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Issues of Environmental and Labor Standards in the Global Trading System

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ABSTRACT

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There have been increasing calls in recent years in the United States and other major industrialized countries for actions designed to harmonize domestic policies, institutions, and practices especially with regard to trade-related environmental and labor standards. As pointed out by Anderson (1996) and Bhagwati (1996), these calls for action have been motivated by a host of moral, economic, structural, and political factors. The purpose of our paper is to investigate the analytics, empirical evidence, institutional arrangements, and available policy options for addressing the issues involved. The paper deals first with the definition and scope of environmental and labor standards and then with the rationales that have been put forward calling for their. Theoretical aspects of the economic effects of environmental and labor standards are considered, and a summary of the available empirical evidence is provided Finally, the monitoring and enforcement of environmental and labor standards are discussed, followed by conclusions and implications for policy.

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I. Introduction

There have been increasing calls in recent years in the United States and other major industrialized countries for actions designed to harmonize domestic policies, institutions, and practices especially with regard to trade-related environmental and labor standards. As pointed out by Anderson (1996) and Bhagwati (1996), these calls for action have been motivated by a host of moral, economic, structural, and political factors. The purpose of our paper is to investigate the analytics, empirical evidence, institutional arrangements, and available policy options for addressing the issues involved.

The paper is structured as follows. Section II deals with the definition and scope of environmental and labor standards and Section III with the rationales that have been put forward calling for the harmonization of these standards. Theoretical aspects of the economic effects of environmental and labor standards are considered in Section IV, while Section V summarizes the available empirical evidence. The monitoring and enforcement of environmental and labor standards are discussed in Section VI. Conclusions and implications for policy are presented in Section VII.

II. Definition and Scope of Environmental and Labor Standards

Environmental Standards

As noted in Bhagwati and Srinivasan (1996, p. 160), it is important to distinguish analytically between: (1) environmental problems that are intrinsically *domestic* in nature; and (2) those that are intrinsically *international* because they involve transborder spillovers:

> "Thus, if India pollutes a lake that is wholly within its borders, the pollution is an intrinsically domestic question. If, however, India pollutes a river that flows into Bangladesh, the pollution is an intrinsically international question. So are the well-known problems of acid rain, ozone-layer depletion, and global warming. These intrinsically international problems of the environment raise questions that interface with trade questions both in common and in different ways from the intrinsically domestic problems."

Domestic environmental problems often arise because of some type of domestic market failure, in particular a negative externality that is associated with the behavior of producers and/or consumers who fail to internalize the social costs of their actions. In this case, the externality could be addressed, in principle, by means of a Coasian-type negotiation between the parties affected. But such a negotiation might not be feasible if there are substantial numbers of people who would have to be involved. This means therefore that the governmental authorities might have to impose a tax to make up for the difference between private and social costs. What is noteworthy is that such a tax would ideally be imposed on the production or consumption activity that is generating the negative externality. It would be inappropriate (i.e., second-best) therefore to use a tax on trade in such circumstances since trade is not the source of the externality.

In the case of transborder or global-type environmental problems, similar reasoning would apply. That is, such international environmental problems could be addressed in Coasian fashion by collective negotiations between or among the countries involved. If this proves not to be feasible, again the most desirable policy is for governments to impose a tax directly on the domestic production or consumption that is the source of the problem. To tax international trade per se would not be an efficient policy. It would be second-best.

Depending on their stage of development, per capita income, and political, social, and cultural conditions that shape preferences, countries will clearly differ in the recognition that they grant to environmental issues and the policies that are used to deal with these issues. In particular, it is well established that, as nations attain higher levels of income, there is a definite tendency to institute policies to cope with domestic environmental problems. The situation regarding transborder or global-type environmental problems is more complex, however, insofar as it calls for intercountry cooperation. Thus, as

Anderson (1996) points out, there are problems of free riding and differences between high- and low-income countries in the recognition granted to how important the problems are and how the costs of alleviating the problems should be shared.

The foregoing discussion takes it for granted that the environmental problems at issue can be characterized as "physical spillovers," as for example would be typified by environmental pollution. But, as Anderson (1996, pp. 3-4) notes, "psychological spillovers" may be important as well:

> "An example of a psychological spillover is that people may grieve if another country's activities threaten a particular animal or plant species in its jurisdiction.... Or they may grieve if they believe that the desires of another country's citizens for higher environmental...standards in their country are not being recognized sufficiently by their national government (a political market failure). Some would argue that psychological spillovers are less worthy of consideration than physical spillovers, not least because they are less measurable, less objective, and hence offer more scope for environmentalists to be 'captured' by traditional protectionists. Others would counter that there is so much uncertainty about the extent and effects of physical spillovers that they too are subjective and hence are qualitatively no different from psychological spillovers. Nor is there any reason *a priori* to presume that physical spillovers are more important than psychological ones in some 'willingness-to-pay' sense. Again, though, richer people are likely to place a larger value on such psychological spillovers than poorer people, adding to the gap between North and South in terms of perceptions about the need for international mechanisms to deal with these problems."

We know that, in real life, governments are often prone to use trade taxes or other types of trade interventions in dealing with domestic market failures, despite the economic costs that are involved. As we will note below, the proponents of such measures often view international trade as the mechanism by which the negative externalities generated abroad are transmitted between or among countries. Since our discussion suggests that domestic production/consumption may be the source of the environmental externalities rather than trade per se, it will be important therefore to examine the rationales for recommending trade intervention.

Labor Standards

As in the case of environmental standards, labor standards are multi-faceted and may vary from country to country depending on the stage of development, per capita income, and political, social, and cultural conditions and institutions. It may be difficult therefore to distinguish those labor standards that

everyone would consider to be universal human rights from other labor standards that will depend on given national circumstances. Nonetheless, efforts have been made to identify and achieve consensus on a group of *core* labor standards which ideally should apply universally. For example, according to OECD (1996, p. 26), core labor standards include:

1. prohibition of forced labor
2. freedom of association
3. the right to organize and bargain collectively
4. elimination of child labor exploitation
5. nondiscrimination in employment

Agreement on the universality of these core labor standards derives from the widespread acceptance and ratification of United Nations Covenants and Conventions as well as an acceptance (though not necessarily ratification) of the pertinent Conventions of the International Labour Organization (ILO) that deal with human rights and labor standards. Besides the aforementioned core standards, there are other labor standards that are less universally accepted and that relate to "acceptable conditions of work," which include: a minimum wage; limitations on hours of work; and occupational safety and health in the workplace.[1]

Concern over international labor standards can be characterized as a psychological rather than a physical spillover as in the case of an environmental externality. Environmental and labor standards thus raise many of the same issues with regard to the appropriateness of trade and other policies designed to

[1] Some of the difficulties that may arise in interpreting and implementing core standards and distinguishing between core and other standards are evident in what Fields (1995, p. 13) has proposed as "...a set of *basic labour rights for workers throughout the world....*" See also Aggarwal (1995, pp. 4-5) who proposes that a distinction be drawn between standards related to *labor processes* and standards related to *labor outcomes*. This distinction would apply some definition of what constitutes a "minimum" standard to the determination of basic worker rights in terms of labor processes. Presumably, the point of taking labor processes, rather than outcomes, into account is to make allowance for differences and changes over time in the level of economic development and related factors. What remains unclear, however, as Aggarwal acknowledges, is the difficulty of deciding whether the identification and guarantee of labor processes provide an effective pre-condition for attaining the minimum criteria associated with achieving labor outcomes.

deal with market failures. Let us now consider the various reasons that may help to explain why so much attention has been given to the need to harmonize these standards internationally.

III. Rationales for Harmonization of Standards

As already mentioned, Anderson (1996) and Bhagwati (1996) discuss a variety of interrelated factors that in their view are driving the demands for the harmonization of environmental and labor standards in the United States and elsewhere:

1. It is believed on moral grounds that there are certain universal values such as protection of the environment for the common good and the protection of human rights that may justify transcending national borders to attain these values. These ethical considerations extend to questions of how international trade and investment affect the distribution of income between and within countries and whether the policies and practices of some countries give them *unfair* advantages in their international transactions.

2. Second, there are structural considerations related to changes in the world economy that have been reflected in the declining importance of the United States,[2] and the increasing globalization of the world economy and increasing prevalence of footloose industries that may shift their location and mode of operation in short periods of time. There have also been prolonged periods of currency misalignment, particularly the dollar appreciation during the first half of the 1980s, which have altered the competitive positions of U.S. export and import-competing industries and created pressures for import restrictions and for improving access to foreign markets.

3. It may be argued that the diversity of domestic policies and institutions can create unfair trading conditions that are manifested in predatory behavior on the part of foreign producers that work to the disadvantage of domestic firms and workers.

4. Finally, the demand for protectionism has entered the political realm as policy makers have been pressured by domestic producing interests to institute measures designed to cope with unfair foreign trading practices. It is also commonly argued that unrestrained trade may create a "race to the bottom," in which countries compete with each other by offering lower standards as a means of attracting foreign investment or inducing domestic firms to stay put. Political factors are at work as well in regional trading arrangements, as for example, in the European Union's efforts to harmonize taxes and to implement a Social Charter, and in the side agreements on environment and labor standards that were negotiated to make the NAFTA more acceptable politically to the U.S. Congress.

[2] Bhagwati (1988) has referred to this as "the diminished giant syndrome" and likens it to the British climacteric that occurred at the end of the 19th century. In both cases, there was a reaction against the relatively open trading practices being followed and calls for policies to counteract the "unfair" trading practices of newly emerging competitors.

The foregoing rationales for the harmonization of standards obviously deserve to be taken seriously. We turn next accordingly to a discussion of some pertinent theoretical considerations that may be helpful in clarifying the issues involved.

IV. Economic Effects of Environmental and Labor Standards: Theoretical Considerations

In this section, we consider two main issues: (1) the diversity of standards and the case for free trade; and (2) the effects of standards and the international harmonization of standards on economic welfare and the terms of trade of individual nations.

Diversity of Standards and the Case for Free Trade

As noted in the preceding discussion, environmental and labor standards may vary across nations for a variety of reasons. The issue is whether such diversity of standards alters the case for free trade. This has been investigated in depth by Bhagwati and Srinivasan (1996) and Srinivasan (1995, 1997). The upshot of this theoretical analysis is that the diversity of standards between nations may reflect differences in factor endowments and levels of income, and that such diversity is consistent with the case for free trade. When trade is not balanced and if some minimum standards are to be attained, it will be necessary to have arrangements for international income transfers and domestic tax/subsidies. This will be the case as well when consumers in countries with high standards have a moral preference to raise standards in their trading-partner countries. Further, if there are market failures that prevent the attainment of minimum standards, income transfers and domestic tax/subsidies will be required to achieve optimal conditions for resource allocation and consumer welfare. Finally, the use of trade intervention may hinder rather than improve the attainment of higher standards, and it may be in the collective interests of countries to cooperate in setting standards.[3] We shall have occasion below to examine the implications

[3] With respect to labor standards, Srinivasan (1994, 1995, 1996, 1997) argues that, if developed countries with high labor standards are serious in doing something about working conditions in developing countries, the developed countries could lift immigration restrictions and/or provide income transfers to workers and to families in developing countries. His point is that humanitarian concerns need to be reflected in the willingness of citizens in developed countries to assume responsibility and pay financially to enhance the welfare of workers, including children, in developing countries. Similar reasoning about the responsibility and willingness to pay could be extended to environ-

of these conclusions in considering the different options for dealing with international differences in environmental and labor standards.

International Harmonization of Standards

Brown, Deardorff, and Stern (BDS, 1996) analyze the effects of labor standards on economic welfare and the terms of trade and do not concern themselves directly with issues of the diversity of standards and the case for free trade. They employ a variety of theoretical models in which national characteristics may determine the outcome of the introduction of labor standards. Their analysis can be extended in principle to environmental issues as well.[4]

A general conclusion emerging from the BDS analysis is that economic welfare is best served when countries act to correct their own domestic market failures. But, since these market failures will likely differ between countries, they conclude that there is no obvious case on welfare grounds for pursuing universal standards and the international harmonization of standards that this may imply. This conclusion is consistent with our preceding discussion, namely that diversity of standards between nations is the norm and is by no means in itself "unfair" so long as the extant standards conform with efficient resource use.[5]

In considering the economic consequences that may result from pursuing the international harmonization of labor standards, BDS conclude that in cases in which low-income countries are relatively labor abundant, harmonization will reduce the effective labor endowment of these countries and thereby the supply of labor-intensive production on the world market. This could improve (worsen) the terms of trade of the low (high) income countries, although this is not what the high-income countries may intend.

BDS further assess arguments for having standards imposed on low-income countries. They note that low-income countries might benefit in case a government is unable for domestic political reasons to

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mental issues as well.

[4] For a brief theoretical treatment of environmental issues, see Anderson (1996).

[5] An exception arises with labor standards in cases of slave labor and what may be considered to be egregious treatment of child labor. Note also, despite the good intentions of government, it may well turn out that the imposition of labor standards may fail to correct a market failure if the preferences of workers are heterogeneous with respect to

enact legislation on its own, although this presumes that the policy in question will indeed correct a market failure. Another possibility is that requiring the guarantee of such standards as the right of workers to organize may serve to reinforce development of democratic institutions. Finally, they ask if there is any justification for high-income countries to take countervailing actions against the ostensibly "unfair" standards of their trading partners. They answer in the negative so long as resources are being employed efficiently. If, nonetheless, a high-income country imposes a tariff or quota on imports from a low-income country, this will be obviously be harmful to the economic interests of the low-income country. In general, then, the case for international harmonization of standards appears rather weak, and it is possible that harmonization could have unintended adverse consequences for the very people they are intended to protect.

Standards as Public/Private Goods

We have already indicated that there may be a moral basis motivating the pursuit of higher environmental and labor standards. Thus, in his analysis of labor standards noted above, Srinivasan made allowance for moral considerations so that consumers could express their concern by a willingness to pay relatively higher prices for goods and services that reflected higher standards. In this connection, there is an issue of whether standards are to be considered as *public* or *private* goods. As long as the same standards appear in the utility functions of more than one individual, the standards are public goods. Suppose, on the other hand, that individual consumers have a sense of virtuousness and derive pleasure from believing that the good they are consuming embodies some acceptably high level of standards. In this case, individual consumers care only about their own satisfaction and not about others, so that standards can be treated as private goods.

This view of higher standards as private goods has been expressed most forcefully by Freeman (1994a), who argues that a market solution based on labeling may be an especially effective way to raise labor standards internationally. He makes the point that labeling has the advantage that consumers pay

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what they consider to be acceptable levels of, say, health and safety conditions in the workplace.

more for what they consider morally acceptable, and at the same time foreign suppliers are compensated for their increased costs. Labeling also undercuts protectionist influences.

It is not altogether clear, however, that standards should be considered to be private goods that lend themselves to a market-based treatment depending on supplying all relevant information to consumers. If instead, standards take the form of public goods, as might well be the case for environmental standards, Freeman (p. 30) acknowledges that some type of government action may be called for. In their theoretical analyses, Srinivasan and Brown, Deardorff, and Stern considered cases of domestic market failure in which a governmentally imposed tax/subsidy arrangement would be introduced to correct the distortion and permit the first-best optimum to be attained. While tax/subsidy (price-based) arrangements have a clear theoretical appeal, it is important to recognize that governments often prefer to use nonprice measures (i.e., legal regulation and enforcement) in dealing with standards. According to Freeman (p.29), the choice of different policy measures will depend on given empirical and institutional circumstances, and it is likely that some combination of price-based and regulatory approaches will produce the best results.[6]

While Freeman's analysis and perspective are in many way compelling, his case for consumer labeling may be limited insofar as it rests on treating labor standards as private goods. He does not make clear, moreover, what role the government should play, if any, in providing information to consumers and facilitating labeling and preventing private labeling from being co-opted by producing interests.[7] A further consideration is that transboundary and global environmental issues call for inter-governmental cooperation that would have to be arranged if a system of "eco-labeling" were to be implemented. In any

[6] Freeman goes on further to argue that what were referred above as *process-related* labor standards involving prohibition of forced labor, freedom of association, and collective bargaining may be best dealt with by regulatory measures while *outcome-related* standards involving wages and working conditions may be more amenable to market-based informational and labeling approaches.

[7] It is by no means a simple matter to devise an effective and equitable labeling scheme. Thus, for example, suppose that a minimum age standard were set for child labor. This will work only if applied uniformly across producing firms. But the more important issue is what happens to children who were formerly employed but now are below the age standard. If they can instead go to school, that would be a desirable outcome. But it is also possible that they will end up in even worse employment conditions. What it comes down to is whether low-income families in developing countries are able to withstand the loss of their children's income.

event, what actually should be done regarding international environmental and labor standards from the standpoints of the high- and low-income countries with differing standards still remains to be determined. There is a need in particular to take international political economy considerations into account.

Political Economy Aspects of International Environmental and Labor Standards

In discussing the sources of support for governmental action on environmental and labor standards, it is important to identify the constituent interest groups involved. Thus, in the United States, organized labor, import-competing firms, and environmental and human-rights public-interest groups are the main proponents of stricter environmental and labor standards applied to low-income countries. These interest groups may often recommend policies, including sanctions and import restrictions, which are intended ostensibly to change the behavior of trading-partner countries. These policies may of course not be favored necessarily by all such interest groups, and there may as well be widespread sentiment in the private sector for minimizing government actions in setting standards. Interest groups are also obviously influential in many low-income countries, especially among unionized workers in manufacturing sectors, employees of state enterprises, and owners/managers of import-competing firms. These groups may seek to protect and enhance their own ends and to resist foreign intrusion in setting standards.

The Role of Environmental Interest Groups

Esty (1997, pp. 2-3) has noted that the trade-environment linkage was brought into sharper focus in the United States by two events: NAFTA and the 1991 GATT dispute-settlement panel decision in the tuna/dolphin case. The prospect of NAFTA raised several concerns and possibilities, including: increased pollution spillovers between the United States and Mexico; downward harmonization of U.S. environmental standards; loss of U.S. regulatory sovereignty; unfair competition from Mexican firms; and the closed nature of the NAFTA negotiations. The tuna/dolphin decision was interpreted as a signal that trade objectives would override environmental concerns, and that U.S. sovereignty on matters of environmental law could be compromised by the actions of GATT bureaucrats.

According to Esty (1997, pp. 4-5 and 7), the NAFTA debate and negotiations provide a revealing perspective on how environmental interests were brought to bear on trade issues:

> "The environmental community...carefully tracked the progress of the NAFTA negotiations and debate at every stage. But from the outset, there was no agreement among the various environmental NGOs about the stance that should be taken toward freer trade in general or NAFTA in particular. Some environmental advocates, particularly those that adhere to a 'limits-to- growth' or 'small is beautiful' paradigm, fought the proposal at every turn....Other activists, particularly those that believe in sustainable development,...ultimately supported the agreement in return for access to the negotiations and commitments to environmental provisions both in NAFTA and in an Environmental Side Agreement. ...The varying objectives of the different parts of the environmental community led to a range of tactical responses to the NAFTA. The limits-to-growth crowd cast their lot with other die-hard opponents of the free trade agreement. ...The 'pro-NAFTA' groups used their position to shape both the negotiation process and the substantive outcome. Their pressure -- and willingness to work with the U.S. Trade Representative -- helped to ensure that environmental issues were a central NAFTA focus from the start to the finish. ...They got, in the words of former EPA Administrator William Reilly, the 'greenest trade treaty ever'...."

Environmental policy issues have also received a great deal of attention in the European Union (EU) where efforts have been made to develop EU-wide standards so as to coordinate the standards of the individual EU-member countries. The role of environmental interest groups has been evident on the global level as well, with twenty multilateral environmental agreements with trade provisions having been negotiated since the 1930s, according to Esty (1994, pp. 275-281). Finally, in the declaration that marked the conclusion of the Uruguay Round of multilateral trade negotiations and creation of the World Trade Organization (WTO) in 1994, the link between trade and the environment was explicitly recognized. It was subsequently decided at the first meeting of the General Council of the WTO in 1994 to set up a Committee on Trade and the Environment (CTE). The CTE has since held a number of meetings and issued several reports, including one that was prepared in connection with the WTO Ministerial Meeting that was held in Singapore in December 1996.

The Role of Labor Interest Groups

In connection with the NAFTA, as already mentioned, a Labor Side Agreement was negotiated by the United States in an effort to gain approval by the Congress. In the course of the NAFTA debate, organ-

ized labor was very vocal in opposing the NAFTA, and their opposition was widely shared among Democratic members of Congress. While the Labor Side Agreement may have influenced some members to change their vote, the Clinton Administration had to rely on Republicans to gain passage of NAFTA.

Social issues, including labor standards, have also figured prominently in the integration process of the European Union, especially following the admission of Greece, Portugal, and Spain together with the persistent unemployment that most EU member countries have been experiencing in the past two decades. With the introduction of the Single European Act and movement towards achievement of the Single Market by 1992, social issues were given greater prominence.

On the global level, issues of labor standards have long been the province of the International Labour Organization (ILO), which was established in 1919 following the end of World War I. Because the ILO relies primarily on moral suasion in seeking higher labor standards for its members, it has been criticized by organized labor especially and by some influential member countries for being ineffective. At the time the Uruguay Round agreement was signed in 1994, the United States announced that it would seek to introduce issues of labor standards into the WTO framework. Some EU member countries also supported this U.S. initiative. There was a concerted effort accordingly to include labor standards on the agenda of the December 1996 WTO Ministerial Meeting in Singapore even though most developing countries, particularly those in Asia, were opposed. In any event, the outcome of the Singapore Ministerial Meeting was to reaffirm that the ILO was the appropriate organization to deal with labor standards issues.

We shall have more to say on the foregoing issues of environmental and labor standards in our discussion below.

V. Economic Effects of Environmental and Labor Standards: Empirical Evidence

In this section, we consider the available empirical evidence on how international trade and foreign direct investment are influenced by intercountry variations in environmental and labor standards.

Environmental Standards, Trade, and Foreign Direct Investment

The empirical evidence on the economic effects of environmental standards has been comprehensively reviewed by Anderson (1996), which can be consulted for detailed references to the literature. As he notes (p. 12):

> "The reasons often given by environmental groups for their opposition to trade and investment...tend to be based on one or more of the following grounds: that freer trade means more output and income, which they presume would mean more resource depletion and degradation of the natural environment; that freer trade and investment encourages the relocation of environmentally degrading industries to countries with lower environmental protection standards or more fragile natural environments and leads to greater transport activity, which contributes further environmental damage; and that foreign investment reduces the incentive to develop environmentally friendlier technologies. *However, none of these assertions is unambiguously supported by empirical evidence.*" (italics added)

Anderson's main conclusions based on his literature review can be summarized as follows (pp. 12-15):

> "...that income increases mean greater damage to the natural environment...may be true initially for some developing countries....But once middle-income status is reached, people tend to alter their behavior in ways that reduce pressure on the environment.
>
> ...Another common behavioral change as economies open up and incomes rise is that the demand for education expands, and with more income and education comes more skillful management of all resources, including the environment.... As well, the political cost of implementing...policy reforms is reduced because of increased opportunities for businesses to meet stricter standards by acquiring more and cheaper environmentally benign production and processes from abroad.
>
> ...we know from the law of comparative advantage that not all industries will relocate from rich to poor economies when...barriers are lowered: some industries will expand at the expense of industries in developing countries, and conversely. ...the global environment may benefit from trade liberalization...because production [in protected industries] in industrial countries tends to be more pollutive than elsewhere.
>
> ...the extent of international relocation of productive activities due to the raising and enforcing of environmental ...standards should not be exaggerated. Recent studies suggest that the effects of such policies on comparative costs may be quite small. ...They also indicate that multinational corporations tend to use cleaner technology than firms in developing countries.... Japanese MNCs are in fact required to adopt the same environmental standards abroad as operate in Japan. ...[there is] little evidence of actual changes in patterns of trade specialization in response to the imposition of environmental regulations since the 1960s. ...Nor need the risk of environmental damage from transport activity increase with trade reform.

> ...there is little evidence to suggest that raising standards stimulates innovation, just as there is little...support for the notion that raising standards has a significant impact on the competitiveness of firms in industrial countries or on their decisions to invest in developing countries...."

While Anderson's literature review may have left some stones unturned, so to speak, it seems fair to say that the assertions about the alleged damaging effects that trade and investment may have on the environment are not borne out by the available empirical evidence.

Labor Standards and Trade

In our earlier discussion, we distinguished "core" and "other" labor standards. The question then is the extent to which international differences in the various standards affect trade performance.

Rodrik (1996) is an especially noteworthy effort to determine whether labor standards matter for trade. He constructed measures of labor standards, including: (1) total number of ILO Conventions ratified by a country; (2) a more focused measure of ratification of ILO Conventions relating to "basic worker rights"; (3) a measure of democracy encompassing indicators of civil liberties and political rights; (4) an indicator of problems of legislation or enforcement of standards affecting child labor; (5) statutory hours of work; (6) days of annual leave with pay in manufacturing; and (7) the percent of the labor force that is unionized. His data were from a variety of sources based on information in the 1980s and 1990s.

Using multiple regression analysis, Rodrik first investigated whether labor standards affect labor costs. Making allowance for intercountry differences in worker productivity, based on a sample of 36 countries, he found that per capita income was strongly correlated with labor costs. He also found positive and significant coefficients for the measures of the ratification of the ILO Conventions and the indicator of democracy and a negative coefficient for child labor practices. His conclusion then was that labor costs tend to rise as standards are applied more stringently across countries.

Turning next to the effects on trade, Rodrik focused on labor-intensive goods, using as a dependent variable the ratio of textile and clothing exports to other exports, excluding fuels. He included proxy measures for a country's labor/land ratio and for human capital to reflect the basic determinants on comparative

advantage.[8] Taking high- and low-income countries together, he found that only the comparative advantage variables were statistically significant. He also ran a regression omitting the high-income countries, concluding that the statistical fit was improved but that there was at best only limited support for the impact of labor standards for low-income countries. The conclusion to be drawn here then is that labor standards do not seem to have a significant effect on the pattern of trade.

Another study of interest is Aggarwal (1995), who investigated in detail the relationships of labor standards and the pattern of U.S. imports from ten major developing countries in 1994. The countries included were: Singapore; Hong Kong; Mexico; South Korea; Malaysia; Thailand; the Philippines; China; Indonesia; and India. These ten countries accounted for 26.5 percent of U.S. imports in 1994. Aggarwal's major findings (p. 7) were as follows:

> "Sectors typically identified as having egregious labor conditions do not occupy the only or even the primary share of these countries' exports.
>
> Comparisons across more export-oriented and less export- oriented sectors indicate that core labor standards are often lower in less export-oriented or non-traded sectors such as agriculture and services.
>
> Similarly, within an export-oriented sector, labor conditions in firms more involved in exporting are either similar to or better than those in firms that are less involved in exporting.
>
> 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.
>
> ...Wages and working conditions in developing countries have been exhibiting positive trends. In general, these have been in line with productivity changes."

Aggarwal also had occasion to analyze the impact of imports from the ten major developing countries on the U.S. economy. Her main conclusions (p. 24) were:

> "At the aggregate level, the impact of imports from these developing countries is small relative to imports from industrialized countries.
>
> Countries with lower labor standards do not exhibit higher rates of import penetration than countries with relatively higher labor standards.

[8] Rodrik did not include a separate measure of physical capital in his analysis.

> Imports from these developing countries do not appear to have larger displacement effects on U.S. employment and wages in sectors associated with poor labor standards relative to other sectors."[9]

Finally, we may cite some of the main conclusions from the OECD study of *Trade, Employment and Labour Standards* (1996, pp. 12-13):

> "...empirical research suggests that there is no correlation at the aggregate level between real-wage growth and the degree of observance of freedom-of-association rights;
>
> ...there is no evidence that low-standards' countries enjoy a better global export performance than high-standards' countries;
>
> ...a detailed analysis of US imports of textile products (for which competition from low-standards countries is thought to be most intense) suggests that imports from high-standards' countries account for a large share of the US market. Moreover, on average, the price of US imports of textile products does not appear to be associated with the degree of enforcement of child labour standards in exporting countries;
>
> ...some cases have been recorded where governments appear to deny core standards to workers or do not enforce them deliberately with the aims of improving sectoral trade competitiveness or attracting investment into export- processing zones (EPZ); the expected economic gains from such a strategy are, however, likely to prove short lived and could be outweighed in the longer term by the economic costs associated with low core standards;...."[10]

While the studies cited above may not constitute the final word on the relationships between labor standards and trade, the conclusion seems inescapable that there is little compelling empirical evidence suggesting that low labor standards have an impact on trade.

Labor Standards and Foreign Direct Investment (FDI)

As mentioned in earlier discussion, it is often alleged that multinational enterprises may be attracted to locate in countries with lower labor standards to take advantage of lower costs. The available empirical evidence actually indicates the opposite to be the case.

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[9] In addressing issues of labor standards and trade, Erickson and Mitchell (1996) focus on the pattern and labor content of U.S. trade for evidence of adverse wage effects and displacement of U.S. workers. While they find a fairly small impact from trade, they do not investigate the extent to which low labor standards are the root source involved.

[10] The OECD study further notes that "...there is a positive association over time between successfully sustained trade reforms and improvements in core standards." They also note that core labor standards could be enforced without risking negative repercussions on FDI flows. "...These results imply that concerns expressed by certain developing countries that core standards would negatively affect their economic performances or their international competitive position are unfounded; indeed, it is theoretically possible that the observance of core standards would strengthen the

Thus, Rodrik (1996) investigated the determinants of U.S. FDI abroad during 1982-89, including measures of foreign exchange distortions, population, and income growth in host countries together with the various indicators of labor standards. He found (p. 22) that: "Countries with a lower democracy score and a higher CHILD score have received *less* foreign investment during 1982-89 than would have been predicted on the basis of other country characteristics. Taken at face value, these results indicate that low labor standards may be a hindrance, rather than an attraction, for foreign investors." Aggarwal (1995, p. 7) reached a similar conclusion: "U.S. foreign direct investment is not typically concentrated in countries or industries with poor labor standards." Finally, as reported in OECD (1996, p. 13): "...while core labor standards may not be systematically absent from the location decisions of OECD investors in favor of non-OECD destinations, aggregate FDI data suggest that core labor standards are not important determinants in the majority of cases."

Thus, the empirical evidence suggests rather convincingly that low labor standards are not reflected in the existing trade performance of the major developing countries and that FDI is more attracted to countries with high rather than low standards.

Environmental and Labor Standards and the Role of Interest Groups

As indicated in our earlier discussion in connection with the NAFTA, environmental interest groups were very pro-active in the debate and involvement in the negotiation of the NAFTA and the Environmental Side Agreement. Some groups, which were deeply opposed to the NAFTA, joined forces in their opposition together with organized labor. Other environmental groups chose to work with the USTR as a means of influencing the negotiations in ways that they believed would promote environmental objectives. This experience suggests therefore that environmental interest groups cannot be characterized in general as supporting protectionist motives.

As for labor standards, Krueger (1997) states that the conventional political economy view is that support for standards reflects protectionist interests in the United States and elsewhere. In an effort to test

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long-term economic performance of all countries."

this proposition empirically, he analyzed the determinants of support in the U.S. House of Representatives for the Child Labor Deterrence Act of 1995. If this type of legislation were approved, it could prohibit imports of goods produced abroad by child labor under specified circumstances, including by children under 15 years old and subject to review of child labor practices by the U.S. Secretary of Labor. The Act was co-sponsored by Senator Tom Harkin (D-IA) and Congressman Barney Frank (D-MA).

Krueger hypothesized that support for the legislation would be strongest in districts in which there are relatively large numbers of unskilled workers, as measured by high-school completion rates. Other independent variables included in the analysis were: the proportion of unionized workers in a given state; previous votes on NAFTA and GATT; party affiliation; the representative's "liberalness" rating by the Americans for Democratic Action (ADA); the representative's popular vote in the 1994 election; and the number of terms served. Using a linear probability model for estimation purposes, Krueger (p. 289) found that "...Congressmen from districts with a high concentration of high-school dropouts are *less* likely to co-sponsor the Child Labor Deterrence Act. ...This finding is contrary to what I would expect from a simple political economy model...." Krueger also found that higher rates of unionization were associated with support for the Child Labor Deterrence Act as were representatives who were Democrats and also had voted against NAFTA and GATT.

In interpreting his results, Krueger (p. 293) suggested that the demand for international child labor standards should be considered to be a "normal" good, following Freeman (1994a). That is, voters with higher socioeconomic attainment will select Congressmen who favor limitations on employment of child labor. He further argued that unionized workers who tend to be more highly skilled and thus may not benefit directly from a ban on imported goods made with child labor may in this case be acting to pursue policies that strengthen worker rights more generally rather than pursuing their own self interest. He goes on more broadly to state (pp. 293-94): "Indeed, in many instances I am surprised that the AFL-CIO used its limited

political capital to press for international labor standards that are of little benefit to its members, when instead it could pursue policies that are of much greater direct benefit to its membership."[11]

While Krueger's results are suggestive, they are by no means definitive. In particular, as Srinivasan (1996, 1997) has noted, a representative may have chosen not to sponsor the legislation and yet may be supportive of it. Further, since less educated and less skilled individuals tend to vote less, their interests may not have been given sufficient weight in the representative's deciding whether or not to be a cosponsor. Finally, as already noted, Krueger's results suggest support for the legislation from representatives from districts with a higher rate of unionization and voting records opposing NAFTA and GATT.

Another noteworthy empirical study is by Freeman (1993) who investigated the evidence in developing countries for and against government intervention designed to introduce/remove labor-market distortions and, alternatively, to enhance labor-market institutions.[12] He labels these two views, respectively, the "World Bank Distortion View" and the "International Labour Organization (ILO) Institutional View." These views differ insofar as removing interventions is believed to enhance economic efficiency and welfare in the former, whereas in the latter introducing interventions is believed to lead to these same results.

Freeman (p. 119) notes that: "The distortion case hinges on four claims about interventions: they misallocate labor, waste resources through rent-seeking, impair adjustment to economic shocks, and deter investment, thereby reducing growth." But the Institutional View rejects these claims (p. 121): "When actual labor markets operate differently from the ideal, institutional modes of influencing outcomes, such as collective bargaining, tripartite negotiations, and government-mandated wages or labor standards, can be

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[11] Krueger also examined other aspects of child labor, including the relationship between employment of children and GDP per capita and the experiences with compulsory schooling laws. He found that employment of young children was negatively related to GDP per capita. That is, child labor is more prevalent in low-income regions and negligible in high-income regions. This is a clear demonstration of the fact that restrictions on child labor can be looked at as a normal good, in this case less of it being condoned as per capita income rises. Evidence on the effects of compulsory schooling laws suggested that there may be definite benefits from such laws in high-income countries, but that there is widespread noncompliance with existing laws in many low-income countries. These findings suggest that reliance on child labor in low-income countries will diminish as family incomes rise, and that realization of the benefits of compulsory schooling laws depends on increasing economic opportunities and financial support for poor families so as to reduce their dependence on employment of their children.

[12] See also Freeman (1994b) which contains empirical studies of labor-market institutions and policies in several industrialized countries and some lessons for the United States suggested by the experiences of other countries.

Pareto improvements. In the institutionalist view, they usually are." To investigate the validity of these alternative views, Freeman examined evidence for selected developing countries mainly during the 1980s. He considered: (1) sectoral wage differentials; (2) nonwage labor costs; (3) minimum wages; (4) wage adjustments; (5) employment security regulations; and (6) collective bargaining.

His findings can be summarized as follows:

(1) Public sector and urban wage premia have decreased remarkably in Africa and Latin America during the 1980s. There have been longstanding wage differentials among comparable workers in many developing countries, apparently despite differences in policy interventions.

(2) Nonwage labor costs (i.e., payroll taxes, unemployment compensation, other fringes) do not appear to be distortionary.

(3) Depending on their level, minimum wages could be distortionary, but these distortions have not been serious in several instances, and minimum wages have actually been lowered to prevent undue negative employment impacts in some cases.[13]

(4) Real wages apparently dropped sharply in many countries in response to macroeconomic and structural adjustments, although unemployment may have increased.

(5) There is mixed evidence on the effects of job security and other employment regulations. Further, relatively large public sector employment could be, but is not necessarily, distortionary.

(6) There is no consistent evidence that suppression of unions promotes economic growth, or that the relative presence or absence of unions retards or encourages growth.[14]

It would appear from Freeman's empirical findings that neither the distortion nor the institutional view of labor-market policies and institutions is clearly supported by the available data. In particular, real and relative wages in developing countries turned out to be much more flexible in response to changing market conditions than the strict distortionist view would suggest. With his findings in mind, Freeman developed a theoretical model in which labor-market interventions may influence attitudes towards reforms

[13] See Squire and Suthiwart-Narueput (1997) for data on real minimum wages for selected developing countries for 1970-1990 and for an analysis of how noncompliance with official minimum wages may reduce distortionary costs.

[14] Linda Lim in commenting on Stern (1997) has pointed out that, in spite of the absence of formal worker rights and standards in such Southeast Asian countries as Malaysia, Singapore, and Indonesia, wages and working conditions have improved markedly. In contrast, the experiences in Thailand and the Philippines have been much less favorable even though these nations encouraged worker rights and minimum wages. She also noted that both Malaysia and Singapore have attracted considerable inflows of FDI and that workers have benefited in the firms involved. See also the comment

and ways of expressing these attitudes. The thrust of the model was that it is important to identify the winners and losers involved in making changes in labor-market policies, how their positions and composition may change over time, and what kinds of side payments may be necessary to generate continued support for the policy changes. Freeman's overall conclusion was that the costs and benefits of labor-market policies will depend on individual-country circumstances.

Conclusion

Our review of environmental and labor standards and the role of interest groups suggests some ambiguities with respect to the issues. On the basis of our theoretical discussion, it is difficult conceptually to make a case for pursuing intercountry harmonization of standards. Further, the conclusions of the empirical evidence were that international differences in environmental and labor standards do not have any significant impact on existing patterns of trade or on the location of investment choices. In fact, with labor standards, flows of FDI respond to high rather than low standards. This may be the case for environmental standards as well.

We noted that environmental interest groups were split against and in favor of the NAFTA, and that those opposed allied themselves with organized labor. While organized labor in the United States is generally viewed as having protectionist motivations, this has been questioned in research by Krueger (1997). Moreover, the available empirical evidence for selected developing countries is mixed with regard to whether or not existing labor-market distortions are necessarily distortionary. In this connection, it can be argued that there may be grounds for interventions involving labor standards that enhance the efficiency and equity of labor-market institutions in given circumstances and in ways that are not adequately reflected in the distortions framework. It is not clear, however, whether this may be the case for environmental interventions.

While there may thus be scope for differences in views on environmental and labor standards issues, in our judgment the weight of the theoretical and empirical analysis does not justify taking an activist

position to mandate and enforce harmonized environmental and labor standards across different countries.[15] By the same token, though, there is a need to deal internationally with transborder and global-type environmental issues, since these issues will require inter-country cooperation to deal with the externalities involved. In any event, it is abundantly clear that issues of environmental and labor standards will continue to have a high profile in the current policy environment, so that it is essential to consider the alternative arrangements that exist for the monitoring and enforcement of these standards. This will be done in the following section. We will then conclude with some recommendations that may serve the interests of the United States and other high-income countries as well as the low-income countries.

VI. Monitoring and Enforcement of Environmental and Labor Standards

Environmental and labor standards are presently dealt with in a variety of settings: global; regional; national/unilateral; and other, including private arrangements. We shall discuss briefly each of these in turn.

Environmental Standards: Global Arrangements

As Esty (1994, p. 46-47) notes, the environment is not mentioned explicitly in the GATT articles of agreement. GATT Article XX does provide some exceptions, however, that are pertinent to the environment. Thus Article XX(b) refers to measures "necessary to protect human, animal or plant life or health," and Article XX(g) refers to measures "relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption." Further clarifications pertinent to environmental measures relating to technical barriers to trade (TBT), sanitary and phytosanitary (SPS) rules, agricultural subsidies, other subsidies and counter-

[15] It is worth noting that there is evidently a marked difference in world view between most advocates of labor standards and trade (and most other) economists. Labor advocates seem to see the world in terms of a struggle between capital and labor for the rewards from production, without much regard to the size of the output that they will have to share. They see the outcome as depending on power, not on economics. Trade economists see the world in terms of how resources are allocated to production with a view to maximizing the total output. They see the distribution of that output between capital and labor as depending on scarcity and productivity, not on power. Therefore, labor advocates favor the use of intervention to tilt the balance of power in favor of labor, believing then that labor will get a larger share of a fixed pie. Trade economists see those same policies as shrinking the pie while altering the slices not by changing power but by changing the markets within which scarcity determines the rewards to capital and labor. Many environmental advocates are similarly skeptical of the emphasis that economists place on the importance of scarcity and productivity as

vailing duties, trade-related intellectual property rights (TRIPS), and services were added in the course of the Uruguay Round negotiations, as noted by Esty (p. 50). Also, as part of the new WTO structure, a Committee on Trade and Environment (CTE) was established to provide an ongoing forum to address the trade aspects of environmental issues. According to the WTO (1996b, Annex I), the CTE's mandate and terms of reference were to cover:

1. "the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements

2. the relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system

3. the relationship between the provisions of the multilateral trading system and: (a) charges and taxes for environmental purposes; (b) requirements for environmental purposes relating to products, including standards, technical regulations, packaging, labelling and recycling

4. the provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects

5. the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements

6. the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions

7. the issue of exports of domestically prohibited goods

8. TRIPS

9. Services

10. appropriate arrangements for relations with non-governmental organizations referred to in Article V of the WTO and transparency of documentation."

The CTE has held several formal and informal meetings since its inception, and it prepared a report for submission to the December 1996 WTO Ministerial Meeting in Singapore. This report sets out

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the keys to expanding the pie for the benefit of both capital and labor.

the main issues pertaining to the terms of reference noted above and summarizes the proposals set forth by member governments. For our purposes, The Press Brief, "Trade and Environment in the WTO," prepared by the WTO (1996a) for distribution to the media at the Singapore Ministerial provides a useful summary of the WTO's conception of the role and mandate of the CTE:

> "The WTO Committee on Trade and Environment has brought environmental and sustainable development issues into the mainstream of WTO work. The Committee's first Report...notes that the WTO is interested in building a constructive relationship between trade and environmental concerns. Trade and environment are both important areas of policymaking and they should be mutually supportive in order to promote sustainable development. The multilateral trading system has the capacity to further integrate environmental considerations and enhance its contribution to the promotion of sustainable development without undermining its open, equitable and non-discriminatory character.
>
> ...Two important parameters have guided the CTE's work. One is that WTO competence for policy coordination in this area is limited to trade and those trade-related aspects of environmental policies which may result in significant trade effects for its Members. In other words, there is no intention that the WTO should become an environmental agency, nor that it should get involved in reviewing national environmental priorities, setting environmental standards or developing global policies on the environment; that will continue to be the task of national governments and of other intergovernmental organizations better suited to the task. The second parameter is that if problems of policy coordination to protect the environment and promote sustainable development are identified through the CTE's work, steps taken to resolve them must uphold and safeguard the principles of the multilateral trading system which governments spent seven years strengthening and improving through the Uruguay Round negotiations."

Environmental advocacy groups have in general been critical of the GATT/WTO. As Esty (1996, p. 70) notes:

> "To environmentalists,..., 'protection'—of the land, water, and air—is the ultimate good. To free traders, 'protection'—discriminatory barriers to trade—is the consummate evil.
>
> ...From an environmental perspective, the WTO's efforts seem geared solely to the 'negative' side of the trade-environment linkage. Environmentalists find the focus skewed toward the potentially injurious environmental impacts on trade to the exclusion of trade effects on the environment. ...The lack of a 'positive' agenda, aimed at enhancing environmental quality, leaves those concerned with the advancement of environmental protection suspicious of the WTO as a forum for sorting out trade-environment disputes."

Thus, for example, it was reported in the WTO's *Trade and Environment Bulletin no. 16* (1996c), concerning a WTO meeting with 35 environmental NGOs held in late September 1996, that:

> "Many participants said that the [WTO] decisions fell far short of NGO expectations and of what in their view were basic requirements for increasing the institutional transparency and public accountability of the WTO. ...There was disappointment that the WTO guidelines on relations with NGOs foresaw no access for NGOs to WTO meetings.... Disappointment was expressed also about the decision on derestriction of documentation. ...Some considered that this would reinforce the view that the WTO preferred to operate in an atmosphere of secrecy and perpetuate public misgivings and misunderstandings about WTO activities."

Esty (1996, 1997) has articulated a number of substantive policy challenges that he urges the WTO to respond to:

1. The use of trade measures as a mechanism for carrying out the provisions of multilateral environmental agreements.

2. The disciplines that should be applied to ecolabeling; expansion of the environmental exceptions permissible under GATT Article XX so as to allow more leeway for national regulatory environmental actions.

3. Reductions of agricultural and energy subsidies that would bring about environmental improvement.

4. Clarification of environment-related aspects of trade-related-intellectual property rights.

5. Clarification of the handling of "domestically prohibited goods" such as pesticides and other chemicals.

6. Opening up the WTO to permit greater transparency of its dispute resolution and other procedures and making available the widest ranges of opinions of environmental data and views.

7. Opening the CTE and all WTO environmental debates to greater NGO environmental representation.

8. Environmental assessment of trade agreements.

9. Work towards a global environmental organization that would operate in conjunction with the WTO.

While many of these environmental concerns are genuine, in our view it is questionable that the WTO should be revamped to accommodate these concerns. That is, the WTO is intended to be an intergovernmental organization whose purpose is to monitor and enforce the rules that guide the operation of the global trading system. If environmental NGOs were to be given access to WTO procedures along the

lines suggested by Esty, this would inevitably change its character and probably reduce its effectiveness. But, more importantly, it would open up a Pandora's box because it would then mean that all sorts of other interest groups could request similar treatment. By the same token, we would endorse Esty's recommendation to establish a global environmental organization that could interact directly with the WTO and perhaps coordinate in some cases. This would be preferable to leaving environmental issues to be handled only at the national level, and it would leave open to that other organization whether environmental NGOs might play a role in it, rather than exclusively through national governments.

Environmental Standards: Regional Arrangements

When groups of countries form trading blocs, as in the case of the European Union (EU) and the NAFTA, it has been necessary to address environmental issues for many of the reasons mentioned in our earlier discussion. Let us now then consider briefly how these issues are being dealt with in the EU context and in NAFTA.

European Union Environmental Arrangements

Swann (1995, pp. 351-52) provides a brief summary of EU environmental arrangements:

> "Following the signing of the Rome Treaty increasing emphasis was laid on environmental issues in terms of pollution, other forms of degradation of the environment and the exhaustion of resources. On the face of it, however, the treaty contained no explicit reference to these kinds of issues and appeared not to provide the Community with a power to act in such matters. Nevertheless, the Community did go on to develop an environmental policy. This followed the Paris Summit of 1972 when the Heads of State and of Government called for the introduction of such a policy.... The justification was twofold. The Community was from time to time forced to deal with environmental issues which arose in connection with the approximation or harmonization of national laws under Articles 100 and 101. ...In addition Article 2 of the original Rome Treaty outlined in a broad way the tasks of the Community which included 'a continued and balanced expansion' and 'an accelerated raising of the standard of living'.
>
> It was therefore argued that action on environmental issues was a necessary part of such a programme. Once this was accepted then Article 235 was ready to hand to enable the Community to take whatever *additional* powers were necessary to achieve environmental objectives.
>
> ...All this was transformed by the Single European Act, which inserted a new Title into the Rome Treaty expressly concerned with the environment. The new Article 130r declared that Community action in relation to the environment should seek to preserve,

> protect and improve the quality of the environment, contribute to the protection of human health and ensure a prudent and rational utilization of natural resources.
>
> ...The Maastricht Treaty reaffirmed the community competence in environmental matters but...added a number of complications. First, Article 130r was revamped and now declares that actions on the environment shall aim at a high level of protection. ...a new Article 130s...provides for a variety of possible decision-making mechanisms - e.g. the Council may operate in cooperation with, may co-legislate with or may merely consult, the Parliament. The Single Act imposed a subsidiarity requirement on the Community when contemplating environmental measures.
>
> ...The first environmental action program was introduced in 1973, while the fifth runs from 1992 to 2000. The Community has introduced approximately 500 environmental measures.
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> ...Two relatively recent decisions need to be highlighted. The first was the 1990 agreement to set up a European Environmental Agency,...located in Copenhagen. The second is the key principle, contained in the fifth action programme, that environmental considerations must no longer be regarded as peripheral. They must be absolutely central in all policy making...."

We should also note that the EU has been actively engaged in a number of multilateral environmental agreements and in ongoing discussions and meetings held under the auspices of the WTO and other international fora dealing with environmental issues.

It would take us too far afield to discuss EU environmental issues in detail, especially since there is now a very large literature dealing with these issues. Thus, for example, Abraham, Deketelaere, and Stuyck (1995) contains a number of interesting papers dealing with such issues as: federalism and subsidiarity in environmental policy making; division of environmental responsibilities in the EU institutional structure and member nations; implementation of the Fifth Action Programme; the political economy of the choice of environmental policy instruments in the EU; environmental tax legislation; an assessment of air pollution policy; environmental insurance; and environmental influences on firm valuation and management. An assessment of EU environmental policies and recommendations for change are to be found in Club de Bruxelles (1994). Finally, the Europe Information Service (EIS) publishes periodic issues of *Europe Environment*, which includes reviews of ongoing EU environmental legislation, various aspects of the implementation of the Fifth Action Programme, and other environmental issues**.**

It is clear that environmental issues are of central importance in the EU. On the other hand, because the institutions of the EU extend directly into the domestic policies of the member countries, the enforcement pressures and remedies available for environmental issues are more direct and need not involve trade. Notably absent in the issues listed by the above sources is any concern about interaction between environment and trade within the EU.

NAFTA Environmental Arrangements

As already mentioned, the NAFTA is arguably the "greenest trade treaty ever." The main features of the NAFTA environmental arrangements are noted in Esty (1993, pp. 379 seq.):

> "The Preamble to the NAFTA makes environmental concerns a central focus of the Agreement. It calls on the parties to pursue their programme of trade liberalisation so as to promote 'sustainable development' and to 'strengthen the development and enforcement of environmental laws and regulations. It declares further that the trade goals ...should be pursued in a 'manner consistent with environmental protection and conservation.'
>
> ...A second substantive environmental advance ...[is that the] NAFTA parties agreed that international environmental agreements with trade provisions (i.e., Montreal Protocol, Basel Convention, and the Convention of International Trade in Endangered Species) should be given precedence if there were to be any conflict between a party's trade obligations under the environmental agreement and the NAFTA. ...Recognising that even within the scope of efforts to uphold an international environmental agreement, protectionist abuses are possible, the NAFTA negotiators called upon the parties to exercise this 'environmental obligations first' provision in a careful and disciplined manner.
>
> ...Another substantive advance in integrating environmental concerns into trade policy can be found in the NAFTA 'sanitary and phytosanitary' provisions which make clear that each country retains the unrestricted right to set and maintain its own chosen level of protection. The right to exceed international standards is explicitly affirmed....The NAFTA further promotes the 'upwards' harmonisation of standards, calling explicitly for parties to work jointly to enhance standards and establishing two committees to promote co-ordination of standards.
>
> ...In another unprecedented advance..., NAFTA's Investment Chapter ...makes clear that each country remains free to adopt and enforce any environmental measure it deems necessary to ensure that new investments within its territory do not degrade the environment so long as these measures apply equally to domestic and foreign investors. In addition, the NAFTA parties attempt to respond to the 'pollution haven' concern with a provision that declares it 'inappropriate' to encourage or seek to retain investments by relaxing environmental standards or enforcement.

> ...NAFTA's dispute resolution provisions offer another example where a new course of greater environmental sensitivity has been charted. ...the NAFTA , with regard to challenges...to standards, shifts the burden onto the party with the trade interest at stake, forcing the party challenging an environmental standard to demonstrate that the measure in question is inconsistent with NAFTA trade obligations and outside the protection provided for environmental actions. Moreover, where disputes involving environmental issues arise, either party or the dispute settlement panel itself may call for the convening of a board of scientific or technical experts to advise the dispute panel. This expands the prospects that environmental experts, not trade lawyers, will evaluate questions of environmental benefits and values."

With regard to the Environmental Side Agreement, Esty (1997, pp. 6-7) further notes:

> The Environmental Side Agreement...reinforces the NAFTA environmental commitment. It places (Articles 35-6) additional emphasis on the enforcement by each country of its own national environmental laws and establishes a provision by which any 'persistent pattern of failure to effectively enforce' environmental regulations can be raised as an unfair trade practice. It also sets up (Article 8.2) the trilateral North American Commission on Environmental Cooperation (CEC). The CEC's task is to institutionalize NAFTA-related-trade-environment linkages. Specifically, it is called upon to: (1) facilitate cooperation between countries on environmental issues; (2) serve as a forum for regular ministerial-level meetings; (3) provide an independent secretariat to report regularly on significant public health or ecological issues confronting the NAFTA parties; (4) ensure that enforcement of environmental rules remains a priority in all three countries and produce an annual report on enforcement activities; (5) coordinate with trade officials in the United States, Canada, and Mexico on any issue requiring joint trade-environment attention; and (6) assure ample opportunities for public participation in the development and implementation of environmental laws and programs in the three NAFTA countries."

Since the NAFTA came into existence officially in January 1994 and it took some time to establish its institutions for oversight of the Agreement, it is difficult to evaluate what has been accomplished on environmental issues to date. According to the CEC's *1995 Annual Report*, which was the latest available at the time of writing, a variety of programs have been put in place, including: environmental conservation; protecting human health and the environment; environment, trade and economy; enforcement cooperation and environmental law; information and public outreach, and public participation. In connection with the environment, trade and economy program, studies are in progress or have been completed to: (1) assess the links between NAFTA trade and investment and the environment; (2) provide a survey of past and potential future environmentally related trade disputes; (3) clarify the role for scientific and technical expertise in NAFTA panels, committees, and working groups; and (4) assess the op-

portunities in Latin American markets for environmental goods and services. There is also a separate annex to the CEC's annual report that contains detailed information on environmental enforcement within each of the three NAFTA countries as well as with regard to environmental compliance along the national borders, identification of existing border problems, training of customs and environmental inspectors, and improvement of environmental data bases.

The NAFTA and the Environmental Side Agreement certainly represent major accomplishments in seeking to address linkages between trade/investment and the environment. The question of course that remains to be answered is what the effects have been of the NAFTA environmental arrangements, in particular whether or not there has been a strengthening or weakening of environmental protection in the three NAFTA countries and especially between the United States and Mexico.

Environmental Standards: National/Unilateral Arrangements

It is beyond the scope of our paper to review national environmental arrangements,[16] except to note that there have been occasions in which both the United States and the EU have implemented environmental policies unilaterally on an extraterritorial basis. The U.S. tuna/dolphin action taken against Mexico is a case in point. Esty (1994, esp. pp. 139-145) discusses a number of instances in which unilateral environmental actions might be justified. However, he also points out (pp. 145-154) the circumstances in which multilateral environmental agreements would be preferable, and he suggests the criteria that might be used in developing and enforcing such agreements.

Environmental Standards: Other Arrangements

There are numerous other arrangements and organizations that exist to deal with environmental issues. These include, for example, the activities of the United Nations Environmental Program (UNEP),

[16] Esty (1994, pp. 111-114) discusses the interplay between state and federal environmental regulation in the United States. For the EU, see the papers in Abraham, Deketelaere, and Stuyck (1995).

the Organization for Economic Cooperation and Development (OECD), and the World Bank, and as well as a host of private environmental research organizations, advocacy groups, and private firms.[17]

Labor Standards: Global Arrangements

As mentioned earlier, the main international organization that is concerned with labor standards is the ILO, which was established following the end of World War I. The methods and principles set out in the ILO constitution deal with all conceivable aspects of labor standards. As stated in ILO (l988, p. 4), ILO action designed to promote and safeguard human rights takes three main forms: (1) definition of rights, especially through adoption of ILO Conventions and Recommendations; (2) measures to secure the realization of rights, especially by means of international monitoring and supervision but not by imposition of trade sanctions; and (3) assistance in implementing measures, particularly through technical cooperation and advisory services. Since World War II, the role and influence of the ILO regarding labor standards have been central to the declarations and efforts of the United Nations and associated regional organizations designed to protect and promote human rights. Rodrik (1996, p. 15) notes that 174 ILO Conventions have been approved since 1919, although some of them have been revised by other Conventions subsequently.

We have already mentioned what might be considered to be ILO core labor standards. According to OECD (1996, pp. 31-34), these include: Conventions 87 and 98 relating to freedom of association, the right to organize, and collective bargaining; Conventions 29 and 105 prohibiting all forms of forced labor; Convention 111 dealing with non-discrimination in employment; and Convention 138 providing for a minimum age for employment of children. It is interesting that formal ratification of ILO Conventions differs considerably among ILO members, apparently because particular Conventions may be at variance with national laws and institutional practices. Thus, for example, as Rodrik (1996, p. 15-16) notes, the United States has ratified only 11 ILO Conventions in all, whereas several other industrialized and developing countries have ratified a significantly larger number of Conventions. Ratification of ILO Conventions may

[17] In the tuna/dolphin case, Esty (1994, p. 134) notes that U.S. tuna canners started a "dophin safe" labeling program even though at the time hardly any Mexican tuna were being caught using purse seine nets that had been the bone of

therefore not be an accurate indicator of existing national regulations governing labor standards. There are also many cases in which ratified Conventions are in fact not enforced.[18]

In looking over the spectrum of international organizations that have been created over the years, Srinivasan (1995, 1997) points out that these organizations have been specialized according to function. For example, he notes the particular rules and mandates that apply to such organizations as the: ILO; GATT/WTO; UNCTAD; World Bank; International Monetary Fund; Universal Postal Union; and Berne and Paris Conventions. The issue that he raises then is whether it is desirable and efficient to require that individual organizations assume responsibilities for rules for which the organizations were not designed. More specifically, he argues that issues of labor standards are best left to the ILO and should not be mandated to the GATT/WTO, which has been designed to articulate, monitor, and enforce the rules governing the international trading system.[19]

It is interesting in this connection, as Charnovitz (1987, pp. 566-67) has noted, that issues of alleged unfair competition involving labor standards were addressed in Article 7 of Chapter II of the 1948 (still-born) (Havana) Charter of the International Trade Organization (ITO). Since the GATT was conceived with a more narrow mandate as compared to the ITO, it did not address labor standards, except in Article XX(e) that provides for prohibition of goods made with prison labor. Charnovitz (p. 574) notes further that as early as 1953 the United States proposed (unsuccessfully) adding a labor standards article to the GATT. This would have empowered GATT members to take measures against other countries under the provisions of GATT Article XXIII (Nullification and Impairment). The United States continued, again unsuccessfully, to push for negotiation of a GATT article on labor standards in both the Tokyo and Uruguay Rounds of Multilateral Trade Negotiations in the 1970s and 1980s. But the international community was put on notice

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contention between the United States and Mexico.

[18] A detailed discussion of the observance of core labor standards in 75 selected countries is provided in OECD (1996, pp. 39-70).

[19] Similar views are expressed in Bhagwati (1995), Charnovitz (1995), and Pangestu (1996). Some observers might take issue with this characterization of the GATT/WTO, arguing that it also constitutes a forum for discussion and negotiation on trade-related matters, and, in this light, should include issues of labor standards. But even if this were the

in April 1994 at the Marrakesh signing of the Uruguay Round accords that the United States intended to pursue issues of labor standards in future multilateral negotiations.

In the interim, there have been efforts at drafting a so-called social clause dealing with core labor standards and including trade sanctions for noncompliance that might eventually be incorporated into the WTO. As noted in Aggarwal (1995, p. 38), in June 1994, the ILO began a research program dealing with the integration of social welfare and trade policy. A central objective was to develop a stronger enforcement mechanism. The ILO Secretariat proposed that the ILO and WTO work jointly on the oversight of international core labor standards, with the ILO concentrating on international monitoring and the WTO responsible for enforcement by means of trade-related sanctions. But because of disagreements among the country representatives of the ILO Working Party on the Social Dimensions of the Liberalization of International Trade, it was decided in early 1995 to suspend further discussion of the use of trade sanctions for alleged noncompliance with core labor standards. Instead, as noted in OECD (1996, p. 7), the ILO has undertaken a program of research on the effects of trade liberalization on core standards and a review of ILO means of action for the promotion of standards.

The United States, with some support from France and southern European Union members, as well as Canada and Japan, nonetheless continued to pursue the issue of trade and labor standards in the context of the WTO, and there was a concerted effort to add the issue to the agenda for the WTO Ministerial Meeting held in Singapore in December 1996. Thus, in this connection, de Jonquieres and Williams reported in an article in *The Financial Times* (June 20, 1996, p. 8) that:

> "The US has not, in fact, sought to make its case on economic grounds. It also insists it is not seeking an excuse to erect trade barriers or discriminate against low-wage competitors, and does not want labour standards upheld through trade sanctions.
>
> Washington's argument, echoed by Sir Leon Brittan, EU trade commissioner is that popular feeling on the issue is so strong that unless the WTO at least acknowledges it, public support for trade liberalisation risks being undermined.

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case, there is a genuine possibility that the WTO could become overloaded if it were to take on labor standards as well as other new issues like the environment and competition policy.

> 'We need to be able to give a political signal to our domestic workforce that, while they may face competition from workers in lower-wage countries, they will not face competition on the basis of denied worker rights,' a recent US position paper says.
>
> The US wants WTO ministers to issue a 'political declaration' in Singapore linking the maintenance of an open world trade system to promotion of 'core' labour standards, such as freedom of association, prohibition of forced labour and elimination of exploitative child labour.
>
> It also wants the ministers to create a working party to identify and report back to them on links between labour standards and WTO rules.
>
> But recent US efforts to clarify its aims appear to have won few converts. South-east Asian trade ministers are committed to opposing any discussion of trade and labour standards in the WTO, as is India."

In considering whether or not the WTO is an appropriate forum for dealing with trade and alleged violations of core labor standards, it is pertinent to note the conclusion reached in the OECD *Report on Trade, Employment and Labour Standards* (1996, pp. 16-17):

> "Existing WTO provisions have not been designed for promoting core standards. Some of the suggestions under discussion would imply a reinterpretation of WTO practices and procedures while others would require to a greater or lesser extent renegotiation and amendment of WTO articles. Extending the WTO's Trade Policy Review Mechanism procedure to include labour standards would fall into the former category while other proposals would fall into the latter. In all cases, a consensus among WTO Members on the appropriateness and effectiveness of using WTO procedures to promote core labor standards and on the institutional changes required would have to be reached. Such a consensus does not exist at present. However, while some countries continue to call for discussion of the issue in the WTO and others are opposed, this remains an issue for international consideration. The debate on this issue and on the associated conceptual and practical difficulties will continue."[20]

Rodrik (1996) makes a case for using the Uruguay Round safeguard procedures for investigating complaints arising from imports from countries with unacceptable labor standards that may be disruptive to domestic producing interests. He stresses the need for including the views of consumers and public interest groups in the importing countries as well as the views of foreign producers. Srinivasan (1996, 1997) has pointed out an important problem with Rodrik's argument, however, namely that there are all kinds of gov-

[20] John Martin has suggested to us that since the WTO has already been assigned a role in dealing with trade-related intellectual property rights (TRIPs) as a result of the Uruguay Round negotiations, it may be reasonable to include labor standards in the WTO as well. In our view, the inclusion of TRIPs in the WTO can be considered as an effort by the industrialized countries to capture the monopoly rents associated with intellectual property rights and thus ostensibly to prevent the "piracy" of these rights. This is a very different matter from dealing with intercountry dif-

ernment regulations, besides labor standards, that influence production costs (e.g., building codes and zoning laws). Thus, in principle, objections might arise concerning imports that may not conform to any one or more domestic regulations. Singling out labor standards is then not convincing. It is not obvious, moreover, that the safeguards procedures, which are designed to be temporary, can be implemented with the broad representation that Rodrik recommends. Finally, as Anderson (1996) has observed, the U.S. experiences with antidumping and countervailing procedures certainly suggest how difficult it may be to avoid the temporary safeguard procedures from being captured by producing interests.

It is also worth noting that Freeman (1994a, p. 32) is somewhat inclined to support the inclusion of labor standards in trade agreements:

> "Unlike trade economists who view any interference with free trade as the work of the devil, I would be pragmatic in this area. ...If trade negotiations are the only way to raise forcefully the standards flag in an international setting, why not? If trade sanctions can improve labor standards, that benefit must be weighed against the cost of lost trade. If trade sanctions can overturn an evil dictatorial regime and save human lives, go for it. Perhaps the standards issue will induce international trading groups to consider innovative ways that international trade might be used to finance improvements in standards."

Krueger (1997, p. 288) has expressed a similar view:

> "Labor standards strike me as a legitimate subject of bargaining in trade negotiations. Presumably, a well-intentioned government will not accept an agreement unless, in total, it is expected to make the country better off. ...Because the demand for labor standards tends to rise with national income, many countries will choose on their own to strengthen and enforce their standards following trade agreements."

While the views expressed by Freeman and Krueger may be justified on pragmatic and political grounds, there is still a question of whether and how labor standards should be dealt with in the WTO multilateral context. The welfare gains from trade liberalization have long been a central feature of nondiscrimination in the GATT system. It is true that the TRIPs Agreement of the WTO has already departed somewhat from

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ferences in labor standards which may reflect variations in per capita income levels and a host of structural and institutional factors.

that tradition, but it would be another and more serious departure from that precedent if countries with allegedly low labor standards were now to be denied improved market access on these grounds.[21]

The debate on whether labor standards should be placed under the WTO's purview was for all practical purposes resolved in the negative at the December 1996 WTO Ministerial Meeting. Thus, as reported by Williams in *The Financial Times* (December 16, 1996, p. 4):

> "Predictably hardest to resolve was the issue of labour standards, where the U.S. threatened to veto the entire declaration if no mention was made. Ministers eventually agreed to uphold internationally recognised core labour standards,.... But trade sanctions to enforce them were rejected and there is no provision for follow-up work in the WTO, which is asked simply to maintain its (minimal) collaboration with the International Labour Organisation."

The following is what was stated in the Singapore Ministerial Declaration that was adopted on 13 December 1996:

> "We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration."

The part of the official statement (WTO, 1996e) delivered at the Ministerial Conference by Charlene Barshefsky, Acting USTR, relating to labor standards is also worth noting:

> "To remain viable, the WTO must reflect the needs of various constituencies involved in world trade. Each of our economies will be facing more pressure from globalization in the coming years, and we must help workers adjust to and benefit from an open trading system. We must do more to acknowledge that there is a mutually reinforcing relationship between an open trading system and respect for core labour standards.
>
> That is why we hope to have an agreement that the WTO should, in cooperation with the International Labour Organization, examine in greater detail the important nexus between trade and labour standards. We believe strongly that increased trade and the economic growth that it brings should also engender greater respect for the basic human rights which are the focus of our labour standards proposal.

[21] Our point therefore is not that we see the recommendations of Freeman and Krueger as "the work of the devil." Rather, we do not consider trade agreements and trade sanctions to be an efficient and equitable means for raising international labor standards.

> We are not proposing an agreement on minimum wages, changes that could take away the comparative advantage of low-wage producers, or the use of protectionist measures to enforce labour standards. We are proposing that the concerns of working people - people who fear that liberalization will lead to distortion - be addressed in a modest work programme in the WTO. Trade liberalization can occur only with domestic support; that support, and support for the WTO, will surely erode if we cannot address the concerns of working people and demonstrate that trade is a path to tangible prosperity."

The U.S. position at the Singapore Ministerial Meeting could be interpreted in part as posturing by the Democrats, as de Jonquieres and Williams note, especially since the Republicans have opposed linking labor standards and trade. Thus, the Republican controlled 104th Congress was reluctant to grant "fast track" negotiating authority to the Clinton Administration so long as the intention was to include labor issues as part of any future trade negotiations.[22] Given that the outcome of the November 1996 U.S. election resulted in the continued Republican control of Congress, the Clinton Administration will almost certainly have to mute its position on trade and labor standards if it is to be granted fast track negotiating authority. Nonetheless, it seems unlikely that the link between trade and labor standards will disappear altogether from public discourse, since organized labor and human rights advocacy organizations will continue to express their concerns.[23] We shall have more to say on this below.

Labor Standards: Regional Arrangements

European Union

Issues of worker rights have been a focus of attention in the EU because of concerns over low-wage competition especially from the Mediterranean member countries, persistent unemployment, and wage stagnation. Sapir (1995b) notes that the first efforts to address the harmonization of social policies in Europe can be traced back to early stages of European integration prior to 1958. Nonetheless, even following the implementation of the Rome Treaty in 1958, as Ross (1995, pp. 359-60) has noted:

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[22] See, for example, U.S. House of Representatives (1995).

[23] Thus, as reported by Greenhouse in *The New York Times*, February 20, 1997, p. C3: "Putting the labor movement on a potential collision course with President Clinton, AFL-CIO leaders voted "...to oppose extending the North American Free Trade Agreement to other countries unless it includes protections on labor and the environment that the Administration has previously rejected." This perhaps illustrates the point we made earlier that advocates of la-

"Opportunities for the Commission to act in social policy areas were very small, not because the EC's architects and members did not believe in social policy but because they thought that social policy should remain at the heart of national sovereignty." Thus, except for such issues as equal pay between men and women and health and safety issues, not much else was addressed until the 1980s. According to deBoer and Winham (1993, p. 17), the issue of a Community-wide Social Charter was first broached in 1972. Subsequently, with the issuance in 1985 of the white paper signaling the intention to remove remaining barriers to trade and creation of a Single Market, a Community Charter of Fundamental Social Rights for Workers was drafted in 1988. This Charter is quite comprehensive and goes considerably beyond the "core" and "other" labor standards noted in our earlier discussion. These include, according to Swann (1995, p. 317):[24]

> "(a) The right to freedom of movement. Here the emphasis is on the right to move to other countries and take up occupations on the same terms as nationals.
>
> (b) The right to employment and to fair remuneration for that employment.
>
> (c) The right to improved living and working conditions. Here the emphasis is on the idea that the completion of the internal market should be accompanied by harmonization of social conditions while the improvement is being maintained.
>
> (d) The right to adequate social protection.
>
> (e) The right to freedom of association and collective bargaining.
>
> (f) The right to vocational training. Every worker has a right to continue vocational training right through his or her working life.
>
> (g) The right of men and women to equal treatment. This extends beyond pay to access to jobs, education, training, career opportunities and social protection.
>
> (h) The right to worker information, consultation and participation.
>
> (i) The right to health and safety in the workplace.
>
> (j) The right to the protection of children and adolescents. This includes a minimum working age of sixteen and rights to such things as vocational training after leaving school.

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bor standards apparently care more about protecting their own interests rather than the interests of supposedly exploited foreign workers.

[24] The full text of the Charter of Fundamental Social Rights is to be found in Commission of the European Communities (1990).

(k) The right of elderly persons to retirement pensions which provide a decent standard of living. Those not entitled to a pension should nevertheless be entitled to a minimum of social protection.

(l) The right of disabled persons to take advantage of specific measures especially in the fields of social integration and rehabilitation."

The Social Charter was adopted by all EU members except the United Kingdom. It was hoped to incorporate the Social Charter into the Maastricht Treaty in December 1991, but this was once again opposed by Britain. The Social Charter was subsequently approved by the other 11 EU members, but on a voluntary basis and not as part of the Maastricht Treaty.[25]

In his evaluation of the EU Social Charter, Sapir (1995a, pp. 742-43) concluded that harmonization of social policies was not a pre-condition of successful European trade liberalization and integration.[26] He noted further that:

> "In the mid-1990s, differences in labour standards between member states remain substantial and 'social harmonisation' remains a distant reality. ...whatever harmonisation has been achieved in Europe, it could not have occurred without redistributive mechanisms between countries. In the absence of such mechanisms, the harmonisation of social policies cannot be contemplated internationally."[27]

It is also of interest to ask what has been accomplished in the EU in connection with the Social Charter and the Maastricht Treaty. The answer is not a great deal. For reasons already mentioned, there are some powerful obstacles to centralized direction of social policy in the EU institutions. If anything, it seems likely that so long as national identification remains strong and European business continues to resist centralized social measures, future initiatives at the Community level will continue to be limited. Continued high levels of EU unemployment also stand in the way of Community actions on social policy.

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[25] It is interesting to note, with the advent of a Labor Government in the United Kingdom in the May 1, 1997 election, that Britain has indicated that it will give its approval to the Social Charter and thus will no longer be the only EU member country not to accept the Charter.

[26] For additional analysis and commentary, see Ross (1995), Streeck (1995), and Pierson and Liebfried (1995). Streeck emphasizes the complex interplay between the EU member nations, social classes, and institutional structures that serves to delimit centralized action on social policy at the Community level. He also stresses the strong influence of the European business sector and powerful market forces in resisting centralized social policy initiatives.

[27] For information on the degree of convergence (or lack of it) between the EU and the European Free Trade Area (EFTA) on labor standards, see the chapter on "Labour Standards and Economic Integration" in OECD (1994).

Thus, whatever developments occur in the future will be dictated especially by changes in market conditions and the manner in which individual EU member countries choose to address social issues.

NAFTA Arrangements

At the time that the NAFTA was being negotiated, some observers urged that NAFTA include a Social Charter for North America as a possible means of protecting the interests of workers.[28] Instead of including a Social Charter, however, and since the NAFTA had already been signed by the member countries in the summer of 1992, the newly elected Clinton Administration opted to pursue a separate side agreement covering labor issues as well as the aforementioned agreement covering environmental issues. The main features of the labor side agreement can be summarized, as follows, based on U.S. National Administrative Office (NAO) (1995, pp. 1-2):

> "The North American Agreement on Labor Cooperation (NAALC)...represents the first instance in which the United States has negotiated an agreement dealing with labor standards to supplement an international trade agreement.
>
> The main objective of the NAALC is to improve working conditions and living standards ...as the (NAFTA) promotes more trade and closer economic ties among the three countries. The preferred approach of the Agreement to reach this objective is through cooperation--exchanges of information, technical assistance, consultations.... The Agreement also provides some oversight mechanisms to ensure that labor laws are being enforced in all three countries. These oversight mechanisms are aimed at promoting a better understanding by the public of labor laws and at enhancing transparency of enforcement rather than at punishing each through trade sanctions. However, the agreement does provide the ability to invoke sanctions as a last resort for non-enforcement of labor law by a Party.
>
> ...The Agreement creates both international and domestic institutions. The international institution is the Commission for Labor Cooperation, consisting of a Council and supported by a Secretariat. The domestic institutions are National Administrative Offices (NAOs) in each of the three countries and national or governmental advisory committees. The *Council*, which is composed of three Cabinet-level labor officials, is the governing body of the Commission. ...An independent *Secretariat*, which is headed by an Executive Director appointed by the three Parties for a fixed term, provides technical support to the Council. ...*National Administrative Offices*, [are] created by each country to administer the Agreement and to serve as a point of contact between Commission entities and national governments.

[28] A useful reference is Lemco and Robson (1993).

...Labor law is defined broadly in the Agreement to include laws and regulations directly related to:

1. freedom of association and protection of the right to organize
2. the right to bargain collectively
3. the right to strike
4. prohibition of forced labor
5. labor protections for children and young persons
6. minimum employment standards, such as minimum wages and overtime pay, covering wage earners, including those covered by collective agreements
7. elimination of employment discrimination on the basis of grounds such as race, religion, age, sex, or other grounds as determined by each country's domestic laws
8. equal pay for men and women
9. prevention of occupational injuries and illnesses
10. compensation in cases of occupational injuries and illnesses
11. protection of migrant workers"

It required some time to establish the institutional framework following the implementation of NAFTA in January 1994. The NAALC Secretariat began functioning in September 1995, and, according to the 1995 Annual Report of the Commission for Labor Cooperation (CLC), has initiated a comparative study of labor law and practice in the three NAFTA countries, a comparative labor-market study, a study of "best practices" in the manufacturing sectors, and clarification of the rules of procedure and a code of conduct for Evaluation Committees of Experts charged with the responsibility of overseeing labor-law enforcement. The three National Administrative Offices (NAOs) have been engaged in cooperative activities to foster official contacts, exchange of information, provision of technical assistance and training, and outreach to the public.

Since the inception of the Labor Side Agreement, the U.S. NAO has received six submissions alleging non-compliance by Mexico with its labor laws. These submissions have involved primarily issues of freedom of association being denied to Mexican workers. No action was recommended on two sub-

missions, the third was withdrawn, and the others are pending. Mexico has received one submission about U.S. noncompliance with its labor laws, involving closure of a subsidiary of the Sprint Corporation in San Francisco. This case is pending.

As in the case of the NAFTA Environmental Side Agreement, it will take some time to assess how effective the Labor Side Agreement has been.[29] It is interesting nonetheless to ask whether the NAFTA Labor Side Agreement could serve as a model for a global agreement that might in the future be incorporated into the WTO or into an expanded NAFTA. As far as a global agreement is concerned, the NAFTA side agreement goes beyond what are considered to be core labor standards. On the other hand, it emphasizes the observance of existing national laws governing labor standards in the NAFTA member countries, rather than the intercountry harmonization of these laws that proponents of labor standards favor.[30] Further, not all standards are subject to sanctions, while those that are (i.e., child labor, minimum employment standards, and occupational safety and health) are precisely ones that have engendered much of the ongoing controversy in the global context. Whether a labor side agreement should be made a condition of expanding NAFTA to include Chile and other nations in the Western Hemisphere also appears problematic in our view on both conceptual and empirical grounds as well as on political grounds because of Congressional opposition.

National/Unilateral Arrangements

As noted in Brown, Deardorff, and Stern (1996, p. 229), since the 1980s it has become increasingly common to include international labor standards criteria in U.S. foreign economic legislation.[31] The most important of these actions have been in establishing eligibility for trade preferences in the 1983 Caribbean Basin Economic Recovery Act and the 1984 renewal of the Generalized System of Preferences (GSP), and in making the foreign denial of worker rights actionable under Section 301 of the 1988 Trade Act. The

[29] For evaluations of the prospects for and early experiences with the Labor Side Agreement, see Compa (1995), Herzstein (1995), Otera (1995), Perez-López (1995), and Smith et al. (1995).
[30] This is undoubtedly due to the relatively high level of labor standards that exist on the books in Mexico.

1988 Trade Act also expanded the requirements of the Departments of State and Labor to submit periodic reports to Congress on human rights abuses and foreign adherence to internationally recognized worker rights. The stipulations on labor standards in the GSP were made mandatory. GSP eligibility has in fact been revoked at times for a number of developing countries until they showed evidence that the offending actions had been or were in the process of being eliminated.[32] Apparently prompted by the U.S. experience, the EU has adopted similar labor standards criteria for its GSP program to become effective in 1998.

While there may be instances in which countries have improved their labor standards in order to maintain GSP eligibility, these cases may not be important economically, considering the size of the countries involved and the limited benefits from the GSP because of the restricted product coverage. Also, in the future the value of the GSP will be eroded as the result of implementing the tariff reductions negotiated in the Uruguay Round. Nonetheless, it could appear that the experiences with quid-pro-quo actions under the GSP program can possibly provide some useful insights into the design and implementation of policies and procedures governing trade-linked labor standards in other contexts. This may be misleading, however, since the removal of GSP eligibility is essentially decided unilaterally by the United States and the EU, both of which are obviously very powerful entities in the global trading system. [33] Unilateral U.S. action can also be taken under Section 301 of the U.S. Trade Act. One should be wary therefore of arrangements in which developing countries may be coerced into taking actions detrimental to their own interests in response to pressures from their more powerful trading partners.[34]

Other Labor-Standards Arrangements

There are a number of other arrangements that deserve mention in addition to those already discussed above.

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[31] The standards include: (1) freedom of association; (2) the right to organize and bargain collectively; (3) freedom from forced labor; (4) a minimum age for employment; and (5) acceptable conditions of work, including a minimum wage, limitations on hours of work, and occupational safety and health rights in the workplace.

[32] For details, see Greenfield (1997, esp. pp. 57-59).

[33] Further discussion of labor standards and trade preferences can be found in OECD (1996, pp. 182-90).

[34] Srinivasan (1997) characterizes the GSP as "'crumbs from the rich man's table' which the developing countries should do well without."

For example, as noted in OECD (1996, pp. 161-69), the OECD, ILO, UNICEF, and other UN agencies have been active in promoting cooperative programs of economic development in which practical measures backed up often by multilateral and bilateral financial assistance can be devised to deal with some of the underlying causes of poverty in poor countries that may be reflected in the employment of children and the absence or relatively weak enforcement of core labor standards. The OECD and ILO have also developed international codes of conduct applicable to multinational enterprises (MNEs) that may assist in improving labor standards and working conditions in MNE affiliates in host developing countries. Individual firms can attempt to develop codes of conduct on their own, as Aggarwal (1995, p. 39) has noted has been done by such U.S. MNEs as Levi Strauss, Liz Claiborne, Nike, Reebok, Sears, Timberland, and Walmart. These cooperative efforts and codes of conduct are essentially voluntary in nature, and, of course, there is no guarantee that they will be effective in all circumstances in low-income countries, as some firms have already discovered. Nonetheless, they serve an important role insofar as they help to focus attention on the importance of the root causes of underdevelopment and the types of business practices that may help low-income countries to raise per capita incomes and improve conditions of work.

Finally, we may reiterate the importance of consumer labeling in providing a market-based method for helping to improve labor standards when these standards can be treated as private goods. The advantage of labeling is that it provides information about production processes being used and allows consumers in making their consumption choices to reflect the satisfaction that they derive from the presumed realization of higher labor standards internationally.[35] When labor standards are considered to be public goods, there

[35] Aggarwal (1995, pp. 39-40) cites the example of the Child Labor Coalition, which was formed in 1989 by several religious, human rights, and union groups for the purpose of informing consumers in high-income countries about child labor conditions used in producing goods such as rugs in South Asia. The Coalition has sponsored the so-called Rugmark campaign which provides producers with a certifying label that they can attach to their exports indicating that they do not employ child labor. According to de Jonquieres and Williams (1996), the United States has proposed in the ILO that the Rugmark labeling system be extended to clothing and other products. See also U.S. Department of Labor (1996) for a report on codes of conduct for the U.S. apparel industry based on a survey of 42 companies and visits to six countries that are major apparel exporters to the U.S. market. These voluntary codes of conduct in the apparel industry have become increasingly common since the early 1990s, although monitoring and enforcement of the codes often present difficulties in many instances. The most recent example is the U.S. Presidential task force agreement to "end" ap-

will be a need for governmental policies. What is important is that these various private and public actions can be carried out without the coercion that may be involved when efforts are made internationally to influence governments to change their domestic labor-market policies.[36,37]

VII. Conclusions and Implications for Policy

In this paper, we have sought to examine the analytical and institutional bases for the increasing pressures for the harmonization of environmental and labor standards among the world's high- and low-income countries. On theoretical grounds, it can be shown that diversity of standards is the norm and is consistent with free trade, given existing differences in levels of income and the variety of policies and institutions that shape national preferences. In this light, the case for international harmonization of standards is not particularly compelling on conceptual grounds.

The empirical evidence suggests that labor (and environmental?) standards in developing countries do not have a measurable effect on patterns of trade and do not really increase the wages of workers in developed countries with which these countries trade. Thus, in spite of the possibly protectionist motivation that may exist for imposing these standards on developing countries, it does not appear that they have a protectionist effect, and therefore they also do not seem to do any particular harm to the overall economic welfare of the developed countries or the world trading system. By the same token, it may be that these standards are relatively harmless for the developing countries that adopt them. These results therefore indicate that calls for imposing standards on developing countries may be both harmless and, if intended to be protectionist, misguided. The real danger of such demands, therefore, may not be the standards that they call for but rather the effects of any trade sanctions that may be imposed if the standards are not met.

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parel sweatshops worldwide and give a seal of approval to companies that comply with the code of conduct. For details, see Greenhouse in *The New York Times*, April 9, 1997, p. A11.

[36] But again note that worker and family incomes may not be raised if their effective labor supply is reduced by the various private/public actions.

[37] According to Taylor, *The Financial Times*, April 23, 1997, p. 5, the Director-General of the ILO has made an appeal for a voluntary system "of social labeling" designed to guarantee that internationally traded goods were produced under humane working conditions.

On the other hand, this leaves as the more important issue the effectiveness of the standards themselves in achieving their avowed objectives. Environmental standards, if badly implemented, could easily make the environment worse, not better, especially, for example, if they simply move environmentally harmful activities to different locations with smaller capacity for absorbing them. Labor standards, even more so, may be expected to eliminate jobs as often as they improve them and therefore make the poor in developing countries worse off. As far as we can see, the empirical work on environmental and labor standards has not addressed these issues definitively. Given the weak or absent effects of such standards that have been observed in other dimensions, then, it is really the effects of the standards on the environment and labor themselves that should be the focus of efforts to "improve" them.

Environmental Arrangements

We reviewed the various global, regional, national, and private arrangements that exist for monitoring and enforcing environmental standards. On the global level, a Committee on Trade and Environment was set up in the WTO following the conclusion of the Uruguay Round for the purpose of exploring the many facets of the trade/environment linkages, including procedures to help resolve disputes. We noted that a distinction should be drawn between domestic and transboundary/global environmental issues. The optimal policy to deal with domestic environmental issues is by means of taxes on production/consumption. The use of trade policy is inappropriate because it does not target the source of the distortions involved. From the standpoint of the WTO, what matters is that environmental policies should not provide differential treatment to imports and domestic goods and that there should not be discrimination among countries.

As concerns transboundary/global environmental issues, intercountry cooperation is essential to deal with the externalities involved. An important issue here is whether the WTO is the proper organization to handle such issues. It might be argued that it would be desirable to establish a global environmental authority that would have the responsibility of designing and implementing environmental policies. The WTO could then focus on trade/environment linkages. In the absence of a global environmental authority,

multilateral environmental agreements have been used. These multilateral agreements may permit trade sanctions to be used for noncompliance, suggesting that there could be conflicts with WTO rules and procedures. There is a need accordingly for the WTO to work closely with the administration of multilateral environmental agreements to minimize the welfare costs of trade sanctions. Some environmental advocates argue for a stronger representation and role for environmental NGOs in the WTO framework and procedures. In our view, environmental NGOs should concentrate their efforts at the national level. There is no reason why only these NGOs, and not other interest groups, should be given special treatment in the WTO, which is an intergovernmental organization whose responsibility is to promote multilateral trade liberalization and to oversee the operation of the global trading system.

We had occasion to examine briefly the environmental arrangements that have been set up in the European Union (EU) and NAFTA. These regional arrangements reflect pressures for harmonization of domestic environmental policies as well as the need to deal with transboundary environmental issues as bloc member countries become more closely integrated. Unfortunately, there is a lack of information assessing the effectiveness of these regional environmental arrangements and how they relate to global arrangements. More research needs to be done accordingly.

Labor-Standards Arrangements

In our discussion, we noted that there has been considerable debate on the question of whether international labor standards should be incorporated into the rules and mandate of the WTO. However, it is difficult to make this case convincingly for reasons already mentioned. What then should be done on the global level? Issues of international labor standards have historically been the province of the ILO, which is often criticized because it lacks a mechanism for enforcement of discipline to raise labor standards and because it espouses an interventionist social agenda. While these criticisms may be true, they miss the point in our judgment. There is ample evidence that labor standards are raised as countries achieve higher levels of economic development and per capita incomes. If so, then what is needed are policies to provide

technical and financial assistance to promote economic progress and the accompanying realization of higher labor standards in low-income countries.

With sufficient encouragement and increased financial support, the ILO can provide a multilateral forum that would serve to strengthen its role and authority in pursuing improved labor standards internationally. While the United States and many of the EU-member countries wanted to link labor standards and trade in the WTO, their efforts were unsuccessful at the WTO Ministerial Meeting in Singapore in December 1996. The challenge then is to reinforce the institutional role for which the ILO has been designed.[38]

The EU arrangements governing labor standards have been constrained because of the resistance of EU-member countries as well as business interests. Nonetheless, fiscal transfers to EU members have made it possible for them to raise their standards as they have become more closely integrated into the EU. As for NAFTA, actions initiated to date under the NAFTA Labor Side Agreement have primarily involved alleged noncompliance with the right of freedom of association. Cross-national fiscal transfers have not been made because the NAFTA is designed as a free trade area which permits member countries the autonomy to design and carry out their policies governing labor standards.

Conclusion

As already stated, U.S. policies should be directed to maintaining open markets and encouraging the economic growth of its developing country trading partners. This is the surest way to achieve both higher environmental and labor standards since there is pervasive evidence that standards are improved with higher levels of per capita incomes.

[38] See Charnovitz (1995) for suggestions for reinvigorating the ILO and for changes especially in U.S. policies that would serve to strengthen the ILO.

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