

The data thus far accumulated by the member countries is probably not sufficient given the relative short space of time in which to analyse and interpret trade and economic welfare data. Such studies do indicate that diversion of trade has occurred following NAFTA's entry into force, especially if data is analysed on a per sector basis. For example Mexico's market share gains in the U.S. apparel sector displaced imports from China, Hong Kong, Taiwan and Korea, whose imports fell by 9 percentage points since the inception of NAFTA. US textile workers, like their steel counterparts annually lobby for protectionist relief from such import volumes even though import market share has only increased marginally and in many cases has arisen from US firms based in Mexico exporting product back to the US market. In general if we view US trade data, the share of US NAFTA centric trade as a % of its total trade has risen by 90 % since 1994 vs. only 61 % with non-NAFTA members.<sup>450</sup>

It should be stated that trade diversion and increased intra-NAFTA trade flow was fully expected when the NAFTA was formed. There are some concerns among analysts that NAFTA might coalesce into a tight bloc, and use a common tariff policy to displace non-NAFTA imports.<sup>451</sup> Such a tendency is not evident. It is doubtful given the domestic political divergences that exist between NAFTA members that such a cohesive bloc will develop.

While a customs union is not in the offing, there are some analysts who feel that the NAFTA-WTO relationship is loose enough to allow for NAFTA members to circumvent WTO rules. The legal relationship between the NAFTA and the WTO is ambiguous. Whether NAFTA or WTO rules prevail in the event of inconsistency is uncertain, and the extent to which NAFTA panels may or must consider applicable WTO rules is unclear. The ambiguity in NAFTA-WTO legal relations may reflect an underlying uncertainty in the policy arena. Trade negotiators understand that there are benefits and costs to regional integration, just as there are benefits and costs to multilateral integration. There are policy reasons to prefer each form of integration in specific contexts, and there are political and social interest group pressures for establishing various hierarchies of norms.

## NAFTA'S SOCIAL EFFECTS

Social policy is the least developed of NAFTA's ambitions.<sup>452</sup> The NAFTA and its Supplemental Agreements on the Environment and Labour created two institutions: the North American Commission for Environmental Cooperation (CEC) and the North American Commission for Labour Cooperation (CLC).<sup>453</sup> The CEC and CLC are each designed to promote social interests without affecting the legislative prerogatives of the NAFTA states and without a substantial intrusion on the administration of laws in the nation state. Most likely these two units were allowed into NAFTA to appease left wing environmentalism and trade unionism, to ensure that NAFTA and other trade pacts beyond did not displace US workers through redirected FDI into Mexico and other states of low labour and environmental protection. For many it is highly debateable what real value these institutions add to the NAFTA agreement.

The North American Agreement on Environmental Cooperation (NAAEC) establishes a procedure by which interested persons may request the preparation of a "factual record" by the CEC Secretariat. The factual record will report on whether a NAFTA member state is adequately enforcing its environmental law.<sup>454</sup> In addition to the factual record procedure, the NAAEC establishes a procedure under which a state or firm or individual may seek a determination by an arbitral panel that another entity or state has persistently failed to enforce its environmental law. This procedure has not yet been invoked. The CEC has put together a program to map the North American environment, as well as a number of other research programs. The CEC provides a forum for periodic meetings of North American environment ministers, and it organizes environment-related fora.<sup>455</sup>

The fact that left wing sympathizers effectively manage these two institutions does little to foster the belief that the CEC or the NAAEC will be independent and free of political prejudice. As such their usefulness is often impugned. Some analysts supporting these two institutions maintain that WTO has made limited progress on environmental matters, so that the NAFTA appears so far to present