

Harmonizing environmental standards for food production

The role of the World Trade Organization



Developing international environmental standards for agri-food production is critical to ensuring sustainable and resilient agriculture and food systems in the future.

One approach to achieving this goal is the Codex Alimentarius, which establishes minimum environmental requirements for global food trade. The Codex Alimentarius seeks to promote sustainable production practices while remaining flexible enough to consider factors like climatic conditions and development level, ensuring its effectiveness worldwide.

This policy brief examines how the World Trade Organization (WTO) can advance the development – and uptake – of a future Codex Alimentarius. In particular, it focuses on the harmonization provisions in the WTO Sanitary and Phytosanitary (SPS) Agreement and the Technical Barriers to Trade (TBT) Agreement and their relevance to the set of standards that would be developed as part of the Codex Alimentarius.

Rising global demand for agriculture has depleted habitats and biodiversity, polluted water and air, and destabilized the climate.¹

Agriculture is the primary driver of biodiversity loss, pushing the world beyond planetary boundaries for nitrogen, phosphorus, climate change, biosphere integrity, land system change, and freshwater use.

To address these challenges, the World Wildlife Fund (WWF) proposed the development of a “Codex Alimentarius”, a baseline for the development of minimum environmental standards for the production of all food traded internationally.

The Codex Alimentarius is inspired by the Codex Alimentarius, which comprises widely adopted international food safety standards.

The reference to the Codex Alimentarius in the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) means that Codex has far-reaching implications for resolving trade disputes.

The Codex Planetarius: the what, the why and the how?

A Codex Planetarius could serve as the baseline for the development of national environmental standards. It would focus on key environmental challenges associated with agri-food production: biodiversity loss, habitat conversion, water take quantity, water effluent quality, greenhouse gas emissions (GHG), pesticide use, and excess application of nutrients (nitrogen and phosphorous). It would also identify acceptable levels of impact and metrics for measuring them.²

Although many voluntary sustainability standards (VSS) have been developed to ensure that food is produced in an environmentally sustainable manner, no harmonized international standard has been developed. This is in stark contrast to other areas of international concern.

The impact of VSS has been limited as (i) they generally apply to only one commodity and one country or region; (ii) there is little to no harmonization, limiting the possibility of enforcing them in global supply chains; and (iii) they are only applied by producers that do not generate the greatest environmental impact.

A Codex Planetarius and the World Trade Organization

Both the SPS and TBT Agreements strongly encourage WTO Members to use international standards, guidelines, and recommendations as the basis for relevant domestic measures, to reduce trade frictions and obtain a certain degree of legal protection.

While it would be relatively easy for the Codex Planetarius to be developed by the requirements for an international standard, finding a suitable link under either the TBT or SPS Agreement might be more challenging.

Food and farming systems are responsible for:

29% of Greenhouse Gas (GHG) emissions,

70% of terrestrial biodiversity loss, and

50% of freshwater loss.

Source: Living Planet Report 2020

Requirements to be considered an "international standard" under the WTO

The SPS Agreement identifies guidelines from competent international organizations for food safety, animal health, and plant protection as relevant international standards. The TBT Agreement specifies that standards must be approved by an international standardization body and establishes six principles for developing international standards: transparency, openness, impartiality and consensus, relevance and effectiveness, coherence, and development dimension.

International standards under the SPS Agreement versus the TBT Agreement

For the Codex Planetarius to be considered an international standard under the SPS or TBT Agreement, it must also relate to matters that fall within the scope of either Agreement. The TBT Agreement covers technical regulations, standards, and conformity assessment procedures, while the SPS Agreement applies to measures protecting human or animal health from food-borne disease, human health from animal- or plant-carried diseases, and animals and plants from diseases.

The Codex Planetarius could be considered under the SPS Agreement if its environmental standards for agri-food production protect animal, plant, and human life or health within importing countries' territories. Under the TBT Agreement, it could apply if its non-product related production and process methods (NPR PPMs) are recognized. However, there is ambiguity on whether the TBT Agreement includes NPR PPMs, which do not leave physical traces in the final product.

An imperfect fit

While synergies exist between the SPS and TBT Agreements and the Codex Planetarius, neither agreement perfectly fits to host it.

Whether a compliance claim involving the Codex Planetarius falls under the TBT or SPS Agreement will depend on the specific issue and type of standard set out in the Codex Planetarius that is being implicated.

If the Codex Planetarius falls outside both agreements, compliance with it could still be relevant under the General Agreement on Tariffs and Trade (GATT). To justify a measure under GATT Article XX, it must be shown that the discrimination is objectively justifiable and not a disguised trade restriction. Therefore, if the Codex Planetarius is not covered by the SPS or TBT Agreements, the WTO's ability to incentivize its uptake among Members would be limited.

References

- ¹ C. van der Ven et al., (2022). "Core Environmental Standards for UK imported Agri-food Products: Options for pesticide and fertilizer use". TULIP Consulting.
- ² Clay, J. 2016 "Codex Planetarius: Reducing key environmental impacts of producing globally traded food".

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Author: Full working paper produced by Colette Van der Ven, Founder and Director of TULIP Consulting in her collaboration as Consultant for the United Nations Environment Programme (UNEP),

Review: Beatriz Fernandez, Jayasurya Kalakkal, Niko Felix Single-Liertz

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