

COMMON QUESTIONS ABOUT ILO CORE LABOR STANDARDS AND TRADE

Trade agreements must include enforceable protections for the ILO core labor standards to ensure that companies and countries cannot gain an unfair competitive advantage by denying workers their basic human rights. Workers in the U.S. have an interest in seeing these rights enforced worldwide, and our government can and should show leadership in making this vision a reality. First, Congress must require the administration to include enforceable workers' rights in the core of every trade agreement it signs. The Baucus-Grassley Trade bill falls far short of this standard, and proponents of the bill have responded to criticism by attacking the very idea of enforceable protections for core labor standards. Some common questions about the topic are answered below.

1. ISN'T IT UNFAIR FOR THE U.S. TO IMPOSE LABOR STANDARDS ON DEVELOPING COUNTRIES?

The core labor standards were not unilaterally designed by the U.S. or modeled on our laws. **The core labor standards are based on international human rights law and have been repeatedly reaffirmed by the entire international community, including developing countries.** This consensus is evident in the Universal Declaration of Human Rights and other core human rights conventions, the UN Social Summit, and the ILO's 1998 Declaration on Fundamental Principles and Rights at Work and its corresponding conventions. The Declaration lists the core labor standards – freedom of association and the right to bargain collectively, the elimination of forced labor, the abolition of child labor, and the elimination of discrimination in employment – and states that all members, regardless of their level of development, must respect these standards. These standards are qualitative, not quantitative; they express the fundamental rights that all human beings have in the workplace, they do not set a global minimum wage or maximum hours. Compliance with these standards is not only morally right, but has been found to support stable and equitable economic development and to strengthen political democracy.

2. AREN'T ILO MEMBERS ALREADY REQUIRED TO ENFORCE THESE STANDARDS?

By virtue of their membership, all ILO member countries are obligated to respect, promote, and realize the core labor standards enumerated in the Declaration, even if they have not ratified the relevant conventions that give content to these core standards. Unfortunately, **since the ILO has no real enforcement power, many member countries' labor laws still violate the core labor standards.** Thus, it is simply not sufficient to ask these same countries to commit in trade agreements to do nothing more than enforce their existing laws. For example, in the Americas alone the ILO has found that laws in Argentina and Brazil violate ILO standards by requiring collective bargaining agreements to win government approval or conform with the national interest in order to come into effect; El Salvador's labor laws infringe upon the right to organize by establishing excessive administrative requirements to register a union; Peru's labor laws do not allow workers to fully exercise their right to bargain collectively; Bolivia, Honduras, and Paraguay exclude all agricultural workers from legal protections for the right to organize; and El Salvador and Venezuela have overly restricted the rights of public sector workers to organize. Other ILO members' laws are even more egregious: in China, Cuba, Sudan, Vietnam and a number of Arab states all independent trade unions are simply outlawed, and Bangladesh and Pakistan explicitly exclude workers in export processing zones from protection under their labor laws.

3. WHY NOT JUST STRENGTHEN THE ILO IF ENFORCEMENT IS THE PROBLEM?

The labor movement has long been a proponent of strengthening the ILO, even as the current administration has proposed cutting funding for international labor programs in half. Labor strongly supports increasing financial assistance and improving ILO technical assistance to help countries improve their labor standards. But in some cases this type of assistance is not enough, especially when individual governments have a direct economic or political interest in continuing to violate workers' rights and suppress independent trade unions. In these cases, the ILO cannot enforce core labor standards on its own; all international organizations, especially international economic organizations such as the WTO, IMF, and World Bank, must play a supporting role. Unfortunately, today these organizations are obstructing improvement in workers' rights more than they are contributing to it. For example, **many countries have refused to act on the ILO's recent recommendation that members impose sanctions on Burma for the country's continued and systematic use of forced labor, citing fears that such sanctions would violate WTO rules** (Burma is a WTO member). Until the WTO incorporates enforceable provisions for core labor standards into its rules, the ILO's efforts to remedy even the most blatant violations of workers' rights will continue to be isolated and ineffective.

4. AREN'T TRADE PANELS UNQUALIFIED TO RESOLVE LABOR DISPUTES?

Proponents of linking trade and labor standards recognize that existing dispute resolution bodies must be reformed. Panels must have access – perhaps through collaboration with the ILO – to panelists with expertise on labor issues and professional neutrality, as well as the power to authorize trade sanctions if necessary. Disputes should be open to the public and should include some mechanism, such as *amicus curiae* briefs, for taking into account the views of interested parties, especially of trade unions in countries affected by the dispute. **These same principles of expertise, neutrality, transparency, and public participation should apply to all trade disputes, and have always been an integral part of trade union demands for reform of the international trading system.**

5. ISN'T USING SANCTIONS TO ENFORCE LABOR STANDARDS PROTECTIONIST?

First of all, there is no intellectual basis for distinguishing between enforcing business interests – such as intellectual property rights and investor rights – with trade sanctions and enforcing workers' rights with trade sanctions. The only difference is that business interests are already an important part of our trade law, and workers' rights are much less so. Second, most obligations that carry the threat of trade sanctions do not actually result in many sanctions being imposed. The credible threat of sanctions is often enough to guarantee compliance, as can be seen in the history of the WTO and our other trade agreements, where the actual imposition of sanctions is very rare. **Ideally, trade sanctions will work the same way for workers' rights: they will encourage countries to comply with international standards, to accept financial and technical assistance when they have trouble enforcing these standards effectively, and to remedy any violations complained of by other countries.** Third, a multilateral dispute resolution system that is neutral, expert, transparent, and equally accessible to all parties is probably the best way to ensure that the power to impose trade sanctions is not captured by narrow, domestic interests. It is just such a system that the international trade union movement has argued for, and that Congress should require the President to create.