

Western Hemisphere Integration and Labor Standards:

Preliminary Notes for a Post-Seattle Agenda

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I. Introduction

The current stalemate in multilateral trade negotiations renews the question of how to deal with labor and social concerns emerging from the process of globalization. Supporters of unfettered globalization argue that labor and social policy differences across countries are to be expected because of national differences in tastes, preferences and attitudes. As countries become richer, their demands for social policies will automatically change. Nevertheless, due to the persistence of economic inequality between and within countries and widespread poverty in developing countries, doubts remain about the benefits of current official trade and investment liberalization approaches. This paper explores an alternative route. It examines the instrumental and endogenous role that international labor standards (ILS) could have in the design and implementation of economic policies oriented to promote sustained economic growth, high rates of job creation and reduce inequality and poverty in developing countries. Section II reviews four dimensions of the political economy of ILS where a growing debate is necessary to mobilize the public in developing countries in favor of tighter labor standards. These dimensions are trade theory and policy, social dumping, the effects of labor standards on productivity, and international trade unionism. Section III reviews and compares different institutional models of ILS and their usefulness for developing scenarios regarding social policy in Western Hemisphere integration. The paper concludes with a remark about the relevance of formulating a development agenda centered on ILS to consolidate and strengthen the political coalition among trade unions, greens, students and progressive forces that emerged in the late 1990s. The aim of this paper is to contribute to the transformation of this coalition's common political agenda into effective political-economic policy proposals.

II. The Political Economy of International Labor Standards

II.1 The Free Trade Argument Regarding North-South Harmonization of Labor Standards

Comparative advantage is the key component of the free traders' argument against ILS. The supporters of this approach prescribe international trade as a very efficient production technique, a mechanism to produce imported goods indirectly by first producing exporting goods, then exchanging them. For any country, there will be gains from using this technique as long as relative prices in other countries differ from domestic relative prices. By concentrating production on the relatively cheap goods and exporting part of these goods in exchange for imported goods, each country would end up better off, because through international trade, a given set of inputs (exports) could be translated into more outputs (imports) than before international trade.

(*) I would like to thank my colleagues at the School of Labor and Industrial Relations of Michigan State University, in particular, Richard N. Block, for their incentive and support in the elaboration of these preliminary notes on a subject that has been until recently a distant analytical concern for me. This paper attempts to expand their insights about international labor standards as a component of growth policy in developing countries.

Absolute production costs of these goods are irrelevant. According to this theory, even if advanced industrial economies are absolutely more efficient in producing all types of goods than developing economies, international trade is beneficial to everyone if developing countries specialize in the lines of production where their inferior efficiency is slightest, and the advanced industrial countries specialize in the lines of their greatest superiority. If the right conditions exist--differences in pre-trade relative prices, the appropriate pattern of exports, and the appropriate range for the inter-country terms of trade--then every country, no matter how advanced or backward its technology, would benefit from international trade.

Relative efficiency reigns supreme in this approach. From the point of the view of individual countries, it should not matter what the source of the national differences in relative prices is--be it technologies, tastes, labor standards, environmental standards, skills of the labor force, or the quality of the economic infrastructure. The economic gains from trade for any economy are real in part because different countries possess different factor endowments and consumers adopt different attitudes about what the reasonable social standards are, given their level of income and development. Because developing countries have a comparative advantage in low skilled and low wage labor, they should specialize in producing goods intensive in such labor. Internationally regulated labor standards introduce distortions in the market process by imposing artificial costs on producers and consumers that they did not choose to pay for.

On the other hand, free traders argue that we are still living in a Westphalian system with limited political interdependence and limited international economic integration, a system in which countries are sovereign entities and should be free to choose their own labor market institutions. The adoption of specific standards by individual countries neither precludes other countries from adopting their own standards nor invalidates the benefits that they obtain from doing so. Different national preferences regarding labor and environment standards may even create an additional opportunity for individual countries to benefit from international trade. (Krugman, 1997; Srinivasan, 1995) Differences amongst trade unions from various countries about how to link trade to labor standards reinforce this argument. Complementing these points is the institutional argument against linking trade to labor standards based on the notion that labor standards are not really international trade matters. They should, therefore, be pursued separately within the voluntary, advisory and educational framework managed by the International Labor Organization (ILO). (Rodrik, 1996)

A second component of the laissez faire approach to ILS is the notion that they would harm workers in developing countries, especially if the standards were enforced through trade sanctions. To the extent that tighter labor standards can be used to protect manufacturing and jobs in advanced industrial countries, these standards would negatively affect economic growth opportunities in developing countries. In addition, given the assumption that weak labor standards in developing countries are simply a consequence of low productivity and low income, the net effect of linking trade to labor standards would be to raise wage costs prematurely, limit employment and production opportunities, and retard progress in effectively implementing tighter labor standards. (Srinivasan, 1995; Golub, 1997)

"Sweatshop labor" conditions, low wages and unregulated child labor, for example, may be perceived as unfair by observers urging the adoption of higher labor standards. They are, however, just expressions of the low labor productivity, surplus labor supply and poverty in developing countries. The low labor standards can be properly attacked through the promotion of economic growth which international trade facilitates.

Labor market regulations such as minimum wages and expensive severance pay in the formal employment sector of developing countries are also cited in the pro-free trade literature as major causes of inequality among workers, labor market rigidity and economic inefficiency. Consequently, some authors argue that labor market reforms should focus on the selective elimination of labor standards, not their strengthening. Such improved flexibility in the labor markets should then be complemented by government investment in education and training to upgrade the skills of the labor force. Direct income transfers from advanced industrial countries should be allocated to such labor standards initiatives in developing countries. Freer international migration from low to high income countries is also part of the prescriptions recommended by free traders. (Srinivasan, 1990, 1995; Márquez, 1995)

Finally, free traders recognize that political market failure in the advanced industrial countries may undermine their case against the international harmonization of labor standards. The fact is that although each and every national economy would benefit from freer trade, the benefits tend to be distributed unevenly, at least in the short run. Three decades of stagnant wages for unskilled workers and increasing inequality in the United States, and high unemployment rates in Europe are recognized as being a result in part a result of the rising import penetration of manufactures from developing countries and the foreign direct investment by multinational corporations. These secondary processes--the free trade argument goes--tend to be magnified by the fears and demands in advanced countries of the special-interest groups most directly affected by trade liberalization and international capital mobility.

In order to protect the legitimacy of the international trading system and to defuse the calls for protectionism, free traders, therefore, recommend the tentative exploration of various mechanisms oriented to mildly promote ILS and protect the initiative of the World Trade Organization (WTO) in implementing and expanding the international agenda of trade and capital liberalization. (Bhagwati, 1995; Golub, 1997; Amaral Júnior, 1998-99) The broad list of alternatives proposed by policy experts and advisors to defuse the calls for protection range from more aggressive ILO international promotion of the voluntary adoption of labor standards by individual countries to the limited coercion of individual countries through international agreements (eventually associated with trade sanctions) regarding those labor standards which seem to have the strongest universal and ethical appeals. Section III of this paper discusses these proposals in more detail.

II. 2. Social Dumping

Although open to negotiations based on their concerns about the increase in protectionism, the free traders' preferred approach to ILS is to leave the decision about their labor standards to individual countries on the basis of their levels of development, national attitudes, culture, and the outcome of their political processes. Advocates of the enforcement of

higher labor standards by linking trade to labor standards (the social clause in international trade agreements) pursue different arguments to make their case. The most common of such arguments says that in the absence of strong multilateral sanctions the independent actions of national governments will lead to a "race to the bottom" in labor standards, due to increasing economic interdependence and international competition for export markets and foreign investment. Individual countries have an incentive to lower their labor standards because labor standards increase the costs of production and decrease the rate of return on investments. (Sengenberger, 1994; Wilson, 1996; Destler and Balint, 1999)

The hypothesis of a "race to the bottom" in labor standards has been tested in only a few studies, but the evidence is mixed and so far does not support the fears of a "global race to the bottom". OECD (1996), using indexes of freedom of association as its measure of labor standards find little evidence to support the case that low labor standards induce exports or foreign investment. Rodrik (1996, 1999) uses various indicators to measure labor standards: the total number of ILO conventions ratified by individual countries; the number of ILO conventions among six relating to basic worker rights ratified by individual countries; indicators of civil liberties and political rights that capture workers' right to organization and self-expression; indicators of the extent to which child labor is condoned; indicators of length of working week and annual leave with pay in manufacturing; and degree of labor force unionization. He finds that labor standards are positively associated with the level of wages and at the margin can influence comparative advantage. However, he also finds that low labor standards are negatively correlated with foreign investment and, therefore, does not contribute to attract foreign investment. Raynauld (1999) adopts the UNDP's human development index to measure labor standards and concludes that high labor standards have no significant impact on international trade and investment flows.

These empirical studies suggest two points. First, the measure of labor standards used are in general very crude and do not provide strong support in any direction. More research has to be conducted on the actual quantification of labor standards, comparative studies at the aggregate, industry and regional levels, including case studies to evaluate the historical evolution of labor standards. One promising line of work is being pursued by Block and Roberts (1998) who have developed a rigorous and detailed methodology to construct national and regional indices of labor standards for advanced industrial countries. The extension of this methodology to developing countries could generate an international database from which researchers could assess the impact of labor standards on international trade, foreign direct investment, production costs, productivity and profitability. Second, the results so far obtained from the empirical work suggest that developing countries have room to adopt development strategies that autonomously emphasizes tighter labor standards without significantly jeopardizing their ability to compete internationally in export and capital markets. (Block et al., 2000).

II. 3. Core Labor Standards as Levers of Economic Growth

A crucial aspect of the debate about the social clause in international trade agreements refers to the question of causality. Free traders argue that higher labor standards are primarily an automatic consequence rather than a factor of economic growth. To properly address this question, it is helpful to differentiate two groups of labor standards: a) fundamental, basic or core labor rights, and b) development-dependent or means-related labor conditions.

Fundamental labor rights are defined on ethical grounds and enjoy almost universal consensus. Freeman (1994) refers to them as standards that specify processes for determining labor outcomes. The ILO Declaration on Fundamental Principles and Rights at Work (86th Session, June 1998) establishes that "all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize" the following fundamental rights: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced labor or compulsory labor; (c) the effective abolition of child labor; and (d) the elimination of discrimination with respect to employment and occupation.

Development-dependent labor standards refers to working conditions that are economic in nature. These standards refer to outcomes such as, maximum working hours per week, weekly rest period, minimum wage, workplace safety and health standards, rights to accident compensation, rights against arbitrary dismissal, and rights to retirement compensation. There is little international consensus on these standards, since they seem to depend on an individual country's productive capacity and income level. Their dependence on the national levels of productivity and income, however, does not mean that higher labor standards automatically follow increases in these variables, since they are the outcome of political processes and social struggles. Increases in productivity and income simply create the economic conditions to cushion, absorb, or finance the impact of means-dependent standards on other economic variables, such as the competitiveness of exporting firms, the fiscal budget, the distribution of income and labor market flexibility.

The notion that strong fundamental labor rights are instrumental in generating and earning high incomes is based on sound grounds. But its importance is not limited to this instrumental role. To use the terminology proposed by Sen (1999), fundamental labor rights are both constitutive and instrumental for development. Fundamental labor rights are constitutive of development because they are connected to and interact positively with the promotion of human rights, in general, and political freedom, in particular. Expansion of human freedom is an intrinsic component of development due to its importance in expanding human choices, freedom of expression and action, and for the communication and information necessary to socially define policy priorities and enriching human life as such, independent of its parallel impact on the operational efficiency of the economy.

The instrumental role of fundamental labor rights is based on the premise that they affect the distribution of income, increase the productivity of labor, and expand the growth potential of national economies. As a consequence, labor standards enhance the opportunities for individuals to utilize economic resources for consumption, production, and exchange and, consequently, influence the patterns and path of development.

Similar to the reasoning presented in the efficiency wage models of the labor market, in which effort per worker and labor productivity are a direct function of the wages paid, various authors, based on a significant body of empirical work, have established that fundamental labor standards positively influence labor productivity, in addition to increasing wages and strengthening means-dependent labor standards for unionized workers. Freeman and Medoff (1984), for instance, argue that unions and collective bargaining provide a voice mechanism to

address on-the-job problems. Direct communication between the labor force and management facilitates the firms' dealing with worker concerns, thereby reducing the turnover of skilled employees and the cost of hiring and training new employees. Firm-specific human capital can thus be preserved and accumulated through additional on-the-job and formal training programs. Labor process efficiency and workers' willingness to share production knowledge are also increased when collectively negotiated labor contracts contribute to establish rules, opportunities and incentives for promotion and due process. Unions and collective bargaining can have a particularly strong impact on productivity when a climate of trust and cooperation between employers and employees is developed through time, where employees and unions become part of the decision making process and the legitimacy of trade unions is accepted by management. In addition, fundamental rights enhance the transparency and rationality of choices about proposed technical change and production routines by creating the opportunity for incorporating the workers as crucial stakeholders in individual firms' decisions. (Belman, 1992; Sengenberger, 1994; Marhall, 1994; Block et al., 2000)

Core labor standards also can positively influence the long term economic performance through the re-allocation of time from work to education of children of low income families, who will constitute a significant proportion of the future generations of productive adults in developing countries. Economic theory has for some time incorporated the notion that the accumulation of human capital is one of the key ingredients of economic growth and development. Arguments against child labor standards which defend "rational" decisions by families facing desperate poverty ("better they work and eat than starve") are misplaced, since public grants can easily alter family incentives once the political decision to eliminate child labor is made. Financial transfers from advanced industrial countries can help tip the political balance in favor of the complete elimination of child labor, starting with grants for the education of young girls. (Srinivasan, 1995; Basu, 1999; Block et al., 2000)

II. 4. International Trade Unionism as Agency in Equity-Oriented Development Strategies

Even after considering the positive impact of labor standards on productivity and economic performance, the question remains about the net economic benefits of developing countries' adopting tighter core labor standards in anticipation of sustained future increases in national income and competitiveness of specific industries. Wouldn't tighter labor standards in the short run jeopardize the export competitiveness and attractiveness to foreign direct investment of developing countries? After all, the negative impact of stronger labor standards on the profitability of manufacturing firms in advanced industrial countries has been one of the reasons for the increasing inflow of foreign direct investment into the manufacturing sector of developing countries since the 1970s. The lower unit production costs of multinational corporations' plants in developing countries comparative to the plants in the countries of origin result from the fact that foreign direct investment benefit both from the lower absolute cost of labor (due to the labor market conditions in the host countries) and higher productivity (due to more advanced technology and efficient management than the local firms of the host countries). This motivation for the international mobility of capital explains the strong opposition of the international financial community and multinational corporations to ILS, who stress the point that they voluntarily contribute to higher labor standards than those currently observed by local firms in developing countries.

The labor unions' efforts to place ILS at the center of their agenda for international and regional economic integration constitute both a defensive strategy against an eventual "race to the bottom" and a proactive initiative of promoting equity-oriented development policies based on raising the floor of core labor standards in all countries, as suggested in the previous section of this paper. The struggle for a social clause represents an attempt to form a broad international solidarity movement among trade unions and social forces interested in promoting more equitable and sustainable economic performance in developed and developing countries alike. (Waterman 1993; ICFTU 1996; Moody 1997; Brenner 1999; Mazur 2000; Hathaway 2000)

Strong opposition to tighter labor standards by governments in developing countries, amongst other interested parties may undermine the political appeal of this internationalist agenda. The principal intellectual support for this opposition argument resides in the theory of comparative advantage. This theory emphasizes the gains from trade based on relative costs of production instead of absolute costs. It posits that no matter how backward is the technology of a country, it would always benefit from free trade and from specialization in the production of goods with least relative disadvantage. Shaikh (1979, 1980) argues that the theory of comparative advantage allows the private interests of individual firms in developing countries who benefit from trade liberalization to be misrepresented as the interest of developing economies as a whole. However, exports and imports are undertaken by firms for the sake of profit not for long term country gains. To demonstrate that a backward country in which all its producers are higher-cost producers in competition with lower-cost producers from advanced industrial countries can benefit from import liberalization, the theory of comparative advantage implicitly assumes a self-equilibrating monetary mechanism. According to this mechanism, the continuous trade deficits in a trade-liberalizing country would lead to declines in the amount of money in circulation and to lower prices (and/or to exchange rate devaluation)--to the point where the relative least cost producers would start to become internationally competitive and trade deficits would disappear.

The most direct effect of sustained losses from trade deficits on international reserves, however, would be higher interest rates. In combination with sustained trade deficits, higher interest rates would lead to deepening the financial dependence of the trade-liberalizing economies on multinational corporations, international banks, and multilateral financial institutions and their policy recommendations. The benign equilibrium scenario insinuated by the theory of comparative advantage where the economy as a whole would benefit from specialization in production with comparative advantage, would never materialize in the real world. Instead, an endemic situation of trade deficits and accumulating external debt would hamper efforts to promote faster and sustainable growth rates. In this sense, the current free trade intellectual hegemony contributes to undermine the influence of those social actors who support the mobilization of the endogenous sources of capital necessary for a development project oriented to the acquisition of competitive advantage based on technological upgrading and absolute lower production costs.

This frontal attack against free trade suggests that the law of comparative advantage is false on its own terms. By arguing that absolute advantage is the key principle coordinating the international exchange of goods and services, this attack reopens the policy horizons and defines the criteria for all sorts of initiatives oriented to promote and protect national economic activity,

as well as to explore new areas of international competitiveness of the developing countries. Other critical approaches (see, for instance, Emmanuel 1972; Krugman 1990; Haque 1995; Stanford 1998) which accept the terms proposed by the law of comparative advantage but question some of its simplifying assumptions (full employment, increasing costs, perfect competition, fixed endowments, lack of mobility of capital, absence of tariffs and quotas, etc) may lead to similar results in terms of intellectually empowering initiatives for mobilizing national actors and endogenous sources of economic growth in developing countries. Within the many perspectives critical of the Washington Consensus, the link of trade (and eventually multilateral financial assistance) to core ILS constitutes an innovative catalyst for an internationalist agenda for development. In this agenda, the political-economic benefits would be expressed by higher productivity growth and the stronger social cohesion resulting from a policy approach based on the bottom-up mobilization of national actors for equitable national development.

III. Alternative Institutional Models of ILS: Lessons for Western Hemisphere Integration

As the pressures of global economic integration provide new urgency for social matters, demands are rising for ensuring that ILS are treated as no less compelling than the integration requirements in the areas of trade, investment, and finance. These new demands have been translated into the diversification of the ILS regimes with different characteristics of labor standards covered, and incentives, enforcement mechanisms and actors involved. Consideration of these various institutional models is necessary to explore the role of labor standards in the process of regional integration and extract lessons for developing a strategy for stronger labor standards in the Western Hemisphere.

III.1. The Unilateral Trade Sanctions Model

One of the sources inspiring recent proposals to establish links between labor standards and international trade agreements is the unilateral trade sanctions model found in United States legislation—the Trade Act of 1974, amended by the Omnibus Trade and Competitiveness Act of 1988 (OECD, 1996; United States International Trade Commission, 1997; McKeon, 1999; Block et al., 2000). The Trade Act of 1974 created the General System of Preferences (GSP) which required that developing countries seeking preferred access (non reciprocal tariff reductions) to U.S. markets adhere to minimal international labor standards: the right to freedom of association and to organize and bargain collectively; a prohibition on the use of forced labor; a minimum age for the employment of children; and minimal standards for wage rates and occupational safety and health. The Office of the U.S. International Trade Representative, which processes the complaints against GSP beneficiaries for denying workers' rights has undertaken since 1988 annual reviews of trade practices of countries with which the U.S. maintains an economic relationship. Since 1988 twelve countries have been suspended from the GSP program, but four were subsequently reinstated as beneficiaries.

The Caribbean Basin Economic Recovery Act (CBERA) and the Andean Trade Preference Act (ATPA) also link preferential trade treatment by the U.S. to minimal labor standards (as listed in the GSP) in the countries in the Caribbean basin, including Central America, and to the Andean countries of Bolivia, Colombia, Ecuador and Peru, respectively. In this group of countries, only Guatemala was targeted for a workers' rights review by the U.S.

government, which began in 1992, but was terminated in 1997 without the application of trade sanctions in view of an improving climate of workers' rights in that country. Based in this case and those listed in the previous paragraph, Block et al. (2000) argue that the trade sanctions approach has succeeded in creating incentives for some developing and transition countries to curtail their violations of basic labor standards. However, this approach is limited and insufficient because it is based on individual *ad hoc* complaints by interested parties and lacks a system for the open, multilateral and transparent process of periodic monitoring which would more uniformly evaluate workers' rights in individual countries.

III. 2. The Regional Enforcement Model

The North American Agreement on Labor Cooperation (NAALC) constitutes a variation on the U.S. unilateral trade sanctions model outlined above. It is the first international agreement on labor linked to a regional trade agreement and creates the only international body since the founding of ILO in 1919 to be dedicated only to labor related matters. However, instead of denying the benefits of trade liberalization to members with low labor standards or seeking to impose common standards on all parties to the regional agreement, NAALC only obliges them to enforce their own domestic labor codes. This was the political compromise proposed by the Clinton administration to deal with the terms of the NAFTA negotiations proposed by the previous Republican administration and the Mexican government (which excluded both labor and environment provisions) and the strong opposition of the Mexican government to reopen the package to accommodate U.S. labor constituencies. (Griego, 1998; McKeon, 1999; Block et al., 2000)

This regional enforcement model of ILS commits the governments of Canada, Mexico and the United States to comply with eleven labor principles: 1) freedom of association and protection of the right to organize; 2) the right to bargain collectively; 3) the right to strike; 4) prohibition of forced labor; 5) labor protections for children and young persons; 6) minimum employment standards; 7) elimination of employment discrimination; 8) equal pay for women and men; 9) prevention of occupational injuries and illness; 10) compensation in cases of occupational injuries and illness; and 11) protection of migrant workers.

The NAALC enforcement mechanism of these principles is rather weak and basically limited to cooperation among the parties and voluntary compliance of its labor codes. Noncompliance, alleging the failure of the government of another country to enforce its labor regulations, after review of submissions to any National Administrative Office (NAO) (established in each country as required by the NAALC) is followed by consultations among the interested NAOs and may lead to an attempt by the Council of Labor Ministers of the three countries to resolve the matter. In case the Council does not reach a consensus to resolve the disputes with recommendations to implement the existing regulations, sanctions can be established by a five-member arbitration panel appointed by the Council of Labor Ministers only in regards of occupational safety and health and minimum wage regulations. In the case of sanctions, final penalty will not exceed 0.0007 percent of the value of the goods traded within that year and will only be used to assist the enforcement of laws in the offending country (McKeon, 1999; Block et al., 2000)

Different from the trade sanctions model, the NAALC is not designed to raise labor standards. The agreement opens each country's domestic enforcement to international public scrutiny, but the enforcement mechanism does not permit non governmental structures, in the form of an arbitration panel, to formally address and hear submissions involving fundamental issues of industrial relations. The focus on the enforcement of national labor regulations, however, addresses the central issue of the existing widespread gap among Latin American countries between their sometimes well-elaborated labor laws (in many cases expressing their formal adoption of ILO conventions) and exploitative labor practices and poor implementation of labor laws. To the extent that the enforcement procedures of the NAALC bring to light through the specialized discussions and hearings the allegations of labor standards transgressions, they also have created a unique forum to catalyze new transnational labor union and civil society initiatives in North America, as suggested by the evidence of multiple submissions since 1994. (Griego, 1998; Kay, 2000; Stevenson, 2000; Stillerman, 2000).

III. 3. The European Community's Legislative Model

In the European Community (EC), labor standards integrate the competencies of its central institutions (European Commission, European Council and European Parliament) and allow the member states to make collectively binding decisions about social policy. The Maastricht Social Policy Accord of December 1991 (consolidated by the Social Agreement included in the 1997 Treaty of Amsterdam) created cross-national legislation on the following labor issues: 1) health and safety of workers; 2) working conditions; 3) information/consultation of workers; 4) equal labor market treatment of men and women; 5) integration of persons excluded from the labor market; 6) social security/social protection of workers; 7) protection of workers after termination; 8) representation; 9) employment conditions of third-country nationals; 10) subsidies for job creation.

The legislative model of ILS constitutes a rather marginal and secondary area in the process of regional market integration in Europe. (Block et al., 2000) For issues 1-5 above, the EC is empowered to issue directives subject only to a qualified majority vote of the Council of Ministers, which weakens the influence of the governments of the poorer European countries such as Portugal, Greece, Ireland and Spain in setting regional labor standards. These are less controversial labor issues which reflect the European governments' emphasis on facilitating a more integrated labor market. But, for issues 6-10, EC directives require the unanimous vote of the Council of Ministers. Interestingly enough, wages, rights of association and right to strike have been extremely controversial and were excluded from the agreement. This demonstrates the unwillingness of national governments to transfer their regulation of labor markets and industrial relations to the EC, since these constitute institutions which are central to their national systems of investment and production. Also, the principle of subsidiarity, introduced by the Maastricht Treaty, recommends the lowest level in the allocation of policy responsibility among the European, national and sub national instances of government, and reinforces the ability of individual governments to resist directives which might interfere with their national and microregional priorities.

The initial resistance of national governments from poorer countries to weaker voting power in the European Council and to incur in the additional costs from higher labor standards in

issues 1-5 (above) was overcome by side payments financed with a "cohesion fund" established by the EC to assist with programs for environmental and infrastructure development. For the EC, the flexibility of centralized institutions to establish tighter social standards corresponded both to the need to maintain regional political unity in the pursuit of the general objectives of market integration, and to encourage a shift towards a growth strategy characterized by considerably more highly-skilled and higher-quality production. This second aspect is also consistent with the view that in the process of trade liberalization, low-technology, labor-intensive industries, Europe will lose the competition to industries from developing countries. (Lange, 1993; Cândia Veiga, 1999)

It is also important to stress the impact of the Social Policy accord in expanding the role of non governmental European level actors in the definition of social policy. The new procedures call forth a larger role for collective bargaining partners in agenda setting initiatives at the regional level. One concrete example is the European Directive 94/95 of 1994 that requires the creation of European Work Councils or employee consultation procedures in large enterprises (more than 1,000 employees) with at least 150 employees in each of two member countries. Among the aspects that these councils should address are working conditions, the production systems, the training programs, and hiring and dismissal procedures.

III. 4. The ILO Legislative Model

The International Labor Organization is a multilateral legislative structure operating within the United Nations system. The ILO is unique among multilateral institutions in that decision-making authority is vested in representatives of member governments, in representatives of the labor unions, and in business or trade associations. Since the ILO's creation in 1919, member states have adopted legally binding conventions about labor standards that have the status of treaties for the member countries that voluntarily ratify them. In addition, the ILO has adopted multiple non-binding recommendations that should guide employment and labor market policies at the national level. With a membership of 174 countries, the ILO had adopted until 1997, 181 conventions and 188 recommendations on basic labor rights and working conditions. The number of countries that ratified the different conventions is extremely variable. The conventions regarding labor rights which were endorsed in the 1998 ILO Declaration on Fundamental Principles and Rights at Work are supposed to be honored by member governments by virtue of their membership in the organization, whether or not these governments have ratified the actual conventions.

The ultimate decision-making authority within ILO is the Assembly of its 174 member countries including representatives of the private sector and labor unions. The ILO's executive and policy-making organ is the Governing Body with 56 members. As part of the ILO regular supervisory mechanism, member states report annually on the measures adopted to implement the conventions. The country reports are then reviewed by the Committee of Experts on the Applications of Conventions and Recommendations, formed by independent legal and social policy experts. This group forwards its recommendations for remedial action to the Conference Committee on the Application of Conventions and Recommendations, a special subcommittee of the annual Assembly, which decides how to apply the recommendations to particular governments where compliance is judged inadequate or deficient. Government members are then

invited to make their statement before the conference committee, with the goal of generating moral pressure and identifying areas of technical cooperation and voluntary improvement of labor standards. (Leary, 1997; McKeon, 1999)

In addition to this regular supervisory mechanism, any employer or union may file a complaint against a member government for violation of a convention which had been ratified by that government. In case the ILO Governing Body judges the complaint admissible, this complaint gains the status of a "representation" which is reviewed by a three-person ad hoc panel appointed by the Governing Body to investigate and conduct a hearing. The report submitted by the ad hoc panel to the Governing Body may then be published; this represents the most severe decision available in the case of representations. A separate process of oversight is the one in which member governments, voting delegates or the Governing Body may generate "complaints" against other government members. In this case, the Governing Body would appoint a Commission of Inquiry to examine the case and to prepare a report with recommendations on steps the government should take to address the complaint. In case the offending government rejects the recommendations, the Governing Body may refer the case to the International Court of Justice for confirmation, modification or overturn of the recommendations, but this recourse has never yet been exercised.

Similar to various other instruments of international law, the coercive power associated with the ILO conventions is insignificant. The ultimate impact of ILO enforcement mechanisms depends on the domestic political conditions of individual countries. The culture of the ILO emphasizes cooperation, dialogue and technical assistance to individual country members with the objective to strengthen the capacity of national governments to promote equitable labor market procedures and outcomes. The proposals for linking trade to ILS seek to enhance the enforcement power of the ILO conventions. Block et al. (2000) suggest that one possible mechanism would be for the ILO and the World Trade Organization (WTO) to agree that, in the case where a complaint or representation regarding the fundamental labor rights were judged by the ILO Governing Body as not properly addressed by a government, it would be sent to the WTO for trade sanctions. Given the traditions of ILO and its institutional culture, the use of this mechanism could hardly be accused of having protectionism implications.

III. 5. Private Sector and Civil Society Models

Corporate codes of conduct, corporate certification, product labeling, and consumer boycotts are four distinct approaches to international labor standards which do not involve a government regulatory apparatus. The effectiveness of all these approaches depends to large extent on a vibrant network of NGOs using advocacy, education and publicity campaigns to create the public pressure on employers to raise their labor practices. (McKeon, 1999; Block et al., 2000) In the first two cases, firms join together in a self-regulatory system to implement a set of labor rules. Examples are the system created by the U.S. apparel producers to avoid sweatshop conditions both in their plants and in suppliers overseas and the Social Accountability 8000 certificate issued by the Council on Economic Accrediting Agency. Careful monitoring of these procedures is a crucial aspect for the success of these approaches. Public doubts about the

independence of observers and monitors in these systems and lack of funding for periodic monitoring of firms abroad have hindered the dissemination of these approaches.

Product labeling is another example of a market-friendly device which emphasizes consumer choice and the certification of products made in workplaces which observe strong labor standards. One example is Rugmark, a non-profit organization created to eliminate the use of child labor in carpet-making plants in South Asia. Consumer boycotts are a more adversarial and grass roots approach. Consequently, it is a system more difficult to implement and disseminate. When coordinated by government agencies, this approach risks the intervention of the WTO, as happened when the Commonwealth of Massachusetts tried to prohibit the sale of products from Myanmar in its territory. Myanmar accused the U.S. of protectionist trade practices and a WTO panel successfully invalidated the Massachusetts initiative.

III. 6. An Emerging Labor Standards Model in the MERCOSUR?

The Social and Labor Declaration of December 1998, the legal instrument which deals with labor standards in the Common Market of the South (MERCOSUR), was signed in 1991 by the Presidents of Argentine, Brazil, Paraguay and Uruguay. Focusing mainly on trade and investment dimensions, it shares with the EC Social Charter and the NAALC a marginal role in the process of regional integration. However, it is a much weaker and toothless instrument than these two regional models. As a result of seven years of negotiations within one of the ten committees (the Technical Committee on Industrial Relations, Employment and Social Security [SGT-10] in which national governments, business sectors, and trade unions from the four countries are represented) dealing with various partial aspects of the integration process, the Declaration is simply a non-binding general expression of commitment by the four national governments to the principles of freedom of association and the right to collective bargaining based on the ILO conventions 87 and 98.

Trade unions from the four countries represented in the Coordinating Commission of the National Trade Unions of the South Cone (CCSCS) have given critical support to the MERCOSUR negotiations throughout the 1990s. Trade unions see MERCOSUR as a potential instrument for the resumption of the high rates of economic growth observed in Latin America during the years of import substitution industrialization and for resisting the United States pressures to sign a premature formation of a Free Trade Area of the Americas (FTAA). Due to the external debt crises and neoliberal adjustment policies of the 1980s and 1990s in Latin America which produced high levels of unemployment and inflation, job dislocations, and real wage declines, trade unions were in a very weak bargaining position during the processes of negotiation and implementation of the MERCOSUR so far.

In spite of strong initial resistance by the private sector to adopt even a watered down regional approach to labor standards, the national governments of the four countries, particularly Brazil, pursued the Declaration with a view to generating a common ground with labor to oppose the FTAA. Trade unions from the four countries participated and gave legitimacy to the Declaration on pragmatic grounds, acknowledging their weak bargaining position at the national levels of the four countries and in the region as well. Trade unions see their formal participation in the SGT-10 as an additional institutional instance where they can express their concerns,

demands and critical support for the MERCOSUR, in particular, the creation of labor market regulations common to employees of firms operating in more than one country in the region. (Batista, 1994; Cândia Veiga, 1999; Chaloult, 1999; Portella de Castro, 1999)

IV. Concluding Remarks

The weakness of the ILS regimes (reviewed in part III above) is one of the institutional expressions of the private sector's hegemony in the process of globalization. The main theoretical support for this hegemony is the widespread dissemination and generalized acceptance of the notion of comparative advantage, in particular, among previously skeptical minds, after the demise of Keynesianism in advanced industrial economies and a long sequence of failures in industrialization projects in developing countries since the late 1970s.

Opposition to market-driven globalization, nevertheless, has started to gain strength during the 1990s as a result of the social inequalities and economic instability and uncertainty associated with unfettered economic opening and liberalization in developing and transition economies. The 1999 Battle in Seattle crystallized a new critical intersubjectivity regarding the failures of globalization, based on an internationalist coalition of trade unions, greens, students and progressive forces focused around the goals of tighter labor and environment standards. Social dumping, labor standards as instruments of productivity growth, international trade unionism, and institutional modalities of international labor standards constitute key areas of the current research and debate on the impact of globalization on labor markets. This paper has reviewed the literature of these areas and identified key aspects in which deeper and critical understanding are crucial for informing the strategic scenarios for this innovative coalition.

In the case of the Western Hemisphere, the relevance and complexity of these themes result particularly from the fact that ILS are at the intersection of contradictory tendencies regarding multilateral and regional economic liberalization in the Western Hemisphere. As a consequence of intensifying competition for export markets and foreign investment, most of the governments in developing countries currently oppose linking trade to labor standards. On the other hand, labor unions and the governments of Latin America's Southern Cone have identified labor standards as one of the areas where they can maintain a common political ground against the perceived socially disintegrating consequences of a premature negotiation of the FTAA. In addition, in spite of public declarations against introducing ILS on the agenda for the WTO Millennium Round, the more enlightened members of the political elites in developing countries have tentatively acknowledged that linking trade and labor standards could be a feasible proposition within the context of a broader framework in which financial transfers, aid, lower service for external debts and easier access to multilateral finance would be included in international negotiations parallel to trade liberalization.

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