

Third World Intellectuals and NGOs Statement Against Linkage (TWIN-SAL)

1. As intellectuals (including economists, political scientists and others) and NGOs from the Third World, we declare our unambiguous opposition to Linkage of Labour and Environmental Standards to WTO and to trade treaties. We also wish to disabuse the media and the governments in the developed countries of the notion that those who oppose Linkage are corporate interests and malign governments.

2. The demand for Linkage via a Social clause in the WTO (and corresponding preconditions on environmental standards for WTO-protected market access) is a reflection of the growing tendency to impose an essentially trade-unrelated agenda on this institution and on to other trade treaties. It is the result of an alliance between two key groups:

- (i) *Politically powerful lobbying groups that are "protectionist" and want to blunt the international competition from developing countries by raising production costs there and arresting investment flows to them; and*
- (ii) *The morally-driven human rights and other groups that simply wish to see higher standards abroad and have nothing to do with protectionist agendas.*

3. The former groups are not interested in improving the wellbeing in the developing countries; they are actuated by competitiveness concerns and hence are selfishly protective of their own turf. This is manifest, for example, in the selective nature of the contents of the proposed Social Clause: only issues, such as Child Labor, where the developing countries are expected to be the defendants rather than plaintiffs, are included. Thus, enforcement against domestic sweatshops, which is notoriously minuscule and lax in the United States where they abound in the textiles apparel industry, is not in the Social Clause; nor are the

rights of migrant labor which is subject to quasi-slavery conditions in parts of US agriculture.

Nor does the Social Clause look askance at yet other unpleasant social facts in the developed countries. For example, the United States has almost as little as 12% of its labor force in unions today. A country that insists on measuring trade openness of Japan by looking at "results" (i.e. actual imports), the US ought to be equally willing to treat the absence of unions in an industry as a prima facie presumption that there is some de facto deterrence to union formation. As it happens, unionization there has almost certainly been handicapped, among several factors, by legislation (on matters such as the right to hire replacement workers during a strike) that has impaired unions' chief weapon, the ability to strike.

Nor has any developed-country proponent of the Social Clause proposed that the developed countries ought to take a far greater commitment to labour rights than the developing countries that are at a much lower stage of development. Thus, while unionization must surely be permitted in developing countries, should not the United States require, in the interest of genuine economic democracy, union representation on Boards of Directors the way some European nations do? Ironically, in the United States, one cannot even begin to do this in a meaningful way since unions are absent from most factories in the first place. Thus, in these ways, we see that the moral face of these developed-country lobbies agitating for higher labour and environmental standards in the developing countries, whether they are labor unions or corporate groups, is little more than a mask which hides the true face of protectionism. They stand against the trading and hence the economic interests

of the developing countries and are in fact advancing their own economic interests; and they need to be exposed as such.

4. On the other hand, there are also *morally-driven groups* that genuinely wish for better standards for labor and the environment in the Third World; and they must be fulsomely applauded. But their demands for Linkage, i.e. the inclusion of provisions for improvements in standards as preconditions for trade access in the WTO and other trade treaties and institutions, while not deceptive and self-serving, are nonetheless mistaken and must also be rejected. Superior ways of advancing these objectives and agendas exist, which lie outside of the trade context and can be pro-actively pursued instead. Thus, consider:

- (i) *Self-serving Selectivity: Contaminating the Moral Agenda:* If we treat these standards from a moral viewpoint as "social" and "ethical" agendas to be advanced everywhere, we still confront the fact that the agendas will continue to be selected from the viewpoint of trade- competitiveness concerns. Therefore, they will inevitably tend to be selectively biased against the developing countries. They will also protect the developed countries from symmetric scrutiny of their own violations of non-selected social and ethical, "human rights" norms that have been incorporated in international agreements such as the United Nations International Covenant on Civil and Political Rights, and the United Nations Covenant on the Child. This has already happened. What a neutral and universal approach to the use of trade sanctions requires instead is that their use in the case of all significant human rights norms be subjected to an agreement among nation states. Thus, the possibility of juvenile capital punishment in the United States, an egregious violation of the Covenant on the Child that offends the moral sense of nearly all civilised nations

today, should equally be a subject for suspension of trade access to US products generally.

If trade proscription against the United States is rejected, as we agree, on the ground that it cannot proscribe even the widely-condemned possibility of juvenile capital punishment because it is politically extremely difficult to do so, how can the inability of India and Bangladesh to effectively eliminate (even "exploitative") child labor, an immensely more difficult economic and social problem, become a subject for rapid-fire proscription via the Social Clause?

Surely, it makes sense to treat all such lapses from the human rights covenants, by every country, in their total economic, political and social context, advancing sophisticated and nuanced public policy programs that enable sustainable progress to be made on implementing the desired change; and this approach should be symmetrically applied to the problems endemic to the developed countries as much as to those afflicting primarily the developing countries. In short, the human-rights approach must reflect a genuine commitment to the entire slate of important human rights, treating the matter of sanctions impartially and symmetrically sans borders and without favouritism towards the rich and the powerful nations.

We are distressed that we see no evidence that, except for a few groups such as Amnesty International, this symmetric approach is taken to the issue of trade sanctions. The developing countries, looking at the Social Clause for instance, cannot but regard it as having therefore been contaminated by the selectivity imposed by the rich nations.

And this is not a matter for surprise. For, deep down, this selectivity reflects the competitiveness concerns that inevitably dominate trade negotiations and treaties and institutions: competitiveness is the name of the trade game! You cannot expect anything but hard play if you go to a poker game; to expect the poker players to burst into singing hymns while they drink whiskey and utter profanities is to be naive.

- (ii) *You Cannot Kill Two Birds with One Stone*: By thus contaminating and devaluing the moral objectives, even though the subset of groups advancing them have truly a moral rather than a disguised competitiveness objective, we wind up harming both trade liberalization (which is the true objective of the WTO) and advancement of the social and moral agendas. Thus, the proponents of trade liberalization divide over the appropriateness of these agendas: developing countries oppose them and developed countries end up with internal division. In the United States, we have Democrats who want to go after the developing countries on their standards even more vigorously than the Clinton administration and many Republicans who instead oppose Linkage altogether. Not surprisingly, the Clinton administration failed to get fast-track authority for trade liberalization renewed for the first time in US history last year.

At the same time, the advancement of the social and moral agendas gets held up because it is being pursued (under protectionist pressures) in an evidently cynical and self-servingly selective fashion by the developed countries that push for it, mainly the United States and France.

So, we undermine both of these important tasks that we, as progressive intellectuals and NGOs in the Third World would like to see advanced. The underlying reason for such an unsatisfactory outcome is that you are trying to kill two birds with one stone. Generally, you cannot. So, trying to implement two objectives, the freeing of trade and advancing social and moral agendas, through one policy instrument such as WTO, you will undermine both. You will miss both birds.

- (iii) *Our Proposal: Get Another Stone:* This leads to our main proposal: Linkage is like trying to kill two birds with one stone, so we need another stone or a whole slew of sharp pellets. That stone has to be a pro-active set of agendas, at appropriate international agencies such as the ILO, UNICEF and UNEP; moral and financial support for NGOs in the developing countries; and so on. The opponents of this idea argue that the ILO, for instance, lacks teeth. But the teeth fell out because the ILO was sidelined when the United States had pulled out of it. Today, if we are serious, we can open ILO's mouth and give it a new set of teeth.

ILO can be asked, like the WTO with its built-in trade reviews under the Trade Policy Review Mechanism (TPRM), to bring out annual Review Reports on member countries' conformity to the ILO conventions; UNICEF could do the same for Children's Covenant; UNEP for Environmental Standards, and so on. Appropriate agencies putting out such impartial reviews would enable numerous NGOs to build their crusades on impartial analyses that are truly symmetric just the way the WTO has managed with the TPRM. Do not underestimate the value of information and exposure as long as it is impartial between nations. The Dracula

Effect --- expose evil to sunlight and it will shrivel up and die --- can be very potent indeed.

5. *Therefore, we urge that Linkage be buried.* It should be replaced by Appropriate Governance at the international level, where each agenda is pursued efficiently in appropriate agencies. This does not mean that there are no necessary interfaces. This is especially true between UNEP and WTO to address inherently overlapping problems: e.g. the solution to conflicts between trade-sanction provisions in MEAs and WTO obligations, and the “values”-related unilateralism on sanctions that led to the contentious Dolphin-tuna and Shrimp-turtle cases. It is important to remember, at the same time, that these interfaces can be addressed often by imaginative solutions that can be pursued without sacrificing either trade or the environment.

In lieu of the confrontations that have become common now between groups pushing for trade and those pushing for the social agendas, it is time at Seattle that we banish the Linkage issue from the WTO agenda. Instead, we must devote all energies to these "necessary-interface" questions with goodwill and creative solutions.

6. If the developed countries' governments, intellectuals and NGOs are allowed to do otherwise, the Third World will have to bear the burden. This is evident from what happened to the successful crusade to get Intellectual Property Protection (IPP) into the WTO.

This subject does not really belong to the WTO whose organizing principle must be the basic attribute of free trade: that each member benefits since trade liberalization is a mutual-gain policy. By contrast, the WTO Trade-Related Intellectual Property Rights or TRIPs Agreement, which enshrines IPP into the WTO, essentially redistributes income from

the developing to the developed countries. We cannot even claim that the TRIPs Agreement advances the world good: nearly all economists agree, for instance, that the 20-year Patent length, which was built into the TRIPs Agreement, is almost certainly inefficient and exploitative of the vast majority of the developing-country nations. But it got into the WTO, as part of the Uruguay Round agreement, simply because it was backed by developed-country power as reflected in Special 301 retaliations by the United States, and also because of endless repetition in the public arena-despite economic logic to the contrary-that it was good also for the developing countries (an assertion in which the World Bank economics leadership joined, evidently under the shadow of Washington). The intellectual objections of Third World economists, the negotiating objections of some of their governments, were simply brushed aside. The same is likely to happen on Linkage unless the Third World unites and is vociferous. This time, the NGOs of the developed countries, like the developed-country corporate lobbies under IPP, are into the game instead. In fact, they now argue that, having delivered IPP to Corporations, the WTO must now give Linkage to Labor and for Nature. So, having been successfully harmed once, we are to be harmed again for equity among the lobbies of the developed countries. The NGOs pushing for Linkage need to be reminded that IPP was pushed into the WTO, not for corporations everywhere, but for their corporations!

7. It is time to raise our voices and call a spade a spade. The WTO's design must reflect the principle of mutual-gain; it cannot be allowed to become the institution that becomes a prisoner of every developed-country lobby or group that seeks to advance its agenda at the expense of the developing countries. The game of lobbies in the developed countries seeking to advance their own interests through successive enlargement of the issues at the

WTO by simply claiming, without any underlying and coherent rationale, that the issue is "trade-related", has gone too far already. It is time for us to say forcefully: Enough is enough.

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