SECTION 1 - IMPLEMENTATION OF WCO STANDARDS

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"GREEN CHANNEL" − FOR "GREEN PRODUCTS"

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Abstract

In this article issues of environmental and social responsibility are analyzed in the context of the growing demand for sustainable and green products. Concrete examples are provided to show that in many cases environmental and social claims made by companies are impossible to verify which might lead to abuse of consumers and to an unfair completion. The author invites to a discussion about ways on how to ensure that only genuine green products enjoy a preferential access to the global markets

Key words: environmental and social corporate responsibility, validation of environmental and social claims by companies, abuse of green claims, green counterfeiting, traceability and social traceability, environmental and social footprint.

Introduction

The protection of environment becomes today a challenge for the whole mankind and not only a concern of "green activists" as it was recently. There is a growing awareness both among governments and in the civil society that the change to environmentally sound production methods and consumption patterns is not a fashion but an economic and social necessity.

It is not by chance that sustainability and climate change were among major items on the agenda of the latest World Economic Forum held in Davos in January 2014.

Such interest is supported by specific steps undertaken by governments. Thus, in January 2014 it was announced that European Commission is aiming by 2030 at reducing carbon emissions by 40% (compared with 1990 level) and at increasing the share of renewable energy to 27% of the energy used at European Union.[1]

This ecology consciousness is reflected in the general increasing demand for so called "green" products and in a changing regulatory framework when governments impose new rules aimed, for example, at having less polluting and more energy efficient goods (and relevant state bodies control at the border such compliance for imported goods).

One of the resulting particularities of the current international trade is the growing number of conformity assessment marks on the manufactured goods entering global markets. Many of these marks are intended (as it was mentioned above) to show that goods are safe and are manufactured in accordance with regulations at specific markets, others - are showing compliance

[1] www.ec.europa.eu

with numerous voluntary certification schemes (the most known among them - on quality management in accordance with ISO 9001 standard).

Evidently, state bodies (for example, customs) are controlling compliance with mandatory regulations and leaving voluntary schemes to the market. At the same time the growing proliferation of voluntary marks might create confusion and even abuse (as it will be shown later) for final users and consumers.

The rather recent and latest tendency in this area is a constant increase of environmental and social claims by companies which are usually supported by various marks, labels, schemes. Consumers worldwide are becoming more and more conscious about how goods are produced and companies are responding by showing that not only their production methods are sustainable and environmentally friendly but also that they behave as good citizens in all respects, for example, by ensuring good labour conditions at their factories not only at home but at developing countries as well.

One can say that the famous citation “the business of business is business” does not work anymore and that companies today are expected to have also “a positive environmental and social face” - what is usually called a “corporate social responsibility”.

Moreover, good environmental and positive image becomes a part of the marketing strategies of the companies in view of the growing markets for environmental and socially friendly products.

One of such world markets is for organic products. Its volume is around 60 billion US$ and is expected to reach 88 billion by 2015. Leading markets are USA (half of the world market) and Europe. The major segments of the organic market are fruits and vegetables (more than 30%). In absolute terms the share of organic products is still modest -1-3% of food sales, though it varies significantly depending on a country and product (for examples, for fruits and vegetables it reaches 5-10% of respective market segments). What is important that though bio-production is more expensive, the selling price can be several times higher than an ordinary product. Plus the “bio-demand” is constantly growing (on average 8% annually) and even during crisis. And compared to 2000 sales of organic products doubled.

And there is a demand for such goods. The study done at USA shows that 4 out of 5 Americans are buying environmental products. Another data (from OECD countries) demonstrate that the mean expenditure for organic fruit and vegetables varies across countries and ranges from 13% to 35% of total household expenditures on these products (organic and conventional). It shall be noted that though organic products are more expensive, consumers are ready to pay such premium (according to OECD study, they are willing on average to pay more from 5% in Australia and Canada to 23% price increase in Korea).[2]

The data above shows why companies are interested in environmental products. This is a direct link with what company is producing but such liaison may be more complicated, for example, in case of a company using polluting technologies, an impact might be through consumers refusing buying products (be organic or conventional) from such corporation.

The social factors influence business in a non direct manner. But it shall be stressed that today ignoring social issues may lead to a real nightmare for a company. As an example, one can take a well-known case of Nike company.

To recall that the market success of this company in the 90-s was to a significant extent due

[2] OECD 2013, *Greening household behaviour: Overview from the 2011 Survey*

to a relocation of Nike's production facilities to developing countries with cheap labor. At the same time company lost control of what was happening abroad, which led to accusations from the US trade unions and NGOs on the use of child labor and other abuses of labor regulations at the Nike suppliers' plants. The detailed analysis of the problem and of Nike actions to fight back is contained in the below mentioned paper. [3]

What it is important for our analysis, is that Nike was not able to ignore this campaign and was obliged to elaborate a corporate code of conduct for its suppliers, to establish workers' associations, to improve labor conditions at its factories, etc. In spite of this, labor-related complaints against Nike continue to surface from time to time (latest in autumn 2011).

The case study of Nike demonstrates, in our opinion, two major issues:

- That a company is expected to control social and other sustainability issues throughout the whole production cycle of its products.
- Consumers will no longer accept explanations of companies which claim not to be responsible for what is happening at their facilities beyond their direct control (we can say that consumers expect a company to have "extra-boundary" responsibilities to trace the whole complex of issues relating to its product).

We feel that these facts above demonstrate a direct link between CSR and a company reputation and the consequences of not respecting expected behavioral norms.

Another recent business example concerns both social and labeling issues and shows how they are linked together. In autumn 2013, the court action was finalized in USA regarding animal abuse scandal at a Californian slaughter house (Westland/Hallmark) in 2008. The settlement of US $ 500 million was finally reduced to US $ 155 million due to the lack of funds with the defendant as because of the judicial action the slaughter house was closed and the company got bankrupt. The accusations under this lawsuit concerned not only animal welfare but also fraud (meat supplied by the company was used in the federal school lunch programme and thus violated the terms of this program which requires the human handling of animals). This judgment not only clearly shows that the society will not tolerate such cases but also that such business practices can be mortal for a company. [4]

The facts above illustrate the importance of ecological and social issues; so one could ask in this context is what the society and governments expect from companies. It is evident that the reaction to growing environmental and social consciousness of companies is positive but the implementation is left totally to business itself. The paradox is that the society praises business for caring, for example, about environment which shall be a totally normal behaviour. And if it is normal why shall you certify "being normal"?

This confusion is strengthened by analysing annual corporate environmental and social reports (another "must to do" for companies today), which primarily contain various examples of caring for ecology (renewable energy, carbon footprint, use of water, environmentally sound production, etc.) but are significantly modest and more vague in social areas and usually provide examples of what is normally considered to be a charity (construction of schools, sponsoring sports events, etc.). For example, if we look into a special brochure prepared by the World Bank for Russia and which is supposed to provide good examples, the majority of "best practices" from

[3] Waller et al 2010, *Framing and Counterframing the Issue of Corporate Social Responsibility*, The Communication Strategies of Nike

[4] www.humainesociety.org/news/press_releases/2013/11

Russian companies constitute "typical" charity and it is difficult to understand why they now became signs of "social responsibility".

In our opinion, it shows that compared to environmental issues social responsibility matters are not yet clearly defined and require further clarification. And the first point one can made here is why environment considered separately from social; isn't social shall encompass all issues?

An effort to solve this problem was made in the recent (released in November 2010) ISO standard 26000 on social responsibility which defines it as:

"responsibility of an organization for the impacts of its decisions and activities on society and the environment, through transparent and ethical behaviour that contributes to sustainable development, including health and the welfare of society;

- takes into account the expectations of stakeholders;
- is in compliance with applicable law and consistent with international norms of behaviour; and
- is integrated throughout the organization and practised in its relationships.[5]

In this article we will the above definition. Among major components of SR the ISO standard mentions are: human rights, labour practices, environment, fair operating practices, consumer issues, community involvement and development. So it is important to note that the authors of the standard share our approach that environment is a part of social responsibility (see ISO 26000 standard).

In our opinion, even this comprehensive document (ISO 26000) does not cover all issues as their range may change depending on a specific point of view. We believe that to avoid the proliferation of SR claims, an instrument shall be identified which will allow to concentrate on a SR profile for particular business and not for everybody.

Such instrument, we feel, can be "risk management" linked to a calculation of individual "social footprints". Many companies are already using such "footprints" in area of water use and CO2. In our opinion, similar approach can be used for social issues with a view of identifying "socially-related risks" which are specific for a concrete company (industry) and are linked to its area of operations and activities.

This approach allows to see what social issues are directly related to a specific business and how they can have direct implications for it. In this context, totally new issues may come out. For example, social conditions for labour (not physical- work time, salary, etc.) but more specific issues of "burn out", working under stress, etc. For instance, "burn out" at it extreme cases can lead to a suicide and, evidently, it is not good for a working climate in a company. In the majority of "burn-out" cases one can see a combination of factors directly relating to the work place and others that constitute a tip of the iceberg (family, credit problems, cultural – what is "success or failure", etc.). These invisible factors are beyond the reach of a company, so shall it look into them and try to resolve? We believe that, for instance, "burn-out" shall become a part of a corporate SR, though it is not explicitly mentioned in ISO 26000.

For example, after the death of an intern (allegedly as the result of long after office hours) at the Bank of America in summer 2013 a number of investment banks are currently revising their working guidelines, which, in our opinion, shows the problem awareness.

"Risk management" approach could bring out to the light other social issues as well. In April 2013, an industrial building that housed a number of garment factories collapsed in

[5] ISO 26000 standard

Bangladesh killing more than 1 thousand workers and injuring several hundreds. This catastrophe was provoked by non respect of building codes and of safety regulations. Following this disaster a number of major garment retail companies (representing such marks as Calvin Klein, Tchibo, H&M, Zara, C&A and others) decided in May 2013 to establish a special committee to control fire safety of the local factories at Bangladesh (and of their sub-suppliers) working with international retailers. It is evident that though national construction and safety controls exist, they were not able to stop the tragedy and so companies take their own preventive action in the SR spirit. [6]

The ongoing debate on SR which seems to be a theoretical but it has a commercial side as well. Identification of a company and its products on the market has been always a part of corporative marketing strategies; now environmental and social aspects are added to it.

And these issues can not be neglected today: according to Forbes Magazine (2013), CSR constitutes 40% of a company's reputation today.

Another important aspect of SR is what consumers want to know and what they know in reality. As consumers learn about the whole variety of products attributes (nutritional or environmental) through labels and marks, it would be interesting to analyse how useful and understandable they are.

Surprisingly, according to a study conducted in USA, consumers don't know how to tell if green product claims are true (one in three admits having this problem). Only one in 10 consumers blindly trusts green product claims. Consumers are verifying green claims by reading the packaging (24%) and turning to research (going online, reading studies; 17%). [7]

Similar problems are confirmed by a survey on animal welfare held at EU. On the one hand, it is very encouraging that 74% of respondents expressed their confidence that they could influence how agricultural animals are treated. Moreover, in exchange for better animal treatment more than 57% consumers are ready to pay higher prices (and 11% even ready to go for a 25% increase).

On the other hand, the survey showed that at EU as the whole only 20% of consumers can identify products sourced from "animal welfare friendly production systems" - "most of the time" and 23% - "some of the time". On the other extreme, one third can never do it and 19% - "very rarely". [8]

In our opinion, these examples (based on comprehensive and reliable surveys) show that consumers are conscious about what they want and that they are willing to go towards "green" or "animally friendly products" but the majority of them are not able to make informed decisions.

Both examples bring us to the issue of, on the one hand, of education of consumers and, on the other, how informative and reliable are current environmental and other labels of products placed on the market.

So regarding labels one can ask what is reliable information? Product labels are used to communicate information (through statements, images) about a variety of product characteristics (e.g., its basic nature, identity, composition, quality, origin, method of production, benefit to health, safety precautions, etc.). In addition labels can contain supplementary claims, for example, regarding sustainability or other issues (biodegradable, "raised in open air" -for poultry, etc.). It shall be noted that the understanding and interpretation of labels/claims by consumers may be

[6] La Cote, 15 mai 2013
[7] www.enviromedia.com
[8] Eurobarometer, 2005

affected by factors such as culture, knowledge and education and by label characteristics (for more details see a footnote below).

As an example, of false labeling we could recall the scandal with horse meat being used instead of beef in lasagna sold (by company Findus) at UK and France in 2012 or accusations of Walmart selling normal pork as organic in its stores in China in 2011. In both cases it was allegedly the fault of sub-suppliers in the supply chain (although it is difficult to believe why such "mistakes" were made in favor of more expensive products).

Besides "truthful" or "false" communications they can also be "truthful but misleading", which means that though they are factually true they can lead consumers to make incorrect decisions. Both the presence and absence of information are relevant to whether labeling is misleading (examples: label "fresh orange juice" when it is produced from a concentrated juice or label "contains no sugar" for products containing no sugar but other sweetening additives, etc.). And many environmental and social claims seem to fall into this category.[9]

For example, in the United States, when determining whether food labeling is misleading, the federal law requires that the Food and Drug Administration (FDA) take into account not only statements that are made or suggested in labeling, but also if the labeling fails to reveal facts that are important (regarding the product itself or consequences that may result from its use). FDA prepares for business "green guides" to explain and define common terns used in environmentally themed marketing and to clarify what statements can be confusing (it also controls potentially abusing claims).

As a case of misleading labeling could be considered a new phenomena called "green washing" which means an unsupported advertising when companies spent more money on advertising like "go green" instead of real activities in this area. The internet site "Ethical Consumer" (www.ethicalconsumer.org) claims that market research done in USA shows that 9 out of 10 people are skeptical about environmental claims done by companies and by the government. From the point of honest companies producing green products it may be a serious challenge because many consumers do not trust and do not understand environmental claims and malicious producers can present their ordinary products as green through their branding (green washing) without any proof. An indirect illustration of such tendency is an accelerated growth in the USA of registrations of new trade marks and labels containing word "green".

The facts above show that today labeling is not anymore a purely technical issue and "provision of a truthful and non-misleading" information shall be considered a part of a SR of a company. Thus, the ISO 26000 standard states (para 6.7.3.1) that "…uunfair, incomplete, misleading or deceptive marketing and information can result in purchase of products and services that do not meet consumer needs, and result in a waste of money, resources and time], and may even be hazardous to the consumer or the environment. It can also lead to a decline in consumer confidence, with consumers not knowing whom or what to believe. This can adversely affect the growth of markets for more sustainable products and services…"

So we can see that many consumers do not understand and do not trust green labelling.

[9] Codex Alimentarius Commission (an UN international body on food safety) has the following classification of labels/claims: "truthful and non-misleading"; "false"; and "truthful but misleading". "Truthful and non-misleading" communications are factually true and do not lead consumers to make incorrect decisions. "False" communications are factually untrue, and lead consumers to make incorrect decisions. See *UNECE document TRADE/WP.6/2005/Add.2 of 5 August 2005*

Now we will look into the reliability of environmental labels and marks assigned and validated by independent certification schemes. Thus, the London based environmental consultancy company "Carbon Smart" published in 2011 a report on the state of sustainability assurance (carbon assurance and reporting among largest UK companies).[10]

The major conclusion of the report is that the majority of claims listed in the sustainability reports are not supported by any verification or assurance.

The detailed analysis made by “Carbon Smart” shows that out of FTSE 250 group, 205 companies had some level of sustainability reporting, 28 of them - reports with some form of assurance, 20- reports with independent assurance and 8- reports with independently verified carbon emissions.

In simple terms the report and information contained in it claims that the reporting on sustainability became a part of corporations’ reporting patterns and of communications with stakeholders but at the same in the majority of cases there is no or very little assurance of sustainability reporting. In particular, companies use diverse approaches and ways of reporting thus not allowing their verification and comparison.

The similar deficiencies in reporting (namely unclear or unverifiable information) exist also in the area of reporting on “water footprint” (for details see “Le Monde” of 31 January 2012).

An additional problem for someone trying to assess the validity of claims is to understand what a particular scheme/label exactly demonstrates. Take, for example, “Fair Trade” scheme which is well known and ensures an extra premium paid to producers. Based on a general assumption one can expect that a product carrying such label is 100% social conscious. In fact, the requirement is to have minimum 30% of “fair trade” certified components. And similar specific and usually not explicitly known requirements are typical for various schemes. It means that an individual consumer practically has no chance to assess the usefulness or scope of a particular scheme.

Apart from labels and certificates from voluntary schemes companies are using what we can call a “self-declaration”, first of all, through annual environmental and social reports . Some examples of them: “corporate responsibility report” (Glaxo), “sustainability report “(Caterpillar), “sustainability report : social, environment , economy” (Switcher) “handbook of environmental standards” (Puma), etc.. Even their titles differ; same with content. Without reading these reports it is impossible even to understand what type of information they contain and when you read them in most cases the data on individual companies can not be compared due to a different format of presentation, used methodology or unclear definitions.

One could imagine that it would be better if there were mechanisms to verify sustainability claims on a global level. And such scheme seems to exist; it is “UN Global Compact”. The UN Global Compact claims to be the world's largest corporate citizenship and sustainability “initiative”. Since its official launch in 2000, the initiative has grown to more than 10,000 participants, including over 7,000 businesses in 145 countries around the world.

The Global Compact involves all relevant social actors: companies, whose actions it seeks to influence; governments, labour, civil society organizations, and the United Nations as an authoritative convener and facilitator.

The scheme is not strict and requires its members only to subscribe to and to follow its 10 principles (see below). To show compliance members/companies shall submit every year “annual

[10] See : www.carbonsmart.co.uk

communications on progress" (COP), the format of which is rather general.

The UN Global Compact's ten principles enjoy universal consensus and are derived from:

The Universal Declaration of Human Rights; the International Labor Organization's Declaration on Fundamental Principles and Rights at Work; the Rio Declaration on Environment and Development and from the United Nations Convention against Corruption

(for more information see: www.unglobalcompact.org).

On the one hand, this global scheme provides a good visibility for basic principles and many of the world largest corporations are GC members. On the other hand, lack of stringent rules makes the scheme more a declaration of good intentions and not a working mechanism for someone willing to assess companies' claims. So many companies are using other means (certification, etc.) to show their social and ecological performance.

It is difficult to say why certain companies participate at GC scheme and others- not. Even the statistics is confusing. For example, among leaders (from the point of number of participants in 2014) is Spain (1694 business and other organizations), at the same time France has only 991 participant; USA – 526, Germany – 328; UK – 310 and China – 301. So there is no correlation between the size (level of economic development) of a country and its participation in the scheme.

Certain problems with practical implementation of the goals set by the GC scheme were demonstrated by its latest "Global Compact Sustainability Report 2013". The Report was based on the results of a November 2013 survey in which 1.7 thousand respondents from 113 countries took part (25% response rate from the point of the whole number of GC's participants). [11]

The Report shows that today, 70% of Global Compact companies are advancing broad UN goals and issues, by aligning their core business strategy, tying social investment to core competencies, advocating the need for action, and implementing these goals.

At the same time Survey findings point to a clear gap between the "say" and "do" steps of the Global Compact Management Model. Companies are making commitments, defining goals and setting policies at high rates, but still have much work to do to on the "action" steps. For example, while 65% of signatories are committing to sustainability at the CEO level, only 35% are training managers to integrate sustainability into strategy and operations of their companies.

While 83% of companies consider adherence to the Global Compact principles by suppliers, only 18% assist them with setting and reviewing goals and just 9% take steps to verify remediation. Another example: 90% of company boards discuss and act on sustainability issues either as part of their regular agenda or as-needed, but only 8% of company boards link executive remuneration packages to sustainability performance.

This gap between policies and performance exists in almost every area. While 72% of companies have management systems and 54% monitor their environmental performance , only 38% report their emissions data .

Communications also poses a challenge, with most Global Compact signatories not yet sharing their progress comprehensively. While the majority of companies (58%) indicate that they disclose their sustainability policies and practices publicly, a minority are including comprehensive details on key areas. Less than one third communicate on their human rights and anti-corruption work, with labour and environmental disclosure slightly more common – at 40% and 49% respectively.

The report confirms the impression which comes from reading individual companies'

[11] Here and further see: www.unglobalcompact.org

reports of an incomplete and incomparable information.

What is even worse that this scheme can not prevent the abuse of its principles. Thus, in January 2014 the US transnational alumina producer Alcoa agreed to charges of bribes in Bahrain brought against it by the US Department of Justice and paid US $ 384 million in settlement of this case (FT, 10.01.2014). Alcoa is a member of Global Compact and GC website contains a "2012 communication on progress" of this company which states, inter-alia, that (citation from communication) : …"The Alcoa Guide to Business Conduct and Alcoa Supplier Standards include information on anti-corruption. From January 2003 through December 2012, Alcoa employees and select contractors completed more than 30,000 anti-corruption and anti-bribery courses through our online ethics and compliance training program"…[12]

And it is not a single case. In December 2013, it was announced that the British pharmaceutical giant Glaxo was fined by US regulators (US $ 3 billion) for corruptive business practices in China (paying for education of doctors, for their participation in conferences, etc.). Glaxo is also GC member and publishes an annual sustainability report.

To note that at the same time Alcoa and Glaxo are among the 100 most sustainable companies in the world (as announced during the Davos January 2014 Forum). We are not trying to assess any particular company but to show that current indicators and mechanisms have a lot of deficiencies.

Information and data on GC provided above shows that the only existing global scheme (Global Compact) can not control the performance of its members and even can not ensure provision of verifiable and accountable information. At the same time sectoral certification schemes are so numerous and usually not transparent that they also create confusion among

It bring once again an issue of a need to elaborate a global certifiable standard on environmental and social responsibility. The current ISO standard 26000 provides guidelines on social responsibility but can not ensure their application (the author took part in the ISO workshop in Geneva in November 2012 on ISO 26000 and the majority of interventions and suggestions from participants were on how to make it a certifiable tool).

The other solution can be an introduction of a traceability mechanism for social and environmental claims on a company level.

At present (as the analysis of the research done on traceability theories shows) traceability is still seen as a technical tool and primarily in the context of safety of products and we suggest to use it also in a social context.

During the last decade, four major factors brought attention to the importance of traceability and led it to its better awareness by governments and business.

First, the impossibility to track the source of the problem, led to the necessity to ban a whole range of products (like during the "mad cow" epidemic in UK at 80-s; in that last case the cost was calculated in billions of pounds).

Second, globalization of the economy and of trade, when products leave their country of origin and it becomes hard to track where they came from.

Third, the new requirements on security, which appeared after events, like 911. Now state bodies would like to know what exactly is in a particular container and where it came from. And this information is used in risk management schemes to trace suspicious deliveries.

Fourth: growing awareness of consumers of ethical, social, environmental issues and the

[12] Alcoa UN Global Compact 2012 progress report, p.7

necessity for companies to be able to confirm their marketing and other claims.

In the context of the fourth group of issues, we would like to suggest to introduce a new term “social traceability” which, in our opinion, will be rather neutral and wide enough to cover environmental and social (ethical) issues relating to a product life cycle.

Regulatory bodies have had serious problems in the past which were due to the impossibility to trace the origin of products and locate quickly the problem area. Examples: contaminated donor blood, mad cow disease, birds flu.

Hence, regulators introduced mandatory traceability requirements in such problem areas. Thus, we could say that the history of traceability from the point of governmental agencies was up to now "reactive" and not "pro-active".

Traceability (evidently) has a cost and it was always debated whether it is economically viable to have a traceability system. To a certain extent it can be compared with an insurance policy which can be considered as lost money if nothing happens.

An example of usefulness of having traceability schemes can be recent cases with dioxin (substance containing in pesticides, chemical products and which can accumulate in food, nature and in the human body). Dioxin was found in animal feed in Germany and in eggs in the Netherlands (these cases happened in December 2010- January 2011, and in August 2011, respectively). The contaminated lots and places of their delivery were rather quickly identified and contaminated products were recalled from the market.

It shows that new regulations introduced in the EU as the result of the initial BSE (“mad cow”) epidemic, produce positive results.

And here is the latest safety-related example which shows dangers for a producer of not having a system to identify and to track goods.

It is a case of “of E-Coli ” disease that broke out in Germany in spring 2011 and then spread to other countries; its cause was initially attributed to imported Spanish cucumbers (eventually, it was found that it were contaminated bean sprouts from a farm in Lower Saxony).

And what were the results of such a mistake? Many EU countries stopped buying not only Spanish cucumbers but other fresh produce as well. Spain's vegetable exports felt by 100 % and the fruit exportation decreased by 70 %. Panic did not only concern Spanish products but local as well. On certain European markets at the beginning of June 2011, cucumber sales either collapsed altogether or fell 80 % while trade in tomatoes dropped by 80 % and purchases of lettuce halved. The Spain producers initiated the court case against German authorities claiming 2 billion Euros in damages.

The following conclusions can be made of this case :

1) If a traceability scheme were in place in Spain, it would have allowed to minimize losses and stop spreading panic;

2) This case is particular painful as it turned out at the end that none of the Spanish produce was contaminated;

3) The damage to producers was geographically much wider than alleged source of contamination (country and sector wise), which shows a potential interest in cross sectoral and regional traceability schemes;

4) The case shows that the behavior of consumer was irrational (why mistrust in all cucumbers?) and that consumer seem not to trust neither traders nor media (once panic spreads it is difficult to contain it).

One could expect that the use of traceability mechanisms will be expanding in view of the regularly surfacing safety problems with deliveries within global supply chains (see also examples with labels at Findus and Walmart cited above which could have been avoided in case of traceability systems). We feel that companies should consider including social risks to their risk management systems (environmental risks are already taken into account by the majority of businesses) and consequently to see how to address and to how track them.

From the technical point of view, the existing traceability tools (for example, bar codes) allow in principle to include an additional information (which can be a certification to safety or to environmental requirements) thus incorporating social factors into the basic traceability package. Social and environmental issues were previously left to business and to civil society but as it is shown in the current article there are serious concerns that in the current form environmental and social claims and marks could be misleading and even create an unfair competition.

So if we sum up situation with environmental and social claims we can note that at present there is no efficient mechanism to check their validity (be it claims from companies or from certification organizations). Besides misleading and confusing consumers it creates a serious threat to companies which are honestly pursuing environmental and social issues. Such treat comes from "easy riders" which use green claims to help them to exploit the potential of the conscious consumers and use such unfair completion to their benefit. We can say that we see the appearance of a new dirty business practice which can be called "green counterfeiting"

(i.e. using ecological claims, recognized brands or marks -example: Global Compact) and which (besides lost business to honest companies) discredits the whole sustainability principle. To recall ISO 2600 standard which warns that unreliable information for consumers "…can adversely affect the growth of markets for more sustainable products and services…"

The simplest solution will be an introduction of mandatory certification and controls by national regulators. Unfortunately, the experience of other sectors shows that such approach will definitely lead to additional costs and to bureaucratic layers with a limited value for final users and consumers.

In our opinion, it is preferable that a self regulatory mechanism shall be used to address this complex of problems. It may involve, for example, on the one hand, intra-industry controls through industry and business associations to ensure that market players are not abusing voluntary marks and labels. On the other, legal framework shall be strengthened to allow prosecution of false claims (which are not innocent as one might think and bring commercial benefits). One example of such legal basis may be a False Claims Act at USA (federal law; also known as "Lincoln Law"). It gives a possibility to private citizens with knowledge of fraud against US government to initiate a lawsuit (on behalf of the Government) in the court (it is called "qui tam" cases) and to receive a portion of any recovered damages. It is interesting that the Department of Justice (i.e. the Government itself) intervenes in less than ¼ of all "qui tam" cases filed. Evidently, the scope of the Law is limited to fraud against the government but, in our opinion, even this way at least a part of social and environmental claims (regarding goods supplied for state needs) can be legally challenged.

Plus the society (and probably regulators) shall require a more serious and strict approach to "black sheep" in voluntary schemes (to avoid situations showed above when companies that are found guilty of wrong goings continue to use "responsible care" marks).

We are confident that only a complex of measures addressing all aspects and issues mentioned above (legal, administrative, behavioral, institutional, etc.) could bring a balanced solution and necessary confidence to consumers and to regulatory authorities.

Summary and concluding remarks

1) There is a growing awareness in the society of environmental and social issues and such increased consciousness results, inter-alia, in the changing behaviour of companies which, on the one hand, try to present themselves with a positive environmental and social image, and, on the other, take necessary actions to show that their business takes into account new concerns of the society.

2) Another factor which stems from the above mentioned tendency is the increasing demand for environmentally and socially sound products (technologies, etc.) and their growing offer accompanied by environmental and social claims from business. Such claims took form of self-declarations by companies (example, environmental and social annual reports) or of labels, marks, certificates coming from numerous (primarily) voluntary schemes.

3) The analysis of environmental and social claims and schemes shows that the majority of them are not comparable; they have unclear (and often non- transparent) requirements and could be misleading to consumers and even create possibilities of unfair competition when ordinary products may be disguised as “green” through, for example, “green washing” or “green counterfeiting”.

4) To ensure the validity of claims it is suggested that, on the one side, companies should identify their “ecological and social footprint” and link their reporting to individual specific objectives. On the other, companies should consider introducing ecological and social traceability mechanisms to be able to show the origin of their goods (such tools could be integrated within existing product safety tracing systems).

5) The article shows the need for regulatory controls for environmental and social claims to ensure that only genuine “green products” receive a “green corridor” in international trade. These controls shall be preferably based on improved/strengthened existing (or new - to be established) market self-regulatory mechanisms.

6) Another major problem which in the opinion of the author deserves in future a special attention and analysis is the fact that environmental and social claims, on the one hand, .stem from changing consumption patterns and on the other, influence them. Thus, this issue has serious political and technical implications for ecology and sustainability and raises once again a question on whether governments shall control environmental and social claims.

Endnotes

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