Labor Standards in the Global Trading System

Peter Morici
with Evan Schulz

This study was supported by a grant from the Ford Foundation
# Table of Contents

**Introduction and Summary**  
1

The WTO and Other Relevant International Law  
3
Defining Core Labor Standards  
3
Assessing Compliance  
5
Some Developing Countries Issues  
5
Economic Consequences of Noncompliance  
6
Empirical Findings  
7
Enforcement Regimes  
8
Conclusions  
9
Where to Address Labor Standards and Trade?  
10
Recommendations  
12

**Chapter 1: Globalization and Some Recent Developments in International Law**  
13

The WTO System  
15
Human Rights Law  
19
Environmental Law  
21
Some Developing Countries Issues  
22

**Chapter 2: Defining Core Labor Standards**  
25

Essential Characteristics of Core Labor Standards  
25
Core Standards and the ILO  
29
U.S. Ratification of the Core Conventions  
30

**Chapter 3: Assessing Compliance**  
33

Child Labor and Forced Labor  
33
Discrimination in Employment  
37
Freedom of Association  
38
Chapter 4: Economic Efficiency, Trade and Core Labor Standards  
Child Labor and Forced Labor  
Discrimination in Employment  
Freedom of Association  
   Competitive Labor Markets  
   Monopsonistic Labor Markets

Chapter 5: Empirical Findings

Chapter 6: Enforcement Regimes

Enforcement in the ILO  
   Regular Supervisory System  
   General Surveys  
   Complaint Procedure  
U.S. Regional and Bilateral Free Trade Agreements  
   NAFTA  
   U.S.-Jordan Free Trade Agreement  
EU System  
Generalized System of Preferences  
Market Approaches  
   Labeling Programs  
   Consumer Actions  
   Codes of Conduct

Chapter 7: Conclusions

Where to Address Labor Standards and Trade?  
Recommendations

Appendix: Texts of Core ILO Conventions

Bibliography
Introduction and Summary

At the 1999 Ministerial Meeting in Seattle, the World Trade Organization (WTO) failed to launch a new round of multilateral trade negotiations, because member governments could not agree about how much WTO rules should constrain their policymaking prerogatives. For example, the United States and the European Union (EU) would like talks on workers’ rights and environmental standards but are opposed by developing countries. The EU is seeking a competition policy agreement but is opposed by the United States. Many developing countries would like to roll back Uruguay Round commitments regarding intellectual property but are opposed by the United States.

The purpose of the WTO is to promote trade that raises incomes and growth by regulating tariffs and other government policies that limit imports and artificially boost exports — i.e., to encourage trade based on comparative advantages, which results in a more efficient global allocation of resources. In this context, WTO members recognize the importance of ensuring that developing countries share in the benefits of this trade.1

1 The Agreement Establishing the World Trade Organization states:

The Parties to this Agreement,

Recognizing that their relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services...

Recognizing further that there is a need for positive efforts designed to ensure that developing countries, especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development.

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international trade relations...
Labor standards, environmental enforcement and many other issues tabled in Seattle are contentious domestically, both for countries advocating new or strengthened rules and for those opposing them. The mere suggestion that multilateral rules be considered can ignite fierce debate, within domestic polities and among governments, about the efficacy of government intervention in markets and the costs and benefits of globalization. When a major WTO member proffers one or another of these issues for negotiations, it is not surprising that other members whose domestic policies may differ in their goals or methods become apprehensive, or even defensive, about the potential imposition of foreign law and supranational authority on their domestic regulatory regimes.

Labor standards is just one area where some governments see stronger international rules as enhancing the benefits of globalization, while others view them as threatening their competitive advantages and sovereignty. It offers a window on the challenges national governments face in reaching consensus about how the WTO system should evolve.

For each contentious issue, governments should ask five questions to assess whether it should be the subject of a WTO agreement, referred to another forum, or remain outside the purview of international agreements:

1. Can members agree on standards and principles for national governments’ policies and practices?
2. Would better international enforcement of these standards and principles promote trade that raises incomes and growth in industrialized and developing countries?
3. Are violations of these standards and principles widespread enough to have significant effects on trade?
4. Would applying WTO dispute settlement to complaints about derogations from these standards and principles promote trade that raises incomes and growth?
5. Is the WTO the most appropriate and potentially effective forum for addressing these problems?
The WTO and Other Relevant International Law

Since 1948, the WTO system has evolved from the General Agreement on Tariffs and Trade, focusing primarily on tariffs and border measures, into a capacious system of public international law, establishing limits on many of the tools of national industrial policy (e.g., subsidies and product standards) and rules for government treatment of foreign businesses and their workers (e.g., intellectual property protection and market access for service providers). Although the expanding scope of the WTO agreements is credited with creating globalized markets, the span of issues governments have chosen to address partly reflects the constraints imposed by globalization on their regulation of markets.

Domestic labor market conditions – the types of jobs available, the wages and benefits paid, workplace safety, and the legal rights afforded workers in their relationships with employers – in one or several countries can affect conditions in other countries. For example, if the rights of autoworkers to bargain collectively and strike are abridged in Korea and other major developing countries, over time, the leverage and contract terms won by autoworkers in the United States, Japan and Europe could be adversely affected. However, no WTO agreement addresses the general treatment of domestic workers, such as the right to unionize.

Defining Core Labor Standards

In parallel to the WTO, a separate body of international human rights law has emerged obligating governments to certain civil, political, economic, cultural, and social rights. The promotion of these rights through United Nations (UN) and affiliated agencies increasingly subjects the actions of governments to international surveillance and assessment.

---

2 Public international law refers to those rules and norms that regulate the conduct of states and other entities with international personalities, whereas private international law is that part of states’ domestic law used to resolve conflicts of jurisdiction regarding private persons. WTO rules are "public" law in that they regulate the conduct of signatory governments (their specific acts, and the laws and regulations they enforce) but place no direct requirements on the actions of private individuals.
Labor Standards in the Global Trading System

In this context, four “core workers' rights” or “core labor standards” enjoy nearly universal acceptance by governments, as witnessed by their participation in human rights agreements, such as the 1948 UN Declaration on Human Rights and the 1998 International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work, and the surveillance activities of the ILO. These are: the prohibition of exploitative forms of child labor, forced labor and discrimination in employment, and freedom of association and collective bargaining.

In some way or another, ILO Conventions speak to most of the issues that advocates of workers' rights would like addressed by more enforceable international standards. However, unlike the WTO and other agreements, the ILO generally lacks the power to authorize trade or other economic measures when one member government fails to comply with Conventions it has ratified. Hence, the interest in linking compliance with ILO Conventions rights to trade agreements.

This said, the 182 ILO Conventions address a broad body of issues – ranging from the most fundamental, such as child and forced labor, to the micro-regulatory issues, such as the fees employment agencies may charge and minimum wages.

Eight core ILO Conventions address the four core workers' rights, but several major nations have not ratified several of them. For example, the United States, Canada, China, India, Japan, Korea, and Mexico have not ratified Conventions addressing at least two of the following areas: minimum age for employment, forced labor, nondiscrimination, and freedom of association and collective bargaining. Apparently, their governments embrace the underlying goals these Conventions support, as evidenced by their participation in the above referenced international agreements and surveillance processes, but they do not agree with the specific means prescribed by these Conventions. Hence, core labor standards could not be addressed in the WTO simply by importing these eight ILO Conventions into a WTO agreement, or conditioning WTO member rights on compliance with these Conventions.

---

3 The ILO was founded as a League of Nations institution in 1919, at the Versailles peace conference that formally ended World War I. It is a UN affiliated agency.
Assessing Compliance

In 1995, an estimated 120 million children between the ages of 5 and 14 were fully at work, and about 12.5 million were in export industries. This latter figure approximately equals the number of workers in industrial-country textile, apparel and leather goods sectors—industries in which child labor in export-oriented activities is most prevalent.

Concerns about forced labor focus mainly on unpaid prison labor and bonded labor in developing countries. A 1996 Organization for Economic Cooperation and Development (OECD) study cited such practices as prevalent in China, India, Pakistan and Brazil.

Discrimination against women appears pervasive. Average female-to-male pay ratios are similar in the OECD and developing countries. Ratios are particularly low in East and Southeast Asia and some European countries. Japan, Korea, Malaysia, Singapore, Luxembourg, and Cyprus appear to have the lowest ratios.

Freedom of association is fairly well guaranteed in industrialized countries. The OECD study found the worst problems in China, Egypt, Indonesia, Iran, Kuwait, Syria and Tanzania. Other major countries found with major obstacles to the free operation of unions included Bangladesh, Korea, Malaysia, Pakistan, Philippines, Singapore, Taiwan, and Thailand.

Some Developing Countries Issues

Some critics argue that more rigorous efforts to ensure that national governments enforce workers’ rights would impose western values on many developing countries. However, virtually all developing-country governments have affirmed the four core standards, and limiting more rigorous enforcement to these would circumvent the “values” issue.

Developing countries often argue that WTO rules place greater burdens on them than on industrialized countries. However, no WTO rule explicitly discriminates against the trade of developing countries, and throughout the fifty-year history of the GATT and WTO, these countries have been afforded special and differential treatment, which has permitted them to retain higher bound tariffs and to delay implementation or accept less rigorous obligations in many nontariff agreements.
Labor Standards in the Global Trading System

More rigorous enforcement of core labor standards would deny developing countries access to practices employed by industrialized countries when they were at similar stages of development. However, economic theory predicts, and empirical evidence indicates, lax enforcement of workers' rights encourages prolonged reliance on less-skilled-labor-intensive activities and does little to encourage economy-wide capital formation, the development of more advanced industries, and long-term growth. Certain practices raise significant ethical issues too.

These said, more rigorous enforcement of labor rights would impose significant industry and labor market adjustments on developing-country economies, just as certain tariff cuts and other liberalization measures would impose major adjustments on many industrialized economies. Were a Labor Rights and Trade Agreement (LRTA) to be negotiated during the next WTO round, the adjustments imposed on developing countries should be weighed in the concessions offered them.

In many places, removing children from the workplace may subject them to even more harmful circumstances and further impoverish families dependent on their incomes. Development aid and direct assistance to alleviate specific hardships should be considered in tandem to importing labor standards into trade agreements.

More rigorous enforcement of workers' rights would impose significant technical and financial burdens on many developing-country governments. Enhancing WTO assistance for capacity building, and World Bank resources devoted to strengthening legal infrastructures, would be good investments for both speeding development and protecting workers in industrialized countries from unfair competition.

Economic Consequences of Noncompliance

The failure to enforce core labor standards can significantly affect trade, wages and growth; however, economic theory suggests the nature of these effects is importantly influenced by several factors.

Briefly, if exploited labor is less than perfectly mobile, if export industries make more intense use of this labor than import-competing industries, and if export and labor markets are competitive, then child labor, forced labor, and discrimination in employment may be expected to reduce wages for less-skilled workers in domestic markets, increase exports, and
place downward pressure on the wages for competing workers in foreign economies. These practices may reduce investments in human capital and more advanced industries, thereby slowing development and long-term growth. If employers face upward-sloping supply curves for labor, then restrictions on freedom of association and collective bargaining may be expected to have similar effects.

An international regime that permitted importing countries to embargo or impose tariffs on goods made with exploited labor would increase wages, speed development and increase growth in countries where labor is exploited if these measures caused governments or producers to take corrective actions. If trade measures did not result in corrective action, they could make conditions worse for exploited workers. In either case, trade measures would reduce downward pressure on the wages of competing workers in other countries. These are the same conditions that prevail when trade measures are authorized by the WTO against government policies that promote exports and violate WTO rules.  

**Empirical Findings**

Empirical research supports the expectations established by economic theory. First, estimates presented in this study indicate annual manufacturing labor costs per worker, after taking into account national differences in productivity, are reduced by an average of more than $6,000 per year in economies where both freedom of association and child labor are not well protected. This indicates large competitive impacts on less-skilled-labor-intensive exports, and estimates presented here indicate a relationship between dependence on textile and apparel exports and inadequate protection of freedom of association.

Second, although lax enforcement of workers’ rights may attract investment to export platforms, it does not appear to have a positive effect on aggregate (economy-wide) foreign direct investment. A 1996 OECD

---

4 For example, if Germany were found by a dispute settlement panel to be providing a WTO-illegal export subsidy on automobiles and harming foreign automotive industries, the imposition of a tariff equivalent to the subsidy would improve the global allocation of resources and encourage trade that raises global incomes and growth, if Germany removed the subsidy as a condition for ending or avoiding the tariff. However, if Germany failed to act, the tariff would still redress some of the harm imposed on foreign automobile workers.
study found no systematic relationship between restrictions on freedom of association and foreign direct investment. Dani Rodrik found a negative relationship between violations of basic democratic rights and the presence of child labor, and U.S. foreign direct investment in manufacturing from 1982 to 1989. Estimates obtained for this study for U.S. foreign investment from 1982 to 1994 support these results.

Enforcement Regimes

Both WTO agreements and ILO Conventions establish international rules for domestic law, enforcement and government practice. However, WTO rules regulate the way governments treat one another’s goods, services and intellectual property (they define an exchange of benefits or contracts); whereas, ILO Conventions establish standards for how governments protect their domestic workers.

The WTO has evolved an elaborate dispute settlement process, which increasingly resembles a system of contract law with limited remedies. Members may bring complaints about other members’ violations that may deprive them of contracted commercial benefit. Dispute settlement panels may authorize trade measures when respondents refuse to modify behavior satisfactorily. These are calibrated to withdraw equivalent market access benefits, but panels may not approve compensation for past harm or punitive sanctions. These tools, though limited, have often caused respondents to correct offending practices.

In contrast, ILO members may bring complaints when other members fail to comply with Conventions, but the ILO may not authorize specific trade measures or sanctions. Hence, the ILO relies much more on a surveillance system in which member governments report on their efforts to comply with Conventions, and a Committee of Experts and the annual International Labor Conference evaluate these reports. The record of enforcement through this procedure is mixed, reflecting the ILO’s limited leverage and the diversity of members’ interests.

When WTO members form regional trade agreements, they may establish rules in areas not covered by WTO agreements. The labor side agreement of the North American Free Trade Agreement (NAFTA)

---

5 The original GATT referred to member governments as "contracting parties."
focuses on encouraging members to enforce domestic labor laws effectively. The labor provisions of the U.S.-Jordan Free Trade Agreement, which awaits congressional approval, would commit both countries to enact and enforce domestic laws that establish minimum ages for employment, prohibit forced labor, and protect freedom of association and collective bargaining.

The EU does not have a comprehensive system of labor laws harmonizing worker protections. However, where member governments have agreed on common standards, these are expressed through Commission directives, and the Maastricht Treaty imposes strong commitments regarding the equal treatment of women.

The United States conditions benefits under the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI) on respect for internationally-recognized workers' rights. Investigations of private complaints about labor practices in several CBI countries appear to have caused some positive changes. The EU also conditions GSP benefits and, in 1998, began offering additional benefits to countries that apply laws giving effect to ILO Conventions regarding freedom of association, collective bargaining and minimum age for employment.

In addition, several market-based approaches create incentives for better private-sector compliance with core labor standards. These include labeling programs, consumer actions and industry codes of conduct. These regimes rely on informed consumers to choose products made under more acceptable working conditions. Though not a comprehensive solution, these approaches have posted notable successes.

**Conclusions**

Of the five questions posed at the beginning of this study, the answers to the first four appear to be yes:

1. A clear consensus has emerged in the international community that governments have an obligation to respect, promote and protect four core workers’ rights.
2. Better enforcement of these rights would likely promote trade that increases incomes and growth, both in industrialized and developing countries.

3. Estimates of the numbers of child workers, violations of freedom of association, and their effects on manufacturing labor costs are widespread and significantly affect competitiveness and trade.

4. Applying WTO dispute settlement to violations of the four core standards would promote trade that promotes economic efficiency, much as it does for other policies that artificially boost exports and violate WTO rules.

Regarding the fifth question, the WTO could be an effective forum for addressing the relationship between workers’ rights and trade. Whether it would be the most appropriate forum is a more complex matter.

**Where to Address Labor Standards and Trade?**

The international community has three options: the status quo, empowering the ILO to authorize trade measures for violations of core workers rights, and negotiating an LRTA in the WTO.

The status quo would entail continued reliance on: ILO surveillance, most notably through the implementation of the 1998 Declaration on Fundamental Principles of Rights at Work and market-oriented approaches. It does not imply a standstill for workers’ rights, because these processes are raising awareness and affecting business behavior. However, because a significant majority of Americans believes trade agreements should address labor issues, the U.S. president may not be able effectively to pursue a comprehensive round of WTO negotiations without these issues on the agenda.

Empowering the ILO to authorize trade measures for violations of the eight Core Conventions would likely be problematic for many countries. The issues the United States would encounter illustrate this.

First, the Conventions establish *means*, not just *standards*, for protection of workers’ rights, and would require changes in U.S. nondiscrimination and industrial labor relations law. Some requirements...
could prove unattractive to U.S. labor, business, or both, and Congress may view these as unnecessary or inappropriate for protecting workers’ rights.

Second, ILO procedures for defining the obligations created by its Conventions may impose requirements on U.S. labor law that could change over time. In contrast, the obligations created by WTO agreements are fixed at ratification – the WTO dispute settlement process may interpret these requirements but not add to them. The delegation of U.S. law-making sovereignty inherent in making ILO Conventions enforceable by sanctions on U.S. international commerce, as well as the participation of private individuals (business and labor representatives) in ILO dispute settlement and rulemaking, would likely prove unacceptable to Congress.

Third, empowering the ILO to authorize specific trade measures would permit trade sanctions for violations in one country having no significant economic effects on other countries. Generally, international law permits sanctions against sovereigns for actions having no consequences beyond their borders only for the most egregious human rights offenses. Congress could view broadening the scope for international intervention to include a wider set of sovereign actions as unnecessary for protecting the legitimate interests of U.S. workers.

These problems could be remedied by an agreement:

establishing standards and principles for the treatment of workers, while leaving governments broad discretion in establishing the means for achieving them;

amendable only by consensus, and making its administration, interpretation and enforcement separate from ILO Conventions; and

permitting trade measures only for violations that impose harm on other members’ industries and workers.

However, this is precisely what an LRTA in the WTO would achieve, and negotiating an agreement in the WTO, as opposed to the ILO, would provide developing countries with opportunities to seek concessions in other areas for the economic adjustments and technical and financial burdens an LRTA could impose on them. It would leave in place any uncompromised, existing ILO procedures to investigate violations of core
Labor Standards in the Global Trading System

Conventions having wholly or largely internal consequences but constituting significant human rights abuses.

Recommendations

The United States should propose an LRTA in the WTO, and should seek similar provisions in regional and bilateral agreements. These should:

require each party to protect through domestic law and enforcement the four, internationally-recognized core labor standards – i.e., the prohibition of exploitive forms of child labor, forced labor and discrimination in employment, and protection of freedom of association and the right to collective bargaining;

recognize the right of each party to establish its own laws consistent with the principles of these four standards;

commit each party not to encourage exports or import-competing production by relaxing or failing to enforce domestic labor laws;

provide for parties to obtain relief through dispute settlement when their exports have been impaired, or domestic industries or workers harmed, by sustained or recurring failure to enforce the core standards; and

reserve for each party regulatory, investigatory and prosecutorial discretion, requiring, however, that the exercise of this discretion may not harm another parties’ exports, imports, domestic industries, or workers.

A party found by dispute settlement panel to be in violation of the agreement should be offered the opportunity to correct the offending practices. If it failed to do so, other parties could be authorized to embargo imports made with the exploited labor or to withdraw equivalent market access benefits when their exports are affected.

-- 12 --
Chapter 1:  

Globalization and Some Recent Developments in International Law

Globalization may be defined as a process that makes the world's people increasingly more interconnected and interdependent in all facets of their lives—economically, culturally, environmentally, and politically. It is an ancient process driven by technology and government policy.

During the late Middle Ages, Genoa and Venice thrived as centers of the overland European spice trade with Asia. However, in the fifteenth century, the adoption of the astrolabe, compass and other navigational innovations permitted Portuguese explorers, with support from Prince Henry, to open sea routes. These created great opportunities for wealth, but also imposed gradual yet significant structural adjustments. Between the fifteenth and seventeenth centuries, the lucrative spice trade shifted from the Italian cities to Lisbon, and later, when the Dutch became engaged, to Antwerp and Amsterdam. Technology made more efficient sea trade possible, while government support of explorers and defense of commercial routes helped determine which nations and entrepreneurs benefited most from such change.6

In our own time, the digital revolution and the Internet are redefining what we make and how we make it, and are shifting wealth and influence from the industrial Midwest, and similar places in Europe and Japan, to Silicon Valley and other hubs of digital innovation. Other things equal, governments that create flexible environments for entrepreneurs, support technical education, and provide better legal protections for investors and intellectual property are more likely to attract capital and growth. Increasingly, innovations are creating single global markets— for example, witness the consolidation of the automobile industry, the global production and distribution of products ranging from garments to personal computers, and 24/7 securities trading.

The impact of globalized markets on the efficacy of government policy is a two-edged sword. On the one hand, industrial policies that assist

6 Braudel 1992, Chapters 2 and 3.
domestic firms and workers can importantly alter competitive conditions far beyond national borders – consider Airbus and the market conditions Boeing and Lockheed face throughout the world. On the other hand, globalization limits the ability of national governments to regulate national markets effectively in the absence of international cooperation – consider online securities trading and the international sales of various forms of intellectual property.

The GATT and WTO have received much credit for helping create globalized markets by reducing impediments to international trade – eight rounds of multilateral tariff reductions and disciplines on product standards provide notable examples. However, some expansion of the WTO system has been reactive rather than proactive, as governments have created international agreements to coordinate regulation where the reach of national regulation has become inadequate – the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) providing a notable example.

In this environment, domestic workers are much more affected by conditions in foreign labor markets, and are less able to improve their conditions solely through domestic legislation or collective bargaining. This applies not merely to foreign wages but also to the protections and legal status foreign governments afford to unions, child workers, women, and minorities. Not surprisingly, worker organizations in the industrialized countries increasingly identify an interest with the conditions and legal protections afforded workers in foreign markets, and this instigates claims for protection of workers' rights in the WTO system similar to those afforded intellectual property.

In parallel to the WTO, systems of international human rights law – including workers' rights – and international environmental law have emerged. These reflect a widening consensus within the international community that the definition and protection of basic civil and political rights, and responsibility for preserving the global commons, require international dialogue and oversight. Developments in these spheres have important consequences for how the WTO system may evolve, and for how it might ultimately address workers' rights.
The WTO System

The WTO administers a system of agreements. Implemented in 1948, the GATT provides the general framework for trade in goods by placing negotiated ceilings ("bindings") on tariffs and establishing obligations regarding other government practices that may directly discriminate against imports or promote exports (e.g., quotas and export credits). Tariff bindings have been lowered through eight rounds of multilateral trade negotiations, and the Tokyo Round (1973-1979) and Uruguay Round (1986-1994) resulted in supplemental agreements that address other areas of government practice that may importantly affect trade in goods – e.g., trade-related investment measures (TRIMS), government procurement, product standards, and regional development and industrial subsidies.

The Uruguay Round also resulted in the General Agreement on Trade in Services (GATS), which establishes rights for service providers operating outside their home markets, and TRIPS, which establishes minimum standards for the protection of foreign patents, copyrights, trade secrets, and trademarks. The GATT and GATS are further supplemented by several sectoral agreements – e.g., agriculture, financial services and telecommunications.

Four characteristics of the WTO system are particularly relevant to a discussion of labor standards. First, WTO agreements create a system of public international law. It is a horizontal legal system establishing contractual obligations among sovereign governments. It does not establish a supranational authority with powers to compel members to adhere to the requirements of the agreements, and it creates no international jurisdiction over the actions of private individuals. WTO members acting collectively through the dispute settlement process seek to persuade member governments to terminate or amend policies and practices that violate specific WTO obligations (for example, an import quota on automobiles) or that may frustrate the commercial benefits expected from a WTO obligation (for example, subsidies to automakers who formerly enjoyed tariff protection).\(^\text{7}\) However, WTO enforcement powers are limited to

\(^{7}\) WTO dispute settlement is applicable when a member believes a benefit accruing to it under an agreement has been nullified or impaired or the attainment of any objective has been impaired as the consequence of:

-- 15 --
authorizing members harmed by another member’s actions to suspend equivalent benefits. Upon a finding of an infraction by a dispute settlement panel, offending members may delay the imposition of trade measures, while they seek to negotiate a remedy. There is no provision for compensation of past harm or punitive damages.

Although these enforcement powers are limited, the dispute settlement process has generally proved effective in persuading member states eventually to withdraw or amend policies and practices found to violate WTO agreements. The findings of dispute settlement panels have given more precise meaning to the somewhat general language of many WTO agreements and guidance to governments about what behavior is consistent with their obligations. Moreover, this process is more than is available to enforce many other international agreements.

Second, with the exception of imports made by prison labor, the GATT and other agreements do not address problems that may be posed by trade in products made by workers under conditions that violate internationally-recognized labor standards. Generally, WTO members

1) the failure of another member to carry out its obligations under the agreement (a violation complaint);

2) the application by another member of any measure whether or not it conflicts with the provisions of an agreement (a nonviolation complaint); or

3) the existence of any other situation (situation complaints).

Private actions and structures might lend themselves to situation complaints. However, no GATT or WTO panel has ever ruled on one, and new, strengthened WTO dispute settlement rules do not apply to situation complaints. Rather, old GATT rules, which require complete consensus, would apply. See WTO 1997, pp. 77-78.

If an offending member fails to remedy a policy or practice to the satisfaction of a dispute settlement panel, the panel may authorize the complainant to raise tariffs on a comparable amount of imports originating from the offending member’s territory.

See GAO 2000.


Article XX provides a general exception to GATT obligations for "the products of prison labor." However, trade measures must not be "applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination
cannot raise tariffs on, or exclude products from, another WTO member, merely because the products are made under conditions that violated workers' rights. For example, if the United States banned imports of Indian rugs made with child labor, India would likely be able to persuade a WTO dispute settlement panel that the U.S. action nullified or impaired its rights under the GATT. The United States would have to rescind the ban, or the dispute settlement panel would authorize India to impose tariffs on U.S. products of comparable value.

Third, when WTO members form preferential or regional trading arrangements, they extend the benefits they afford one another under existing WTO agreements. Generally, these reduce tariffs on intraregional trade to zero, often impose stronger disciplines on other government policies, such as subsidies and government procurement, and establish separate regimes to regulate the use of dumping duties. In addition, they may establish obligations in areas where the WTO has no rules. For example, the EU and NAFTA address the legal rights of foreign investors and have mechanisms to encourage respect for workers' rights, but neither of these regimes employs trade measures to enforce workers' rights.

Groups of WTO members could form preferential or regional trade agreements that establish standards for domestic labor law and enforcement and permit additional tariffs or embargoes on imports made by workers under conditions that violate those labor standards. Such trade measures would likely pass muster with the WTO if they were imposed through procedures provided by the agreement and if their effects were limited to trade among the disputing parties. The pending U.S.-Jordan Free Trade Agreement is an example of such an agreement.

between countries where the same conditions prevail, or a disguised restriction on international trade..."

Other sections of the GATT might be invoked to take action against violations of internationally recognized labor rights; however, it is doubtful such efforts would pass muster in WTO dispute settlement. OECD 1996, pp. 170-176.

12 GATT Article XXXIV permits groups of members to form free trade areas and customs unions by reducing tariffs to zero on substantially all trade among them.

13 Many environmental agreements provide for trade measures. In 1996, the WTO Committee on Trade and the Environment indicated WTO rules would permit members to exclude imports made in ways that violated an environmental agreement if the agreement provides for such measures and both the restricting and
Similarly, were WTO members to enter into an agreement to enforce certain labor standards through trade measures, such as by enhancing the power of the ILO to enforce the principles of its eight core conventions (discussed in Chapter 2), such trade measures would likely pass muster with the WTO too.

Fourth, under the GSP, developed countries may offer developing countries lower than most-favored-nation tariffs on selected categories and quantities of imports. Importantly, they may condition access to such benefits to goals outside the field of development, including human rights and intellectual property enforcement. As discussed in Chapter 6, both the United States and the EU have conditioned access to GSP benefits on adequate domestic labor laws and enforcement.

Generally, Americans appear to support strongly efforts to protect the environment and workers in trade agreements. For example, during the 1997 NAFTA ratification debate, when public attention was particularly focused on these issues, a Business Week/Harris poll found that 73 percent of respondents felt that free trade agreements “should seek to protect the environment” and “to lift labor standards in other countries.”

More recent polls indicate these sentiments endure, and the president will face difficulty in forging a national consensus for a new, comprehensive round of multilateral trade negotiations – and obtaining fast track authority from the Congress to pursue negotiations – without addressing environmental and labor issues. For example, a comprehensive March 2000 study of American sentiment about globalization, conducted by the University of Maryland Program on International Policy Attitudes, found:

In principle, a majority of Americans support the growth of international trade, especially when the removal of trade

offending countries are parties to the agreement. In 1998, a WTO appellate panel indicated GATT Article XX could be interpreted to permit WTO members to exclude imports under a multilateral environmental agreement. See Monci 1999, pp. 27-28. Such reasoning could carry over to agreements outside the WTO providing for trade measures to enforce labor standards.


15 Business Week, September 22, 1997, p. 34.
barriers is clearly reciprocal. However, Americans are lukewarm about the actual net benefits of trade for most sectors of society, except the business community. A majority believes trade widens the gap between the rich and the poor. A strong majority feels trade has not grown in a way that adequately incorporates concerns for American workers, international labor standards and the environment. Support for fast track is low, apparently because it signifies the increase of trade without incorporating these concerns.\textsuperscript{16}

**Human Rights Law**

International concern for “human rights” has a long history.\textsuperscript{17} Examples include the concerns of the early Spanish school of international law regarding the treatment of indigenous people in America by colonizers, nineteenth-century British efforts to end the slave trade, and World War I peace treaties, which provided certain guarantees for the treatment of the inhabitants of mandated territories and which established the ILO.

Importantly, though, prior to World War II, international attention tended to focus on protecting particular minority groups or aliens. In general, the treatment of nationals by their own governments – including the basic definition and enforcement of their civil and political rights – was considered an internal matter. Sovereigns were free to do as they pleased as long as they could maintain control within their territories, and there was no presumption of an international interest in monitoring or intervening in those processes.

Since the UN Charter (1945) and the UN Declaration on Human Rights (1948), much has changed. The Declaration establishes classes of civil and political rights (e.g., prohibition of slavery, and freedom of religion, movement, expression, and peaceful assembly and association) and certain economic, cultural and social rights (e.g., the right to an adequate standard of living, an education, fair working conditions, and participation


\textsuperscript{17} For a general treatment of international human rights law, see Malanczuk, pp. 209-221.
in the cultural life of the community). The Convention on the Rights of the Child (1989) importantly addresses these as they pertain to children.

Significantly, member states are not obligated to respect these rights in an absolute sense. Rather, the UN Charter pledges members to promote them, and member states have assumed significant latitude in choosing which rights to give more weight (consider the relative importance assigned economic security and civil rights by the former Soviet Union and some Asian states) and to the speed with which they attain full protection of these rights.

However, gradually, the UN has built apparatuses — for example, by establishing the Commission on Human Rights (1946) and the High Commissioner for Human Rights (1993), and by enacting the International Covenants on Civil and Political Rights and on Economic Social and Cultural Rights (1976), through which member states agree to report on their efforts to uphold these rights and accept greater international scrutiny of how effectively they respect and protect these human rights.

For the worst forms of human rights violation — crimes against humanity — the presumption of an international prerogative for uninvited intervention (consider Kosovo) and universal jurisdiction for individual crimes (consider former Chilean President Augusto Pinochet) appear to be taking hold, at least among western nations. For lesser forms of abuse, international indignation can place repressive regimes in uncomfortable positions and encourage advocates of reform among their nationals.

Through the ILO, member governments have adopted 182 Conventions regarding the rights of workers. The issues addressed range from broad ones, such as minimum ages of employment and forced labor, to excessively narrow ones, such as the fees employment agencies may charge, minimum wages and medical examinations for fisherman. Many governments have not ratified many of these Conventions, in part, because they disagree with their general goals or object to the specific means required by Conventions for attaining their underlying goals.

Generally, members are only required to adhere to Conventions they have ratified. However, all members are committed to respect, promote and realize the underlying principles of eight “core” Conventions affirming the four core labor standards — the effective abolition of child labor, forced labor and discrimination in employment, and freedom of association and the right of collective bargaining — even if they have not

--- 20 ---
ratified one or several of these eight Conventions.\textsuperscript{18} These obligations, along with the status afforded core labor standards in other UN agreements, indicate an emerging consensus among the community of nations that certain underlying principles of international law should constrain government policy and practice regarding the treatment of workers. This consensus is explored further in Chapter 2 below.

**Environmental Law**

International environmental law is the newest area of international law.\textsuperscript{19} During the 1960s, the environmental movements in industrialized countries resulted in national legislation to protect air, water, plant, animal, and other environmental resources. In parallel, interest emerged in the transborder consequences of industrial activity and national regulatory policies, and this has resulted in an explosion of multilateral environmental agreements (MEAs) committing governments, for example, to restrict the hunting or harvesting of endangered species and to undertake efforts to limit ocean pollution, ozone depletion and global warming.

Importantly, of the approximately 200 MEAs in place, about twenty ban trade in certain products or allow countries to restrict trade in certain circumstances—e.g., the Montreal Protocol for the protection of the ozone layer, the Basel Convention on Transboundary Movements of Hazardous Waste and Their Disposal, and the Convention on International Trade in Endangered Species.\textsuperscript{20} Trade measures taken to enforce environmental treaties may be consistent with the WTO obligations of member governments.\textsuperscript{21} This emerging status of MEAs in the WTO indicates that it would be feasible to develop a parallel system of trade measures consistent with WTO rules to support respect for core workers’ rights.

\textsuperscript{18} ILO Declaration on Fundamental Principles and Rights at Work (June 1998), reproduced in ILO 2000a, pp. 27-28 – emphasis added.

\textsuperscript{19} For a general treatment of international environmental law, see Malanczuk, pp. 241-253.

\textsuperscript{20} WTO 1999, p. 4.6.

\textsuperscript{21} See footnote 13.
Some Developing Countries Issues

International efforts to encourage more rigorous enforcement of core labor standards – or at least efforts to mitigate the adverse consequences of violations in one or several countries on the industries and workers in other countries – would place greater burdens on developing countries. After all, it is those countries where practices like child labor, forced labor and restrictions on unions are most frequently cited for lowering labor costs and contributing to disruptive exports. In this context, four sets of issues are frequently raised.

First, some critics argue that more rigorous enforcement of workers' rights would amount to imposing western values on many developing countries, especially in Asia and Africa. And as noted, international human rights law, of which labor standards are an integral part, generally does not impose absolute requirements on national governments. However, virtually all governments have affirmed a special status for the four core workers' rights through their direct participation in international agreements and monitoring processes; therefore, limiting greater international enforcement efforts to these core areas would circumvent the "values" issue.

Second, many developing-country policymakers believe existing WTO rules already place undue burdens on their economies. For example, if rigorously applied, WTO agreements binding tariffs, limiting subsidies, prohibiting certain trade-related investment measures, and restricting other industrial policies would constrain both import-substitution and export-promotion strategies that have been popular among developing-country governments.

However, no WTO rule explicitly discriminates against the trade of developing countries, and throughout the more-than-fifty-year history of the GATT and WTO, the United States and other industrialized countries have acquiesced to special and differential treatment. The latter has

--- 22 ---

--- 22 ---

--- 22 ---
afforded developing countries broad latitude to pursue import-substitution and export-promotion development strategies. Often the impulse behind these has been humanitarian, based on the presumption that higher protection in developing countries than in industrialized countries, if applied as part of systematic development strategies, could speed growth. Yet, the failure of import substitution in Latin America in the 1970s and 1980s, and the more recent crises in Asia, raise serious questions about the efficacy and sustainability of such approaches.

Third, if enforced as in industrialized countries, core labor standards would deny developing countries access to practices that industrialized countries employed when they were at comparable stages of development, and this would retard their economic development. Child labor, forced labor and suppression of unions were widespread during the periods of industrialization in the United States and Europe. However, this argument lacks force on economic as well as moral grounds.

Child labor, forced labor and the suppression of unions were significant in industrialized countries in an era of more primitive available technologies. These made manual labor a scarce resource, whereas the opposite circumstances prevail in developing countries today. As discussed in Chapter 4, the failure to enforce workers’ rights adequately may be expected to bias the allocation of investments in human and physical capital toward less skill-intensive industries; in turn, this may be expected to slow aggregate capital accumulation, retard the transition to more technologically advanced industries, and impede economic development and long-term growth. As discussed in Chapter 5, empirical evidence does not indicate that violation of workers’ rights attracts additional foreign direct investment.

Even if forced labor were a useful development tool today, would it justify the acceptance of indentured labor or slavery? Are ten-year-old children working in factories much freer to withhold their labor than indentured workers?

concessions. Also, the WTO enforcement system has permitted developing-country policymakers, when they perceive WTO rules to be unworkable or an imposition, to implement or continue WTO-nonconforming practices until they are brought before dispute settlement panels.

23 See Jackson 1997, pp. 319-322.
Fourth, importing labor rights into the WTO and enforcing them through WTO dispute settlement, and ultimately through trade measures, would impose significant adjustments on the economies of several developing countries, just as, for example, lowering tariffs on trucks or imposing greater disciplines on agricultural subsidies would impose major adjustments in many industrialized countries. As with tariff cuts and disciplines on other government interventions, the adjustments imposed by linking labor standards to trade should be a consideration in the concessions offered developing countries in the context of a broader round of multilateral trade negotiations.

Also, in many places, removing children from the workplace in export or import-competing industries may subject them to even more harmful circumstances. They may be forced to live on the streets and engage, for example, in prostitution. Eliminating child labor in certain contexts may further impoverish families who have no choice but to rely on their wages. Development aid and direct assistance to children and families – perhaps through programs administered by the World Bank, regional development banks, and UNICEF, and targeted at alleviating problems in specific instances where child labor is eliminated – should be explored in tandem with efforts to better enforce internationally recognized core labor standards.

Fifth, the better enforcement of workers' rights, like intellectual property rights, environmental standards and other requirements imposed by international agreements, can divert resources from other governmental purposes. Developing-country policymakers may view these other purposes as having higher priority.

The WTO does provide technical assistance to developing countries in writing and implementing laws and regulations to comply with WTO agreements. However, this may not be enough, and in the next round of multilateral trade negotiations, further assistance for capacity building will likely be a central issue. Enhancing the assistance offered by the WTO and increasing the resources devoted by the World Bank to strengthening legal infrastructure in developing countries would be a good investment for both aiding development and protecting workers in industrialized countries from unfair competition.
Chapter 2:  
Defining Core Labor Standards

Among advocates for addressing workers' rights in trade agreements, a consensus has emerged that the following four core rights should be the initial or primary focus of attention:\textsuperscript{24}

prohibition of exploitative forms of child labor, such as bonded labor, and "work which by its nature or circumstances… is likely to harm the health, safety or morals of the child" (see Exhibit 1);

prohibition of forced labor, including slavery, indentured labor, and compulsory labor;

prohibition of discrimination in employment on the basis of gender, race, creed, national origin and so forth; and

freedom of association and collective bargaining, which includes the right of workers to form a union of their choice and to negotiate freely their terms of employment.

Essential Characteristics of Core Labor Standards

At the outset, it is important to recognize that these rights share two sets of characteristics. First, virtually all sovereign governments have affirmed these rights through the 1945 UN Charter, the 1948 UN Declaration of Human Rights, the 1989 UN Convention on the Rights of the Child, the 1995 UN Report of the World Summit for Social Development, and the 1999 ILO Convention on the Worst Forms of Child Labor.

\textsuperscript{24} For example, see Leary 1996, pp. 215-216; Lee 1997, pp. 185-186; Maskus 1997, pp. 5-6; OECD 1996, pp. 25-28; and Harvey, Collingsworth and Arthreya 1998, pp. 31-32.
Exhibit 1
Child Work and Exploitation

In both developed and developing countries, many children work part-time. This is not necessarily exploitative or detrimental, because work can help young people acquire skills and build self-confidence. In combating exploitative child labor, it is important to consider work in its various forms and circumstances, distinguishing between work and exploitation, and taking account of economic development and cultural contexts.

According to UNICEF, children working too young, for too many hours and too little pay, in hazardous conditions, or under slave-like arrangements, characterize exploitation. Also, exploitation occurs when work entails too much responsibility, hampers access to education, is detrimental to social and psychological development, or undermines dignity or self-esteem. The most intolerable cases include children in bonded labor, prostitution, military groups, the drug trade, and highly dangerous occupations. But children engaged in agriculture, services or manufacturing may also be exploited. Due to heavy workloads and malnutrition, children may confront occupational hazards with unacceptable risks to their health and physical and intellectual development.

Child exploitation needs careful analysis. It is not only linked to poverty, but may also be associated with children being used to advance various family aspirations and roles. Solutions such as a minimum wage or compulsory education, unless they take proper account of the economic, social and cultural factors underlying child labor, may even risk worsening the situation of children. Unless alternatives are provided to families and children, children removed from the workplace may be left to fend for themselves on the streets or take up even more hazardous employment. Exploitative child work may be expected to decline with higher levels of development; however, the eradication of specific forms of exploitation and massive reductions in child labor can be achieved only through political commitment, targeted policies and complementary development programs.

Article 32 of the UN Convention on the Rights of the Child (1995) reflects the UNICEF criteria and prohibits the economic exploitation of children. Several ILO Conventions address minimum ages of employment and forced labor generally but, until recently, none contained detailed provisions on child labor exploitation. The Convention on the Worst Forms of Child Labor (1999) fills this void. It defines exploitative child labor to include the most obvious practices (slavery, debt bondage, other forms of forced labor, prostitution and pornography, and various illegal activities), and "work which by its nature or circumstances... is likely to harm the health, safety or morals of the child." Article 6 requires each member to design and implement programs of action to eliminate as a priority the worst forms of child labor.

Source: OECD 1996 and ILO Convention 182.
In 1996, the OECD report on *Trade, Employment and Labor Standards* endorsed these four rights as having "the characteristics of human rights." 25 In 1998, these rights were affirmed overwhelmingly by the ILO membership in its Declaration on Fundamental Principles and Rights at Work. 26 It states:

all Members, even if they have not ratified the
Conventions in question, have an obligation... to promote
and to realize, in good faith and in accordance with the
Constitution, the principles concerning the fundamental
rights which are the subject of those Conventions, namely:

(a) freedom of association and the effective recognition of
the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory
labour;

(c) the effective abolition of child labor;

(d) the elimination of discrimination in respect of
employment and occupation. 27

Second, as discussed in Chapter 4, the failure to enforce the latter three core labor standards in a market economy reduces economic efficiency, 28 and a failure to enforce the right of workers to form a union and bargain collectively will likely have similar consequences when they face a monopsony employer. 29 The failure to enforce these standards may both

---


26 Eighty-five percent of the ILO membership voted in favor of adopting the Declaration; all others abstained. Thirty government delegates from 19 countries abstained. Of those governments abstaining, most have cooperated in implementation of the Declaration through the ILO reporting procedures. See ILO 2000a, p. 10.

27 See ILO 1998a, Section 2.

28 The technical appendix of the above-mentioned OECD study presented an economic analysis demonstrating that enforcing standards regarding employment discrimination, forced labor, and child labor exploitation, "where such practices exist... would improve economic efficiency." See OECD 1996, pp. 215-230.

29 For the purposes of this study, a monopsony employer is one who may significantly affect the price of labor by choosing to hire more or fewer workers. It faces an upward-sloping supply of labor.
Labor Standards in the Global Trading System

deprive a national economy of the full, long-term benefits available from trade and impose economic costs on other nations.

Some advocates of incorporating labor rights into trade agreements argue for a more extensive agenda beyond these four core rights. For example, they advocate including minimum wage scales and workplace safety standards.\(^{30}\) However, such standards do not enjoy the same wide affirmation among national governments or place in international law,\(^{31}\) and they cannot be supported by the same efficiency arguments as can be the core standards.

The latter point is important from the perspective of the efficacy of incorporating labor standards into a WTO agreement or WTO-consistent preferential and regional trade agreements. The intended purpose of WTO agreements is to remove practices that may distort resource allocation and trade and retard growth. Generally, better enforcement of the four standards may be justified on economic grounds, much as is enforcement of WTO-required behavior regarding customs administration, tariff bindings, subsidies, and other governmental behavior.

\(^{30}\) For example, see Brown, Goold and Cavanagh 1992.

\(^{31}\) For example, The Declaration on Fundamental Principles and Rights at Work only asserts the obligation of ILO members "to promote and to realize" the four core rights. See ILO 1998a, Section 2.
Core Standards and the ILO

Eight ILO Conventions are considered “core” Conventions, and these support the goals of the four core labor standards.

<table>
<thead>
<tr>
<th>Convention</th>
<th>No. Countries Having Ratified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Age, 1973 (No. 138)</td>
<td>102</td>
</tr>
<tr>
<td>Worst Forms of Child Labour, 1999 (No. 182)</td>
<td>43</td>
</tr>
<tr>
<td>Forced Labor, 1930 (No. 29)</td>
<td>154</td>
</tr>
<tr>
<td>Abolition of Forced Labor, 1957 (No. 105)</td>
<td>147</td>
</tr>
<tr>
<td>Non-Discrimination, 1958 (No. 111)</td>
<td>149</td>
</tr>
<tr>
<td>Equal Remuneration, 1951 (No. 100)</td>
<td>145</td>
</tr>
<tr>
<td>Freedom of Association, 1948 (No. 87)</td>
<td>132</td>
</tr>
<tr>
<td>Right to Organize and Collective Bargaining, 1949 (no. 98)</td>
<td>147</td>
</tr>
</tbody>
</table>

It is important to recognize that many countries have not ratified all eight of these. For example, the United States, Canada, Mexico and India have not ratified the minimum age convention, and the United States, Canada, Mexico, India, China, and Korea have not ratified the collective bargaining convention. However, all 175 ILO members, as a consequence of the 1998 Declaration on Fundamental Principles and Rights at Work, are required to report periodically on their efforts to give effect to the principles supported by these Conventions.

This situation implies that although ILO member governments embrace the four core labor standards as minimum standards or principles, to

---

32 These figures are current to November 3, 2000. See ILO 2000c.

33 As discussed in Exhibit 1, the ILO Minimum Age Convention does not correspond closely to more broadly accepted notions of exploitation of child labor. In 1999, the ILO adopted the Worst Forms of Child Labour Convention (No. 182). Signed by President Clinton during the WTO Ministerial Meeting in Seattle, the Convention defines children as those under 18 years of age, and requires member states to design "appropriate mechanisms" to eliminate these worst forms of child labor. See ILO 1999a.

34 See text and footnote at 68.
use the language of the 1998 Declaration, for the protections afforded workers, they do not necessarily accept the means required by the eight core Conventions for promoting and realizing these standards and principles. Hence, these eight Conventions could not simply be imported into WTO law either through an LRTA in the WTO, or by permitting the ILO to enforce compliance with these Conventions through trade measures and requiring the WTO to recognize the legitimacy of these measures. This situation stands in sharp contrast to the TRIPS, which established rules for the treatment of foreign intellectual property by importing, wholesale, the requirements of several preexisting international intellectual property Conventions,\textsuperscript{35} and to the status in WTO law that may be emerging for certain trade measures taken to enforce environmental agreements.\textsuperscript{36}

\textbf{U.S. Ratification of the Core Conventions}

Although the United States is a strong advocate for improving enforcement in other countries of the four core labor standards, it has only signed Conventions No. 105 on the Abolition of Forced Labor and No. 182 on the Worst Forms of Child Labor, and it has been sharply criticized in this regard. However, the issues the U.S. government faces in ratifying the Conventions No. 100 on Equal Remuneration, No. 87 on Freedom of Association and No. 98 on Collective Bargaining illustrate some of the problems of specifying means rather than standards for government behavior through international agreements.

Through the early 1960s, the U.S. record regarding employment and pay discrimination toward women and minorities was hardly stellar, much like other nations with ethnically, religiously and racially diverse populations. However, since the enactment of the Equal Pay Act of 1963 and the Civil Rights Act of 1964, the United States has not been surpassed in its efforts, both through legislation and activist enforcement, to ensure equal treatment for all participants in its labor markets.

However, adoption of Convention No. 100 on Equal Remuneration would likely require U.S. law to implement the notion of

\textsuperscript{35} See McGovern 1995, p. 21.21-1.

\textsuperscript{36} See text at footnote 13.
“comparable worth,” a method often suggested but not embraced by the Congress or most state legislatures. If the United States were to ratify Convention No. 100 and the WTO or ILO were empowered to approve trade measures to ensure compliance with Convention No. 100, then the United States could be forced to choose between accepting trade sanctions or fundamentally altering the Equal Pay Act and its approaches to ensuring equal remuneration. Under the present set of arrangements, the United States must only satisfy the ILO that its approaches for achieving the goal of equal remuneration are earnest, through the surveillance procedures established by the 1998 Declaration on Fundamental Principles and Rights at Work.

Conventions No. 87 and 98 are based on European, not U.S., models of industrial labor relations, and all the governments of the major European economies have ratified them. However, ratification of Conventions No. 87 and 98 would require wholesale changes in U.S. industrial labor relations law at both the federal and state levels. Some of the results might prove unappealing to unions, employers or both. For example:

Under the National Labor Relations Act (NLRA), employees select by majority vote an exclusive bargaining unit. Compliance with Convention No. 87 would require U.S. law to permit employees to select minority or rival unions to represent them in grievances.

In states with “right-to-work laws,” unions may not negotiate security agreements providing for union shops. Convention No. 87 has been interpreted to include the right not to join a union, and U.S. ratification would essentially provide international approval for these laws.

Several U.S. unions do not admit to membership persons who support or participate in the Communist Party, Ku Klux Klan or other fascist, totalitarian, or subversive organization. Convention No. 87 requires unions to admit all applicants.

37 While Convention No. 100 does not require countries to adopt ‘comparable worth,’ that is how many interpret that convention. See ILO 1998f, p. 9.
Both the NLRA and Convention 98 prohibit the discharge of employees for union activities outside of work. Adoption of Convention 98 would shift the burden of proof in favor of employees in National Labor Relations Board hearings.

Generally, when the United States signs international commercial agreements, it agrees to obligations that are specific at the moment of ratification, and administering organizations such as the WTO are not permitted to create new obligations through supranational legislative procedures. Reflecting the legislative aspects of ILO deliberations, the requirements that Convention No. 87 and 98 would impose on U.S. labor law could change over time without U.S. assent.38

U.S. law is quite liberal in permitting unions to bring pressure on employers through boards of directors, shareholder suits and proxy fights. Convention No. 98 prohibits unions and employers from interfering in one another’s affairs and could preclude such tactics.39

38 See text at footnotes 103 and 104.

39 This is only a short sampling of the conflicts between U.S. labor law and practices and the requirements of Conventions No. 87 and 98. For an exhaustive treatment, see Potter 1984.
Chapter 3:

Assessing Compliance

Creating an inventory or record of compliance and noncompliance with core labor standards presents a challenge, because of the limited availability of data consistent across countries. As noted above, all members must report on their efforts to effect the principles of the eight core Conventions that support the four core labor standards. However, sovereign governments have little interest in highlighting shortcomings in their compliance, especially where noncompliance results from insufficient resources or tacit efforts to attract investment and improve competitiveness. With these caveats in mind, the following is a survey of current views on compliance with core labor standards.

Child Labor and Forced Labor

Abolishing the most exploitative forms of child labor has been the subject of substantial international attention. The ILO’s Minimum Age Convention of 1973 (No. 138) defines a flexible system of age requirements for work, and has been ratified by 102 of 175 members. The 1989 UN Convention on the Rights of the Child includes an article on child labor, and this Convention is the most widely ratified international human rights treaty. In June 1999, ILO members unanimously adopted the Worst Forms of Child Labor Convention (No. 182), and as of November 2000, 43 countries had ratified it.

Yet, child labor persists on a massive and global scale. The ILO Bureau of Statistics estimates:

in the developing countries alone, there are at least 120 million children between the ages of 5 and 14 who are fully at work, and more than twice as many (or about 250 million) of those for whom work is a secondary activity are included. Of these, 61 per cent are found in Asia, 32 per cent in Africa, and 7 per cent in Latin America. Although Asia has the largest number of child workers, Africa has
the highest incidence at around 40 per cent of children between 5 and 14.40

The findings of other NGOs indicate a consensus on this estimate.41 While these figures suggest the scope of the problem, they also represent substantial lost opportunity: children at work are much less likely to receive primary education.42

Although child labor is most predominant in the informal domestic and agricultural sectors, where its affect on trade is much less important than in manufacturing, UNICEF found about five percent of child workers are in export sectors.43 Applying the ILO global estimate above indicates that about 12.5 million children were working in export industries in 1995. The latter figure is very large considering that only about 89 million OECD workers are employed in manufacturing,44 and of these, about 15 percent, or 12 million, work in textile, apparel and leather goods sectors, which compete directly with products made by children.

---

40 ILO 1996.
41 According to Lansky (1997, p. 243):

There now seems to be a broad international consensus on the ILO's estimate that child labour is the lot of up to 250 million children under 14 worldwide. UNICEF agrees on a world total of up to 250 million, but with 190 million in the 10-14 age group, of whom "three quarters...work six days a week or more and one half work nine hours a day or more." Non-governmental organizations (e.g., Save the Children) and the International Confederation of Free Trade Unions - which reckons that "some of the worst exploitation happens to children as young as four or five" - tend to quote total figures around 200 million. However, the 14-18 group remains a statistical black hole, although children in this group would be protected from "hazardous" work both under Convention No. 138 and under the United Nations Convention on the Rights of the Child [1989].


It is estimated that 140 million children in less-industrialized countries between the ages of 6 and 11 or approximately 23 percent do not go to school. A significantly large number of the remaining 77 percent drop out before they have completed school.

43 Figure cited in ILO 1997c.
44 OECD 1999, p. 22.
What explains the existence of this enormous pool of child labor? First, extreme poverty frequently requires children to work in order to contribute to family income. Second, local custom sometimes requires that children start work, or that they be "bonded," to repay parental debt at an early age. Finally, children are unlikely to be aware of laws prohibiting their activity, or to challenge authority in the face of dangerous or repetitive work.

Concerns about other forms of forced labor (i.e., nonchild forced labor) divide into two types:

hiring of prisoners by private enterprises to perform work for pay – for example, in Austria, France, Germany, the United Kingdom, and the United States – and

use of prison labor without pay, and bonded labor, in developing countries.

Paid prison labor is not a prima facie violation of ILO Conventions, and under what conditions paid prison labor violates ILO Conventions is a source of considerable controversy. Unpaid labor in developing

--- 35 ---


A review of nine Latin American countries shows that without the income of working children aged 13-17 the incidence of poverty would rise between 10-20 percent. In a Brazilian study, it was found that the average child earns a substantial amount of a family's total income…. Based on household surveys in 10 countries in Latin America, a study conducted by CEPAL [UN Commission for Latin American and the Caribbean] in 1995, asserted that the loss of income that working children later experience during their lives by not going to school is equivalent to between four and six times the income they would earn if they had acquired two additional years of schooling.

46 OECD 1996, p. 47.

47 The June 1999 Report of the ILO Committee on the Application of Standards reveals the growing use of, concerns about, and employment of prison labor by private companies in the developed countries. The issue centers on the appropriate interpretation of Convention No. 29 (Forced Labour, 1930).
countries, however, is considered a more serious problem. The 1996 OECD study on Trade Employment and Labor Standards concluded:

For example, Australia addressed concerns raised by the Committee of Experts regarding prisons in Victoria, where the Government of Victoria launched the New Prisons Project (1993). The project involves the private sector in the construction and operation of three prisons. The Government of Australia argued that Convention No. 29 had been originally drafted in response to concerns about slave labor and the use of so-called "native labor" in colonies. The original drafters of No. 29 included "two key criteria" which the Government of Australia argued govern the conditions of penal employment, "namely that the work [is] carried out under the supervision and control of a public authority and that the prisoners [are] not hired to or placed at the disposal of private individuals, companies or associations" (Convention 29, Article 2, Paragraph 2(c)). Australia argued both these conditions prevailed in Victoria. In this view, the Australian Government delegation was supported by the Australian Employer delegation. Further, it argued that, according to the Government of Victoria's agreement with private parties, "any surplus income derived from prison industries did not return to the private prison operator."

The Australian Council of Trade Unions (ACTU), however, raised concerns about the public-private arrangements. They noted that the wages inside the prison were one-tenth of those for comparable work outside the prison. This placed local manufacturers at a disadvantage. Further, the ACTU provided a useful illustration of the global nature of prison labor:

By way of illustration, he cited the case of an Australian-based British company that had recently won contracts to run prisons in South Africa. Moreover, with reference to the statement by the Government representative that all profits from prison industries were required to be reinvested in the industry or in other amenities, he emphasized that the situation was much more complex. In the case of goods manufactured in prison for a contractor, the goods were then sold to a wholesaler, then to the retailer and then on to the consumer. This constituted a four-stage distribution chain with a profit margin at each level...

Further, the ACTU challenged the degree to which public authorities could fulfill their required function to monitor the industry. Several other countries also offered comments concerning the issue. The Worker member for the United States, for example, noted that the use of prison labor in private prisons had become a "multibillion dollar global industry in only a few short years... the sale of the private prison industries would exceed $9 billion by the year 2000" in the United States alone.

See ILO 1999f, pp. 11-20.
in general, forced labour is of negligible importance in the
OECD area. However, in several countries outside the
OECD area, forced labour is widespread. In China, most
prisoners are systematically required to work without pay.
In India and Pakistan, bonded labor is widespread.
Accordingly, many families and children are forced
to work almost as slaves for certain individuals in order to
pay off their debts. In Brazil, according to ILO experts,
thousands of workers in rural sectors and mining are
subject to forced labour conditions. It is dangerous for
these workers to escape.\footnote{Economic Strategy Institute}

\section*{Discrimination in Employment}

Discrimination against women is a global issue. In the OECD,
complaints usually center on the obstacles women face against advancing to
higher positions, whereas additional issues are raised regarding conditions in
developing countries. For example, in Brazil, the ILO has cited cases where
employers demand certificates of sterilization from women as a condition of
employment, and discrimination on the basis of social class has been
cited in India.\footnote{Economic Strategy Institute}

Studies undertaken by the ILO document the gap in compensation
between men and women. Average female-male pay ratios:

\begin{itemize}
\item appear to be especially low in east and Southeast Asian
countries as well as in some European countries (with
Japan, the Republic of Korea, Malaysia, Singapore,
Luxembourg and Cyprus the only countries having a ratio
below 0.60). Ratios appear to be relatively high
in Scandinavian countries, as well as in some other OECD
and Third World countries (with Denmark, Iceland,
Norway, Sweden, Australia, Sri Lanka, Turkey and
Swaziland the only countries with a ratio clearly above
0.80).\footnote{Economic Strategy Institute}
\end{itemize}

\footnote{OECD 1996, p. 47.}
\footnote{OECD 1996, pp. 47-48.}
\footnote{Anker 1997, p. 330.}
Freedom of Association

The ILO considers freedom of association the most fundamental labor right and, historically, has afforded it unique attention and emphasis. Yet, 28 percent of member governments have not ratified Convention No. 87, and 30 percent have not ratified Convention No. 98.\(^{51}\)

The 1996 OECD study, *Trade, Employment and Labor Standards*, examined compliance with Convention No. 87 in 75 countries. It divided these countries into four groups according to the degree of compliance:

In group 1, comprising all OECD countries (except Mexico and Turkey), as well as the Bahamas, Barbados, Israel, Malta and Surinam, freedom of association is by and large guaranteed in law and practice. At the other extreme are group 4 countries, where freedom of association is practically non-existent (China, Egypt, Indonesia, Iran, Kuwait, Syria and Tanzania). In countries of group 2 (Argentina, Brazil, Chile, Ecuador, Ethiopia, Fiji, Hong Kong, India, Jamaica, Mexico, Niger, Papua New Guinea, Peru, South Africa, Venezuela and Zambia) some restrictions exist, but it is possible to establish independent workers' organizations and union confederations. In the remaining countries (group 3\(^{52}\)), restrictions on freedom of association are significant: the existence of stringent registration requirements, political interference or acts of anti-union discrimination make it very difficult to form independent workers' organizations or union confederations.\(^{53}\)

Overall, group 3 and group 4 countries comprised 31 of the 75 countries studied.

\(^{51}\) ILO 1999e, paragraphs 155 and 166.

\(^{52}\) This group includes Bangladesh, Bolivia, Botswana, Columbia, Guatemala, Haiti, Honduras, Jordan, Kenya, Korea, Malaysia, Mauritius, Morocco, Pakistan, Panama, Philippines, Singapore, Sri Lanka, Swaziland, Thailand, Uruguay, Turkey, and Zimbabwe.

\(^{53}\) OECD 1996, p. 43.
Chapter 4:
Economic Efficiency, Trade and Core Labor Standards

Economic theory suggests that the effects of violations of core labor standards on trade, wages, economic development, and growth are fundamentally affected by answers to the following four questions:

Are violations pervasive or limited to an isolated location or sector of the economy (for example, export processing zones)? If violations are limited to an isolated location or sector, how mobile is the exploited labor?

Among tradable goods, which industries make the most intense use of the exploited labor – import-competing or exporting industries?

Are the markets for the products labor produces competitive or monopolistic?

Are labor markets competitive or monopolistic?

As the reader may anticipate, with so many possible permutations, generalizations are very difficult. To simplify things, we assume that violations are pervasive or that labor in exploited locations or sectors is less than perfectly mobile, that export industries make more intense use of

---

54 Labor exploitation often is perceived to be limited to a particular industry (textiles) or location (export processing zones). However, if exploitation is limited to a particular industry or location, and if labor is not perfectly mobile (i.e., not completely free of legal, cultural or geographic impediments to move to other industries or locations), it will have the same kind of effects on the performance of the economy as pervasive exploitation. The magnitude of these effects will vary directly with the size of the exploitive location or sector relative to the size of the overall economy and the proportion of exploited labor that is immobile.

For example, if women are arbitrarily paid lower wages and relegated to nonmanagerial, production tasks in the textile industry, and if they do not have the freedom or means to move to other industries, then they will displace less-skilled male labor in the textile industry, increase the aggregate supply of less-skilled labor,
exploited labor than import-competing industries, and that these industries sell in competitive international markets. Exhibit 2 summarizes the likely effects of applying these assumptions.

Briefly, child labor, forced labor and discrimination in employment may be expected to increase exports, and to reduce wages for less-skilled labor in domestic markets. Violations of any of these core labor standards may be expected to reduce investment in human and physical capital in more advanced industries, and thereby slow development and long-term growth. In addition, these restrictions may be expected to place downward pressure on the wages of competing workers in other countries.

Restrictions on freedom of association and collective bargaining have more ambiguous consequences. If labor markets in export industries are competitive, these restrictions will likely increase exports and reduce the wages of less-skilled workers; however, the expected effects on investments in human and physical capital, the development of more advanced industries, and growth are uncertain (they may be positive or negative). If employers in export industries possess some monopsony power, restrictions on freedom of association and collective bargaining will likely reduce exports and the wages of less-skilled workers, and will likely have negative consequences for investments in human capital and advanced industries, development and growth.

and depress the wages of less-skilled workers in the textile industry and elsewhere. However, if some of these female workers are mobile, the effects of discrimination on average wages (male and female) in the textile industry and the economy overall will be diminished in direct proportion to the number of female workers that leave the industry for better opportunities elsewhere.

Exploited child workers are generally not in control of their own activities (i.e., free to move or choose not to work) and forced labor is immobile by definition; therefore, these practices increase the supply of less-skilled labor and depress wages throughout the economy. Often, women face legal, cultural or geographic barriers to nondiscriminatory participation in labor markets. If exploited workers make up a small (large) proportion of the labor force, the magnitude of the effects on wages throughout the economy will be small (large).

Among tradeable goods, the greatest problems are believed to be in export-oriented, less-skilled-labor-intensive activities, such as textiles, footwear, consumer electronics, and other assembly activities (see Aggarwal 1995, p. 8). The markets for these kinds of products are highly competitive.
Labor Standards in the Global Trading System

The predictions about exports and wages appear reasonable but those about investment, development and growth may appear counterintuitive. Generally, we expect practices like child labor to suppress wages in less-skilled-labor-intensive industries like textiles and leather goods and to boost exports of their products. Although exploited labor may attract domestic and foreign investment to these industries, generally, exploitative practices may be expected to distort resource allocation and slow aggregate (economy-wide) investments in human and physical capital.⁵⁶

An international regime permitting signatory countries to embargo or impose tariffs on goods made with exploited labor⁵⁷ would improve the conditions of workers, and economic efficiency, in countries if the imposition or threat of trade measures caused governments or producers to take actions to end or reduce the incidence of exploitative practices. If trade measures did not result in corrective action, trade measures could actually make conditions worse.

Under most circumstances, trade measures would likely increase the wages of competing workers in other countries. This should not be interpreted as an argument to protect U.S. or other industrial country workers. For example, cracking down on child labor in the textile sector in developing countries where it is most prevalent would likely shift production and employment to developing countries where labor laws are more effectively enforced and wages are a bit higher but not as high as in the United States or other industrialized economies.

The following paragraphs state the effects of exploitative practices and trade measures in more detail. Alternatively, the reader may choose to go directly to a discussion of the empirical estimates in Chapter 5.

---

⁵⁶ Indeed, we have observed similar phenomenon in developed countries. In Britain, protection of coal, steel and other basic industries in the 1950s and 1960s increased investment in these activities but slowed aggregate growth.

⁵⁷ For example, a WTO agreement or the addition of trade measures to ILO enforcement options.
Child Labor and Forced Labor

In the short run, the exploitation of child labor and forced labor increases the supply of less-skilled labor and reduces their wages; shifts labor and capital to export-oriented industries from import-competing activities; and increases exports, imports, and GNP in the exploiting country. Concurrently, it reduces the wages of competing workers in other economies. Trade measures would be expected to:

reduce the supply of less-skilled labor, raise the wages of less-skilled labor, shift some labor and capital from export-oriented industries to import-competing industries, and lower short-run GDP if these measures resulted in an end to, or a reduction in, the exploitation of child labor and forced labor, or

reduce exports and imports, the demand for less-skilled labor and wages (harm less-skilled workers!), and lower short-run GDP if these measures did not result in an end to, or reduction in, the exploitation of child labor and forced labor. These workers would merely be redeployed to other industries, and the reduction in trade overall would reduce their value.

In either case, by lowering exports, trade measures would increase the wages of competing workers in other countries.

In the long run, the exploitation of child labor and forced labor tends to reduce investment in human capital and more advanced industries. This prolongs dependence on less-skilled-labor-intensive exports, retards development, and slows long-term growth. Hence, in the long run, trade measures would be expected to:

reduce dependence on less-skilled-labor-intensive exports, raise the wages of less-skilled workers, and raise GDP growth if these measures resulted in an end to, or a reduction in, child labor and forced labor, or

reduce exports and the wages of all less-skilled workers (harm less-skilled workers!) if these measures did not result
Labor Standards in the Global Trading System

in an end to, or a reduction, in the exploitation of child labor and forced labor.

In either case, lower exports would increase the wages of competing workers in other countries.

Discrimination in Employment

Where it was “customary” to pay women less than men or to deny women opportunities to participate in some activities, discrimination shifts female workers and some other resources toward female-intensive activities. This represents a misallocation of resources, which lowers productive efficiency.

In the short run, if female-intensive activities are in export industries, and lower female wages have only a small effect on female labor-force participation, discrimination increases exports and imports but lowers GDP. Concurrently, it reduces the wages of competing workers in other economies. Trade measures would be expected to:

- raise female wages, shift labor and capital from export (female-intensive) industries to import-competing industries, reduce exports and imports, and increase GDP if these measures resulted in an end to, or reduction in, discrimination against women; or

- reduce exports and imports, the demand for female labor, and female wages (harm women!), and reduce GDP if these measures did not result in an end to, or reduction in, discrimination against women.

In either case, by lowering exports, trade measures would increase the wages of competing workers in other countries.

In the long run, artificially suppressing female wages reduces or misallocates investments in human capital, and discrimination discourages patterns of development that reduce dependence on less-skilled-labor-intensive exports. Hence, in the long run, trade measures would be expected to:

-- 44 --
reduce dependence on less-skilled-labor-intensive exports, raise female wages, and increase GDP growth if these measures resulted in an end to, or reduction in, discrimination against women; or

reduce exports and female wages (harm women!) and lower GDP growth if these measures did not result in an end to, or a reduction in, discrimination against women.

In either case, lower exports would increase the wages of competing workers in other countries.

**Freedom of Association**

The effects of restrictions on freedom of association and collective bargaining under the assumptions posited above are affected by whether labor markets in export industries are competitive or employers enjoy some measure of monopoly power.

**Competitive Labor Markets**

In the short run, when employers and employees participate in competitive labor markets, restrictions on freedom of association and collective bargaining will lower wages, shift labor and capital away from importing-competing industries, and increase exports, imports and GDP. Concurrently, it will reduce the wages of competing workers in other countries. Trade measures would be expected to:

reduce exports and imports in the exploiting country, raise the wages of less-skilled workers, and lower GDP if these measures resulted in an end to, or a reduction in, restrictions on freedom of association and collective bargaining; or

reduce exports, imports, the wages of all less-skilled workers (harm less-skilled labor!), and GDP if these measures did not result in an end to, or reduction in, restrictions on freedom of association and collective bargaining.
Labor Standards in the Global Trading System

In either case, by lowering exports, trade measures would increase the wages of workers competing in other economies.

The long-run effects of restrictions on freedom association and collective bargaining are ambiguous. Whereas the exploitation of child labor, forced labor and discrimination in employment may be expected to distort the allocation of resources and reduce investment and GDP growth, restrictions on freedom of association and collective bargaining may negatively or positively affect resource allocation, investment and growth.

On the one hand, restrictions on freedom of association and collective bargaining may impair the protection of other core standards. When workers cannot organize or participate freely in civil dialogue, they are easier to exploit, and certain workers are certainly more vulnerable in this regard – for example, the uneducated, immigrants lacking fluency in the local language, women in more traditional settings, ethnic minorities, and members of lower castes. By impairing the protection of other core standards, restrictions on freedom of association and collective bargaining distort resource allocation and reduce growth, and the introduction of unions can reverse these negative effects.

On the other hand, unions, in the presence of otherwise competitive markets, introduce a new distortion: wages are elevated above the value of workers' marginal product, which may be expected to affect investment and growth negatively. However, the 1996 OECD study, Trade, Labor and Employment Standards, cautions:

…these negative effects on efficiency can be outweighed by the favorable impact of freedom of association on workers' motivation and productivity. The latter effects can be reinforced if freedom of association facilitates the establishment of a stable social climate and the creation of collective bargaining institutions, which are conducive to better relations between management and labor.58

The empirical literature is equivocal with regard to the existence of such productivity effects.59

59 For contrasting views, see Freeman (1992) and Belman (1992).
If the positive effects of unions outweigh the negative effects, then denying workers access to unions and collective bargaining may be expected to retard development and long-term growth. Hence, in the long run, trade measures would be expected to:

- reduce dependence on less-skilled-labor-intensive exports,
- raise the wages of less-skilled workers, and raise GDP growth if these measures resulted in an end to, or a reduction in, practices that deny access to collective bargaining; or
- reduce exports, the wages of all less-skilled workers (harm less-skilled labor!), and GDP growth if these measures did not result in an end to, or a reduction in, the exploitation of child labor and forced labor.

In either case, lower exports would increase the wages of competing workers in other countries.

**Monopsonistic Labor Markets**

When labor markets in the export industry are not perfectly competitive, the effects of permitting or denying workers access to unions and collective bargaining become somewhat less ambiguous. Specifically, when employers in an export industry face upward-sloping supply curves for labor, the wages they must pay rise with the number of workers they employ, and the marginal cost of hiring an additional worker exceeds the wage rate. Profit maximizing behavior requires setting the wage rate and employment below the levels that would prevail under competitive conditions, and producing fewer exports than would prevail under competitive conditions. This results in a misallocation of resources and lower GDP.

If workers can form a union and bargain for a fixed wage, the supply curves facing employers become flat. If this fixed wage is closer to the competitive wage than the monopsony wage, profit-maximizing behavior requires employers to hire more workers and produce more exports than would prevail under nonunion conditions. Other things remaining the same, permitting workers to bargain collectively reduces distortions in the economy and results in a more efficient allocation of resources, more exports, and higher GDP. In contrast, denying workers the right to bargain collectively perpetuates distortions in the labor market and
results in an inferior allocation of resources, fewer exports, and reduced GDP.

If workers are denied the right to form a union, trade measures imposed by other trading nations would:

increase exports, wages and GDP if these measures resulted in reforms that permit workers to form unions; or

further reduce exports, wages and GDP if these measures did not result in reforms that permit workers to form unions.

For countries applying trade measures, these measures would actually increase competition from imports for their less-skilled workers if they resulted in reforms that permit workers to form unions. They would only benefit the developing country if they resulted in an end to, or reduction in, barriers to unionization and free collective bargaining.
Chapter 5: Empirical Findings

Given that core labor standards are violated in many places in the developing world, and given that such violations may increase the competitiveness of less-skilled-labor-intensive exports, such as in the textiles, apparel, consumer electronics, and toy industries, the question emerges: What effects are violations having on wages, exports and investment in locations where workers’ rights are violated?

Fueling fears that these effects may be significant are reports that some governments apply lower standards in export-processing zones, which tend to specialize in low-skilled apparel and manufacturing assembly activities. A U.S. Department of Labor study observed that at least fourteen countries did restrict labor rights, in law and practice, in these zones. For example it reported restrictions on union activity in Bangladesh, the Dominican Republic, Jamaica, India, and several others.60

The economic arguments offered in Chapter 4 suggest that poor enforcement of workers’ rights will lower labor costs and increase less-skilled-labor-intensive exports. Although poor enforcement may increase investment in these industries, it may actually reduce aggregate (economy-wide) investment.

The 1996 OECD study, Trade, Employment and Labor Standards, compared foreign direct investment among the four categories of countries grouped according to their enforcement of freedom of association and the right to form unions (described in Chapter 3). It did not find a relationship between enforcement and aggregate investment:

While core labour standards may not be systematically absent from investment decisions of OECD investors in favor of non-OECD destinations, aggregate FDI data suggest that core labour standards are not primary factors

60 OECD 1996, p. 100.
in the majority of investment decisions of OECD companies.\textsuperscript{61}

The study reached similar conclusions about exports, as did a less complete analysis by Aggarwal, which relied on OECD freedom-of-association and child-labor data.\textsuperscript{62}

However, by making simple comparisons among groups of countries, these studies failed to adjust systematically for differences among countries in their endowments of various kinds of labor, human and physical capital, and intellectual property, which have been shown to have an important effect on competitive advantages.

Rodrik undertook a multivariate regression analysis that attempted to control for these factors. For one set of regressions, he used U.S. Department of Labor data regarding the adequacy of child labor laws and enforcement to divide countries into three categories: those with no problems in legislation or enforcement, those with problems in either legislation or enforcement, and those with problems on both counts. Adjusting for country size, as measured by population, growth rates and the black market premium for foreign currency (a proxy for other policy distortions), he found a statistically significant, negative relationship between his child labor index and aggregate U.S. foreign direct investment in manufacturing, in 39 economies from 1982 to 1989. In addition, he found a positive and statistically significant relationship between an index for the quality of democratic institutions and such U.S. investment. These results suggest that child labor and weak democratic institutions actually reduce aggregate investment.

Adjusting for national differences in productivity (as measured by GNP per capita), measures of human capital, and several other variables, Rodrik found a positive and statistically significant relationship between failures to enforce child labor standards and lower manufacturing labor costs (the presence of child labor lowers wage rates), and he found a consistently positive, but not a statistically significant, relationship between failures to enforce child labor standards and the ratio of textile exports to total exports.\textsuperscript{63} These results support the notion that poor enforcement

\textsuperscript{61} OECD 1996, p. 123.

\textsuperscript{62} Aggarwal 1995, pp. 41-42.

\textsuperscript{63} Rodrik 1996, pp. 50-59.
lowers wages and may bias the allocation of resources and exports toward less-skilled-labor-intensive activities

We identified two correctable problems in Rodrik’s study regarding manufacturing wages and exports. First, he sought to explain national differences in manufacturing wages by employing GNP per capita, whereas value added per employee in manufacturing would provide a better measure of national differences in productivity in the manufacturing sector.

Second, he employed single-equation models to examine the impact of child labor on both manufacturing labor costs and the textile share of exports (ordinary least squares – OLS). If manufacturing labor costs are determined by productivity and the presence of policy distortions – in this case, the presence of child labor – then OLS is likely the appropriate estimation method for the manufacturing labor cost equation. However, if policy distortions are important for both labor costs and production/export behavior, then the independent variables in the textile export equation should be manufacturing labor cost appropriately adjusted for the presence of policy distortions (estimation should be by two-stage least squares or instrumental variables).64

Employing the data for freedom of association from the OECD study and for child labor from the Rodrik study, as well as data that has become available since these studies, a new set of regression equations were estimated for this study. The variables and sources are described in Exhibit 3.

Exhibit 4 contains the results for manufacturing labor costs (MLCOST). The t-statistics are reported in parentheses beneath estimated coefficients. Because expected wages are strongly determined by productivity, as measured by manufacturing value added per employee (VA/E), the coefficients for the indexes for freedom of association (FOA) and child labor (CHILDINDEX) are negative and statistically significant.

---

64 As discussed just below, we have a two-equation model:

\[ \text{MLCOST} = f(\text{MVA/E, FOA, CHILDINDEX, } u) \]
\[ \text{TXTEXPORTS} = g(\text{MLCOST, FOA, CHILDINDEX, } v) \]

where \( u \) and \( v \) are the disturbance terms. Since the presence of distortions is important in both labor cost and production (export) decisions, MLCOST and \( v \) are likely correlated, and OLS is inappropriate for the second equation.
### Exhibit 3
#### List of Variables and Sources

CHILDINDEX: a value of 1 was assigned to those countries with no problems in legislation and enforcement, 2 to those with problems in either legislation or enforcement, and 3 to those with problems on both counts. Most of these data are for 1992.

CHILDPRCNT: percent of children 10-14 in the labor force, estimated for 1993 – World Bank, *World Development Indicators, 1999*, Table 2.3.

BMP: Log of one plus the black-market premium for foreign currency, 1980-1984 – obtained from Rodrik 1996.

DEMOC: democracy index, with values ranging from one (best) to zero (worst) – obtained from Rodrik 1996.


FOA: a value of 1 was assigned to countries with the best freedom of association record in the OECD study, and values of 2, 3, and 4 were assigned to countries with ascending levels of problems, as reported in the OECD study. Most of these data are for 1993.


MVA/E: manufacturing value added per employee, in thousands of U.S. dollars, for 1990 to 1994 – from the same source as MLCOST.

According to these estimates, a one-level increase in either FOA or CHILDINDEX – that is, a one-level decrease in the quality of enforcement – reduces wages, on average, more than $3,000 per year; and a one-level decrease in both reduces labor costs, on average, more than $6,000. These are very large numbers considering that, for the observation period, the value of MLCOST for the United States was about $34,000 and for Hong Kong, India, and Indonesia $13,500, $1,200 and $1,000, respectively.

Exhibits 5 and 6 report regressions examining the impacts of lower labor costs and poor enforcement of labor standards on dependence on less-skilled-labor-intensive exports, as measured by the textile and apparel exports as a share of manufacturing exports (TEXTEXPRTS). Exhibit 5 reports results using the instrumental variables technique suggested above, and Exhibit 6 reports results obtained using OLS. Specifically, the results in Exhibit 5 were obtained using manufacturing labor costs adjusted for the presence of violations of freedom of association and child labor (ELCOST). These instrumental variables are the predicted labor costs obtained from the regression estimates reported in columns 2 and 4 of Exhibit 4. The results in Exhibit 6 employed the observed values of manufacturing labor (MLCOST) without making such adjustments.

The results for ELCOST and MLCOST have expected negative signs (lower labor costs increase dependence on less-skilled-labor-intensive exports). The results for ELCOST alone (columns 1 and 5 in Exhibit 4) are better than both those for MLCOST alone (column 1 in Exhibit 5) and for the comparable equations in the Rodrik study – specifically, the adjusted R² for ELCOST are much higher. Moreover, the estimated coefficient for ELCOST is significant at well above the one percent level.

When FOA is added to the equations employing ELCOST and MLCOST, its estimated coefficients have the expected positive sign (indicating that poorer enforcement of freedom of association increases dependence on less-skilled-labor-intensive exports), and are statistically significant.

When CHILDINDEX is added to the equations employing MLCOST, it has the expected positive sign but is not statistically significant.

---

65 The comparable equations in Rodrik (1996) appear in the first column of his Tables 4 and 5, pp. 55 and 56.
When it is added to equations employing ELCO, it has an unexpectedly negative, statistically insignificant sign. However, ELCO remains significant, implying that the effects of CHILIND on variations in TEXTEXPRTS has been subsumed into ELCO through the instrumental variables estimation technique.

These results support Rodrik's findings that failures to enforce labor standards are substantially lowering manufacturing labor costs and may be increasing the competitiveness of less-skilled-labor-intensive exports.

Exhibit 7 reports regression estimates for U.S. foreign direct investment in manufacturing for 1982-1994 across 44 countries for which consistent data were available. As expected, the size of U.S. investment in overseas economies is positively related to the size of these economies, as measured by their GNP. When added individually to the equation, the signs for FOA and CHILIND indicate that violations of workers' rights do not particularly attract foreign investment. When a quality-of-democracy index is added, the results indicate that foreign investment is positively correlated with this variable. Although these results are not particularly strong, they are in line with earlier findings indicating that violations of workers' rights do not positively affect aggregate investment.
Chapter 6: Enforcement Regimes

WTO agreements share important characteristics with ILO Conventions and other human rights agreements. Both establish systems of public international law that express standards for government behavior, and for the laws and regulations governments enforce within their jurisdictions. However, these systems differ in one way, with significant consequences for the international enforcement of workers’ rights.

WTO agreements pertain to the treatment and legal rights afforded by governments to foreign goods and services in their markets. They provide for an exchange of market access benefits (a set of contracts) among sovereigns regarding how they treat one another’s goods and services, and in turn, one another’s firms and nationals.

By contrast, ILO Conventions and other human rights agreements affirming labor rights pertain to the treatment and legal rights afforded by governments to their domestic workers. These rights do not constitute an exchange of benefits among governments, defined by their treatment of one another’s firms and nationals. Rather, they are an affirmation of what constitutes appropriate behavior by sovereigns toward workers within their jurisdictions.

Consequently, it is not surprising that the GATT and WTO have evolved an elaborate dispute settlement mechanism, which increasingly looks like a system of commercial law binding on sovereigns. Much like domestic contract law binding on private individuals, a WTO member government (complainant) may bring complaints regarding alleged violations by another government (respondent) that may deprive the former of a contracted commercial benefit under the agreement. If a respondent is found in violation and fails to modify its offending practice adequately, the dispute settlement panel may authorize the complainant to withdraw a comparable market-access benefit (impose prohibitive tariffs on a comparable amount of imports originating from the respondent’s territory).

---

66 Even TRIPS pertains only to the treatment of foreign patents, copyrights and other forms of intellectual property. WTO members are not required to afford equal treatment to domestic owners of intellectual property.
Generally, the imposition or threat of such trade measures has been enough to persuade respondents eventually to modify their offending practices. Moreover, the process of dispute settlement has yielded a rather extensive record of cases that provides guidance about the meaning of the often-general language of WTO agreements.67

In contrast, although the ILO provides for members to bring complaints about other members’ practices that may violate its Conventions, the ILO lacks authority to authorize trade measures or other economic measures to encourage modification of offending practices. Consequently, it is not surprising that few complaints have been brought.

An important impetus behind the mounting political pressure in the United States and Europe for enforcement of labor standards is that enforcement failures in one country may impair the attainment of commercial benefits members expect, and also exacerbate the scope of adjustments their workers must accept, from WTO agreements. Put another way, one government’s failure to protect internationally recognized workers’ rights within its jurisdiction may harm workers in other countries.

Enforcement in the ILO

When the ILO Constitution was drafted after World War I, many urged provisions for sanctions against member states in violation of standards. This idea was dropped in favor of the less confrontational language of Article 33, which retains the possibility of "action deemed wise and expedient to secure compliance." In practice, this has entailed public methods of persuasion within the tripartite discussions (governments, workers and employers) that are the ILO’s institutional hallmark. There are three methods of enforcement: the regular supervisory system, general surveys, and the complaint system.

Regular Supervisory System

All members are required to report on their efforts to give effect to ILO Conventions.68 These reports include information about domestic laws

---


68 Article 22 of the ILO Convention requires member states that have ratified a Convention to make “an annual report to the International Labour Office on the
and practical arrangements for their administration. These form the basis for reports that the ILO Director-General prepares for the Governing Body.

A Committee of Experts reviews these reports, and it may draw on other information sources (e.g., news, legal publications and conclusions of other ILO bodies, especially the Governing Body's Committee on Freedom of Association), to prepare its own report for the Governing Body.

If the Committee of Experts finds that a government is not in full compliance with a set of obligations, it will issue either: 1) a direct request for further information, which is sent directly to a government and is not published in its report; or 2) an observation, which is reserved for more serious problems and is published in its report.

The Committee of Experts then submits its reports to the annual session of the International Labor Conference. There, each report is measures which it has taken to give effect to the provisions of Conventions.” For a state that has not ratified a Convention, Article 19 requires “that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention.”

Over the years, as the number of Conventions and recommendations increased, the Committee of Experts became increasingly burdened. The ILO’s Governing Body consequently decided (first in 1959) that detailed reports would only have to be reported every two years. This solved the problem until 1977, when further changes were made to accommodate additional Conventions and ratifications. In 1994, problems once again arose, what with 175 Conventions and 6000 ratifications. Consequently, the process was once again revised. According to the ILO: “the approach used is that as regards certain particularly important Conventions, such as those: dealing with basic human rights, detailed reports are requested every other year, while for other Conventions, reports are normally requested only at five-year intervals. Also, the Governing Body has decided that reports would not be requested on certain Conventions which had lost their relevance.” See ILO 1999g.

In 1998, the ILO established a requirement that all members that have not ratified one of the eight Conventions supporting core labor standards report annually on "any changes in their law and practice." The first such report under this requirement was published in 2000. See Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, ILO 2000a, p. 29.
Labor Standards in the Global Trading System

examined and discussed by a tripartite Conference Committee on the Application of Conventions and Recommendations. This involves frank discussion of the concerns raised by the Committee of Experts.

Thereafter, a report by the Committee on the Application of Conventions and Recommendations is submitted to the Conference, which discusses it in plenary session, and then adopts it. This report is then submitted to member governments. The judgment of one group of historians concerning the reporting process is that:

In many cases, the ILO supervisory system returns to problems over and over again before obtaining results. This happened with questions of forced labor and trade union rights in the Soviet bloc before political changes finally set these countries free to adopt the changes the ILO had been recommending for years. It still happens with questions like forced labor, child labor, discrimination against women and minorities – deeply entrenched problems that will not go away by a decision of the legislature.69

As a consequence, the ILO's record of enforcement through the supervisory procedure is mixed, reflecting the organization's limited leverage and the divergence of member governments' interests, even as concerns core workers' rights.

General Surveys

In addition to the regular system, the Committee of Experts on the Application of Conventions and Recommendations conducts a "general survey" of Conventions selected by the Governing Body. For the Conventions selected, compliance by all members is examined. In this context, compliance with Conventions supporting enforcement of core labor rights has been examined on an occasional basis.70 Furthermore, the

---
69 Bartolomei de la Cruz, von Potobsky, and Srewston 1996, p. 31.
70 According to the ILO's General Surveys Under Article 19:

Under Article 19(5)(e) and (6)(d) of the Constitution, the Governing Body may request reports from each member state on the position of its law and practice in regard to the matters dealt with in Conventions which have not been ratified or recommendations, showing the extent to which effect is given, or proposed to be
ILO recently established a rotational system, wherein one of the four core labor standards is the subject of a global review every four years. The given, to any of the provisions of the Conventions or recommendations. In the case of Conventions, the state shall also indicate "the difficulties which prevent or delay the ratification of such Conventions."

For many years, the Governing Body has selected specific Conventions and recommendations (or groups thereof) for Article 19 attention. The Committee of Experts on the Application of Conventions and Recommendations responds with General Surveys, relying on information from a variety of sources. These General Surveys form part of the Committee of Experts’ report to the International Labour Conference.

One of the purposes of General Surveys is to increase the profile of any set of international labor-instruments, and encourage the Social Partners (government/employers/workers) to consider the possibility of ratification. The ILO Constitution leaves selection of reports entirely at the Governing Body’s discretion. From 1980 to 1999, the following general surveys were conducted:

1999 Migrant Workers
1998 Vocational Rehabilitation and Employment of Disabled Persons
1997 Labour Administration
1996 Equality in Employment
1995 Protection against Unjustified Dismissal
1994 Freedom of Association and Collective Bargaining
1993 Workers with Family Responsibilities
1992 Minimum Wages
1991 Human Resources Development
1990 Labour Standards on Merchant Ships
1989 Social Security Protection in Old-Age
1988 Equality in Employment and Occupation
1987 Safety in the Working Environment
1986 Equal Remuneration
1985 Labour Inspection
1984 Working Time
1983 Freedom of Association and Collective Bargaining
1982 Tripartite Consultation
1981 Minimum Age
1980 Migrant Workers

See ILO 1999h.

71 See Article III of the Follow-up to the Declaration on Fundamental Principles and Rights at Works.
latest report reviews the current status of freedom of association and collective bargaining rights.\textsuperscript{72}

\textbf{Complaint Procedure}

In addition to the report procedures, the ILO has developed a complaint procedure. Article 24 allows industrial associations of employers or workers to make representations to the International Labour Office of any member state’s failure “to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party.” In response, the Governing Body may communicate with the government in question and invite it to make statements concerning the allegations. Article 25 provides that, if the government does not make a statement within a reasonable time, or if the statement received is deemed unsatisfactory, the Governing Body itself may publish the representation and any additional statement.

Article 26 provides that a member government may also file a complaint with the International Labour Office if it is not satisfied that another member is securing observance of a Convention “which both have ratified.” Again, the Governing Body may communicate with the government in question or, if it is not satisfied with that communication, appoint a Commission of Inquiry “to consider the complaint and to report thereon.” Through this process, the government in question is entitled to provide its own representation.

Article 28 provides that the Commission of Inquiry, after having considered the complaint, shall report its findings and its recommendations concerning steps it believes should be taken to address the complaint. The Director-General communicates this report both to the Governing Body (Article 29) and to the governments involved, which, in turn, are provided three months to inform the Director-General whether they accept the recommendations. Parties may also propose sending the matter to the International Court of Justice, whose decision is final.

The complaint procedure has been used relatively infrequently. The regular examination of reports by the Committee of Experts and the Conference generally provides redress of complaints or inadequacies in member state obligations, thus obviating the need for Commissions of

\textsuperscript{72} ILO 2000d.
Inquiry. The complaint process was nonetheless invoked twenty-six times in the twentieth century, resulting, in some cases, in the establishment of a Commission of Inquiry.73

For the most egregious complaints and intractable disputes, Article 33 provides that, in the event a government fails to carry out the Commission of Inquiry’s recommendations or a decision of the International Court of Justice within the time specified, the Governing Body may recommend “such action as it may deem wise and expedient to secure compliance.” This language served as the substitute for initial efforts to provide the ILO with direct sanctions capacity.74

Throughout the twentieth century, Article 33 measures were never invoked. But after a protracted effort to deal with the issue of compulsory labor in Myanmar, the ILO’s Governing Body invoked Article 33 for the first time in March 2000. A 1998 Commission of Inquiry report concluded that “the obligation to suppress the use of forced or compulsory labour is violated in Myanmar national law as well as in practice in a widespread and systematic manner, with total disregard for the human dignity, safety, health and basic needs of the people.” Consequently, Myanmar has been barred from participating in further technical or cooperative meetings with the ILO.75

On November 16, 2000, the Governing Body voted to recommend that member governments impose sanctions on Myanmar. Because the ILO has no power to impose sanctions, this resolution leaves the determination of appropriate actions to member governments.76

U.S. Regional and Bilateral Free Trade Agreements

The United States has in place free trade agreements with Canada and Mexico (NAFTA) and with Israel, and in October 2000, it signed a free trade agreement with Jordan that the Congress is expected to approve. Of

--- 65 ---

73 For a list of these, see ILO 1998c.
74 For a discussion of this history, see Leary 1996b, p. 189.
75 ILO 2000c.
76 Koppel 2000.
these, NAFTA and the Jordan agreement contain provisions designed to encourage participants to respect workers’ rights. In addition, the United States has announced plans to negotiate with Singapore and Chile agreements having provisions similar to the Jordan agreement.

**NAFTA**

In 1994, Mexico, Canada and the United States implemented the North American Agreement on Labor Cooperation (NAALC), a NAFTA side agreement. Its objective is to improve working conditions and living standards within the free trade area. The approach emphasizes cooperation, and reserves fines and trade measures only as a "last resort."77

While the NAALC highlights the importance of a number of labor rights, the dispute resolution procedure focuses on failure by governments to enforce domestic law regarding occupational safety and health, child labor and minimum wages. Other rights – for example, those supported by the core ILO Conventions – are strictly outside the purview of the NAALC’s enforcement mechanisms.

**U.S.-Jordan Free Trade Agreement**

The U.S.-Jordan Free Trade Agreement includes provisions to protect workers’ rights in its main text. In Article 6, the parties affirm their commitments under the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its follow-up program. Article 6 states that each party recognizes “it is inappropriate to encourage trade by relaxing domestic labor law,” agrees to “strive to ensure that it does not waive or otherwise derogate, or offer to waive or derogate from, such laws as an encouragement for trade with the other party,” and agrees to ensure that their laws “provide for labor standards consistent with internationally-recognized labor rights.” These rights are enumerated in the agreement to include a minimum age for employment; prohibition of forced or compulsory labor; freedom of association and collective bargaining; and acceptable conditions of work with respect to minimum wages, hours of

---

77 "The Agreement does provide the ability to invoke trade sanctions as a last resort for non-enforcement of labor law by a Party." See U.S. Department of Labor 1998. See also, North American Agreement on Labor Cooperation, Final Draft (September 13, 1999), Part 5, Article 39, Section 4, Paragraph 2, and Part 5, Article 41, Section 2.
work, and occupational health and safety. Noticeably absent is nondiscrimination in employment.

To the extent that a party fails to enforce its labor laws effectively, “through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties,” this behavior may become the subject of dispute settlement, just like other provisions of the agreement, and may ultimately result in the withdrawal of comparable trade benefits under the agreement. The parties recognize that each party retains the right to prosecutorial discretion, but it is unclear how this latter right is to be weighed against the obligation not to encourage exports or import-competing production in dispute settlement. Nevertheless, the agreement represents a landmark in creating a system of enforcement for violations of workers’ rights specifically affecting international competitiveness.

**EU System**

Since 1961, the Council of Europe has emphasized respect for workers’ rights as among the obligations of membership. The European Social Charter of 1961 commits its now-33 signatories to work toward the fulfillment of 31 social and economic rights, which address the four core labor rights in language similar to the ILO Conventions.78

During the negotiations leading to the single EU market initiative (the "1992" initiative), many EU members expressed fears of "social dumping." Slow growth, high unemployment, and accession of low-wage southern countries (Spain, Portugal and Greece) formed the backdrop to demands for social harmonization. Britain, however, opposed efforts to include a Social Charter in the Maastricht Treaty. Instead, a protocol was annexed to the Treaty indicating the aim of closer harmonization among the members. This said, the Treaty does espouse general goals with regard to the treatment of workers and imposes strong commitments regarding equal treatment of men and women in employment.

---
78 The Charter has been the subject of periodic reviews and additional protocols. For example, in 1988, obligations regarding nondiscrimination were further articulated by the addition of Article 20. The most recent revisions were adopted in Strasbourg on May 3, 1996. The number of social and economic rights to which the signatories are committed increased from 19 in 1961 to 31 in 2000.
Subsequently, the United Kingdom participated in the 1997 Treaty of Amsterdam, which restored unity to social policy by incorporating the Social Charter into EU law. It provides that the EU Council may adopt directives, in co-decision with the Parliament, in a variety of areas that may improve workers’ conditions. Legislation regarding pay, the right of association and of workers to strike, and the right of employers to lock workers out remain outside EU competence.  

Generalized System of Preferences

The United States and the EU extend preferential tariff treatment on specified lists of products to developing countries through the GSP. Both conditions these benefits on observance of internationally recognized workers' rights. In addition, the United States links participation in the CBI and several other programs assisting developing countries to observance of these rights, through the GSP review mechanism.

The president enjoys broad discretion in the application of GSP provisions. This discretion has frequently meant that advocacy of labor rights has been in competition with other foreign policy objectives. At the same time, GSP benefits are modest, especially in light of further tariff reductions under the Uruguay Round, and shrinking benefits provide the United States with only modest opportunities to effect change among participants. However, a 1995 General Accounting Office (GAO) study did record some successes in using GSP to improve the conditions of workers in beneficiary countries.

79 For a discussion of these issues, see European Union 2000.
80 GAO 1995, p. 115.
81 GAO 1995, p. 11.
82 For the 1995 GAO study, the GSP Director cited a case in Malawi, where a labor leader was imprisoned for sedition, and the GSP Program did have the clear evidence it needed to act. The GSP Subcommittee pursued the issue with the Malawi government, and the labor leader was released. He also cited the Central African Republic, Paraguay, and Chile as countries whose benefits had been suspended but were later reinstated after their practices had improved. He further noted that complaints against Costa Rica and Paraguay were settled, and the AFL-CIO withdrew petitions, after new legislation was enacted. Also, the GSP Director noted progress in El Salvador and Indonesia. Just as importantly, GSP officials said that labor standards provisions have resulted in raising the consciousness of beneficiary developing-country governments about the importance of worker rights
A 1998 GAO study focused on the CBI, which provides trade preferences for apparel assembled from fabric formed and cut in the United States. In the 1990s, all the major apparel-exporting countries except Jamaica (Costa Rica, Dominican Republic, El Salvador, Guatemala and Honduras) were the subject of petitions concerning workers' rights violations (generally, unionization issues). In every instance, the GSP Subcommittee terminated its reviews after petitioned countries made sufficient efforts to address the shortcoming.

It would seem that conditionality is having some positive effect on respect for workers' rights in the Caribbean apparel industry. However, it is important to note that significant problems persist, and it is difficult to isolate the specific contribution of conditionality, because the apparel industry has been the focus of regional efforts to adopt private codes of conduct, and the ILO has taken an active part in establishing tripartite commissions in the region to resolve issues.

In 1994, the EU established a direct link between GSP benefits and labor standards. A notable EU innovation is the offer of positive inducements to effect improvement in labor standards:

and are having longer-term consequences as development levels increase. GAO 1995, 109 and 112.

83 As a result of this preferential treatment, apparel imports from the region increased seven-fold from 1987 to 1997. GAO 1998, p.5.


85 The GAO study concluded:

The major CBI apparel shipping countries have made efforts to improve worker rights standards and to better address labor problems in their apparel industries in recent years. CBI governments have reformed their labor laws to meet international standards where needed and have been making efforts to upgrade the performance of their labor departments. However, despite the progress that had been made, allegations of worker rights abuses persist, and enforcement of labor laws generally remains a problem in CBI countries.

GAO 1998, p. 29.

Labor Standards in the Global Trading System

As from 1 January 1998 special incentive arrangements in the form of additional preferences may be granted to beneficiary countries covered by the scheme which request such arrangements in writing and provide proof that they have adopted and actually apply domestic legal provisions incorporating the substance of the standards laid down in International Labour Organization Conventions Nos. 87 and 98 concerning freedom of association and protection of the right to organize and the application of the principles of the right to organize and to bargain collectively and Convention No 138 concerning the minimum age for admission to employment.\(^87\)

The same December 1994 EU regulation establishes a system of conditionality. It provides that GSP benefits may be temporarily revoked, in whole or in part, if there is “practice of any form of forced labour as defined in the Geneva Conventions of 25 September 1926 and 7 September 1956 and International Labour Organization Conventions Nos. 29 and 105; or export of goods made by prison labour.”\(^88\) In March 1997, the EU invoked this clause to withdraw GSP access for goods from Myanmar, because of the latter’s persistent compulsory-labor violations.\(^89\)

Market Approaches

In addition to government enforcement mechanisms, several approaches seek to create incentives for better private-sector compliance.

Labeling Programs

Label regimes certify that a good has been made under acceptable conditions. These rely on consumers, exporters and retailers, through their selection of goods, to pressure and reward manufacturers that foster acceptable working conditions.

The knotted-carpet industry was among the first industries to become the focus of such an approach, when, in the 1980s, religious and


human rights groups concentrated international attention on the 
exploitation of child labor throughout South Asia. Several label regimes 
emerged to address the problem and defend the industry. These illustrate 
the variety of actors, goals, rules, and methods that label regimes may 
possess.

In 1994, several Indian and international NGOs, the Indo-German 
Export Promotion Program, a small segment of the Indian carpet industry, 
and UNICEF founded RUGMARK to combat child labor. RUGMARK is 
a self-sufficient certification program as well as an international trademark, 
operating in both India and Nepal. Retailers and manufacturers pay a 
license fee to use the RUGMARK label, and RUGMARK uses these funds 
to support both an inspection program and a rehabilitation program for 
children found working on looms. 90 If inspectors discover child labor at a 
loom, they issue a warning and make follow-up visits. Upon a second 
infraction, the manufacturer is decertified. Participants place a RUGMARK 
label on the back of each rug.

In 1995, the Indian government established the Kaleen labeling 
program in response to international criticism regarding the use of child 
labor. 91 The Kaleen program commits exporters to adhere to the Child 
Labor Act of 1986. The Act prohibits the use of labor by children under 14; 
however, it exempts those children working with their families and has no 
provisions regarding school attendance. Licensing fees are used to support 
both inspections and some child services. A private-sector organization 
inspects about ten percent of program participants each year.92

In 1995, a Swiss industry group and several NGOs established the 
STEP93 program, which differs from RUGMARK and Kaleen in several 
important ways. First, it certifies companies, not individual carpets. Second, 
it has a broader focus than child labor, including general working conditions 
and livable wages among carpet makers. Third, its geographic reach is more 
estensive, including participants from India, Nepal, Morocco, Turkey, and 
Egypt. Licensees are permitted to use the STEP logo in the course of their

90 U.S. Department of Labor 1997, pp. 24-34.
91 Kaleen means carpet in Hindi.
93 STEP is a German acronym, which translates into English as Institute for 
Fair Treatment in Carpet Production.
business, by displaying it in windows, on stationary and in advertisements. The STEP program relies heavily on the integrity of licensed retailers, and its monitoring effort is mixed and varies from country to country.  

In 1994, a German carpet trade association established Care & Fair. It is similar to the STEP program in that it does not label individual carpets. Rather, it collects dues from association members with which it funds social projects (e.g., schools, health care, health clinics) in carpet-producing areas. Care & Fair members commit to adhere to a code of conduct when purchasing from suppliers. This code requires manufacturers to provide humane conditions, pay at least minimum wage, observe national employment laws, provide basic medical care, and ensure that their workers' children attend regular schooling. Further, Care & Fair does not have a monitoring program but seeks to effect change through the individual purchasing decisions of its members.

This brief review of the knotted carpet industry suggests the diversity of approaches that labeling regimes can assume. Labeling regimes are not limited to this industry, and the Department of Labor has studied similar efforts in the leather footwear, soccer ball and tea industries. It concludes:

Because the child labor labeling programs are recent, and definitive data on costs and benefits as well as consumer demand are not available, this report has not attempted to make quantitative assessments of their effectiveness…. The Department of Labor believes that labeling programs can be an effective, market-based response to consumers who do not want to support the exploitation of children in the production of goods for export.  

The success or failure of label programs depends on a variety of factors. With regard to any individual labeling program, these include its claims, administration, transparency, and monitoring. The most critical component of any label regime remains, however, consumer behavior. Where consumers are unaware or indifferent to the labor conditions under

--- 72 ---

which a product was manufactured, labels are unlikely to reduce meaningfully the worldwide incidence of child labor.

**Consumer Actions**

Like label regimes, consumer boycotts against goods, firms or countries that ignore workers' rights assume that consumers are willing to pay a marginal cost to assure a product's "social content." Where profit margins are thin, consumer boycotts have the potential to effect substantial change in the behavior of exporters. Freeman observes:

In many markets, changes in the behavior of a small proportion of consumers may yield huge changes in profitability. A loss of 5 to 10 percent of sales will cut deeply into the profits of retail stores and induce them to drop lines of goods from low-standard producers, pressuring those producers to improve conditions.

**Codes of Conduct**

Codes of corporate conduct commit companies to avoid (or adopt) specific practices. In some cases, the codes emerge in the wake of publicity concerning a specific episode relating to core standards. For example, in March 1992, Levi-Strauss implemented "terms of engagement" and "guidelines for country selection" to govern supplier decisions. Immediately, these rules were put to the test when Filipino employees at a factory in Saipan were discovered working in near slave conditions. The company canceled its contract there, as well as with suppliers in the Philippines, Honduras and Uruguay. In a further move, it withdrew from both China and Burma, based on its country guidelines.

Increasingly, firms are developing codes to preempt the possibility of future scandal, which can substantially damage a manufacturer's brand equity. In 1996, the U.S. Department of Labor published a survey of codes of conduct in the apparel industry. The study found that codes of conduct

---

97 For discussion of whether there exists a "demand curve for labor standards," see Freeman 1994, p. 27.
98 See Freeman 1994, p. 28.
vary widely according to their scope, transparency, monitoring, and enforcement. While noting they are not a "panacea," the Department of Labor study concluded:

codes of conduct can be a positive factor in solving the global child labor problem. Most of the large U.S. apparel importers responding to the voluntary questionnaire have adopted codes prohibiting child labor in garment production and some are clearly committed to their implementation. This is a remarkable change in a matter of just a few years.  

A 1998 ILO survey of approximately 215 codes found them to vary widely with regard to substance and definition. One important finding is that codes largely employ "self-definitions" of important standards: "no more than one-third of the codes and labels reviewed referred to international standards, whether general human rights standards or labour-specific standards..." A 1999 OECD review reached a similar conclusion.

---

100 U.S. Department of Labor 1996, p. x.
102 "The survey found that one or more international standards are explicitly cited as a reference point in about 20 percent of the codes surveyed." Blanpain 1999, p. 23.
Chapter 7:  
Conclusions

A clear consensus has emerged in the international community that national governments have an obligation to promote and protect, through domestic laws and effective enforcement, four core workers’ rights, or core labor standards. These include the prohibition of exploitative forms of child labor, forced labor, and discrimination in employment, and the right to freedom of association and collective bargaining.

This consensus is evidenced by the near universal participation of national governments in various international human rights agreements, and the UN and ILO surveillance systems intended to encourage compliance with their obligations. Central among these are the 1998 ILO Declaration on the Fundamental Principles and Rights at Work and its follow-up program.

Better enforcement of these rights may be expected to promote patterns of trade that improve economic efficiency, raise incomes and increase long-term growth. Also, better enforcement would have favorable effects on the quality of growth in developing countries by encouraging investments in education and training and in more advanced industries – i.e., industries less dependent on less-skilled labor.

Estimates of the numbers of child workers in export industries, the scope of violations of freedom of association, and their effects on manufacturing labor costs and developing-country dependence on exports of textiles and apparel indicate that violations of core workers’ rights are significantly suppressing wages and boosting exports. Although poor enforcement of workers’ rights may attract investment to export platforms and industries, it does not appear to have a positive effect on aggregate (economy-wide) foreign direct investment.

Applying WTO dispute settlement or a similar procedure within another international organization to strengthen international enforcement of core labor standards would likely promote patterns of trade that raise incomes and growth if trade measures caused governments or private employers to take steps that improved the treatment of workers. If trade measures did not have such an effect, these could actually worsen the
circumstances of exploited workers. Either way, trade measures would alleviate downward pressure on the wages of workers in other countries harmed by competition from products made with exploited labor. Those potential consequences of applying WTO dispute settlement to violations of core labor standards would be similar to those for other, WTO-illegal policies that artificially boost exports.

Taken together, these findings are quite significant. Specifically, advocates for developing countries often argue that stronger international enforcement of labor standards, such as conditioning market access under trade agreements, is unfair because it would impose western values on many developing countries and deny them access to practices employed by industrialized countries when they were at similar stages of development. However, the participation of virtually all developing countries in the human rights agreements and UN and ILO surveillance systems noted above indicates their acceptance of the values underlying the core standards, and empirical evidence does not support the notion that lax enforcement aids long-term development. Effective enforcement within the WTO could be expected to improve the circumstances of workers and the development prospects of countries that played by the rules.

Where to Address Labor Standards and Trade?

Although the WTO would be an effective forum for addressing the relationship between workers’ rights and trade, it is not clear that it would be the most appropriate forum. Essentially, the international community has three options:

the status quo – leave the enforcement of core labor standards to the ILO without any further change in its enforcement powers, and encourage the continued development of market-oriented, voluntary approaches.

enhance the enforcement powers of the ILO – for example, through universal application of the eight core Conventions and empowering the ILO to impose specific trade or other economic measures in response to violations.

negotiate an LRTA in the WTO based on the four core standards, or append a similar structure to the ILO.
The status quo is viable and does not imply a standstill for workers rights. The continued development of ILO surveillance, most notably through the implementation of the 1998 Declaration on Fundamental Principles of Rights at Work and the 1999 ILO Convention on the Worst Forms of Child Labor, and continued efforts to enlist business cooperation through market-oriented approaches are raising awareness and positively affecting business behavior.

However, as discussed in Chapter 1, polls consistently indicate a significant majority of Americans believe trade agreements should address labor and environmental issues. Consequently, the U.S. president will encounter great difficulty forging a durable domestic consensus to pursue another comprehensive round of multilateral trade negotiations without a mandate to include these issues on the agenda. This could well limit progress in the WTO on a full range of issues that other industrialized and developing countries would like addressed.

Ratifying all eight core Conventions and granting the ILO authority to authorize trade measures is unlikely to be practical for many ILO members. Three sets of issues the United States encounters illustrate the problems many governments may face.

First, as noted in Chapter 2, various aspects of the core Conventions establish means and not just standards and principles for the protections afforded workers. These may require changes in U.S. approaches to ensuring nondiscrimination in the workplace, freedom of association and the right to collective bargaining. Various aspects of these requirements would not be attractive to business, organized labor or both. Examples include requiring “comparable worth” standards for compensation and denying majority elected unions exclusive status to represent workers. The Congress may view such changes as unnecessary and inappropriate for achieving reasonable international protection of workers’ rights.

Second, ILO Conventions may impose malleable standards on U.S. law and practice. Specifically, the ILO has a legislative arm, the International Labour Conference (ILC) and its Governing Body (ILC Executive Committee), that ratifies Conventions and amends rules by two-thirds majority. The ILO supervisory process (the analog of WTO dispute settlement) may alter the requirements of Conventions to fit circumstances unforeseen by their drafters (the analog to judge-made law in common law
systems). Generally, governments are not bound by Conventions they do not ratify; however, the ILO supervisory process has used Conventions passed later in time to revise its interpretations of Conventions passed earlier in time. This creates the following problems:

When the United States ratifies WTO agreements, it accepts obligations that are specific at the time of ratification, and the WTO may not add to those obligations without specific U.S. approval. WTO obligations are established or amended only by ratification of new agreements — all signatories must agree to accept new obligations. Corollary to this, the dispute settlement process may only interpret WTO agreements — panel decisions may not create new obligations from general principles (no judge-made law). By adopting the eight core Conventions and giving the ILO power to penalize a country’s international commerce for noncompliance, the United States would be delegating to it enforceable legislative and judicial authority to alter U.S. obligations. This is far beyond what sovereignty the United States delegates to the WTO, and the Congress would likely find this to be an unnecessary abridgement of its authority.

The treatment of legislative histories by the ILO supervisory process conflicts with U.S. judicial rules of construction. In U.S. courts, “post hoc legislative history is given little weight in discerning the intent of Congress. The ILO supervisory process is in direct contrast with the requirements and interpretations of conventions apparently evolving as other conventions are adopted. This occurs even though the legislative history of those conventions evidences no intention to amend earlier conventions.”

---

103 For example, a 1983 ILO Committee of Experts report incorporated reasons for invalid dismissal and procedures found in Convention No. 158 on Termination of Employment into the protections of Convention No. 98 even though the legislative history of Convention No. 158 expresses no such intent. See Potter 1984, pp. 53-54.

104 Potter 1984, p. 53.
In the WTO, sovereign governments make rules for sovereign governments, whereas, in the ILO, employee and employer representatives each compose 25 percent of the ILC and Governing Body. It is doubtful the Congress would agree to permit private persons to participate in an international legislature that could impose requirements on U.S. labor law enforceable by sanctions on U.S. international commerce.

Third, empowering the ILO to authorize trade measures would permit trade measures for violations that have no significant economic effects on other members’ industries and workers. As discussed in Chapter 1, WTO dispute settlement panels may only authorize trade measures when one member imposes harm on another member. Generally, international law reserves international sanctions for government actions having only internal consequences to the most egregious offenses, such as genocide and other crimes against humanity. Congress could view broadening the scope for international intervention to include a wider set of sovereign actions as unnecessary for protecting the legitimate interests of U.S. workers.

These problems could be remedied by:

negotiating an agreement in the ILO that establishes standards and principles for the protection of workers and leaves to individual governments broad discretion in establishing the means for achieving these standards and principles;

making this agreement amendable only by consensus, and making its administration, interpretation and enforcement separate from ILO Conventions; and

permitting trade measures only when violations impose harm on other members’ industries and workers.

However, this is precisely what would be achieved if an LRTA were negotiated in the WTO, and an LRTA in the WTO, as opposed to the ILO, would have important advantages.

Negotiating an LRTA within the context of a broader round of multilateral trade negotiations would provide developing countries with opportunities to achieve concessions in other areas to compensate for the
economic adjustments and technical and financial burdens an LRTA would impose on them.

It would leave in place, and uncompromised, existing ILO procedures to investigate violations of core Conventions, having wholly or largely internal consequences but constituting significant human rights abuses.

Recommendations

The United States should seek an LRTA in the WTO with provisions similar to the U.S.-Jordan Free Trade Agreement. These should:

- require each party to reaffirm its obligations as an ILO member and signatory of the Declaration of Fundamental Rights at Work to uphold and protect, through domestic law and enforcement, the four internationally recognized core labor standards:
  - prohibition of exploitive forms of child labor,
  - prohibition of forced labor, including slavery, indentured labor, and compulsory labor,
  - prohibition of discrimination in employment on the basis of gender, race, creed, and national origin, and
  - protection of freedom of association and the right to collective bargaining;

- recognize the right of each party to establish its own domestic labor laws as long as they are consistent with the principles of the four core labor standards;

- commit each party not to encourage exports or import-competing production by relaxing or failing to enforce domestic labor laws that enforce the four internationally recognized core labor standards or that protect other workers’ rights provided by domestic law;
provide for parties to obtain relief through the WTO
dispute settlement mechanism when their exports have
been impaired, or domestic industries or workers harmed,
by sustained or recurring failure to address violations of
one or more of the four core standards in an industry or
by one or several enterprises; and

recognize that each party retains the right to exercise
discretion with respect to investigatory, prosecutorial,
regulatory, and compliance matters, and require that this
discretion may not harm another parties’ exports, imports,
domestic industries, or workers, nor abridge these parties’
right to seek remedies through the dispute settlement
process.

When a dispute settlement panel finds a party to be in violation of
the agreement, the WTO dispute settlement panel should first offer the
offending party the opportunity to correct the offending practices. If it
failed to do so in the time period established by the panel, then other
parties to the agreement could be authorized to embargo imports made by
the exploited labor or to withdraw equivalent market access benefits if
their exports were affected.

In addition to seeking a multilateral agreement in the WTO, the
United States should seek to include similar provisions in regional and
bilateral trade agreements.
Appendix:

**Texts of Core ILO Conventions**

<table>
<thead>
<tr>
<th>Convention</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Age Convention, 1973 (No. 138)</td>
<td>84</td>
</tr>
<tr>
<td>Worst Forms of Child Labor, 1999 (No. 182)</td>
<td>92</td>
</tr>
<tr>
<td>Forced Labor, 1930 (No. 29)</td>
<td>97</td>
</tr>
<tr>
<td>Abolition of Forced Labor, 1957 (No. 105)</td>
<td>108</td>
</tr>
<tr>
<td>Non-Discrimination, 1958 (No. 111)</td>
<td>111</td>
</tr>
<tr>
<td>Equal Remuneration, 1951 (No. 100)</td>
<td>115</td>
</tr>
<tr>
<td>Freedom of Association, 1948 (No. 87)</td>
<td>119</td>
</tr>
<tr>
<td>Right to Organize/Collective Bargaining, 1949 (No. 98)</td>
<td>125</td>
</tr>
</tbody>
</table>

*These conventions are reproduced with the permission of the International Labor Organization.*
C138 Minimum Age Convention, 1973

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the
International Labour Office, and having met in its Fifty-eighth Session on 6
June 1973, and
Having decided upon the adoption of certain proposals with regard to
minimum age for admission to employment, which is the fourth item on
the agenda of the session, and
Noting the terms of the Minimum Age (Industry) Convention, 1919, the
Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture)
Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention,
1921, the Minimum Age (Non-Industrial Employment) Convention, 1932,
the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age
(Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial
Employment) Convention (Revised), 1937, the Minimum Age (Fishermen)
Convention, 1959, and the Minimum Age (Underground Work)
Convention, 1965, and
Considering that the time has come to establish a general instrument on the
subject, which would gradually replace the existing ones applicable to
limited economic sectors, with a view to achieving the total abolition of
child labour, and
Having determined that these proposals shall take the form of an
international Convention,
adopts the twenty-sixth day of June of the year one thousand nine hundred
and seventy-three, the following Convention, which may be cited as the
Minimum Age Convention, 1973:

Article 1

Each Member for which this Convention is in force undertakes to pursue a
national policy designed to ensure the effective abolition of child labour and
to raise progressively the minimum age for admission to employment or
work to a level consistent with the fullest physical and mental development
of young persons.

Article 2

1. Each Member which ratifies this Convention shall specify, in a
declaration appended to its ratification, a minimum age for admission to
employment or work within its territory and on means of transport
registered in its territory; subject to Articles 4 to 8 of this Convention, no
one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.
5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under Article 22 of the constitution of the International Labour Organisation a statement—
   (a) that its reason for doing so subsists; or
   (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

Article 3
1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.
2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.
3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 4
1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of
employment or work in respect of which special and substantial problems of application arise.
2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.
3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

Article 5

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.
2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.
3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.
4. Any Member which has limited the scope of application of this Convention in pursuance of this Article--
   (a) shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;
   (b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.
**Article 6**

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of--

(a) a course of education or training for which a school or training institution is primarily responsible;
(b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
(c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

**Article 7**

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is--

(a) not likely to be harmful to their health or development; and
(b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

**Article 8**

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of

--- 87 ---
employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.
2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9
1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

Article 10
1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.
2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.
3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.
4. When the obligations of this Convention are accepted--
(a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
(b) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall ipso jure involve the immediate denunciation of that Convention,
(c) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, by a Member which is a party to that Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
(d) in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall ipso jure involve the immediate denunciation of that Convention,
(e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall ipso jure involve the immediate denunciation of that Convention,
(f) by a Member which is a party to the Minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention, if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention--
(a) shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,
(b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,
(c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof, if and when this Convention shall have come into force.

-- 89 --
Article 11
The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12
1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 13
1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14
1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 15
The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations.
Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 16**
At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 17**
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
   a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
   b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 18**
The English and French versions of the text of this Convention are equally authoritative.
C182 Worst Forms of Child Labour
Convention, 1999

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the
International Labour Office, and having met in its 87th Session on 1 June
1999, and
Considering the need to adopt new instruments for the prohibition and
elimination of the worst forms of child labour, as the main priority for
national and international action, including international cooperation and
assistance, to complement the Convention and the Recommendation
concerning Minimum Age for Admission to Employment, 1973, which
remain fundamental instruments on child labour, and
Considering that the effective elimination of the worst forms of child
labour requires immediate and comprehensive action, taking into account
the importance of free basic education and the need to remove the children
concerned from all such work and to provide for their rehabilitation and
social integration while addressing the needs of their families, and
Recalling the resolution concerning the elimination of child labour adopted
by the International Labour Conference at its 83rd Session in 1996, and
Recognizing that child labour is to a great extent caused by poverty and that
the long-term solution lies in sustained economic growth leading to social
progress, in particular poverty alleviation and universal education, and
Recalling the Convention on the Rights of the Child adopted by the United
Nations General Assembly on 20 November 1989, and
Recalling the ILO Declaration on Fundamental Principles and Rights at
Work and its Follow-up, adopted by the International Labour Conference
at its 86th Session in 1998, and
Recalling that some of the worst forms of child labour are covered by other
international instruments, in particular the Forced Labour Convention,
1930, and the United Nations Supplementary Convention on the Abolition
of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery,
1956, and Having decided upon the adoption of certain proposals with
regard to child labour, which is the fourth item on the agenda of the
session, and
Having determined that these proposals shall take the form of an
international Convention; adopts this seventeenth day of June of the year
one thousand nine hundred and ninety-nine the following
Convention, which may be cited as the Worst Forms of Child Labour
Convention, 1999.
Article 1
Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2
For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

Article 3
For the purposes of this Convention, the term the worst forms of child labour comprises:
(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 4
1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

Article 5
Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

-- 93 --
Article 6
1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

Article 7
1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
   (a) prevent the engagement of children in the worst forms of child labour;
   (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
   (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
   (d) identify and reach out to children at special risk; and
   (e) take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

Article 8
Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

Article 9
The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.
Article 10

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 11

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.
**Article 14**
At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 15**
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force; (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 16**
The English and French versions of the text of this Convention are equally authoritative.
C29 Forced Labour Convention, 1930

The General Conference of the International Labour Organisation, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and having decided upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and having determined that these proposals shall take the form of an international Convention, adopts the twenty-eighth day of June of the year one thousand nine hundred and thirty, the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.
2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.
3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--
Labor Standards in the Global Trading System

(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 3
For the purposes of this Convention the term competent authority shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

Article 4
1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.
2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

Article 5
1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production
or the collection of products which such private individuals, companies or associations utilise or in which they trade.
2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

Article 6
Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations.

Article 7
1. Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.
2. Chiefs who exercise administrative functions may, with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of Article 10 of this Convention.
3. Chiefs who are duly recognised and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

Article 8
1. The responsibility for every decision to have recourse to forced or compulsory labour shall rest with the highest civil authority in the territory concerned.
2. Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in Article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of Government stores.
Article 9
Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself--
(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do work or render the service;
(b) that the work or service is of present or imminent necessity;
(c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and
(d) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 10
1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.
2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself--
(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
(b) that the work or the service is of present or imminent necessity;
(c) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;
(d) that the work or service will not entail the removal of the workers from their place of habitual residence;
(e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

Article 11
1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in
Article 10 of this Convention, the following limitations and conditions shall apply:
(a) whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;
(b) exemption of school teachers and pupils and officials of the administration in general;
(c) the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;
(d) respect for conjugal and family ties.
2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

Article 12
1. The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of twelve months shall not exceed sixty days, including the time spent in going to and from the place of work.
2. Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

Article 13
1. The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.
2. A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.
Article 14

1. With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.

2. In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.

3. The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.

4. For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.

5. Nothing in this Article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

Article 15

1. Any laws or regulations relating to workmen’s compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependants of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.

2. In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

Article 16

1. Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.
2. In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.

3. When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.

4. In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

**Article 17**

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself---

(1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory;

(2) that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers;

(3) that the journeys of the workers to and from the work-places are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;

(4) that, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration;

(5) that any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expense to himself.
Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, inter alia, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.

3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

Article 19

1. The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.

2. Nothing in this Article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis by virtue of law or custom and where the produce or any profit
accruing from the sale thereof remain the property of the community, to perform the work demanded by the community by virtue of law or custom.

Article 20
Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

Article 21
Forced or compulsory labour shall not be used for work underground in mines.

Article 22
The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of Article 22 of the Constitution of the International Labour Organisation, on the measures they have taken to give effect to the provisions of this Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

Article 23
1. To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.
2. These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

Article 24
Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.
Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

Article 26

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of Article 35 of the Constitution of the International Labour Organisation, it shall append to its ratification a declaration stating—

(1) the territories to which it intends to apply the provisions of this Convention without modification;

(2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;

(3) the territories in respect of which it reserves its decision.

2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

Article 27

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for Registration.

Article 28

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two members of the International Labour Organisation have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.
Article 29
As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 30
1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.
2. Each member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 31
At the expiration of each period of five years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 32
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention shall ipso jure involve denunciation of this Convention without any requirement of delay, notwithstanding the provisions of Article 30 above, if and when the new revising Convention shall have come into force.
2. As from the date of the coming into force of the new revising Convention, the present Convention shall cease to be open to ratification by the Members.
3. Nevertheless, this Convention shall remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising convention.

Article 33
The French and English texts of this Convention shall both be authentic.

-- 107 --
The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fortieth Session on 5 June 1957, and Having considered the question of forced labour, which is the fourth item on the agenda of the session, and Having noted the provisions of the Forced Labour Convention, 1930, and Having noted that the Slavery Convention, 1926, provides that all necessary measures shall be taken to prevent compulsory or forced labour from developing into conditions analogous to slavery and that the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956, provides for the complete abolition of debt bondage and serfdom, and Having noted that the Protection of Wages Convention, 1949, provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment, and Having decided upon the adoption of further proposals with regard to the abolition of certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights, and Having determined that these proposals shall take the form of an international Convention, adopts the twenty-fifth day of June of the year one thousand nine hundred and fifty-seven, the following Convention, which may be cited as the Abolition of Forced Labour Convention, 1957:

**Article 1**

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour--

(a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;

(b) as a method of mobilising and using labour for purposes of economic development;

(c) as a means of labour discipline;

(d) as a punishment for having participated in strikes;

--- 108 ---
(e) as a means of racial, social, national or religious discrimination.

Article 2
Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

Article 3
The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 4
1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 5
1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 6
1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall
draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

**Article 7**
The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 8**
At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 9**
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
   a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 5 above, if and when the new revising Convention shall have come into force;
   b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 10**
The English and French versions of the text of this Convention are equally authoritative.
C111 Discrimination (Employment and Occupation) Convention, 1958

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the
International Labour Office, and having met in its Forty-second Session on
4 June 1958, and
Having decided upon the adoption of certain proposals with regard to
discrimination in the field of employment and occupation, which is the
fourth item on the agenda of the session, and
Having determined that these proposals shall take the form of an
international Convention, and
Considering that the Declaration of Philadelphia affirms that all human
beings, irrespective of race, creed or sex, have the right to pursue both their
material well-being and their spiritual development in conditions of
freedom and dignity, of economic security and equal opportunity, and
Considering further that discrimination constitutes a violation of rights
enunciated by the Universal Declaration of Human Rights,
adopts the twenty-fifth day of June of the year one thousand nine hundred
and fifty-eight, the following Convention, which may be cited as the
Discrimination (Employment and Occupation) Convention, 1958:

Article 1
1. For the purpose of this Convention the term discrimination includes-- (a)
any distinction, exclusion or preference made on the basis of race, colour
sex, religion, political opinion, national extraction or social origin, which has
the effect of nullifying or impairing equality of opportunity or treatment in
employment or occupation;
(b) such other distinction, exclusion or preference which has the effect of
nullifying or impairing equality of opportunity or treatment in employment
or occupation as may be determined by the Member concerned after
consultation with representative employers' and workers' organisations,
where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job
based on the inherent requirements thereof shall not be deemed to be
discrimination.
3. For the purpose of this Convention the terms employment and occupation
include access to vocational training, access to employment and to
particular occupations, and terms and conditions of employment.


**Article 2**

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

**Article 3**

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice—
(a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
(d) to pursue the policy in respect of employment under the direct control of a national authority;
(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

**Article 4**

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

**Article 5**

1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.
2. Any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or
cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

**Article 6**
Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

**Article 7**
The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

**Article 8**
1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

**Article 9**
1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

**Article 10**
1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall
draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11
The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12
At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
   a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
   b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14
The English and French versions of the text of this Convention are equally authoritative.
C100 Equal Remuneration Convention, 1951

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and Having determined that these proposals shall take the form of an international Convention, adopts the twenty-ninth day of June of the year one thousand nine hundred and fifty-one, the following Convention, which may be cited as the Equal Remuneration Convention, 1951:

**Article 1**

For the purpose of this Convention--
(a) the term *remuneration* includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment;
(b) the term *equal remuneration for men and women workers for work of equal value* refers to rates of remuneration established without discrimination based on sex.

**Article 2**

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
2. This principle may be applied by means of--
(a) national laws or regulations;
(b) legally established or recognised machinery for wage determination;
(c) collective agreements between employers and workers; or
(d) a combination of these various means.

**Article 3**

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.
2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.
3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

Article 4
Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

Article 5
The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6
1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 7
1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate --
   a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
   b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
   c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
   d) the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 8
1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
3. The Member, Members or international authority concerned may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 9
1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

-- 117 --
Article 10
1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11
The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12
At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
   a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
   b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14
The English and French versions of the text of this Convention are equally authoritative.

-- 118 --
C87 Freedom of Association and Protection of the Right to Organise Convention, 1948

The General Conference of the International Labour Organisation,
Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948;
Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;
Considering that the Preamble to the Constitution of the International Labour Organisation declares recognition of the principle of freedom of association to be a means of improving conditions of labour and of establishing peace;
Considering that the Declaration of Philadelphia reaffirms that freedom of expression and of association are essential to sustained progress;
Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;
Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;
adopts the ninth day of July of the year one thousand nine hundred and forty-eight, the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

Part I. Freedom of Association

Article 1
Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2
Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3
1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to
organise their administration and activities and to formulate their programmes.
2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4
Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5
Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Article 6
The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

Article 7
The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8
1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.
2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9
1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.
Article 10
In this Convention the term *organisation* means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

Part II. Protection of the Right to Organise

Article 11
Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

Part III. Miscellaneous Provisions

Article 12
1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office as soon as possible after ratification a declaration stating:
   a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
   b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
   c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
   d) the territories in respect of which it reserves its decision.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.
Article 13

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:
   a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or
   b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modifications or subject to modification; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Part IV. Final Provisions

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

-- 122 --
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

**Article 16**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

**Article 17**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

**Article 18**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 19**

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this
Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 20**
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
   a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
   b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 21**
The English and French versions of the text of this Convention are equally authoritative.
C98 Right to Organise and Collective Bargaining Convention, 1949

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and Having decided upon the adoption of certain proposals concerning the application of the principles of the right to organise and to bargain collectively, which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of an international Convention, adopts the first day of July of the year one thousand nine hundred and forty-nine, the following Convention, which may be cited as the Right to Organise and Collective Bargaining Convention, 1949:

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to--
   (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
   (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.
2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.
Labor Standards in the Global Trading System

Article 3
Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

Article 4
Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Article 5
1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6
This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

Article 7
The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8
1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

-- 126 --
**Article 9**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate --
   a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
   b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
   c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
   d) the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

**Article 10**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
3. The Member, Members or international authority concerned may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

-- 127 --
Article 11
1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12
1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 13
The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 14
At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 15
1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

-- 128 --
a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;  
b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.  
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.  

Article 16  
The English and French versions of the text of this Convention are equally authoritative.
Bibliography


**Labor Standards in the Global Trading System**


-- 132 --


Labor Standards in the Global Trading System


-- 134 --


Labor Standards in the Global Trading System


ILO. 2000e. Table of Ratifications of Fundamental ILO Conventions. Geneva.


-- 136 --


-- 137 --


Labor Standards in the Global Trading System


-- 140 --
PETER MORICI

Peter Morici is a professor of international business at the University of Maryland and a senior fellow at the Economic Strategy Institute. Previously, he served as director of economics at the U.S. International Trade Commission, vice president of the National Policy Association, and professor of economics at the University of Maine.

One of the nation’s leading experts on international economics, industrial policy and international commercial agreements, Dr. Morici is the author of seventeen books and monographs, including Antitrust in the Global Trading System: Reconciling U.S., Japanese and EU Approaches; Setting U.S. Goals for WTO Negotiations; The Trade Deficit: Where Does It Come from and What Does It Do, and Trade Talks with Mexico: A Time for Realism. He has published widely in leading public policy and business journals, such as Foreign Policy, International Economy, Regulation, and the Harvard Business Review. He has offered public lectures and taught at conferences and institutes at over 100 institutions, and his views have been featured on CNN, Reuters Financial Network, Bloomberg News, CBS News, National Public Broadcasting, and on national networks in Latin America, Europe and Asia.

Morici holds a Ph.D. in economics from the State University of New York at Albany.

EVAN SCHULZ

Evan Schulz is a research associate at the Economic Strategy Institute. He is the author of The Opportunities and Hazards of Agricultural Biotechnology and coeditor of The Networked Economy: Lessons from the Trenches. In addition to these studies and his work on labor standards, he is the coauthor of a forthcoming book on how the internet is changing the automobile industry. He has contributed to ESI studies on the airline, telecommunications and steel industries. He holds a Ph.D. in international relations from the University of Southern California.