

The Impact of Environmental Policies on Dairy Trade

Regulatory trends affecting trade in food and agriculture – the rise of environmental regulation

Environmental regulation of food trade

...Drivers of trends

The main driver of emerging regulatory trends is the European Union (EU). In recent years it has been seeking to regulate food and agriculture for not only health and safety reasons but also to serve broader environmental goals.

...Environmental restrictions on food trade

The increased use of environmental regulations has led to pressures for new trade restrictions based on environmental grounds. A major push is now underway. Measures generally restrict trade by conditioning market access on adherence to environmental standards. They include restrictions based on the precautionary principle (**NFTC 2003**), restrictions on the basis of how products are made (according to their process and production methods or 'ppms') and also restrictions based on standards that are more stringent than internationally agreed or accepted levels. Further trade restrictions to address environmental concerns have been imposed under multilateral environment agreements (MEAs).

...The World Trade Organisation and environmental trade restrictions

There are potential conflicts between environmental policies which restrict trade and World Trade Organisation (WTO) rules. The WTO trading system is based on the notion that predictable and clearly defined international standards, grounded in sound science and adopted by recognised international bodies, is the preferred platform from which to facilitate increased cross-border and international trade flows (**NFTC 2003**). There is some scope to restrict trade for environmental reasons, provided that measures meet certain requirements ensuring that they do not unduly restrict trade. Such measures are governed by the WTO Agreement on Sanitary and Phytosanitary Measures (SPS), the Agreement on Technical Barriers to Trade (TBT) and the General Agreement on Tariffs and Trade (GATT).

...The EU itself has recognised the potential conflict between environmental regulations that restrict trade and WTO rules. It proposed several years ago that the WTO be amended to legitimise trade measures in environmental agreements, recognise the precautionary principle and permit trade restrictions based on ppms such as what cattle are fed (as opposed to the physical characteristics of the meat). Following strong opposition from most WTO members at the Cancun Ministerial in September 2003, the EU announced that it would cease proposing changes to WTO rules and would instead pursue its goals by

“political” means (EC 2003). This includes pursuing environmental policies in bilateral and regional trade agreements, presumably inviting countries to adopt preferred environmental policies in return for preferential market access. It has already done so in the Cotonou Agreement with African and Caribbean countries (NFTC 2003) and there are indications it may also adopt this approach in trade agreements with Asian countries (EC 2003 COM 399/4). The EU is also likely to seek to legitimise environmental trade restrictions outside the WTO through other MEAs (NFTC 2003), and continue to press for development and acceptance of precaution, traceability and labeling for biotech products in international standards forums such as Codex.

...**References**

...**National Foreign Trade Council (NFTC) (2003) *EU Regulation, Standardization and the Precautionary Principle: The Art of Crafting a Three-Dimensional Trade Strategy that Ignores Sound Science*, National Foreign Trade Council Inc, Washington, at 4,11,36,43,45,47 and 54.**

National Foreign Trade Council (2003) *Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science*, National Foreign Trade Council, Washington, at 3.