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Worker Rights Provisions and Trade Policy: Should They Be Linked?

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Summary

Should promotion of worker rights around the world be linked to international trade policy? That is, should the United States encourage its trading partners to grant their workers some basic level of worker protections or labor standards in return for the opportunity to trade with the United States?

The worker rights question has arisen most recently as Congress examines importation of goods produced by child labor. It may also arise as Congress debates proposals to *allow* or, conversely, *prohibit* worker rights provisions in “fast-track” renewal legislation: legislation to renew Presidential authority to negotiate trade agreements on a *fast-track* basis — with mandatory deadlines, limited debates, and no amendments by Congress. Previous fast-track authority expired April 16, 1994.

The linking of worker rights and trade policy around the world is in an early stage of development. The United States has required some trading partners to adhere to a basic set of internationally recognized worker rights since the 1980s. In addition, the labor side agreement to the North American Free Trade Agreement (NAFTA) required signatories to adhere to their own worker rights laws. However, members of the new World Trade Organization (WTO) are not bound by any such requirements. The United States is pushing for a discussion of the worker-rights trade policy link at the WTO Singapore Ministerial Conference scheduled for December, 1996.

While there is no consensus on what constitutes *worker rights*, the term has a number of definitions. The 1984 amendments to the Generalized System of Preferences (GSP) defined *internationally recognized worker rights* to include: (a) the right of association; (b) the right to organize and bargain collectively; (c) a prohibition on the use of any form of forced or compulsory labor; (d) a minimum age for the employment of children; and (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Legislative options for codifying into law child labor prohibitions include banning the importation of goods produced with child labor, and imposing sanctions on all trading partners that do not prohibit child labor. Legislative options for linking reauthorization of Presidential fast-track negotiating authority with worker rights include adopting voluntary business guidelines for U.S. multinational corporations with operations abroad; requiring that goods for import into the United States be clearly labeled as to conditions under which they were manufactured; and encouraging continuation of the labor standards-and-trade policy debate in the International Labor Organization and the WTO.

Those in favor of linking worker rights provisions with trade policy include most organized labor groups and citizens actively concerned about humanitarian effects of child labor and/or sweatshop conditions. Those opposed include many in the business community and the International Chamber of Commerce.

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Worker Rights Provisions and Trade Policy: Should They Be Linked?

Should promotion of worker rights around the world be linked to trade policy? That is, should the United States encourage its trading partners to grant their workers some basic level of worker protections or labor standards in return for the opportunity to trade with the United States? Should the United States also issue penalties, if trading partners do not adhere to basic worker rights? The Congress has grappled with these questions for more than a decade.

The worker rights question has arisen again most recently as Congress examines the issue of U.S. importation of goods produced by child labor. It is also expected to arise as Congress debates proposals that would either *allow* or, conversely, *prohibit* worker rights provisions in “fast-track” renewal legislation: legislation that would renew Presidential authority to negotiate trade agreements on a *fast-track* basis — with mandatory deadlines, limited debates, and no amendments by Congress.¹ Previous fast-track authority expired April 16, 1994.

The linking of worker rights and trade policy around the world is in an early stage of development. The United States has unilaterally required some trading partners to adhere to a basic set of internationally recognized worker rights since the 1980s. In addition, the labor side agreement to the North American Free Trade Agreement (NAFTA) required signatories to adhere to their own worker rights laws. However, members of the new World Trade Organization (WTO) are not bound by such requirements. The United States is pushing for a discussion of the worker-rights trade policy link at the WTO Singapore Ministerial Conference scheduled for December 1996.

While there is no consensus on what constitutes *worker rights*, the term has a number of definitions. For example, the 1984 amendments to the Generalized System of Preferences (GSP)² defined *internationally recognized worker rights* to include:

- (a) the right of association;
- (b) the right to organize and bargain collectively;
- (c) a prohibition on the use of any form of forced or compulsory labor;
- (d) a minimum age for the employment of children; and
- (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

¹ For more information on the fast-track issue, see U.S. Library of Congress. Congressional Research Service. *Fast Track Authority: Negotiating Objectives for Multilateral and Preferential Trade Agreements*, by George D. Holliday. CRS Report 95-904. Washington, August 14, 1995. 21 p.

² Section 503 of P.L. 98-573, added provisions to Section 502(a)(4) of the Trade Act of 1974.

To cover the worker rights-and-trade policy issue this report first, briefly summarizes current congressional consideration of the worker rights-and-trade policy issue, linking the arguments for and against. Next, it looks at economic reasons why the worker rights issue is surfacing now. After that, it surveys existing vehicles that link worker rights and trade policy, and possible actions Congress might take to try to resolve the current worker rights-and-trade dilemma.

Current Congressional Issues

As mentioned, Congress is wrestling with two worker rights issues. One is the use of child labor to produce goods for importation into the United States. The other is attaching worker rights provisions to legislation that would renew presidential authority to renegotiate trade agreements on a fast-track basis. A recent event that raised congressional concern with the child labor issue began after publicity that television celebrity Kathie Lee Gifford had lent her name to a line of clothing allegedly produced by child labor under sweatshop conditions.³

Congressional response to the child labor issue has included both hearings and legislation. Oversight hearings have been held by the House International Relations Subcommittee on International Operations and Human Rights. In addition, bills have been introduced that would: prohibit the importation of goods produced abroad with child labor (S. 706, Harkin; and H.R. 2065, Frank); require the Secretary of State to establish a set of voluntary guidelines to promote socially responsible business practices for U.S. businesses operating in foreign countries (H.R. 910, Evans); amend the Foreign Assistance Act of 1961 to withhold U.S. assistance from countries determined to be violating the human rights of working children (H.R. 3294, Moran); and impose certain sanctions on countries that do not prohibit child labor (H.R. 3812, Christopher Smith).

The worker rights-and-fast-track issue surfaced during consideration of the 1995 fast-track renewal bill reported by the House Ways and Means Committee (H.R. 2371, H.Rept. 104-285). This bill, as reported, would have *prohibited* the inclusion of worker rights provisions in trade agreements negotiated and implemented under fast-track procedures. Specifically, it would have done this by *limiting* trade agreements negotiated under fast track procedures until at least December 15, 1999, to subjects covered by five stated negotiating objectives. These objectives did not include worker rights or environmental issues that were the subject of separate side agreements to NAFTA.⁴ The Senate bill (S. 577) contained no such limitation on subjects that could be included in trade agreements.

³ Green, Paula L. Sweatshop Issue Puts Textiles in Hot Seat. *Journal of Commerce*, July 15, 1996, p. 1A.

⁴ These five principal objectives were: (1) to obtain more open, equitable, and reciprocal market access; (2) to obtain the reduction or elimination of barriers and other trade distorting policies and practices; (3) to further strengthen the system of international trading disciplines and procedures; (4) to foster economic growth and full employment in the United States and the global economy; and (5) to develop, strengthen, and clarify rules and disciplines on restrictive or trade-distorting import and export practices.

At the heart of the worker rights-fast-track debate in Congress are divergent views on whether or not worker rights *should* be linked to *trade p* policy. One side argues for broader worldwide adherence to worker rights provisions. This side argues that the failure of developing countries to adhere to worker rights standards places some import-competing American industries at a *competitive disadvantage* in trade, and shifts employment opportunities to developing countries. The other side argues for free trade, and against any requirement that trading partners impose labor standards (worker rights translated into law or practice). They argue that mandating international adherence to labor standards is a form of protectionism that can actually dampen worldwide economic growth for all nations. Table 1 characterizes arguments of each.

The congressional debate on linking labor rights provisions to trade policy is also echoed, with equal fervor, in the international arena, among more than 120 members of the new World Trade Organization (WTO) established by the Uruguay Round of Agreements under the General Agreement on Tariffs and Trade (GATT). Representatives from the United States and other developed countries have been urging the formation of a “working group” in the WTO to discuss the relationship between trade policy and worker rights. Conversely, representatives of developing countries argue strongly that such discussion could lead to the imposition of basic worker rights requirements, which could increase their labor costs and impair their ability to compete in the international marketplace.

Why Are Worker Rights an Issue Now?

Labor standards worldwide have become an issue now for two reasons. One is the expansion of trade in recent years. One is humanitarian: To some, labor standards issues reflect a genuine concern for workers as human beings, in the same way that environmental issues reflect genuine concern for the well-being of the planet. Humanitarians see labor standards as a counterforce to an increasingly competitive world economy in which the rights of workers are being overrun by the greed of multinational corporations.

**Table 1. Arguments For and Against Linking
Labor Standards to Trade Policy**

AGAINST	FOR
<p>1. The main purpose of trade agreements is to promote trade and economic growth. Trade agreements are probably not the best mechanism for resolving non-trade issues (such as labor rights). Non-trade issues tend to detract from the main purpose of the trade agreements while not resolving the non-trade issues.</p> <p>2. The best way to improve labor standards is to permit private capital to flow unimpeded and to allow economies to export freely. As developing countries grow, they will be more likely to adopt higher labor standards. Workers do not earn high wages just because a minimum wage is ordered. Real growth in income is the result of growth in productivity.</p> <p>3. From the perspective of the international investor, strong worker protections create disincentives to invest because they reduce <i>comparative advantage</i> and inhibit the most efficient use of labor, thereby restraining economic growth.</p> <p>4. From the perspective of some economists, in the long run, economies unencumbered by trade restrictions are able to achieve and maintain a higher level of efficiency and a higher level of growth because their natural comparative advantage is a forceful engine driving productivity growth.</p> <p>5. From the perspective of the developing country, labor standards</p>	<p>1. There is a fine line between competing on the basis of <i>comparative advantage</i> and “social dumping” (competing by denying workers basic rights). Labor standards help to define the boundary.</p> <p>2. Labor standards for all trading partners help fend off a “race to the bottom” that comes when businesses are forced to roll back minimum wages and standards so that they can remain internationally competitive against businesses in countries where a lack of standards makes the cost of doing business considerably lower.</p> <p>3. Many workers and unions see multinational corporations as predators. If labor standards are uniformly enforced, companies would be prevented from engaging in exploitative labor practices.</p> <p>4. Global growth is a balancing act, supported by a broad base of consumer demand in developing countries. For workers to be consumers, they must receive a rising share of the gains from increasing productivity and economic expansion. Labor standards help promote these gains.</p> <p>5. Labor standards could discourage “runaway plants” because they lessen the labor cost differences between countries.</p> <p>6. Labor standards would not interfere with natural comparative advantage in various countries because minimum wages and labor standards are only one basis for comparative advantage. Others include: (a) infrastructure; (b) available workforce size; (c) workforce education; (d) level of technological development; and (e) natural resource base.</p>

AGAINST	FOR
<p>could cut off employment opportunities and delay the emergence of these countries as developed countries.</p> <p>6. Requiring international labor standards is inconsistent with the goal of reducing tariff and nontariff barriers. Requiring international labor standards can be disguised protectionism.</p> <p>7. The issue of international labor standards raises issues of sovereignty: Does one country have the right to force its domestic policy goals on another country?</p>	<p>7. Trade sanctions in some environmental treaties are already used. Why should the rights of workers be given a lower level of protection?</p> <p>8. Developed nations have, through democratic evolution, made a social contract, assuring citizens a healthful environment, safe working conditions, decent retirement and health insurance, and a safety net for the disabled. One way or another the nation's products must bear the cost of this contract; they cannot compete in price with those of countries using comparable technology but having no such contract for its citizens.</p>

The other reason labor standards have become an issue now is a growing concern among some groups who have observed parallel trends in the U.S. economy: U.S. plants have been relocating to low-wage countries abroad and worker earnings have been stagnating, while imports have been increasing over the past decade or two. Such groups, suspect that trade, and especially imports, may be at least partly responsible for the wage changes and appear drawn toward protectionist policies.

What do the trade data and earnings data show? Imports as a percent of U.S. Gross Domestic Product (GDP) have risen from about 4% to nearly 10% of GDP between 1970 and 1994. Over an overlapping period, between 1975 (earliest year for which comparable data are available) and 1994, real total hourly compensation for manufacturing workers declined about 2%.⁵ In addition, wage inequality between skilled and unskilled workers has increased: Workers in the top quintile of earnings have seen their adjusted personal income rise 15% between 1969 and 1993, while those in the bottom quintile have seen theirs decline by 22%⁶

Evidence from the research community on the contribution of trade to this wage behavior is still being debated. Findings from a number of studies so far vary widely, and suggest that trade may account for as little as near zero, or as much as 30%-50% of the wage inequality.

⁵ Hourly total compensation figures from the Bureau of Labor Statistics (contained in unpublished data for 31 countries) were adjusted by the consumer price index for all urban consumers, contained in table B-56 (p. 343) of the Economic Report of the President, February 1996.

⁶ *Worsening American Income Inequality. Is World Trade to Blame?* by Gary Burtless, The Brookings Review, Spring 1996. pp. 26-31.

Regardless of trade's actual contribution to the wage inequality, some workers and labor representatives in the United States are looking for ways to protect U.S. workers. Some see linking worker rights to trade policy as a way of doing this.

Economic Effects of Linking Worker Rights and Trade Policy

Findings of an OECD Study: Freedom of Association and Collective Bargaining Standards

Nevertheless, the Organization for Economic Cooperation and Development (OECD), which includes mostly *developed* countries, has recently released a study (actually a non-technical summary that precedes publication of a book anticipated for fall, 1996) that looks at the economic effects on *output* and *trade flows* of linking to trade policy the only two "core labor standards" for which data are available: freedom of association and freedom to bargain collectively.⁷ The OECD was not able to find data on the economic relationship between trade policy and the core labor standard prohibiting child labor.

The OECD study finds that the effects of greater *freedom-of-association* and *collective bargaining* rights on *output* are likely to be *negligible* compared to the effects of other factors such as shifts in technology, raw material prices, and terms of trade (the volume of exports that can be traded for a given volume of imports). "More generally," the study concludes, "the actual economic effects of core labor standards are likely to be small."⁸

The OECD study finds that the effect of freedom of association and collective bargaining rights on *trade flows* is also expected to be small. Specifically, it finds that:

- ! Empirical research suggests that there is no correlation at the aggregate level between the degree of observance of freedom-of-association rights and real-wage growth in countries with which the United States trades. (Therefore, adoption of these labor standards would not necessarily increase the price of imports, and therefore help wages of U.S. workers making competing products.)
- ! There is no evidence that low-standards' countries enjoy a better global export performance than high-standards' countries. (Therefore, adoption of freedom of association and collective

⁷ Other identified core labor standards are: 1) prohibition of child labor; 2) prohibition of forced labor; and 3) freedom from discrimination. This discussion of the OECD study is mostly taken from pages 5 and 6 of: *Trade, Employment and Labour Standards*. Report of the Education, Employment, Labour and Social Affairs Committee and the Trade Committee to the Council at Ministerial Level. Organization for Economic Cooperation and Development. May 21, 1996. 10 p. (Summary of longer report due out September 1996.)

⁸ Ibid.

bargaining rights would not necessarily reduce the volume of imports, and thus remove pressure on U.S. companies to keep production costs on import-competing products low through various means including pressure on wages.)

Minimum Wage and Child Labor Standards

Questions remain about how or whether a *minimum wage* standard (not included in most listings of core labor standards, as discussed below) and a *child labor* standard adopted around the world would affect U.S. wages through slowing imports from developing countries. The OECD study does not address the effect of either of these requirements, but additional analysis may offer some insight:

Table 2. Hourly Compensation Costs for Production Workers in Manufacturing
(Ranked in descending order for 1994)

Country	Compensation as a Percent of U.S.				Compensation in U.S. Dollars			
	Compensation							
	1975	1985	1990	1994	1975	1985	1990	1994
Switzerland	96	74	140	145	6.09	9.66	20.86	24.83
Belgium	101	69	129	134	6.41	8.97	19.22	22.97
Austria	71	58	119	127	4.51	7.58	17.75	21.73
Japan	47	49	86	125	3.00	6.34	12.80	21.42
Norway	106	80	144	122	6.77	10.37	21.47	20.91
Netherlands	103	67	123	122	6.58	8.75	18.29	20.91
Denmarkd	99	62	120	120	6.28	8.13	17.96	20.44
Finland	72	63	141	110	4.61	8.16	21.03	18.89
Sweden	113	74	140	110	7.18	9.66	20.93	18.81
France	71	58	102	100	4.52	7.52	15.23	17.04
Germany	100	74	147	160	6.35	9.60	21.96	27.31
Luxembourg	101	59	110	—	6.35	7.72	16.37	—
United States	100	100	100	100	6.36	13.01	14.91	17.10
Italy	73	59	119	95	4.67	7.63	17.74	16.16
Canada	94	84	106	92	5.96	10.94	15.83	15.68
Australia	88	63	88	80	5.62	8.20	13.07	13.66
United Kingdom	53	48	85	80	3.37	6.27	12.71	13.62
Ireland	48	46	79	—	3.03	5.92	11.76	—
Spain	40	36	76	67	2.53	4.66	11.33	11.45
Israel	35	31	57	53	2.25	4.06	8.55	9.14
New Zealand	50	34	56	52	3.21	4.47	8.33	8.93
Greece	27	28	45	—	1.69	3.66	6.71	—
Singapore	13	9	25	37	0.84	2.47	3.78	6.29
Korea	5	9	25	37	0.32	1.23	3.71	6.25
Taiwan	6	12	26	32	0.40	1.5	3.95	5.55
Hong Kong	12	13	21	28	0.76	1.73	3.20	4.80
Portugal	25	12	25	27	1.58	1.53	3.77	4.57
Mexico	23	12	11	15	1.47	1.59	1.64	2.61
Sri Lanka	4	2	2	—	0.28	0.28	0.35	—
Pakistan	3	2	—	—	0.21	0.32	—	—
India	3	3	—	—	0.19	0.35	—	—

Source: U.S. Bureau of Labor Statistics (BLS), *Hourly Compensation for Production Workers in Manufacturing*, 31 Countries or Areas (unpublished data) April 1995. (Most recent data available.)

Note: This table was made by juxtaposing two separate BLS tables, instead of calculating other-country compensation as a proportion of U.S. compensation. Therefore, the numbers on the two sides of the table do not always coordinate. BLS, in its notes on these tables emphasizes that “because compensation is partly estimated, the statistics should not be considered as precise measures of comparative compensation costs.” Daily exchange rates were used to convert hourly compensation costs to U.S. dollars.

Regarding minimum wage requirements: Table 2 lists manufacturing compensation levels, by country, for a number of years since 1975.⁹ Because *minimum* wages would all be proportionately related to the *average* wages for a given country, *minimum wage requirements* would appear to have little effect on overall cost structure, and therefore little economic effect on wages in the United States.

Regarding child labor requirements: It can be argued that banning child labor would merely shift employment to older family members. To the extent that child labor is not replaced by adult workers, the supply of goods made with child labor could decline, which could raise their prices somewhat. This could reduce pressure on prices of competitive U.S. goods, and possibly help to *marginally* raise wages of workers who produce them.

If There Is Linkage Between Worker Rights and Trade Policy, Should it Be Mandatory or Voluntary?

Many argue that ultimately worker rights *will* be linked to trade policy. For them, the question in the debate is, through what *mechanism* should they be linked: Should the linkage be *voluntary* (with no penalties) or *mandatory* (with penalties for noncompliance)? Since worker rights and trade policy are already linked through a number of vehicles — some mandatory and some voluntary, congressional options include: further enforcement of these vehicles as well as adding onto them; adopting new laws to extend or tighten the worker rights-trade policy link; or revisiting and possibly revising the existing linkages. These are summarized in table 3.

Those in favor of a mandated worker rights-trade policy link argue that outside intervention is needed to “level the international playing field.” The reasoning is that recognition of a worker’s right to organize, bargain collectively, and strike creates positive pressure on wages. As wages rise, workers have more income to spend on imported goods. Simultaneously, as foreign wage rates rise, U.S. corporations will have less incentive to relocate in an attempt to reduce labor costs.¹⁰

⁹ Some observers may be interested in relative wage levels in various countries as an indicator of potential attractiveness of those countries as a site for labor-intensive manufacturing operations. Of course, wages do not tell the whole story. Imports and exports are affected importantly by the interaction between wages and productivity which together determine unit labor costs of production. This report does not include a separate table on either productivity levels for the respective countries or unit labor costs. Productivity levels for the whole country may be somewhat irrelevant to the issue of whether or not a corporation will set up a plant there. The reason is that productivity in specific manufacturing facilities abroad which are producing for export with U.S. technology may be considerably higher than productivity for the country as a whole.

¹⁰ Opening statement of Representative Sanders, Committee on Banking, Finance, and Urban Affairs, Subcommittee on International Development, Finance, Trade and Monetary Policy. Hearing on Labor and Environmental Standards, Wednesday, March 23, 1994. 103d Congress, 2d session, Serial no. 103-129. p. 34.

Those in favor of a *voluntary* linkage, and against intervention, often concur with the theory that “a rising tide lifts all boats.” They argue that free trade without additional mandatory encumbrances allows each country’s natural comparative advantage to serve as an engine for economic growth. As a country grows, it naturally shifts its concern from economic survival to improved welfare for its workers and citizens.

Linkages Already in Effect

As mentioned, both mandatory and voluntary linkages of worker rights and trade policy are already being used, as identified in table 3. Specific worker rights provisions associated with major linkages are listed in table 4.

Voluntary and Mandatory Linkages. Several U.S. laws incorporate both mandatory and voluntary linkages. The **Trade Act of 1974, as amended** defined internationally recognized worker rights and authorized the U.S. Trade Representative (USTR) to suspend benefits and impose duties or trade restrictions to counteract persistent patterns of conduct that deny internationally recognized worker rights.

The **1984 amendments to the Generalized System of Preferences** — GSP¹¹, and the **1990 amendments to the Caribbean Basin Initiative**¹² — give special trade status to other countries that adhere to a set of U.S.-defined “internationally recognized worker rights.” Penalty for noncompliance is prohibition of preferential tariffs.

Also, the **Omnibus Trade and Competitiveness Act of 1988** (P.L. 100-104) specifies as principal negotiating objectives of the United States regarding worker rights: a) to promote respect for worker rights; b) to secure a review of the relationship of worker rights to GATT articles, with a view to ensuring that the benefits of the trading system are available to all workers; and c) to adopt as a principle of the GATT that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

¹¹ 19 U.S.C. 2461 et seq., Title V of the Trade Act of 1974, as amended, Sections 502(a)(4) and (b)(7).

¹² 19 U.S.C. 2701, et seq., Caribbean Basin Economic Recovery Act, Subtitle A, Section 212 (b)(7).

**Table 3. Chronology of Labor Rights Provisions
in Major U.S. Laws and Trade Agreements**

Year	U.S. Law or Agreement	Labor Rights Provision
1969	General Agreement on Tariff and Trade (GATT)	Article XX permits discrimination against products produced by prison labor.
1984	Amendments to the Trade Act of 1974 (P.L. 93-618, as amended by Sec. 503 of P.L. 98-573)	<p>Congress first defined internationally recognized worker rights in Sec. 502(a)(4) of the Trade Act of 1974, as amended, to include:</p> <ul style="list-style-type: none"> (a) the right of association; (b) the right to organize and bargain collectively; (c) a prohibition on the use of any form of forced or compulsory labor; (d) a minimum age for the employment of children; and (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. <p>Sec. 301 Authorized the U.S. Trade Representative (USTR) to suspend benefits and impose duties or trade restrictions to counteract persistent patterns of conduct that deny internationally recognized worker rights.</p>
1984	Amendments to the Generalized System of Preferences, Title V of the Trade Act of 1974, as amended (P.L. 98-573)	Sec. 502(b)(7) prohibits preferential tariffs to trading partners that do not take steps to afford their workers internationally recognized worker rights (as defined in the Trade Act of 1974 as amended).
1988	Omnibus Trade Act of 1988 (P.L. 100-418)	Sec. 1101 specifies as principal negotiating objectives of the United States in trade agreements: a) to promote worker rights; b) to secure a review of the relationship of worker rights to GATT articles, to ensure that the benefits of the trading system are available to all workers; and c) to adopt as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.
1990	Amendment to the Caribbean Basin Initiative (P.L. 101-382)	Sec. 212 (b)(7) prohibits preferential tariffs to trading partners that do not afford their workers internationally recognized worker rights (as defined in the Trade Act of 1974 as amended).
1992	Jobs Through Exports Act (P.L. 102-549)	Sec. 802 prohibits use of export promotion funds from use in activities that contribute to violation of internationally recognized worker rights (as defined by the Trade Act of 1974 as amended).

Year	U.S. Law or Agreement	Labor Rights Provision
1993	North American Free Trade Implementation Act (P.L. 103-182)	Authorized U.S. participation in the NAFTA labor side agreement that required the United States, Canada, and Mexico each to enforce its own labor laws. Permitted sanctions if a country does not enforce its own laws relating to child labor, minimum wages, or occupational safety and health, where the failure is trade-related and covered by mutually-recognized labor laws.
1994	Uruguay Round Agreements Act (P.L. 103-465)	Sec. 131 requires the President to seek a working party in the new WTO to examine the relationship between <i>internationally recognized worker rights</i> and trade.
1995	Amendment to the International Financial Institutions Act (added by Sec. 526(e) of P.L. 103-306)	Sec. 1621 applies worker rights requirements (as defined by the Trade Act of 1974 as amended) to international financial institutions.

Table 4. Worker Rights Provisions in Various Documents

PROVISION	Trade Act of 1974, Sec. 502(a)(4) [P.L. 93-618 as amended by P.L. 98- 573], and incorporated into other U.S. laws	ILO Convention or Principle *core worker rights ^a	GATT/WTO		NAFTA Labor Side Agreement	
			1969 GATT Agreement (Article XX)	U.S. Agenda in the WTO as of 6/96	Principles each party is committed to promote	Each country's laws in these areas are enforceable with sanctions under NAFTA
Right of association	T	T* 87		T	T	
Right to organize and bargain collectively (with implied right to strike)	T	T* 98		T	T	
Prohibition of forced or compulsory labor	T	T* 29,105	T	T	T	
Minimum age for employment of children	T	T 138		T (Elimination of exploitative forms of child labor)	T	T
Acceptable conditions of work with respect to all three below: -minimum wages -hours of work -occupational safety and health	T	T			T	T (min wage) T (occ s & h)
Freedom from employment discrimination		T* 111		T	T	
Equal pay for men and women		T* 100			T	
Workers' compensation		T			T	
Migrant worker protection		T			T	

^a Number indicates specific ILO convention. **Source:** U.S. Library of Congress, Congressional Research Service. *Trade Agreements and the International Labor Standards of the ILO*, by Lois McHugh. [Washington] June 30, 1994. CRS Report 94-535. p. 4.

Other sources not indicated in headings or in table 3: For U.S.-WTO Agenda, see footnote 21, p. 15, and the paragraph it attaches to. For NAFTA Labor Side Agreement see U.S. Congress. *North American Free Trade Agreement Supplemental Agreements and Additional Documents. Message from the President of the United States*. November 4, 1993. H.Doc. 103-160, pp. 48-83.

The labor side agreement to the **North American Free Trade Agreement** links worker rights and trade policy with some voluntary and some mandatory provisions. It includes a list of 11 voluntary “guiding labor standards principles,” and identifies three of these as enforceable by sanctions. Any member country may bring a complaint against another country for not enforcing its own child labor, minimum wage, or occupational safety and health laws, where the failure affects trade and is covered by mutually-recognized labor laws.

Strictly Voluntary Linkages

The International Labor Organization (ILO). The International Labor Organization (ILO) has been working since 1919 to promote a worker rights-trade policy link. The ILO adopts international labor standards that member countries may choose to ratify and incorporate into their domestic laws. The ILO requests and publishes information on each signatory’s compliance with the labor standards which that nation has adopted: the ILO has no enforcement powers.

Since its establishment more than 75 years ago, the ILO (with a current membership of 174 countries) has adopted 177 labor conventions. Many deal with very limited labor areas, such as merchant seamen, and are ratified by very few countries. Six of these ILO conventions (marked with an asterisk [*] on table 4) have been adopted by more than 100 countries.¹³ As such, they are often cited as basic human rights that countries are obligated to meet, and that ought to be incorporated into the laws of all member countries. In addition, at the June 1996 International Labor Conference, the ILO members adopted a resolution to develop a child labor convention that will address abusive labor practices affecting children. Taken together, these could be considered the seven core international labor standards.

The United States, concerned with matters of sovereignty, has adopted only 12 of the 177 ILO conventions. However, this statistic may be misleading. While some countries that have ratified ILO conventions have tended to ignore them in practice, the United States has adopted and enforces strict domestic labor standards legislation that largely conforms to the ILO norm, and may, in some instances, exceed it.

Voluntary U.S. Programs. In addition to the voluntary and mandatory linkages between worker rights and trade policy mentioned above, several U.S. programs have encouraged U.S. businesses operating abroad to maintain certain labor standards in

¹³ Nine ILO conventions have been ratified by more than 100 countries. These nine include all the conventions indicated with an asterisk on table 4 except No. 87 (right of association). However, more than 100 countries have ratified an earlier version of No. 87, No. 11, which identifies right of association specifically for agricultural workers.

their operations around the world.¹⁴ Public pressure on businesses to produce goods in a responsible manner has helped move the linkage forward. Earlier, however, some efforts were also made by Congress to codify some of these programs into law. In addition, some international organizations have set forth codes of conduct for firms. These codes include the ILO Tripartite Declaration and the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises.¹⁵

Finally, administrative efforts have also been undertaken: The Clinton Administration has drawn up a list of “model business principles,” for U.S. firms doing business around the world. These encompass: 1) a safe and healthy workplace, and 2) fair employment practices, including: a) avoidance of child and forced labor and discrimination, and b) respect for the rights of workers to associate, organize, and bargain collectively.¹⁶

What Are the Prospects for Further Linking Worker Rights and Trade Policy in the WTO?

While Congress is focusing in the issue of linking child labor prohibitions to trade policy, Administration delegates are also looking to the upcoming Singapore Ministerial Conference of the World Trade Organization (WTO — to be held on December 9-13, 1996) to consider the worker-rights-trade policy issue.

U.S. promotion of the worker rights-trade policy link was required in the Uruguay Round Agreements Act (URAA, P.L. 103-465, Dec. 8, 1994). This is the Act that implemented the Uruguay Round agreement. More specifically, Section 131 of the URAA required the President to seek a “working party on worker rights.” Such a working committee would examine the relationship of internationally recognized worker rights to GATT and WTO Articles and objectives.

Lack of an international consensus on such a working party has resulted in organizing activity by other international groups whose meetings serve as “staging areas” where positions are developed and some consensus is reached between parties sharing views on trade policy and labor. These activities include meetings of ministers

¹⁴ See Perez-Lopez, Jorge F. *Promoting International Respect for Worker Rights Through Business Codes of Conduct*. Fordham International Law Journal. Vol. 17, No. 1, 1993, pp. 1-47. Programs encouraging U.S. businesses to maintain labor standards when operating abroad include the following guiding principles for U.S. companies doing business in the respective countries: the Sullivan Principles (South Africa), the MacBride Principles (Northern Ireland), the Slepak Principles (former Soviet Union), and the Miller Principles (People’s Republic of China and Tibet), Maquiladora Standards of Conduct (Mexico), and Subcontractor/Supplier Codes of Conduct (for U.S. corporations that source globally). Many of these, developed by various governmental and nongovernmental groups and individuals, have been the subject of legislative efforts to codify them.

¹⁵ Ibid.

¹⁶ Administration’s Draft Business Principles. *Inside U.S. Trade*. March 31, 1995. p. 9.

of the G-7 countries, the OECD, and Quadrilateral ministers. Table 5 tracks some of these meetings. A spokesperson for the Department of Labor (DOL) Bureau of International Labor Affairs reports that, "We're not asking WTO to take over for the ILO. WTO should not be a global enforcer of labor standards. The WTO may have the role to the extent there is a trade relationship. However, nobody has said we look to WTO to be to labor standards what it is to tariffs."

The U.S. Position on Trade Policy and Labor

According to a spokesperson at the DOL Bureau of International Labor Affairs, the Administration's position is that it would like the Singapore Ministerial to issue a declaration: 1) recognizing the importance of labor standards and their relationship to trade; 2) establishing a working group to study the trade-labor issue; and 3) making recommendations as to how the WTO will proceed on this issue.

Secretary of Labor Robert B. Reich has indicated that the United States, at this point, is pushing for recognition of only five core labor standards: (1) freedom of association; (2) the right to organize and bargain collectively; (3) prohibition of forced labor; (4) non-discrimination in employment; and (5) the prevention of exploitation of young children.¹⁷ The United States is not pushing at this time for a minimum wage standard, or for standards governing minimum age of workers, limiting work hours, or mandating occupational safety and health protection. Nor is it seeking sanctions against countries not adhering to these or their own labor standards.

Secretary Reich has also spoken out against using core labor standards to pursue an agenda of protectionism, or as a method to counter legitimate comparative advantage based on lower wages. "Such an agenda would be wrong and would be self-defeating. We do not advocate it, nor would we accept it."¹⁸

Those For and Against the Trade Policy-Labor Rights Link

Organizations and Interests. In the United States, according to the DOL Bureau of International Labor Affairs, organized labor is strongly in favor of forging some link between labor standards and trade. Moreover, labor interests are also trying to motivate union organizations in other countries. One such organization is the International Confederation of Free Trade Unions (ICFTU). This is an umbrella organization — a European-based multilateral organization that has coordinated meetings for the International Labor Organization (ILO). ICFTU General Secretary Bill Jordan has said, "If there is any rule in fair trade, it must be that no country's products be successful over those products which carry the cost of freedom."¹⁹

¹⁷ Statement of U.S. Secretary of Labor Robert B. Reich at the Plenary Session of the ILO Conference, Geneva, Switzerland, June 11, 1996. Press release by the Office of Public Affairs, U.S. Information Agency.

¹⁸ Ibid.

¹⁹ Obtained from Reuters, June 14, 1996, as a statement made to a news conference on release of a report prepared for the ICFTU annual conference in Brussels at the end of June 1996.

Table 5. 1996 For a Debating the Labor Rights-Trade Policy Link

Date	Forum	Outcome
April 1-2, 1996	Meeting of G-7 Ministers, Lille, France	Ministers agreed that the relationship between trade and labor should be raised in the “appropriate fora.” ^a
April 15, 1996	Meeting of developing countries in Geneva, Switzerland	Informal meeting of delegation chiefs of developing countries to lay out objectives for the Singapore Ministerial expressed opposition to U.S. demands that WTO begin work on the relationship between trade and labor standards. Many argued that the International Labor Organization (ILO, which has no enforcement powers) would be the best forum to examine the links between labor standards and trade flows. Some representatives expressed fears that labor standards could function as protectionist measures. ^b
April 19-21, 1996	Kobe, Japan 28th Quadrilateral meeting	Ministers from Canada, the European Community, Japan, and the United States continued planning for the Singapore Ministerial Conference of the WTO and agreed that the relationship between trade and labor standards should be <i>discussed</i> at the Singapore Ministerial Conference <i>with a view to determining how to proceed.</i> ^c
May 21-22, 1996	OECD Ministerial meeting in Paris	Committee reported that it has found no clear link, either positive or negative, between “core” labor standards and trade performance. The study reportedly maintains alternatively that: a) the absence of core labor standards in developing countries does not constitute an unfair trade advantage over developed countries; and b) a developing country that adopts labor standards is unlikely to experience a significant decrease in exports. These findings have been cited as both supporting the U.S. goal of including labor standards on the agenda of the December 1996 WTO ministerial in Singapore, ^d and alternatively, as calling into question the desirability and effectiveness of using trade sanctions to improve labor standards. ^e

^a OECD Panels to Consider Report that Downplays Trade, Labor Links. *Inside U.S. Trade*. April 12, 1996, p. 11.

^b Developing Countries Lay Out Objectives for Singapore Ministerial. *Inside U.S. Trade*, April 26, 1996, p. 8.

^c Kobe Quad Statement. *Inside U.S. Trade*, April 26, 1996, p. 9.

^d See OECD Panels to Consider Report that Downplays Trade, Labor Links, *Inside U.S. Trade*, op. cit.

^e Trade Scene: The Rich Man’s Club, by Richard Lawrence. *The Journal of Commerce*, May 9, 1996, p. 6A.

On the other hand, some business communities in the United States and abroad are opposed to establishing a labor rights-trade policy link. This group encompasses representatives of business, including the International Chamber of Commerce (ICC), who are making their perspectives known to the ILO. The ICC argues in a March 26 statement that labor issues are better addressed in the ILO, which was founded for the purpose of assisting in raising labor standards and improving working conditions throughout the world. The ICC stated: "The great majority of business representative organizations in the world have long been in favor of improving labor standards and promoting workers' rights through the ILO process and not by the use of trade sanctions, whose direct effect would first and foremost threaten the jobs and livelihoods of workers themselves."²⁰

Trading Partners. Former U.S. Trade Representative Mickey Kantor has pointed out that, of developed countries, only France and Belgium were supportive of a link between labor and trade policy at first. More recently, the EU has moved to support this proposal.²¹ Developing countries, (Brazil, India, Egypt, Bangladesh, Hong Kong, and the Philippines) have tended to oppose the link. Some of the most vocal critics of the U.S. position have been some of the developing Asian countries.²²

Options for Congress

The immediate question facing Congress relates to what approach to worker rights, if any, Congress might consider both in promoting standards prohibiting child labor and in debating the renewal of Presidential fast-track negotiating authority.

In the area of child labor, Congress might, as suggested by pending bills, take a number of actions including the following: prohibit importation of goods produced with child labor (S. 706, Harkin; and S. 2065, Frank); direct the State Department to adopt voluntary guidelines to promote responsible business practices for companies operating in foreign countries (H.R. 910, Evans); impose economic sanctions on countries that do not prohibit child labor; amend the Foreign Assistance Act of 1961 to withhold U.S. assistance from countries determined to be violating the human rights of working children (H.R. 3294, Moran); or impose certain sanctions on countries that do not prohibit child labor (H.R. 3812, Christopher Smith).

In the area of fast-track renewal legislation, besides the option of either allowing or, conversely, prohibiting worker rights provisions in fast-track renewal legislation, there are three other approaches: First, the voluntary code of conduct for businesses that President Clinton has proposed that U.S. multinational corporations adhere to

²⁰ ICC Urges Singapore to Address New Issues, Excluding Labor. *Inside U.S. Trade*, April 19, 1996, p. 15.

²¹ Kantor Says Singapore Should Launch Work on Labor, Corruption. *Inside U.S. Trade*, March 5, 1996, pp. 1, 27.

²² Developing Countries Lay Out Objectives for Singapore Ministerial. *Inside U.S. Trade*, April 19, 1996, pp. 1, 23.

when doing business abroad could be recognized by law. Such a code could incorporate one of the definitions of worker rights included in table 4.²³

Second, labor standards could be considered an element of value in consumer goods (as is already happening). Thus, Congress could pass a law stipulating that goods for import into the United States be clearly labeled as to the conditions under which they were manufactured, and let consumers adjust their demand for imported products made under various labor conditions. Problems with the “Rugmark” label in India suggest that some external organization would need to assure the accuracy of labels.²⁴ Labor standards would be paid for by one or more of the following: consumers willing to spend extra for goods made under certain conditions; workers and employers, to the extent that decreased demand might stem from higher prices.²⁵ Spokespersons for foreign manufacturers have characterized enforcement of this option as an impossible task, citing the hundreds of thousands of very small manufacturers in the developing world.

Third, Congress could focus on encouraging the trade-labor standards debate in the ILO and the WTO. There appears to be a general consensus among ILO members on the six ILO conventions that constitute the basic human rights labor standards. At the June 1996 International Labor Conference, the ILO members adopted a resolution to develop a child labor convention that will address abusive labor practices affecting children. For the most part, the conventions agree with wording in U.S. legislation that Congress has added since the 1970s. The ILO Director-General has indicated his willingness to attend the Singapore Ministerial meeting of the WTO and also expressed his opinion that the ILO should play a role in addressing labor standards in trade policy.

²³ Administration Releases Details on Voluntary Business Principles. *Daily Labor Report*, May 31, 1995, p. A-4.

²⁴ In 1993 India launched a carpet certification program called Rugmark. Under the program, government monitors are supposed to inspect exporters' looms to certify that children are not employed, and then tag carpets with a certification seal. *Factories of Children. The Washington Post*, May 21, 1995, p. A-1.

²⁵ Freeman, op. cit., pp. 80-87.