

Social Clause of WTO and India

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THE World Trade Organisation (WTO) provides a firm institutional basis for the application and enforcement of multilaterally agreed trade rules on goods and services and on the protection of intellectual property rights. WTO contains various trade procedures acceptable to both developed and developing countries. In the globalised context, WTO also takes note of matters incidental and ancillary to trade and investment such as employment standards, reduction of tariff rates, investment protection, trade and environment, and trade and employment. In order to see that these provisions are effectively implemented, WTO has provisions for sanctions in case of default by member states.

The concept of social clause has been accepted in the GATT agreement to prescribe the labour standards. Social clause stands for protecting labour standards, more specifically prohibition of employment of children in hazardous industries, providing adequate wages, healthy and hygienic working conditions, special social welfare protection for women, prescription of hours of work and rest and provision for efficacious remedy in case of default by employer to provide these conditions to his workers.

The WTO summit of Singapore, held in 1996, discussed among other things the implementation of the social clause. The issue was not finally settled, and WTO assigned the task to the International Labour Organisation (ILO) to formulate the labour standards.

The WTO declaration on labour standards has been widely acclaimed as the best chance to improve the labour standards, though some critics say otherwise. Non-governmental organisations (NGOs) that have been holding parallel meetings alongside the

ministerial conference have voiced their collective disappointment, stating that the outcome of the ministerial conference has confirmed the image of WTO as "a rich men's club".

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Initially, India insisted that the labour standards issue should not be referred to the ministerial conference at Singapore. But when it was accepted, Indian bureaucrats hailed the declaration as a shot in the arm of developing countries to protect against any future attempt at linking labour standards with trade. From the Indian point of view, the matter of labour standards and the mention of subject in the declaration stressed that the ILO was the competent body to deal with it.

The developed countries can pay higher wages, provide better labour standards and empower the participation of trade unions in the management. Since they have achieved considerable economic growth, they can argue and recommend better labour standards throughout the world. But, this is not the picture in the developing countries. If the claim of the developed countries for uniform labour standards throughout the world is accepted, there will be stagnation in the economic growth of the developing countries.

The reasons are, firstly, there is no scarcity of labour in the developing countries and the employer need not pay higher wages. The payment may be even below the statutory minimum, and still there would be a labour force for him to use. Secondly, industries have to repay their debt with high interest rates and that will have an influence on employing child labour and inadequate labour standards. These are the two strong economic reasons which justify the stand of the developing countries.

Before the Singapore summit, the developed countries unilaterally imposed economic sanctions against developing countries. For instance, Germany stopped import of carpets from India because of employment of child labour in the carpet industry. Though the Government of India assured that it will see to it that no child is employed in the carpet industry, the German government refused to accept it. Another example is the U.S. Child Labour Deterrence Act, 1996. Using this statute the U.S. government banned the import of goods manufactured with the involvement of child labour, especially from India.

The developed countries, even before the Singapore Summit, demanded that the labour standards have to be implemented, especially, child labour should not be employed in industries. The developed countries have said that they are properly implementing the legislation child labour and only the developing countries are allowing employers to use child labour. But the practice seems otherwise. The UNICEF Report 1997 revealed that irrespective of economic development, hazardous form of child labour can be found in most rich countries. In 1990, the U.S. Department of Labour discovered more than 11,000 children working illegally. In the U.K. between 15 and 26 per cent of children aged 11 years and 33 and 66 per cent of children aged 15 years are working.

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From the view point of India, the child labour issue requires to be handled with caution. Authoritative sources reveal that India has the largest number of child labourers—around 20 million. So, the sanctions imposed unilaterally by German and the U.S. governments is legally correct though morally wrong.

The Indian Government has enacted legislation to regulate and prohibit child labour, but the result has not been satisfactory. Very recently the Supreme Court of India, in a public interest litigation, gave many directions and ordered the executive authorities to take measures on compulsory and free education of children, prevention of child labour in all hazardous employment, stricter enforcement of existing laws, and financial and material incentives to discourage children from taking up jobs. In effect, these directions have strengthened the arms of the Government and what it could do in protecting children. The developed countries should note that India is second to none in implementing the social clause.

The Indian Government silently endorsed the Singapore ministerial declaration on labour standards. The need of the hour is not a mere endorsement but a positive assertion to Indian trade partners, especially to American and European countries, that India will improve its labour standards, especially on child labour protection. By such an assertion, Indian economic growth can be accelerated significantly under the supervision of WTO.

The core issue of labour standards will be determined by WTO in coordination with ILO. This gives a strong institutional basis because WTO is a body which is represented only by governments and while discussing the labour issues, diversified views will not be reflected. On the other hand, ILO is represented by governments, NGOs, trade unions and employers and, in practice, there is every possibility that the conclusion which emerges from ILO would have been well analysed and be suitable to the state, employers and employees. Moreover, ILO is

bound to submit its annual report to the United Nations and the present declaration has created a link between UN and WTO. So, it is right to conclude that the Singapore Summit Declaration has been admitted in a right manner and the labour standards, in future, have to be prepared by consensus which will not hamper the economic development of developing countries and serve the protectionist purpose of the developed countries.

Lastly, the developing countries, including India, should not sleep over this issue without taking effective steps to protect the labour standards. WTO which has assumed the solemn duty that it will protect the economic interest of all countries, notably the under developed and developing, has to see that the developed countries do not impose any economic sanction in the name of labour standards to the detriment of the developing countries' growth. □

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