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Making Free Trade More Fair: Developments in Protecting Labor Rights

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Abstract
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MAKING FREE TRADE MORE FAIR: DEVELOPMENTS IN PROTECTING LABOR RIGHTS

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Report of the IRRA-NAFTA Committee for 1996-97. Authors' names are listed in alphabetical order. The report benefited from the contributions of committee members Enrique de la Garza, Lance Compa and Russell Smith. Anil Verma served as the Convenor. Copies of the committee's full 27-page report are available through the IRRA national office, UW-Madison, 1180 Observatory Dr., 4233 Social Science Bldg., Madison, WI 53706 (608/262-2762).

The IRRA-NAFTA Committee was first appointed in 1995 by then president, Walter Gershenfeld, to make a report to the membership on the industrial relations implications of NAFTA and other trade-related developments. The Committee's mandate was renewed in 1996 by president Hoyt Wheeler. In this year's report the committee focused on some of the attempts that are underway to improve protection of labor interests under free trade conditions. This is a summary of the longer full report available upon request from the IRRA National Office.

APPLICATION OF THE LABOR PRINCIPLES IN THE NAALC

The 1996 report of the Committee discussed the procedures contained in the NAALC for dealing with alleged violations of the eleven "labor principles" in the Agreement (Verma et al. 1996).

In addition to the cases discussed in last year's report, this section will address two new cases submitted during 1996: the case of the Fisheries Ministry Union in Mexico (SUTSP), and the case of Maxi-Switch, also in Mexico. As of this writing in May 1997, a total of seven cases have been submitted and accepted for review by either the U.S. or the Mexican National Administrative Offices.[1]

The Honeywell/GE Case[2]

The first submission was filed in April 1994 by the International Brotherhood of Teamsters and the United Electrical Workers (UE), alleging violations of the principle of freedom of association by Honeywell and General Electric at separate maquiladoras in northern Mexico. The submissions charged that employees were dismissed for union activity, which is illegal under Mexican labor law. The union

[1] One of these cases was withdrawn in 1994 after its acceptance by the U.S. NAO. Consequently, it will not be examined here. On May 16, 1997, the U.S. National Administrative Office received a submission concerning pregnancy-based sex discrimination in Mexico's maquiladora sector. The petitioners were Human Rights Watch Womens Rights Project, Human Rights Watch/Americas, the International Labor Rights Fund, and the Asociacion Nacional de Abogados Democraticos. If the case is accepted, it would represent the eighth case to be filed and the first to deal with a principle other than freedom of association. namely, employment discrimination. Matters concerning employment discrimination may go as far as an Evaluation Committee of Experts under the NAALC.

[2] More detailed description of the cases discussed in this paper can be found in Cook et al. (1997). the full report of the IRRA-NAFTA Committee, available from the IRRA National Office upon request.

involved at both plants was an independent organization, not affiliated with the pro-government CTM (Confederation of Mexican Workers). Honeywell and General Electric denied that the dismissals were due to union activity, but were based on employee misconduct and economic conditions facing the plants.

After consulting with the submitting unions and representatives of the corporations involved in the cases, the US NAO commissioned two studies of the treatment of freedom of association and the right to organize in Mexican labor law and administration. It then scheduled a public hearing on September 12, 1994 in Washington, D. C. on the submission and invited all parties to testify. Only trade union representatives appeared at the hearing. Honeywell and General Electric did not testify, but did file written statements. A former employee from each of the two plants involved in the submission, accompanied by representatives of their union, described their efforts to organize a union there. Four Mexican labor lawyers described tactics used by employers in Mexico to discourage the organization of "independent" unions, *i.e.*, organizations not affiliated with the CTM. Lawyers representing the Teamsters and a staff person from the Ontario Federation of Labour presented their recommendations.

The NAO report issued in October 1994, noted that its purpose was not to determine the veracity of the allegations in the unions' submissions or the employers' replies. Rather the purpose of the review was to gather information and publicly report on the Government of Mexico's enforcement of its labor law. It summarized the substance of the union and employer positions in the two cases and reviewed the application of Mexican law to such disputes. It found that since there is no unemployment insurance program in Mexico, workers discharged from their jobs frequently accept severance pay instead of pursuing other legal remedies. In light of the "dearth of practical knowledge" in the three countries about legislation in the other countries covering freedom of association and the right to organize, the NAO recommended that the countries work together to promote understanding of these matters in their respective labor laws. The report also recommended that greater efforts be made to inform the public about the NAALC and its operation, labor laws in each country and the role of the NAO's. The report did not recommend ministerial consultations under Article *22* on the grounds that it did not find that the Mexican government had failed to promote compliance with or enforce its legislation covering the two cases. (US Department of Labor, 1994).

The Sony Case

The pattern of the first two complaints was varied slightly in the subsequent submission, from the International Labor Rights Fund, the Coalition for Justice in the Maquiladoras, the American Friends Service Committee and the National Association of Democratic Lawyers (from Mexico) against Sony, for alleged violations of freedom of association, also at a maquiladora in northern Mexico. The substance of the submission concerned workers' efforts to organize a union independent of the dominant CTM. As summarized in the 1996 Committee report, the NAO accepted the submission for review, held a public hearing, gathered information from other sources and issued a report that included a recommendation for ministerial consultations. It also recommended that the three countries in the Agreement work together on union democracy and elections. The NAO also agreed to study cases before the Mexican Federal Conciliation and Arbitration Board involving allegations of unjustified dismissals. In their consultation, the three ministers agreed to examine union registration and certification, and to commission an independent study of labor law on these subjects (Compa 1995).

The Sprint Case

The first Mexican submission was filed in February 1995 by the Telephone Workers' Union of the Republic of Mexico, concerning the closing of La Conexion Familiar (LCF), a telemarketing operation in California owned by the Sprint Corporation. In brief, the Mexican NAO accepted the submission, which involved an effort by the Communications Workers of America (CWA) to organize a group of predominantly Latina workers (see Verma et al. 1996 for earlier coverage of the case). One week before an NLRB election in July 1994, Sprint closed the plant, citing business losses. The result of the consultation between the U.S. and Mexican Secretaries of Labor was an agreement to address the issues raised in the submission: the US Secretary of Labor would keep the Mexican counterpart informed of legal developments in the case; the Secretariat of the Commission for Labor Cooperation would prepare a study on the effects of sudden plant closing on the principle of freedom of association; and the US Department of Labor would hold a public forum in San Francisco to allow interested parties to express their concerns on the impact of sudden plant closings on the principles of freedom of association and the right of workers to organize. The format of the public forum, held on February *27,* 1996, was similar to the Honeywell/General electric meeting in 1994.

The CWA had earlier filed unfair labor practice charges against Sprint in July 1994. The union alleged that Sprint violated section 8(a)(1) of the NLRA by its tactics prior to the filing of the election petition and that the plant closure was motivated by antiunion animus. After reviewing this evidence and the relevant legal principles, the NLRB determined that the decision to close La Conexion Familiar violated Section 8(a)(3) of the NLRA. In addition, it confirmed that the employer had violated Section 8(a)(1) by its other activities. Sprint has appealed the decision to the Court of Appeals, so the litigation is unlikely to end until some time in 1998, at the earliest.

The SUTSP (U.S. NAO No. 9601) Case

In June 1996 the U.S. NAO received a petition jointly submitted by Human Rights Watch/Americas, the International Labor Rights Fund, and the National Association of Democratic Lawyers (the latter is based in Mexico City).[3] The submission arose from a dispute over the representation of employees of the federal government at the Ministry of the Environment, Natural Resources, and Fisheries (Secretaria de Medio Ambiente, Recursos Naturales y Pesca, SEMARNAP), a new ministry formed in 1994 that merged the former Ministries of Development, Agriculture and Water Resources, and Fisheries. The dispute arose when a new union (SNTSMARNAP)[4] was registered to represent employees of the new ministry. The union representing the 2,300 workers in the Fisheries Ministry, the Single Union of Workers of the Fisheries Ministry (Sindicato Unico de Trabajadores de la Secretaria de Pesca, SUTSP), had applied for a name change to reflect the consolidated ministry.

Its request was denied by the Federal Conciliation and Arbitration Tribunal (FCAT) on the grounds that the Fisheries Ministry no longer existed as a legal entity. When the new union was registered in March 1995, the ministry notified the tribunal that two unions were registered to represent employees at the minis-

[1] *Petition Submitted to the USNAO by Human Ritrht* Watch/Americas. The International Labor Right* Fund, and the National Association of Democratic* Lawyers, June 13. 19%.

[1] Sindicato Nacional de Trabajadores de la Secretaria del Medio Ambiente. Recursos Naturales y Pesca. This union was itself a merger of the former ministry unions; the union of the agriculture and water resources ministry had been by far the largest.

try, in violation of the law. The new union then successfully sought de-registration of the SUTSP. Although an appeals court later ordered the tribunal to restore the SUTSP's registration, the tribunal delayed in notifying the ministry of its decision, precluding the SUTSP from engaging in union representation functions with the ministry.[5] As a result of subsequent appeals of tribunal decisions by the SUTSP, the new union's registration was withdrawn, and elections were held to determine which union would represent employees of the new ministry. Secret-ballot elections held on October 4, 1996 gave representation rights to the new union, the SNT-SMARNAP. Nonetheless, the submission charged that procedural delays and the new ministry's continued support of the SNTSMARNAP prior to the election gave this union an unfair advantage over the SUTSP.

The submission to the NAO raises issues of freedom of association, procedural guarantees of the NAALC that require the Parties to maintain impartial labor tribunals, and compliance by Mexico with international conventions to which it is a signatory.[6] The petitioners charged that the freedom of association rights of ministry employees were violated by Mexican federal labor law, which stipulates that no more than one union can exist in a government ministry or entity, and which provided that unions in this sector could belong only to one federation, the Federation of Public Service Employees (Federacion de Sindicatos de Trabajadores al Servicio del Estado, FSTSE). The submission charges that this law contradicts both the Mexican Constitution, which guarantees freedom of association, and international agreements and conventions on freedom of association to which Mexico is a signatory.[7] Also at issue in the submission was the impartiality of Mexico's Federal Conciliation and Arbitration Tribunal (FCAT) in the case. Labor representatives on the tribunal were from the FSTSE, a federation formally linked to the ruling Institutional Revolutionary Party (PRI). In contrast, the SUTSP, although affiliated with the FSTSE, had a history of independent action. The submission charges that the labor representatives in this case favored the new union, which was formally backed by the FSTSE.

The U.S. NAO as part of its review, held a public hearing in Washington, D.C., on December 3, 1996 and commissioned special studies on labor law enforcement in the federal sector in Mexico. The U.S. NAO report recommended ministerial consultations with the Secretary of Labor of Mexico "for the purpose of examining the relationship between and the effect of international treaties, such as ILO Convention 87, and constitutional provisions on freedom of association on the national labor laws of Mexico."[8] On the petitioners' charge questioning the impartiality of the government tribunal, the NAO found that, in spite of the appearance of lack of impartiality created by the presence of FSTSE representatives, existing procedures to address allegations of conflict of interest were used in this case. The SUTSP did not appeal the election outcome, although it later regained its registration. This marks the only case in the federal sector in which two unions are registered in the same ministry.

[5] U.S. National Administrative Office. Bureau of International Labor Affairs, U.S. Department of Labor, *NAO Submission No. 9061: Public Report of Review,* January *27,* 1997. pp. 4-5.

[fi] *NAO Submission No. 9061: Public Report of Review,* January *27.* 1997. p. 2.

'These include Convention 87 of the International Labor Organization. the International Covenant on Civil and Political Rights, the American Convention on Human Rights, and the International Covenant on Economic, Social, and Cultural Rights.

[8] *NAO Submission No. 9061: Public Report of Review.* **p.** 33.

The Maxi-Switch (U.S. NAO No. 9602) Case

In October 1996 the U.S. NAO received a submission from the Communications Workers of America (CWA), the Mexican Telephone Workers' Union (STRM), and the Federation of Unions of Goods and Services Companies (FESEBS), involving violations of workers' freedom of association in an attempt to form a union at the Maxi-Switch facility in Cananea, Sonora, in northern Mexico.[9] Maxi-Switch, a subsidiary of Taiwan-based Silitek Corporation (its main U.S. office is in Tucson), manufactures keyboards for computers and game sets. In November 1995 workers at the facility tried to register an independent union (affiliated with the FESEBS) with the local arbitration and conciliation board. The union's registration was denied because the board contended that the company had already signed a contract with a union in the plant.

The case brings up a familiar problem in the Mexican context: the existence of "protection contracts," contract agreements signed between employers and "phantom" unions (often tied to "official" union organizations) in which the workers are frequently unaware that they are represented by a union. Such contracts have been used traditionally in Mexico in order to preempt independent union organizing efforts (although Mexican law does not forbid more than one union at a worksite from obtaining its registration, in practice federal and local boards have often denied registration to independent unions on the grounds that a union already exists at a particular worksite).[10] Protection contracts are common in small and medium businesses and in the maquiladora sector. In this case, the union in place at the Maxi-Switch facility was affiliated with the "official" Confederation of Mexican Workers (CTM). The STRM is a politically independent union that has recently spearheaded a major reform movement among Mexican unions.[11] The FESEBS is an independent labor federation that counts the STRM among its affiliated unions.[12]

The U.S. NAO accepted the submission for review in December 1996. As part of the review, the NAO scheduled a public hearing to be held in Tucson, Arizona on April 18, 1997. Three days before the hearing was to be held, the independent union was granted its registration at the Maxi-Switch plant. (The workers at Maxi-Switch had refiled for registration after the NAALC complaint was submitted). Authorities agreed to hold an election *(recuento)* to determine which union would gain bargaining rights at the plant. Given this outcome, the three petitioners withdrew their submission with the NAO, and the public hearing was canceled.

Canada's Status Under the NAALC

With Manitoba's and Quebec's ratification of the NAALC in January and February 1997, Canada reached the threshold that enables it to participate fully in the NAALC. However, any submissions about Canada may proceed to ministerial consultations or higher levels of treatment only on violations occurring under federal jurisdiction or in the provinces of Alberta, Manitoba, or Quebec, the only

[9] *Submission to the United States National Administrative Office (NAO) Regarding Persistent Pattern of Failure to Enforce and Discrimination in the Administration of Mexican Labor Law: The Case of Maxi-Switch, Inc., in Cananea, Mexico,* October 11, 1996.

[10] Only one union may gain title to the collective bargaining agreement, however. Bargaining rights are usually granted to the majority union, determined via an election *(recuento).*

" Known as the *Foro,* this group of approximately 25 unions has recently announced plans to create an independent labor central as an alternative to the pro-government Labor Congress, which is dominated by the CTM.

'- The FESEBS unites about nine unions, among them unions in telecommunications, electric power, airlines. autos, and state and municipal government employees. It was formed in 1990 and received its registration as a federation in 1992. The FESEBS participates in the *Foro.*

three provinces to have ratified the NAALC. Prior to achieving the threshold level of 35 percent coverage of the Canadian labor force, submissions on the U.S. and Mexico could be brought before the Canadian NAO, but these could only proceed to the review stage, and neither the U.S. or Mexico would be obligated to respond or consult with Canada during review. Similarly, before 1997 cases could be brought before the U.S. or Mexican NAOs regarding alleged violations in Canada, but the Canadian NAO would not be obligated to consult with the US or Mexican NAOs in the event of a review unless it involved a case arising in the federal sector or Alberta. However, no submissions were brought in Canada nor in Mexico and the U.S. alleging violations in Canada during this period.

In 1996 the Alberta Union of Provincial Employees and the Canadian Association of Labor Lawyers announced plans to present a submission under the NAALC to the U.S. NAO protesting the Alberta government's plans to privatize the oversight and enforcement of its employment standards. Some observers believe that this announcement played a role in the government's withdrawal of its plans. No case was brought under the NAALC.[13]

The Canada-Chile Agreement

In 1996 a bilateral trade agreement was negotiated between the governments of Canada and Chile. Given the delay in admitting Chile to the NAFTA and the debate over fast-track authority in the U.S. Congress, Canada proceeded to negotiate a trade agreement with Chile that would ease Chile's eventual accession to the NAFTA. With a similar objective Canada and Chile negotiated an Agreement on Labour Cooperation that closely paralleled the NAALC. In fact, the preamble of the agreement explicitly states the desire of the parties "to facilitate the accession of Chile to the North American Agreement on Labor Cooperation."[14] However, there are some differences between the Canada-Chile agreement on labor and the NAALC. The NAALC allows for the possibility of suspension of benefits in the case of a Party's persistent pattern of failure to enforce domestic legislation concerning child labor, minimum wage, and occupational heath and safety. The Canada-Chile agreement calls only for fines (monetary enforcement assessments) for infractions in these areas. As a final stage in the proceedings the Canada-Chile agreement also calls for national courts to handle disputes.[15] In this case, the Chilean Supreme Court or the court of competent jurisdiction in Canada could order the enforcement of the determination made by the arbitral panel, a mechanism that is missing in the NAALC.

CONCLUSIONS FROM THE NAALC CASES

The NAALC with its emphasis on consultation, training and education may seem weak to those concerned with protection of labor and human rights. On the other hand, none of the three nations in NAFTA was prepared to yield enforcement powers (and part of its national sovereignty) to an international body. Given these constraints, what conclusions can be drawn about the application of the NAALC in the first three years of its existence?

Of a total of seven cases submitted since NAALC came into effect in 1994. six cases were submitted to the U.S. NAO and one to the Mexican NAO. Two of these

[13] See "Province's Hall of Privatization Plan Ends Looming NAFTA Complaint." ***Inside*** *NAFTA,* December 25. 1996. p. 14.

[14] *Agreement on Labour Cooperation Between the Government of Canada and the Government of the Republic of Chile.*

[15] *Agreement on Labour Cooperation Between the Government of Canada and the Government of the Republic of Chile,* p. 21: Bureau of National Affairs. *Daily Labor Report.* No. 11. January 16. 1997. p. C-4.

cases did not pass beyond the review stage (GE and Honeywell), two were withdrawn after their acceptance by the U.S. NAO (a follow-up to the General Electric case and Maxi-Switch), and three (Sony, Sprint, SUTSP) proceeded to the highest level possible for cases involving freedom of association and protection of the right to organize—ministerial consultations. All of the cases so far have addressed the same principle—freedom of association and protection of the right to organize. No cases have yet been brought that would be eligible to proceed to the level of an evaluation committee of experts or an arbitral panel.[16] Therefore, the full potential of the NAALC to call attention to labor rights violations in North America remains untested.

The NAALC has had several positive effects that make it worth exploring further as a mechanism to shed light on labor rights violations in the three countries, to increase understanding of how labor rights and standards are enforced in the continent, and to serve as added leverage for unions and other labor advocacy groups in specific campaigns or reform efforts. First, despite their limited number, the six cases subject to the NAALC procedures have enabled interested parties to examine specific features of Mexican, Canadian and U.S. labor law. A body of materials on these subjects in the three languages of the parties has improved the ability of policy makers to understand labor relations practices and law in the two countries subject to the submissions.

Second, the NAALC procedures have operated quickly compared with the labor tribunals in the U.S. and Mexico. In the Sprint case, for instance, the public forum occurred one year after the CWA submission. This stands in sharp contrast to the 18-month interval between the filing of unfair labor practice charges by the CWA and the "final" decision by the NLRB, a process that will be protracted further by the judicial appeal.

A third significant development is the U.S. NAO's progressively broader interpretation of its mandate in accepting cases for review and in the terms of the review process itself. Whereas the GE and Honeywell cases involved fairly narrow and technical readings of the NAO's purview, in subsequent filings (Sony, SUTSP) the NAO acknowledged the need to confer more on the "underlying structure" of aspects of Mexican labor law: particularly the union registration process and the system of labor boards and tribunals. With each submission the review process has tended to broaden from evaluating whether a government effectively enforces its own legislation toward questioning whether the legislation upholds the labor principles in the NAALC.

Fourth, unions in the U.S. and Mexico which have made submissions have used these procedures to call attention to the difficulties they face in obtaining representation for workers in the two countries. The outcome of the Maxi-Switch case indicates that this form of moral suasion may have had an effect. The SUTSP case called attention to a possible constitutional flaw in Mexican legislation regulating public sector labor relations. The unions who have participated in the public forums have displayed a sense of the value of these proceedings. At the San Francisco forum on Sprint, for instance, senior union officials from the three NAFTA countries, plus Germany and the international union body for telecommunications unions participated, as did a staff person for members of the U.S. House of Representatives.

"• Eight of the eleven labor principles qualify for treatment by an evaluation committee of experts, and three of these can proceed to review by an arbitral panel.

Finally, the positive effects of the publicity generated by NAALC submissions and review processes—the "sunshine" factor—should not be underestimated. In Alberta the threat of filing a NAALC case headed off the provincial government's proposed reform, while in Mexico the NAALC filing and imminent hearing on the Maxi-Switch case helped secure the registration of an independent union in an important sector. Similarly, the Sprint case helped the CWA to draw international attention to the company's anti-union activities. The case also led to the first trinational comparative study on the effect of plant closings and the threat of plant closings on workers' right to organize, a document which could conceivably prove useful in U.S. unions' efforts to strengthen labor law protections during organizing campaigns.[17] Further, by raising questions regarding the way freedom of association is upheld by Mexican legislation, the SUTSP case adds to the debate in that country over the shape of future labor law reform.

Parties who oppose the side agreements such as NAALC on the grounds that they are too weak, face the risk of losing the opportunity to influence protection of labor rights in future trade agreements. While pursuit of a "best" option of labor rights in core trade agreements with sanctions may be important, it is valuable to recall that a "second best" option of labor side agreements is better than no labor protection at all. The NAALC benefits labor, and interested parties should utilize the procedures it contains while seeking opportunities to improve it.

LABOR STANDARDS OR LABOR GUIDELINES?

Labor, government and now increasingly, employers have tacitly acknowledged that despite its best intentions and efforts, agreements such as NAALC are not going to be very effective in wide diffusion of fair labor practices across a large number of employers spread across industries and countries. So, another set of initiatives are underway to ensure fair labor practices which are likely to complement rather than supplant NAALC-type procedures. These efforts are multilateral in that several parties such as labor, government, employers and consumer groups may be involved. The approach is to develop general guidelines and set up a monitoring system to report periodically on abuses. There are few sanctions except the hope that bad publicity surrounding reported abuse will either shame the employer into compliance or create sufficient consumer boycott to bring about compliance.

Since the passage of NAFTA, a number of unions including UNITE, have waged a public relations campaign against makers of consumer products such as apparel, shoes and toys. In 1996, UNITE held press conferences in several U.S. and Canadian cities to let workers from sweatshops in low wage countries speak directly to the press. These workers documented cases of long hours, child labor, low pay and unsafe working conditions among other alleged abuses.

In one well publicized case, Nike, the U.S.-based manufacturer of shoes, has hired Andrew Young who has served in the past as Mayor of Atlanta and U.S. ambassador to the U.N., to audit labor practices throughout its international operations[18] Responding to criticisms by labor and human rights groups, Nike claims to have updated its code governing working conditions at all its plants world-wide. The critics see this as a public relations exercise rather than as a substantive framework for labor protection. Young will report directly to Nike

[17] This plant closing study was undertaken by the Labor Secretariat and will become available later this year.

"• Canedy. Dana. "Housedeaning. or Image-Buffing?" ***Herald*** *Tribune.* March *27.* 1997. p. 13.

which asserts that it will act on Young's recommendations but has not agreed to making the report fully public.

In another instance in the apparel industry, the U.S. Department of Labor under the orders of its outgoing chief, Robert Reich, set up a taskforce with representatives from firms, labor and consumer groups in July 1996, to develop a code that would help firms ensure that their products are not made under abusive or exploitative conditions. The taskforce includes firms such as Nike, Reebok, Liz Claiborne, and L.L. Bean among others. Unions such as UNITE, consumer groups like the National Consumers League and celebrity talk show host Kathie Lee Gifford whose designer-label line of clothes are sold by Wal-Mart stores are also members of the taskforce. After an intense debate, the taskforce had reportedly reached an agreement in April 1997 on a code[19] However, there was no agreement at the time on how best to implement the accord and monitor compliance, a task that is likely to occupy the taskforce well into the second half of 1997.

Employers swear to abide by the code and it is likely that compliant firms may develop a label such as "No Sweat" to inform the consumer that their product was made under fair labor conditions. While the agreement itself is a "break-through," tough hurdles on compliance and monitoring need to be overcome. For example, the employers would like to assign the monitoring task to accounting firms specializing in audit procedures. Labor groups fear that accounting firms would invariably adopt a pro-business stance. They would like to assign the task to human rights groups. Even if some compromise can be reached on this issue, the parties will still have to agree on penalties that would be imposed on the non-compliant. Will non-compliance in one factory on one item of the code render the entire firm non-compliant or only products made in that plant? Considering that there was not even a dialogue among the parties on this issue two years ago, it would seem that there is slow but inevitable progress in this case in protecting labor rights under free trade. Yet, there is no doubt that these are tentative first few steps in a process that is bound to keep unfolding well into the next century. If these efforts are successful, it may point to a model of industry-self-regulation that could complement formal treaties and dispute resolution procedures such as those embodied in NAALC.

ECONOMIC IMPACT

The distributional consequences of free trade are compounded by the fact that domestic governments increasingly find their hands tied in using domestic policies to assist the disadvantaged, unless such policies have positive feedback effects on efficiency (Gunderson 1997). This is so because governments increasingly have to compete for the business investment and jobs associated with that investment. Since capital is now more mobile, governments will be under pressure to reduce their costly labour regulations and standards as well as adjustment assistance policies. Under NAFTA, the question may be: "Are your wages, including wages in other parts of Mexico, set in the maquiladoras?"

In conventional nation states, those distributional issues were often handled by central governments. Within such nation states, some agreement could usually be arrived at through the democratic political process, especially because the losers from adjustment consequences were also voters (Langille 1996). Under the new global ordering, international institutions have generally not arisen to supplant

[19] Greenhouse. Steven. "Accord to Combat Sweatshop Labor Faces Obstacles*'. New *York Times,* April 13. 1997, **p.l.**

those that are rendered powerless by globalization. The NAALC are industry-specific labor guidelines discussed earlier are moves in this direction. Nevertheless, the power base and enforcement mechanisms of such institutions are such that they do not fill the vacuum created by the reduced power of governments in the old economic order.

The issue is particularly relevant given the adjustment consequences that are emanating from trade liberalization and other inter-related pressures that are having similar effects. While it is virtually impossible to disentangle the separate and independent effect of NAFTA from the myriad of other inter-related effects, the general effects can be summarized as follows:

- The impact of NAFTA is likely to be small relative to the effect of the myriad of other changes that are occurring, especially technological change.

- While the *overall* impact is likely to be small, the impact in particular sectors affected by trade liberalization can be more substantial. As expected, wages and employment are reduced in sectors subject to greater import competition and they are increased in sectors experiencing export growth. This highlights the importance of adjustment policies to facilitate the reallocation of labour from declining *(e.g.,* import impacted) sectors to expanding *{e.g.,* export led) sectors.

- Trade liberalization and international competition have likely contributed to the growing wage inequality that has occurred in Canada and especially the United States, although agreement is emerging that the impact of skill-biased technological change is more important. Displaced workers who lose their jobs for such reasons, tend to experience substantial wage loss, often in the neighbourhood of 20 - 30%. Trade liberalization also has likely reduced the unionnonunion wage differential since employers have a greater threat of locating "offshore" if union premiums are too high.

These conclusions are generally in line with those given in last year's report of the IRRA-NAFTA Committee; that is, the passage of one more year has not necessitated a revision of those conclusions.

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