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“Standards, Labelling and Certification”

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COSBEY, A. “*Trade and Climate Change: Issues in Perspective*”, Copenhagen Conference Summary, IISD, October 2008

KEY ISSUES

- This paper looks at two kinds of standards and labels relevant to climate change and trade: product standards and labels, and those based on processes and production methods (PPMs).
- Product standards and labels, both voluntary and mandatory, are widely used around the world to address market information failures, principal agent problems and other barriers to dissemination of high efficiency products.
- These instruments have a huge potential for reducing energy use and thereby addressing climate change. The ongoing mandatory switch to compact fluorescent lighting in a handful of countries will eventually reduce more GHG emissions than the entire current roster of CDM projects. Moreover, these kinds of emission reductions stand out as highly cost effective, most having negative overall costs from a life-cycle perspective.
- Trade policy-makers should treat these instruments with deference, and not automatically assume that they are unnecessary barriers to trade. Moreover, there is considerable scope for both facilitating trade and benefiting the environment by harmonizing measurement, testing, certification and accreditation procedures internationally.
- Standards and labels based on PPMs (both voluntary and mandatory) are increasingly being considered or implemented as tools to address climate change, since the way in which goods are produced can have widely varying climate change impacts. They are typically intended to inform consumers and influence their behaviour, but can also address carbon leakage, or the potential loss of competitiveness.

- Such measures have been controversial in the WTO context. PPM-based standards are typically (but not exclusively) levied by Northern importers against Southern exports, may involve costly changes to production processes, and may provide scope for protectionism. In all of these facets, however, they are not fundamentally different from product standards.
- PPM-based standards do, however, have a different history under trade law from product-based standards, a key question being whether governments may distinguish between products based on how they were produced. Case law on GATT’s general exceptions has cleared the way for PPM-based standards, but with a number of ancillary requirements to reduce the scope for protectionism.

INTRODUCTION

This chapter looks at two types of standards: product standards that describe a good’s characteristics, such as energy efficiency; and standards that describe how a good was made, based on processes and production methods (PPMs), such as carbon-intensity for manufacturing. For both types, the paper asks how they might be better used to aid efforts to address climate change, and what types of obstacles might need to be considered. In the area of process standards, the obstacles that trade policy might address are primarily challenges of international cooperation. In the area of PPM-based standards, in addition to the lack of international cooperation, the obstacles also relate to international trade law. (...)

CONCLUSIONS AND RESEARCH AGENDA

A major problem for exporters is the lack of comprehensive information on the type of standards and regulations applicable to their products and, increasingly, to the methods used in their production.

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This problem is particularly acute for developing country exporters, as it is often difficult for them to obtain necessary information.

Transparency and notification of standards and other measures (product-related or PPM-based) are therefore essential for assisting developing countries to comply with new standards and retain or gain market access. Both the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and the TBT Agreement contain transparency-related obligations. However, experience indicates that the notification process has been insufficient for assisting developing countries to identify and understand SPS and TBT measures affecting their exports. Some advances have been made in this respect in the context of special and differential treatment discussions. In November 2004, WTO Members adopted a decision on a procedure to ensure that the importing Member consults with any developing country Member that has expressed a concern regarding the potential effect of a newly proposed or modified SPS measure. Similar approaches could be adopted with respect to other types of measures.

Another problem relates to the fact that, even where environmental and health measures are transparent and developing countries have access to all necessary information, countries may still face problems adapting their exports to new requirements. WTO Members should therefore provide developing countries (especially least-developed countries) with the necessary financial and technical assistance to enable them to effectively respond to the introduction of climate-related standards and measures (both product related or PPM-based). In large part this is in line with the obligations Members have towards developing country Members under Article 11 of the TBT Agreement. It is also worth considering whether this type of capacity assistance might be provided under the auspices of the UNFCCC.

Propounding and promoting international standards and labels (mandatory or voluntary) should be done with the involvement of a wide array of stakeholders in order to ensure that the standards do not unintentionally discriminate against some producers. Assisting the participation of developing countries or their producers in elaborating those standards will be essential. In line with WTO case law and as with any domestic standard, international standards should be flexible, and should allow different approaches to achieve the same goal.

A number of studies point to the difficulties faced by exporters—especially from developing countries and especially SMEs—dealing with non-harmonized international standards, and this paper points to ways they could be harmonized so as to both facilitate trade and benefit the environment. That said, such efforts will be difficult, and harmonization should not come at the expense of flexibility for ambition by individual states. Harmonization of methodologies is another

question and it might prove valuable, for example, to establish common boundary, data and measurement conventions in measuring the embodied carbon in the labelling of goods.

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