PUBLIC AFFAIRS AND COMMUNICATIONS DIRECTORATE  
PUBLIC AFFAIRS DIVISION  

Labour/Management Programme  

TRADE AND LABOUR STANDARDS  

Report on a meeting of trade union experts held under the OECD Labour/Management Programme (Paris, 24th May 2000)
OECD LABOUR/MANAGEMENT PROGRAMME

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held under the OECD Labour/Management Programme

(Paris, 24 May 2000)

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FOREWORD

Under the OECD Labour/Management Programme for 2000, a meeting of trade union experts on "Trade and Labour Standards" was held in Paris on 24 May 2000. The meeting was prepared in collaboration with the Trade Union Advisory Committee to the OECD (TUAC).

Below you will find the Agenda for this meeting, along with the overall report of the discussions of the meeting of experts which was prepared by Professor Brian Langille, designated as General Rapporteur for this activity.

THE OPINIONS EXPRESSED AND ARGUMENTS EMPLOYED IN THIS REPORT ARE THE RESPONSIBILITY OF THE AUTHOR AND DO NOT NECESSARILY REPRESENT THOSE OF THE OECD
AGENDA

1. Overview of the Issues
   - General assessment of the outcome of the WTO Ministerial Council meeting in Seattle.

2. Definition of Core Labour Rights
   - Relevance of the ILO Declaration on Fundamental Principles and Rights at Work.

3. Economic Properties of Core Labour Rights
   - Linkage to broader development strategies.
   - Relationship between development and core labour standards.
   - Relationship between trade and labour standards.

4. Mechanisms for Promoting Core Labour Standards
   - Role of ILO and WTO.
   - Linkage to trade incentives.
   - Wider policies and the role of IFIs.
   - OECD Guidelines for Multinational Enterprises.

5. Conclusions
   - Opportunities for an integrated approach.
   - Potential role of OECD.
1. INTRODUCTION

This daylong meeting addressed a persistent, difficult and important issue - trade and labour standards. Those attending the meeting represented a rich variety of viewpoints and shared a long association with the issue. The day’s meeting was, as a result, full, frank, and helpful. This summary of the meeting outlines in general terms the main themes which emerged over the daylong conversation. It does not attempt to capture all that was said on every point, but rather attempts to report on the general framework which emerged from the many helpful contributions from many participants. The basic conclusion is that there is a wide ranging consensus about the broad framework in which the issues are to be understood, and an equally widely shared desire to advance debate within that framework.

2. A BASIC THEME - "Bridge Building" Post Seattle

A number of broad themes emerged during the daylong discussion. These themes emerged against a generally agreed upon context - the problem of addressing the trade and labour standards issues "post-Seattle". The WTO Ministerial meeting in Seattle in December 1999 was widely recognised as an important event providing a backdrop to the current meeting and any further discussions of the trade and labour standards issue. Many speakers throughout the day drew attention to the need to "pick up the pieces" after Seattle. It was against this broad political backdrop that two of the central themes of the day’s discussions emerged. First, there was repeated reference to the need for "bridge building" in connection with the trade and standard issue in a post-Seattle era. In particular a number of different bridges were identified. First, trade union representatives at the meeting were concerned to show that a bridge already existed between trade unionists in the developed and the developing world. There was a concern in the trade union movement that the trade and labour standards issue was often viewed as a "developed" country issue only. Representatives of trade union federations from a number of countries, including Malaysia, Brazil, South Africa, the Czech Republic, Hong Kong, participated in the meeting and expressed and demonstrated the need for the existence of such a bridge. Two other bridges were noted and referred to throughout the day. One is the bridge between labour and capital; and the other is the bridge between the official representatives of governments, labour, and capital on the one hand, and the anti-globalisation forces who received much attention in Seattle. It is in within this context that another central theme of the day emerged. Trade union representatives were concerned to sharply differentiate themselves from those in Seattle who simply wanted to "stop globalisation". They regarded themselves as "moderates" in connection with the issue. There was widespread agreement that there was a desire for a continued dialogue about the issue of trade and labour standards. This was not a position of radical opposition to economic integration, or trade liberalisation.

At the most abstract level then, the meeting clearly reflected a view among those participating that the issue, post-Seattle, was one of bridging gaps in understanding between various constituencies by advancing
the dialogue in a meaningful way. There was widespread agreement that the issue was not one of resisting economic integration, but rather what sort or model of globalisation or economic integration was to be pursued. In advancing this debate the trade unions are anxious to build a bridge to responsible governments and firms both in the developed and developing world, acting as a voice of moderation.

Many participants in the daylong discussion had a deep familiarity with the recent history of the trade and labour standards issue. Many had been long involved in the debate and were familiar with its basic concepts and controversies. The discussion during the day reflected a broad consensus about the current state of that debate. There was agreement upon the following points.

3. GOOD AND BAD ARGUMENTS ABOUT TRADE AND LABOUR STANDARDS

Many speakers emphasised that the term "trade and labour standards" is somewhat of a misnomer. There is broad recognition that the issue was not simply one of trade, but rather of "globalisation" or "international economic integration" in which many factors of production - capital, goods, services, and ideas are increasingly mobile and interacting with new technologies in a global marketplace. The issue then was whether labour standards would become part of this larger discussion of rules governing global production and consumption.

There was also general agreement that there were some bad arguments which had hobbled discussion and prevented progress being made in regard to this issue. In particular the trade unions were concerned to insist that they were not interested in pursuing an agenda associated with a "global minimum wage". The object of the exercise was not equalisation of labour costs and thus negation of legitimate differences between countries and labour markets around the world. The trade unions have recognised that different stages of development, levels of productivity etc. will determine the parameters of the labour bargain. However, they are also of the view that workers' rights are necessary to ensure just distribution of productivity gains and to act as a pressure for higher productivity.

Equally the trade unions were insistent that their agenda was not one of "protectionism" especially by the developed countries and their labour movements. This was accompanied by a footnote which insisted that workers concerned about loss of jobs really do have a vital and substantial issue at stake. Failure to attend to these real interests, and the propensity to treat them as a mere "interest group" issue would undermine progress. Some sensitivity to the real costs involved is necessary. The trade union movement is of the view that this reality needs to be attended to and is part of the bridge building process between those seeking to advance development and economic progress around the globe. The trade union representatives present were concerned to emphasise that the presence of developing world and developed world representatives at this meeting showed that there was common cause concerning this issue.

There is also a broad consensus that there are some good arguments for pursuing the labour standards agenda as part of international ordering. One of the most important of these, which was emphasised throughout the day, is that there is an independent "human rights" argument in favour of the labour standards issue. This point linked to the idea already mentioned that the labour standards agenda is not to be understood as a plea for a "global minimum wage". This is in turn linked to another vital point. Most speakers throughout the day referred not to labour standards, but to "core labour standards" or "core labour rights". There is agreement that in recent years the debate over labour standards had been greatly advanced by concentration on "a core set of rights" which are regarded as universally applicable, irrespective of levels of development. These rights were widely recognised as having been endorsed at the Social Summit in Copenhagen, at the WTO Ministerial Meeting in Singapore, in various other international human rights instruments, and in the 1998 ILO Declaration. The "core" is understood to include the following: (1) freedom of association and collective bargaining; (2) child labour; (3) forced labour; and (4) non-discrimination in employment. Speakers emphasised that the core of labour rights agenda is properly conceived of as a human rights agenda. It does not focus on substance, but rather on process. There was debate throughout the day about the commonality of the
moral underpinnings of the human rights agenda and the moral underpinnings of a properly ordered labour market.

4. OTHER THEMES

Another consistent theme throughout the day’s discussions was that of "sovereignty". Many speakers referred to the loss of control on the part of workers, or electorates, over certain issues, including labour issues. This led to and is connected with, a discussion noted below about the need for a multifaceted, multi-institutional, private and public response to the issue. The negative externalities caused by unregulated or unconstrained competition for investment, particularly through regulatory competition, was a consistent theme. It was noted that in some other areas of such competition - such as tax competition - a distinction was made between beneficial and harmful competition.

Representatives of labour at the meeting were also concerned to point out that there was a policy inconsistency in the international community’s response to advocacy of the labour rights agenda. They pointed out that many other issues, such as intellectual property, were seen as appropriately part of discussions about the international economy; whereas discussions of a labour rights agenda were often ruled out of bounds. No principled basis for this distinction could be perceived by many participants in the debate.

Other themes in connection with the labour rights agenda were also touched on throughout the day. The issue of child labour was referred to often. There was a real consensus that, in the long run, no moral or economic argument exists in favour of accepting child labour. There was broad agreement about the need to perceive the child labour problem as part of larger issues of poverty, development and education.

There were some striking interventions throughout the day about the lack of participation of workers in certain countries around the world in the debate about their rights in the global economy. Speakers with experience of the silencing and official repression of trade unions and workers reminded the meeting that the debate about labour standards was being carried on with the voice of at least some workers in the developing world being systematically excluded.

There was acknowledgement throughout the day that the opposition to the labour rights agenda is sometimes simply a "hard" position maintained by regimes which are opposed to labour rights in general. There is recognition that beyond this group there were a group of developing countries for whom the issue of protectionism continued to loom large. It was pointed out that protectionism works both ways and that it sometimes constitutes or takes the form of governments trying to protect their rights to repress their workers.

5. SANCTIONS, INCENTIVES AND INSTITUTIONS

The issue of "sanctions" was raised at many points during the day. Representatives of trade unions were most concerned to emphasise that they were not pursuing or interested in a sanctions driven process. It was emphasised that sanctions are not the issue, but behaviour. The problem was identified as one of how to structure incentives for respect for core labour rights, while at the same time having some ability to deal, at the end of the day, with truly recalcitrant regimes. This discussion of sanctions was tied, at many points throughout the day, with discussions about links between the labour rights issue and the World Trade Organization. It was broadly recognised that many who wish to see links between the WTO and the labour rights agenda did so because of the presence of WTO "teeth", in the form of the dispute settlement mechanism of the WTO. In this connection it was pointed out that the WTO could work in harmony with the ILO in a manner similar to established links between the WTO and the WIPO and the Codex Alimentarius. More specifically there was broad agreement among the trade union representatives on a position which outlines, in general form, a possible process for examining labour rights violations initially via the ILO or an ILO-like process. This would involve a multi-step procedure in which allegations were carefully investigated, findings made, technical assistance offered, progress reviewed, and assessments made. At the end of the day though,
there was a strong sentiment that in connection with truly recalcitrant regimes who flagrantly and clearly violated core labour rights, we should not “throw up our hands”. The idea promoted was not one of a fast track to sanctions, but rather an insistence that sanctions might be required in the most extraordinary sorts of cases in order to bring behaviour into conformity with fundamental norms. Sanctions may be required in extreme cases where all other remedies fail, but are not to be viewed as a normal first order reaction.

There was also broad agreement throughout the day that it would be wrong to focus exclusively on the WTO in connection with the labour rights debate. There was a consensus that the international financial institutions (the World Bank and the International Monetary Fund), regional economic arrangements such as NAFTA, Mercosur, and SADC, were important. Equally, it was understood that incentives systems such as the European Union GSP regime could play a role. Although it was noted that the “take up” rate under this regime was not as high as one might expect it was recognised that further work on incentives was necessary. In this connection the meeting also heard a description from the OECD Secretariat of recent progress in connection with the OECD Guidelines for Multinational Enterprises, and recently agreed upon revisions thereto. This presentation underscored the recognition at the meeting that not only was the labour rights agenda one which could be advanced within a number of multilateral governmental institutions, but also within the private sector. References were made during the day to not only codes of conduct, but other private sector initiatives. The idea, to return to our central theme, was that there were multiple ways to cross the bridge, or to construct a bridge, between labour rights and the international economic order. Of course, the ILO was referred to at many points during the day’s discussion. Some expressed the view that the ILO had recently been greatly reinvigorated as the result of the pressure put on it by external events. Others noted, however, continued opposition within the ILO and in particular footdragging regarding reporting under the ILO’s new 1998 Declaration and its monitoring or “follow-up” procedures. There is still a deep resistance on the part of some governments in the developing world to the pursuit of the core labour rights agenda, even within the ILO. Other speakers referred to the fact that, although the ILO is commonly regarded as "toothless", in fact Article 33 of the Constitution empowers it to take very broad remedial action, including economic action, against persistent violators of fundamental norms. The case of Burma (Myanmar) has precipitated a renewed interest in Article 33. This development clearly calls attention to the need for a careful integration of international institutions in connection with the labour rights agenda.

6. THE FUTURE - THE IMPORTANCE OF A BROAD VIEW OF THE ISSUE

A daylong conversation between many interested, informed and articulate participants does not lead to conversation that is particularly easy to summarise. Nonetheless it is striking how many of the participants in the conversation, both trade union and other, agreed upon the broad outlines of a proper approach to the issue, and the need to pursue it. The emphasis upon a core labour rights, non-protectionist, no "sanctions for sanctions sake", multi-institutional approach to the issue was striking. However, even more striking was a broad overarching understanding among the participants in the debate about the importance of the debate and its connection to broad understandings of international development and international economics. This was emphasised in a number of ways throughout the day.

First, there was broad agreement that the political atmosphere post-Seattle provided a fluid and interesting moment in which the labour rights debate could be advanced. Many speakers alluded to a "backlash" or "loss of popular support" for the project of globalisation or international economic integration. Few doubted the importance of this pragmatic reality. More important however, was the view often expressed at the meeting that the issue post-Seattle was not simply one of pragmatically managing a potential backlash or the need to rebuild popular confidence as a sort of public relations exercise. Much credence was given throughout the day, on all sides, to the idea that the problem post-Seattle was a real one, not one of mere political management. That is, real economic and normative issues were at stake. The debate was more properly conceived as one about "the appropriate model of globalisation", not whether there would be globalisation. Speakers from many parts of the globe, including the developing nations, spoke of the need for a "decent capitalism" based upon respect for core labour rights. The repeated references throughout the day to
the need to expand the debate about labour standards beyond the World Trade Organization to other international institutions underscored this point. In short, there was a widespread view that the debate about labour rights was part of a broader debate about approaches to the international economy. Many speakers underscored the point that the true issue concerning labour standards was one about whether the architecture of the global economy would be a more integrated one than many policymakers deemed appropriate, at least until quite recently. There was broad recognition that the respect for core labour rights was part of a more integrated approach to the world’s economy and economic progress which emphasised the human, social, and political capital required to sustain stable market economies. Discussion during the day reflected broader movements, both intellectual and political, which emphasised the impossibility of a segregation of the social, human, democratic and human rights agenda on the one hand, from the economic on the other. Respect for core labour rights is properly perceived, on this view, as part of the pursuit of good institutions, good governance, the rule of law, and democratic accountability. These in turn are widely perceived as naturally connected to sustainable economic growth.

One basic point repeated by trade union representatives throughout the day was that the primary hurdle was one of agreement in principle upon the legitimacy of the labour rights agenda as part and parcel of the construction of an international normative architecture. It was repeatedly asserted that once the legitimacy of the principle, properly understood, was acknowledged, then progress on the details would follow.

There was broad agreement about the significance of the OECD as a major player in the debate, both in the past and in the future. Repeated reference was made throughout the day to the vital role played by the 1996 OECD report on Trade Employment and Labour Standards. A factual update to that Report was reported by the Secretariat to be currently under review and many expressed the view that its contribution could be its great significance in the current context. Participants were of the view that the OECD’s credibility and professional capability to undertake a dispassionate empirical assessment were vital assets which had helped in depoliticizing the issue in important ways. There was genuine and widespread support for the idea that the OECD, both internally and in interactive ways, should continue to help provide and construct the framework within which progress in the labour agenda could be realised.

Overall, then, the meeting reflected the view that the debate had moved from one in which participants were divided by mutual misunderstanding and stood by entrenched positions, to one in which the legitimate interests and concerns of both valuable public policies (respect for core labour rights and the maintenance of an open rules-based multilateral trading system) are recognised, and a dispassionate analysis of optimal pursuit of both policies could be achieved. The OECD has in particular played a leading role in this development and can pay an important role in the future.
## ANNEX -- LIST OF PARTICIPANTS

### TRADE UNION EXPERTS

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