

Environmental Requirements and Market-Access: Lessons from the Case Studies

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Trade & Environment in the OECD

- Joint Working Party on Trade and Environment: international group since 1992 where environment & trade policy ministries meet on an equal footing
 - 30 OECD Members and European Commission
 - Brazil and Hong Kong, China are observers
 - Co-operation with ca. 50 non-Members
 - UNCTAD, UNEP, WTO & NACEC are observers
 - Regular consultations with NGOs

Trade & Environment in the OECD

JWPTE embarked in 2001 on a project on environmental requirements and market access for developing countries in 3 phases :

- A) 20 case studies studying origin of specific env'tl measure, trade difficulties which arose and reactions of various actors – producer/exporter, importer as well as governments.
- B) Workshop in New Delhi, organised in collaboration with UNCTAD and Indian government, to exchange experiences using both OECD and UNCTAD cases.
- C) “Lessons learned” paper on basis of case studies and workshop to study practical tools in place or under development to address various aspects of problems.

Outline of “Lessons Learned” paper

- I. Concerns of developing countries
- II. Responses
 - A. Access to information
 - B. Capacity building and support for research
 - C. Development of regulations and standards
 - D. Implementation and review

I. Concerns of developing countries

International standards do not exist for many environmental and SPS requirements

- *Pesticides in tea*
 - Germany set MRLs equal to the limit of detection. Indian growers argued they could meet US-EPA standards, which were based on risk analysis and good agricultural practice
- *Formaldehyde in textiles*
 - Japanese and EU Member State regulations differ; Dutch are easiest to meet if label says simply “wash once before using”
- *Cadmium in plastics*
 - EU & US regulations differ significantly



Requirements are often tied to new technology

Aromatic amines in textiles

- Residues of certain azo dyes were found to be cancerous; banned by Germany and eventually EU. Developing countries noted that these were no longer covered by patents, while substitutes were.



IFCO returnable packaging initiative

- Retailers in Europe, in responding to new limits on packaging, adopted a proprietary standard for crates used for transporting fruits and vegetables, essentially compelling exporters to Europe to participate in the scheme.



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The standard may be inappropriate to the ecology of the producing area

Turtle excluder devices (TEDs)

- U.S. law effectively required use of TEDs by exporters of shrimp from waters where sea turtles are found. But U.S. designs were not appropriate for conditions faced by Costa Rican shrimp fishers.



Standards for sustainable harvesting of fish

- Private standard was initially more suitable to situations in northern waters than tropical waters

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The exporter has difficulty obtaining information on the regulation or standard



Limits on pesticide residues in snow peas

- Guatemalan farmers, encouraged to grow the crop, were unaware of import tolerances for pesticides in U.S. market.

Limits on chemical residues in leather goods

- Small and medium-sized producers in Africa and south Asia had hard time understanding the multiple MRLs established for chemicals used in tanning process



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The exporter has inadequate means for adjusting to the environmental requirement



Aromatic amines in textiles

- Exporters encountered difficulty in obtaining substitute inputs, implementing alternative production technologies, measuring residues

Phytosanitary measures for durian

- Procedures for demonstrating compliance are rigorous and costly

Organic standards; standards for "green" tourism

- Costs of obtaining certification are often several thousand dollars; pool of certifiers is small

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II. Responses

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A. Improve access to information



Improving information on the regulation or standard

- Seminars to explain regulations (such as on aromatic amines, cadmium and formaldehyde limits)
- Dutch CBI database on European env'tl requirements
- Sustainable Trade and Innovation Centre (STIC)
- UNCTAD initiatives, including Consultative Task Force on Environmental Requirements and Developing Country Market Access
- Inmetro has developed an early warning system

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B. Build capacity and support research



- Helping the exporter adjust to the environmental requirement.
 - The U.S. Government set up a joint research effort in Guatemala to help growers of snow peas to adopt integrated pest management techniques.
 - The Montreal Protocol, which requires parties to phase out the use of methyl bromide, provided money for research into alternatives.

C. Develop regulations and standards with developing countries in mind



At the national level:

- Build in flexibility (e.g. Dutch regulations on formaldehyde). It reduces the cost of attaining a particular environmental outcome.
- Consult with producers and involve them in the development process (e.g. Flower campaign). It encourages buy-in.
- Carry out *ex ante* analyses of possible impacts of major regulations (e.g. EU azo dye regulations). It helps to identify transition problems and technical assistance needs.

C. Develop regulations and standards with developing countries in mind



At the national level:

- Notify other countries as early as possible (e.g., proposed Dutch labels for wood products). It helps avoid mistakes.
- Use Regulatory Impact Assessments (RIAs) as a flexible tool before implementation and in regulatory reform, to assess effects of standards on trade and investment (Canada reviewed its regulations before entry into force of the TBT Agreement.)

C. Develop regulations and standards with developing countries in mind



At the international level:

- Work to develop international standards where none exist
 - The FAO is now working with producers to develop international standards for pesticide residues in tea
- Ensure standards are appropriate to local conditions
 - The Marine Stewardship Council is working with developing countries to adapt standard to their special conditions; US Government eventually allowed Costa Rica to propose alternative design for TED

D. Implementation and review



- Consider delaying implementation
 - Germany delayed implementation of azo-dye regulations by one year
- Facilitate recognition of other countries' regulations and standards as equivalent
 - Japan recognises US and European organic standards as equivalent

D. Implementation and review



- Facilitate mutual recognition of other countries' or organisations' conformity assessment procedures
 - Japanese organic certifiers have established "trust agreements" with Chinese certifiers
- Carry out periodic reviews
 - Australia built in a review of its phytosanitary protocol for imported fresh durian fruit

D. Implementation and review



- Other examples of making conformity assessment procedures less burdensome and costly:
 - The Marine Stewardship Council (MSC) working with charitable foundations to help fund necessary data collection in developing-country fisheries
 - Green Globe developed “community certification” and reduced its fees
 - International Task Force on Harmonization and Equivalence in Organic Agriculture is developing other models, i.a. a multilateral one, on conformity assessment with a view to promoting trade in organics.

References

- *Case studies* :
 - COM/ENV/TD (2002)86/FINAL
- “*Lessons learned*” paper :
 - COM/ENV/TD(2003)33/FINAL

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