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**Food Sustainability through Sustainable Trade Relations?**

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Sustainable Development Lens on Agricultural Trade

Leverage to unlock agricultural trade agenda?
SDG 2 \(\infty\) AGRICULTURAL TRADE RULES

2 Zero hunger
End hunger, achieve food security and improved nutrition and promote sustainable agriculture

WTO-Preamble: «while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development»

AoA-Preamble: «having regard to non-trade concerns, including food security and the need to protect the environment»
REFLECTED AT THE DOMESTIC LEVEL

e.g.

Swiss Constitution

Art. 104a «Food Security» lit d: «trade relations that contribute to the sustainable development of the agriculture and the food sector»

Bolivian Constitution

Art. 255ll «negotiations [...] of international treaties must be in accordance with principles of [...] harmony with nature, defence of biodiversity [...] food security and food sovereignty for the whole population [...] etc»
How?
Background

Trade towards sustainability objectives, principled approach, managed trade etc
Bürgi Bonanomi E, Jacobi J, Scharrer B, Food Sustainability in Bolivia through Fair Food in Switzerland? How to Improve Food Sustainability in Both Countries Through Sustainable Trade Relations (Latam forthcoming 2018).

Normative Benchmarks
Agricultural trade to foster sustainable, resilient food systems ‘do’:

- uphold peoples right to food, including access to water
- sustainable use of biodiversity
- employ low-emission, soil protecting production methods
- use water sparingly
- distribute resources equitably and non-discriminatory (including access and remuneration)
- strengthen cultural diversity
IN ADDITION:
KEY ELEMENTS EMERGED FROM DEBATE OF SUSTAINABILITY AND TRADE

Sustainable Solutions should be:

- context appropriate
- result from participatory processes of negotiation

Take global perspective

- Sustainable food systems in the global South are contingent upon sustainable food systems in the global North, and vice versa

Diversity as a core guiding principle

- as opposite to homogeneity: diversity in food systems results in diversity of food, production/processing methods, working/ownership forms etc
How to create efficient markets for such food systems?

resp

How to ensure that Agricultural Trade regulation provide for an enabling environment?

(tariffs, subsidies, standards, IP etc)
‘OPTIMAL’ SOLUTION SOMEWHERE ‘IN BETWEEN’

Take a step back from technicalities

Sustainable agricultural trade rules should

A Discipline policy space, particularly for OECD countries
B Enable necessary policy space
C Underpin domestic governance with sustainability standards
D ‘Paket approach’: carefully balance multidimensional interests
FAIR FOOD CONCEPT: IMPROVE MARKETS FOR SUSTAINABLY PRODUCED FOOD

In developing countries

lack of remunerative markets as THE key issue

e.g. Resilience Paper of Jacobi et al, s. Slide 8, rel to Kenya and Bolivia

dual market system: agrodiverse production competing with agroindustrial production focusing on commodity export

local market ∞ access to international market to a certain degree: eg. Quinoa
FAIR FOOD CONCEPT: IMPROVE MARKETS FOR SUSTAINABLY PRODUCED FOOD

In rich countries

- Increased demand
- for food diversity
- for ‘doing good’
- for local ‘and’..

Growing awareness that domestic production too intensive and ecologically damaging
ENTANGLE?
Strengthen Sustainable Food Markets:
Role of the Public Sector?
CONCEPT OF SHARED RESPONSIBILITY AS REFLECTED IN SDGS

Consumers / Citizens

&

Private Economic Actors

&

Public Sector, at different levels of governance
  - domestic
  - regional
  - international
PRODUCT DIFFERENTIATION BY THE STATE

Distinguish between sustainably and non-sustainably produced Food?
Recently e.g. promoted by the Swiss Fair Food Initiative (rejected 23 Sept 2018)

- Tariff preferences
- Part of (increased) import quotas
- Offtake agreements with processing industry and retail business etc

Based on sustainability criteria
PRODUCT DIFFERENTIATION BY THE STATE

Already existing

- Public procurement schemes
- Some products: agrofuels (EU Biofuel Directive), timber (EU EUTRM)
- Climate policy/ green economy: commodity extraction, some attempts
- Organic agriculture and subsidies (see eg. Swiss organic regulation)
- Palmoil and trade agreements: in discussion

Challenge: how to avoid protectionist drift?
Product Differentation by the State as a PPM
(‘processes and production methods’)
DYNAMIC WTO JURISPRUDENCE ON PPMS

- diverse and has become more nuanced in recent years
- implying some legal uncertainty
- political orientation of the WTO is gradually shifting towards greater awareness of sustainability concerns.
DYNAMIC WTO JURISPRUDENCE ON PPMS

In general

- whether a public «sustainability measure» is compatible with WTO law can only be assessed on a case by case basis
- Art. XX GATT: Certain scope of discretion
- evt also through the notion of like products
DYNAMIC WTO JURISPRUDENCE ON PPMS

General requirements

- **protect relevant public interests**

- **proportional** (e.g. Coea-Beef 2001; US-Gambling 2007; Brazil-Retreaded Tyres; EU-Seals 2014)

- **non-discriminatory** (EU-Shrimps 1998, EU-Seals 2014)

- **reference to international norms and standards**, international engagement (s. EU-Shrimp: «basic fairness and due process»)

- **Consistency**: also towards inside
Product Differentiation by the public sector: Which level of governance?
GOVERNANCE LEVELS FOR PRODUCT DIFFERENTIATION

WTO?
Role to define principles of context adapted, non-discriminatory and effective sustainability criteria derived from international standard setting?

More realistic:
Domestic ‘bottom up’ processes
- Bilateral and plurilateral trade agreements
- Unilateral measures
  trial and error
Inclusive, development friendly product differentiation?
INCLUSIVE PRODUCT DIFFERENTIATION:
AN ENABLING ENVIRONMENT FOR ALREADY EXISTING INITIATIVES

See eg.

the emergence of Participatory Guarantee Systems (PGS) in many developing countries

- to promote environmentally and socially sound agricultural production
- bottom up processes
- inclusive
- Context adapted
INCLUSIVE PRODUCT DIFFERENTIATION: AN ENABLING ENVIRONMENT FOR ALREADY EXISTING INITIATIVES

E.g.

FAO /INRA, Innovative Markets for Sustainable Agriculture, How innovations in market institutions encourage sustainable agriculture in developing countries, 2016

Examples of

Indonesia, Namibia, Thailand, Trinidad, Uganda, Benin, Bolivia, Tanzania
Product Differentiation in Practice?
PRODUCT DIFFERENTIATION IN PRACTICE

Simplest and most accepted way: in BTAs /PTAs / Partnership Agreements

Unilateral:

- List basic sustainability criteria, derived from international agreements/agenda
  - Include procedural and equity requirements
  - Lower requirements if lower development: «sustainable by default»

- Provide accreditation procedure for certification

- Positive list: benefit of improved market access: public procurement, import quotas for processed products / recognition of equivalence of standards
Consistent application of sustainability criteria to domestic agricultural policy

Less resource and capital intensive
Processing industry less ‘rent seeking’

Focus more on locally adapted manner of production

Produce less to a certain degree (gradually)

Import more processed and sustainably produced food (from DCs?)
BEYOND «EITHER OR»: «IN BETWEEN»
Thank you for your attention