment as well as representatives of the European Commission, the International Labour Organization (ILO), the World Bank, the Organization for Economic Cooperation and Development (OECD), and private business during the G8 Labour Minister's Meeting that took place 6 – 8 May in Dresden.

The agenda included three main topics:

- 1) Strategies for more and better employment in industrialized countries;
- 2) Broadening and strengthening social protection in developing countries and emerging economies;
- 3) Corporate social responsibility.

Of particular relevance is a statement of the assembled ministers:

...we invite the WTO members and interested international organisations, in close collaboration with the ILO, to promote the observance and the implementation of internationally recognised core labour standards. We also commit to fully take into account decent work, notably the respect of ILO core labour standards, in bilateral trade agreements (Paragraph 19)

This call by the G8 for linking trade and labour standards through the incorporation of core labour standards into the WTO system – rather than have them remain within the domain of the ILO - should be seen as a serious threat to the WTO system, the ongoing WTO trade negotiations, as well as sustainable development as a whole.

The Recurrent Threat of Incorporating Labour Standards within Global Trade Agreements

Before analyzing the attempts at linking trade and labour standards – from both an historical perspective as well as more recent attempts – it is necessary to clarify what these labour standards consist of.

Among the 187 Conventions on labour standards adopted by the ILO there are eight “Fundamental ILO Conventions” that make up the four core international labour standards covering:

- the abolition of forced labour;
- freedom of association;
- the elimination of discrimination;
- the elimination of child labour.

There is general agreement of the value of these core labour standards in promoting social progress - with the apparent exception of only a few countries in the world, including a member of the G8 - the United States - that has one of the lowest ratification rates of only two of the eight of the core labour conventions, [only Brunei Darussalam (0), Montenegro (0), Myanmar (2), Samoa (0), Solomon Islands (1), Timor (0), are either equal or less in their ratification level)].

However, most countries – including emerging and developing countries – believe that rather than bringing labour standards into the domain of trade, particularly the WTO, they should remain the responsibility of the ILO in conjunction with individual states

There is also growing agreement that corporations should promote these standards through practicing Corporate Social Responsibility or similar codes of conduct.

For emerging economies and developing countries there are at least 4 primary arguments against linking trade and labour standards:

- 1) Developed countries’ call for incorporating core labour standards into trade agreements hides protectionist intentions;
- 2) A country’s labour standards are a valid source of comparative advantage;
- 3) Following on from this, labour standards are an issue of domestic competence and thus fall into the area of national sovereignty;
- 4) Labour standards are positively correlated to a country’s economic growth and will increase as the country develops. (Anderson; 1996)

However, despite these arguments, developed countries have continued to promote the incorporation of labour standards into the global trading system at the multilateral, regional, and bilateral level – which is why the current G8 call should be seen as a *recurrent* rather than *new* threat.

Multilateral, Regional and Bilateral Attempts at Linking Trade and Labour Standards

At the multilateral level, the most notable attempt was in the lead up to and during the 1999 WTO Ministerial in Seattle when the EU, US and Canada attempted to establish working groups to discuss the issue.

Notably, the G8 Summit held earlier that year in Köln stressed “the importance of effective cooperation between the WTO and the ILO on the social dimensions of globalization and trade liberalization” but refrained from calling for incorporation of labour standards within the WTO.

The unreceptive and united position of developing countries against any move to incorporate labour standards into the WTO was one of the major factors contributing to the lack of agreement on launching a new round of trade talks at the Seattle Ministerial.

It was only in Doha in 2001 when the issue of incorporation into the WTO was carefully avoided, that Member Governments agreed to launch the Doha Round.

Nonetheless, despite the lack of progress at the multilateral level of the WTO, developed countries – particularly the EU and US – have managed to link trade and labour standards within their bilateral and regional trade agreements.

Under the EU’s new Generalized System of Preferences (GSP) Plus (in place since January 2006), certain developing countries may qualify for additional tariff reductions if they ratify and implement 16 ILO core conventions related to labour standards.

More recently, in March US Congressional Democrats announced that they will seek to include labour standards not only into US bilateral and regional trade agreements that are currently being negotiated (Panama and Peru), but also re-open already negotiated agreements to “require countries to adopt,

maintain and enforce basic international labour standards in their domestic laws and practice, not merely ‘enforce their own laws’”.

Thus, the G8 Labour Ministers’ statement can be seen as an ongoing effort by developed countries to institutionalize the link trade and labour standards at the multilateral, regional and bilateral levels.

Impact on the WTO

What would be the likely impact on the WTO System?

Firstly, charging the WTO with the responsibility to ‘promote the observance and implementation’ of core labour standards would involve **subjecting these labour standards to the WTO’s dispute settlement mechanism** since unlike the ILO, the WTO has the ability to enforce agreements.

Secondly, in terms of the ongoing Doha negotiations, given the continuing opposition of both emerging and developing members of the WTO, **adding this contentious issue to the agenda would likely remove any remaining vital signs left in the extremely fragile life of the Doha Round.**

The failure of the Doha Round would reduce opportunities for economic growth among all economies.

Thirdly, by mandating that emerging and developing countries implement labour standards developed countries will be in effect **negatively impacting on the necessary policy space** that developing countries require to develop the most effective regulatory mechanisms for their particular stage of development.

Thus, while there is broad consensus on the positive contribution that implementing effective labour standards would have on improved social conditions, **they should be promoted outside of the already overburdened WTO System.**

Recommendations to the G8 and other Global Governance Mechanisms

In conclusion, I would like to offer a few suggestions to the G8 and other Global Governance Mechanisms that may assist them in ensuring that the

promotion of economic and social progress is carried out in an effective, complementary and consensus-based manner.

- **Support an effective global trading system**

An effective global trading system, with a focused WTO at its center, is the best way to improve economic growth and promote the development of social progress including greater implementation of labour standards, the generation of more and better employment, and improved social protection instruments such as education, training, health care and gender equality.

Therefore, the G8:

- Should call for and support the conclusion of the Doha Round as early as possible
 - ♣ Ensuring that the Doha Round results in real development for developing countries – and particular LDCs – so that globalization will benefit all. (threat for dcs is not globalization – but marginalization)
- Should not distract the WTO from its core functions
 - ♣ Burdening the WTO with the promotion of the observance and implementation of internationally recognised core labour standards would hinder its effectiveness in serving as a mechanism to harness the benefits of free trade.
- **Create an enabling environment for trade to be a tool for sustainable development**

While an effective trading system is critical to economic growth and development, trade should be seen as a tool for sustainable development rather than an end in itself.

The G8 well as organizations such as the World Bank, UNCTAD, and OECD should work together to:

- Support Innovation and Investment

- ♣ Innovation is a key element of sustainable development which requires a supportive political, economic and social environment to thrive.
- ♣ Therefore, the private sector, specifically from the G8 countries, should be encouraged to invest in emerging and developing countries including joint ventures that generate both the transfer of technology as well as local employment opportunities.

- Increase the Responsibility of the Private Sector

Corporations should be encouraged to follow:

- ♣ the OECD Guidelines for MNCs – including best practice guidelines covering employment and industrial relations
 - ♣ the UN Global Compact’s 10 principles including those on labour standards – including the elimination of child labour and forced labour. (others: freedom of association and elimination of discrimination)
- Fulfill ODA commitments and Ensure Trade Related Capacity Building is effective
 - ♣ According to the OECD, in 2006 development aid from industrialized countries actually decreased by 5.1% – and one year following the Gleneagles G8 Summit at which the G8 committed to double aid to Africa by 2010 – aid from the G8 to Africa showed no increase.
 - ♣ The G8 and other global governance organizations should work together with recipient countries to make trade related capacity building practical and effective.

- **Strengthening the Heilingdamm Process**

Although Germany has initiated the Heilingdamm Process that will establish a more regular Summit dialogue between the leaders of the G8 and those of emerging economies such as of Brazil, China, India, Mexico and South Africa, this could be strengthened by:

- Including their respective ministers to the various ministerial meetings in the lead up to summits
- The establishment of regular and inclusive multi-stakeholder dialogues (including representatives from civil society, the private sector, international organizations, and academia) among the G8, these emerging economies and developing countries to discuss issues of relevance to growth and development.
 - ♣ Such activities will help to ensure that globalization results in economic and sustainable social growth and opportunity for all.