

social dumping 問題について

I はじめに

◎ ソーシャル・ダンピング (social dumping)

「商業的ダンピングからの類推により、労働条件の押し下げ、または低い労働条件の維持によって生産コストを引き下げることをとおして国産品の輸出を促進する行為」(吾郷真一『国際経済社会法』135頁)

○ かつての日本のソーシャル・ダンピング問題

戦前、「日本から大量に輸出された繊維製品などが英仏やその同盟国の生産者に大きな打撃を与えた。日本から輸出されていた低価格の繊維製品はソーシャルダンピング(劣悪な労働条件の下で輸出される低コストの商品)の結果であると欧州諸国から非難された。戦後、・・・英仏などは日本が無条件に[GATT]に参加することに強く抵抗した。」(日本経済新聞2004年3月1日22頁(伊藤元重))

◎ 社会条項 (social clause)

「公正な国際競争を実現する目的で、社会・人権基準を尺度にして、ある国または製品の<ソーシャルダンピング>を判定したうえで、一定の経済的制裁を課^[ママ]すことを内容とした国際協定中の条項」(吾郷『前掲書』134頁)

○ 社会条項導入に対するILOの姿勢

- ・ ILO Declaration on Fundamental Principles and Rights at Work (1998) [仕事における基本的権利および原則に関するILO宣言]

5: ...[L]abour standards should not be used for protectionist trade purposes, and ... nothing in this Declaration ... shall be invoked ... for such purposes; ...

II WTOにおける社会条項問題

○ General Agreement on Tariffs and Trade (GATT) (1947) [関税及び貿易に関する一般協定]

Article 20 ...[N]othing in this Agreement shall be construed to prevent the adoption ... by any contracting party of measures: ...

(e) relating to the products of prison labour; ...

Article 35(1)(b) This Agreement ... shall not apply as between [any contracting parties] if ... either of the contracting parties, at the time either becomes a contracting party, does not consent to such application.

○WTO Agreement (1994)

Article 9(3) In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement ..., provided that any such decision shall be taken by three fourths of the Members ...

◎WTOにおけるダンピング防止措置 (反ダンピング措置)

○GATT, Article 6(1) ...[D]umping ... is to be condemned if it causes or threatens material injury to an ... industry in ... a contracting party ...

(2) In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping ...

○Agreement on Implementation of Article 6 of the GATT 1994 [ダンピング防止協定]

Article 2(1) ...[A] product is to be considered as being dumped, i.e. introduced into ... another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

◎WTOにおける補助金相殺措置

○GATT, Article 6(3) No countervailing duty shall be levied on any product of ... any contracting party imported into ... another contracting party in excess of an amount equal to the ... subsidy ...

○Agreement on Subsidies and Countervailing Measures (1994) [補助金相殺措置協定]

Article 1(1) ...[A] subsidy shall be deemed to exist if:

- (a) ... there is a financial contribution by a government ... and
- (b) a benefit is thereby conferred.

(2) A subsidy ... shall be subject to the provisions of Part ... 5 [Countervailing Measures] only if such a subsidy is specific ...

◎WTOにおける社会条項導入論

v. 「社会条項は隠れた保護主義」論

Ⅲ アメリカの経済協定における社会条項

◎United States-Dominican Republic-Central America Free Trade Agreement (2004)

CHAPTER 16: LABOR

Article 16.1(1) The Parties reaffirm their obligations as members of the [ILO] and their commitments under the *ILO Declaration on Fundamental Principles and Rights at Work* ... Each Party shall strive to ensure that ... the internationally recognized labor rights ... are ... protected by its law.

Article 16.2(1)(a) A Party shall not fail to effectively enforce its labor laws ... in a manner affecting trade between the Parties, ...

Article 16.6(7) No Party may have recourse to dispute settlement under this Agreement for any matter arising under any provision of this Chapter other than Article 16.2(1)(a).

Article 16.8: ...**[L]abor laws** means a Party's statutes or regulations ... that are ... related to the following internationally recognized labor rights: ...

(b) the right to organize and bargain collectively; ...

(d) ... the prohibition and elimination of the worst forms of child labor; and

(e) acceptable conditions of work with respect to minimum wages [etc] ...

CHAPTER 20: DISPUTE SETTLEMENT

Article 20.17(1) If ... a panel determines that a Party has not conformed with its obligations under Article 16.2(1)(a) ... any ... complaining Party may ... request that the panel be reconvened to impose an annual monetary assessment on the Party complained against. ...

(5) If the Party complained against fails to pay a monetary assessment, the complaining Party may take other appropriate steps to collect the assessment ... These steps may include suspending tariff benefits under the Agreement as necessary to collect the assessment, ...

2011年8月 : グアテマラによる労働法の不実施 (団結権など) をめぐり、アメリカが F T A に基づく仲裁手続を開始

2017年6月14日 : 仲裁パネル最終報告書