

A Trade Regime for Sub-National Exports under the SPS

Laura Loppacher

Estey Centre for Law and Economics in International Trade

William Kerr

University of Saskatchewan and Estey Centre for Law and Economics in International Trade

Richard Barichello

University of British Columbia

Presented at CATPRN Workshop 2006, Wyndham Bristol Place Hotel
Toronto, Ontario, February 11, 2006

Introduction

- What is Regionalization?
- Why is it important?
- How does it fit into WTO rules?
- Current negotiations on regionalization
- Canada's work on regionalization and suggestions for the future

Regionalization

- Creation and recognition of sub-national regions with different disease classifications
- Allows exports from regions within an infected country that can be guaranteed disease free
- Traditionally disease classifications applied to countries as a whole but this may not be optimal
- Applies to plant and animal disease but focus today on animal diseases
 - Same principles apply to both
 - Management of animal diseases is more complex
 - Greater awareness

The importance of regionalization

- Disease presence can justify embargos or restrictions on exports
- This eliminates the social welfare gains of trade
- If disease free areas can be maintained in an infected country, some of the loses associated with the disease can be avoided
- Important for large countries such as Canada that are very export dependent
- Full model available in paper on CATPRN website

Costs and Benefits of Regionalization

■ Benefits

- Regionalization could reduce costs of a foot and mouth disease outbreak in Canada by 45% or up to almost \$21 billion
- Reduces incentive to attempt to conceal a disease outbreak
- Can help limit disease spread through better disease management practices
- Reduced social costs such as stress on farmers
- Possibly reduced government compensation to farmers

Costs and Benefits of Regionalization

■ Costs

- Implementing program takes resources, expertise and time
- Must design compensation programs to prevent smuggling as part of the program
- Depending on scale and location of disease outbreak may not be welfare enhancing

Implications for regionalization systems design

- Price for animals will be higher in the disease-free area
- Even small amounts of smuggling can destroy efforts to regionalize a disease
- Eliminating the economic incentive is of paramount importance
- As infected regions become smaller, costs decrease and benefits increase

Regionalization and International Trade Law

- Trade rules relating to animal and plant diseases are governed by the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)
- Constrains government's ability to enact unjustified safety related trade measures while still allowing them to act as needed to prevent disease spread
- The agreement states Members can apply measures *only to the extent necessary to protect human, animal or plant life or health*
- The concept of sub-national disease zones was enshrined in Article 6 of the SPS Agreement

Negotiations at the WTO

- Despite inclusion in the SPS Agreement, Members of the WTO have had difficulty obtaining recognition of disease-free zones
- Implementation of Article 6 was identified as an issue that required further work in the 1999 review of the SPS Agreement
- Has been an agenda item of every meeting of the SPS Committee since 2003 with almost no progress
- Raises the question: why do countries not trust exporting countries declarations of sub-national disease free zones when they trust them for national disease management?

SPS Committee Work

- To explore the issue, countries were asked to provide their experience with regionalization
- The EU and South American countries were the most active contributors highlighting the difficulties they have encountered when trying to obtain recognition
- Lack of administrative guidelines was identified as the biggest problem
- Negotiations have centred on whether or not administrative guidelines should be created at the SPS Committee or the relevant expert bodies (OIE and IPPC)

SPS Committee Work

- Canada and US favour work to be done at OIE and IPPC
 - Argue work at the SPS committee would be duplication of effort and disadvantage developing countries with limited capacity to negotiate at OIE/IPPC and WTO
- Latin American countries favour having work done at WTO SPS Committee
 - Argue technical guidelines should be left to OIE/IPPC but the problem with regionalization is lack of administrative guidelines which the WTO is most adept at creating and would not be duplication of effort

Canada's experience with regionalization

- Has recognized other countries' work
 - US – biggest program is for anaplasmosis brucellosis and bluetongue – Canada recognized as free of these diseases while US is not but allows imports from some Northwestern states and Hawaii
 - Also recognized US avian flu free areas to allow poultry imports, pseudorabies free areas to allow swine imports
 - Mexico – allow imports from Sonora which is recognized as free from Classical Swine Fever
- Complaints from other countries for lack of recognition such as Argentina with respect to foot and mouth disease

Zoning in Canada

- Canadian Food Inspection Agency (CFIA) wants to use zoning as a 'fallback strategy'
- Have utilized it for bluetongue in the Okanogan Valley, avian flu in BC and brucellosis in the 1980s
- Current work approximately begun in 2000 focuses on utilizing regionalization in the event of a foot and mouth disease outbreak

CFIA Plans

- CFIA has recognized several deficiencies if regionalization was to be attempted
 - National retrospective traceability
 - Movement controls on animals, vehicles and people
 - Slaughter capacity within a zone
- In 2001 a delegation traveled to Belgium, the Netherlands and the EU to learn from their experience
- Planning on implementing regionalization as a post-outbreak strategy
 - Reduces costs from unnecessary constraints before an outbreak
 - May hinder obtaining recognition of zone by trading partners following an outbreak

Creating control points

- CFIA has not addressed the issue of removing the economic incentive to move animals from infected areas to disease free areas
- As such, they have focused on creating control points at possible zone borders
 - Primarily examined provincial borders to use as zone borders
- Two major implications of this approach:
 - 1) Zones will be unnecessarily large from a disease management perspective
 - 2) Some of the most economically beneficial zones will be forgone because implementing sufficient control points is not feasible

Creating zones through control points: West Hawk Lake

- Only 1 primary or secondary road crossing Manitoba-Ontario border – at West Hawk Lake
- CFIA has identified this as the best place to divide the country into zones and implement a control point
- Advantages
 - Almost all cattle currently crosses Manitoba-Ontario border at this point
 - Desolate geography for 200 km radius with no livestock herds
 - Some existing infrastructure
- Disadvantages
 - No scientific justification for this division point
 - Does not address other forms of transportation (eg: rail)
 - **80% of Canada's cattle population is west of the border** – severely limits benefits if disease outbreak occurs in the western zone

Deficiencies in plans

- Greater delimitation of zones may be necessary to realize and real disease management and economic benefits
- No policies created to address the incentive to smuggle
- FAO states
 - Failure to pay adequate and timely compensation will seriously compromise [foot and mouth disease] eradication campaigns by causing resentment in communities and a lack of cooperation and will act as a spur for the illegal smuggling and clandestine sale of animals from infected areas to avoid losses
- Implementing post-outbreak may lead to trading partners not trusting controls until time passes to prove effectiveness

Recommendations for Canada

- So far, a good start to examining the issue
- However, much more work needed
 - Traceability needs to continue to be improved
 - More zones (and therefore control points) will be needed in a major disease outbreak
 - Must eliminate incentive to smuggle through well designed compensation packages
 - This plans need to be clearly communicated to industry to reduce chance of pre-emptive movement of animals when rumors of a disease outbreak spread before controls are enacted
- At the WTO: Canada opposes creating administrative guidelines at the WTO – should reconsider position
- When evaluating other countries regionalization, CFIA should formally incorporate incentive to smuggle into their risk assessments to control spread of disease into Canada
- Lesson from BSE: need to be continually asking “What if...?”

Thank you

Questions?