growth of output and employment will present a major challenge to all parties in the industrial relations system.

There is a need to review existing mechanisms in order to provide an environment where social concerns are integrated into the *international economic policy-making process*. Given the impact of globalization and liberalization on the functioning of national and international economies, unemployment and social exclusion cannot any longer be combated merely by national action. Partnerships among the international financial institutions and those agencies with a social vocation must therefore be enhanced, thereby ensuring that the voice of civil society, and in particular of the social partners, is heard.

## International trade and labour standards: The ILO Director-General speaks out *

Many discussions of a possible link between labour standards and international trade rapidly get reduced to a debate on the single issue of trade sanctions as a weapon for enforcing respect for a given level of labour standards. Yet such a narrow focus gives only a very partial view of the problem. What is worse, it leads to confrontations that are predictably sterile.

I will therefore put aside the sanctions issue for the moment and concentrate on other approaches which may be less dramatic but may ultimately prove more fruitful.

Let me start by going back a little – some 75 years in fact – for the question of a link between international competition and the protection of workers' rights is as old as the International Labour Organization itself. When the founders of the ILO met in Versailles in 1919, they were guided by two fundamental aims. The first was to improve the conditions of workers by promoting a humanistic and reformist alternative to the ideology of class struggle. The second was to make competition between countries more equitable by bringing working conditions closer together. This second objective is reflected in the Preamble to the Constitution of the ILO which states that "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries."

In their pursuit of these aims, the founders of the ILO devised an ambitious constitutional and legislative framework whose most distinctive component is the tripartite structure of the Organization. The ILO thus became the only international organization in which employers and workers met with governments on an equal footing. It remains the only international organization in which elements of civil society are full participants along with

* Speech, entitled *Trade and labour standards: Can common rules be agreed?* 6 March 1996.

governments. The second distinctive feature of the ILO is its standard-setting function: the adoption by a tripartite International Labour Conference of international labour standards in the form of Conventions and Recommendations. ILO member States – there are now 173 – must submit the Conventions to their Parliaments but are free to decide whether to ratify them or not. Once ratified, Conventions are legally binding upon the State concerned.

The vast majority of these Conventions set out standards in a variety of specific fields, such as occupational safety and health, working time and social security. They are meant to provide a basis for establishing an acceptable level of working conditions and worker protection in the broadest sense.

But a small core group of Conventions are considered to be more fundamental. They are meant to secure certain essential rights of workers and to suppress certain flagrant abuses. These Conventions deal with freedom of association and the right to organize, the right to engage in collective bargaining, non-discrimination in employment-related matters, the abolition of forced labour and the progressive elimination of child labour.

The ILO's standard-setting function is not limited to the mere adoption of standards. It has developed elaborate machinery for supervising the application of ratified Conventions. These supervisory procedures involve both the systematic checking of national law and practice against the provisions of ratified Conventions and the examination of specific complaints or representations filed by other governments or employers' or workers' organizations alleging non-observance of a ratified Convention and in one important respect, to which I will revert later, even in the absence of a ratification. The ILO's supervisory machinery is generally acknowledged to be the most sophisticated and its scrutiny the most rigorous and least politicized of any in the UN system.

Over the years this system has proved remarkably effective. Although Conventions have been ratified in varying degrees, several of those considered fundamental are by far the most widely ratified, some by over 100 member States. Governments have accepted careful and critical review of their national law and practice by the ILO's supervisory machinery. They have as a rule cooperated in supplying information and replying to searching queries and sometimes severe observations. And they have often modified their law and practice in response to the requests of the ILO's supervisory bodies, not just on technical details but on matters of substantial importance.

I recall these facts in order to make two points. First, that a well-developed normative framework for determining, on the basis of international agreement, what constitute fair or decent labour practices already exists in the ILO. Second, that a tried and proven mechanism for checking and promoting compliance with obligations accepted within this framework also exists in the ILO.

But there is one other aspect of the ILO system that must be emphasized. It is essentially voluntary. Member States have the right to decide, through their constitutional processes, whether or not to ratify Conventions. It is up to them to determine whether they accept formal obligations. Once they have freely accepted these obligations, they do have a legal responsibility to comply. But, while the ILO's supervisory machinery can and does press them to take corrective action where needed, the ILO does not have and does not seek to have any coercive powers. It relies on moral effect, on the force of public opinion, on pressure from other governments and the social partners to secure compliance.

Is this enough?

As I have said, the voluntary processes have been almost surprisingly effective. Now there are calls to go beyond their limits.

The acceptance virtually everywhere of the market economy, the liberalization of trade and the growing internationalization of economic exchanges – commonly known as the globalization of the economy – have led to intensified international competition in a more rugged economic environment. Fears have arisen that the pressure of competition might turn the "virtuous circle" of social progress into a race to the bottom.

With the prospect of even fiercer competition after the conclusion of the Uruguay Round, it is hardly surprising that some should have revived the idea – originally considered by the founders of the ILO but rejected by the generality of governments – of giving a mandatory dimension to the protection of internationally recognized workers' rights. Revivers of the idea suggested that respect for these rights should be included in the commitments inherent in membership of the World Trade Organization.

The mandatory dimension of this idea can be broken down into two propositions. First, that all countries engaged in international trade should have a legal obligation, not based on the ratification of particular Conventions, to observe certain workers' rights. Second, that this obligation should be enforceable through trade sanctions.

In other words, the inclusion of a so-called "social clause" in trade agreements.

If the emergence of this idea was not surprising, neither was the reaction. There was an immediate and sharp polarization between the advocates of this idea – trade unions and some governments, mainly though not exclusively of industrialized countries – and its opponents – employers and the majority of governments, particularly those of most developing countries.

The debate between the two sides was oversimplified into allegations of unfair competition or "social dumping" on the one hand and disguised protectionism on the other. Those who favoured a social clause were accused

of seeking to impose minimum levels of wages and working conditions regardless of levels of economic development and thus undermine the comparative advantage of developing and emerging countries. Those who opposed the idea were accused of seeking to improve their competitive position by maintaining substandard conditions and suppressing workers' rights.

The idea of a social clause did not get very far at the Ministerial Meeting in Marrakesh, where governments anxious to conclude the long trade negotiations essentially laid it on the table. Following this outcome, discussion of the idea reverted to the ILO, where it had originally been raised. It was addressed by many speakers at the International Labour Conference in 1994 and, that year, the ILO Governing Body set up a Working Party to examine the "social dimensions of the liberalization of world trade", a title chosen deliberately to widen the focus from the trade sanctions issue.

The various discussions in the ILO context have naturally been marked by the vigorous re-statement of conflicting views. Although any agreement on whether "social clauses" in trade agreements would be desirable remains as remote as ever, I believe some progress has been made.

The terms of the debate have been clarified and better defined. The great trade union internationals and the governments actively promoting a social clause have emphasized that they are not calling for global minimum wages, uniform working conditions or anything of the sort. The content of any social clause would be limited to the very basic workers' rights that are prescribed in the fundamental ILO Conventions I enumerated earlier, such as those on freedom of association, collective bargaining, the abolition of forced labour and child labour. They have recognized that developing countries have the right to pursue their economic growth by making full use of their legitimate comparative advantages. By the same token, countries opposing any social clause have reaffirmed their recognition of the validity of these basic workers' rights and their commitment to improving social conditions as economic development proceeds.

The fears and suspicions on both sides have by no means been dispelled. But the temperature of the debate in the ILO has unquestionably gone down. For my part, I am reasonably optimistic that it will be possible to agree on a number of common rules, even though these common rules may be a far cry from the kind of social clause originally proposed.

Before I outline these rules, I should like to clear up a possible source of confusion. The ILO's role is not to put right distortions in international competition that may arise from the different levels of social protection that countries offer their workers. This problem, if such it is, is more the domain of the WTO. As the preamble to the Constitution of the ILO quite rightly foresaw, the liberalization of trade is our concern only in so far as it may

affect both the ability and the will of States to pursue the social objectives embodied in the ILO Constitution. For the ILO then, the issue is how to find an effective means of ensuring that social progress goes hand in hand with the liberalization of trade and the globalization of the economy. In other words, the challenge is how to ensure that all the members of the WTO that are also Members of the ILO "play the game" of social progress fairly, despite the constraints and the temptations of fierce competition.

When I say that they must play the game fairly, I mean two things. In the first place, they must abide by certain *fundamental rules* which apply to all countries irrespective of their level of development – and which in fact are a precondition for social development. But that is not all. Given the new opportunities afforded by the economic development that liberalization generates, they must endeavour in good faith to improve the lot of the workers. To put it another way, they must guarantee that to some extent at least the economic progress that liberalized trade produces will go hand in hand with social progress.

Let us look for a moment at these two aspects.

The first aspect requires an accepted definition of what constitute fundamental rules. It is clear that the level and content of social protection – wages, working conditions, social security – are dependent on the level of development, the economic possibilities and the social priorities of each country. ILO standards can provide guidance but each country must take the appropriate decisions quite freely – and hopefully on a tripartite basis. But it is equally clear that there are a number of fundamental rights that should be recognized and applied by all countries *regardless of their level of development or social priorities*. I will say a word, first, about the content of those rights and, second, about the machinery for their implementation.

As regards the content, it is striking that considerable agreement has been reached despite very different viewpoints and criteria.

In the first place, these rights can of course be defined as fundamental human rights – indeed, freedom of association, protection against discrimination and the ban on slavery in all its forms are already embodied in the Universal Declaration of Human Rights of 1948. The Social Summit held in Copenhagen in 1995 listed as basic workers' rights the following: the prohibition of forced labour and child labour, freedom of association and the right to organize and bargain collectively, equal remuneration for men and women for work of equal value, and non-discrimination in employment. It invited all governments to protect and promote respect for these rights. This endorsement by the Heads of State and Government of virtually all countries around the globe was, in my view, extremely significant because it both circumscribed the notion of fundamental rights and affirmed their universal validity.

These fundamental rights of workers can also be looked upon as a precondition for the exercise of all their other rights. That is certainly true of freedom of association and the right to organize, which enable workers both as individuals and as a group to claim their legitimate share of development within the possibilities of each country. It is true of equality of opportunity, including equal pay, which is a condition for having a truly transparent and competitive labour market. And it is obviously true of the ban on forced labour.

Finally, these rights can be seen as the logical extension to the labour market of the principles that are inherent in the liberalization of the market in products and services. Indeed, the ban on forced labour, the recognition of freedom of association, the right to engage in collective bargaining and protection against discrimination are merely the conditions that must be fulfilled for the labour market to function optimally.

There remains one component of international standards generally recognized as fundamental that does not easily fit into either of the two categories: the elimination of child labour. Pursuing this objective is at once a matter of political will and of economic and social development. It is certainly the issue attracting the greatest public attention but also the problem most difficult to overcome. Those who rightly insist upon the elimination of child labour as one of the rules of the game have a responsibility to give practical support to countries making a serious endeavour to attack the problem. The ILO has launched an ambitious programme of technical assistance to complement and reinforce its normative action.

But returning to my main argument, I think it is fair to say that there is broad agreement on the fundamental workers' rights that could form the rules of the game.

Once the "rules of the game" have been defined, how can they be implemented?

Seeing these principles as the logical extension to the labour market of the principles of liberalization, some people will of course conclude that they could be legitimately incorporated into the international trade system. Some would like to make these principles mandatory for all members of the WTO and open up the possibility of trade sanctions. Such an eventuality is essentially for the WTO membership to decide, and I shall limit my own remarks to two observations. The first is that one must be careful not to underestimate the political and technical difficulty of integrating these principles in the international trade system. The second is that, if there were such a decision, ILO standards, which have of course been adopted not just by governments but with the full participation of employers and workers as well, would have to be the basis for defining the rights concerned.

However, whatever happens in the WTO, we should explore other routes that could be followed within the ILO.

Can we, for example, develop a principle that respect for these fundamental rights is a commitment that is implicit in membership of the Organization? This commitment is already recognized as regards freedom of association by virtue of a special procedure that applies whether or not a country has ratified the specific Conventions. Complaints can accordingly be lodged against any violation of freedom of association and objectively examined – but without any threat of sanctions, except a moral sanction, the effectiveness of which should not be underestimated. Could this concept be extended to the other fundamental rights?

It may interest you that the Workers' group of the Governing Body of the ILO agreed to suspend for the time being its demand for the discussion in the ILO of mandatory trade sanctions linked to a social clause, on condition that, among other things, the Governing Body examine the possibility of introducing this type of special procedure in respect of forced labour and discrimination. The Governing Body has already started its work on this. Though the Governments and Employers have not so far endorsed the idea of extending the freedom of association machinery, there is still a great deal of scope for strengthening the ILO's hand, even where the relevant Conventions have not been ratified. This is something that the Governing Body will probably be considering at its coming sessions. At the same time, progress can be made through ratification campaigns until these standards are accepted as binding obligations by all countries. I launched one such campaign last summer by asking States to ratify the relevant Conventions or to explain the obstacles to ratification they had encountered. The results have already been quite encouraging.

The second aspect of an ILO approach is the parallel development of trade liberalization and social progress.

As I have said, the Constitution of the ILO recognizes quite realistically that the degree of commitment and social protection that its Members can subscribe to depends on their level of development and industrial organization. This being so, the voluntary nature of ratification of Conventions is perfectly justified. But the Members of the ILO are not free to ignore the general commitment they have entered into to "play the game" of social progress fairly – that is to say, to promote social objectives in good faith to the extent that their economic means permit. This commitment also applies to them as members of the WTO. In other words, they must not only refrain from artificially maintaining inferior social conditions in order to gain an unfair comparative advantage in international competition but, much more positively, they must also endeavour in good faith to distribute the fruits of the liberalization of trade within their societies equitably.

Since a commitment to social progress is inherent in a country's membership of the ILO, it should be perfectly feasible to establish machinery for examining and comparing the efforts made by the various Members to

meet this commitment and to share the benefits and burdens of liberalization. Naturally, the function of this machinery would not be punitive, but it could help to shed light on any shortcomings. It might also be a very useful means of helping identify the kind of solutions that enable some member States to pursue the twin objectives of liberalization and social progress more effectively than others.

The two approaches I have just outlined for giving more bite to the "rules of the game" of social progress could, in the longer term, pave the way for a standard-setting exercise aimed at consolidating both the will and the ability of States to promote the social objectives they have subscribed to in becoming ILO Members. And there is no reason why an instrument – whether a Convention or a Recommendation – should not in due course codify the principles and practices that member States would be invited to abide by in the liberalization process of international trade (and perhaps, more generally, in the development and structural adjustment process). This instrument could also spell out the standards that should be given priority attention as social progress is achieved (for example, as regards occupational safety and health and social security). It could recommend the practices and policies that experience suggests are the most effective means of promoting the liberalization of international trade.

At this stage, these are just some of the possible options that the ILO Governing Body Working Party is considering.

To conclude, I would make the following observations.

The lack of any explicit social dimension in the existing trade system does not mean that this dimension does not already exist for the partners who operate within this system. The member States of the WTO are also members of the ILO. They must take into account in one organization the commitments that they have voluntarily entered into in the other.

I do not anticipate that any formal links can be forged in the near future. It took many years to tie up the Uruguay Round and establish the WTO. Those who advocate the inclusion of a social clause in the next round should not expect that this can be done quickly or easily. But those who oppose such action should not assume that the issue will fade away. It will not. Taking a long-term global view, the liberalization of trade will no doubt be beneficial. But workers who feel their jobs and livelihoods threatened by the opening of markets will be extremely sensitive to competition they perceive as unfair, as based upon the exploitation of other workers. And consumers already responsive to environmental concerns will be increasingly reluctant to purchase goods produced by forced labour or child labour.

If international agreement cannot be reached on a few rules of the game, some players will make their own rules. Unilateral trade sanctions by powerful individual countries or trading blocs, restrictions on development

aid or financial flows, and consumer boycotts will be hard to avoid. The risk of renewed protectionism cannot be discounted.

I do not believe that either a single-minded insistence on trade sanctions or an inflexible resistance to any form of link between trade and labour standards offers a realistic prospect of agreement. The best hope, in my view, lies in bringing back into focus the objectives of fundamental labour standards and social progress and devising imaginative means of pursuing these objectives.

I believe it is possible to give the social dimensions of trade tangible expression. The ILO, whose entire history is a testimony to institutional inventiveness, can offer effective means of action within its constitutional framework. I see the role of our Organization as one of providing member States with the tools they need in order to act. It is up to them to decide if they wish to act.