

TRADE LINKS: LABOR AND THE ENVIRONMENT

by Steve Charnovitz

Although interest in the relationship of trade, the environment, and labor standards has been percolating for some time, the recent debate in the US Congress over "fast track" authority for a free trade agreement with Mexico spotlighted these issues and spawned new analysis. This makes it clear that dealing with the social implications of trade policy will be an unavoidable challenge.

The debate is proceeding on several fronts. In the Uruguay Round of trade negotiations, environmental issues are already on the table, particularly in the subsidy and agricultural talks. In the EC, a charter on the "Fundamental Rights of Workers" was recently adopted as the foundation for social rights within the common market. Its implementation at the national and Community levels is being watched closely by global corporations.

The connection between international trade, public health and conservation has long been recognized. By the early 20th century, the United States and several European nations had begun using commercial treaties and laws to protect nature from man and labor from management. Among the first agreements to use import bans for conservation purposes were the Fur Seal Treaties of 1911 between Great Britain, Japan, Russia and the United States. In

the area of worker protection, as the first "factory acts" were being enacted in Europe during the early 19th century, some visionaries began to recognize that foreign competition made it difficult for nations to regulate alone.

Environment and labor issues are congruent in many respects. One is the view that national differences in levels of regulation can undermine the fairness of trade. For instance, if the United States has stringent pollution control laws, then the ensuing higher costs may place some of its industries at a competitive disadvantage vis-à-vis foreign producers. These inter-country differences could, in theory, result in domestic production being displaced by "dirty" imports, in US exports being underpriced by unregulated foreign competitors, and in new investment being diverted to "pollution havens." But in practice, the significance is unclear. Several studies, mostly from the 1970s, found little proof that pollution control costs were weakening US competitiveness. Nevertheless, even if the competitive effects were small in the past, factors such as rising private sector compliance costs, the increasing globalization of corporations, and improving investment climates in some developing countries could exacerbate trade shifts in future.

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In response to inadequate data, Congress—as part of the Clean Air Act amendments of 1990—mandated a presidential study of the impact of foreign air quality standards on US competitiveness. This report, due next May, will also recommend a strategy for addressing the problem through trade negotiations. Assuming that the social cost differences between high and low standard countries are significant enough to affect trade, the next question is whether such differences can be characterized as “unfair.” The orthodox view is that high-standard countries set their standards voluntarily and thus cannot, in any way, be “injured” by low-standard countries.

Yet unfair labor conditions do “create difficulties” in international trade. The difficulty is that it is hard to reach agreement on what constitutes an “unfair” labor or environmental practice in a world of widely differing polities and economies. Even the most minimal standards—say, on forced labor or exposure to high toxic chemicals—would go too far for some countries. Another fairness concern is the opposite problem—that governments will intervene too much by subsidizing the pollution control costs of their manufacturers.

A final problem occurs when countries establish export processing zones that deviate from customary law and practice. For example, if a government sets up a “union-free” enclave within a country that generally permits collective bargaining, that action could be characterized as an indirect export subsidy.

There is an entirely different category of issues revolving around the negative externalities of trade, that is, how trade affects workers and their environment in the country of production. Paralleling the concern about worker rights is a concern for “species rights.” Since the early 1900s, conservation treaties have recognized the responsibility of consuming nations in making wildlife protection effective. But some nations are now showing an increased willingness to act outside the umbrella of treaties by imposing unilateral restrictions.

Finally, there are the difficult moral questions raised by transferring toxic industries and waste products from rich nations to poor ones. For instance, if the importing government understands the risks it is assuming, does that absolve an exporting nation of responsibility?

Several objections, starting with sovereignty, are raised against expanding international trade rules to include environmental protection and worker rights. However, wrapping a flag around national social policies is not a convincing defense for countries that do not determine such policies democratically. In addition, since the GATT would be broadened under the Uruguay Round to include new issues like “trade related intellectual property rights,” there is an analogous justification for including trade-related worker rights.

A second objection is that the poor countries are too poor to improve their social standards and that increased trade will raise these standards automatically. A third objection to a “social clause” in GATT rules is that this could undercut the progress being made in lowering non-tariff barriers by operating new avenues for “ecoprotectionism.” Clearly, this is a potential danger. It is ironic that some of the doubts within GATT are matched by the skepticism of outside groups, especially environmentalists, who question how fruitful such consideration would be under GATT’s present rules. From their perspective, the prism of the GATT looks almost perverse: The GATT begins with an objective of freer trade whereas the proper goal should be “sustainable development.”

The “greening” of the GATT will not be easy. Yet surely free traders and environmentalists alike have an interest in seeking whatever new trade rules are needed. Although GATT is not a proper forum to craft new environment and labor policies, it is the proper forum to police the use of trade tools in support of these objectives.

Mr. Charnovitz is legislative assistant, Steering and Policy Committee, US House of Representatives.

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