

Emerging Paradigms of Corporate Social Responsibility, Regulation and Governance

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Trade Agreements & Standards, Food Value Chains & Livelihoods:

Developing Country Perspectives

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Background and context

The linkages between trade and standards have been discussed extensively over the decades. It is not disputed that standards (including labour and environment standards) have an influence on cross-border trade, but at the same time discussions of including standards within trade agreements have been a contentious issue.

At the level of the World Trade Organization (WTO), general exceptions to multilateral trading rules can be found under Article XX of the General Agreement on Tariffs and Trade (GATT). It allows governments to take measures that are required to protect the social, environmental and health concerns. Besides the GATT, there are two multilateral agreements concerning health and food safety standards, testing and procedures. However, the discussions around the linkages between trade and labour, and trade and environment have been more sensitive at the WTO and have therefore not been expressly included in WTO agreements.

The new age regional and preferential trade agreements such as the Trans-Pacific Partnership Agreement (TPP)¹ and the EU-Canada Comprehensive Economic and Trade Agreement (CETA)² have gone ahead and included labour and environmental standards. The inclusion of standards in mega-regional trade agreements is a remarkable moment in global economic governance and the institutionalisation of ‘soft law’ into ‘hard law’ marks a paradigm shift in the future discourse of trade and standards.

Simultaneously, there has also been a proliferation of private standards, certification and code of conduct due to the increasing importance of global value chains (GVC) in global trade. In

¹ TPP Member countries are: USA, Canada, Mexico, Chile, Peru, Japan, Australia, New Zealand, Brunei, Singapore, Malaysia, and Vietnam. Please note that TPP has been signed but not ratified and is therefore yet to come into force.

² CETA is bilateral agreement between the European Union and Canada that has been signed but is yet to come into force.

fact, more than 60% of global trade is now transacted through GVCs³ and with that trade is structured as transactions between lead firms and their suppliers. Owing to pressures from moral consumer concerns in developed economies and trade unions the large corporations who are usually at the top of the GVC are demanding adherence to globally accepted private standards (like ISO standards) or setting down their own rules.

The standards prevalent today range from minimum wages, working conditions, right to form unions and associations, to eco-labelling, sustainable fishing and emission controls. There are obvious benefits to having such standards in place. It ensures a basic minimum protection, better quality of life and enhanced standards of living. Moreover, if a firm is able to comply with the standards, it has the potential to participate more effectively in GVCs and have better market access in developed economies. However, there are social and environmental challenges in adopting such standards and therefore we will briefly discuss the issue of labour standards and the specific challenges in this context.

Labour Standards in the Indian Context

Labour standards refer to the conditions of employment or employee rights, which have been created by national legislations and the International Labour Office (ILO) through various instruments. In recent years, labour standards are also being shaped by bilateral or multilateral trade agreements and private standard setting bodies. This in turn is influencing the shift in the global governance system.

There is a pressure from developed countries and their corporations to ensure ‘ethical sourcing’ and ‘fair trade’. This in turn has the potential to raise the living standards of workers in developing countries, ensure a basic minimum standard of socio-economic rights and benefits, and promote the achievement of the Sustainable Development Goals (SDGs). Many in the developed countries argue that manufacturing shifted from the west to the emerging Asian markets due to availability of cheap labour and therefore lower costs of production.⁴ One of the main arguments for pushing labour standards in countries like India is to ensure a level playing field for the manufacturers in developing and developed countries as adoption of common standards will also raise wages of labour in the developing countries.

³ Global Value Chains and Development, UNCTAD, 2013, available at <https://goo.gl/rpLQyP>

⁴ Estella Aryada, Emerging Disciplines on Labour Standards in Trade Agreements, The Commonwealth Secretariat Emerging Issues Briefing Note 4, March 2016.

However, there are a number of scholars who fear that labour standards can be used to undermine the competitive advantage of the developing countries, be used as a disguised protectionist tool and thereby could raise trade-restrictive concerns.⁵ Additionally, a strong argument has been that since trade leads to growth of exports, it creates jobs and helps in alleviating poverty.⁶ This in turn raises the standard of living of people in the developing countries and unless a basic level of growth is achieved, the imposition of standards may prove to be counter-productive.

In today's debate, there are several other aspects that must be acknowledged as we discuss the growing linkages between trade and standards. Most developing countries lack the technological know-how to meet standards (especially environmental standards) and therefore the issue of technology transfer and easy access to superior technology is important. Adherence to high standards also means increase in production costs which have to be accounted for. Furthermore, the rise of private standards means that developing country producers and suppliers in the value chain have little or no voice in the standard setting process. The issue of compliance, monitoring and enforcement also remains a contentious issue.⁷

The Way Ahead

Having recognised the myriad dynamics of the trade and standards linkages, it is important to discuss the possible strategies for the future. Labour rights and labour standards are extremely important but must be pushed through as part of an overall development agenda with poverty reduction at the forefront.⁸ India is home to the world's largest number of poor and has a fast rising population growth rate. As such, there is tremendous pressure to create jobs in order to sustain the rising population and meet the targets for poverty reduction. Consequently, it is most appropriate for India to engage positively in the discussions related to trade and standards, integrate it with the overall developmental agenda, enhance participation in the standard setting process and extract maximum utility from GVCs. This will also help India achieve the SDG number eight (decent work) and the commitments under the Paris climate pact.

⁵ Anuradha R.V. & N.S. Dutta, Trade and Labour under the WTO and FTAs, Centre for WTO Studies.

⁶ Jagdish Bhagwati & T.N. Srinivasan, Trade and Poverty in Poor Countries, available at http://www.econ.yale.edu/~srinivas/trade_poverty.pdf (last accessed 6/11/2016)

⁷ For further discussions, see the papers under CUTS-CITEE project on Linkages between trade and non-trade issues at the WTO at <http://cuts-international.org/linkages-Meeting-29.htm> (last accessed 6/11/2016)

⁸ Improving Labour Standards Through Development: A Positive Agenda, CUTS International, 2004.

Along with external standards, internal domestic reforms through the use of fiscal policy, enhanced public delivery system, skilling manpower, investment in infrastructure and services, investments in healthcare and education, and rural development are necessary. Moreover, the compliance to standards must be a positive endeavour and should not be in the form of trade sanctions as that can reverse the benefits for the most deprived.⁹ It is argued that the “*achievement of higher economic growth, along with adequate distributive mechanisms and safety nets, will rise per capita incomes and thus ultimately lead to the institution of pro-active social policies, hence improving the conditions of work and workers’ rights significantly*”.¹⁰

It is also important that labour standards account for the differences in geographies, level of development, technical capacity, factor endowments, and underlying social differences. It is proposed that the inclusion of labour standards in trade agreements should be a bottoms-up approach wherein member countries have the flexibility to choose their approach and timelines for implementation, much like the WTO’s Trade Facilitation Agreement. This will also help factor the development concerns of developing countries like India and facilitate the adoption of standards as the low levels of income and widespread poverty hinder the immediate adoption of high standards. Furthermore, countries like India also have a huge informal sector and given the level of development, resources and infrastructure in the country it is often not feasible to enforce the same level of compliance across the board.¹¹

Going forward, the issue is not whether countries and firms must adhere to labour standards, but rather on how should the observance be strengthened. The financial and human capacities of developing countries’ governments and firms need to be boosted so that they can engage and benefit from trade agreements, GVCs and standards.

This discussion leads us to the larger question of global economic governance and equity. The world is not homogenous and countries are at varying levels of development. These facts have been recognised and incorporated under all international agreements, such as special and differential treatment in the WTO, or common but differentiated responsibilities under environmental agreements. Yet there has been a tension always in allowing these concessions in a fair manner and over time, therefore leading to the division of the world in North-South terms. On the other hand, following the economic downturn in the west since 2008 and

⁹ *Ibid*

¹⁰ *Ibid*

¹¹ *Ibid*

upturn in Asia has made scholars remark that the pendulum is shifting and the fulcrum of the world is also changing. All these changes have had a significant impact on western economies. One outcome is the consolidation of enterprises in the west which will perhaps pass muster before their competition competition authorities.

Implications of corporate monopolies on the global food value chain

Growing concentration in agriculture input sector; concentration in food manufacturers/processors and also in retail giants does pose concerns related with food security, farmers' income, consumer choice/price and also agri-biodiversity in the developing world.

For instance, the CR4 (Concentration Ratio of four leading firms; which is defined as the sum of the market shares of the top four firms) in the crop seed sector and agricultural biotechnology increased from 21.1% in 1994 to 53.9% in 2009 and in the agricultural chemical sector the CR4 increased from 28.5% in 1994 to 53.0% in 2009 (Fuglie et al 2011).

Similarly, there has been consolidation in food manufacturers/processors, particularly in the US and Europe. For instance, in the US in 2007 CR4 of soybean processing, breakfast cereal manufacturing, and cane sugar refining were as high as 81.5%, 80.4%, 95.2% respectively (Crespi et al, 2012). Similar is the condition in Europe. Unfortunately, such concentrations are, in general, on increasing trend.

Despite the presence of corner mom and pop stores, there is a growing trend in retail chain concentration in many developed countries. For instance, 4-firm concentration ratio of retail players in UK is around 70%. In addition, there are instances of cross-holding by firms in agriculture input, processing and retail sectors – vertical integration of sorts.

These consolidations at various levels of global food value chain (GFVC) are already causing concern for many countries, and a harbinger for things to come for those not that affected at the moment. This is a phenomenon that needs to be taken seriously. Of most concern is the adverse effect on the livelihood of farmers, who are buyers from the concentrated agriculture input market and sellers to the concentrated processing firms and/or retail chains.

For instance, the four current multibillion-dollar deals in the agriculture sector—the takeovers of Syngenta by ChemChina and of Monsanto by Bayer; and the mergers between Dow Chemical and DuPont, and between Potash and Agrium – will further concentrate the global

agricultural input market. This would certainly require a competition policy approach as a solution.

The core of competition law enforcement is ‘economic analysis’, which in turn is guided by the ‘economic doctrine’ followed by the enforcing country. While some will emphasise ‘efficiency’ during economic analysis, others may like to include the ‘public welfare’ angle. The farmers’ margin getting increasingly squeezed between input providers and commodity buyers. Such uneven bargaining power in GFVC might not come into the ambit of the competition lens from the ‘efficiency’ and ‘optimal resource allocation’ angles.

Furthermore, it would not be easy for individual, particularly developing countries to deal with cross-border competition concerns. If approached individually, it is more likely that their economic analyses would get influenced by the ‘economic doctrine’ practised by powerful, rich countries. Therefore, affected countries, especially developing country blocks such as BRICS nation should come together to deal with global competition concerns.

Following are the likely implications of corporate monopolies in the global food value chain:

1. Farmers may have to buy agriculture inputs (seeds, fertilisers etc.) costly, and with lesser choices. Thus increasing the cost of production which would adversely affect livelihood of farmers.
2. As double whammy, farmers would also face low farm gate price realisation with handful of buyers of agriculture produce.
3. Diminishing agri-biodiversity because of handful of seed companies, and hence propagation of mono-crop culture. Agri-biodiversity is very necessary to deal with adverse effects of climate change on agriculture. This can also adversely affect consumer choice.
4. Cross-holding in firms of the agriculture processing and retail sector, can also result in enhancement of private standards to keep other suppliers (to retailers) out.
5. All the above may threaten food security. Food security concerns can also arise of the fact that the supply of food would be in the hands of few private entities – availability and affordability of food.
