
Readings

Goring the U.S. Economy

Earth in the Balance: Ecology and the Human Spirit

by Sen. Al Gore

(Houghton Mifflin Company, 1992), 407 pp.

Reviewed by John R. Lott, Jr.

In a recent article in the *New Republic*, Gregg Easterbrook noted that lately Sen. Al Gore has "ventured into dangerous territory by suggesting that journalists quietly self-censor environmental evidence that is not alarming, because such reports in Gore's words, 'undermine the effort to build a solid base of public support for the difficult actions we must soon take.'" Given the advice on self-censorship that Gore gives quite freely to others, one wonders what restrictions he will place on his own work. Gore's book fulfills one's worst expectations. He is one of the most dangerous types of political animals: a true believer who will not let concerns over details like accuracy derail a good argument. Environmental problems are seen as arising from capitalism's unrestrained exploitation of the earth and mankind's addiction to consumption. He sees government intervention as the only solution to environmental problems. Reducing the world's population along with command-and-control solutions for man's wasteful use of water and energy form the central focus of Gore's policy concerns. Gore has no understanding of how prices allocate resources and how property rights prevent the overuse of resources.

This review first examines the theoretical foundation for why man is the destructive creature that Gore paints. We then turn to Gore's views on central planning and Malthus, provide some examples of his economic analysis, and finally identify some of his incorrect "facts."

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A Brief Look into Gore's View of the World

If one is going to read only one chapter to get an insight into how Gore thinks about the environment, the reader should look at chapter 12, entitled "Dysfunctional Civilization." The good news is that mankind is not an inherently evil "virus." The bad news is that we are "mentally ill," and this has manifested itself in our "addiction" to consumption and the "momentary 'rush' experienced by drug addicts" that we obtain from progress. The scope of his theory is as broad as it is bizarre. It starts with the notion that with the "scientific era" God's importance in people's life began to recede and God's authority was replaced with that of the family's patriarch.

In Gore's own words: "Before the scientific era, children almost certainly found it easier to locate and understand their place in the world because they could define themselves in relation both to their parents and to a God who was clearly present in nature. With these two firm points of reference, children were less likely to lose their direction in life. But with God receding from the natural world to an abstract place, the patriarchal figure in the family (almost always the father) effectively became God's viceroy, entitled to exercise godlike authority when enforcing the family's rules. As some fathers inevitably began to insist on being the sole source of authority, their children became confused about their own roles in a family system that was severely stressed by the demands of the dominant, all-powerful father. . . . One of the ways dysfunctional families enforce adherence to rules and foster the psychic numbness on which they depend is by teaching the separation between mind and body and suppressing the feelings and emotions that might otherwise undermine the rules. Similarly, one of the ways our civilization secures adherence to its rules is by teaching the separation of people from the natural world and suppressing the emotions that might allow us to feel the absence of our connection to the earth"

(p. 227). Gore never makes clear when that “scientific era” occurred or how parents create the separation between “mind and body” in their children.

The “cleavage” between mind and body supposedly results in an emptiness in people. To fill the void created by their parents, individuals become addicted to consumption. That “mental illness” creates the illusion for people that they want “the food on the supermarket shelves, the water in the faucets in our homes, the shelter and sustenance, the clothing and purposeful work, our entertainment” (p. 231). That addiction is pervasive: “I believe that our civilization is, in effect, addicted to the consumption of the earth itself” (p. 220). Like child abuse, that psychological plague is supposedly passed from generation to generation. The “good news” to Gore (p. 229) is that identifying a “particular family member as bad” is unnecessary and that the psychological “harm” parents inflict is probably not done “consciously.”

Gore holds no respect for the amenities most of us think make life more pleasant. He writes of “a false world of plastic flowers and AstroTurf, air conditioning and fluorescent lights, windows that don’t open and background music that never stops, . . . , Walkman and Watchman, . . . , frozen food for the microwave oven” (p. 232). Those products may be man-made, but in what sense are they “false” or wrong? If we had real grass instead of AstroTurf in a football stadium, Gore would complain that it was wrong to mow the grass. There is no discussion of trade-offs. Frozen foods are wrong because they use packaging and require energy to keep them cold and, most important, they separate man from nature: we do not have to do the food gathering ourselves. Those products represent “our apparent obsession with unauthentic substitutes for direct experience with real life” (p. 232).

Equally worrisome is what Gore thinks of those with whom he disagrees. After defining “denial” as a serious mental illness, Gore proceeds to claim that those who describe the programs put forward to solve the environmental threat as “statist” are themselves suffering from “a well-established form of denial” (p. 225). This is an extremely dangerous and intolerant attitude for a national leader. Those who oppose him are not merely wrong but sick (see also p. 223). While Gore definitely does not take the final step of rationalizing force or coercion against those who disagree with him, his discussion is like arguments used to rationalize such actions. After describing how our

society is awash in mental illness, he argues that “the idea of a dysfunctional civilization is by no means a theoretical construct” (p. 223). He points to Nazi Germany and Stalinism as evidence of that. His point, however, is not clear. Are we like or becoming like Nazi Germany? Or is drastic government action justified to prevent us from that final solution?

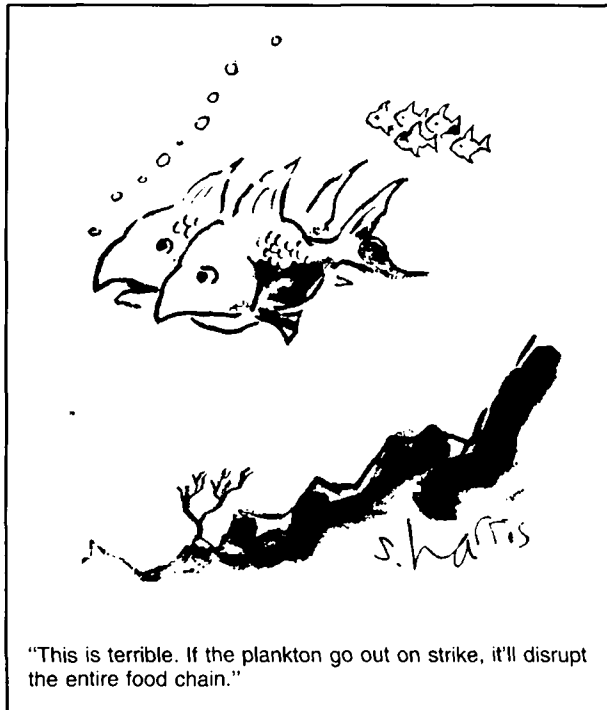
At the end of this remarkable chapter, Gore demonstrates a complete lack of perspective by comparing the Italians’ ruthless poison gas attack on Ethiopia (p. 294) to the exploitation of natural resources (p. 234). He equates both with civilization’s dysfunctional “expansionist tendencies.”

A memo reprinted in the *Wall Street Journal* (August 13, 1992, p. A14) from a Democratic National Committee staffer detailed possible problems with Gore’s book, particularly how the public may perceive it. Yet, despite the observation that Gore is a “Luddite” and the reference to his lack of proportion, the memo fails to mention his strange theories of the emotional damage that parents have inflicted on their children and his beliefs that those who disagree with him are mentally ill. One almost feels that the memo was an attempt at misdirection. Only after reading the chapter on “Dysfunctional Civilization” does the reader really get a good sense for why Gore feels so justified in advocating self-censorship by the press and why his book is so grim and exaggerated.

Market Prices, Property Rights, and Central Government Planning

It is ironic that Gore’s book contains so many environmental horror stories from the former Soviet Union and Eastern Europe but draws no connection with central planning. Gore sees what happened in those countries as resulting from a lack of democracy—the central planners had the wrong motivations. His inability to see the distinction between markets and central planning is in virtually all his policy discussions where he proposes to rely on command-and-control rather than property rights and prices to protect the environment.

Gore exhibits his inability to comprehend how markets work in his extensive discussions of water shortages. He argues that models of global warming predict higher temperatures that will result in less rainfall. (That prediction seems at odds with



other discussions that argue that higher temperatures will increase evaporation and thus rainfall.) Gore claims that, given current water usage, huge shortages of fresh water will result. California's recent water shortages serve as an example of what the future will hold. The concern that 85 percent of California's water goes to farming (with such questionable uses as growing rice in desert areas) is real and legitimate. But, while economists would point out that the problem lies with the extremely subsidized prices that farmers pay, Gore's approach is to micromanage how farmers water their crops. He argues that "open ditch irrigation also typically leads to the waterlogging of the 'root zone,' . . . which paradoxically deprives the plants of oxygen and stunts their growth" (p. 112) and that reducing the amount of water devoted to agriculture would not only allow more water for other uses but would improve agricultural output. Gore's claim seems to be that the water shortage is simply due to farmers' making mistakes in how they use their water allocation, rather than the economist's normal refrain that farmers use water until the marginal return equals the marginal cost.

Another example involves Gore's concern about overfishing, where "the total annual catch . . . is now assumed to be higher than the replenishment rate in most areas" (p. 143). He movingly writes

of the damage done by driftnet fishing or of the congregation of "Asian fishing fleets" in the ocean east of New Zealand. To Gore that is a problem of overpopulation—the world is providing fish for more people than it is able to sustain in the long run. The solution then is to limit the world's human population. An alternative method to Gore's of preventing overfishing is to extend property rights to that portion of the ocean. When a fishery is owned and not open to anyone or any country that desires to fish there, the owner will find it in his interest to maximize the value of that property. The more likely it is that fish will become scarce in the future, the greater the return to not fishing today.

Reviving Malthus

Gore views population as the source of most of the supposed environmental problems. He worries that "it took more than ten thousand generations to reach a world population of 2 billion people. Now, in the course of one human lifetime—mine—the world population will increase from 2 to more than 9 billion" (p. 31). It appears that we are quite lucky not to have already met the fate Malthus predicted because "without some interference in the natural evolution of plants, Malthus's prediction of disaster would almost certainly have come true" (pp. 129–130). While continued plant selection will still allow us to escape Malthus's prediction "for a long while yet" (p. 127), plant selection places us in a very precarious position of depending on a "tiny genetic reservoir" that will eventually result in disaster as new diseases outpace our ability to come up with new strains of crops. Supposedly heedless to this impending disaster, man is destroying what was once vast plant genetic pools in rain forests and other centers of genetic diversity that would provide new strains resistant to prevalent diseases. Farming methods increase current yield but at the expense of a "sharp reduction" in future output (p. 128).

Unfortunately, unlike Malthus or his more recent imitators like Paul Ehrlich, who have made predictions and been proven wrong, Gore makes no testable predictions. He concentrates instead on predictions that will eventually come true. If some fortuitous events intervene, the calamity merely will come later than if they do not. Some points are plainly silly, however. If there exists the

danger from disease's wiping out existing commercial strains, and if preserving strains that exist in the wild is the solution, there is an easy way for Gore to make lots of money—buy up many different strains of the crops that exist in the wild. On the question of disappearing farmland, it is clear that if the price of food in the future is going to rise because of reductions in farming land, farmers would make more money ensuring that their farmland will remain productive in future years.

Some Additional Examples of Strange Economics

First, Gore approvingly quotes someone arguing that selling off land is “like auctioning the Mona Lisa to a roomful of shoeshine boys: many would-be bidders, like those in future generations, are not able to bid” (p. 120). The problem with that observation is that although future buyers cannot directly bid on a product today, the amount that those who do bid today are willing to pay for the good depends partly on how much they will be able to sell it for tomorrow. Since higher future demand increases future prices, it will thus also increase current prices.

Second, he asserts that “[m]any of the largest paper consumers and manufacturers have large investments in forests and tree farms, and they are therefore loath to use recycled paper instead of making additional profit by cutting the trees in which they have invested” (p. 159). While conspiracy theories about firms are hardly uncommon, it is difficult to see how firms could prevent all their competitors from using recycled paper if it really were the lowest-cost method of obtaining more paper. In any case, even a pure monopolist will find its profits increased by switching to lower-cost methods of production. If no switch occurs, its higher profits in its lumber division will be more than offset by lower profits in the divisions that consume the paper products.

Third, he argues that the placement of a “disproportionate number of landfills and hazardous waste facilities in poor and minority areas” is evidence of how we discriminate against minorities (pp. 149, 179). The question is: where would one want to build a dump site? Most likely we would not want to use expensive land to build on, and land prices are likely to be relatively low in poor

neighborhoods. The causation also runs the other way. Land prices near a dump site are likely to be relatively low, and thus the poor might find it relatively more attractive to buy property in that area. But the assertion of racial discrimination in deciding where to locate dump sites is unjustified by the simple correlation that Gore references.

Finally, he contends that when calculating national income, economists “want to ignore” “bad things” like pollution and only measure “good things” (pp. 188–189). While it is true that measures of national wealth such as gross national product do not measure “bad things” like the social loss from pollution because they are very difficult to measure, the numbers also do not measure things many people value such as the labor spent by women who work in the home raising children. It is difficult to think of a motive for economists to systematically exclude bad things to increase measures of national income.

A Few Examples of False Statements and Exaggerations

Gore's book continually presents scientific opinion as a monolithic block and makes frequent references such as “scientists believe” and “scientists think that.” Given that he blames the media's emphasis on “controversy” for presenting two sides to the global warming debate (p. 38), when he thinks that virtual unanimity is a more accurate description, this is not surprising. He claims that “when 98 percent of the scientists in a given field share one view and 2 percent disagree, both viewpoints are sometimes presented in a format in which each appears equally credible” (pp. 38–39). The 2 percent who dismiss man-made causes of global temperature changes “should not be given equal weight with the consensus now emerging in the scientific community about the gravity of the danger we face” (p. 39). Yet, some documentation for his claims would have been useful, since if anything, the reverse seems to be true. In a recent Gallup poll of climate scientists in the American Meteorological Society and in the American Geophysical Union, 49 percent said that there was no identifiable man-caused warming to date, while 33 percent did not know and 18 percent thought that some had occurred. Among those actively involved in research and publishing

frequently in peer-reviewed research journals, however, none believes that man-caused warming was occurring.

Gore writes of how he, as a Harvard undergraduate, was introduced to the "global environmental threat" by one of his college professors, Roger Revelle. He goes on to write about the alarming nature of Revelle's evidence during testimony before Gore's congressional committees. Yet, Gore ignores the fact that before his death last year, Revelle published a paper that claimed: "The scientific base for a greenhouse warming is too uncertain to justify drastic action at this time. There is little risk in delaying policy responses."

Gore claims that, in an appearance before his Senate Committee on the Environment, Richard Lindzen, the Alfred P. Sloan Professor of Meteorology at the Massachusetts Institute of Technology, publicly withdrew his previous position that negative feedback mechanisms exist to reduce any global warming that might arise. But Lindzen was merely adding an additional important reason for why the feedback effect was likely to be negative rather than positive. Instead of denying that there were negative feedback effects, he was arguing that the negative feedback results from two sources and not from just one, as he had previously argued.

There is also the feeling that Gore simply lacks any reasonable sense of proportion. Is the effect of American automobile use on the environment really "more deadly than that of any military enemy we are ever again likely to confront" (p. 325)? Is the struggle to save the environment really comparable to "the struggle to vanquish Hitler" (p. 275)? While trillions of dollars have been spent through regulations to clean the environment, does the progress really merit only a few sentences on only one page (p. 109)?

On a much more trivial level but still irritating, Gore apparently either lacked a good research assistant or simply did not care about getting historical facts correct. For example, he identifies Ethiopia and not a place such as the Ukraine as "the first victim of modern totalitarian expansion" (p. 234). His claims about an ozone hole's appearing over North America (p. 86) are incorrect, according to a 1992 report by the National Aeronautics and Space Administration. The vast majority of facts reported in the book have no references, and many of the alleged facts, such as rates of change, have no dates associated with them.

Finally, many of the "facts," such as how irrigation drowns plants and stunts their growth or how dump site locations are racially motivated, are repeated over and over again. One cannot help but get the impression that repeating such facts many times will somehow convince the reader that they are true.

Conclusion

While Gore often talks of the environment in war terms, the first casualty of this battle was truth. What motivates his requests for self-censorship by the press become discernable once one reads his chapter on the "Dysfunctional Society." Given his view that Americans are "addicts" to consumption, he desires to keep us from obtaining good information on environmental changes that would encourage denial of the entire problem and prevent the changes that Gore sees as necessary. One searches the book in vain for anything but one brief discussion that has even faint praise for recent environmental gains. Global warming imposes only dramatic costs, and Gore mentions no benefits that might even slightly offset those costs. He ignores the notion that there are trade-offs. For example, he fails to mention that recycling reduces replanting of forests and thus preserves old growth forests, but new fast growing trees absorb much more than do older ones. His beloved recycling might then contribute to the dreaded global warming. Another example is his condemnation of air conditioners. Are the facts that some elderly people or babies might die in the absence of air conditioning, or even that worker productivity will decline, not worthy of consideration? Yet Gore's statements are categorical—old growth forests and recycling produce only benefits, and air conditioning produces only bad outcomes.

Gore is adamant that what man does to the environment is bad, but that the pristine state of nature is good. He honestly seems to believe that we can move back to the farm, raise our food ourselves so that we remain in contact with nature, and keep or raise our standard of living and life expectancies at the same time. The scariest aspect of Gore's book, however, is the utter intolerance for those who disagree with him. To Gore, those who disagree with him are not simply wrong but ill.

The Regulatory Diplomacy of International Commerce

The World Trading System at Risk

by Jagdish Bhagwati

(Princeton University Press, 1991), 144 pp.

Aggressive Unilateralism: America's 301 Trade Policy and the World Trading System

edited by Jagdish Bhagwati and Hugh T. Patrick

(University of Michigan Press, 1990), 270 pp.

Reviewed by J. David Richardson

These books describe some of the most important current issues in the regulatory diplomacy of international commerce. They also take a position on them, a position that has been associated with Jagdish Bhagwati for years (the second book involves many other eminent contributors). Bhagwati's position is broadly that the traditional postwar principles of international trade regulation, if not the practice, are either adequate or in need of reinforcement. They do not need replacement, especially not by "unilateralism, regionalism, or managed trade," the unholy trinity of these books. The traditional principles are embodied in the international agreement known as the GATT, the General Agreement on Tariffs and Trade. The three usurping principles have all enjoyed wider practice in the past ten years, especially in the United States, and have attracted intellectual defenders. The books find little to endorse in either their practice or intellectual defense.

The reader may be forgiven any ennui over the verdict that the new wines are bitter and the old wines are better. It may, after all, be true. But one of the problems with these books is that they do not really confront the new arguments on their own turf. These books remain in the armchair of traditional criticism. They do acknowledge that the trading world is admittedly different now from what it was when the GATT first came into operation. There is far more internationalization of production (a "spider's web" of cross-border ties, with "everyone . . . in everyone else's backyard"). There

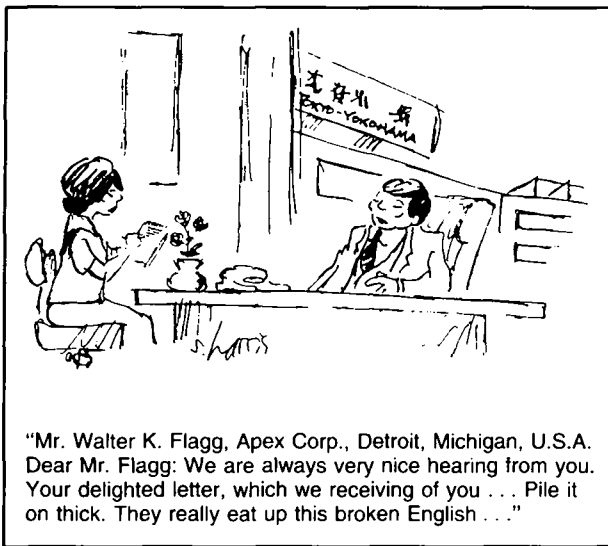
are fewer tariffs and relatively more opaque barriers to international trade. There are over 100 diverse adherents to the GATT, not twenty-three like-minded nations. There are postwar pygmy economies that have become near giants, making the venerable American giant feel "diminished." But the books argue that those changes make no fundamental difference. Internationalization can be handled by Uruguay round trade-related investment measure negotiations. Nontariff barriers can be handled by auxiliary "codes" to the GATT, as they were in the Tokyo round of the 1970s. Regional liberalization among subsets of GATT members can be handled by strengthening the relevant section of the GATT (Article XXIV). The incumbent giant should handle new giants by encouraging them to take active leadership and exercising self-restraint in (bygone) unilateral leadership.

Bhagwati is, however, no Pollyanna. He sees unilateralism, regionalism, and managed trade as severe threats to the world trading system. But the system is not fundamentally flawed. The grounds on which he defends it are familiar; the grounds on which his opponents stand are, in his account, always shaky, slippery, and not worth stepping on. These books are resolute, but not bold.

What might a reader of *Regulation* welcome in addition to Bhagwati's spirited defense of received wisdom? This reader wished for more wrestling with foundational questions. What are the differences between regulatory politics and regulatory diplomacy between sovereign nations? Are GATT regulatory rules really the best we can imagine for today's international commerce? Are not some GATT principles long in the tooth? Is there no merit in a GATT-for-competition-policies—as proposed recently by Sir Leon Brittan, European Community commissioner for competition policies—or in a GATT-for-investment going beyond mere trade-related investment measures?

I also wished for a more representative history of ideas from this eminent chronicler. What, if anything valuable, might be reclaimed from the Havana Charter of the stillborn International Trade Organization, a portion of which the GATT was modelled on? Bhagwati says only brief, critical things about it. But, for example, might the trading system not work better today with elements of its chapter on restrictive business practices? Those elements include forty-four-year-old

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anticipations of modern issues. First, there are obligations on members to prevent "business practices affecting international trade which restrain competition, limit access to markets, or foster monopolistic control." Second, there is explicit identification of such practices as "fixing prices . . . , excluding enterprises . . . , allocating territorial markets . . . , fixing sales quotas or purchase quotas . . . or . . . production quotas . . . , discriminating against particular enterprises . . . , preventing by agreement the development or application of technology or invention whether patented or unpatented . . . , any similar practices which the Organization may declare, by a majority of two-thirds of the Members present and voting, to be restrictive business practices." Third, there is authorization for the organization "to conduct studies . . . relating to . . . general aspects of restrictive business practices affecting international trade . . . , or relating to specific aspects such as "incorporation, company registration . . . , fair trade practices, trade markets, copyrights, patents and the exchange and development of technology." Finally, there is recognition of "special procedures with respect to services . . . such as transportation, telecommunications, insurance and the commercial services of banks."

Deregulatory radicals may breathe a sigh of relief that the world trading system never included those intrusions. I, by contrast, think that they are prescient and provocative. And I am always surprised by the reverent stridency of supporters of a GATT-that-left-them-behind.

Bhagwati is impatient and grudging with the notion that the GATT should regulate anything but border barriers to merchandise trade. He acknowledges the contrary argument that nonborder policies lacking de jure discrimination between domestic and foreign suppliers may nevertheless provide de facto discrimination and thereby nullify the effects of trade liberalization. But he finds GATT's recourse to consultations in such situations of "nullification and impairment" to be adequate. He views proposals to broaden the GATT's mandate beyond border policies as a Pandora's box. "Those who seek this wider mandate . . . ," he says, "are essentially arguing that everything affects trade . . . , and therefore every policy can be put on the line in discussing what is 'fair trade'." Equally staunch defenders of multilateralism such as Miriam Camps and William Diebold, Jr. , part company with Bhagwati here. As they wrote in *The New Multilateralism*, they believe that "one of the basic principles that . . . should guide the new multilateralism . . . [is] that the international community has a legitimate concern with domestic actions when they have important external effects."

Bhagwati's resistance to GATT coverage of new issues leads him to a surprisingly traditional counterstrategy to the flexible cross-issue trade-offs that are (still!) being pursued in the Uruguay round. He proposes a full multilateral deal with reciprocity in merchandise trade liberalization alone. Services, trade-related investment measures, and intellectual property agreements would be consigned to new GATT "codes" that would either apply liberalization benefits only to code signers or else require liberalization obligations only after a long transition period.

To be fair, there are many things with which one can vigorously agree in these volumes: the economic and general value of trade-policy transparency, the salutary aspects of rules-based regulatory systems, and the dangers of undue regulatory discretion. Readers should, for example, see immediately the parallels between managed-trade proposals and old-fashioned regulatory hubris. And they should be sobered by the entirety of the second volume, devoted to recounting the way the United States has played with fire in its accentuated use of unilateral redress to remedy self-defined unfair treatment of U.S. commerce.

It is unfortunate that both books predate the significant strengthening of dispute settlement and institutional GATT oversight in the most

recent (Dunkel) draft of a Uruguay round agreement. Bhagwati presumably had some role in that strengthening, as a special advisor to Arthur Dunkel, the director-general of the GATT. The significance of that strengthening is that it has moved the GATT far toward the U.S. position on those issues and would make it possible for the United States to holster its unilateral guns on the grounds that there is now a legitimate Marshall empowered and thus no further need for frontier justice. That was presumably the original congressional design in limiting "Super 301" naming of "priority unfair traders and practices" to 1989 and 1990. That time limitation is obscured in these books. Readers might infer falsely that Super 301 is still operative. (Equally obscured is the important activism of the U.S. Congress and its regulatory oversight committees and subcommittees, with which significant policy initiative rests for many of today's administrative trade barriers.) Authorization for new, higher-caliber Super 301 guns that is currently in a House bill raises the stakes in a successful Uruguay round settlement and keeps the content of the *Aggressive Unilateralism* book timely, although it is now two years old.

Readers of *Regulation* who are not international specialists will gain more from the first book than from the second, and more from the first half of the first book than from the second half. Bhagwati's descriptions there of the historical principles of GATT regulation, the rise of unfair-trade perceptions, and the false promise of managed trade are crisp and lively. The later chapters on regionalism and the Uruguay round are more detailed and aimed at international specialists.

The first (of five) appendices on "Clarifying Conceptual Confusions and Refuting Fallacies" is also helpful to those who want to follow the debates over the GATT and paradigmatic evolution among trade specialists. But there is something facile, unsatisfying, and ultimately unpersuasive in Bhagwati's assessment of the scholarly debate, both here and throughout the books. Both friends of his position and foes appear. But the friends pass in review as favorably and fleetingly as contestants in a body-building competition ("splendid" is the usual adjective accompanying their appearance), while the foes are exposed for all their flaws with varying degrees of condescension and indignation. Several foes are Bhagwati's own academic progeny, and even the reader can feel the sting of betrayal avenged!

As an edited volume, the second book is more uneven and more diverse in its perspective. (It expands the middle chapter of the first book; there is modest overlap or repetition between the two books.) Bhagwati's overview chapter is regrettably not a synthesis (most references to the ensuing chapters are in brief footnotes). It is a loose repackaging of material he had already published (in *Protectionism* and in the *World Economy*).

The centerpiece chapters are, however, forceful. Judith Hippler Bello, Alan Holmer, and Helen Milner trace the legislative history and constituent pressures that led to heightened U.S. unilateralism in the late 1980s (the Bello-Holmer chapter is reprinted from the *Stanford Journal of International Law*). John McMillan uses game theory—intelligibly!—to assess the sectors and trading partners for which unilateralism is most likely to succeed and its significant risks (this chapter also appears in *Economics & Politics*). Robert Hudec provocatively argues the pros and cons of the proposition that U.S. unilateralism was a justified act of civil disobedience against the GATT.

Discussant commentaries are of high quality. Particularly interesting from a regulatory perspective is David Palmetier's regret that Section 301 of U.S. trade law, just as U.S. law toward antidumping and countervailing duties, has moved to facilitate private action and thus has opened the door to diversion of resources into administrative remedy for market pressures and legal harassment of foreign rivals.

All told, these books, especially the first, are fine examples of passionate policy analysis from one of international economics' most prominent scholars and mentors of the past twenty-five years. They are rewarding for specialists, although targeted for general audiences. Bhagwati turns an apt analogy ("a Delta Force of our best known Japan bashers to land on a Japanese freighter carrying their despised semiconductors and dumping them overboard to 'send a clear message' of our resolve"). He has a deep appreciation of historical cycles and antecedents. I wish the books had ventured more dangerously beyond modest proposals for refining the GATT and toward enlarging and refurbishing it. I wish the books contained less material discrediting the "new wave" analysis of trade policy and more pointing out how its emphasis on dynamics, scale effects, externalities, and entry barriers generally *strengthens* the case for open trade and only weakens it in exceptional cases. I also wish the books had indexes!

Exposing Unfair Trade Laws

Down in the Dumps: Administration of the Unfair Trade Laws

edited by Richard Boltuck and Robert E. Litan (Brookings Institution, 1991), 350 pp.

Reviewed by Brink Lindsey

Let me confess at the outset: I used to represent foreign companies and governments in unfair trade investigations. In some circles this made me an "agent of influence," to which I can only respond that I wish I had had more. After all, the laws remain on the books, and the Commerce Department and International Trade Commission buildings are still standing.

The U.S. unfair trade laws have been around a long time: we have had a countervailing duty—antibsubsidy—law since 1897, and an antidumping law since 1921. It was not until the 1980s, though, that those laws assumed any real policy significance. The past decade saw an explosion of unfair trade investigations: 451 dumping cases and 301 countervailing duty cases. And the pace does not seem to be slacking off: as this article was written, U.S. steel companies had just filed eighty-four dumping and countervailing duty complaints against imports from twenty-one countries.

With the increasing importance of those laws has come, after a predictable lag, increased attention by academics and policy analysts. *Down in the Dumps* is an important contribution to the growing, but still slender literature on the subject. Its authors offer a solid, if rather repetitive, analysis of the arcane methodologies by which the Commerce Department determines whether, and the extent to which, dumping or subsidization has occurred. (By the editors' own admission, the International Trade Commission's role in determining whether unfair trade has injured a U.S. industry is given short shrift.) What the authors find—with a couple of dissents—is that the unfair trade laws are themselves unfair: as administered, those laws do not "level the playing field," but instead slant it in favor of U.S. companies and against foreign competition—and by extension, against downstream U.S. companies and consumers.

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A little background for the uninitiated: the unfair trade laws authorize the imposition of special duties to offset the injurious effects of foreign dumping and subsidies. Dumping is defined as selling at "less than fair value"—selling for a lower price in the United States than back in the home market. Subsidies, meanwhile, include both government assistance for exporters and targeted benefits for specific industries (as opposed to general benefits such as education and infrastructure).

The Commerce Department and the International Trade Commission jointly administer the antidumping and countervailing duty laws. Commerce is in charge of determining whether investigated imports are being dumped or subsidized, while the ITC decides whether those unfair imports have injured a U.S. industry. Both determinations must be affirmative if duties are to be imposed, though in countervailing duty cases the requirement that subsidies cause injury applies only to imports from countries whose governments have signed the international subsidies code. Thus, for example, no duties were levied in the recent minivan antidumping case, since although Commerce found dumping by Japanese producers, the ITC ruled that Japanese imports had not injured the U.S. minivan industry.

The Commerce Department's task in antidumping investigations—to measure international price differentials—is fraught with methodological obstacles. Commerce must frequently compare prices of goods that are physically different, sold in different currencies through different distribution channels at different levels of trade (for example, wholesale versus retail), and with different sales terms (for example, with different warranty or credit terms). The authors, in my opinion, do not sufficiently emphasize those basic methodological problems. Instead, they focus on the particular Commerce Department practices that stack the deck in favor of finding dumping. Most egregious among those are the following:

- Commerce compares individual U.S. sales with an average home-market price. Since "negative dumping" (when the U.S. price is higher than the foreign-market price) is ignored, Commerce can find dumping margins even when prices in the United States and abroad are identical.
- When Commerce cannot find adequate home-market or other foreign-country sales to serve as the basis of comparison, it will compare U.S.

prices with so-called constructed value. That artificial price is a buildup of a company's costs and selling expenses, plus an arbitrary minimum of 10 percent for general overhead and then a minimum of 8 percent for profit. In other words, a company selling in the United States at less than an 8 percent profit on costs is dumping according to the Commerce Department's rules.

- Commerce will reject home-market sales as "inadequate" (and thus move to constructed value) if those sales are below fully distributed average cost. That makes absolutely no sense: the whole idea of dumping presumes the existence of monopoly profits in the home market that bank-roll low-ball prices abroad. If a company is losing money at home, that should be the end of a dumping case.

Those and other abusive practices deserve exposure and condemnation. Even if all such abuses were eliminated, however, the basic undertaking of comparing prices in a meaningful way would still be largely infeasible. The only exceptions would be those rare cases where price differentials are so enormous as to show up regardless of how calculated or where home-market and export sales are substantially identical in all terms and conditions other than price. Otherwise, the existence or nonexistence of dumping is simply an artifact of the methodology employed, not a representation of any underlying commercial reality. (It goes without saying here that the Commerce Department's current calculations of dumping margins to one one-hundredth of a percentage point are an absurdity.)

The countervailing duty law has methodological problems of its own. The most basic one lies in defining what constitutes a subsidy. When is a benefit specific to a particular industry (and hence countervailable) and when is it general? Is the subsidy the actual cash benefit received or some net competitive benefit, however defined? There are also a host of problems with the measurement of subsidies; chiefly they involve choosing the appropriate "benchmarks" against which to compare government programs (for example, loans or sales of natural resources) to see whether they are preferential. Many of the authors' criticisms are well taken, particularly those challenging the coherence of the concept of a "domestic" (as opposed to export) subsidy. On the other hand, the suggestions that econometric analysis be used to determine subsidy levels would produce an unadministrable nightmare.



The real problem with the unfair trade laws goes much deeper than methodology. However framed, however administered, those laws would be bad policy. In the case of the dumping law, this is so for the simple reason that low import prices benefit rather than harm the American economy. By all means, the lower those prices are, the better. The only conceivable way that dumping could be harmful is as part of a successful predatory-pricing strategy—a scenario better suited to an Oliver Stone movie than to serious economic discussion. (For the record, we already have a predatory dumping law. The Antidumping Act of 1916, still on the books, awards treble damages to a plaintiff that can prove predatory dumping. Unsurprisingly, few cases have been brought, and no plaintiff has ever won.)

Even the argument that dumping is somehow unfair to American producers does not wash. Charging different prices in different markets (or charging below fully distributed costs) is completely unexceptionable if done by American firms. How is it unfair for foreign producers to do the same? The antidumping law, if applied domestically, would penalize such normal competitive behavior as after-Christmas sales, inventory clearance sales, forward or learning-curve pricing, and charging above variable (but below total) costs during cyclical downturns.

Defenders of the dumping law respond that foreign producers derive an unfair advantage from protected or uncompetitive home markets and can use the resulting monopoly profits to subsidize their export sales. To my knowledge, though, no one has ever suggested that American companies with overseas operations in those same protected, inefficient markets are unfairly subsidizing their U.S. sales. The argument proves too much. Simply put, the antidumping law holds foreign producers to a different and more restrictive standard than that applied to American firms—which hardly seems fair.

With the countervailing duty law, there is the same basic problem that foreign subsidies benefit the U.S. economy. If other governments want to tax their citizens to provide us with cheap merchandise, we should be sending them thank-you notes, not serving them with legal papers.

Here, though, there is at least some legitimacy to the claim that government-subsidized competition is unfair. All too often, however, the complaining U.S. industry is itself feeding at the government trough. It is galling to see American rice producers cry foul over Thai government subsidies, for example. As with the antidumping law, a double standard applies: what is fair for American firms suddenly becomes unfair when the foreign competition does it. Beyond this, the countervailing duty law takes no account of foreign government policies that may harm industries in those

countries. In a world of massive and ubiquitous government intervention, does it really make sense to pick out policies here and there and label them “trade-distorting”?

Down in the Dumps all but ignores those fundamental issues. This narrowness and shallowness of focus is the book’s chief failure: how does one write a book criticizing laws at every turn and then fail to ask whether the laws are even worth keeping? In their introduction Boltuck and Litan do briefly survey the various suggested policy rationales for the unfair trade laws and find all of them wanting. Do they then draw the logical conclusion that the laws should be repealed? No, they accept as given that “the supply of protection cannot be eliminated but only reduced and regulated.” (Tell that to Mexico, Chile, Argentina, Australia, New Zealand, and others!) Then they lamely suggest that enforcement of the unfair trade laws “can be rationalized to the extent it successfully prevents more unjustified protection than it hands out.”

Such timidity is, I think, unseemly; it is not the job of policy analysts to rationalize bad laws. Having said that, I believe that *Down in the Dumps* does provide a valuable service despite its limitations. The unfair trade laws have become such useful vehicles for protectionism precisely because they are poorly understood; they do their dirty work behind a veil of “fairness” rhetoric and technical arcana. Any exposure of how they really operate is a step in the right direction.