



Risk assessment in the international food safety policy arena. Can the multilateral institutions encourage unbiased outcomes?

Lee Ann Jackson ^{a,*,1}, Marion Jansen ^{b,2}

^aAgriculture and Commodities Division, World Trade Organization, 154 Rue de Lausanne, CH-1211 Geneva 21, Switzerland

^bTrade and Employment Programme, Employment Sector, International Labour Organization, Route de Morillons 4, CH-1211 Geneva 22, Switzerland

ARTICLE INFO

Article history:

Received 17 February 2009

Received in revised form 14 July 2010

Accepted 21 July 2010

Keywords:

Food safety standards

Risk assessment

Policy capture

Codex Alimentarius Commission

WTO

ABSTRACT

Two institutions provide multilateral venues for countries to discuss food safety measures at the international level: the Codex Alimentarius Commission (Codex) and the World Trade Organization. Both institutions encourage their Members to base food safety standards on scientific evidence.

In this paper we provide a description of how food-safety-related scientific evidence is generated and how it is used in the context of risk assessment for international standard-setting at Codex and in WTO trade disputes. In particular, we discuss the processes leading to policy conclusions on the basis of scientific evidence, with a focus on the interactions involved between private and public sector actors and those between “scientific experts” and others.

We identify weaknesses in the current institutional set-up and provide suggestions on how to improve the interaction between different players at the national and international level so as to strengthen the existing system and increase its cost efficiency.

© 2010 Elsevier Ltd. All rights reserved.

Introduction

Governments implement food safety measures to control risks inherent in food consumption. Given the global agro-food system, with its increasingly long international supply chains, government food regulations typically cover both food produced within the country and imported food. Because of these linkages between national food safety policy and trade, countries have found it useful to discuss food safety measures at the international level.

Two international institutions provide multilateral venues for such discussions: the Codex Alimentarius Commission (Codex) and the World Trade Organization (WTO). Each of these acknowledges the dual effects of food safety measures, however they have different mandates. Codex activities focus on the role of these measures in the protection of human health, while the WTO focuses on the trade effects of food safety measures. An explicit link between the activities of these organizations exists by the fact that the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) in the WTO defines the Codex as the relevant standard-setting body for food safety.

Both organizations have to deal with risk assessments in order to fulfil their mandate in the food safety arena. Risk assessments

represent a key input into the decision-making process in Codex that leads to the definition of international food safety standards. In the context of the WTO, the SPS Agreement stresses the importance of risk assessments in determining whether a food safety measure complies with WTO obligations. As a result, the WTO is involved in the interpretation of risk assessment exercises and their results when trade disputes related to food safety measures arise among Members.

Regulatory measures, including food safety measures, can be used to distort trade flows and (Copeland, 1990) has shown that governments will be tempted to do so, if trade agreements impede them from using tariffs or subsidies to directly influence trade flows and if trade agreements contain “loopholes” that allow them to use regulatory measures instead. Agreements like the SPS Agreement are meant to close those loopholes and to provide strict guidelines on the design and the use of regulatory measures that are not trade distortive and therefore not in conflict with WTP principles. In particular, the SPS Agreement encourages WTO Members to use international standards and contains a requirement to provide scientific evidence to justify food safety measures that deviate from international standards. The latter, arguably reflects an attempt to make regulatory policies less vulnerable to political or economic capture, particularly by import-competing firms who may pressure governments to use regulatory measures as a shield against foreign competition.

In practice, however, private producers are often positioned at the centre of the initial stages of the processes that generate the

* Corresponding author. Tel.: +41 22 739 6907; fax: +41 22 739 5760.

E-mail address: leeann.jackson@wto.org (L.A. Jackson).

¹ Counsellor.

² Coordinator.

scientific evidence used for risk assessments. Interactions between private and public sector players, thus, appear to be inevitable. While the reliance on scientific evidence to justify food safety standards in a multilateral trade context, may have reduced the arbitrariness with which food safety standards can be introduced, it has therefore not necessarily reduced the interactions between producers and policy makers in this domain. The opposite may indeed be the case. As a consequence, it appears crucial for the international food policy system to contain appropriate checks and balances in order to ensure that risk assessment and its interpretation are efficient and reliable.

This paper provides a description of how food-safety-related scientific evidence is generated and how it is used in the context of international standard-setting or trade disputes. Throughout the paper we analyse the mechanisms through which the current institutional relationship between Codex and WTO seeks to control for undesirable influences and we discuss ways to strengthen this control. We also examine whether the multilateral trading system effectively handles scientific evidence and risk assessment and we discuss ways to increase efficiency.

The structure of the remainder of the paper is as follows. In the next section, we provide theoretical background regarding private sector motivation to influence regulatory activities. This is followed by a Section where we describe how food safety risk is determined. In the discussion we pay attention to the role of value judgements at the different stages of risk assessment and thus the potential for private or public actors to influence decisions related to risk assessments and relevant scientific evidence. Next we discuss how decisions are taken on how to handle risk at the so-called risk management stage and we have a closer look at the relationship between risk assessment and risk management. We then describe how risk assessment and risk management are dealt with in Codex with a particular emphasis on the respective roles of risk managers and risk assessors and the interactions between the two. This is followed by a discussion of how the WTO dispute settlement system handles the issue of risk assessment. A final section concludes.

Theoretical background

Food safety characteristics represent what economists call “credence” characteristics in that consumers are unable to determine food safety characteristics themselves, often even after consumption.³ In markets for credence goods, producers cannot be expected to give consumers all the information they require to evaluate the quality or the characteristics of a good, because producer and consumer interests do not coincide. In particular, when deciding on optimal product characteristics, producers will take into account production costs, the probability that low product safety has negative health effects and the cost health damage will generate for producers. Consumers, instead, are interested the probability of health effects and the actual damage those health effects may cause to them. In the case of credence goods, where the origin of eventual health problems is hardly traceable the damage claims producers can be expected to face are likely to be significantly lower than the actual health damage incurred. As a consequence, credence good markets are markets where producers are tempted to take higher risks than consumers would consider desirable.

Regulatory intervention of a third party, typically a government agency, can therefore be justified on efficiency grounds in markets characterized by credence good characteristics. Government regu-

latory interventions in these markets aim at providing consumers with the information they need to take appropriate consumption decisions. Interventions can range from simple labelling requirements to outright bans of products considered dangerous. In deciding upon a measure, governments are expected to take the wellbeing (e.g. in terms of health and product prices) of consumers into account, but also the effect a measure potentially has on producer profits.

Sturm (2006) has analysed food safety regulation in a setting where countries trade and has shown that governments in countries that are net exporters of food stuff will be tempted to weaken safety regulation below the level that was considered optimal under autarky, whereas governments in importing countries will be tempted to make regulation stricter than necessary. The main reason for this is that governments are assumed not to take foreign companies' benefits and foreign consumers' health risks into account when making their national welfare calculation. For an exporting country therefore, the domestic firms' profits increase with openness while domestic consumer welfare is not altered. Firm level interests will end up entering the government's calculation with a higher weight and the result is that safety standards will be lowered. In an importing country instead, domestic firm profits suffer from imports and governments will be tempted to increase regulation in order to keep foreign competitors out of the market.

According to the above, in markets for credence goods, third party regulation is required to achieve desirable outcomes and exporting firms and importing firms will try to influence government regulatory decisions in their direction. The reliance in the SPS Agreement on scientific evidence to justify food safety measures that deviate from international standards reflects an attempt to make regulatory policies less vulnerable to economic capture. In this paper we will develop the argument that the current design of the SPS Agreement paired with the existing institutional set-up relevant for food safety regulation and trade disputes is unlikely to make the multilateral system fully resilient against private sector capture. This is the case because:

- (a) International food safety standards set by Codex do not only depend on scientific evidence but are determined in a decision-making process that has also political components.
- (b) The scientific evidence used for the setting of international food safety regulation and trade disputes is likely to be influenced by private sector groups and may thus be biased.

We will delve deeper into the interactions between risk managers (policy makers) and risk assessors (scientific experts) later on in this paper. At this stage we only want to refer briefly to the second point mentioned above, i.e. possible implications of private sector involvement in the generation of scientific evidence used for food safety risk assessments.⁴

Kuhn (1996) already established in his seminal work that science evolves. In particular, he describes that scientific evolution is driven by repeated situations of competition between scientific paradigms. In these situations the proponents of the different paradigms try to convert the other group by “persuasion”, where persuasion is a prelude to the possibility of proof. In the food policy arena, this situation could correspond to a situation where both proponents of stringent standards and proponents of lenient standards try to persuade others of their “paradigm”. The party providing the largest amount of empirical evidence is likely to win the case.

³ The term “credence goods” was first used by Darby and Karni (1973). See Tirole (1993) on the possible roles of private and public sector regulation in markets with information asymmetries.

⁴ See also Crawford-Brown et al. (2004) on the potential capture of scientific estimation of risk by policy interests.

Download English Version:

<https://daneshyari.com/en/article/5070911>

Download Persian Version:

<https://daneshyari.com/article/5070911>

[Daneshyari.com](https://daneshyari.com)