following conclusion with regard to the new agreement on trade-related aspects: "Without appropriate protection — and one which can effectively be enforced — of intellectual property rights, investments will be misdirected, trade flows falsified and individual and entrepreneurial achievements misused." The protection of patterns and fashions, as well as that of markets, is apparently given more weight than the protection of trade union rights or safety provisions for children.

The regulations and procedures for the settlement of disputes agreed upon in the agreement on trade-related aspects include among other things the creation of a new appeal body to examine decisions and rules regarding sanctions, which in the extreme case make possible the intersectoral withdrawal of trade concessions vis-à-vis a member state which obstinately does not comply with the treaty. In order to suppress international trade with copied or counterfeit goods there are much more effective international rules than for example in the case of blatant violation of trade union rights. But that which applies to intellectual property should apply equally to basic workers' rights.

The aim of social clauses is to combat the violation of human rights worldwide. Since they are limited to the eradication of the crassest forms of exploitation they can only be one factor among many. It is of great importance to persuade multinational enterprises to observe basic social standards and to oblige the other international bodies to observe the ILO's basic social standards. Finally, the industrial countries themselves must set an example in the ratification of international agreements.

Basic social clauses are an important contribution to this. They are a key factor with regard to the strengthening of the framework for an open world trading system. The concept of social clauses is feasible and enforceable. It represents a continuation of tested procedures and mechanisms. Between 1980 and 1990 in the European Community alone 400 anti-dumping and anti-subsidy procedures were initiated and 900 resolutions published. On average there were fourteen final tariff and price obligations per annum. It is urgently necessary that these trade policy regulations are extended to include rules to prevent cut-throat competition at the cost of human rights at work. This concept is equally in the interest of both those industrial and those developing countries which are attempting to combat the violation of human rights worldwide and to improve conditions for workers.

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Harald Großmann and Georg Koopmann*

Minimum Social Standards for International Trade?

Ever since Jacques Delors suggested the introduction of social "progress clauses" to govern trade relations with third countries while addressing the issue of strengthening European competitiveness at the EC's Copenhagen Summit in June 1993, the idea has been intensively debated in Europe. A mixture of humanitarian and commercial motives lies behind this. The intention of introducing minimum international social standards and establishing mechanisms to enforce these effectively is to help banish scandalous living and working conditions as well as political repression in Europe's trading partner countries while at the same time preventing the emergence of economic and social disadvantages for the European Union itself as a result of trading with them. Apart from the fact that sub-standard social policies are a violation of fundamental human rights, other specific arguments put forward are

- that they encourage a high concentration of income, thus preventing the development of purchasing power across a broad front (which also would mean more export markets) in the countries concerned;
- that they create an artificial comparative advantage which distorts international competition;
- that they also provoke ruinous competition among developing countries, particularly damaging the countries

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* Hamburg Institute for Economic Research (HWWA), Hamburg, Germany.
which are striving to achieve more balanced social development;

☐ that they undermine the international competitiveness of European companies;

☐ that they lead companies to shift labour-intensive production abroad;

☐ that they intensify migratory pressures towards Europe;

☐ that they threaten the social standards built up in EU countries over the years;

☐ and that they exacerbate social inequality in the EU as higher and lower wage-earners drift ever further apart under the pressure created by cheap imports, and lower-skilled employees tend to be laid off more readily than their more highly-skilled counterparts.

Call for Social Standards

In France, Jacques Delors’ initiative met with a positive response at the highest levels. President Mitterrand gave his support by demanding that trade sanctions be imposed on countries providing inadequate social protection, and prime minister Balladur declared that protection from social dumping would be a key to the very survival of western societies. The issue is one of defending civilisation – and the social welfare privileges we have built up over the years – against the (free market) law of the jungle. The rhetorical question posed was whether “we (western Europeans can) take it for granted that we will remain sufficient leaders in a sufficient number of sectors to survive – in the face of countries with populations infinitely larger than ours and with levels of social protection infinitely smaller?” This is similar to Delors’ own line of argument, advocating “a new social pact” and issuing the warning that “the whole of society is threatened – its values, its traditions and its future”. The call for social clauses to be written into the system of multilateral trade regulations also received official approval from Ireland, Greece, Italy, Portugal and Spain as well as the EU entry candidates of Norway, Austria and Sweden. The European Parliament called for the relevant changes to the Gatt Agreement in February 1994: it stated that Article 20(e) of the Gatt which allows defensive measures to be taken against products made by prisoners should be extended to cover not only child and forced labour but also the refusal of trade-union and collective-bargaining rights.

The German, British and Dutch governments, however, have been critical of the initiative. Reservations have also been voiced by the European Commissioner responsible for foreign trade, Sir Leon Brittan. While accepting that there should be no objection in principle to using economic policy instruments to serve social purposes, Sir Leon felt that issue would have to be looked into very carefully given the considerable danger that these objectives could be misused as a front for protectionism. However, he does believe attention should be given to a “concept of graded social security standards” according to which countries would be expected to fulfil ever stricter requirements the higher their levels of development.3

Social Conditionality

The first concrete application envisaged for the EU’s new principle of social conditionality is in the policy of preferences granted to developing countries. The European Commission’s guidelines on the role of the Generalised System of Preferences (GSP) during the 1995-2004 period propose that certain practices of social exploitation (slavery and prison labour, if the resulting products are exported) should be punished with the removal of preferential status. Above all, though, it is simultaneously proposed that the effective conformity to certain international labour organisation conventions (particularly the agreement on freedom to organise in trade unions, the right to collective bargaining and the minimum age for child labour) should at the same time be rewarded by granting additional preferences – i.e. above and beyond the basic preferences, to help compensate for the additional costs associated with more progressive social regulations – for goods which have been demonstrably produced in conformity with the respective ILO regulations.4 During the initial application period of the new GSP scheme from 1995 to 1997, the Commission proposes an additional preference of 20 percentage points above the base preference5 for those countries which have


2 Quoted in Benn Steil: “Social correctness” is the new protectionism, in: Foreign Affairs, January/February 1994, p. 18.

3 Cf. "Brüssel zieht eine positive Bilanz und richtet den Blick auf neue Themen“, in: Handelsblatt, April 11, 1994. This means that the EU’s Foreign Trade Commissioner is moving closer to the American position which he had originally considered to be exaggerated (cf. Julie Wolf: EU Commission urges US to dismantle trade barriers, in: The Wall Street Journal Europe, March 11/12, 1994).


5 This means a reduction in the preferential tariff for “sensitive” goods from 80% to 60% of the most-favoured-nation tariff, and from 40% to 20% in the case of “semi-sensitive” goods. “Non-sensitive” goods are, of course, already free of import tariffs (cf. Commission of the European Communities: Vorschlag für eine Verordnung des Rates zur Anwendung des neuen APS-Schemas für die Periode 1995-97, COM (94) 337 final, Brussels, September 7, 1994, pp. 2 and 41).