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Author(s): Sanjay G. Reddy

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provision,<sup>9</sup> this disagreement should be resolved in crafting the rules at the negotiation stage (once) rather than in applying them in subsequent disputes (potentially many times).

In operationalizing special and differential treatment, WTO Members must eschew the superficial attraction of independent bodies engaging in objective analysis to resolve individual disputes or issues in the future. Members must also refrain from repeating the mistakes of the past, simply agreeing to hollow words rather than meaningful distinctions. Members themselves need to agree on measurable criteria for granting special and differential treatment under specific WTO provisions (whether existing or new). This will require substantial economic analysis regarding trade liberalization and development in the context of individual provisions. It is a big task. However, Members have already achieved agreement on a number of issues involving special and differential treatment, and they are operating under a provision-specific framework rather than insisting on special and differential treatment as a political right divorced from their economic needs.

### **THE WORLD TRADING SYSTEM: TRANSCENDING THE ECONOMISTS**

*By Sanjay G. Reddy\**

Economists have come to some incorrect conclusions on the possible and appropriate design of the international trading system and have also polluted the broader debate, diminishing the ability to think thoughtfully about institutional alternatives.

My recent co-authored book (with Christian Barry) on international trade and labor standards<sup>1</sup> is an effort to argue that an appropriate form of linkage between international trade and labor standards is in fact highly desirable from the standpoint of the developing countries, and in particular of workers and the less advantaged within them, contrary to the standard presumption.

The motivation for our joint investigation of this issue was in part a desire to prise open a prematurely closed debate. Some prominent economists in the debate have argued that those advocating linkage in the international trading system must be considered economic illiterates. On our reading, that is not the case at all. On the contrary, one can find a battery of arguments on behalf of linkage. Our ultimate case is not so much that there is a decisive case for a form of linkage, but that there is not a decisive case against it. At a minimum, respectable economic arguments can be brought to bear on either side. This is an issue that is therefore worthy of exploration. Such exploration must involve detailed institutional arguments, which in turn implies that various forms of judgment and expertise must be drawn upon. Economists must be involved but many others must be involved, too, including lawyers. Ultimately, the question of whether or not a particular kind of institution is desirable will have to be decided, in large part, on the basis of worldly judgments as to what is feasible in the current circumstance, and as to the balance of likelihoods as to how particular institutional designs are likely to operate in practice.

The debate on linkage offers a starting point for some broader observations about the role of economists and the role of lawyers, in institutional debates generally, and in those on the world trading system in particular. One of the claims that has been put forward in the debate

<sup>9</sup> WTO, WORLD TRADE REPORT 303 (2007).

\* Assistant Professor of Economics, Barnard College, Columbia University.

<sup>1</sup> CHRISTIAN BARRY & SANJAY REDDY, INTERNATIONAL TRADE AND LABOR STANDARDS: A PROPOSAL FOR LINKAGE (2008).

is that there is a “two birds” principle which allegedly states that when you have two different birds then you need two different stones to hit them. If one does some investigation of the concept of the “two birds” as it appears in the English language, it appears that if there is any such principle it, in fact, has to do with the idea that you can sometimes use *one* stone to hit two birds. However, the advocates of the “principle” have argued that it demands the institutional separation of “economic issues” from non-economic issues in the international system, so that entirely different instruments can be used to address the two allegedly distinct kinds of issues. More specifically, they contend that the WTO is the appropriate space for addressing economic issues, especially commercial policy issues, and that the ILO and other international organizations which have traditionally been concerned with supposedly non-economic issues should be given responsibility for addressing the latter. More forcefully, they appear to contend that this institutional arrangement provides the uniquely efficient allocation of rights and responsibilities in the international system.

The principle that multiple targets require at least as many instruments as there are targets was most notably expressed in the economic literature by Jan Tinbergen, the Nobel prize-winning Dutch economist who wrote on this issue in the 1950s in his work on the economics of international cooperation. However, it turns out that Tinbergen himself was very sensitive to the possibility that the different instruments which were needed to address different targets might have to be wielded in a coordinated way in order to be effectively and appropriately employed, and that whether or not distinct instruments should be vested in distinct *institutions* with separate decision-making power was not something that could be directly determined on the basis of formal logic. Rather, this could only be established on the basis of worldly and pragmatic reasoning as to how different institutional designs were likely to succeed *in practice* in effectively promoting the pursuit of the distinct targets, through the norms and incentives these designs establish, in turn influencing the individual and joint application of the instruments.

We may ask a broader question: is the supposed distinction between the economic sphere and the non-economic sphere, which is made frequently in debates on the international trading system, a sound one? It appears that many economists in the debate think of the economic sphere as defined by the circulation of goods and services; however, that is not actually the definition of the economic sphere which prevails in mainstream economics. Indeed, in mainstream economics education today, abstract concepts such as the utility function and the production function reign. One is informed that it is possible to make “everything” an argument or an output of one of these functions and that this versatility is a reason that economics should be judged to have powerful tools. From this standpoint, contemporary mainstream economics presents a way of looking at the world in which the domain in which agents maximize is itself maximal. This vision of maximal maximization does not ultimately permit any distinction whatsoever between the economic sphere and the non-economic sphere and this non-distinction is a subject of disciplinary celebration.

So what is the distinction that the international trade economists appear to be making? That is very hard to answer if one rejects the idea that a fetish for goods and services can provide a sufficient basis for defining the economic. One way to think about the economic sphere which would broaden it substantially from the way in which some of the international trade economists have been thinking about this issue would be to think of it, at least as it pertains to the international trading system, as having to do not just with the circulation of goods and services but with all those things that are *affected* by the circulation of goods and services. Of course, as soon as a broader understanding of the economic sphere is accepted

it becomes feasible and necessary to introduce a range of additional concerns into the heretofore narrow discussion of “economic” issues.

It is well known that the original plan for the Bretton Woods system included the formation of an International Trade Organization, or ITO, the mandate of which was to include a concern with employment issues, going beyond trade issues narrowly considered. If one were to look today at what kinds of concerns would be appropriate to bring into the economic sphere, understood in the broader sense just defined, there are many more issues that would come to mind. Labor standards concerns are among those because it is undeniable—as many have rightly pointed out (see in particular the work of Kyle Bagwell, Robert Staiger and Petros Mavroidis)—that in the WTO system as it currently stands, because there are ceilings on tariffs but no floors on labor and environmental standards, there are powerful pressures for the lowering of labor and environmental standards in order to generate competitive advantage for domestic firms. From this standpoint, labor standards concerns and environmental concerns would certainly appear to fall under the ambit of economic concerns.

Of course, one could adopt an even broader conception of the economic domain as including not only those things which are already affected by trade in goods and services, but those things which are *potentially* affected by the rules governing the circulation of goods and services. This is a broader idea because it encompasses all of those spheres which could potentially be linked to trade, for example, to take advantage of the enforcement power provided by the world trading system. It is often pointed out that countries have powerful incentives to join the World Trade Organization because of the “single undertaking” in the system: they have to accept a wide variety of provisions if they want the big prize, which is access to the world trading system under secure criteria of mutual market access. However, this also generates a potentially powerful enforcement mechanism which could be used to bring about compliance with international treaties concerning other issues. Whether this would constitute an inappropriate imposition of enforcement power from trade or whether it would be an appropriate method for countries collectively to put in place incentives to ensure higher compliance with international treaties—especially those which may be desirable but difficult to implement in the presence of commitment or coordination problems—is an issue to be discussed, drawing on all of the normative, legal, political, and economic reasoning which is required. In this debate, the knowledge of economists is a valuable resource, but wholly insufficient.