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**POLICY PERSPECTIVES AND FUTURE DIRECTIONS:
A VIEW FROM A FORMER U.S. TRADE REPRESENTATIVE**

Clayton Yeutter, *Hogan & Hartson*

Tom Donahue expressed very well where we as a nation and we as a world should go on the worker rights issue. I'm going to spend most of my time focusing on how we get there, if we really want to accomplish something.

Many countries would prefer not to have worker rights in the GATT at all. When we went to Punta del Este in 1986 to begin the Uruguay Round, the United States was a minority of one in trying to get the worker rights issue on the agenda in any way, shape, or form.

Since that time things have moved forward at least a little bit, though not much. But proponents should not despair. I would take Tom Donahue's analogy with intellectual property rights as illustrative. That issue was almost as difficult as worker rights. Yet, we were able to get it onto the agenda at Punta del Este.

What has transpired since on intellectual property issues provides a foundation for conceptualizing where we ought to go in worker rights. We've come a long way in the intellectual property area over the last seven and a half years. Far beyond where I thought we would be by now.

So let's look at a strategy for worker rights. The first thing that must be done by those who are proponents of moving the worker rights agenda forward is to decide what this agenda really should be. That's a strategic decision. The agenda could be broad or narrow. In my judgment, there is a huge trade-off in breadth with respect to what can be accomplished, and how rapidly it can be accomplished. Proponents need to think through what those tradeoffs are, how far the agenda can be advanced, and how much time is to be lost if the agenda is too broad.

Take, for example, the question of relative wage levels in different countries, and the potential for a minimum wage that would be universally accepted. In my view, if that were a part of the agenda pushed by proponents, there would be no international consensus on this subject in my lifetime, or Congressman Pease's lifetime, or perhaps in the lifetime of anybody who is sitting in this room today. The inclusion of such issues would be counterproductive. The whole agenda would essentially go down the tubes because international acceptance could not be reached within any reasonable period of time.

Proponents of a worker rights agenda must focus more narrowly than that, and be more realistic in their expectations of what can be accomplished in a timely manner.

One must always prioritize. Why not focus on the really egregious abuses of worker rights around the world to see if we can't begin to develop an international consensus on doing something about them.

Why not then take either the International Labor Organization (ILO) standards, as Tom Donahue suggested, or some modification of the ILO standards, as Frank Doyle suggested, and seek general agreement on such an agenda among the proponents of worker rights. Proponents can then take that grouping of egregious practices and try to convince the world that those practices should be deemed unacceptable. The next step would then be to add enforcement teeth to make sure that the practices are not only deemed unacceptable, but are treated as unacceptable in practice.

So the first task is to zero in on just what it is we should try to accomplish in this area within a relatively short period of time. Once we achieve agreement on what the priorities are, then it becomes a question of how to achieve international acceptability in one or more respected fora. We had a little discussion earlier this

afternoon on whether the preferred forum should be the ILO, the GATT, or the new World Trade Organization (WTO); there were even discussions about the role of the Organization for Economic Cooperation and Development (OECD).

One of the comments here by Frank Doyle was that it should be an ILO activity. But I see no reason why this issue shouldn't be worked in all of these fora. Let's try to do what we can within the limits and constraints of authority of the ILO. Let's do what we can within the GATT and the new WTO, and if the OECD can play a constructive role, let's have the OECD participate too.

I'd use them all. And I would like to emphasize a point Tom Donahue made in his analogy to intellectual property. It helped to have the existing intellectual property organizations become a bit skittish and nervous about the role GATT was going to play. These other organizations had been setting intellectual property standards through the years, but with no enforcement teeth at all. In other words, we had an international infrastructure for intellectual property, but with few accomplishments to show for it. It was not until we brought this issue forward in the Uruguay Round that these organizations began to say, "Gee, if we don't begin to do something, the GATT is going to replace us. We're going to fade out of existence. All of our jobs are going to be gone." Then things began to stir in those organizations.

If it becomes apparent that action on worker rights is going to take place in the GATT (or the WTO), I suspect we might see the same thing occur at the ILO. There is no reason, of course, why labor standards could not be agreed upon in the ILO, and then administered and enforced in the GATT (or WTO).

We already have precedents for doing this; they are evolving in intellectual property, and they're already present in food safety where standards have for many years been developed by an international body, Codex Alimentarius, with at least

some degree of implementation in the GATT. Therefore, one can readily visualize worker rights standards being set by the ILO or some comparable organization, with administration and enforcement in the GATT (or WTO). Alternatively, one can visualize GATT (or WTO) doing the entire job--conceptualizing and developing the standards, and administering them.

As Frank Doyle indicated earlier, the United States cannot snap its fingers and demand that all this occur. We must do this by persuasion, not by mandate.

There are some areas of international commerce where, as Congressman Pease has indicated, we have sufficient leverage to determine the outcome. The generalized system of preferences (GSP) is one of those, because we are granting duty-free treatment here in the United States. That provides the leverage to get recipient countries to do certain things in order to become eligible for duty-free treatment.

We had leverage in NAFTA too because the government of Mexico badly wanted to become a part of the free trade agreement that we had negotiated earlier with Canada.

But in the GATT we have a completely different situation. Our leverage begins to dissipate, if not disappear entirely. So we must provide leadership, and hopefully build a persuasive case for what we wish to do. We can't go in and say, "Look, this is the way it's going to be." GATT is a consensus organization; it rarely votes. If it does vote, everybody must be on board. Therefore, the task in effectively dealing with this issue in the GATT is to persuade 100 plus nations that this is the way to go.

That is no easy task. It's especially formidable at this point in time because there's a lot of suspicion that we, the United States, and some of the other developed countries have just engaged in a bait and switch operation in the

Uruguay Round. The contention is that we've gotten the developing countries to agree to give us additional access to their markets and now we're coming along to say, "Whoa, wait a minute. We really didn't mean it in terms of access to our markets because there are environmental and labor rights questions and some other regulatory issues that we haven't quite resolved yet." This developing country discomfort has to be overcome if anything meaningful is to happen on worker rights.

How do we get there? It seems to me that we've got to start with some sort of work program in the GATT (WTO). We've hardly even got that at this point. Maybe we need to add a second work program at the OECD that would complement and supplement what's happening in the GATT. Or perhaps we need to do some of these things on our own here in the U.S. We certainly need to begin to build a factual base and foundation for supporting what it is we'd like to achieve in this area.

We should never forget that all of this must be done incrementally. When we Americans get out-negotiated, it's typically because we are too impatient. This is an issue that demands patience on our part. We've got to move incrementally, step by step, gradually notching up the pressures (and the embarrassment) for some of the egregious violators, so that global public opinion will support what we're attempting to do.

It's not unlike lobbying on an issue here in the United States, except we've got to do it worldwide. It has to be done with skill. It has to be done with a defining strategy. It has to be done with effective tactics--in some cases, country by country.

Eventually we must move from a working party to something beyond that, possibly to a monitoring system of some kind. Tom Donahue said he didn't like the idea of voluntary compliance. I don't much like it either. But sometimes such

"stages" are necessary in achieving the ultimate objective. Here's an area where that probably will be required for a given period of time.

Let's get some benefit from voluntary compliance. That's better than no compliance. Let's monitor it, see how effective it is, and if it appears to be ineffective, then there is a case to be made for involuntary enforcement mechanisms.

This is going to take a few years. If we get impatient, it's going to take a lot longer. But if this issue is handled skillfully, with a pattern of progress as we go along, step by step, it can be a winner.

It was said earlier today, "If the United States doesn't do it, it won't happen." That is typically the case. But this is something the United States cannot do unilaterally. We must do it together with every country that's affected, including all the developing countries. That's mighty challenging, but it's not impossible.

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