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LABOUR STANDARDS OR DOUBLE STANDARDS? WORKER RIGHTS AND TRADE POLICY

In recent years some industrialised nations have been pressing for the inclusion of a 'social clause' in bilateral and multilateral trade agreements, making access to developed country markets by developing country importers conditional on a satisfactory record of labour rights and standards. Defended by its advocates as a means of safeguarding worker rights, the social clause has been criticised by others as a thinly veiled form of protectionism.

This Briefing Paper reviews recent policy and legislative developments on the social clause in the USA, identifies some of the inherent difficulties such legislation will encounter, and looks at European Community initiatives on labour conditions and trade. It summarises the findings of recent ODI research which indicate that in the countries studied and especially in their export sectors, labour conditions are not untypically poor given their level of development, and argues that the case for singling such countries out for trade sanctions is therefore weak.

An update on the social clause

Labour costs are an important determinant of export competitiveness. A major concern in the regulation of international trade has been to ensure that no country gains an advantage over others simply by having lower labour standards in the production of goods for export than in the production of goods for home consumption. This concern led to the establishment of the International Labour Organisation, and is embedded in the GATT charter (see Box 1).

More recently, however, there have been a number of proposals to introduce selective trade sanctions against particular countries or sectors within them (notably the developing country manufacturing sectors which compete in developed-country markets) on the grounds that their labour standards do not conform to internationally-agreed conventions.

Workers' rights and labour standards are now firmly embedded in United States external trade policy. The US market is important to most of the newly industrialising countries (NICs); following the approval by the United States Congress in the Omnibus Trade Act of 1988 of two provisions for workers' rights, NICs face the prospect of sanctions being imposed against them because of 'sub-standard' labour conditions.

Box 2 describes the most important legislation which prescribes labour 'conditionality' in US trade and overseas investment policy. The introduction of labour rights clauses in agreements under the Generalised System of Preferences (GSP) has already excluded a number of countries from the US GSP scheme. In January 1987, the USA used the worker rights clause to drop Paraguay, Romania and Nicaragua from the GSP, and to issue a warning to Chile. Among the countries currently being reviewed are Chile, Haiti and Malaysia. Developing countries take the prospect of such sanctions seriously. For example, when the US Trade Representative considered a petition from the American Federation of Labor (AFL-CIO) to exclude Malaysia from the GSP, Malaysia (the ninth-largest exporter to the US under the GSP) lifted its offending ban on trade union activity in its electronics industry.

Labour standards as defined under the US 1984 Act cover a wide range of concerns, and petitions can be granted on the basis of any one of them if the offending country is deemed not to be taking effective steps to improve the situation. No operational distinction is made between 'rights' and 'standards', the former normally referring to what may be called basic human rights (as defined by the UN). In practice the most troublesome clause is likely to be that requiring countries to ensure 'acceptable' working conditions, covering wages, hours of work, and occupational health and safety. Imposing sanctions on these grounds on developing countries is problematic because evidence is difficult to collect and interpret.

Box 1: The Social Clause and the General Agreement on Tariffs and Trade (GATT)

The idea that labour standards are important in determining fair international trade between states is not new. The international labour standards of the ILO were founded on this premise in 1919. Under the GATT negotiations, labour rights have for some time appeared on the agenda. The GATT charter establishes that 'members recognise that all countries have a common interest in the achievement and maintenance of fair labour standards ... *as productivity may permit*' (our emphasis). And as long ago as 1953, Dwight D. Eisenhower informally proposed a worker rights clause to the GATT, which foundered because of a failure to define unfair labour standards. More recently, during the Tokyo Round of GATT negotiations (held between 1973 and 1979), the Government of Sweden proposed adding a social clause to the GATT, based on ILO labour standards. At that time, the USA and a number of developing countries opposed the move, recommending that such actions would be better addressed at the UN Conference on Trade and Development (UNCTAD).

Under the Uruguay round of GATT negotiations (which began in September 1986 at Punta del Este), the Reagan administration rekindled the social clause debate. It proposed a working party of member nations to examine the relationship between internationally recognised worker rights and international trade. Although Sweden, the EC and Japan supported the proposal, several developing countries (including Malaysia, Mexico, Pakistan and South Korea) vigorously opposed it. The USA subsequently engaged in informal discussions to line up support for a formal working party proposal. At the GATT Council meeting in November 1987, thirty-three GATT countries took notice of the US concern. Some supported the working party proposal (Sweden, Norway, Finland, New Zealand, Canada and Japan); others favoured more informal consultations (Brazil, EC, Hong Kong, Israel, South Korea, and Tanzania); others (Cuba, Egypt, Mexico, India, Indonesia, the Philippines, Singapore, Zaire) were opposed to any working party. Opposition was based mainly on the implied protectionism of such a move and the competence of the GATT to consider such matters. However, the most outspoken critics of the US proposal to form a working group (in May 1988), were those countries which have been denied trade preferences because of unsatisfactory labour standards or allied political freedoms (Chile, Nicaragua and Romania).

Box 2: US trade and investment laws and worker rights

There are four pieces of legislation linking workers' rights in developing countries to US trade policy.

1 Under the Caribbean Basin Initiative of 1983, the US President, when designating eligibility for duty free exports to the US, is required to 'take into account the degree to which workers in such countries are afforded reasonable workplace conditions and enjoy the right to organise and bargain collectively'.

2 The Trade and Tariff Act of 1984 includes provisions that prohibit the extension of US trade preferences under the GSP to any country which is not 'taking steps to afford internationally recognised worker rights to its workers (including those in export processing zones)'. These rights are deemed to include:

— the right to association;
— the right to organise and bargain collectively;
— a prohibition against compulsory labour;
— a minimum age for employment; and
— acceptable conditions of work with respect to minimum wages, hours of work and occupational health and safety.

3 In 1985, provisions were added to the Overseas Private Investment Corporation (OPIC), which assists US private investors in developing countries, prohibiting the provision of risk insurance for projects in any foreign country that is not 'taking steps to adopt and enforce laws extending internationally recognised worker rights to its workers (including those in export processing zones)'.

4 Two worker rights provisions in the Omnibus Trade Act of 1988 have been approved by the US Congress. One provision makes multilateral agreement to link worker rights and trade a principal US negotiating objective in the current round of the GATT. The other authorises the President to treat as an unfair trade practice the competitive advantage that any country derives from the systematic denial of internationally recognised worker rights.

Who's protecting whom?

Petitions on labour rights are received by the US Trade Representative from a wide range of individuals and institutions. Human rights activists, church groups, trade unions and lobbyists from the NGO development community are among the main petitioners. The motives for such petitions are undoubtedly mixed — ranging from humanitarian to protectionist concerns. Political considerations also determine in large measure which petitions are retained by the US government for review. In August 1988, for instance, the US Trade Representative retained six of the twelve petitions that were filed (deciding not to take up, inter alia, petitions filed against El Salvador). Political expediency and self-interest mean that sanctions may be unevenly applied.

Many of the complaints lodged about labour conditions in developing countries are based on implicit comparisons with the developed market economies. It is clearly legitimate to expect countries to comply with certain standards: complaints should be made about human rights violations or poor occupational health and safety standards. But those concerning standards of wages or hours of work are more difficult to assess. This is because differences in these conditions can be expected between countries, depending on their levels of development.

There is a danger, therefore, that too zealous an application of social clauses will intrude into what may be termed the genuine trading advantage of many developing countries — their abundant and cheap labour. The protectionist lobby may succeed in denying countries access to the US market simply because of their low levels of development, and consequent poor working conditions. Most developing countries export goods which are competitive because they have the advantage of cheap factors of production. If these countries are obliged to raise their labour costs by increasing the level of either wages or other benefits to workers in the export industries, their exports may become uncompetitive. This can have serious consequences for their export earnings, balance of payments and economic growth.

Can the Social Clause Work?

For the social clause to work effectively and fairly, it must be applied universally — that is, it must be applied in all cases where labour conditions are considered sub-standard, given the levels of overall development (and labour productivity in particular). There is no logical case for restricting interventions to labour conditions in the production of exports from developing countries, nor simply to the manufacturing sectors. In many developing countries, the worst labour conditions are to be found in mining and in agriculture. Those countries which impose trade sanctions only against the imports of competing manufactures should, to be consistent, apply the sanctions against all offending imports, even the imports of non-competing primary commodities.

Social clause interventions should also distinguish between poor labour standards which simply arise from the poverty of the country in question, and those which are obviously discriminating and exploitative.

Checking the evidence

These problems of measurement and interpretation are illustrated in the results of recently completed ODI research in Malaysia, Singapore, South Korea and Thailand, four East Asian countries highly dependent on the USA for their manufacturing export markets. The ODI studies compared labour conditions in the manufacturing export sectors with those generally prevailing in these countries. Lower standards in the export sectors would provide the clearest evidence of 'social dumping' (i.e. labour conditions which were deliberately kept inferior in the export sectors). If there were no such evidence, conditions in the export sector (though possibly inferior to Western standards) might simply reflect the relative abundance of labour in the country, and its low labour cost.

Wages

The data reported in Table 1 are derived from the results of the ODI study. They show that in South Korea, male wage rates were higher in the export sector than in domestic production sectors, while in the other countries, a simple comparison suggests that wages (for both sexes together) are lower in the export sectors. However, two important qualifications must be made. First, in countries where there was a shortfall in export-sector wages at the beginning of the process of export-led industrialisation (i.e. Singapore and Malaysia), the gap has since narrowed.

Second, comparing wages in exporting and non-

Table 1
Relative wages in exporting industries*

Country	Year	Sector		Wage (%)
Malaysia	1973	Electronics		76
	1981			89
Singapore	1972	Manufacturing		94
	1985			96
South Korea**	1984	Textiles,	medium	154
			large	104
		Clothing,	medium	144
			large	112
		Electronics,	medium	92
			large	128
Thailand	1985	Clothing		97

*Relative to 'non-exporting' industries as follows: Malaysia and Singapore: all industries; Korea and Thailand: firms in the reported sectors exporting less than 50% of output.
**South Korean data refer to male wage rates only.

Source: Addison and Demery, 1989

exporting sectors is fraught with difficulties. There are many legitimate reasons why wages might differ between exporting and non-exporting sectors — differences in productivity, in education levels of the workers, or in the skills they possess — and these must properly be taken into account in making a judgement about whether wages really are low in the exporting sectors. When these factors were accounted for in the ODI studies, there were only a few exceptional cases (for example, among female South Korean workers in medium-sized clothing firms) where wages were significantly lower in export sectors.

Whatever the evidence on wage levels, one thing is certainly clear from the studies: real wages have grown rapidly during the period of export-led industrialisation. In Singapore, average real hourly earnings grew at 4 per cent per annum over the period 1973-84. The growth rate of real wages in South Korea over the period 1960-85 was 6.7 per cent — a remarkably sustained growth rate. In Malaysia, real wages grew at 5.5 per cent during 1974-83.

Hours of work

Hours of work in the countries studied are longer than those set by international labour standards. ILO's 1962 Recommendation lays down a maximum of 40 hours per week, yet with the exception of Singapore, with a 44-hour normal working week, national legislation in all these countries sets a standard of 48 hours per week, which corresponds only to the very first 1919 ILO Convention Recommendation. Quite apart from this shortfall in the provisions of national legislation, there is the added problem of its enforcement, especially in the cases of Thailand and Malaysia.

The ODI study showed that working hours in these countries were generally long by Western standards, and they were longer in the export industries (see Table 2) for Thailand and Malaysia. In Singapore, the working week tends to be shorter for export workers than for their counterparts elsewhere in the economy, but there does not appear to be any significant difference between hours of work in South Korean export and non-export sectors.

The data in Table 2 give an indication of the orders of magnitude involved. Any interpretation, however, must take into account whether long hours are worked voluntarily in exchange for overtime pay, whether an overtime premium is paid, and whether the additional hours are compulsory.

In Thailand, the ODI study found that although only a tenth of the workers surveyed considered the working day too long, over half of them did not receive the overtime premium specified under Thai labour law, and many workers were quite unaware of their legal entitlement to overtime pay. Overtime pay was consistently available for overtime work in South Korea, but it is far from certain that workers undertook the long working hours voluntarily. It was often difficult for workers to resist employers' demands for overtime and shift work.

Gender discrimination

A notable feature of recent economic growth in the countries covered by the ODI study was the rapid expansion in the numbers of female workers. Many of these women were employed in the export sectors, particularly in textiles, clothing and electronics. In assessing whether women were in any way discriminated against, the study found that in all countries, the women (especially the young women) tended to work longer hours for lower wages than male workers in the same sectors. Table 3 shows that low female wages are particularly a problem in South Korea, where women were paid just over half the rate of their male counterparts.

There are, however, two qualifications to be made. First, with the exception of South Korea,the female/male wage differential has narrowed over time, especially in Singapore and Malaysia, perhaps because women workers are gaining in seniority, and assuming more responsible jobs. Second, once other factors are taken into account (particularly the level of education of the worker), the differential largely disappears. This would suggest that even though there is strictly speaking no discrimination in the labour market, it may exist in the education system. This seems to apply to the countries studied except for South Korea, where gender discrimination is evident, even after allowing for the effects of education.

Table 2
Average weekly hours of work

Country	Year	Exporting Sector	Non-Agriculture	Manufacturing
Malaysia	1984	51-62	44.6[a]	—
Singapore	1985	46.5	49.4[b]	49.3
South Korea	1985	52-56	52.4[b]	54.2
Thailand	1985	66.0	—	61.2[c]

[a] Peninsular Malaysia, 1979
[b] 1984
[c] Average hours in domestically-oriented clothing firms.

Source: *Yearbook of Labour Statistics 1985*, ILO Geneva.

Table 3
Female wages as a percentage of male wages

		1976	1984
Malaysia	Manufacturing:		
	Production operator	100	96
	Quality controller	85	109
	Textiles:		
	Machine operator	95	164
Singapore	Manufacturing:		
	Labourer	75	82
	Assembler (electronics)	78	93
South Korea	Manufacturing:		
	Primary School	61	54
	Senior High	56	52
	College	59	60

Source: Addison and Demery, 1989

Occupational health and safety

The case-study evidence suggested some improvement over time in work-related accidents. The accident frequency rate (defined as the number of accidents per one million working hours) decreased from 23 in 1966 to 13 in 1984 in South Korean manufacturing. The accident severity rate (the number of days lost per 1,000 working hours) fell from 4 to 3 over the same period. The frequency and severity rates for Japan, in comparison, were 7 and 2 respectively in 1960, and 3 and 0.3 respectively in 1983. In South Korea there were 1,660 fatalities on the job, and 141,809 reported work-related accidents in 1986 (out of a workforce of 16 million).

The ODI study on Singapore concluded that the health of workers was determined primarily by the non-working environment (housing, transportation, health care, etc), and that some working environments (especially in the electronics sector) were superior to western standards.

Many measures which can be taken to prevent industrial illnesses and accidents in the workplace do not depend on the country achieving a satisfactory level of development. But developing country governments cannot always easily implement health and safety policies. The low overall low level of education and literacy among the working population may mean, for example, that workers cannot read or readily understand instructions designed to reduce work-related accidents and health hazards. The necessary resources to set up the proper surveillance machinery to ensure that safety and health precautions are taken are often simply not available to ministries of labour.

Box 3: EC initiatives on social clauses

The European Community has not included a social clause in its trade arrangements with developing countries, but, following the 1984 US Trade and Tariff Act, such a clause has been suggested as a condition for access to its GSP arrangements.

The initiative, publicly at least, has come principally from the trade union side, and pressure for it may be increasing. The Economic and Social Committee (which includes union and management representatives and which regularly reviews GSP) included a passage 'drawing attention to the importance which it attached ... to respect for human rights and, in particular, to ... fair standards in respect of working conditions, as defined by the ILO' in its opinion on the GSP in 1985, but placed this in the context of 'all its external relations', not only those with developing countries. Its 1988 opinion was much more explicit, suggesting that GSP beneficiaries be required 'to respect fundamental human rights and the basic social rights enshrined in the main ILO Conventions', and citing the US example. Recent support in the UK came from a clothing union which suggested that a social clause be included in Multifibre Arrangement (MFA) agreements.

The European Council and Commission have so far resisted a social clause, arguing both that this was interference in other countries' domestic affairs and that it would not be effective. This policy could change in the light of recent emphasis on basic workers' rights throughout the EC countries in plans for common standards by 1992. It is relevant that there were other more protectionist elements in the Committee's 1988 Opinion compared to 1985, and that the MFA suggestion was in the context of discussions which argued that increased imports would damage the clothing industry.

It is more difficult for the EC than for the USA to argue that wages are unduly low in the NICs because income levels in Portugal and Greece are only slightly above those in Taiwan and South Korea, and wages in Hong Kong are claimed by the Hong Kong trade representative, in a reply to the clothing workers' union, to be higher than in the UK. US incomes are still well above NIC levels. Unlike the US, however, most EC members have ratified at least some of the relevant ILO rights and labour standards conventions, although the UK has not ratified those on child labour (mentioned as a particular concern by the clothing workers) and safety of machinery.

Trade unions and collective bargaining

Although workers in all the countries covered by the ODI study have notional rights to form unions, these rights are closely circumscribed by the governments. Many of the criticisms of labour standards in these countries are levelled against restrictions imposed on trade union activity, which can amount to violations of recognised basic human rights. Some governments explicitly forbid the formation of unions in certain sectors. For example, in Malaysia unions are banned in what are termed 'pioneer' industries (generally the new export industries), although this ban has now been rescinded in the case of electronics (see above). The ODI study found union membership declining in Malaysian manufacturing. In South Korea, unions are not permitted in the public sector, and in 1986 the government excluded the entire coal mining industry from coverage under the labour union law.

The controls imposed by governments are frequently more subtle and pervasive. In South Korea, only in-house unions are permitted; national or industrial unions are illegal. Union membership must comprise a minimum of 30 (or one fifth of the workforce of a company), so that in small enterprises many workers are prevented from joining a trade union. Labour unrest in South Korea in 1988 arose from the need for a new and stronger union leadership and structure rather than from specific complaints about wages and working conditions.

Conclusion

The authors of the ODI case studies argue that the evidence does not support a strong case for trade sanctions because labour conditions in the export sectors are generally similar to those operating in the wider economies, especially those relating to wages. They also argue that attempts to raise standards above those indicated by the country's level of development might weaken the competitiveness of their industries.

There are genuine concerns in developed countries about wages and workers' rights in developing countries, and the extension of union rights to the electronics industry in Malaysia exemplifies how social clause legislation can be effective. Equally, however, a good deal of pressure from the industrialised countries has a protectionist and occasionally political motivation. To the extent that these other motives are present, some would argue that efforts to introduce labour standards into trade law must be viewed with suspicion. For even where recognised infringements of worker rights do exist, it is extremely difficult to target trade sanctions accurately and even-handedly.

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This Briefing Paper brings up to date *Protecting Workers in the Third World*, ODI Briefing Paper, September 1985, which reviewed the arguments for and against social clauses.

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Overseas Development Institute Regent's College Inner Circle Regent's Park London NW1 4NS