



EUROPEAN PARLIAMENT

**DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION
DIRECTORATE B
- POLICY DEPARTMENT -**

**Briefing on WTO-ILO relations and labour standards
for the INTA delegation to Geneva, May 2007**

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**DGExPo/B/PolDep/Note/2007_093
[PE N°]**

**26 April 2007
EN**

This note was requested by the European Parliament's Committee on International Trade.

This paper is published in the following languages: English

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Manuscript completed in April 2007

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Brussels, European Parliament, 26 April 2007

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Employment, working conditions, job creation and unemployment are among the first concerns mentioned in any debate on international trade and globalisation. The links between trade policy and employment are complex and often controversial, be it labour rights, the movement of workers (e.g. mode 4), gender issues (e.g. women's role in developing countries), outsourcing or the problem of "jobless growth". While the issue itself is not new, recently the need for cooperation and policy coherence between international trade policy and other policies affecting employment have received distinguished attention. This has also been reflected in the relations between the WTO and the ILO and the **EU has repeatedly asked for a more formalised and institutionalised relationship** between the two organisations.

A fresh study and dialogue on trade and employment

A joint study by the ILO and the WTO was published in February 2007 under the title *Trade and Employment Challenges for policy research* (see links at the bottom). Observers underlined that this paper was an unprecedented step forward towards achieving genuine coherence in the way the world's major institutions work together. The paper analyses the complex relationship between trade opening and employment, including job creation, inequality, policy coherence and complementary policies. Assessing the paper in a panel discussion of the Working Party on the Social Dimension of Globalization at the end of March, ILO Director-General Juan Somavia noted that the joint study could promote a better understanding of the interaction between different policy spheres and contribute to greater policy coherence at the national level and called the joint paper and discussion "*an important institutional breakthrough*" in addressing the relationship between ILO and WTO. Noting that the study marked the first collaborative research project between the ILO and the WTO Secretariat, Pascal Lamy added that it provided an impartial overview of what could be said, and with what degree of confidence, on the relationship between trade and employment.

Cooperation between the WTO and the ILO

Existing collaboration between the WTO and the ILO includes mainly technical discussions, the exchange of documentation and informal cooperation between the ILO and WTO Secretariats with a view to helping members' global economic policies. Activities range from compiling statistics, research and technical assistance to training.

The key issue and focus of ILO/WTO relations has always been the relationship between **WTO agreements and ILO labour standards**, namely how to **promote higher standards without using trade policy for protectionist purposes** and how to ensure **enforcement**, given that the ILO can only "name and shame" and there are no WTO rules linking standards to trade sanctions. At the 1996 Singapore Ministerial Conference, members defined the WTO's role on this issue, identifying the ILO as the competent body to negotiate labour standards. There is no work on this subject in the WTO's Councils and Committees and there is only one reference of labour standards in the entire body of WTO law (GATT Article XX on restrictive measures concerning goods produced in prisons).

The issue of labour standards was also raised at the Seattle Ministerial Conference in 1999, but with no agreement reached. The 2001 Doha Ministerial Conference reaffirmed the Singapore declaration on labour without any specific discussion.

Core labour standards

Since the Singapore Ministerial Conference, the ILO has taken two significant steps in addressing the issue of workers' rights. In 1998, ILO member governments adopted the ILO Declaration on Fundamental Principles and Rights at Work and its follow-up. Under this declaration, ILO member governments endorsed some basic principles which are included in the core ILO Conventions. According to the most widely accepted definition of core labour standards, the fundamental ILO Conventions that form the basis of consensus among the ILO's constituents include:

- prohibition of forced labour (ILO Convention No. 29 and 105);
- freedom of association and protection of the rights to organize and to collective bargaining (No. 87 and 98);
- equal remuneration for men and women for work of equal value (No. 100);
- non-discrimination in employment and occupation (No. 111); and
- minimum age of employment of children and abolition of the worst forms of child labour (No. 138 and 182).

The WTO and labour rights - what role for trade policy

The debate mainly focuses on whether WTO rules should explicitly allow governments to take trade action as a means of putting pressure on other countries to comply with labour standards. Though the WTO is not the organisation to set rules on labour, could it be one to enforce them, including those of the ILO? The underlying arguments are centred around the question whether trade policy is an *efficient tool* to impose labour standards and whether this would simply be an *excuse for protectionism*.

The most important *arguments for* linking trade measures to labour standards are as follows:

- the *"unfair advantage"* argument: lower standards create an unfair competitive advantage to countries (developing countries vis-à-vis developed), therefore harmonised standards are needed for a level playing field;
- the *"race to the bottom"* argument: lower standards applied in one country will trigger lower standards in others in order to attract investment;
- *moral arguments*: there should be no trade with producers that do not guarantee certain labour standards for moral reasons;
- the *legitimacy argument*: the global trading system could gain popular support through guaranteeing labour rights;
- the *enforcement argument*: the WTO has the best enforcement mechanism so it can guarantee and enforce labour standards efficiently. Turning to a WTO panel is more efficient than the ILO that relies on "naming and shaming" and many ILO Conventions have not been ratified by several member countries.

While many of these claims look valid at first sight and core labour standards are also crucial for development and poverty reduction, most studies argue that linking standards to trade sanctions is likely to be welfare-reducing in developing countries. Furthermore, there seems to be only sporadic evidence for a race to the bottom as a direct result of trade liberalisation (see ILO/WTO study).

The EU has always rejected a sanctions-based approach to labour standards and favoured an incentives-based policy. This is also reflected by its GSP+ system which grants trade concessions to countries that respect specific ILO conventions and by the references to ILO standards in several bilateral agreements with trading partners. **Monitoring, the investigation**

of complaints and complementary policies (e.g. labour market, education and general social safety nets) are also important tools.

The following considerations are also worth taking into account in the debate:

- Research on the links between trade and employment show that most jobs are not directly linked to trade or foreign investment, and can be found either in non-tradable services in developed countries or in non-tradable agriculture or informal work in developing countries. This implies that it is mainly the domestic level of development and the domestic economy that determines job and income prospects and **international trade's indirect impacts are more relevant for employment and labour rights than trade rules themselves**.
- For similar reasons, linking labour rights to trade sanctions is not an efficient policy option to improve standards. For instance, a recent World Bank study estimated that less than 5% of child workers in the developing world are involved in export related activities. Furthermore, as international labour standards do not cover the unorganised and **informal sectors** where the majority of the children and other unprotected workers are involved, trade-linked labour standards would be of no benefit to sectors, where the most blatant cases of exploitation and worst offences are found.
- Changes in technology and the structure of international trade are leading developing countries to **compete in a race upward in terms of product quality rather than a race downward with respect to price**. Therefore the claim that due to lower standards on labour rights exporters can gain an unfair advantage is not supported by empirical evidence.
- Labour standards need to be appropriate to a country's level of development and they must gain widespread support within society, otherwise the poor will remain in the informal sector without any protection.
- There is a renewed debate in some developed countries, such as the US, on labour standards and *bilateral trade agreements*. However, some observers pointed out that even US labour standards in several US states are inconsistent with core ILO standards. (The ILO has not so far ruled whether US actions are "extensive" enough to violate ILO conventions. But it is not implausible that the ILO, an arbitration panel or a federal court would declare US practice inconsistent with the ILO standard).

It is worth recalling the **EP's recent own initiative report on decent work**, which

24. Stresses the **need for greater cooperation between the WTO, UNCTAD, the ILO** and other international organisations with regard to the complementarity of their policies; considers that coherence among the measures undertaken is essential in promoting decent work and guaranteeing it in practice; proposes that the **ILO be granted observer status at the WTO**; addresses the parliaments of other WTO members to ask them to support this request;
25. Calls on the Commission to propose establishing a **'trade and decent work' committee in the WTO**, along the lines of the 'trade and environment' committee;
26. Points out that the ILO statutes allow it to call for trade sanctions against a country in the event of failure to comply with international social conventions, and calls on the WTO to

- undertake to comply with ILO decisions for the sake of consistency in the action of international institutions;
27. Proposes that the **ILO be authorised to submit expert reports (amicus briefs) to the WTO panels and Appellate Body in relevant cases** where the violation of international conventions is at issue in a dispute and in which the decisions of the ILO have to be taken into account;
 28. Proposes that where a decision by the Dispute Settlement Body is regarded by a WTO Member State as calling into question ILO decisions on compliance with the labour conventions, an appeal route to the ILO should exist so as to guarantee the coherence of international community's action in promoting decent work;
 29. Calls on the EU to make compliance with international work standards one element in negotiations for the **accession of new member states to the WTO**;

Basic background information

WTO and labour standards

http://www.wto.org/english/thewto_e/whatis_e/tif_e/bey5_e.htm

http://www.wto.org/english/thewto_e/coher_e/wto_ilo_e.htm

http://www.wto.org/English/thewto_e/minist_e/min99_e/english/about_e/18lab_e.htm

Speech by Peter Mandelson on *Trade policy and decent work intervention* - addressing social policy, bilateral agreements, GSP+ and multilateral initiatives, December 2006

http://ec.europa.eu/commission_barroso/mandelson/speeches_articles/sppm134_en.htm

COM(2006)249 - Promoting decent work for all: The EU contribution to the implementation of the decent work agenda in the world

http://ec.europa.eu/employment_social/news/2006/may/com_2006_249_en.pdf

Trade and Employment Challenges for policy research, joint ILO/WTO study

<http://www.ilo.org/public/english/support/publ/pdf/ilowttrade.pdf>

http://www.wto.org/english/news_e/news07_e/ilo_feb07_e.htm

(with audio and comments)

Friedrich Ebert Foundation briefing on the joint ILO/WTO study (including a summary of the main conclusions)

<http://www.fes.org.ph/pdf/Fact%20Sheet%20Trade%20and%20Employment.pdf>

ITUC's summary and comments on the joint ILO/WTO study

http://www.ituc-csi.org/IMG/pdf/ILO-WTO_paper_summary_and_comments_-_final.pdf

EP documents

The Social Dimension of Globalisation, INI Report

<http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/ce280/ce28020061118en00650070.pdf>

Decent Work, INI Report 2007

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2007-0068+0+DOC+XML+V0//EN&language=EN#title5>