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Abstract

Despite its widespread use in popular discourse, the term 'social dumping' remains poorly defined and thus subject to misconceptions or conscious abuse. This paper reviews recent public debates and academic studies on real or perceived social dumping threats, drawing attention to the simplistic understanding of the mechanism underlying such practices as well as to enduring operationalisation problems. It goes on to offer a refined conceptualisation of the notion by constructing an analogy between trade and social dumping. Finally, using examples from the EU context, it outlines key characteristics of social dumping practices pursued in the areas of labour/ services and capital mobility.

Keywords

social dumping, public discourse, labour mobility, capital mobility, EU enlargement.

Introduction[1]

In his Toulon speech on 1 December 2011, French President Nicolas Sarkozy expressed his discontent with 'social and fiscal dumping' in Europe and condemned EU member states' 'disloyal competition' practices (*Economist* 2011). At about the same time, the European Trade Union Confederation (ETUC) launched consultations with its member organisations in preparation for a pan-European drive 'against wage and social dumping'. Among other initiatives envisaged in the campaign, the ETUC intended to publish a 'black book' revealing instances of social dumping in EU member states, which could then be used as a shaming device in the battle against attempts 'to destroy national social and labour standards' in Europe (ETUC 2011).

These two examples demonstrate that the term 'social dumping' is well entrenched in the European public discourse, both at the political and societal level. It is therefore all the more surprising that, despite its widespread use, it lacks a precise definition: it is unclear both which *actors* are engaged in this form of dumping, and which *practices* share social dumping characteristics. So far, academic discussions on the topic have rarely involved operationalisation attempts. In addition, they have relied on limited empirical evidence and thus focused only on selected aspects of the problem. In popular discourse, in turn, the 'social dumping' label has been used (and sometimes abused) in a manner convenient for individual participants, which opened doors for misconceptions and ill-grounded accusations. But the vagueness of the term did not prevent it from influencing actors' strategies and government policies. On the eve of the EU's southern and eastern enlargements, societal concerns over real or perceived social dumping led the majority of 'old' EU member states to temporarily restrict the access of candidate countries' workforce to their labour markets, and/or to tighten social assistance eligibility criteria. Similarly, the uncertainty over the socioeconomic impact of EU integration was viewed as one of the reasons behind the failure of the French and Dutch Constitutional Treaty referenda.

In a bid to dispel the above ambiguity, in this paper I review the available definitions of social dumping and propose a new, refined conceptualisation. Given the wide use of the term in the public discourse, I first reconstruct recent debates referring to social dumping and to the related notions of 'race to the bottom' and 'unfair' competition. I show that the popular under-

1. I would like to thank Vera Šćepanović, Svetoslav Salkin, Jens Arnholtz, Béla Galgóczi and my colleagues at the ETUI for their comments on earlier versions of this paper. The usual caveats apply.

standing of these phenomena has been simplistic, as lower wages and inferior working conditions in poorer or less developed countries have often been regarded as equivalent to social dumping. At the same time, little attention has been paid to the 'dumping' role of high-wage country companies. In the second part of the paper, I review scholarly literature on the topic and construct the definition of social dumping by analogy with the concept of trade dumping, as used in international trade regulations. I accordingly define social dumping as the strategy geared towards the lowering of wage or social standards for the sake of enhanced competitiveness, prompted by companies and indirectly involving their employees and/or home or host country governments. In the last part of the paper, I differentiate between social dumping practices accompanying international labour and service flows and those pursued in the area of capital mobility. In each case, I outline the forms and the effects of social dumping, and identify actors involved in it. In the concluding part, I present some policy implications of my study and offer suggestions for further research.

1. Social dumping in public discourse

Debates on social dumping accompanied trade liberalisation initiatives or advances in economic integration between 'low-' and 'high-wage' countries. The two labels serve as proxies 'for vast labour market-related differences' between states (Belous and Lemco 1993: 2), and can refer to remuneration gaps, differing levels of social protection, and different degrees of actual implementation of employment regulations. The existence of such differences was often a source of concern among high-wage country actors over potential negative social consequences of economic integration. In this section, I present social dumping discussions held in the context of the North American economic integration, global trade liberalisation, and the EU's southern and eastern enlargement rounds. I also reflect upon the contents of the debates, highlighting the main characteristics – and shortcomings – of the social dumping rhetoric.

1.1 NAFTA and international trade liberalisation

It is difficult to trace the origins and the author of the term 'social dumping'; perhaps Goodhart (1998: 80) is right to claim that the notion is 'as old as the free market itself'. Still, it seems that it gained wider use in the period preceding the conclusion of the North American Free Trade Agreement (NAFTA). The prospect of the gradual liberalisation of trade flows between the US and Canada on one hand and Mexico on the other mobilised social and environmental activists from the two North American countries; according to Dreiling and Robinson (1998), all major Canadian and US trade unions objected to the deal. The key issue raised by unions was Mexico's significantly lower wage levels and lax social and environmental regulations, which could serve as a competitive advantage, attracting firms 'seeking to escape the scrutiny of American environmental and labor standards' (Doherty 1993: 155). From the perspective of US and Canadian workers, two negative outcomes were possible in this regard. First, trade liberalisation could accelerate business relocations from the two countries to Mexico's borderlands, where vast numbers of maquiladoras, i.e. labour-intensive, export-oriented factories with a poor labour law enforcement record, had already been established. As argued by Cowie (1997: 9), although academic studies indicated that the extent of such transfers would be limited, the anti-NAFTA campaigners nevertheless placed the job loss threat at the top of their agenda and managed to 'release immense emotional and political energy' around the issue. Second, the opponents argued that even companies remaining in the US and Canada might use the threat of exit to Mexico to force their employees to accept lower wages and poorer working conditions (Friedman 1992). While harmful to US and Canadian employees, unions maintained, NAFTA would not benefit Mexico either, but rather bring increased levels of pollution, weaken the rule of law, and put additional pressure on wages and rights of Mexican workers, thus contributing to 'the maquiladorization of Mexico' (Friedman 1992: 27).

To counter the negative trends and disclose labour rights breaches in the Mexican manufacturing sector, some US and Canadian union and environmental activists forged alliances with Mexico's progressive labour movements and societal organisations (Cowie 1997). They also intensified information campaigns at home, highlighting the dangers of the unfettered trade liberalisation, and calling for an aid plan for Mexico similar to the EC's structural funds that would allegedly help avoid social dumping (Dothery 1993; Friedman 1992). Even though no such scheme was adopted, NAFTA's opponents can still claim a partial success. Firstly, they managed to influence the US and Canada's public opinion, which 'shifted from about two-thirds in favour of further trade liberalisation to more than half opposed' (Dreiling and Robinson 1998: 180). Secondly, they mobilised democratic presidential candidate Bill Clinton to raise the issue of environmental and labour standards during NAFTA negotiations. In the end, the NAFTA pact was supplemented by side agreements on environmental and labour issues. In the North American Agreement on Labor Cooperation (NAALC), the three countries pledged to abide by their respective employment regulations. Although NAALC did not foresee the creation of an international judicial body, it gave legal and natural persons the right to report irregularities to newly created National Administrative Offices, which might result in governmental consultations, the imposition of trade sanctions or even the re-introduction of tariffs (ILR 1994; Hualde and Ramirez 2001). The latter measure was never used in practice, but nonetheless NAALC re-stated core labour laws applicable to NAFTA countries and spurred cross-border cooperation between 'northern' and 'southern' unions and NGOs (ILR 1994; Compa 2001; Kay 2011).

Debates on social dumping and 'unfair' competition, this time in relation to global – not regional – trade, intensified after the establishment of the World Trade Organization (WTO) in 1994. They focused on the so-called 'social clause', i.e. the proposal to make trade liberalisation conditional upon the observance of basic labour laws. The clause would aim at providing 'safeguards against potentially negative economic and social repercussions of a global economy' (Lim 2011) and include core labour standards of the International Labour Organization (ILO), such as the freedom of association, the right to organise and to bargain collectively, the abolishment of forced labour and the most acute forms of child labour, and anti-discrimination regulations. Importing countries would be allowed to punish their trading partners that did not comply with these basic rules by introducing import quotas, cancelling their preferential trading partner status, or putting a complete ban on the imports (Lim 2011).

The US, most of the EU member states, and Japan, together with NGOs and trade unions from high-standard countries, put forward both normative and socioeconomic arguments in support of the social clause. On the normative side, they claimed that rules included in the clause were in fact universal human rights, applicable to all countries irrespective of their cultural heritage and development level (van Roozendaal 2002; Lim 2011). As for the socioeconomic effects of trade liberalisation, they claimed that in globally integrated industries, low wages and meagre working conditions helped keep production costs low and thus could be viewed as 'an illegitimate export subsidy and a form of social dumping' (van Roozendaal 2002:170). Although these factors gave poorer countries a competitive edge, competition was allegedly 'unfair' as it was based on cost savings rather than on increasing productivity. In addition, 'northern' governments were afraid that further lowering of standards in poor countries might have a negative impact on their own levels of employee protection, spurring an international 'race to the bottom' in the social sphere. In contrast, the majority of developing countries and their labour movements, as well as mainstream trade economists, opposed the clause, asserting that cross-country variation in social standards was mainly the result of different value judgements, so that it would be illogical to refer to them as 'fair' or 'unfair' (Bhagwati 1995). Moreover, low wages in developing countries often reflected low productivity levels, and the increase of the former would not lead to an improvement in workers' welfare, but, rather, would destroy the industries employing them (De la Dehesa 2007). The critics also pointed out that there was little evidence in support of the 'race to the bottom' thesis and that social conditionality was thus unjustified (Bhagwati 1995; Krugman 1997). Instead, they claimed that the selection of rights was biased against the developing countries, and considered the social clause to be a disguised protectionist measure, designed to shelter high-wage countries' industries and their employees against growing, though by no means 'unfair', competition from the side of their developing counterparts (Bhagwati 1995; Leary 1997).

Although, in the conclusions of WTO's first Ministerial Conference held in Singapore in 1996, WTO member states expressed their 'commitment to the observance of internationally recognised core labour standards', the declaration was not binding. In addition, the countries delegated the responsibility for the promotion and monitoring of the countries' performance in this regard to the ILO, which did not possess law enforcement powers. Finally, poorer states pushed through an additional document condemning 'the use of labour standards for protectionist purposes', and stating that 'the comparative advantage of countries, particularly low-wage developing countries, must in no way be put in question'(quoted in Leary 1997:119). Although the North-South split on the issue is no longer that clear-cut, as some developing country unions adhere to the idea of core labour standards in international trade (Chan and Ross 2003), the social clause continues to spark considerable controversy. As a result, sixteen years after the Singapore meeting, it remains merely a proposal.

1.2 EU[2] southern enlargement and service market liberalisation

In Europe, similar debates took place in the late 1970s and early 1980s, in the run-up to the EU enlargement to Greece, Spain and Portugal. Even though at that point the term 'social dumping' was not explicitly used, the socioeconomic context of the three countries' EU entry, as well as the range of issues discussed during their accession negotiations, make it legitimate to include this case in the overview of social dumping discourses.[3]

From the perspective of 'high politics', the rationale for the EU southern enlargement was never put in doubt. Not only was it viewed as a major factor stabilising the three Mediterranean countries' political systems, but it also had a geopolitical importance, as it widened the West European 'camp' of capitalist democracies (Wallace 1979; Verney 2006). In the sphere of 'low politics', however, the accession of three significantly poorer countries was a hard nut to crack for the existing EU member states and Community institutions. In a report issued in the 1960s, the European Commission still referred to Greece as a country 'in the course of development' (quoted in Siotis 1981). In 1975, Spain's GDP per capita at PPP reached 71%, and Portugal's only 49% of the EU average (ETUI 1979; data for Luxembourg n.a.). For these reasons, Greece (and, later on, also Portugal and Spain) were welcomed by the EU 'with half-opened arms' (*Economist,* quoted in Verne 2006).

Two enlargement-related problems drew 'old' EU member states' attention. The first was the intensification of intra-EU labour migration. The nine EU countries, in particular Germany, feared that the uncontrolled inflow of South European workers would exacerbate the unemployment problems that had been besetting their economies since the crisis of the early 1970s. West German Chancellor Helmut Schmidt expressed his concern in this regard, stressing that his country rejected 'the idea that enlargement of the European Community would allow the export of unemployment from one state to another' (quoted in Wallace 1979: 31). In addition to the spectre of job losses, the wages and employment standards of the domestic population could also be imperilled if Greek, Spanish and Portuguese migrants were to accept lower remuneration levels and inferior working conditions in host countries. As a result, 'old' EU members decided to temporarily restrict South Europeans' access to their labour markets. The entry ban lasted seven years in the case of Greece, whereas in relation to Spain and Portugal, it was lifted after six years since migration flows were negligible (Kelo and Wächter 2004).

2. The three Mediterranean countries formally joined the European Community as the European Union did not exist in the 1980s, but in the paper I use the latter name for the sake of consistency.
3. Despite the poor condition of Ireland's economy, the evidence suggests that the country's EU entry in 1973 did not spark that much controversy. This was perhaps due to the fact that, at the time of accession, agricultural products destined for the UK market constituted the bulk of Irish exports, while emigration rates had peaked already in the 1950s (European Commission 2012).

The second controversy, related to potential trade, not social dumping, was a competitive threat posed by the three accession states' low-wage, low-cost sectors offering substitutes for 'old' EU members' products. Of particular concern were the branches that showed negative trade balances with the three Mediterranean countries already before their accession, such as textiles, footwear and yarns production, but also the Spanish steel industry, whose exports were heavily oriented towards the EU and subject to EU anti-dumping proceedings (cf. section 2.2). In the end, however, no transition periods were imposed on manufacturing, as the interests of German and French capital and technology-intensive industries, eager to invest in the Mediterranean countries, prevailed (Tsoulakis 1981). Agriculture, by contrast, proved a much more contentious topic. With the three countries' accession, the EU's arable land surface was expected to increase by over 50% (ETUI 1979). This alarmed farming interest groups in Italy and France, afraid of profit losses due to low-priced food imports from the three candidate countries. During the 1978 electoral campaign in France, both Chirac's Gaullists and the Communist party painted bleak visions of the French farmers' plight after the enlargement. They also demanded that the newcomers comply with certain 'preconditions' before joining the Community (Tsoulakis 1981). As a result of the concerns, 'old' EU member states introduced temporary restrictions on selected agricultural imports from the three countries.

Even though transitory periods limited workers' access to 'old' EU labour markets, they were not matched by similar measures in the sphere of service provision. Consequently, Greek, Portuguese and Spanish firms could offer their services and post their workers on the territories of other member states from the very outset of the three states' EU entry. In the absence of Community legislation on the issue, posted South Europeans were initially paid in line with their home country rates. This strategy generated significant cost savings on the side of posting companies, but at the same time threatened the position of service providers from the receiving states. In view of increasing bankruptcy rates and growing unemployment, host country governments, unions and most employer associations criticised posting companies' practices, accusing them of 'unfair' competition and social dumping. To protect domestic service providers, France introduced obligatory work permits for posted workers, but this measure was repealed by the European Court of Justice (ECJ) in its 1990 *Rush Portuguesa* ruling. The Court stated that employee posting was a part of freedom to provide services and must not be subject to restrictions (Eichhorst 1998), but also acknowledged that states had the right to extend certain employment regulations, in particular minimum-wage legislation and generally applicable collective agreements to posted workers, provided that the extension was guided by general interest and applied to the overwhelming majority of firms operating on their territory (Cremers *et al.* 2007).

A draft directive on the issue was prepared in 1991, but EU member states could not agree on the catalogue of extendable standards and the length of grace periods during which posted companies could still apply home country regulations. The main division was that between high-wage countries – posted workers' recipients, such as France and Germany, Belgium and Denmark – and sending states opposing the directive or advocating its less strict version, including Portugal, the UK, Ireland, Italy, Greece and Spain (Eichhorst 1998). In view of a stalemate at the EU level, high-standard states interpreted the ECJ's ruling as a green light for the introduction of national regulations. These national 're-regulatory responses' mirrored the relative power balance between social actors in individual countries (Menz 2003). With national laws in place, it became easier to push the issue through at the EU level. The 1996 Posted Workers Directive restated EU member states' right to extend universally applicable regulations and collective agreements to all firms operating on their territory, thus providing 'a basic frame of equal treatment' of domestic and posted workers (Cremers *et al.* 2007: 525).

1.3 EU eastern enlargement and East-West labour and service flows

Similarly to the southern enlargement, the EU's eastern expansion was 'driven by a strong sense of moral obligation and historical purpose' (Baun 2000: 8). After several decades of the East-West political and economic divide, it was regarded as an important step towards the reunification of the continent, marking Central and Eastern European (CEE) states' 'return to Europe'. Despite its symbolic significance, however, many observers raised doubts regarding the institutional and economic feasibility of the 'big bang' eastern enlargement. CEE candidate countries were significantly poorer than EU member states, with their average GDP per capita at PPP reaching only 45% of the EU average in 2004 (Krings 2009). As a result, while after their EU accession the EU population was expected to increase by 28%, the bloc's GDP would grow by only 4% (Baun 2000). With the exception of the Czech Republic and Romania, CEE states also had lower activity rates than 'old' EU members, whereas the unemployment rates were higher. In regard to earnings, gross annual wages at PPP across the postcommunist region remained below EU-15 standards: in 1999, Slovenia reached 71% and Bulgaria only 22% of the EU-15 average (Kunz 2002). These quantitative differences were supplemented by qualitative assessments, which pointed to the fragility of tripartite structures (Ost 2000), politicised and divided trade unions (Seideneck 1993), as well as the liberal orientation of CEE economic reformers and the half-hearted adoption of the EU's social *acquis* (Meardi 2002). As a result, industrial relations practitioners, politicians and public opinion in 'old' EU member states wondered whether CEE candidate countries were ready to join the EU, and whether 'the scale of gap in labour costs and incomes, combined with the flexible labour market regimes embraced by most countries in the [postcommunist] region' would not lead to 'widespread social dumping' (Marginson 2006: 3). Three specific concerns were voiced in this regard.

First, lower wage standards and lax labour regulations in CEE were expected to serve as a magnet for foreign direct investments (FDI), spurring thereby a wave of company relocations from west to east. Fears of delocalisation were particularly pronounced in France, where both left- and right-wing politicians pleaded for the 'upward harmonisation' of social standards in the enlarged EU; the Socialist Party went as far as to advocate a European minimum wage to avoid CEE-prompted job losses and 'social dumping' (Cliff and Howarth 2010). Similar concerns were voiced in other countries whose companies had invested heavily in the postcommunist region. Bohle's (2008) study on Germany shows that, even though the extent of relocation-induced job losses remained relatively low, the sectoral concentration of such practices (mainly in the car and telecommunications industry), as well as major delocalisation cases that attracted public attention, contributed to rising anxiety over the industry's possible *Drang nach Osten*. In a poll conducted in 2004, 73% of Germans expressed fears that they might lose their job as a result of EU eastern enlargement (Barysch 2005).

Secondly, just like in the context of the EU's southern enlargement, the EU15 were wary of the potential influx of migrant workers from the poorer accession states. Germany and Austria, the two 'old' EU members bordering on CEE and traditional migration destinations for East European employees, were particularly worried about this. Trade unions in the two countries feared that CEE newcomers would work for less than the domestic workforce, and thus undermine the existing collective agreements and employment standards. The German construction union *IG BAU* was also afraid of an increase in the unemployment rate induced by the post-accession flows of CEE migrants, arguing that '[t]ens of thousands of people working in forestry and gardening, in waste management and in agriculture, as well as in the construction industry, have already lost their jobs; these were taken over – often on an illegal basis – by migrant workers coming predominantly from the neighbouring East European states' (IG BAU 2000). Concerns over post-enlargement labour migration flows made the Austrian union confederation ÖBG oppose the EU enlargement altogether, and suggest instead that CEE countries should be allowed to join the EU only after reaching 80% of the Austrian GDP per capita (Meardi 2002). *IG BAU*, in turn, allied with Germany's construction industry business associations and lobbied for a ten-year long ban on CEE firms and workers' access to the German market (IG BAU *et al.* 2000). In December 2000, German Chancellor Schröder took social partners' position into account and proposed a flexible scheme of 3+2+2 years' long transition periods, leaving the decision concerning their imposition to individual EU member states. When the solution was accepted at the European level in May 2001, Germany and Austria retained the longest, seven-year long, ban on the free movement of workers, and introduced additional restrictions on service provision in construction-related industries (Bohle and Husz 2003; Dietz 2005).

Last, but not least, political and social actors in 'old' EU member states feared that the influx of Eastern Europeans might have a negative impact on their welfare systems. They were concerned, specifically, about the potential migration of workers and their families who might come to their countries with the aim of getting 'as many benefits as possible while contributing as little as possible' (Kvist 2004: 6). Such an 'excess' inflow of new beneficiaries, they argued, would represent a heavy financial burden and could hamper the domestic population's access to social services. Even though 'social tourism' and 'social raids' did not eventually materialise, some EU member states acted as if the danger were real, tightening the eligibility criteria for social benefits and/or making them accessible only after a certain period of employment or residence on their territory (ibid.).

On the eve of EU eastern enlargement, another proposal raised concern over the future of social standards in Europe. In January 2004, the European Commission issued a draft version of the Directive on Services in the Internal Market, which aimed at liberalising service flows within the EU. The most controversial element of the draft legislation was the so-called country-of-origin principle (COP) which stipulated that an individual or a company would be allowed to provide services on the territory of another EU member state on the basis of laws and regulations of his/her country of origin or the country of establishment, and was not obliged to abide by a set of rules existing in the host state (EU 2004). West European trade unions and European Industry Federations criticized the COP, claiming that it could lead to the establishment of criticised 'letter- box companies' in low-standard EU member states that would subsequently expand their operations to the whole EU territory, spurring a pan-European 'race to the bottom' in the sphere of wages and working conditions (IG BAU 2006; EMCEF 2004). But the objections to the liberal version of the Directive were voiced also by their CEE labour organisations. The Easterners stated they did not want their fellow workers to introduce 'unfair' competition and social dumping to 'old' EU member states' labour markets (Śniadek in EPSU 2006; OS KOVO 2005). At the same time, they feared that the destruction of West European social standards and collective bargaining systems would close the prospects for upward convergence of working conditions in CEE (OPZZ 2006). The elaboration of a common position was followed by joint anti-Directive protests in Brussels (2005) and Strasbourg (2006), which signalled a consensus within the European labour movement over the desired shape of 'social Europe'. It also made the European Parliament reject the COP and exclude certain services, such as health care and temporary work agencies, from the scope of the Directive. Despite the changes, the spectre of the 'Polish plumber', a CEE self-employed professional providing services in the West at 'dumping' prices, proved surprisingly suggestive: fearful of closer EU integration, the French and the Dutch rejected the EU Constitutional Treaty in 2005 referenda (cf. Cliff and Howarth 2010).

Tensions between social rights and the freedom to provide services within the EU came once again to the fore due to the recent rulings of the European Court of Justice (ECJ). In the *Laval* and *Viking* cases, the Court was to decide whether unions can stage industrial action to make firms comply with local collective agreements. In the former case, the Swedish construction union launched a boycott of a Latvian posting company that refused to enter a collective agreement in Sweden, and this was followed by sympathy actions by other Swedish labour organisations. Answering the Swedish labour court's query regarding the legality of the protests, in December 2007 the ECJ acknowledged that the right to strike was a fundamental right enshrined in the EU law, and that protection of local wages and working conditions could be regarded as 'an overriding reason of public interest'. However, it also argued that Swedish unions' actions violated the free movement of services principle since their demands exceeded minimum standards set by the country's labour law. In the *Viking* case, Finnish trade unions, in cooperation with the International Transport Workers' Federation, rallied against a Finnish ferry transport company that sought to reflag its ship to Estonia and employ cheaper Estonian personnel. The ECJ ruled that, even though industrial action could in principle be used to protect workplaces and /or working standards, the union's intervention in this concrete case constituted an infringement of *Viking*'s freedom of establishment (Lindstrom 2010).

Trade unions, both in Sweden and at the European level, regarded the two rulings as a blow to the Nordic countries' autonomous collective bargaining system, in which so far no legal wage minima existed, while employers could be forced to comply with sectoral collective agreements by means of industrial action. They also claimed that by subjecting strike actions to a tough proportionality test and leaving to courts the decision concerning their legality, the two verdicts severely limited unions' ability to uphold local standards and collectively agreed provisions, and thus 'to defend their members and workers in general against social dumping' (ETUC 2008a). In the context of transnationalising EU service markets, this meant that workers in high-standards countries would 'find their wages and working conditions undercut by foreign workers on minimum standards legitimised by the ECJ' (Monks and Lundby-Wedin in *Financial Express* 2008). EU member states' positions, in turn, varied considerably, with new ('low-standard') EU members and the UK defending the freedom to provide services principle, the majority of old ('high-standard') EU member states supporting unions' right to industrial action, and Ireland and the Commission taking an intermediate stance (Lindstom 2010).

Two other ECJ judgments limited the scope of national labour legislation applicable to posted workers. In its 2008 *Rüffert* case, the Court ruled that German authorities did not have the right to demand that companies participating in a public tender comply with local collective agreements, viewing it as an undue restriction on the freedom to provide services. Similarly, in the *Commission vs. Luxembourg* case, the ECJ argued that Luxembourg violated the Posted Workers' Directive by interpreting certain employment practices as public policy provisions and making foreign service providers comply with them (ETUC 2008b). Instead, the Court stated that only minimum standards and employment regulations listed in Art. 3(1) of the Posted Workers' Directive could be applied to posting companies (Barnard 2009). In light of the two judgments, the Directive's provisions, so far considered as the minimum level of social protection, rose to the position of maximum requirements for foreign service providers, which put host-county companies, bound by local collective agreements and subject to other legal requirements, at a disadvantage (Blanke 2008). For these reasons, the

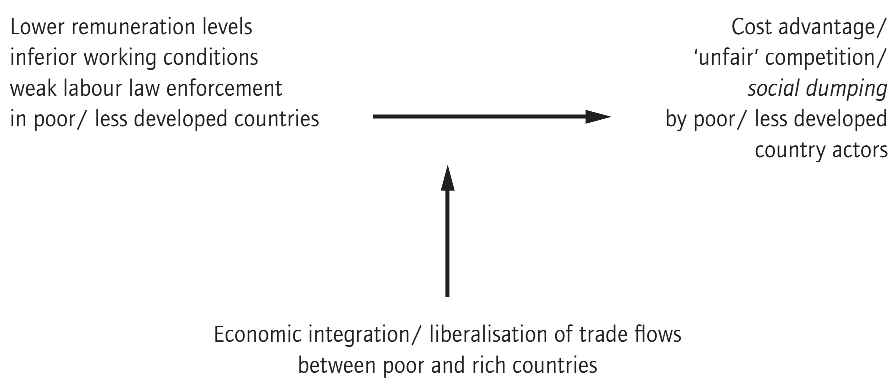
ETUC referred to the *Rüffert* judgment as 'destructive and damaging', viewing it as 'an open invitation for social dumping' (ETUC 2008b) and a prelude to the gradual dismantling of above-the-minimum social protection in Europe.

1.4 Conclusions: social dumping in the public discourse

The above overview of discourse relating to social dumping, while by no means exhaustive, does nevertheless enable us to identify common threads in debates conducted in various geographical contexts, at different points in time and in relation to specific economic integration projects. Specifically, it points to similarities in political and societal actors' understanding of the mechanisms and consequences of social dumping, and provides useful information on policy measures adopted to defend against (real or perceived) threats of dumping.

As for the mechanism underlying social dumping, in the majority of the cases examined the mere existence of lower wages and inferior working conditions in poorer or less developed countries was regarded as an ('unfair') cost advantage, or the expression of a 'social dumping' intention. It was feared that, with the liberalisation of international trade flows and growing economic integration between low- and high-wage countries, these characteristics would be used by low-standard country actors to gain a higher market share, and in consequence depress job prospects and lower earnings in high-wage country employees (see Figure 1 below). This logic was used in the debates over the WTO's social clause, and the poorer countries' acceptance of core labour standards was viewed as a means to re-establish a 'level-playing field' and to restore 'fair' competition to North-South trade. The same logic also featured in discussions preceding the EU's southern and eastern enlargements.

Figure 1 **The mechanism behind social dumping reconstructed from the public discourse**



But to regard low wages as equivalent to social dumping is problematic for at least three reasons. First, the label 'cheaper, and thus more competitive' is often given on a basis of raw wage and GDP per capita comparisons, without taking into account productivity gaps between high- and low-standard settings. In reality, productivity tends to be much lower in poorer countries, which often compensates for real wage differentials. Second, such assessments ignore the countries' divergent levels of economic and social development, and pay no attention to the direction of change in the poorer countries, which in aggregate terms benefit from trade and growing economic integration with high-standard states. Third, they disregard the fact that social dumping practices are not pursued exclusively by actors from low-wage settings (cf. section 2.3). In particular, the role of high-wage country companies in exploiting the differences in socioeconomic conditions between home and foreign locations is rarely a subject of public debate. Firms gain bad publicity or are temporarily subject to a consumer boycott as a result of major relocations (Artus 2006; *Frankfurter Allgemeine Zeitung* 2008), but they are usually not viewed as drivers of social dumping.

What is more, each public discussion placed a different emphasis on specific social dumping threats. While the opponents of NAFTA focused on the consequences of international capital flows and related job losses, debates preceding the EU's southern and eastern enlargements were dominated by the labour and service mobility issue. It needs to be highlighted, however, that in all cases the discussants referred mostly to *potential*, rather than real or proven, dangers. This was due mainly to the fact that hard evidence in support the 'race to the bottom' thesis was scarce, but stems also from the limited applicability of earlier experiences to newly launched integration projects. For instance, even though the EU southern enlargement did not entail substantial migration flows from the candidate countries to 'old' EU member states, it was difficult to predict whether post-eastern enlargement migration patterns would be similar to those from the 1980s in view of a much wider wage gap between Western and Central-Eastern Europe and falling costs of individual cross-border mobility. It is true that simulations of East-West migration flows were available before the EU eastern enlargement, but their results varied significantly, which enabled public discourse participants to cherry-pick the projections that best fitted their own arguments. Bohle and Husz (2003) claim, following Olson, that it was the uncertainty regarding the identity of potential losers, combined with high individual costs of obtaining reliable information, that made West European societies 'rationally ignorant' about the socioeconomic consequences of CEE countries' accession and highly susceptible to such populist scenarios.

The societal fears subsequently shaped policy responses at both governmental and supranational level. Although in no examined case was the economic integration processes completely stalled due to concerns over social dumping or a 'race to the bottom', nearly all projects were supplemented with measures designed to prevent the downward spiral of wages and working conditions. NAFTA's Side Agreement created administrative bodies responsible for monitoring the three participating countries' compliance with their respective labour regulations, and non-observance could be punished with the re-introduction of tariffs. Similar sanctions were linked to WTO's social clause, but the idea was scrapped in view of poorer states' opposition. In the case of both EU enlargement rounds, individual EU member states introduced transition periods in relation to candidate states in sensitive areas such as labour migration and trade flows. They also specified minimum rules applying to foreign service providers operating on their territory. Overall, anti-social dumping measures had a predominantly defensive character and were aimed at protecting high standards in the richer countries. To a limited degree, advances in economic integration spurred cross-border cooperation between societal actors from high-and low wage countries. Some joint actions in defence of employee rights and labour standards were undertaken by NAFTA unions and non-governmental organisations. In a similar vein, 2004-2005 protests against the unfettered liberalisation of EU service markets gathered labour organisations from 'new' and 'old' EU member states, while intra-EU migration led to the intensification of contacts between sending and receiving countries' unions (Fitzgerald and Hardy 2010; Meardi 2012). This indicates that the interests of workers and other societal actors in low- and high-standard countries are not necessary divergent, and that there is room for cross-border alliances in support of the upward convergence of employment standards.

2. Towards a new conceptualisation of social dumping

Having reviewed recent popular debates on social dumping, in this section I present available social science accounts of the phenomenon. Drawing on the scholarly insights and the definition of dumping in trade derived from international trade regulations, I propose a new conceptualisation of social dumping, and outline key characteristics of dumping practices pursued in the area of labour/services and capital mobility.

2.1 Social dumping definitions in academic literature

In its Industrial Relations Dictionary, the European Foundation for the Improvement of Living and Working Conditions defines social dumping as 'a practice involving the export of goods from a country with weak or poorly enforced labour standards, where the exporter costs are artificially lower than its competitors in countries with higher standards, hence representing an unfair advantage in international trade' (Eurofound 2012). This conceptualisation suffers from two flaws, however. First, it follows the popular understanding of lower wages and inferior employment standards as equivalent to social dumping and 'unfair' competition; as rightly observed by Watt (personal communication 2011), virtually all exports from developing countries would fall within its scope. Second, it is unclear on what basis one can label the price of developing country exports 'artificially' low. The authors seem to implicitly refer to developed/ high-wage country standards, but the decision to adopt them as benchmark is an arbitrary, normative choice. Moreover, as East Germany's post-unification experience shows, too rapid an improvement of wage and social standards in a poorer country may actually destroy its industrial base (Sinn and Sinn 1993).

An alternative conceptualisation of social dumping is offered in Alber and Standing's (2000) study of global trends in social protection and welfare spending. The authors view it as 'situations in which standards in one country are lowered relative to what they would have been because of external pressure from all or part of the global economic system' (Alber and Standing 2000: 99). They later specify that the decline might be prompted by practices and policies adopted by another state, and take the form of erosion of existing levels of social protection, or the so-called arrested development of social regulation, which refers to situations where social standards do not advance at a pace proportional to economic growth due to external competitive pressures. This definition is interesting, as it presents social dumping as a set of specific policies and practices, even though it falls short of identifying actors pursuing them. It also points to the negative consequences of dumping - the lowering of social standards in the country seeking to improve the competitive position of its companies. At the same time, however, the notion of arrested development of social policies is problematic, because it is difficult to assess whether the maintenance of a particular level of social standards has been a conscious dumping strategy. Finally, the authors' definition seems to impose a universal benchmark for social protection that should be reached by countries at a certain level of development, which does not reflect the fact that the generosity of welfare provisions and the extent of employment protection vary considerably even within the high-wage country grouping (Mosley 1995; cf. Esping-Andersen 1990, Hall and Soskice 2001, Huber and Stephens 2001).

Similarly to Alber and Standing, Sinn (2003:3) defines social dumping as less developed states' practice of 'maintaining an underdeveloped welfare state to create a competitive cost advantage for their industries' (Sinn 2003:3). But his understanding of welfare state is broader than the two earlier authors, and therefore dumping practices may entail neglecting social legislation, non-observance of health and safety regulations and/ or the suppression of freedom to bargain collectively. Still, Sinn also considers the maintenance of the social status quo in a poorer country as a conscious policy measure, which is difficult to prove empirically. Moreover, he defines social dumping solely as government's domain, portraying industries (and companies) as passive beneficiaries of its policies, which, as I show in the next section, might not be consistent with reality. Last, but not least, his focus on less developed countries ignores the fact that dumping policies are pursued also by actors in high-standard environments.

Aware of the relative and value-laden nature of such terms as 'normal' and 'expected' levels of social protection, Pochet (1990) seeks to avoid arbitrary definitions and constructs his concept of social dumping in an inductive manner. He lists four risks for EU Single Market participants related to social dumping: 1) production relocations; 2) fragmentation of national regulatory environment as a result of intra-EU labour mobility; 3) state reforms increasing labour market flexibility that are designed to boost the country's competitiveness; 4) multinational companies' pressures for further flexibilisation of employment conditions. Similarly, Mosley (1995) argues that social dumping may involve: 1) the displacement of high-wage country producers by their competitors from low-wage and low-standard countries; 2) company relocations; 3) states' low-wage and anti-union policies. Both accounts are interesting, as they point to various strategies that may constitute social dumping and identify actors involved in such practices, but neither can be regarded as a comprehensive catalogue of dumping threats. Moreover, they fail to identify the mechanism behind the dumping behaviour.

An important contribution to the scholarly debate is Vaughan-Whitehead's (2003) study on the (potential) impact of EU eastern enlargement on West European labour markets and social protection systems, which links the issue of social dumping to its counterpart in trade. Specifically, the author claims that trade dumping and social dumping share a common goal, as they are designed to help a given actor win a higher market share thanks to lower prices. He subsequently defines social dumping as

> 'any practice pursued by an enterprise that deliberately violates or circumvents legislation in the social field or takes advantage of differentials in practice and/or legislation in the social field in order to gain an economic advantage, notably in terms of competitiveness, the state also playing a determinant role in this process' (Vaughan-Whitehead 2003: 325).

The definition is supplemented by a set of additional criteria that help determine the company's degree of *intention* in violating or circumventing social norms. A significant gap between home and host country legislation, for instance, allegedly proves the firm's willingness to enhance its competitive position by investing in the low-standard environment. Similarly, the author maintains that if the economic condition of an enterprise enables it 'to progressively assimilate working conditions in the host country to those in home country', but the firm nevertheless pays its foreign workers wages that are 'well below what is the norm at home', its social dumping motivation is evident (Vaughan-Whitehead 2003: 327 and 326). Upon closer scrutiny, however, both principles are problematic. According to the first criterion, all FDI flows to low-wage countries could be labelled 'suspicious' or 'dumping-driven'. In particular, Vaughan-Whitehead fails to distinguish between efficiency- and market-seeking investments, and does not account for the practice of transferring most labour-intensive operations to worker-rich countries and concentrating higher value-added activities at home, which might enhance the company's competitiveness and, in consequence, benefit both home and host country units. The second criterion, on the other hand, resonates with Eurofound and Alber and Standing's arbitrary benchmarks: it is impossible to assess how much the company *should* pay its employees, or at which point exactly host country wages are 'well below' those in the home country.

Some of the above problems are addressed by Goodhart (1998) who acknowledges that it is not enough to document increased investment activity in low-standard countries to claim that social dumping is taking place. Instead, he comes up with an outcome-related definition, and states that, in order to prove social dumping, one has to show both that 1) investment in the low-standard country was driven exclusively by lower direct and indirect labour costs in that state and 2) the investment has put a downward pressure on remuneration levels and employment standards in a high-wage country. These two caveats add important qualifications to Vaughan-Whitehead's criteria, and refer to an observable phenomenon, namely, the lowering of social provisions. Even so, proving a causal relationship between a particular investment in a low-wage environment and the deterioration of standards in another country might be a daunting task.

To sum up, the analysis of scientific contributions that have taken up the task of conceptualising social dumping reveals a number of problems. It is true that social scientists rarely confuse lower wages and inferior employment standards with social dumping and 'unfair' competition (in the examined group, this was the case of Eurofound alone), but their definitions are often incomplete or difficult to operationalise. First, authors are arbitrary in assigning high-wage countries' social standards as universal criteria. While such benchmarks might be relevant in the area of labour and service mobility, i.e. in situations where migrant workers or foreign service-providers enter high-wage country regulatory environment (cf. section 2.3), they are hard to justify in relation to international trade and capital flows. Secondly, authors often make causal inferences that are hard to prove empirically; the link between the alleged social dumping practice and the stagnation of social standards in the host country is a case in point. Thirdly, studies usually focus on the activities of a certain group of actors, whether they be states *or* companies, and thus fail to provide a comprehensive list of players involved in dumping practices. Finally, scholarly accounts focus mainly on the consequences of international capital flows, often ignoring dumping threats related to labour migration and cross-border service provision. In light of these shortcomings, in the next section I go beyond the available academic definitions and explore the analogy between social dumping and the concept of dumping in trade.

2.2 From dumping in trade to social dumping

Dumping in trade did not only lend its name to social dumping but can also be considered its conceptual predecessor. It might therefore be useful to build up a definition of social dumping by outlining similarities and differences between the two notions. This task is facilitated by the fact that dumping in trade has been defined in international trade treaties and anti-dumping regulations.

While the first national anti-dumping laws were introduced early in the 20th century, a unified international procedure for assessing and combating dumping in trade was not laid out until mid-century with adoption of the General Agreement on Tariffs and Trade (GATT) negotiated at the UN Conference on Trade and Employment in 1947 (Vermulst 2005). Following amendments in 1994, GATT became the basic legal act of the World Trade Organisation (WTO). In line with this document, dumping takes place if 'products of one country are introduced into the commerce of another country at less than the normal value of the products' (WTO 1947). The normal value refers either 1) to the comparable price of the like product[4] destined for consumption in the exporting country, or, in its absence, 2) to the highest comparable price of the like product destined for exports to a third country, or 3) to the product's production costs with the addition of selling costs and profit. GATT does not directly prohibit dumping, but condemns it 'if it causes

4. The like product is 'identical, i.e. alike in all respects to the product under consideration' or 'has characteristics closely resembling' such product (WTO 1994).

or threatens material injury to an established industry or materially retards the establishment of a domestic industry'. It also allows countries to take protective actions against dumping practices, e.g. to impose extra import duties on a particular product (Vermulst 2005). Before anti-dumping measures are introduced, however, the importing country needs to demonstrate that the dumped imports indeed cause material injury, or pose a threat of such injury to domestic industries. The subsequent Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, also known as WTO's Anti-Dumping Agreement, contains detailed procedures for the determination of such damages. Not only should the authorities consider whether there has been a significant increase in dumped imports (in absolute or relative terms), but they must also establish 'whether there has been a significant price undercutting by the dumped imports' as compared with the price of a like product of the importing state, 'or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree'(WTO 1994).

The EU is a customs union and thus applies common anti-dumping procedures, specified in Council Regulation 1225/2009 on protection against dumped products from countries not members of the European Community (EU 2009). The Regulation refers to the WTO Anti-Dumping Agreement and essentially repeats its definitions of dumping, normal value and like products. The Commission's investigation into alleged trade dumping is initiated in reaction to a complaint submitted by any natural or legal person, or on the Commission's own initiative. EU member states may then be requested to provide additional information or to assist at checks and inspections. If the dumped imports cause 'material injury to the Community industry, threat of material injury to the Community industry or material retardation of the establishment of such an industry'[5], the Commission can impose anti-dumping duties on such products, which are collected by the national customs offices in the EU countries concerned. It also submits annual reports to the European Parliament on the EU's anti-dumping, anti-subsidy and safeguard activities.

All in all, international trade regulations thus lay down specific rules for the assessment of the extent and the effects of dumping. While there are no such guidelines for the analysis of social dumping practices (Vermulst 2005), we may advance our understanding of the latter phenomenon by constructing an analogy between key dimensions of trade and social dumping. The results of this exercise are presented in Table 1 below.

5. The term 'Community industry' refers to 'Community producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion (...) of the total production of those products' (EU 2009).

Table 1 **Dumping in trade and social dumping: a comparison**

Dimension	Dumping in trade	Social dumping
Goal	gaining advantage over other market participants	gaining advantage over other market participants
Area	international trade in goods	international capital and labour mobility
Mechanism	lowering price of imported goods	lowering of wage and/or social standards
Actors	companies (and indirectly their employees); governments as parties in anti-dumping proceedings	companies; employees; home and host country governments
Intentionality element	yes	yes
Implications	in the target country: material injury to an established industry or threat of such injury; impediment to the establishment of an industry	negative social consequences – short-term (growing unemployment, company bankruptcies, lowering of wages and working conditions in the host country) and long-term (erosion of social standards in home and host countries)

As observed by Vaughan-Whitehead (2003), companies engage in trade and social dumping to gain advantage over other market participants. While the first notion relies on lowering the price of imported goods, the second involves depressing remuneration levels and social standards in manufacturing and service sectors.

As far as actors are concerned, international trade regulations address the dumping activities of companies; anti-dumping procedures, on the other hand, can be initiated by states whose industries have been affected by the dumped imports. In the case of social dumping, companies are the main drivers behind the lowering of social standards too, but dumping practices can indirectly involve a wider circle of actors. First, states may implement regulatory changes and lower the existing social standards in order to attract foreign companies or, alternatively, to dissuade current investors from leaving the country. Secondly, workers may agree to work for less, and thus contribute to their company's dumping strategy. In the latter case, the 'winners' and the 'losers' of social dumping are actually conflated: even though the employees benefit from enhanced business opportunities opened up to their companies, they are placed in the position of accepting lower remuneration levels and/or poorer working conditions.

Finally, in both instances, a particular practice can be regarded as dumping if it inflicts injury (cf. Goodhart 1998). In trade, dumping causes material losses on the side of target countries' producers and their workers; alternatively, it might impede the development of industries manufacturing a particular good. The dumping company suffers some temporary damage to its finances but enjoys a long-term advantage due to its monopoly position which, however, from the economic point of view, is a market failure. In contrast, social dumping has a negative impact on social standards in the 'dumping' and/or 'dumped' actors' location, but might actually be efficient in strictly economic terms unless it leads to the creation of a monopoly. Some of the social dumping-inflicted 'injuries', such as increasing bankruptcy rates or growing unemployment, can be observed over the short term; others, such as the erosion of pay and employment protection systems, can be traced only through a longitudinal analysis. Still, it might be difficult to reconstruct a causal link between these short- and long term developments and a particular dumping practice. In such cases, research has to limit itself to outlining correlations and taking account of broad trends in employment conditions and social protection, this being a serious limitation but one that is difficult to overcome.

Bringing the above elements together, we can define social dumping as

> 'the strategy geared towards the lowering of social standards for the sake of enhanced competitiveness. It is prompted by companies but indirectly involves their employees and/or home and host country governments, and has negative implications in the social sphere'.

This definition states both the *goal* (enhanced competitiveness) of social dumping and the *mechanism* through which it is attained (lowering of social standards). It also points to negative *consequences* of social dumping, and lists *actors* involved in dumping practices (companies, workers and governments). The next section further clarifies the concept by outlining key characteristics of social dumping practices pursued in the area of labour/ service and capital mobility, and presents instances of social dumping derived from the EU context.

2.3 Social dumping in the sphere of labour and capital mobility

Cross-border service provision and the employment of migrant labour belong to particularly social dumping-prone areas. They are often considered equivalent to relocations and outsourcing in the manufacturing sectors, as they too enable companies to cut the costs represented by wages and social contributions (Eichhorst 1998; Menz 2001). An important aspect of labour mobility, however, is that migrant workers and foreign service providers operate on the territory of a single (host) state, within a unitary regulatory environment. The existence of the clear-cut 'social benchmarks', be it in the form of legal regulations or collectively agreed employment provisions, makes it easier to detect social dumping.

Specific social dumping strategies in the area of labour mobility may involve the non-observance of host countries' wage norms by foreign posting firms. In the *Laval* case discussed in section 1.3, the Latvian construction company that delegated its workers to Sweden paid them only a fraction of local wages. When the wage discrepancy issue was taken up by Swedish labour organisations, the firm quickly signed a collective agreement with the Latvian construction union and then argued that could not accept the Swedish unions' demands as it was already bound by wage rates specified in the Latvian deal and which were much lower than those in the neighbouring Nordic state (Lindstrom 2010). Besides wage dumping, companies posting workers or employing migrant labour might generate substantial savings by depressing other employment standards, e.g. by forcing their employees to work unusually long hours (often without extra compensation), introducing wage deductions for tools or charging exceptionally high fees for housing or transport to the workplace. Black employment can be considered an extreme case of dumping, as it places illegally employed workers in a particularly vulnerable position while at the same time negatively affecting the labour market as a whole. According to Menz (2001), during the early-1990s boom in the German construction industry, the illegal employment of workers from other EU countries and the neighbouring transition countries was particularly rampant and led to the creation of a third tier of employees on the country's labour market (after domestic employees and posted workers), which remained difficult to combat and control. Viewing the black market as a threat to their members' business, German construction industry associations, together with IG BAU, the sectoral trade union, urged the government to intensify controls and curb irregularities (IG BAU *et al.* 2000). Yet there is evidence that large building firms from high-standard countries are increasingly seeking to cut costs and circumvent strict domestic regulations (Lillie and Greer 2007). This they do *inter alia* by setting unrealistically low price ceilings for subcontractors, which indirectly stimulates social dumping at the lower levels of the value chain. It is also emblematic that, in the *Laval* case, the Swedish construction industry association supported the Latvian firm, defending its right to provide services at cheaper rates (Lindstrom 2010).

At this point, it is important to point out that an inflow of migrant workers from low-wage countries does not automatically imply social dumping. As rightly noted by Eldring *et al.* (2012) in their review of literature on post-CEE enlargement migration to the UK and Scandinavia, migrants often perform tasks that indigenous workers are not willing to undertake. In addition, their presence enables companies to extend their operations during periods of economic upswing, thereby contributing to the enhanced performance of the host economy as a whole. It is legitimate to speak of social dumping, however, when foreign or local companies employ their workers at conditions inferior to those laid down in the host country's employment regulations or collective agreements. Such firms, and in the short-term their workers, profit from dumping strategies, whereas those adhering to the existing conditions constitute the short-term losers. In the long run, however, dumping practices do not only lead to the erosion of employment protection systems in the host states, but might also hinder the gradual improvement of wages and working conditions in the poorer sending countries.

The assessment of the extent of social dumping in the sphere of capital mobility is much more difficult than in the area of labour and service flows.

This is because a company investing on a cross-border scale enters a new regulatory environment that might differ considerably from that of its home country. As already noted in section 1.4, however, lower labour costs and social standards in the host countries are not synonymous with social dumping; by the same token, firms investing in such settings do not necessary have 'dumping' intentions. For these reasons, potential instances of social dumping related to international capital flows should be examined with particular caution.

Among the most notorious forms of social dumping practice in the area of capital mobility are cost-driven relocations. Galgóczi *et al.* (2007: 503) define these as 'a type of offshoring, i.e. cross-border investment, when economic activities are shifted towards foreign locations'. Clearly not all cases of FDI involve relocations [6]; some have a market-seeking character, while others aim at optimising value-chains by shifting the most labour-intensive operations abroad, which can actually improve the performance of the company as a whole and lead to an increase in employment at the home country location. But if production transfers are motivated mainly by cost considerations and have a 'substitution effect on domestic…employment' (ibid.), they fit the social dumping definition presented in section 2.2: the company improves its competitiveness by lowering employment standards (in this case, by moving production to low-wage countries), with negative implications in the social sphere (growing unemployment at the home country location).[7]

In the European context, a recent restructuring drive in the household appliances industry involved multiple relocations from 'old' EU member states to CEE, post-Soviet states and Asia, with clear, albeit nonlinear, redistribution of employment between high- and low-wage countries (Telljohann 2008). In most cases, transfers were motivated by cost savings, whereas the bulk of sales remained concentrated in Western Europe. Among the biggest 'white goods' producers, Electrolux implemented the most comprehensive restructuring plan. In the second part of the 2000s the company moved entire plants from Western to CEE, ceasing production at its Spanish, Swedish and German locations. In 2006, the announcement of the closure of Electrolux's AEG plant in Nuremberg resulted in a 43-day-long strike and significant local community mobilisation, but the protesters did not succeed in reversing the management's decision (Artus 2006). CEE countries are not always the 'winners' of cost-driven offshoring, however. Meardi (2007) documents instances of relocations from new EU member states, with companies moving to even cheaper locations such as India or

6. The fallacy of treating FDI as synonymous with relocation is not uncommon even among social scientists; see the evidence provided by Vaughan-Whitehead (2003, chapter 8) and Pastore (2007).

7. Still, assessing the social consequences of cost-driven relocations can sometimes be far from clear cut. While workers at the core locations suffer as a result of job reductions, employees at the new site might socially profit from the new investment. In new EU member states, for example, large foreign companies often offer better remuneration and working conditions than domestic enterprises (Bluhm 2001).

Mexico. In this respect, mobile phone producer Nokia can be regarded as an extreme example of a 'footloose', savings-oriented enterprise. In 2008, the firm shut its plant in Bochum, Germany and re-opened it in the Romanian Jucu; only three years later, it decided to move the entire production to even cheaper Moldova (*Romania Business Insider* 2011).

As observed by Pontusson (1992), the mere availability of 'exit' options (i.e. production offshoring) strengthens firms' bargaining position. By evoking relocation threats, companies might induce far-reaching concessions from their employees, making them accept salary cuts and work intensification in exchange for the promise to retain the location. The incidence of such 'corporate blackmailing' was confirmed by a survey among German works councillors, conducted by the German Institute for Social and Economic Research (WSI; Ahlers *et al.* 2007), which showed that wage reductions and working time concessions were more common at companies that merely threatened to relocate than at those which actually transferred production to another plant in Germany or abroad. In the context of US employment relations, Bronfenbrenner (1996) reports that employers often use closure or relocation arguments to prevent the formation of employee representation on their site, and that explicit or even implicit closure threats are associated with lower union election results. Relocation or liquidation threats might be also regarded as a form of social dumping: even though the dangers do not ultimately materialise, they nevertheless enable the employer to depress employment standards and/ or limit union influence at the existing locations.

Furthermore, firms involve their own workers in social dumping practices by playing off local worker representations against each other and making future investments at a given factory conditional upon cost savings exceeding those offered by other units. The mechanism behind such inter-plant 'beauty contests' was presented by Hancké (2000) in his analysis of the late-1990s European car sector:

> 'Management would start by singling out one plant as a pilot bargaining area for changes in working time and work organization. The agreement concluded in this <most favourable> setting (for management) was then, in the next round, presented to every other plant in the company as a minimum standard. These other plants had no alternative but to follow the suit, since they might otherwise find themselves in an unfavourable position in the next round of model planning' (Hancké 2000: 45).

Over time, inter-plant rivalry intensified in other sectors and country settings. Telljohann's (2007) study depicts plant-level union-management pacts in the West European household appliances industry. In the 2002 bargaining round, Bosch workers in the south German town of Giengen agreed to forgo social benefits set beyond the level of the sectoral collective agreement and accepted working time increases without extra compensation in exchange for new product guarantees. In the East-West European context, the Polish GM plant in Gliwice won an intra-company tender and obtained additional production thanks to a concession agreement with the local management, which stipulated a three-year-long wage freeze for all employees and an additional reduction of remuneration levels for newly hired workers (Bernaciak 2010). Even though in most cases the agreements were signed in reaction to company's pressure, the workers involved in concessions were, at least temporarily, 'rewarded' with the new investment or additional capacities. On the flipside, they had to accept wage and social privileges' reductions that would often provoke cuts at other sites.

Finally, companies' quest for cost reduction spurs a 'race to the bottom' in the area of social regulation. National governments that are heavily dependent on capital imports may go to great lengths to lure potential investors, providing necessary infrastructure, improving law enforcement, or even adjusting the country's regulatory framework. Alongside the simplification of legal procedures and the introduction of business-friendly regulations, governments can implement welfare and tax cuts, increase labour market flexibility and set constraints on trade union activity. Measures of the latter kind lead to the decline in social standards and thus can be regarded as social dumping practices pursued by potential host states, sometimes in reaction to explicit pressure from large companies (cf. Kolesar 2006).

FDI-driven rivalry is likely to involve states at comparable levels of development, as shown by Bohle's (2008) analysis of competition over automotive investments between Poland, the Czech Republic, Slovakia and Hungary (also known as the Visegrád states, or V4) in the course of the 2000s. Earlier investment inflows had led to the formation of a car industry cluster cutting across V4's boundaries, and, given the similarity of the countries' endowments, it made little difference to investors on which side of the border a new factory would be eventually located. This strengthened carmakers' bargaining position, forcing Visegrád governments to offer additional incentives to attract the investments. Already in the 1990s, all four states lowered their corporate tax rates, while social security payments and personal income taxes were increased. In 2004, Slovakia opened 'a new round in the tax competition' (Bohle 2008: 33) by introducing a 17% flat rate, which spurred corporate tax reductions not only in the neighbouring CEE countries, but also in Germany and Austria. In addition, in the early 2000s V4 reformed their labour codes and substantially increased labour market flexibility. Hungary was the first to ease employment protection in 2001, and Poland (2002) and Slovakia (2002 and 2003) followed suit. In the welfare area, Slovakia went the furthest in reforming its pension and health care systems and cutting social benefits, which made other Visegrád states reduce public welfare schemes, even if not to the same extent as the 'Tatra tiger'. [8] All in all, V4's competition over FDI led to a 'race to the bottom' in the sphere of employment regulation and welfare protection, whereas tax cuts substantially decreased public revenues. Social and welfare losses inflicted on CEE

8. A popular name given to Slovakia in the 2000s in view of its impressive track record in attracting FDI, inspired by Ireland's 'Celtic tiger' label.

societies were not fully compensated by the incoming investments. While they indeed contributed to job creation, foreign companies would rarely transfer West European employment standards and forms of collective representation to their CEE subsidiaries (Meardi 2012).

Table 2 **Social dumping in the area of labour and capital mobility: a summary**

	Labour and service mobility	Capital mobility	
Type of dumping activity	Provision of services at prices below local rates; employing workers at conditions lower than those stipulated by receiving state's laws or collective agreements	Cost-driven relocation with substitution effect on the core location's employment	Concession bargaining and wage moderation
Regulatory framework	One, that of the receiving state	One or two (depending on whether the relocation takes place on a cross-border scale or within a country)	One (that of the potential host country can be used as a reference point)
Principal actors involved in social dumping	Companies from receiving and sending countries	Companies at the core location	Companies threatening to relocate or playing off individual plant workforces against each other
Secondary actors involved in social dumping	Workers employed by dumping companies	Workers at the new location Host country government adjusting the country's regulations to the needs of (specific) foreign investors	Workers involved in concession bargaining/ wage moderation Government at remaining location seeking to preserve jobs (e.g. by wage subsidies)
Actors directly profiting from dumping	Dumping firms and their employees States 'sending' dumping companies and workers	Firms that relocate Workers at the new location Host country government	Firms threatening to relocate Workers at the remaining site Government in the county whose locations were preserved/ obtained the investment
Short-term negative effects of dumping	Company bankruptcies, growing unemployment in the receiving state Inferior working conditions of workers employed by dumping companies	Unemployment at the core location Depleting of host country government's resources Downward pressure on wages and working conditions at companies that do not relocate	Lowering of wage levels and working conditions at the remaining location Depleting of government's resources in the county whose locations were preserved/ obtained the investment Cost-cutting pressures on companies not involved in concession bargaining
Long-term negative effects of dumping	Erosion of standards in the receiving state Slow improvement of social conditions in the sending state	Erosion of social standards in the core locations	Erosion of social standards in the core locations

The above overview has presented the most pertinent forms of social dumping practices pursued in the area of labour and capital mobility that fit the definition presented in section 2.2. It goes without saying that there are other means through which a company or a factory can outcompete its rivals, which do not necessarily involve depressing wages and social standards.

Investment in skills and new technologies, be it at the regional (cf. Cooke *et al.* 2004) or even plant level (Telljohann 2007), does not only contribute to lowering costs via optimisation of value chains and better work organisation, but can also secure medium- and long-term development of a given location thanks to product upgrading. Alternatively, companies can rely on government grants. Following the oil crisis of the 1970s, the West European automotive industry was one of the biggest beneficiaries of subsidies, obtaining 11 billion ECU in national state aid between 1981 and 1986. With the tightening of the EU's state aid regime, direct payments were replaced by EU regional assistance schemes, but until the mid-1990s, the most industrialised EU members were still able to absorb the bulk of resources earmarked for this purpose. In the late 1990s and early 2000s, public subsidies also became one of the core elements of V4's investment-attraction schemes (Šćepanović 2010). Finally, employment levels and new production might also be secured via political channels. This was a strategy often used during the 2008-2009 crisis, when the gravity of the downturn prompted governments' extraordinary involvement in the economy. German and Belgian unionists at Opel, for instance, sought to minimise the extent of austerity cuts at their plants and thus lobbied their governments in favour of the brand's sale to the Canadian-Russian consortium Magna/ Sberbank, even if this solution was detrimental to factories located in other countries. In the end the sale did not take place, but the unionists' political lobbying was widely viewed as the breach of international labour solidarity (Bernaciak 2011). This last example illustrates that social dumping is not the only competitiveness-enhancing strategy that might be perceived as 'unfair' by other market participants and general public.

3. Conclusions

In 2004 Günther Verheugen, the former EU Enlargement Commissioner who had just taken over the Enterprise and Industry portfolio, called social dumping 'a kind of myth' (*Financial Times* 2004). In this paper, I have challenged this bold statement by showing that social dumping is being pursued by various actors in different institutional contexts and may indeed lead to a decline in social standards. At the same time, I have critically reviewed the various popular understandings of the term: following the plea of Verheugen's colleague Vladimir Špidla, then EU Commissioner Employment, Social Affairs and Equal Opportunities (*Hospodařské Noviny* 2006), I have clarified what can and what cannot be labelled 'social dumping'.

I argued that the notion cannot be merely put down to wage differentials. Such a one-dimensional understanding accompanied recent economic integration projects, often leading to ungrounded accusations formulated by high-standard countries' actors against their counterparts from poorer countries. Moving beyond the simplistic logic, I defined social dumping as a conscious strategy involving the lowering of wage and employment standards, driven by companies seeking to gain a competitive advantage over other market participants, and indirectly involving their workers as well as home and host country governments. I subsequently presented different forms of dumping pursued in the area of capital and labour mobility. Despite the difference in regulatory frameworks, the logic behind dumping practices was the same in these two areas, with companies seeking to improve their competitiveness by depressing social standards, rather than by relying on product innovation or improvements in the spheres of work organisation or production technology. This approach enables cost-driven business relocations and posting companies' attempts to circumvent host country social standards to be treated as twin phenomena, or as two sides of the same 'dumping' coin.

Moreover, I showed that social dumping should not be regarded as the exclusive domain of low-wage countries. Popular discourse usually portrays actors from poorer countries as those 'dumping' on their richer counterparts, but research presented in section 2.3 allows us to qualify this statement. As illustrated by Bohle's (2008) study on V4's rivalry over automotive FDI, and Hancké's (2000) account of the concession spiral involving West European automotive plants, social dumping may emerge also in 'low-low' or 'high-high' wage configurations. One could go even as far as to claim that such homogenous settings are more prone to underbidding strategies, as the in-group similarity of economic and social conditions forces actors eager to outcompete their rivals to offer substantial concessions. Consequently, it might even be the case that the steepest 'race to the bottom' takes place among the most similar players, but this hypothesis needs further empirical testing.

Defining social dumping is a daunting task, as it is difficult to separate positive properties of the term from its normative clout; moreover, the same actors might simultaneously appear as 'winners' and 'victims' of dumping practices. The difficulties notwithstanding, this paper has advanced the scholarly understanding of the phenomenon by exploring the analogy between trade and social dumping and outlining key characteristics of dumping practices in the areas of capital and labour mobility. In the future, it would be interesting to systematically examine specific forms and instances of social dumping, paying special attention to the role of auxiliary actors, i.e. employees and governments, in furthering the cost-cutting agenda. One could also analyse how social dumping pressures are mediated by labour market institutions in different national contexts, and examine home and host country trade unions' responses to dumping threats.

The paper's findings have important implications for future policy debates. First, they warn against oversimplified understanding and rhetorical abuse of the term, and suggest that allegations of social dumping should be supported with reliable and verifiable evidence. Second, they challenge the supposed low-/high-wage country divide, showing that actors from both groupings may well be involved in dumping practices. Finally, they indicate that in both poor and rich countries, there are political and social forces interested in the upward harmonisation of wages and working conditions. As shown by the East-West European protests against the liberal version of the Services Directive, actions against social dumping might involve not only legal restrictions and tougher controls, but also cross-border alliances between labour and social society organisations from 'old' and 'new' EU member states. Rather than stigmatising 'Polish plumbers', therefore, it might be more effective to follow Harribey's (2006) call to help 'plumbers of all countries unite' in their fight against illegal and 'unfair' practices.

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