

The 1994 Viscount Bennett Lecture:

Can fair trade co-exist with free trade?

by Gordon Loane
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Can there be 'fair trade' and 'free trade' between countries at the same time?

Is it possible to maintain high labour and environmental standards in the face of free trade?

What sanctions, if any, should countries impose to maintain these high labour and environmental standards?

These are just some of the questions that Professor Michael Trebilcock and colleagues at the University of Toronto Law School are trying to answer.

Trebilcock was at the UNB Law School last week to deliver the Viscount Bennett Memorial Lecture.

Before answering the questions posed, Trebilcock acknowledged that the fair trade, free trade debate remains politically controversial.

"Free traders think the fair traders, such as human rights activists, are well-intentioned but economically naive," Trebilcock said. "On the other hand, fair traders see free traders in industry as moral philistines."

"Fair traders argue that international trade is unfair because domestic industry is competing with foreign rivals where labour standards and costs are less and environmental standards are lower," he said.

"Free traders want to do everything they can to harmonize labour

and environmental standards and level the playing field, he added.

A range of sanctions can be used depending on the goal that needs to be attained, Trebilcock argued.

"The first class of measures includes, for instance, sanctions to enforce specific norms in international environmental or labour agreements, trade measures against products produced in a manner that is viewed as intrinsically wrongful or immoral, or sanctions aimed at inducing a country or countries to accept a set of rules or principles... largely external to the trading system," he said.

A second class of measures would include countervailing duties like tariffs or quotas.

"In this instance, what is unfair is not the lower levels of environmental or labour protection themselves, but the advantage in trade conferred by the lower costs they entail for foreign producers," Trebilcock said.

He then went on to set up a scenario in which trade sanctions succeed in inducing higher environmental or labour standards. His study then measured the effects on the targeted country, the sanction imposing country and the global economy.

"In the targeted country new and higher environmental standards... may lead to a more efficient allocation of resources within the economy," he said.

In some countries, increased la-



UNB President Robin Armstrong, Michael Trebilcock and UNB law professor Norman Siebrasse. Photo by Mark Bray

bour standards may not have the effect of increasing the general domestic welfare. In a Marxist totalitarian state like China, Trebilcock argues that sanctions aimed at reducing slave labour camps may not have the desired effect.

In the global economy Trebilcock said that higher environmental standards may increase global welfare where these improvements reduce or eliminate boundary spillovers or correct other market failures.

"With respect to labour rights or standards, international minimum standards may address in some measure a fundamental distortion in the global labour market, i.e. restrictive immigration

policies that prevent people from moving to locations where their labour is most highly valued," Trebilcock said.

Increased standards in the environment and labour area may have a negligible effect on consumers in the sanction imposing country, Trebilcock argued.

"This is particularly true where some producers in the targeted country are already meeting minimum standards," he said.

"Similarly, in the case of labour standards, some producers may be meeting minimum standards within existing cost structures."

The University of Toronto professor then went on to outline a second scenario in which trade sanctions fail to endure higher environ-

mental and labour standards.

The welfare effects in the targeted country will depend on how widely or narrowly cast the sanctions are, Trebilcock said.

"Perhaps the sanctions with the least negative welfare effects would be those that target the products of only those firms that do not meet minimum labour or environmental standards."

In the sanctions imposing country Trebilcock predicts there will be consumer welfare losses from the elimination of imports from lowest cost producers in the targeted country.

"Again, this is subject to the qualification that, where sanctions have been targeted at firms... the most efficient producers in the targeted country may be able to meet the standards while maintaining variable costs no higher than those of firms who were only competitive in the past due to their not meeting the standards in question," he concluded.

Trebilcock is Professor of Law, Director of the Law and Economics Programme and Chair of the International Business and Trade Law Programme at the University of Toronto Law School.

The Viscount Bennett Lectures are funded each year at the UNB Law School. They are named after New Brunswick-born lawyer, politician and statesman Richard Bedford Bennett, Prime Minister of Canada from 1930 to 1935.

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