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The Universe of Standards: Legitimate Protection, Sophisticated Protectionism, or Potential Development Opportunity?

Report of the session
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Abstract: The proliferation of public and private standards has intensified over the last decades. Given that this process has occurred in parallel with the reduction of traditional trade restrictions, such as tariffs and quotas, standards are commonly referred to as a new form of Non-Tariff Barriers (NTBs). However, the assessment of whether standards constitute an obstacle to or leverage for trade is much more complex and difficult; it depends on various factors, such as their organization, specifications and implementation, as well as the perspective of actors. This shows the need for a more differentiated view on the diversity of standards and their impacts.

Against this background, the three main objectives of the session were:

- (i) to broaden awareness of and to increase transparency on the universe of standards and their growing importance for international trade;
- (ii) to depoliticize the debate on standards and to allow for a more objective view on the issue, juxtaposing potential costs and benefits that arise from the implementation of standards; and
- (iii) to present good practices on how the application of standards works on the ground and on how they can be transformed into potential export and development opportunities for Small and Medium-Sized Enterprises (SMEs) in developing countries, based on empirical evidence.

The following four conclusions were drawn:

First, trade models need to be improved in order to allow a more accurate assessment of the positive and negative implications of standards.

Second, transparency of standards should be enhanced. Their certification and verification systems should be harmonized and streamlined to reduce costs and scale up impacts.

Third, a broader discussion is needed on the controversial relationship between public and private standards. This is particularly relevant, because private standards increasingly influence international trade, but are not tackled explicitly at the World Trade Organization (WTO).

Finally, the role of international and regional organizations, national institutions, as well as private companies and civil society actors in standard-setting and enforcement should be redefined to enhance the legitimacy and efficiency of standards systems.

1. Presentations by the Panellists

(a) Steffen Grammling, Program Officer (Trade and Development), Friedrich-Ebert-Stiftung (FES), Geneva Office

Mr Grammling, the session's moderator, pointed out that standards are commonly referred to as barriers to trade. Producers from developing countries raise concerns over the demanding standards that are required to export to developed countries' markets. On the other hand, there is the legitimate interest of governments to protect human, animal and plant life, and health in their countries. In this regard, standards are considered one of the most effective instruments. If their conditions are too strict, however, they become obstacles to trade; sometimes even a disguised form of protectionism.

The WTO sets out general rules for product standards, specifically in the Agreements on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) Measures. But the universe of standards is much broader and much more complex. It can be subdivided into the categories of *obligatory* and *voluntary*, as well as *public* and *private* standards. Whether they are perceived as an obstacle to or leverage for international trade depends on the perspective of actors, be they the private sector, civil society, or governments; be they producers or consumers; or be they exporters or importers. The standpoint also differs widely between developed and developing countries. Although voluntary standards, such as Fair Trade, are still a niche market, their importance has increased quickly and they offer new export and development potentials.

(b) Dr Johan Swinnen, Professor and Director, LICOS, Centre for Institutions and Economic Performance, Catholic University of Leuven

Dr Swinnen focused in his presentation on the following five points: First, he noted that in the past few years the importance of standards for trade has been growing tremendously. In Europe, the agricultural and food crisis at the end of the last century triggered the adoption of various regulations, such as the European Union (EU) Food Safety Law of 2002. Moreover, private actors have introduced different standards, which regulate the way they source their products.

Second, he stated that the impact of standards on developing and emerging countries comes through two channels: On the one hand, private companies have increased their foreign direct investment in developing countries. On the other hand, standards are becoming more important for developing countries and emerging economies due to their growing role in international trade. In this regard, the fulfillment of various standards and regulations is a necessary condition for exporters.

Third, Dr Swinnen discussed the relationship between public and private standards. Companies introduce private standards to govern business transactions and to lower transaction costs. Private standards also help companies to profile themselves and to distinguish their products from others. From an international trade perspective, private standards in principle do not fall under the mandate of the WTO. However, this argument may be contested in the future as many private standards include reference to or aspects of public regulations. There are also other complexities in distinguishing private from public standards: If retail companies, for example, dominate around 80 per cent of EU's trade in fresh products, their standards may become *de facto* public standards.

Fourth, concerning conceptual issues, Dr Swinnen pointed at the difficulty of modeling welfare effects. He argued that, in conventional trade theory, standards are typically modeled as trade barriers, which ignores two crucial facts: On the one hand, private companies apply standards also in their non-trade activities to reduce information asymmetries, which is welfare enhancing. On the other hand, standards can reduce transaction costs among businesses. If these two factors are included in a trade model, the welfare

effects are much more difficult to assess given the existing trade-offs. This also complicates the assessment on when standards are optimal or suboptimal and could lead to "over-standardization" and "under-standardization".

Fifth, Dr Swinnen stated that the vast majority of models used for empirical evidence also suffer from methodological problems. This makes their results highly questionable. Most of the early studies found that standards were too costly for many developing countries, that poor producers would lose out, and that international trading companies would take out all the rents of the system. Recent studies, however, found that compliance costs would be rather modest compared to the value of export benefits.

New models with better methodology show that rural areas in developing countries can actually benefit tremendously from export-based standards systems due to a number of reasons: First, higher standards lead to higher value products and higher revenues. Second, most supply chains are organized vertically, which implies that local farmers are provided with inputs, credits, technology, management advice, and guidance on production techniques. Third, benefits for poor farmers arise from smallholder contracting which has strong anti-poverty effects, and even more through the local labour markets, as poor farmers typically lack basic assets, such as human capital, credit, and land. In concluding, Dr Swinnen cautioned that these results are mainly based on a series of case studies and that their consistency needs further verification.

(c) Joseph Wozniak, Programme Manager, Trade for Sustainable Development (T4SD), Market Analysis and Research, International Trade Centre (ITC)

Mr Wozniak stated that it is crucial to answer the question of whether voluntary sustainability standards are a benefit for producers and exporters from developing countries, whether they constitute technical barriers to trade, or whether they are a combination of both. He pointed out that a main purpose of ITC's Trade for Sustainable Development (T4SD) programme is to provide data to allow users to answer this question. The programme originated from the results of surveys on the benefits and costs of standards among trade support institutions, producers, and exporters in the developing world. These surveys identified as major challenge the lack of access to market information and NTBs, such as

regulations and standards. The programme is pursued in partnership with other United Nations (UN) agencies, private initiatives, and bilateral donors.

The T4SD programme's goal is to increase the overall participation of producers and exporters of developing countries by enhancing transparency on voluntary social and environmental standards, which are operated by Non-Governmental Organizations (NGOs) and private corporations. The programme's main output will be a database, which is made accessible to policy-makers, academics, development institutions, buyers, and consumers in the form of an interactive web-based tool. This tool seeks to facilitate access to specific research on different aspects of standards, their organization, their compliance and verification mechanisms, and their requirements on environmental, social, labour, and other issues. The programme's expected impact is to increase transparency vis-à-vis voluntary social and environmental standards and the tangible economic benefits for producers and exporters when they engage in sustainable trade.

The core pilot programme consists of two pillars: The first pillar is a comprehensive database on NGO standards with a robust and flexible framework that breaks them down to their specific elements. The pilot standards comprise commodities, such as coffee and coco, and forestry products. Other sectors, such as cotton and seafood, will be added post pilot. The second pillar is a compendium of research and case studies, which cover the impacts or implementation of standards "on the ground". Thus, the database would provide the user with a one stop shop for the necessary information. Researchers on certified coffee of Uganda, for example, would find the certification schemes that are operational in this sector in this country, as well as cross-reference to all relevant research that has been undertaken in this sector related to a Ugandan context.

Mr Wozniak also referred to the relevance of standards for connected issues, such as public procurement. This has recently gained importance in European countries, in particular Switzerland and Germany, where legislation concerning the procurement of products has changed by adding sustainability criteria. ITC is working with external partners to create a third-party "front-end" that will serve the needs of public procurement officials in these countries. This example illustrates one particular, unique aspect of

the database, i.e., to build different front-ends – be they public procurement or consumer information – for different constituencies.

The T4SD programme focuses on six pilot standard-setting bodies and three pilot sectors, i.e., coffee, coco, and forestry products. Once the structure is verified, the coverage is planned to be expanded. The long-term challenge will then be to disseminate the tool on the ground.

(d) Dr Sasha Courville, Executive Director, ISEAL Alliance

Referring to the session's title question, Dr Courville stated that there is no black or white answer; it rather depends on how standards are implemented. She reemphasized that voluntary sustainability standards are a recent phenomenon and that their evolution was quite specific. She focused in her presentation on a number of emerging governance frameworks for sustainability standards, which illustrated both the status quo and the need to move forward to make standards an effective tool for sustainable consumption and production.

ISEAL is an alliance with the vision to ensure that voluntary standards systems play an expanding role in achieving social justice and ecological sustainability. It defines credible practices for social and environmental standards and created a learning network for standard-setters to strengthen performance, demonstrate best practices, and avoid reinventing the wheel. It seeks to empower governments, business, and NGO leaders to use standards systems to help them achieve their own objectives. ISEAL works to facilitate an effective movement of standard-setting systems in order to scale up their impact and to promote collaboration between them.

ISEAL members are growing quite rapidly due to the increased proliferation of standard initiatives. Full members comply with ISEAL's Standard-Setting Code and other internationally recognized guidance. Newer members make a commitment to demonstrate full compliance within three years. ISEAL's membership covers a variety of issues and sectors, from labour rights, fair trade, agriculture (including biofuels), forestry, fisheries, water, and carbon-offset green technology.

One of ISEAL's core work areas is to define what a credible sustainable standards system is. For this, credible standard-setting and verification

procedures are necessary. In 2004, ISEAL developed the ISEAL Code of Good Practice for Setting Social and Environmental Standards. This is based on WTO's TBT Agreement Annex 3 and ISO Guide 59 on standardization. Thus, they comply with the WTO Disciplines of openness, transparency, participation, and due process. A credible verification system is also important to ensure that claims about compliance can be backed up. This includes auditing, certification, accreditation, and labeling dimensions. ISEAL will be developing a Verification Code of Good Practice, starting in 2010.

At the moment, ISEAL is working on a code of good practice for assessing the impacts of standards systems. The code will set the requirement for all global standard-setting systems to demonstrate their contribution to social, environmental, and economic impacts in a consistent way.

Dr Courville also highlighted the need to improve the accessibility of standards, especially for small-scale producers in developing countries. It is crucial to harmonize standards systems where they are overlapping and duplicate themselves. She gave the example of the ISEAL Common Group Certification Requirements. This is a way for small-scale producers to reduce costs by having an external inspector from a certification come to only check the integrity of an internal control system, managed by the producer group itself. This can dramatically reduce the costs of certification. Instead of having to visit every single producer, the external inspector can visit a sample of producers to make sure the internal system works. Previously, most ISEAL members had their own requirements for how these group certification systems operate. In 2008, they came together to come up with common requirements. These will begin to be applied starting this year in Peru to look at how costs can be further reduced and how the efficiency and effectiveness of standards systems can be improved.

Dr Courville identified the following challenges: First, sustainable capacity building should be promoted and better coordinated, using the existing infrastructure, resources, and networks. New models of governance and financing are needed to ensure long term sustainability. They should be designed to be appropriate to the needs of each country. Second, in addition to standard-specific training, there is also a need for producer training in pre-certification issues,

such as financial literacy and strengthening farmer groups and organizations. If these elements are in place, one could move to good agricultural practices and the introduction of standards. A number of pilot projects in the coffee sector already seek to implement this in Honduras, Peru, Tanzania and Viet Nam through the Sustainable Commodity Assistance Network (SCAN) project.

(e) Adriana Mejia Cuartas, Director, International Cooperation (Europe), National Federation of Coffee Growers of Colombia (FNC)

Ms Mejia started by recalling that there is a general lack of information about voluntary standards and certification systems at the practical level among both consumers and producers. She pointed out that coffee production plays a crucial role for Colombia. The implementation of standards, however, is a huge challenge, as around 90 per cent of the coffee growers have less than 3 hectares.

The National Federation of Coffee Growers of Colombia (FNC) has been working towards coffee growers' welfare and sustainable development for over 80 years and gathers more than half a million families. FNC supports standardization as a business model, as long as it increases the value for coffee producers in the form of better practices, higher incomes, and sustainability. Ms Mejia identified four key factors to achieve a successful certification: training and education; promotion of good agricultural practices; research, development, and implementation of better technologies; and intensive work with partners.

In Colombia, there are various labels and certifications in place, not because one or the other is better, but because one sort of certification suits a group of producers better than another. Rain-forest Alliance, for example, has a strong environmental focus and matches the interests of certain regions. Fair Trade is a label that takes into account to a higher degree the interests of indigenous producers. For the production of AAA coffee, Nespresso has chosen two strategic locations in Colombia, because only those fulfill the required quality. UTZ Certified applies a broader approach and has a significant impact on small, medium, and large producers by implementing UTZ practices. The Common Code for the Coffee Community (4C) is a verification scheme that is commonly used as a first step towards the certification of standards.

Ms Mejia cautioned that certification is expensive and that producers depend on donors and strategic partners to achieve voluntary certifications. On the one hand, capacity building programs are needed and already implemented, such as e-learning tools and training of trainers programs. On the other hand, the plantations' infrastructure (energy, climate change related adaptation, water protection, and forestry) needs to be improved to allow producers to fulfill the requirements for certification.

Ms Mejia enumerated five benefits that arise out of certifications: First, sustainable production patterns are encouraged. Second, better working conditions are guaranteed in the coffee and other sectors due to an increased overall conscience of the principles of decent work. Third, producers that implement good practices and improve the quality gain better and secured market access. Fourth, income levels rise because of higher coffee quality. Fifth, there are more business-oriented people and certification leads to a better administration of farms. She cautioned, however, that certification should be a means and not the final goal; it should be followed by a permanent improvement system.

Ms Mejia concluded by emphasizing that producers need to alliance much more with governments and NGOs to facilitate certifications and promote their interests at the political level. Flexibility is needed to incrementally move producers to higher levels of sustainability. Another huge challenge is to raise awareness among consumers in both developed and developing countries about good quality coffee, its labels, and the coffee production chain.

2. Questions and comments by the audience

Several questions touched upon the problem of confusion about standards, the future of standards systems, the political economy of standards, their practical implementation, and their potential negative effect as barriers to trade and innovation. Another set of comments and questions were on the differentiation between public and private standards, as well as the need for more specific global enforcement regulations and for an international framework on standards.

One speaker pointed out that the WTO system provides for different options for a country to react to regulations, which are imposed by another country and create market access prob-

lems: They range from bilateral consultations, discussions at the TBT committee, to the initiation of a dispute settlement case. On the contrary, the options for governments are far more unclear when a company adopts a private standard and requires compliance with it.

Another comment was that many standards were originally public standards before they became private standards, such as the ones that originated from Multilateral Environmental Agreements (MEAs) and the International Labour Organization (ILO). There might be a problem that those standards are transformed or diverted into a "patchy pick and choose" way, allowing for opportunistic use by private actors. The delegate argued that if the legal standing and significance of international standard-setting organizations was enhanced, the streamlining activities among voluntary standards systems would become less important.

One participant highlighted the importance of raising awareness on standards by consumers in developing countries, which would open a whole new market. Consumers should inform themselves better and take part in the standard-setting process. In Brazil, for example, certain standards in the organic sector were not successful, because consumers did not trust in the validity of the standard-setting process and considered them mainly a marketing scheme. Recently, a new standard for organic products was implemented with greater success, as it was a coordinated effort between the private and the public sector.

A Kenyan agriculture and flower exporter criticized that private and NGO standards often overlap and lead to inefficiencies. Even more problematic is that for similar standards, different compliance and verification systems are in place. Although producers are trained to comply with these requirements, it is extremely burdensome. Thus, she called for a streamlining of compliance mechanisms, which would reduce the costs significantly.

Ms Mejia and Dr Courville both advocated the existence of different standards as long as they serve different purposes. But they agreed that harmonized certification and verification systems are necessary to bring down costs and scale up impacts.

Ms Mejia picked up on the importance of consumers' trust in labels in developing countries. She argued that consumers in developing countries are mainly interested in affordable prices

and that certified products do not constitute much additional value for them. She recognized, however, that this is changing and Brazil became one of the biggest markets for coffee, because it had a specific strategy to promote internal consumption.

Mr Wozniak reemphasized the need to increase the transparency of standards to better understand their impacts. ITC's T4SD programme tries to identify overlaps and gaps, which could add to some rationalization and to provide the basis for decision-making. He cautioned, however, that as a UN product, the T4SD programme has neutrality and cannot serve as a global clearing house. The project tries to disclose ways to become certified and will have e-learning modules in place. It will also facilitate further research by providing a continuously updated pool on academic work and case studies that have been published on various matters of sustainability standards and their impacts on economic, environmental, social, and labour issues.

Dr Swinnen pointed out that the confusion about standards is specifically problematic for exporters. He referred to a case study on small farmers in Madagascar that are producing and exporting vegetables to the European Union (EU). The export is organized by one single Madagascan company. This implies that the farmers do not know beforehand to which EU country their products go; but all countries have different standards. Therefore, producers revise all relevant standards and implement the toughest one for their whole production, although it will often exceed the requirements. The standard GLOBALGAP that is increasingly used by retail companies tries to address this problem from the demand side.

With regard to the implementation of standards, he highlighted the role of private companies. They often train producers on the regulations they need to satisfy, provide them with inputs, such as pesticides, and teach them management and production techniques, which finally raises overall productivity.

Dr Swinnen reacted to the question on the political economy of standards by calling for more sophisticated and comprehensive trade models. This is necessary, because the way standards are set and implemented influence their efficiency and welfare effects, and determine whether they constrain innovation or not.

Concerning the question of public versus private regulation, he argued that while the objective of

public intervention should be to guarantee food safety, there should remain enough room for the private sector to create niche markets, if there is a demand. However, if all companies or the entire market are affected by certain initiatives, the distinction between public and private standards becomes blurred and problematic. Given that some of the private standards are even implemented via public operation systems, it makes them potentially challengeable under WTO rules.

Dr Courville responded to the question about the future of standards and prognosticated that the landscape of standards will change dramatically. Standard-setting organizations will have to rethink their business models that evolved in the 1990s by linking very specific issues, specific sectors, as well as producers and consumers. New and participatory governance and business models need to be developed to make sure that they are self-sustaining. A good example is the evolving framework in the biofuels area.

With regard to the question of whether standards stifle innovation or not, she stated that it depends on how standards are structured. She pointed out that best practice is going into performance and impact based systems that encourage innovation. On the other hand, she cautioned against the kind of "kitchen soup" standards, such as ISO 26000, as they fulfill a different objective than sustainability standards do.

She commented on what should be the legitimate role for governments in voluntary global standards systems. She argued that all credible social and environmental standards systems aim at social justice and environmental protection, i.e., sustainability. Thus, instead of counteracting ILO or MEA regulations, voluntary standards rather provide concrete enforcement mechanisms, which are even used by governments. The government of Guatemala, for example, requires certification by the Forestry Stewardship Council before granting forest concessions in the Maya Biosphere Reserve.

3. Conclusions and way forward

The session demonstrated that there is a need for a more differentiated debate on public and private standards and on how to increase their complementarity. Whether standards are a form of legitimate protection, sophisticated protectionism, or a potential development opportunity, depends on their nature, organization, specifications, implementation, and certification. The following six main challenges are arising:

First, standards systems should become more transparent to allow both producers and consumers to increasingly use them as instruments for sustainable trade. In this regard, more empirical studies are needed that illustrate the costs and benefits of standards.

Second, the way of modeling standards needs to be improved. This is crucial to assess the efficiency and welfare effects of standards more accurately and to provide decision-makers with a better basis.

Third, standards need credibility in order to be accepted by consumers and producers. This requires clear benchmarks, a standard-setting code, and reliable verification systems. Moreover, standards systems should be harmonized and streamlined to reduce costs and scale up impacts.

Fourth, the role of the WTO in the standard-setting process and the enforcement of standards should be clarified. This is also important for the discussion on whether and in which form private standards may fall under the mandate of the WTO.

Fifth, there is a need for further deliberation on the contribution that voluntary sustainability standards can make towards real sustainable governance. The role of international and regional organizations, national institutions, as well as private companies and civil society actors in standard-setting, implementation, and enforcement should be redefined to improve the efficiency and effectiveness of standards.

Finally, efforts should be intensified to raise awareness among consumers in both developed and developing countries on standards. This is particularly relevant for developing countries, where the introduction of voluntary labels could open up a completely new domestic market.

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