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# US Advocacy for Reform of the WTO - Progress or Posturing?

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## I. The Problem With the WTO.

The World Trade Organization (WTO), the multilateral organization created by the Uruguay Round to oversee trade between the parties to the 1994 General Agreement on Trade and Tariffs (GATT) has, five years after its creation, confirmed fears that it would be unresponsive to all but business interests. The original GATT, signed in 1947, stated in its preamble that "relations among countries in the field of trade and economic endeavor should be conducted with a view to raising standards of living and ensuring full employment." The assumption in 1947 was that the International Trade Organization (ITO) would be created to ensure that this objective was met. However, the refusal of the US to ratify the treaty creating the ITO led to a significant void wherein there was no institution advocating for policies that would equate success in global commerce with improved living standards for the working poor. Nearly fifty years after the GATT preamble was drafted and the ITO charter was defeated, the WTO was created to oversee the global trading system. By this time, there was no effort or even pretense of creating anything other than an institution to benefit multinational corporations and otherwise promote "free trade."

The WTO has incredible power, but offers no platform for people who are adversely impacted by the trading system. Whether it is a group of farmers in Burma forced to provide labor to construct a natural gas pipeline for Unocal Corporation or child workers living as slaves in Pakistan making carpets for export to the West, the WTO is explicitly indifferent to whether these people are harmed by the global trading system. In fact, none of these people even have access to the WTO to complain formally about their situations. Moreover, if a single country acted by law or practice to restrict trade in the products made under conditions harmful to the interests of people, this unilateral action would violate the WTO rules and subject the country to trade sanctions. The same is true of efforts by any country to enact environmental legislation that may have a restrictive effect on trade flows. A recent example is the WTO's ruling against the

US Endangered Species Act's effort to require shrimp fishermen to take steps to avoid catching endangered sea turtles in their nets. The US must either change its law or face significant trade sanctions. In contrast, when Microsoft complains that its software is being pirated by Chinese entrepreneurs, the WTO has a process to act swiftly to protect the company's intellectual property.

Initial efforts to improve the WTO's responsiveness to social issues failed. At the WTO's first Ministerial, it issued the Singapore Ministerial Declaration on December 13, 1996 rejecting proposals to add a "social clause" and refusing to even discuss the issue in the WTO context. The assembled ministers referred proponents of the social clause to the ILO, which, as all concerned were aware, lacks enforcement power.

There is little immediate prospect for making the WTO more responsive to people. Those in the US who oppose the WTO, repeating the errors of the failed effort to prevent the ratification of the North American Free Trade Agreement (NAFTA), are divided on what course to pursue. There are essentially three positions: those who advocate that the US should repeal its approval of the WTO (some are motivated by protectionism or isolationism; others view the WTO as fatally flawed and seek to start over), those who view the WTO as an important forum for introducing social issues into the trading rules through adoption of a social clause, transparent proceedings, and improved enforcement procedures, and those who view the WTO as an inappropriate forum for dealing with anything other than trade and seek to create a new institution for enforcing social norms. The business community, united by self-interest, generally manages to speak with one voice in maintaining the WTO's current role, free of any meaningful social regulation.

The successful effort in late 1997 to defeat "fast track" negotiating authority showed the force of a unified opposition to "free trade" policies of the Clinton Administration, and offered hope for a strong bargaining position with the Clinton Administration going into the upcoming Seattle Ministerial. However, tensions have arisen within the coalition that defeated fast-track over whether demands for a "working group" on labor standards and trade is a sufficient starting point for treating labor rights in the WTO. A working group is the entry-level forum for the WTO to take up new issues, and delegating labor rights to this process means years of discussions would follow before any concrete measures on labor rights violations could even be contemplated, let alone enacted. Joined by the US Chamber of Commerce and other business organizations that participate with it in the Advisory Committee for Trade Policy and Negotiations (ACTPN), the AFL-CIO supported the Clinton Administration's call for a working group. In the Federation's view, corporate agreement to put workers' rights on the WTO agenda, even at a minimal level, is a breakthrough for a long-term strategy to enhance workers' rights in trade. Some major affiliates, notably the United Auto Workers (UAW) and Teamsters, have protested the Federation's stance. Most consumer, human rights and environmental groups are also critical of the working group approach, preferring stronger immediate measures, or the third strategy, noted above, bypassing the WTO altogether. The weakness of the working group approach is signaled in reports that the Administration sold the idea to the US business community by assuring explicitly that this is a non binding commitment to allow a discussion to occur, and there is absolutely no commitment to demand or support any position linking trade to labor standards at the WTO. There is no question that the process must begin somewhere. However, starting at the lowest possible level a discussion that the US government claims to support allows credit to be taken with virtually no prospect for progress.

## II. Based on Actions, the US Position is Yes to China But No on Inclusion of Social Issues at WTO

The major post cold war constant in US government policy with respect to global trade is strong support for regional and global trade agreements that promote "free trade." The Clinton Administration picked up the banner from the Bush Administration and pursued with equal vigor ratification of NAFTA and completion of the Uruguay Round of GATT. Members of the Administration express genuine concern about whether the trading system has harmed certain groups and whether it also encourages companies to seek out the cheapest and most exploitable labor in the world. Very little beyond rhetoric has been offered by the Clinton Administration to deal concretely with the negative effects on people of "free trade" policies. The labor side agreement to NAFTA offers rights without remedies, and does not even address issues of promoting sustainable development for the working poor.

US government advocacy for linking trade with social issues at the WTO is greeted with great skepticism. Governments and other institutions that witnessed the impact of US cold war policies on people, particularly those linked with leftist political groups, remain deeply suspicious of US foreign policy objectives. Other potential international partners in seeking WTO reform view the US, with its dominant economy, as the equivalent of an imperial power, and assume that US backed trade policies will not be in their best interest. A question repeated again and again is why anyone should accept at face value that

the US government is suddenly concerned about the well-being of the working poor in developing countries. Rather, the US government position is most likely to be viewed as an effort to help US business remain competitive in the global economy. That the US Chamber of Commerce and the AFL-CIO jointly support the Administration's proposal for a working group, while unlikely to lead to any significant change in policy, certainly feeds the fear that any efforts to link trade with social issues will be beneficial to US interests and harmful to developing economies. That not a single government from any developing country, the intended beneficiaries of the movement to link trade with social issues, supports the united position of US government, business and labor speaks volumes about how pervasive and fundamental the mistrust is.

At the same time, there is significant skepticism at home as to whether the US government is pursuing a social agenda for the trading regime in good faith. Worker rights advocates in the US have managed a number of times to enact legislation that required the US government to push for inclusion of a social clause in the GATT. This specific negotiating objective required the US to formally request that the GATT rules require trading partners to enforce "internationally recognized worker rights," defined to include the right to associate, the right to organize and bargain collectively, minimum health and safety standards, and prohibition of forced labor and child labor. The US did dutifully seek labor rights inclusion as one of its negotiating objectives in the Uruguay round, but most observers maintain the US did not advocate strongly for this position. Instead, it most likely bargained it away to achieve objectives more important to the US business interests, such as strong protection for intellectual property rights.

The skepticism about whether the US government is pursuing a social agenda in good faith is greatly enhanced by the announcement of an "agreement" between the US and China to permit China's entry to the WTO. This raises a number of crucial questions about US control over the WTO, including the most obvious question of how the US could purport to be the arbiter of China's admission. Countries fearful of US government imperialism or protectionism surely must be concerned that the US appears to have assumed an elevated role in the WTO decision making process. From the perspective of advocates for a WTO social agenda, the key question is how could the US manage to reach agreement on a complex series of issues paving the way for China to join the WTO, including issues of intellectual rights protection, textile quotas, and investment barriers, but somehow manage to come up short on securing agreement to begin a meaningful process to introduce social standards into the WTO agenda.

Whether or not the US government will resolve internal differences and pursue new efforts to link social issues to trade at the WTO, the conundrum for the US is that, due to political realities, it not well-positioned internationally to lead any movement to link social issues to trade. At the same time, that the US proposal to introduce social issues to the WTO is limited to seeking a working group seems so obviously calculated to do nothing more than create an appearance of concern, this, along with its apparent ability to reach agreement with China for China to join the WTO, reinforces the notion that the US is not serious about WTO reform. It will be impossible for those who otherwise support linkage of trade with social issues to muster support for the window dressing of a working group. Thus, the current US position will face strong opposition and will have little or no strong support, ensuring its defeat. The real question in forging a better policy for the future is whether this was just poor strategy or whether this was masterly manipulation to end up exactly where US policy makers intended -- credited with making a valiant but futile effort to address social issues.

### III. Making WTO Reform a Priority and a Reality.

Assuming that the US government actually supports efforts to develop a mechanism for including social issues in the rules of global trade, perhaps the most effective US role would be to cultivate international partners to support this position. The US could facilitate acceptance by opening a dialogue outside of the WTO process with potential partners, seeking to understand and address their concerns, and offering meaningful incentives. Many countries have objective and serious barriers that would prevent them from supporting any linkage of trade with worker rights.

For example, India has a serious child labor problem. Estimates are that at least 50 million children are working in India in violation of minimum international standards. As a practical matter, there is no way that India could ever agree to support any initiative that would subject its exports to significant trade sanctions following a finding that India allows children to work in export sectors. Regardless of details of forums and procedures, if any proposed social clause includes a prohibition on child labor, and all of them do, India simply could not meet the standard. The only prospect for India to ever consider supporting linking trade to social issues is if significant assistance was provided to get India into compliance with the proposed social standards. This is true of virtually all developing countries. Malaysia openly refuses to recognize the right of workers to form unions in the electronics sector, Brazil has child labor and gender discrimination issues, and Thailand has significant child labor and systematic denial of the right to associate. It defies common sense to expect any of these countries to support application of a standard that they are currently violating, particularly when resource issues leave them little prospect for bringing themselves into compliance in the near future.

If the US wants to develop support for WTO reform it needs to have a long term approach for building credibility. This can be done by replacing rhetoric with constructive assistance. Step one is to work cooperatively with developing countries to identify objectively what it would take for them to upgrade their law and practice to be in compliance with any proposed social standard. Then, the US should play a leading role in providing and raising funds to support programs directly tied to bringing these countries into compliance. Part of the funds could be generated by specific trade incentives giving preferential access to the US market. An existing program, the Generalized System of Preferences Act (GSP), offers duty-free access to the US market to countries that comply with "internationally recognized worker rights." Enforcement of this standard has been highly politicized. The program could be revitalized as a mechanism for providing incentives to countries seeking to engage in a process of compliance with social standards. At the same time, the US must get serious about applying the applicable sanctions to countries that consistently fail to make progress on worker rights, but still collect substantial benefits under the GSP and other trade benefit programs.

The US should also seek out serious partners internationally to work toward developing a consensus on a specific proposal for WTO reform. This includes at least three components. First, WTO processes must be examined. Much of the fear about adding a social clause to the WTO agenda is that the secretive decision-making process could result in misuse of the social clause by powerful countries. None of the US proposals, including the present one for a working group, address the serious problem of the need for more democratic and open WTO processes. The US could do much to deflect criticism of its efforts to link social issues with trade by ensuring that social issues at the WTO are addressed in a way that allow for participation of social actors.

Second, the social agenda must be given content in the context of a specific proposal. This must be developed through participation with coalition partners internationally to ensure broad-based support. There is general agreement as to what the labor rights provisions should be, but questions remain about how to incorporate enforceable environmental standards, as well as what other issues to address. The approach needs to be realistic and politically viable. Further, the proposal also needs to include a concrete assessment on how to achieve comprehensive compliance, and most fundamentally, how to pay for bringing willing countries into compliance.

Third, any proposal must address issues of consequences for noncompliance. In order to build international support, the proposal must offer creative incentives for compliance, rather than focus exclusively on penalties. Providing each country with a carefully tailored timetable for progress on compliance with each of the elements of a social standard, with access to financial assistance, including loan forgiveness, for satisfying specific benchmarks would allow countries that are not currently in compliance to support the initiative.

Achieving WTO reform is a long term process. Progress can be facilitated by the US if the focus is shifted from a regularized format of making doomed proposals at annual WTO gatherings. Much of the groundwork can be started outside of the WTO process with targeted US assistance to countries that want to address barriers to compliance with a social standard. The US should not be able to continue its present course of claiming to want reform but failing to take strategic steps that will lead to reform. A good first step would be to make clear that the current WTO is unacceptable. A more democratic process for making policy decisions that includes access for the victims of trade, and a social agenda to ensure that trade is viewed as a tool for bringing benefits to the working poor and preserving the environment, rather than an end in itself, are the minimums that would constitute a serious agenda for reform. Surely if the US can apply to the social agenda the commitment it exhibited in opening the way for China's admission to the WTO, this could become a reality. If China does gain WTO admission, the need for a social agenda will be greater than ever.

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