Public and Private Standards for Food Safety and Food Quality

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Emerging issues in food markets

- Heightened awareness of food safety
- Multiple dimensions of food quality
  - Environmental footprint; organic; animal welfare; origin/source; ‘natural’; GMOs; labour standards ...
- Credence attributes
- Mandatory (public) standards
- Voluntary (private) standards
- Labelling and certification
Research questions

- Public Vs Private standards
- Trade diverting, reducing?
- Trade enhancing?
- Implications for WTO?
- Implications for developing countries?
- Implications for exporters?
Public Standards

- Mandatory (regulatory) standards
  - legal obligation for compliance

- Response to a perceived market failure
  - Negative externalities (food safety)
  - Public goods (environment)
  - Information asymmetry? (labelling)

- Objective (in theory): achieve socially optimal level of food safety, environmental protection
Public Standards – Examples

- **Food safety:** Mandatory HACCP
- **Environment:**
  - Pesticide residue limits;
  - Pollution regulations; waste water treatment
- **Animal welfare:**
  - EU ban on cages for layer hens (2012)
  - Bans on confinement pens for sows (EU, US)
- **Labelling, certification:**
  - Mandatory nutrition labelling;
  - ‘Product of Canada’ labelling rules;
  - National organic standards (EU, US, Canada)
Public Standards – Challenges

- Different countries have different standards (social objectives; priorities; resources)
- Implications for relative competitiveness of imports, exports
- Potential negative trade effects
- Creation of ‘pollution havens’ or ‘low animal welfare’ havens, etc. (Grethe, 2006)
- Pressure to regulate, restrict imports
- Challenges for WTO
What does the WTO have to say?

- **Principle of Non-Discrimination:**
  - *Like products:* cannot discriminate based on process and production methods (PPMs)
  - *National Treatment:* imported products must be treated equally to domestic ‘like products’
  - *Most-Favoured nation:* all foreign like products granted same market access

- E.g. negative labelling of imported pork produced under lower animal welfare standards not allowed

- Default principle unless exceptions agreed to
What does the WTO have to say?

- GATT Article XX: General Exceptions
- Measures permitted that would ‘protect public morals … animal… life or health’ or be ‘relating to the conservation of exhaustible natural resources’ (Grethe, 2006)
- Could the ‘public morals’ argument apply to animal welfare?
- Weaker case; unwelcome precedent?
SPS Agreement

- Permits measures that are "necessary to protect human, animal or plant life and health"
- Based on scientific risk assessment
- Refers to Codex Alimentarius for development of internationally-agreed standards
- Applies only to public (regulatory) standards
Technical barriers: labelling, technical standards, packaging requirements, etc.
Must conform to GATT principle of non-discrimination
Like products should be treated the same
Ambiguous wording regarding legitimacy of process-based regulations
Applies only to public (mandatory) standards
Lessons from experience

- WTO dispute panel rulings:
  - US Shrimp–Turtle case
  - US Tuna–Dolphin case
  - EU Beef Hormone ban
  - EU GMO ban

- Impending issues:
  - C.O.O.L?
  - Animal welfare?

- Meanwhile ...
Proliferation of Private Standards for food safety and quality
Private standards

- Voluntary consensus standards
  - coalitions of firms, industries, may involve government
  - club good?

- Proprietary standards (firms)

- Third party standards
  - NGOs, independent standard-setting bodies
Private standards – Examples

- Consensus standards:
  - Good Agricultural Practices (GAPs)

- **GLOBALGAP (EUREPGAP)**
  - Business-to-business standard
  - Retailer-driven, multiple countries (1997)
  - Food safety, environment, animal welfare, worker health & safety

- **Assured Food Standards**
  - Producer organizations (UK)
  - Red tractor logo (consumer signal)
  - Food safety, animal welfare, environment
Private standards – Examples

- GFSI – Global Food Safety Initiative (Consumer Goods Forum)
- Retailer driven (7): improvements in food safety management systems
- Attempt to consolidate private food safety standards
- Attempt to reduce duplication
- Uses existing private standards:
  - British Retail Consortium (food safety)
  - Safe Quality Foods (SQF)
  - International Food Standards (IFS)
Private standards

- Standard-setting organizations
  - E.g. ISO – International Organization for Standardization

- Proprietary Standards
  - E.g. Nature’s Choice (Tesco PLC)
  - WholeFoods
Private Standards

- Economic functions
  - Product differentiation: communicated to consumers (labelling)
  - Enhance supply chain management
  - Reduce liability

- Role for third party verification (certification) of private standards

- Can be *de facto* mandatory if majority of market adopts
Are private standards trade diverting, reducing?

- Compliance costs can be significant (Henson, 2006)
- Higher burden on exporters from countries with lower public & private standards
- Challenge for exporters from developing countries
- Asset specific investments by suppliers
- Increasing concentration in retail sector: control access to global supply chains
- No mechanism for challenge by trading partners
OR, are private standards trade facilitating?

- Harmonization & mutual recognition occurring faster than with public standards (e.g. GFSI)
- Access to global supply chains across multiple retailers in multiple countries
- Encourages product differentiation and leads to differentiated markets
- Need for empirical work
Developing country implications

- Public and private standards both a challenge
- Costs of compliance
- Capacity for verification, certification, testing
- Discriminatory mandatory public standards could be challenge through WTO mechanisms
- But no jurisdiction over private standards
- Yet private standards can be *de facto* mandatory if a market requirement
Beyond the WTO

- No jurisdiction over private standards
- SPS Agreement: Member States should take ‘reasonable’ measures to ensure that ‘non-governmental entities’ comply with the SPS Agreement
- UK retailers’ requirement for EUREP GAP certification (fruits and vegetables) raised at SPS Committee by Caribbean countries, June 2005 (Henson, 2006)
- ‘Non-governmental entities’ not defined in SPS
- TBT offers clarification? A body with legal power to enforce a technical regulation
Conclusions

- Extension of WTO jurisdiction over private standards hard to envision
- Private standards for food safety and quality likely to gain in importance
- A market response to consumer preferences
- Trade diverting/reducing or enhancing? ➔ A need for empirical work
- Potential public sector role in facilitating voluntary quality verification, certification?
Sources

