

EMERGING ISSUES AFFECTING TRADE POLICY: Labeling as a Technical Barrier to Trade

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Labels and Food Products

Nutrition Facts	
Serving Size 1 medium banana (126g)	
Amount Per Serving	
Calories 110	Calories from Fat 0
%	
Daily Value*	
Total Fat 0g	0%
Saturated Fat 0g	0%
Cholesterol 0mg	0%
Sodium 0mg	0%
Total Carbohydrate 29g	10%
Dietary Fiber 4g	16%
Sugars 21g	
Protein 1g	
Vitamin A 0%	• Vitamin C 15%
Calcium 0%	• Iron 2%

- Should convey essential information related to product attributes such as:
 - Health (nutrition)
 - Safety (allergens)
 - Quality (brands)
- Sacred space
 - Mandatory requirements must be reserved for legitimate goals

Trade and Mandatory Labeling

- What is the problem:
 - Technical barrier to trade
 - Perceived as soft regulation, but often lead to more distortion and trade diversion than regulations
 - Often used to justify social concerns with real trade impacts
 - Often not based on sound science and often do not meet stated objective
 - Dilutes essential consumer information related to health or safety



Overview

- What is driving this trend?
- What is happening in international institutions
- What can be done to address the problem in the future

What is Driving this Trend?

- EU Domestic policies
 - Food safety scares (BSE, Foot and Mouth, Dioxin)
 - Have increased political power of NGOs
 - Labeling mandates passed as a response to consumer pressures
 - Relate more to social concerns with a deference to risk free regulation over science based risk management procedures
- Success of SPS disciplines
 - Harder to ban products outright because of social concerns

Example: “Happy Chickens” WTO TBT Notification

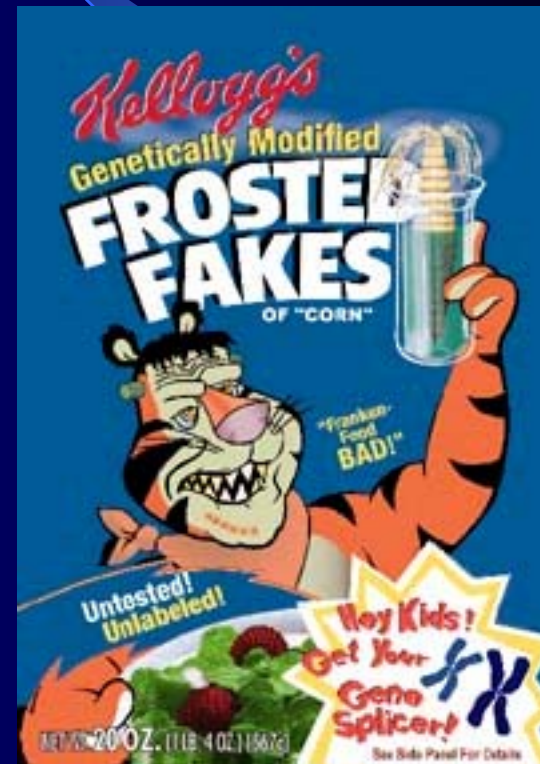
Objective and rationale, including the nature of urgent problems where applicable:

(a) Type of farming: The method by which hens are farmed has become a **major factor for consumers when purchasing eggs**. To indicate the farming method on eggs and packs should therefore be made compulsory so that consumers are not liable to be misled. To that end, only clear and unambiguous compulsory labelling can ensure that the consumer can make an informed choice between the various classes of egg on the basis of the farming method. **Appropriate compulsory labelling is in line with the wishes expressed by consumers and consumer organizations.**



Example: Biotech Labeling

- Consumer right to know
 - Mandatory processed based labeling
 - Perceived as a warning label
 - Inappropriate forum for risk communication
 - Restricts trade by discriminating against like products



Results

- All consumers and manufactures pay cost of perceived social benefit
- Result:
 - Less consumer choice and increased cost
 - Trend toward label clutter and away from vital and essential consumer information related to health and safety
 - Market fragmentation and trade distortion through loss of economies of scale



The Right Way to Provide Consumer Information

- Voluntary Standards
 - Market based approach
 - Consumers who want particular qualities pay for those attributes
 - Allows for niche markets to develop
 - Allows for future harmonization of voluntary standards and less trade disruption



International Institutions: Codex Alimentarius

International Standard Setting Forum for Agri-food Trade

- Facilitate Fair Trade
- Protect Consumer Health & Safety
- Standards based upon Science

Reference for WTO SPS Agreement

- Adoption of Codex standards may inoculate countries from WTO challenges
- Much more of a political negotiating forum as a result



EU Actions in Codex

- Recent trend away from sound science toward consumer interests
 - “other legitimate factors”
 - “precaution”
- Possibly looking to insulate EU domestic regulations from WTO challenge
- Externalizing domestic regulatory difficulties where Commission competence is limited (food safety)

Labeling in Codex

- Codex Committee on Food Labeling (CCFL)
 - Mandatory labeling of biotech products
 - Country of origin labeling for ingredients
 - Quantitative ingredient labeling
- Outside mandate of Codex
 - Harms countries with no regulatory infrastructure that rely on science-based standards
 - Dilutes essential function of labels



International Institutions: World Trade Organization

- Codex activity on labeling may be contrary to WTO rules on Technical Barriers to Trade (TBT)
- Labeling is a form of technical regulation
 - Art. 2.2 “No more trade restrictive than necessary to meet a legitimate objective
 - Voluntary labeling (like organic in US) could inform consumers while letting market work effectively
 - Art. 2.8 Clear preference for regulation of end product over process or production method



How to Address These Issues

➤ Codex

- Return to original Codex mandate to protect consumers and facilitate trade
- Increase awareness and outreach to countries that have not historically participated in Codex process

➤ WTO

- Enhance WTO work on labeling issues
 - TBT discussions
 - CTE discussions
- Should lead to better understanding of WTO disciplines and identify where perhaps more strict disciplines are needed



How to Address These Issues

- Bilateral Free Trade Agreements
 - Strengthen TBT disciplines
 - Enhance justification
 - Increase bias against processed based labeling



Conclusions

- Need to recognize that mandatory labeling requirements can lead to technical barriers to trade
- Need to emphasize good regulatory practices towards labeling policy
- Need to strengthen trade rules that govern labeling policies