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Voluntary Sustainability Standards and Labels (VSSLs): The Case for Fostering Them

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Introduction

There is a group of consumers primarily, but not exclusively, living in rich countries that want to buy certain types of products which have 'sustainability' attributes either embodied in the product, or in the processes and methods used to produce it. There is a group of producers, very often but not necessarily living in developing countries, that would like the opportunity to produce and market products which have the desired 'sustainability' attributes. Forging a relationship between these two groups creates an incentive for more sustainable methods of production.

Yet in order for these groups of producers and consumers to establish a mutually satisfying relationship, there is a need first to establish 'sustainability' standards, and to certify products against them, so that consumers are enabled to discriminate in favour of the products which have the attributes they desire.

Is there a need for governments, or their agent the WTO, to intervene and regulate such information exchange and trading relationships? Or is the need rather to facilitate, support and strengthen the voluntary standard-setting and certification processes which civil society and the global marketplace are generating to address these issues?

The Context

The global context which has given rise to the demand for sustainability-certified products is one in which the social and environmental externalities of production are often unregulated or ineffectively regulated by governments. With the globalisation of economic activity, unsustainable producers (those who can shift their external costs on to others) are commonly able to obtain a competitive advantage in the global marketplace. The systemic result is that unsustainable producers are enabled to expand at the expense of sustainable producers. They are enabled to be more profitable, to invest more, to grow faster, and to become more dominant in global markets. It is only to be expected that such businesses also play a relatively more influential role in politics and in the direction of technological development.

Consider, as an example, the global trade in timber. Timber which is taken from forests using sustainable management practices is generally more costly to produce than timber taken without such a constraint. Yet sustainably produced timber must compete in the global marketplace with the cheap product of unsustainable producers, who move from forest to forest, felling the trees and abandoning the forests as they go. Governments often find it difficult to regulate these unsustainable producers, who by one means or another have been able to obtain a strong influence (in conjunction with other factors) in ensuring the widespread absence of effective national forest sustainability laws, and of international governance of many aspects of the trade in forest products.

A similar difficulty faces producers of renewable energy in competition with fossil fuels; socially responsible producers of manufactured goods in competition with 'sweatshop' producers; or arguably, most other situations where emerging, sustainable or near-sustainable producers are competing in the global marketplace with established, unsustainable production. An important additional complication arises when unsustainable patterns of production are subsidized, as is particularly the case with agriculture, fisheries and fossil fuels.

National systems of regulation, and especially the negotiation of global governance arrangements for sustainable development, tend to run well behind public recognition of the problems of unsustainable practices. In the last few years, this governmental ‘action deficit’ on sustainable development has been filled with a remarkable flowering of civil society initiatives.

It is unsurprising that there are some problems associated with this flowering – but there is also a rapid process of learning from mistakes. What is emerging is a socially valuable pattern of innovation toward sustainable development that deserves to be acknowledged and fostered.

Trends and Drivers

Organic food labels have a longer history, but eco-labels covering non-agricultural products started at the national level with Germany’s Blue Angel in 1977. National eco-labels and associated standards became established in many other countries during the 1980s.

Major trends since then have included the following:

- There has been a broadening of the focus of the eco-labeling movement to include a wider range of matters of concern to consumers, including not just environmental matters in the narrow sense but also animal welfare, food safety, human rights, labour, and fair trade/social justice, and the development of a wide range of voluntary standards on these matters. This trend reflects the fact that the consumer is looking to establish lasting relationships with businesses that consistently behave in an ethical manner across the whole range of issues that arise in their business;
- There has been profuse growth of labeling initiatives. In Germany, up to 1,000 labels are competing in the marketplace, of which 36 are regarded as sufficiently significant to be discussed in detail in a recent study.¹ The resulting confusion may be undermining the dominant label, the Blue Angel.² The United States has 25 major eco-labels and this fragmentation is thought to contribute to the somewhat disappointing results of labels in the United States.³ Such concerns have led to widespread recognition of the need for negotiation of technical equivalence agreements (sometimes called ‘mutual recognition’), although little progress in this has so far been made. Such agreements could reduce the number of labels, reduce the costs of promoting labels into new markets, improve the credibility of labeling, and eliminate technical barriers to trade;
- There has been a move from national level standards to multi-country initiatives such as the Nordic Swan and the Euro-Flower; and to global initiatives such as the Forest Stewardship Council and Social Accountability International. Summary information in Box 1 illustrates the growth and diversity of these aspiring global initiatives;
- There has been a strong interest by retail supermarket chains in particular, and business organisations in general, in effectively having eco-labels attach to the organisation itself, rather than just to individual products they are selling. This trend has implications that are discussed further in Box 2;

¹ UNCTAD 1999 page 1 and chapter 3

² UNCTAD 1999 page 5

³ Commission on Environmental Cooperation 1999 - Executive Summary

- An associated trend has developed toward strategic relationships between eco-labels and large business organisations, including the development of buyers' groups. This trend is discussed further in Box 3;
- There has been a strong growth in certified organic agriculture; a widespread demand for "GE-free" labeling; the introduction of sustainability standards sponsored by agricultural producers' organisations; and overall, a great increase in the importance of standard-writing in the agricultural sector. At present however, there is an apparently low level of awareness of the crucial importance that agricultural standards are open and fair, in the light of developing country expectations of the outcome of the Doha Round. See Box 4.

Globalisation is a key driver behind many of the trends described above. The widespread loss of confidence in mainstream agricultural production, especially in Europe, is another driver. Green consumerism has continued to grow but its significance as a driver of the last decade's trends has been overtaken by a larger and more profound trend: the growth of societal demands for business to behave in a socially responsible way, and the paradigm shift that is under way as business responds to this. The growth of the corporate social responsibility movement, and the associated trend to triple bottom line performance evaluation and accountability in business, has created an important new driver for the preparation and use of voluntary sustainability standards and labels – see Box 5.

Box 1: Some Voluntary Sustainability Standards And Labels At The Global Level

IFOAM – International Federation of Organic Agriculture Movements (www.ifoam.org) is the worldwide umbrella organisation for the organic agriculture movement, with 750 member organisations in 100 countries. There is no single worldwide organic label, but IFOAM operates a Basic Standard and accredits most non-governmental organic certifying organisations.

FSC – Forest Stewardship Council (www.fsc.org) operates a worldwide eco-label which certifies that forest products come from a well-managed forest. FSC maintains principles and criteria for the label and accredits certifying organisations. Certificates have been issued over 31 million hectares of forest in 56 countries.

MSC – Marine Stewardship Council (www.msc.org) operates a worldwide eco-label which certifies that fish products come from a sustainable fishery. This is in the early stages of development but in less than three years six fisheries have been certified, with seven more going through the assessment process.

SAI – Social Accountability International (www.sai-intl.org) is a human rights organisation dedicated to improving workplaces and communities. For two years it has operated a social accountability standard and verification system for workplaces. 180 facilities in 31 industries and 30 countries have already been certified to this standard.

FLO – Fair Trade Labeling Organisations International (www.fairtrade.net) is the umbrella organisation for fairtrade labeling organisations in 17 countries. It has established standards for a range of developing country export products, and the associated label guarantees fair trading relations and fair production conditions.

SAN – Sustainable Agriculture Network (www.rainforest-alliance.org/programs/cap) is a partnership between the US-based Rainforest Alliance and a group of Latin American organisations. It certifies that tropical crop producers are using best management practices for social and environmental sustainability. It operates a range of standards and has certified 130,000 ha of bananas, oranges, coffee and cacao.

GG 21 – Green Globe 21 (www.greenglobe21.com) was established to promote sustainable tourism through benchmarking and certification. It has just released an international eco-tourism standard and will operate a certification programme for tourism businesses worldwide.

Box 2: From Labeling the Product to Labeling the Organisation

An important, recent trend has been to shift the eco-label from the product itself, to a business organisation or group of producers. Supermarket chains in particular have responded to consumer concerns as a matter of competitive strategy. Many have developed their own environmental and social standards, and translated these into supplier requirements which are progressively being expanded across the full range of their products. The effect is to 'eco-label' the supermarket chain itself, as being environmentally and socially responsible. An associated effect is the 'greening' of global supply chains, a process that can stimulate considerable innovation in sustainable production techniques. A striking recent example was the rapid and complete change-over during the 1990s of New Zealand's apple and kiwifruit industries to new integrated fruit production techniques (and in many cases, organic methods). This change, involving significant research, development and outreach activities, achieved very large reductions in pesticide use in New Zealand. It was primarily driven by the requirements of a handful of European supermarket chains.

Box 3: Strategic Relationships in Eco-Labeling

Eco-labeling organisations are increasingly relying on strategic relationships with large business organisations to lever market share for their labels. A recent example was the announcement that Schenker, a big road transport company, is moving to require that its tyres and maintenance products be certified by the Nordic Swan eco-label. So-called "buyer's groups" – groups of large retail businesses insisting on eco-labeled supplies – have been fundamental to the recent growth of some global eco-labelers like FSC and MSC. Indeed MSC was set up from the start on the basis of a relationship with Unilever, which wants to be able to state by 2005 that all its fish is supplied from sustainable sources. Corporate social responsibility, more than individual consumer awareness, is increasingly driving the growth of eco-labeling, and relationships between eco-labelers and a small number of large businesses are becoming increasingly important. Whether this trend will place pressure on the perceived integrity and credibility of eco-labels remains to be seen.

Box 4: New Sustainability Standards for Agriculture in Europe

Producer-driven food labels have spawned in European countries, stimulated by loss of public confidence in agricultural producers and/or concern about implications of growth in food imports. Labels like Britain's Little Red Tractor and Sweden's Svenkst Sigill use independently verified, voluntary quality standards to provide reassurance to consumers that the labeled food is safe, animal welfare-friendly and environmentally sound. While in early stages, these schemes seem to be driving significant changes in on-farm practices, and promoting a farming culture which is more aware and supportive of sustainable patterns of production. Although criticized by environmental interests for not having independent governance, producer-driven labels are arguably not a bad thing if they achieve environmental results (after all, the organic movement began that way). The difficulty with these labels is that a key part of their motivation is the defence of the home market. At present, the labels are not open to foreign producers even if they fully comply with the stated standards. Developing countries have high expectations that the Doha Round will produce improved access for their agricultural producers to the European market, but agri-environmental standard-setting, if not advanced in an open and fair manner, could create new barriers to replace those that have prevailed to date.

Box 5: Growth of Corporate Social Responsibility

The rush of businesses to align themselves with corporate social responsibility and sustainable development has been a striking feature of the last decade, and it is leading to increasing demand for environmental and social certification of business processes and/or products. Leading advocates include the World Business Council for Sustainable Development, which has 160 multinational member companies based in more than 30 countries (www.wbcsd.com), and Business for Social Responsibility (www.bsr.org) whose member companies now have nearly US\$2 trillion in combined annual revenues and employ more than 6 million workers around the world. Over 100 major companies have used the Sustainability Reporting Guidelines, finalized in June 2000, as a basis for their triple-bottom-line reporting (www.globalreporting.org). Over 23,000 businesses in 84 countries are certified with environmental management systems that comply with ISO 14000 (see www.accreditationforum.com). The European Union has launched a debate on how it could contribute to CSR with a Green Paper, which also promotes social and eco-labels (http://europa.eu.int/comm/employment_social/soc-dial/csr/greenpaper_en.pdf). The WSSD Plan of Implementation calls for enhanced corporate environmental and social responsibility and accountability through voluntary initiatives. Certification is specifically mentioned in the list of needed actions in this context (chapter III para 18(a)).

Against the background of the significant trends listed above, and especially for the purpose of considering trade implications, it would be artificial to speak of eco-labels in isolation from other voluntary sustainability standards and certification systems which share similar purposes and raise similar issues. This paper therefore uses the term “voluntary sustainability standards and labels” (VSSLs) to embrace:

- Standards agreed for business-to-business transactions as well as those used for business-to-consumer transactions;
- Management system standards as well as product standards;
- Environmental product declarations as well as independently certified labels;
- Labels developed by producers or retailers as well as those with independent governance;
- Standards whether owned by government, NGO or business interests, so long as they are voluntary in nature.

The overall picture is that the use of VSSLs has undergone strong growth during the last decade. While in some countries there have been some modest contributions to this growth from governmental agencies, for the most part the growth has been driven by co-operation and strategic alliances between civil society organisations and business. As such the movement has blossomed very largely outside the reach of the WTO’s TBT Agreement.⁴ The movement has obtained a momentum, a level of private financing and a breadth of political support, which means it could not now be curbed, even if some still wish to do so.

There is however good potential to influence the future direction of the movement, most particularly in ensuring that it treats developing country producers fairly, and pro-actively assists

⁴ The Agreement on Technical Barriers to Trade (TBT) imposes strong obligations on member States preparing mandatory technical regulations. In the case of the preparation of voluntary standards, a “Code of Good Practice for the Preparation, Adoption and Application of Standards” applies, and central government standardizing bodies must accept this Code and comply with it. Non-government bodies are not bound by the Code, although Article 4 states that governments “shall take such reasonable measures as may be available to them to ensure that... non-governmental standardizing bodies within their territories... accept and comply with this Code.” In practice, governments generally have not attempted to force non-governmental VSSLs to adopt and comply with the Code, although many do so voluntarily.

their participation. The principal reason for optimism on this score, is that the environmentally and socially aware consumer segment that is driving the VSSL movement is for the most part sympathetic to, and supportive of, the interests of the world's poor. While there may well be some confusion about the best ways of promoting those interests, there is a shared underlying motivation, which creates a receptive environment for dialogue and solution-finding.

The Benefits and Promise of VSSLs

The goals of VSSLs are expressed in a typical way in the goal and mission adopted for the Nordic Swan eco-label:

To contribute to reduced environmental impact from consumption [by] –

- *[Guiding] consumers and purchasers in their wish to practice environmentally conscious purchasing, and*
- *[Stimulating] the development of products and services that are associated with a lesser environmental burden compared to otherwise equivalent products...⁵*

Typical innovations associated with the influence of eco-labels include the phase-out of hazardous materials in products, improvements in energy efficiency in products, and changes in forest management techniques and disciplines; however evaluations have found that it is difficult to separate the direct environmental effects of labeling from other factors operating at the same time, and studies often conclude that several instruments have contributed to an observed change.⁶ Surveys and focus groups provide positive indications; for example, more than a third of company representatives interviewed in Germany considered that the Blue Angel eco-label had led to an environmental improvement of their product.⁷

Besides direct environmental effects, VSSL initiatives make other significant contributions:

- They contribute to the growing public awareness of, and commitment to, sustainable development;
- They are particularly helpful in the difficult task of fostering farmer support for more environmentally-conscious agricultural practices;
- VSSLs pioneered by NGOs have stimulated green procurement policies by retail supermarket chains, and by public authorities; an OECD study on trade implications of the latter concluded that “the growing practice by public authorities of purchasing greener goods should not encounter serious obstacles;”⁸
- Practical experience with VSSLs has built understanding of the practicalities of sustainability standard-writing, and trial-and-error experience of appropriate governance and institutional requirements, which will be useful for developing governmental sustainability standards;
- The perceived success of VSSL strategies has helped many NGOs move beyond simplistic, oppositional campaigns, toward more constructive approaches to sustainable development, including engaging developing countries. For example, campaigns against tropical timber imports into Germany in the 1980s led to an ‘enormous’ drop in demand

⁵ Quoted in TemaNord 2001 page 18

⁶ United States EPA 1994; OECD 1997; Umweltbundesamt 1998; Johansson 2000; TemaNord 2001

⁷ Umweltbesamt 1998 page 40

⁸ OECD 1998 page 20

for tropical timber: up to 80% in the do-it-yourself sector.⁹ Since then, emerging support for certified, well-managed tropical timber has caused NGO boycott campaigns to drop away, and there has been significant growth in certified imports.

The strategic context is clear enough. The new paradigm of corporate social responsibility and triple bottom line performance accountability, if it is to have a real future, needs to be actively supported by changes in the intergovernmental governance framework for global economic competition. The lasting significance of VSSLs in this context will lie in their capacity to:

- Provide working models of sustainability standards development and governance, demonstrably solving many of the foreseeable practical difficulties of the emerging global framework;
- Build public understanding and political support for measures to foster more sustainable consumption patterns.

VSSLs are part of an emerging civil society strategy that seeks to exemplify, and build towards, a more broadly-conceived governance and accountability framework for global economic activities. An early test of this strategy will come in the Doha Round, as the European Union pursues its goal of achieving a negotiated agreement on environmental labeling. Whatever is achieved by way of a framework for government-sanctioned labeling in the WTO context, VSSLs are likely to continue to play a vital role in carving out, and proving up, pathways to the future in this area.

Questions remain about the widespread use of VSSLs. Three kinds of issues have been debated, and these will each be discussed in the sections following:

- Issues relating to the integrity of the trading system
- Other issues relating to the quality of the standards-writing processes
- Issues relating to the implementation of standards.

Issues Relating to the Integrity of the Trading System

These issues are:

- that allowing processes and production methods (PPMs) which are not embodied in the product to be used as a basis for discriminating between like products opens an important window of opportunity for trade protectionism;
- that VSSLs may in practice evolve into de facto mandatory standards for access to particular markets, and that for this to happen without the application of WTO disciplines would subvert the formal system of trading rules, leading to the possibility of protectionism;
- that some VSSLs have adopted a one-size-fits-all approach, imposing requirements which are not appropriate to the environmental or developmental circumstances of some countries, and thereby create a disguised barrier to trade;
- that in such circumstances domestic producers (or developed country producers as a group) may exercise undue influence over the requirements reflected in a VSSL.

⁹ UNCTAD 1999 page 8

On the first issue, thinking has moved on. The argument has been convincingly made that there is no practical difference between PPM-based and product-based trade measures.¹⁰ The WTO's Appellate Body ruling in the shrimp-turtle case appears to have removed the barriers to using PPM-based measures, as long as it is done in a manner that conforms to other WTO law.¹¹ Further legal scholarship has reinforced the view that there is no basis in WTO law for rejecting PPM-based environmental regulations on traded goods at the border.¹² If there is no objection to PPM-based regulations, there can be none to PPM-based VSSLs. It is obviously fundamental to the whole purpose of VSSLs, that they can provide a basis for discriminating between products on the basis of significant differences in the environmental and social impacts of their means of production.

As to the second issue, there is little evidence that VSSLs are evolving into de facto mandatory standards for access to particular markets. Even in those countries where eco-labels are longest established and have traditionally had their strongest following, such as the Scandinavian countries and Germany, recent reviews confirm that eco-labeled products have achieved only a modest share of the market – typically 1% to 5% – for most categories of products.¹³ High or relatively high penetration (40-70%) was achieved in some Scandinavian countries only by eco-labeled laundry detergents, batteries, printing paper (other than newsprint) and printed matter. Of all eco-labeled products, organic food has perhaps the strongest consumer appeal but even here, the market share remains relatively modest. Commitments to green procurement by supermarket and hardware chains are significant enough to drive greening of many supply chains, but the highly competitive nature of retail sectors ensures that non-certified produce continues to find ready markets in the overwhelming majority of cases.

Thus while there have been isolated examples of markets in which developing country imports may have been disadvantaged through the market dominance of an eco-labeled standard,¹⁴ it is difficult to see that this could become a major problem in the foreseeable future. Market dominance by established, ordinary brands is a much more common problem for developing country exporters. The existence of market segments in which certified products are preferred by retailers and consumers is more realistically viewed as an opportunity than a threat.

The remaining issues of concern – that VSSLs may impose a one-size-fits-all approach that creates a disguised barrier to trade, and that this approach may be unduly influenced by domestic or developed country producers – highlight an inherent conflict between the requirements of sustainability standard-setting, and the traditional role of standards in the trading system.

It is true that a one-size-fits-all approach is only sometimes appropriate in setting sustainability standards. More commonly the standard, to be effective, needs to reflect the particular context in which it is being applied. The *environmental* context (scarcity or abundance of water for example) influences any judgment about the sustainability of a particular resource use or contaminant discharge. The *developmental* context (rich or poor) also influences whether it is appropriate to insist on costly standards.

Sustainability standard-setting differs from most other approaches to international standards in that it must often establish only objectives and principles at the international level, while

¹⁰ Cosby 2001

¹¹ WTO Appellate Body 1998

¹² Howse & Regan 2000

¹³ TemaNord 2001; Umweltbesamt 1999

¹⁴ For examples see Zarrilli et al 1997

providing substantial flexibility as to the specific standard to be applied in a particular national context, if it is effectively to meet the desired objective.

The TBT Agreement was negotiated prior to the recent flowering of sustainability standards – both voluntary and regulatory – and the negotiators did not fully foresee the extent of this development or its significance. The Agreement to a large degree embodies the assumption, derived from the traditional technical standard-setting activities of the ISO and like bodies, and also from food safety standard-setting under *Codex Alimentarius*, that a process of harmonizing national standards toward agreed, specific international standards is generally both workable and effective, and from a trade perspective, desirable.

While countries have the right, under certain circumstances, to establish their own unique national standards even when international standards exist, many developing countries cannot readily take advantage of this flexibility because:

- If a WTO member lacks the capacity required to demonstrate that an international standard is not appropriate in its national context, then it has little choice but to use international standards; and
- The significant technical and institutional resources required for a country to demonstrate that an international standard is inappropriate are available in only a few developing countries.¹⁵

The major global eco-labeling organisations have taken seriously the concerns of developing countries that one-size-fits-all standards are not appropriate to their circumstances. There has, for example, been an emphasis on establishing only “principles and criteria” (FSC) or “basic standards” (IFOAM) at the global level, with a corresponding emphasis on developing national or regional standards for the actual certification processes. In addition there has been a serious effort to involve developing countries effectively in the governance of these types of organisation.

A third avenue which should be pursued – providing financial support for developing countries to develop the technical and institutional capacity to take advantage of sustainability standards (whether mandatory or voluntary) – is for the most part beyond the resources of voluntary eco-labeling organisations. This need has however been recognized in the WTO’s Doha Declaration, and the World Bank has recently announced the establishment of a fund which will assist.¹⁶

The TBT Agreement makes provision in clause 2.7 for countries to accept technical regulations of other countries as being equivalent to their own, even if they differ, “provided they are satisfied that these regulations adequately fulfill the objectives of their own regulations.” Unfortunately, there is at present no procedural and policy framework provided for the negotiation of technical equivalence agreements to implement this clause. Nonetheless the intent is clear, and the need for processes to recognize technical equivalence is also important in the VSSL sector.

¹⁵ Rotherham 2002 page 6

¹⁶ The Doha Ministerial Declaration confirms that trade-related technical assistance and capacity-building are “core elements of the development dimension of the multilateral trading system” (para 38) and sets out a substantial new agenda for action. World Bank and WTO jointly announced in a press release on 27 September 2002 the establishment of a “Standards and Trade Development Facility” to support the shaping and implementation of standards.

Other Issues Relating to the Quality and Governance of Standards-writing Processes

VSSLs should not just be accountable to the principles of the trading system; they should also be accountable to the principles of sustainable development. The issue just discussed above, is integral to both. Other issues of concern from a sustainable development viewpoint are that VSSLs may mislead consumers or fail to contribute effectively to sustainable development if:

- the governance of the VSSL is controlled by national or sectional interests;
- the VSSL is poorly conceived or insufficiently comprehensive in its design;
- the VSSL relies on inadequate or poor quality information.

A great deal of debate is focused on the first issue. Much effort has been put in to achieving balanced and independent governance structures, although these are still contested. Independence is not the only matter to consider; poor governance may stem from a variety of sources. Structure, transparency, regular review processes, active external scrutiny and involving quality personnel in governance, are all important.

It is also worth noting that VSSL initiatives that are effectively controlled by producer interests may have a credibility advantage with groups whose co-operation is vital in sustainable development – notably farmers and small forest owners. As a result, such initiatives are particularly well-placed to bring about change in the popular culture and practices of those groups, in relation to sustainability.

VSSL design issues are fundamental in determining the extent to which loyalty to eco-labeled products will actually benefit sustainable development. While eco-labels aim to use life cycle analysis to achieve a holistic understanding of the environmental impacts of products, the great majority of certified products actually have no such analysis. Instead, they focus on a particular product characteristic, or a small number of them. This focus may be acceptable in some cases because it is of overwhelming practical significance. Examples are the biophysical sustainability of fish stocks, or the energy efficiency performance of cars. But in other cases, the use of one-eyed criteria can steer consumers in a direction that may be, on balance, damaging to the environment. A recent report highlighted for example, the very high greenhouse gas emissions that are associated with long distance transport of organic food by air to Britain.¹⁷

Life cycle analysis is itself very dependent on the parameters used for the analysis. There will be limited confidence in its use in international trade contexts until there exists a set of very specific agreed standards for setting the parameters. It is also an information-rich mode of analysis which must draw on substantial policy-relevant databases, for which considerably more development is required.

The quality of consultation processes used, and the rigour with which trade policy principles are applied, are important ingredients in designing high quality, fair and respected VSSLs. In a significant development, the major NGO-sponsored global VSSLs have recently grouped together in an alliance, the ISEAL Alliance, which aims to upgrade the quality of VSSLs by drawing on WTO and ISO principles and approaches.¹⁸

A design flaw of some VSSLs has been that their specifications are focused on controlling activities rather than on achieving desired effects. As environmental data improves, this approach

¹⁷ Sustain 2001

¹⁸ See www.isealliance.org

becomes increasingly questionable. In organic certification, for example, it may not be sufficient or even relevant simply to certify the absence of use of man-made fertilizers, if unacceptable levels of nitrate contamination from organic farming are still building up in groundwater.

Achieving sustainable development in practice depends heavily on the availability of specific technical information. Achieving robust and effective VSSLs will depend on gathering and using a lot more information, rather than making assumptions. Building up useful information is a process which starts by asking the right questions, in a disciplined framework. If VSSLs are to be accessible to developing country producers, it will be necessary to develop a better understanding of the environmental contexts of production in those countries.

There has been much debate and concern about the trade-related performance of VSSLs. It is inevitable and appropriate that there will be more focus in future on the effectiveness of VSSLs in achieving their environmental and social objectives. Major steps are needed to improve the design of many VSSLs, and to ensure that there is an adequate basis of data to justify discrimination in favour of particular products and services.

Implementation Issues

The issues raised under this heading relate particularly to the ability of developing country producers to participate in VSSLs once they are established. The issues fall into two related categories:

- That the costs of certification are said to exceed the benefits;
- That there is insufficient institutional and technical capability available in many developing countries to enable certification.

The view that the costs of certification are significant relative to the benefits is a matter for individual commercial judgment by a particular business in a particular product category. There is certainly evidence in many areas, including organic agricultural production, that premiums are falling as the supply of certified goods increases. It is not an uncommon experience that consumers and especially, retailers expect to purchase certified product for the same price, or only a slightly higher price, as non-certified product in the same category. This does not curb interest in certification where there are important market access benefits to be obtained, as is often the case. For example, the decision of the large Home Depot retail chain in the United States to require certification for the wood and wood products it sells has driven a substantial recent growth in FSC certification amongst wood producers that previously eschewed FSC.

Overall, the fact that certification to sustainability standards is growing at a rapid rate around the world leaves few grounds for the belief that the costs of certification widely exceed the benefits. If they did, the standard-writing bodies would review and adjust their standards to make compliance with them less costly, since successful implementation of the mission of these bodies requires striking a careful balance between the toughness of their standards and the ability of a substantial number of businesses to be able to afford to meet the standard.

It is evident nonetheless that producers in developing countries find the upfront costs of meeting the standard a more difficult hurdle than do producers elsewhere. This is evident from the relatively low uptake in developing countries of even the relatively more established eco-labels such as organic agriculture and FSC forest certification.

This situation no doubt stems in part from the general barriers that inhibit business investment in many developing countries, such as more difficult and costly access to finance and some technical skills. There are however, also barriers specific to certification in many developing countries. As mentioned earlier, these barriers particularly include gaps in the infrastructural and technical capability required to support certification processes: namely conformity assessment organisations including well-equipped testing laboratories; standards institutes; and accreditation bodies. This infrastructure deficiency must be fixed not just to enable low-cost participation in VSSLs – it is also needed for developing countries to take advantage of their rights and opportunities under the TBT and SPS Agreements.

Conclusions

VSSLs are playing a vital role in fostering action, innovation and attitude change toward sustainable patterns of production and consumption; and in piloting standards, practices and governance models that will ultimately help the world move toward governance systems for global economic activity that are consistent with sustainable development.

The contribution of VSSLs can be enhanced by addressing four major needs:

- Promoting technical equivalence agreements, which can better enable the unique circumstances of different countries to be reflected in the specification of standards to achieve universal sustainable development objectives;
- Investing in upgrading the certification infrastructure and technical capability of developing countries, so that they can develop and use sustainability standards that reflect their own circumstances;
- Progressively reviewing and upgrading the design of standards, by providing a more robust focus on actual environmental and social effects; a more comprehensive consideration of potential effects; and a more rigorous approach to fairness, including compliance with trade principles;
- Helping to set the research agenda in ways that can yield needed information for sustainability standard-writing and certification processes.

For the foreseeable future, VSSLs should be advanced in a way that respects and focuses on WTO principles, but does not become directly subject to WTO disciplines. Any agreement to impose WTO disciplines would require the supervision of VSSLs by governments, and this would open the door to a variety of kinds of undesirable interference.

This view reflects the importance of safeguarding the inherent strengths of standards and labeling systems developed by civil society institutions:

- Their independent governance, and accountability to a broader concept of human welfare than the WTO currently represents;
- Their freedom and capability to help lever governments toward action and global agreements on matters of sustainable development;
- Their capacity, through trial-and-error and learning-by-doing, to innovate and set the pace in the field of sustainability standards;
- In part because of the above factors, the high level of trust and credibility they generally retain with the public.

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