CHAPTER SEVEN

REGIONAL STREAMLINING OF INTERNATIONAL TRADE
AND INTERNATIONAL HUMAN RIGHTS NORMS

LJILJANA BIUKOVIĆ*

I. INTRODUCTION

The impact of international trade on human rights and vice versa has been an omnipresent theme in scholarly debates since the establishment of the World Trade Organization (‘WTO’). While scholars continued to argue whether it was necessary to integrate the two subsystems of international law, and if so, how to conceptualise the integration, human rights-related issues began to surface in trade relations.1 For example, it is often pointed out that patent protection granted to pharmaceuticals under the Agreement on Trade-Related Aspects of Intellectual Property Rights (‘TRIPS’)2 created the potential to deprive developing countries of the ability to access HIV/AIDS medications, and ultimately to deny peoples in these countries the human right to health.3 Another criticism of the advancement of the WTO regime at the expense of human rights is directed towards further agricultural trade liberalisation under the Doha Round negotiations of WTO which undermined the right to food of peoples in developing countries.4 Yet developing countries often oppose

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* Associate Professor, Faculty of Law, University of British Columbia, Canada. Students Hayene Dahman, Stephen Rukavina, and Erika Cardillo provided research assistance for this paper. The research is funded by the grant of the Social Science and Humanities Research Canada (Coordinated Compliance for International Trade and Human Rights, principal investigator Professor Pitman Potter, Faculty of Law, UBC).


initiatives to include human rights references in the text of WTO laws because they consider those attempts to be disguised protectionism and a further limitation on their national sovereignty, especially as regards social policy.

This chapter examines whether the international trade regime and human rights can be integrated and, if so, what degree of integration is possible, by looking into how two regional trade blocs—one in Latin America and one in Asia—function. The starting hypothesis is that if it is desirable and possible to integrate the two subsystems, it is more likely to be achieved at the regional level where cultural similarities and shared societal values can assist in integration based on political and economic interests. In Latin America, the development of the regional trade system parallels that of the regional human rights system. Consequently, State members of trading blocs such as MERCOSUR (Mercado Común del Sur) are also members of the separate regional human rights systems such as the Inter-American human rights system established within the framework of the Organization of American States (‘OAS Charter’) and its normative instruments including the **American Declaration on the Rights and Duties of Man** and the **American Convention on Human Rights** (‘ACHR’). In contrast, Asia, while it has been developing regional trade systems, lacks a regional human rights system. Thus, the recent establishment of the Association of Southeast Asian Nations’ (‘ASEAN’) Intergovernmental Commission on Human Rights is only a subregional