

5.3 "Social Dumping" and "Social Countervail"

Besides relative wage rates, some opponents of the FTA and NAFTA have focussed on the related issue of "social dumping". "Social dumping" has many definitions, but it often refers to the idea that different (read "lower") labour rights or standards give producers in the exporting country a commercial advantage.⁴⁰ It is important to note that this definition is restricted to exports, and is most likely to be raised by import-competing domestic producers. "Social dumping" has also been used to refer to difficulties competing in a foreign market due to the lower labour standards of the domestic producers in that market. While a domestic political constituency on the latter has not yet arisen, such an occurrence cannot be precluded. The concept could also be applied to trade in services which could broaden further the political constituency on the issue.⁴¹

It is difficult to accept "social dumping" in the normal, i.e., GATT, sense of the term dumping. Article VI of the GATT defines dumping as the process "... by which products of one country are introduced into the commerce of another country at less than the normal value of the products ...". Moreover, dumping "... is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry."⁴² In practical terms, this means that dumping is the sale of an imported product at a lower price than that for which it was sold in the exporting market. In such a case, Article VI allows a country to levy antidumping duties on a dumped product if it causes injury to domestic producers. International trade law does not recognize cost differentials between producers as potentially creating dumping, unless a given producer sells a given good at different prices in the home and export markets. If the price of the good in both markets reflects the cost of production, there is no dumping.

⁴⁰ See Ann Weston, "Social Subsidies and Trade with Developing Countries", a paper prepared for the Ontario Government, North-South Institute, 1991, for an illustrative list of various definitions of "social dumping" or "social subsidies".

⁴¹ International Labor Rights Education and Research Fund, Trade's Hidden Costs, 1988. Page 25 cites some examples where service sector jobs in the U.S. were allegedly transferred to foreign countries. The National Association of Working Women believed that "sub-standard" practices abroad could result in firms using the threat of moving jobs overseas to block organizing efforts by clerical workers in the U.S.

⁴² GATT, Basic Instruments and Selected Documents (BISD) Volume IV Text of the General Agreement, 1969, Geneva:GATT,1986.