

TRADE AND” WHERE DO WE GO?



March 2001

कट्स ✕ CUTS

Executive Summary

This paper outlines the work which CUTS is engaged in the context of Linkages between trade and labour standards, and trade and environment. Soon this agenda will be lengthened due to newer concerns being pushed by the North. It speaks about the inequities of pushing for non-trade concerns into the trade regime and also about the myths and realities on the ground.

In order to deal with the issues in a dispassionate way, research and evidence-based dialogue is being proposed on the usual charges, which are being made against the South. CUTS hopes that through this project much of the heat and tension will subside so that one can actually address the problems, and find solutions.

About CUTS

Established in 1983, Consumer Unity & Trust Society (CUTS) grew out of a rural development communication initiative in Rajasthan, a state in north-west India. It is now the largest consumer group in India, and an active member of Consumers International (CI), working at the grassroot, regional and international levels by pursuing social justice and economic equity within a across borders.

It is represented in several Government of India policy bodies: The Technical Committee on Ecomark, the National Road Safety Council and the National Advisory Council on International Trade and the National Codex Committee. Internationally, CUTS serves as a member of the CI's Global Policy and Campaign's Committee on Economic Issues, and site on the board of the International Centre for Trade and Sustainable Development, Geneva, and the South Asia Watch on Trade, Economic & Environment, Kathmandu.

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Introduction

This presentation is about our work in the area of “Trade andWhere do we go?”. Before the Seattle ministerial meeting, CUTS hosted and organised a Third World Intellectuals and NGOs Statement Against Linkages (TWIN-SAL) under the leadership of Professor Jagdish Bhagwati, who is also the chairman of our international advisory board.

The purpose of this statement was to mobilise opinion against the strident demand for linking trade with labour standards and with environment standards. It was quite controversial and a debate was launched. This debate continues to occupy the proscenium. One of the fears that we had expressed is that the trade agenda should not be contaminated with non-trade issues, as it would not help either of the agendae. We then and even today protest against the inclusion of the Trade-Related Intellectual Property Rights (TRIPs) agreement as being inconsistent with the main goals of the World Trade Organisation (WTO) i.e. trade liberalisation. We also argued that because this is there, it does not mean that we can bring in anything and everything through the prefix: ‘trade-related’.

When the Singapore ministerial meeting came up with a declaration covering future work in the area such as investment policy and competition policy, we revised the name of the WTO as the WEO (World Economic Organisation). One of the reasons for the collapse of the Seattle ministerial meeting was the last minute demand by the US to link trade with labour standards. Developing countries were totally opposed to this, because of the sheer potential of it being misused as a protectionist device.

The latest salvo to be fired by the European Union is to link animal welfare with trade in the agreement on agriculture. (The EU has cleverly killed two birds with one stone. Firstly, it will satisfy its animal welfare lobbies, who have been asking for it. Secondly, it will continue to muddle the agricultural negotiations, as it has been dragging its feet on it). We have been waiting for it to happen. In future gender, and human rights activists will also push for linking trade with their concerns. Thus the WTO will perhaps become the WESO i.e. World Economic and Social Organisation. We already have the Economic and Social Council under the United Nations so what is there is enough precedence to change its name, character and scope. Further non-trade issues likely to be demanded for being linked could be good governance and what have you! So us poor sods in the South can look forward to a very bright future.

No one will address the linkages between trade and poverty, even though the OECD has a target of reducing world’s poverty by half by 2015. One of the major problems with poverty reduction is the unfair terms of trade in the WTO, and that is not being addressed at all. Another major problem, especially for the least developed countries, is the mounting burden of external debt. The OECD countries do make noises on these issues from time to time, but when it comes to action, one sees very little of it.

On the other hand, the issue of linking trade with either labour standards or with environmental standards has been occupying the centre stage ever since the World Trade Organisation came into being in 1994. It has further divided the rich North and the poor

South. The tragedy is compounded by the fact that it is a one-way street i.e. the rich North is the demandeur and the poor South, the defender. Inherently it is inequitable because the South cannot invoke any such ground to propose or justify trade measures, sheerly because it cannot afford to. It needs trade and investment to achieve economic growth, create more jobs and get their people out of poverty.

The polarisation on the grounds of linkage was worsened by the US president, when he proposed the introduction of labour standards into the WTO and empowering it with the power of sanctions. This was one of the main causes of the failure of the Seattle ministerial meeting in November 1999.

Even in the run up to the Seattle meeting much storm was raised by several interest groups to push for getting both labour and environment standards into the sanction-based WTO system. It was these two issues on which there was complete unity among the poor developing world. They were otherwise divided on other new issues like multilateral rules for investment, and for competition policy, with various poor countries having different positions.

One has to take stock of the past to see how the international community can proceed in the future, that being the theme of this conference. Indeed the failure of the Seattle talks is ominous for the poor South too, only one factor is unnerving that of uncertainty. But progress cannot be achieved if the major trading powers such as the EU really want to move forward on their existing commitments without wanting to seek new concessions from the South. However, the signs are not positive towards this end.

CUTS Campaign: TWIN SAL

In March 2000, EU's trade commissioner, Pascal Lamy visited India in order to lobby her to move forward on the pending round of talks. From his speeches and comments, it did not appear that the EU would like to engage with India or other developing countries on the bones of contention, which caused the failure of the Seattle talks. On the contrary, it would drag its feet on agriculture and, as I said above, newer issues are being added, such as animal welfare.

Reverting to Seattle, in the run up, as a counter campaign, though not quite matching with the level of the noise raised by the trade unions and civil society in the USA, CUTS organised and circulated a statement opposing such linkages. Third World Intellectuals and NGOs Statement Against Linkages (TWIN-SAL) was mainly drafted by the noted trade theorist Professor Jagdish Bhagwati. He is also the chairman of the CUTS' advisory board. TWIN-SAL was endorsed by over 100 individuals from all over the world. In this it was argued that:

- Overloading the WTO with non-trade issues that are not the concern of the GATT agenda would distort and strain the multilateral trading system;
- Such issues smell of protectionism actuated by competitiveness concerns;
- There are genuine concerns too but the agenda continues to be contaminated by competitiveness concerns;

- There are specialised agencies to deal with these issues such as ILO or the UNEP, which should be empowered to deal with violations of international agreed standards;
- Such moves will weaken these specialised international agencies and strengthen the opaque WTO; and
- The basic issue is that of development and poverty eradication without which it would be difficult to implement high standards by the poor countries.

Dialogues launched

The statement attracted huge attention widely, in the media as well as strong responses from the protagonists and the antagonists. Following this, CUTS organised a panel discussion at Seattle on the sidelines of the ministerial meeting. A special Linkages issue of the CUTS flagship periodical: *Economiquity* was also published as a Backgrounder for this panel discussion. In this edition, the TWIN-SAL was carried along with a Counter Statement by ICFTU, among other comments on the issue of Linkage. Three important points emerged at this meeting:

- A sanctions-based approach will not help progress the agenda;
- Environment and labour standards are two different cups of tea and should not be mixed together; and
- Dialogue needs to be continued to resolve the conflicts between the two sides and create better mutual understanding.

Another panel discussion was organised at Bangkok on the sidelines of the UNCTAD X in February 2000. This too came up with similar recommendations. At both panels, we ensured that there is a balance of speakers i.e. holding dissenting views. Interestingly at both meetings where over 70 persons attended, some people had to stand which indicated the deep interest in the issue. Two interesting remarks are worth reporting here.

Mr G Rajasekan, representative of the Malaysian Trade Union Congress, which is affiliated to the ICFTU the main protagonists of a social clause in the WTO, was somewhat nuanced in terms of who will have the power of sanctions. His view was that if the WTO decides that there is a violation of labour standards then it should be the ILO which should have the ultimate power of imposing the sanctions.

(Privately, Mr Rajasekaran, mentioned that their union has advised ICFTU to soften their stand as it is antagonising developing countries. In fact, the ICFTU member unions in India: Indian National Trade Union Congress and Hind Mazdoor Sabha have already disassociated themselves from the ICFTU's stand).

Mr George Sebastian of the International Fisherfolks Collective pointed out that adolescent tuna is now being increasingly caught as dolphins do not swim along with them. This is by itself an ecological disaster. Secondly in the case of fishermen, the young have to be initiated into the trade so that they can overcome the sea sickness. Adults cannot be trained to combat sea sickness.

A third panel was organised at Geneva on June 2000 with human rights groups on the sidelines of the Social Summit +5. Naively, the speaker: Peter Prove of the Lutheran World Federation accused trade negotiators of being ignorant about the UN conventions on human rights which have signed by governments. It was pointed out that trade diplomats cannot even deal with their own agenda, and therefore to expect them to be aware of all commitments made by governments is a very tall order.

Chair of the panel, Tony Hill of the UNGLS, expressed his regret that this issue has pitted worker against worker and people against people. Therefore there is an urgent need to close the conflicts. According to him such kind of dialogues are very crucial in this effort.

Trade union representatives who had confirmed their participation did not show up. However a representative of the Organisation for African Trade Union Unity did participate, and expressed his organisation's stand as being against Linkages between Trade and Labour Standards.

Myths and realities, and facts and counterfactuals

Trade unions also, often, rely upon myths, which get compounded when they continue to drum them. For example, in the above referred ICFTU's counter statement published in our special edition of *Economiquity* on Linkages, it is said that:

“The workers who are most hit by India's failure to address child labour in its carpet sector are the exporters in Nepal who are striving to make carpets under good working conditions”.

Fact is that the problem of child labour is endemic to both India and Nepal, because of poverty. It is a bogey that Nepal's exporters are suffering. On the contrary Nepal's exports of carpets is steadily increasing over time.

“Those who are most affected by the suppression of trade union rights in Indonesia's coal mines are the coal miners in India, whose strong trade unions obtain decent wages for them which are then undercut by imports from Indonesia”.

Fact is that all coal mines in India are in the public sector and the labour gets very high wages even if they don't produce! Secondly, coal is imported from Indonesia, not because of low prices, but because of low ash content, while the Indian coal is very polluting and harmful for thermal power stations. The Indonesian coal is costlier when landed in India.

“The whole developing world suffers from China's violation of all the core labour standards, enabling it to act as a magnet to persuade multinational companies to uproot their production from other developing countries in order to produce at low labour cost in China's special economic zones”.

Fact is that companies are investing in China not because of low labour standards, but because of low labour costs. This is due to a lower cost of living. Furthermore there is no evidence of a plant shifting from any developing country to China because of this factor.

Quite often child labour is a vocational issue or part of the family work at home. For example, the US recently banned the import of biris (Indian leaf-rolled cigarettes) from a town in South India (Nagercoil) because their customs inspectors saw children rolling them, in their own houses.

Fact: The biri manufacturer actually supplies tobacco, dried leaves and thread to make the biris at home, which is rolled by the whole family and then roasted. So children of the poor, also put in their mite at home.

In reaction to the EU’s proposal to label cigarettes that “Smoking kills”, the German tobacco workers’ union protested that the same rule should not apply to cigarettes meant for exports, because 11,000 jobs will be adversely affected.

Double standards: Is it alright that one should do unto others, what they will not do unto themselves?

This problem seems to be ubiquitous. In response to a move to enact a similar comprehensive law (Tobacco Products (Prohibition of Advertisement and Regulation Bill, 2001) aimed at curbing tobacco consumption, five major trade unions in India: CITU, AITUC, BMS, HMS and TUCC accused the Health Ministry of “toeing the WHO line”, and that it would affect an estimated 6mn farmers and about 20mn workers, engaged in the tobacco sector directly and indirectly.

As workers, their lives are also affected adversely by the costs of tobacco consumption, but it appears that immediate jobs are more important than leading healthy lives.

Non-trade issues do not help global welfare

There is a natural bias in the manner that we have approached the issue. Because we firmly believe that this whole push--linking trade with extraneous factors--does not help global welfare. On the contrary it will only help a few in the rich world. For example when the Uruguay Round concluded we got two new agreements through the ‘trade-related’ prefix. The first, on intellectual property rights (TRIPs) is in fact quite against the spirit of the whole WTO. The raison d’ etre of the WTO is trade liberalisation, while TRIPs is about trade restriction and benefiting few of the intellectual property rights owners, even if they are pirates. Not only that it grants a 20 year protection period to patent holders, which beats any sane economist’s common sense.

The other trade-unrelated agreement is on Trade Related Investment Measures (TRIMs), which requires poor countries to abandon any kind of conditionalities on foreign investors

even at the cost of their own development priorities. These are local content requirements or export commitments by the foreign investor which will enable the host country’s economic development.

The funny part of both these out of place agreements is that poor countries have been provided transition periods of five years to come upto the standards prevailing in the rich countries. No magician can pull a poor country out of its level of development in five years. The question, which arises, is whether Bangladesh can become Britain in 5 years.

In my opinion TRIPs should be amended and sent to WIPO, or aborted, while TRIMs should be dissolved entirely. After all, in capitalist jargon: entrepreneurship is about taking risks.

Be that as it may, let’s revert to the subject of linkages between trade and labour standards and trade and environment standards. While fully respecting, supporting and demanding the need for better regulation domestically, handing over the powers to a supra national authority is fraught with dangers. It is not a rule on how trade needs to be conducted. Even under the present rules-based dispute settlement system, it is the powerful who dominate the show. Many a times poor countries do not even have the resources to either understand the issue or to raise it at the dispute settlement body.

CUTS Project on Linkages

We have drawn up a global project to research and disseminate information on these two issues. The project proposal outlines a programme that needs to be undertaken to build capacities of civil society and policy makers, especially in the North, vis-à-vis appreciating the complex socio-economic issues that are currently not reflected in the ongoing debate on ‘linkages’.

The focus of this programme is to facilitate effective evidence-based dialogue in order to help both the camps of the ‘linkages’ debate to understand each others’ positions better. The goal is to reduce the heat and tension with the hope that the problems are addressed in the right manner leading to betterment of the situation i.e. good social standards and protection of the environment. We believe, that this programme has the potential of:

- Resolving the conflicts arising out of the contentious discussions of incorporating labour standards or environmental standards into the multilateral trading system i.e. a sanction-based platform viz. the World Trade Organisation (WTO), and
- Strengthening the existing non-sanction based institutions at both the national and international levels for effectively tackling the multifarious dimensions associated with these issues, and thus arriving at sustainable development solutions.

The project would promote dialogue with parties on all sides so as to reduce the tensions and resolve conflicts. For example, the RIIA has also tentatively agreed to host a dialogue under these hallowed portals, provided money can be raised. The research agenda has been divided into two axes. The first is on trade and labour standards and the second on trade and

environment standards. These are being reproduced here as drafts for comments and inputs from all quarters.

A common element of both the axes is the studies on Willingness To Pay by the Consumer in the North if the goods have been produced by maintaining the best standards of labour and environment. It has been argued by some scholars that consumers would be willing to pay more for such goods, but one is not too sure. One study in Pakistan by the Sustainable Development Policy Institute, Islamabad showed that of the US\$10 which a consumer pays for a T-Shirt in USA, the exporter gets only US\$1, while the poor cotton farmer gets a share of only \$0.09 i.e. less than a dime. In a similar situation a US cotton farmer would get at least US\$1.00. Under these circumstances how will the Pakistani farmer produce cotton without using excessive chemicals and water or not employ children to work in the fields for picking cotton and such light activities.

I. The Linkage between Trade and Labour Standards

1.1 CORE LABOUR STANDARDS

The Issues

- Core labour standards are not being implemented properly in developing countries, which give them a competitive advantage in exports.
- Linking trade and labour standards into the WTO framework has the potential of being used as a protectionist device against exports from poor to rich countries.
- The monitoring mechanism in the ILO is inadequate for ensuring compliance of a country's obligations under the ILO Conventions.
- Worker productivity varies from country to country.
- Labour markets are inflexible in the North and the immigration laws act as a barrier to movement of labour.
- Trade unions in the world and countries are divided over the issue of linking labour standards with trade, and where there is consensus it is nuanced.

The Questions

- What is the sanctity of the core labour standards? Whether there is a clear link between trade and labour standards?
- Do the developing countries deliberately suppress/flout the labour standards for gaining competitive advantage in trade? Can ratification of ILO conventions alone solve the problem?

- Is the labour standards issue a part of the campaign aimed at protecting the uncompetitive industries in the North?
- Is there any evidence to show that labour standards have any relationship with exports?
- Should productivity be a part of the discussion while examining the issue of labour standards?
- Is there any evidence that depressed wages of labour in developed countries is due to cheap imports from South?
- Whether workers’ rights in both developed and developing countries are based on the core labour standards?

1.2 CHILD LABOUR

The Issues

- Economic compulsion (poverty) forces children to work rather than go to school.
- Differential/lower wage levels exist for child labour as compared to adult labour.
- While children are abused in the poor countries by making them work etc, in rich countries children are victims of negligence and social disarray caused by an increasing consumer culture.
- In many occupations such as gem cutting or fisheries or agriculture vocational training starts at an early age.

The Questions

- Whether trade sanctions would help eradicate child labour?
- What will be the cost for such eradication in different countries?
- Whether eradication would lead to higher costs thereby affecting competitiveness of products from these industries?
- Whether children would get decent work in a poor country when they have grown up as educated persons?
- Whether children’s rights are being protected in all countries?

1.3 POLICY RESPONSES AND EFFECTIVENESS

The Issues

- Labour standards are poorly implemented.
- Consumers in the rich countries have boycotted goods exported from poor countries, which were allegedly made by exploited/abused labour.
- Other than boycott, there are other initiatives for fair trading, codes of conduct etc, which are brought to bear on developing country suppliers as well as the well known companies in the North.
- GSP benefits for observance of labour standards can and are often misused for political reasons.

The Questions

- Where does the problem lie with regard to labour issues in developing countries?
- Does the issue of labour standards reflect the concern of the labour force in the non export sector also?
- Is the international community concerned about the poor labour standards only in some countries, which compete with them in the market, but not in the oil exporting countries?
- In view of reducing tariff levels would any GSP benefits be meaningful?
- Are fair trade schemes and codes of conduct developed with inputs and active participation from developing countries?

II. The Linkage between Trade and Environment

2.1 MEAs, TRADE AND DEVELOPMENT

The Issues

- Negotiations on MEAs before the formation of the WTO have been carried out in isolation to trade regulations
- The logjam in the WTO Committee on Trade and Environment (CTE) is preventing progress on addressing concerns being expressed by free traders as well as environmental and developmental activists

- The Dispute Settlement Body of the WTO, which is resolving disputes in the area of trade and environment, is adjudicating on issues without a holistic approach to the overall development considerations
- Implementation of MEAs with a special emphasis on transfer of resources of all kinds.

The Questions

- Which MEAs have trade and development clauses/options?
- Which trade rules or agreements contain environment/development clauses?
- Can any political solutions be suggested to break the logjam at the CTE?
- How can the proceedings before the DSB on issues pertaining trade and environment be made more development centric?
- Can the impact of implementation of MEAs on sustainable development of developing countries be quantified?

2.2 DPGs, TRANSFER OF TECHNOLOGY, TOXIC WASTE TRADE

The Issues

(a) NIMBY syndrome

- Tighter regulation, more so, in developed countries, is leading to the dumping of such substances and technologies worldwide
- Dirty and outdated technologies are generally tied with the FDI entering countries or to the aid that countries receive

(b) WIMBY syndrome

- High costs associated with inventing new technologies force host countries to accept outdated technologies that suit their demand for the time being
- Ignorance about the existence of new cost efficient and environment friendly technologies are an important factor for the entry of old and dirty technologies
- At times developing and poor countries have to accept FDI in the form of dirty industries to address employment problems
- Cost of regulation, lack of transparency are important factors that hurdle poor countries to implement environment regulations effectively.

The Questions

- Are tighter regulations ‘the’ factor that push industries to shift their activities associated with DPG *et al* to countries where weak enforcement prevails?
- Is old technology necessarily dirty or is an effort made to create such a perception? Are social aspects associated with these technologies considered while labelling them as outdated?
- What are the DPGs that are sold to poor countries and do they cluster in certain sectors?
- Would the TRIPs Agreement escalate costs associated with environment friendly technologies, thereby compelling poor countries to keep on accepting dirty technologies that suit their demand?
- How important are lower regulations in pulling industries to establish their activities associated with DPG *et al* in countries where weak enforcement prevails?
- What is the process by which a domestic good is banned and what convergence is there in these processes between countries?

2.3 SUSTAINABLE PRODUCTION AND CONSUMPTION

The Issues

- The South is being expected to adopt production standards of the North without having adequate resources of all forms to implement the same
- Standards pertaining to sustainable consumption and production that suit consumption and production patterns of the North are being popularised and thrust on the South.
- Political, economic and social conditions are important ingredients that decide whether production and consumption standards followed by a particular region are sustainable or not
- Lack of effective participation of developing countries in standard setting bodies does not allow them to influence discussions on these issues
- Policy effectiveness vis-à-vis existing policies is a big hurdle countries face in implementing standards.

The Questions

- How standards are evolved and determined? What is the level of participation by developing countries in this process?

- Do not the social, economic and political conditions of a region determine the standards?
- Would products from the South be competitive after implementing production standards that have been decided by the North?
- What are the difficulties that poor countries face while implementing policies in the area of sustainable consumption and production?

2.4 TARIFF ESCALATION & PEAKS

The Issues

- Tariff escalation acts as a tax on development by discriminating against developing countries' processed goods.
- Similarly, tariff peaks operate in many areas of interest to developing countries, particularly agricultural products, thereby leading to unsustainable use of resources in developed world.
- Tariffs, as well as the rate of tariff escalation, have been reduced in the Uruguay Round, but is still a problem for developing country exports.
- Possible environmental effects include: increased transport costs, misallocation of resources, leading to wasteful production, poor technology usage delaying adoption of greener technology and hampers industrialisation in developing countries.

The Questions

- To what extent does tariff escalation and tariff peaks distort trade flows and therefore the allocation of resources.
- What effects does this have on development and what are the environmental effects.

Conclusion

In conclusion, we hope that the above drawn out research programme will not only throw some light on the vexed issues but also trigger more in depth research by scholars for a deeper and better understanding of the issues. We are inviting comments as well as offers for partnerships to conduct dialogue, and appeal to donors to support our research and advocacy efforts. We feel it is extremely essential to address these issues in a dispassionate manner, otherwise inequities on the poor South will continue.

As it is the South is struggling with the burden of implementing various complex WTO accords, while the North is hardly sympathetic to its problems. Poverty coupled with unfair terms of trade are also important factors which are worsening the problems.

In conclusion, let it be reiterated, that we in the South are equally interested in protecting our environment and our workers' rights. The forced coupling of the wagon of linkage issues with the trade engine have unfortunate repercussions and diverts the attention domestically. As it is, much of our sovereignty has already been surrendered to a supra national authority and then expect that social and environmental standards will also be determined by an authority, which is not under the control of domestic parliaments, is asking for too much.