

Labour Provisions in Trade Agreements

Design, implementation and stakeholder involvement

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European Economic and Social Committee, Brussels

Opening remarks by Stephen Pursey, Senior Policy Adviser, International Labour Organization

Thank you for this opportunity to introduce this morning's discussion on the experience of the last couple of decades regarding labour provisions in trade. We are grateful to the Economic and Social Committee for generously hosting our meeting and to the Commission for their long standing cooperation with the ILO on the social dimensions of trade relations. I am particularly pleased to see a number of old friends here today.

It is now more than twenty years since the first trade agreement containing labour provisions – NAFTA -- was signed. Perhaps it is worth briefly recalling how that came about. The world has changed a lot since then and recognition of the importance of core labour standards was part of the process of change as well as an outcome.

President Clinton needed to get bipartisan support for the trade deal in Congress and there was a substantial number of his own party's Representatives who were worried about the potential effects on US jobs of increased lower cost imports from Mexico. Many argued that it was the lack of observance of what were then termed core labour standards that made Mexican exports unfairly cheap.

The deal originally signed by President Bush in 1991 did not include labour provisions but following the election President Clinton insisted that an extra side deal should oblige the three countries to promote compliance with, and effective enforcement of their own labour laws concerning several core labour standards. Backed up by national offices and an international experts group the North American Agreement on Labor Cooperation (NAALC) provided mechanisms to ensure that exports would not be produced under abusive labour practices and that over time the benefits of trade would reach Mexican workers and be reflected in a narrowing of labour cost differences.

The NAALC was sufficient to get the Congressional majority needed and the idea of labour provisions was accepted by Mexico and Canada. One could therefore argue that the origins of labour provisions in trade agreements was political expediency. It would be naïve to suggest that played no role. However, with hindsight maybe the recognition that trade liberalization has important impacts on labour markets which need to be addressed was a “the emperor has no clothes” moment.

Prior to NAFTA, most members of the “trade community” had resisted the idea of any legal linkage to labour standards in trade agreements. The EU and the USA had labour provisions in their GSPs from the early 80s but these were unilateral. Now, as the report documents, there are 77 trade agreements with labour provisions, involving 136 economies.

However, twenty years on fear that globalization is leaving too many people behind is widespread and has arguably been an important contributing factor in some major recent political upheavals.

It is now widely accepted as an empirical finding and political reality that opening to trade and investment provokes important changes in employment – after all the theory underlying open trade is that it leads to a more efficient division of labour.

ILO research, supported by the Commission, and undertaken with leading academics and the Secretariat of the WTO, has shown that the job gains and losses from increased trade are significant. We concluded that they netted out positively for most countries. However, we also concluded that the likelihood that those losing work would be amongst those taking up the new opportunities was very mixed, unless a significant policy effort was made to support adjustment. Academic research has also shown that many who lose their jobs but find a new one have lower pay and conditions of work.

There are, of course, many other drivers of change in labour markets, notably new technologies. However, it is very difficult for academics, as well as working women and men, to disentangle trade and technology effects. After all, the power of new information technologies are an important factor in the growth of the global supply chains that now account for perhaps as much as three quarters of world trade.

It has become standard practice for most labour provisions to reference the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The ILO has been pleased, when requested, to assist countries implement agreed labour provisions in trade agreements.

These are the four principles and associated rights that are considered fundamental for social justice, and include: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

These are rights that enable working women and men and their unions to exercise basic human rights at work and organize themselves to improve their conditions. One effect of the focus on fundamental rights at work is increased ratification of these key Conventions.

The first complaint under the EU GSP by the international trade unions in the mid-80s was on forced labour in Myanmar. Myanmar refused to cooperate in investigating and remedying the use of forced labour until it was faced with use of the ILO's Article 33 which provides for sanctions. It then allowed the ILO to open an Office to help forced labourers and a long process of change started. Today the EU is supporting the ILO and the Myanmar government with a project on freedom of association.

The ILO has not however become involved in negotiations on labour provisions in trade agreements or attempted to influence them.

Our position was very clearly stated in our landmark 2008 Declaration on Social Justice for a Fair Globalization:

“the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes”.

At this year's ILO Conference this text was included in a resolution on decent work in global supply chains which also invited governments to consider including fundamental principles and rights at work in trade agreements.

Some governments recorded their reservations on this latter point but did not object to the adoption of the resolution.

As we approach the 100th Anniversary of the ILO, it might also be worth recalling a sentence in the preamble to our Constitution that dates from 1919:

...“the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries...”

In this regard, the report, on which my colleagues Marva Corley and Moazam Mahmood will speak in the next session, has a number of interesting findings.

One is that labour provisions in trade agreements do not divert or decrease trade flows. There has been concern especially from some developing countries that labour provisions could weaken competitiveness and thus slow the export engine of growth. The report did not find any evidence of this.

This is also consistent with another recent report issued by the ILO evaluating the impact of the Better Work programme.

This programme run in collaboration with the World Bank's International Finance Corporation aims to improve working conditions and respect of labour rights for workers, and boost the competitiveness of apparel businesses. It began in Cambodia as a means to assist the country gain access to preferential tariff treatment to the US market which is conditioned on respect for labour standards. It is now much appreciated by both exporting firms and their governments as well as major global brand names and retailers as a practical mechanism for improving working conditions.

A team from Tufts University was commissioned to conduct an independent impact assessment of the programme which found significant improvement in the working conditions of the mainly female workforce of the participating enterprises and that company profits were up.

Focussed attention on improving respect for labour standards can start a race to the top even in one of the most fiercely competitive sectors in the global market place.

In this respect, the trade report also notes that many trade agreements containing labour provisions are between developing economies.

This is a very important finding. The 2030 Agenda for Sustainable Development sees international trade as an engine for inclusive economic growth and poverty reduction and thus sustainable development.

Alongside the goal of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, it commits member States to *"continue to promote a universal, rules-based, open, transparent, predictable, inclusive, non-discriminatory and equitable multilateral trading system under the World Trade Organization, as well as meaningful trade liberalization"*.

Integrating trade and development policies to support the 2030 Agenda was a major theme of the 14th UN Conference on Trade and Development, which took place last July in Nairobi, Kenya.

Let me highlight a couple of sentences from the Conference conclusions.

“Trade is a means to support the implementation of the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda. With appropriate supporting policies, adequate infrastructure and an educated and trained workforce, it can also help to promote productive employment, youth and women’s empowerment, food security and reduced inequality.”

The Conference also called on UNCTAD to *“assess, in cooperation with other relevant international organizations, such as the ILO, the impact of labour and employment policies on economic growth including the interrelation between macroeconomic and labour policies”*.

So to conclude, where do we go from here?

Social justice for a fair globalization is very likely to be a top priority for many governments, the business world, trade unions and civil society in the years ahead.

At the heart of popular concern that globalization is rigged in favour of the well-off is jobs – not just any job but decent work.

If respect for diverse societies and reasonably open economies is to survive the recent experience of widening social inequalities, high levels of unemployment and stagnant real wages, policies will need to change to shape a globalization that is felt in everyday life to be fair. A major part of meeting that challenge is strengthening labour market institutions, a task the ILO was set up to lead in the multilateral system.

The report we will discuss today shows that labour provisions in trade can contribute to shaping a fair globalization. They are not a panacea and need to work side by side with a raft of supporting policies. Nevertheless they have:

- raised awareness of the employment and social dimensions of globalization;
- involved the social partners during trade negotiation and implementation; and
- led to the development of cooperative activities to promote labour standards by, for example, strengthening the capacity of labour administrations, inspectorates and judiciary systems.

The report also finds that labour provisions ease labour market access, particularly for working age women.

Making sure that trade goes hand-in-hand with decent work is high on the ILO agenda. Our Governing Body has requested the International Labour Office:

- to continue to collect and analyse information regarding labour provisions in trade agreements;
- to provide technical assistance to constituents requesting support in the context of applying such provisions; and
- to develop partnerships with relevant international organizations and others with a view to offering integrated policy advice to constituents regarding the promotion of decent work in the context of trade and investment opening as part of the implementation of the 2030 Agenda.

Implementation of the 2030 Agenda creates major opportunities for the ILO to work with relevant partners, including the EU, to provide integrated policy advice and technical support to member States so that trade opening can realize its potential for enabling poverty reduction, decent work and inclusive and sustainable development.

The ILO therefore looks forward to continuing to work with the Commission, the Economic and Social Committee, the European trade unions and employers and governments. The goal of shaping a fair globalization is more urgent than ever.

Thank you very much and I look forward to the discussion.