

RETHINKING TRADE AND LABOR

The recent economic cycle was a pyramid scheme doomed to fail. America bought foreign produced goods which America paid for by increasing its debt, and then sold that debt (largely) to the goods producers. When the American consumer's debt capacity was exhausted the scheme collapsed. It would have collapsed sooner but markets failed to assess the risk that consumers would not be able to pay their debts.

Some identify the trade agreements that allowed the foreign produced goods into America as part of the problem.

Trade should actually be part of the solution, but not if the global economy continues to define the relationship between trade and labour simply as: low labour costs = export advantages. This is the formula for the imbalanced global economy that nearly imploded. The American (western) consumer alone cannot do all the buying for the world's producers.

Historically high unemployment in America is now giving rise to talk of protectionism. Defending international trade simply as good in itself or on the basis of economic theory is a hard sell. Faced with unemployment (still running over 10% in the US), people lose faith that jobs lost to imports will be replaced by new, better ones some day, somehow. Can anything be said about the relationship between trade and jobs beyond blind faith in the unseen hand?

As a starting point, the way we have been visualizing the connection between trade and labour needs to change. The objective cannot be: to protect workers in rich countries from competition with workers in poor countries with lower wages and lower standards. This defensive approach has not worked and will not work. The real issue spans the importer/exporter divide; the real issue is a balanced global economy; and the objective needs to be: to use the limited tools trade agreements provide to promote a better deal for workers on both sides of the trade relationship. This, at least, has a chance of working.

The first time the trade and labour question was taken truly seriously in America was in 1992 when Ross Perot's talk of the "giant sucking sound" of jobs rushing south to Mexico threatened to undermine the newly

negotiated NAFTA, forcing the Clinton administration to come up with a side deal on labour. What emerged from a rushed set of high-pressure negotiations in the spring and summer of 1993 was the NAFTA labour agreement, which President Obama (in the early days) indicated he wanted to reopen, and USTR Kirk said he intended “to monitor and review”.

The NAFTA labour agreement set the basic pattern for a series of labour chapters included in bilateral US trade agreements, a policy carrying on today. US trading partners must agree to enforce their labour laws “effectively”, and not to lower their standards to attract investment. These labour obligations can be the subject of public complaints and enforcement procedures, capable of leading to trade measures if trade can be shown to have been “affected”. Obviously, the whole idea is protect the interests of one trading partner (presumably the one with the higher wages/standards) from being undercut by the other in a downward movement towards lower standards.

The theory is that investment could be attracted to exporter nations by their failure to apply labour standards, or that the lack of standards could artificially lower the cost of labour and provide an unfair competitive advantage. Asking a country to enforce its own laws may seem minimal, and yet, for many countries, would actually be something of an accomplishment.

The NAFTA labour agreement was negotiated after the NAFTA had been signed (December 92), and was thus not incorporated within the trade agreement itself (unlike the more recent labour chapters). It lacks access to the trade agreement’s enforcement mechanism, and does not cover union related labour laws. For these defects, the Obama administration has been urged to reform it.

More important than repairs to the NAFTA agreement, is the question as to the whole approach. What are we trying to accomplish with these arrangements? Are they working?

The NAFTA labour agreement, despite its weaknesses, was invoked a good number of times in its early years. Complaint procedures stopped in every instance at the stage of government to government consultations, partly due to the fact that union-related issues could go no farther. Despite this

limitation, the early NAFTA labour “cases” attracted wide media coverage and this “sunshine effect” may well have been politically influential. Nonetheless, US unions were not impressed, and interest in the NAFTA labour agreement subsided. Improvements were made in the next generation of US trade and labour deals, but still attracted little support.

None of the trade/labour enforcement mechanisms have been fully invoked, not even close. Fears that labour provisions in trade deals would be used by unions to disrupt trade in order to protect jobs have proven groundless. American unions have virtually ignored them. In all the trade agreements since the NAFTA only one complaint has ever been raised. These tools have been left in the shed.

What won the trade vs jobs debate for the free traders post NAFTA was the labour market. In the years following the NAFTA, the US economy created more jobs in a typical month (several hundred thousand) than the worst case scenarios for total job losses that could be traced to the NAFTA (not to mention the difficulties in actually pinning the blame convincingly on the NAFTA per se). The US labour market experienced restructuring into different industries, but not job loss. The giant sucking sound was never heard. Studies by the OECD following the NAFTA could find no correlation between lower labour standards and trade advantage. The most successful trading nations had high standards.

But times have changed. Job losses today are frightening and not likely to be replaced in the short term by the rapid job creation and economic expansion (including the massive growth of the tech sector) that came after the NAFTA. Forecasters are calling for a slow painful recovery.

Mitigating any competitive advantage ostensibly due to low labour standards is no longer the primary concern. The challenge today is much bigger and more fundamental: to broaden the demand side of the global economy. Global demand concentrated in a few countries is clearly unsustainable, dramatically evident in the massive US trade deficit while export-based economies built up vast US dollar reserves. That the US dollar is the world reserve currency is no doubt also part of this picture.

While the consumer base of some developing nations is undoubtedly growing (especially among the entrepreneurial class), it is abundantly

evident that the working population in most developing/exporter nations is in a very weak position with low wages and little economic security. Policies that strengthen the position of working populations are critical to rebalancing the global economy. Improving economic security at the working level is also good for geo-political security.

There are interesting parallels in today's crisis to the Depression of the 30's. The same need to strengthen the demand side of the economy then prompted new legislation to promote unionization as a mechanism to improve wages and increase buying power without relying on government spending. Plans for trade and labour links were also in the works for the post-war International Trade Organization...which as it turned out, did not materialize.

The post-Depression US economy, however, did experience balanced expansion: productivity growth was matched by wage growth, economic growth was matched by widespread economic security, and the rising tide really did raise all boats. Both domestic and international policies played a role.

Today, while the tremendous growth of the global economy is definitely delivering wide benefits, this balance is missing. Intense competition among exporter nations, based largely on wage competition, has become an obstacle to the broad-based consumer market needed to sustain global growth.

To launch a new era of global demand, labour provisions written into trade agreements must be focused on creating demand in exporter nations by strengthening the overall economic position of their workers. Developing countries need a balanced internal economy for sustainable growth and to support needed internal investments, such as human resource development. Suppressing wages to secure exports is ultimately detrimental to their own interests.

As wages rise in exporter countries, protecting workers in advanced nations from low wage competition will take care of itself. Indeed, there is no other solution to low wage competition.

If the objective for a trade and labour connection is redefined this way, the mechanisms will need to change as well. Current mechanisms are

adversarial and sanction centered. They aim to prevent exports produced by exploited workers. Sanctions are meant to compel parties to live up to obligations to treat workers fairly. The “strength” of a trade/labour agreement is measured by the potential sanctions it can impose. As it turns out in practice, the sanctions are never used and the built-in adversarialism is counterproductive.

The current approach also fails to enlist the developing/exporter nations in the cause. Governments in many developing/exporter countries, even if they have the will, lack the capability to “effectively enforce” their laws in many fields. Labour laws are complex and difficult, requiring sophisticated and impartial public administration and a careful balance of rights and duties of both employers and employees. Demanding “effective enforcement” of these laws for many developing nation governments is unrealistic, at least in the short term. The threat of public complaints and formal arbitral procedures tends to put the developing nations on the defensive. They are generally suspicious of the entire arrangement, which they perceive as being in the interests only of the developed/ importer nation: disguised protectionism by rich countries.

Finally, the driver of the current approach is complaints from non-governmental sources, which must provide sufficient information to support at least a surface argument for unfair competition. All this demands a substantial investment of time and energy, and promises little in terms of concrete outcomes. The incentive for using the complaint process is simply not there and very few complaints are made. Moreover (in the US model), to get to the stage of imposing trade measures would require proving that a failure to enforce labour laws had “affected trade” in some measurable way. Should it ever be attempted, this promises to be a difficult undertaking.

Complaints and adversarialism as the key elements of trade and labour arrangements have proven to be ineffective. What makes more sense is a proactive and collaborative approach. The private sector (both management and labour) should also take a central role and not be relegated to the sidelines to either launch or defend themselves against complaints. Good trade agreements should be win-win from an overall perspective – otherwise they should be cancelled; and trade related labour provisions should be seen similarly as beneficial to all parties.

A modified approach would start from mutual interests and be built on active cooperation. The objective would be to focus on the situation of the workforce across the board, not only labour standards, but also worker training, effective unemployment insurance systems (to replace severance systems which discourage formal employment), greater transparency regarding workers rights, improvement of public administration, new approaches to pensions and compensation systems, and cooperation with the international corporate sector to improve working conditions and gradually increase wages.

The leverage of trade is useful in underpinning a longer term perspective, but trade measures, if needed, should be applied against a lack of cooperation and transparency, rather than in any attempt to compensate for some vague impact on trade. The trade relationship, in regard to its labour impacts, should be viewed as an economic partnership, and an opportunity to work with exporter nations on a wide range of labour-related issues, including enforcement. Competition between firms is taken for granted, but broad-based economic growth and mutual gain is the objective at the level of nations.

This approach, given its broader objective, obviously involves far more active involvement and resources than the current (extremely cheap) approach, which relies on binding obligations and (never used) enforcement measures, backed up by minimal forms of intergovernmental cooperation. To work well, a new approach would require the coordinated support of the international development agencies, as well as of relevant international organizations.

Currently trade and labour arrangements are largely confined within US (and Canadian) bilateral trade deals and isolated from the broader international system. They receive little attention and support from the international aid agencies or the development banks, and are totally disconnected from the International Labour Organization. These disconnects do not make sense. If the trade and labour arrangements are redesigned around collaboration and capacity building rather than complaints and unfair competition, as suggested here, and if their purpose is to promote greater balance in trading relationships, and greater balance in global demand, they will be seen to address central economic issues not peripheral trade disputes. As such, it should be possible to enlist the

support of the development agencies and development banks. But what of the ILO?

It's interesting that the ILO is not part of the emerging trade-labour field, given that its original purpose was, in large part, to raise the treatment of workers above the fray of international competition. In terms of the collaborative, common-interest approach above, the ILO's "supervision" of its international standards may be problematic. The "slap on the wrist" which the ILO regularly administers to its member states may provide some satisfaction to complainants, but at a significant cost, and without much practical benefit one might add. The constant censorial role of the ILO has a serious alienating effect on national governments, many of whom prefer to avoid contact with the organization beyond the minimum required to maintain membership. This constant "supervision" of member states simultaneously defines and hobbles the entire organization, and prevents it from becoming an effective forum for collaboration both among nations and with the private sector (both business and labour). It is just such a forum that is needed today to address the critical evolution of the workforce in the shift to a more balanced global economy.

In regard to the application of standards, what is meaningful is the extent to which ILO norms are reflected in the legal and administrative systems of member nations. In practical terms, the enforcement of labour standards is the business of national legal and political processes. Perhaps if ILO censure was limited to truly exceptional offences, broadly condemned by the international community, it would have more effect than the current book of minor offences issued every year. Keep the standards, but drop the excessive supervision.

To play a new role in regard to the integrated global economy, the ILO would need to build a new relationship with member governments (made rather difficult if at any time it is liable to hit them over the head with a moral stick). Governments need to come to regard their membership in the ILO in the same way as they do the OECD, as an asset to their economic performance, not as a potential liability. Even progress in the application of standards would more likely occur if good labour standards were linked to economic success, as demonstrated in the OECD studies on trade performance and labour standards.

Obviously, the challenge of broadening the base of global demand and improving the global distribution of income, will not be accomplished simply, or primarily, by trade and labour arrangements, the ILO, or international development agencies. But as we seek broad based economic growth, more evenly distributed demand, and a more stable global economy, these policy and institutional instruments can and should make important contributions, especially if they can be coordinated through the recognition of that common objective.

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Summary

This paper argues that the trade and labour connection built into US and Canadian bilateral trade agreements from the NAFTA to the present day needs to be rethought. The narrow and defensive objective of protecting first world workers from unfair competition with third world workers due to lax labour standards is not working, and its adversarial approach fails to enlist the willing participation of the trading partners. A new, much broader approach would be built on a common objective in the economic interests of both advanced and developing economies: viz. strengthening the demand capacity of the developing economies to reach a more balanced global economy, one that does not rely solely on first world consumers. Improving the overall economic position of the workforce on both sides of a trade relationship would call for a collaborative and comprehensive strategy, and should involve international development agencies, development banks, and possibly a new role for the ILO.