

**“The Free-Traders Win the Debates but the Protectionists Win the Elections”:
The Curious Case of MCOOL in the US 2002 Farm Bill**

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The laws concerning corn may everywhere be compared to the laws concerning religion. The people feel themselves so much interested in what relates either to their subsistence in this life, or to their happiness in a life to come, that *government must yield to their prejudices*, and, *in order to preserve the public tranquillity*, establish that system which they approve of. It is upon this account, perhaps, that we so *seldom find a reasonable system* established with regard to either of those two capital objects [emphasis added].

Adam Smith, 1776²

Introduction

In trade policy it is well understood that, at times, it is politically necessary to extend protection to vested interests at the expense of the general welfare. Further, vested interests are often adept at putting forth arguments that effectively cloak their protectionist gains in terms of the ‘general’ good. Trade policy economists are used to dealing with extreme cynicism among policy makers. In fact, if it were not for the effectiveness of protectionists, there would be little need for trade policy analysts.

Every once in awhile, however, a trade policy initiative comes along that is so curious that it defies rational analysis and one is forced to search deep into the history of economic thought to find an explanation – in the case of the Mandatory Country of Origin Labelling (MCOOL) provisions of the US 2002 Farm Bill, the only answer I can find is in the quote from Adam Smith that heads this paper. The reason why MCOOL is so curious is that while it is understandable that vested interests would ask for a protectionist policy that would be to their benefit, it is much more difficult to understand asking for a policy that may well be to their own detriment. It is also understandable that

¹ This phrase is taken from Knight (1951), p. 3.

² See Smith (1937), p. 507.

a group of individuals lobbying for a protectionist policy who are not trained economists might 'get it wrong' and advocate something that is not in their interests; it is harder to understand in a modern market economy with a great deal of sophisticated analytical human capital that such a policy could survive both public and private sector scrutiny and become law³. This is a failure in trade policy making. Apologists for trade policy making in the US suggest that the passage of MCOOL arose because of a relatively unique set of circumstances in the US Congress. Be that as it may, a policy has been put in place that, if implemented, will likely be detrimental to the US industry it was designed to protect and will lead to hardship in the short run for industries in Canada and Mexico. It also opens up the US to the use of MCOOL legislation by trading partners where the cost of protectionism will fall far more heavily on US exporters than industries in the foreign markets that have implemented their own MCOOL program.

Frustration with policy making among economists is not new. For example, the economic theorist Frank Knight (1951; p.4) commenting long before MCOOL was conceived, bemoaned that:

The serious fact is that the bulk of the really important things that economics has to teach are things that people would see for themselves if they were willing to see. And it is hard to believe in the utility of trying to teach what men refuse to learn or even seriously listen to. What point is there in propagating sound economic principles if the electorate is set to have the country run on the principal that the objective of trade is to get rid of as much as possible and get as little as possible in return?, if they will not see that imports are either paid for by exports, as a method of producing imported goods more efficiently, or else are received for nothing?. Or if they hold that the economy consists in having as many workers as possible assigned to a given task instead of the fewest who are able to perform it? Of late, I have a new and depressing example of popular economic thinking, in the policy of arbitrary price-fixing. Can there be any use in explaining, if it is needful to explain, that fixing a price

³ All of the public and private analysis of MCOOL done in the US that I have been able to read has given it a negative report.

below the free market level will create a shortage and one above it a surplus? But the public oh's and ah's and yips and yaps at the shortage of residential housing and surpluses of eggs and potatoes as if these things presented problems – any more than getting one's footgear soiled by deliberately walking in the mud. And let me observe that rent freezing for example, occurs not merely because tenants have more votes than landlords. It reflects a state of mind, even more discouraging than blindness through self-interest – like protectionism among our Middle-Western farmers.

Faced with folly in trade policy making, the best economists can do is to lay out the expected effects and hope the analysis better informs the policy process.

If there was ever any doubt that those in the US administration did not believe or understand that MCOOL represented a trade barrier that would be detrimental to foreign suppliers irrespective of the detrimental effects on the US industries to which MCOOL is to be applied, the following exchange between US and South Korean officials reported in

Inside US Trade (January 5, 2001) should allay any doubts:

Korea has stepped back from a new country-of-origin labeling rule for meat that U.S. officials argued would have completely choked off U.S. beef and pork exports to Korea.

Korea last month agreed to delay implementation of the rule by one year, after Secretary of Agriculture Dan Glickman and Deputy U.S. Trade Representative Richard Fisher told Korean officials that the U.S. could not implement the rule as written and so could not export beef and pork to Korea, which is the third largest market for U.S. beef exports.

In a meeting with Korean Ambassador Yang Sung Chui, Fisher hinted that the move by Korea could provoke a challenge in the World Trade Organisation, alleging that the rule was inconsistent with the Agreement on Rules of Origin ...

The Korean rule would have introduced mandatory country-of-origin labeling for foreign beef and pork, and defined country-of-origin as the country where the live animal resided for six months prior to slaughter in the case of cows, and for two months prior to slaughter in the case of hogs. The concern from the US meat industry was that there was currently no system for tracking passage of beef and pork from feedlot to slaughterhouse and through the packing process.

The MCOOL legislation is also curious because of the narrow range of products to which it applies. The products to which MCOOL applies include: muscle cuts of beef (including veal) lamb, and pork; ground beef, ground lamb, and ground pork; farm-raised fish and shellfish; wild fish and shellfish, perishable agricultural commodities (fresh and frozen fruits and vegetables), and peanuts. The law *excludes* food items from country of origin labelling when a covered commodity is an 'ingredient in a processed food item'. The law does not apply to covered products sold in restaurants and other food service outlets.

The most obvious omission from the list of covered commodities is chicken. For some reason consumers of chicken have no need to know the country of origin of their choices. Given the long (and losing) battle that beef, and to some extent pork, have been fighting with chicken over the share of the consumer's budget spend on meat (Atkins, et. al, 1989), fostering or acquiescing to a law that imposes costs on beef and pork but not chicken will lead to a further deterioration in market share.

It is also curious that restaurant consumers are considered to be less discerning in their consumption choices than those who shop in supermarkets (although one suspects that it is a large overlapping set). Given that US producers will have to put labelling mechanisms in place that raise their costs if they wish access to the higher priced home consumption market, it will make competing foreign unlabelled product relatively less expensive for hotel, restaurant and institutional (HRI) supply chains. As HRI-based consumption has been growing faster than the home consumption market, over the long run MCOOL would seem not to be in the interest of producers of covered commodities. Mandatory country of origin labelling also does not apply to processed foods – another

fast growing area of consumption. Processed foods substitute processors labour for consumers labour in preparation and, in the process, combine relatively low cost inputs with high cost meat products. This means that a smaller proportion of a consumer's food budget is spent on high value products than when muscle meats are, for example, barbecued or oven roasted. Hence, MCOOL is going to make it easier for unlabelled foreign product to compete with US produced muscle meats for the consumer's food budget.

The Economics of Mandatory Country of Origin Labelling

A mandatory country of origin labelling policy can be justified if there is a market failure in the US market for the product in question. Figure 1 can be used to illustrate the market failure. To understand the market failure, first assume that the US is practising a trade policy of autarky for this good. As a result, all of the product in the market is 'Product of the USA' and consumers have perfect knowledge of the country of origin of the product they are consuming. In Figure 1, the autarky demand curve is D_A and the supply curve for US product is S . Under autarky the price would be P_A and the quantity Q_A .

Now assume that imports are allowed and can be obtained from foreign suppliers at P_W .⁴ The foreign product is imported without labelling and is indistinguishable from domestically produced product. In other words, country of origin is a 'credence' attribute of the good – meaning that the consumer cannot discern whether they have acquired

⁴ Assuming a perfectly elastic supply of imports may not be strictly correct in the case of products that have been named in the MCOOL legislation given the relative size of the US market in NAFTA, but an upward sloping supply curve will unduly complicate the graphics and not materially alter the results.

foreign product prior to purchase or after consumption.⁵ If consumers do not care at all about country of origin then the demand curve would remain at D_A and one would obtain the standard trade result. If, on the other hand, some US consumers do have a preference for US product over foreign products, it means that they value foreign products less than US products. As these consumers cannot discern whether they are consuming domestic or foreign product, their individual demands will decline. Hence, as a result of allowing unlabelled imports, aggregate consumer willingness to pay falls and the demand curve shifts down to the 'pooled' demand curve, D_P as a result in the decline in average perceived quality (Gaisford and Kerr, 2001). Note, the shift in the demand curve will take place as long as at least some consumers value mixed products less than 'Product of the USA'. Domestic output will be Q_S and domestic consumption at Q_D . There are two opposing effects on the welfare of US consumers from opening up the market to unlabelled imports. On the one hand, there is a beneficial price effect of $w + y$. There is also an adverse quality effect equal to ' z '. If the adverse quality effect is perceived to be sufficiently large there may be a justification for a public policy intervention to correct the market failure. Labelling is one way to address the market failure.⁶

The effect of a mandatory country of origin labelling policy can be illustrated using Figure 2 where P_W , Q_S and D_P are the same as those in Figure 1. For simplicity we assume for the moment that MCOOL can be implemented without cost. With MCOOL, consumers can now choose to buy labelled 'Product of the USA' or a foreign labelled

⁵ Products that have characteristics that can be differentiated prior to purchase are known as 'search goods' while those that have characteristics that can be discerned during consumption are known as 'experience goods'. See Hobbs and Kerr (1999) for a further discussion of the three types of goods.

⁶ An alternative would be an import embargo. Gaisford and Kerr (2001) show that mandatory labelling of imports is unambiguously superior to an import embargo for the importing country.

product.⁷ Thus, the pooled market is no more and there are instead two markets. The demand for the labelled foreign product will be made up of consumers who are indifferent between ‘Product of the USA’ and labelled foreign product. As long as US product is more expensive than foreign product they will be willing to purchase the foreign product. Further, there will be consumers who, while they have a preference for US product over foreign product, will be induced to switch to the foreign product as the relative price of US product rises. Thus, demand for the labelled foreign product, D_{FL} will, in part, be determined by the relative prices of the two products. The protectionist motive for MCOOL can also be discerned. In the market for ‘Product of the USA’ producers hope that the demand curve for those who have a preference for their product will lie anywhere to the right of the point where P_W cuts the supply curve S . This case is depicted in Figure 2 by the demand for US labelled product, D_{USL} .⁸ In the ‘Product of the USA’ market, price would be P_{US}^* and Q_S^* . Producers would gain surplus area ‘a’ relative to the unlabelled case.

Figure 2, however, is unrealistic because it does not consider the costs of implementing a labelling system. In Figure 3 the costs of labelling are added. In the ‘Product of the USA’ market adding the cost of labelling shifts the supply curve from S to $S + L$. This market will be in equilibrium where D_{USL} (from Figure 2) intersects $S + L$

⁷ For simplicity it is assumed that all consumers are indifferent among foreign products

⁸ Note, there are two opposing forces leading to D_{USL} . If one starts at D_P there is a leftward force on the demand curve due to some consumers switching to the labelled foreign market, while at the same time those with a preference for ‘Product of the USA’ no longer experience the adverse quality effect from having mixed or pooled products effectively shifting their demand to the right. The net effect will depend on the strength of preferences of all consumers and cannot be discerned ex ante. It could be that D_{USL} intersects P_W to the left of Q_S meaning that the producers asking for protection will be worse off as a result of their asking for protection. We do not consider this case. The best possible result for producers would be that all consumers prefer ‘Product of the USA’, at least to the point where the price differential equals P_A minus P_W in Figure 1, and the demand curve shifted to D_A . In other words no consumers switched to the labelled foreign product market.

yielding P_{US+L} and Q_{SL} . If Q_{SL} is less than Q_S then producers who lobbied for MCOOL will be worse off by $d + e$. Of course, the equilibrium in the 'Product of the USA market will depend on the relative labelling costs for the domestic and foreign suppliers – remember that the higher the relative difference in price between 'Product of the USA and the labelled foreign product, the more consumers will switch to consuming the labelled foreign product. MCOOL clearly leads to a welfare loss for consumers who would choose the labelled foreign product and the larger the cost of labelling in the 'Product of the USA' market, the more likely that there will be a welfare loss from the policy as a whole.

Figure 3 may also explain why voluntary country of origin labelling has not been taken up. If the costs of labelling are positive, then voluntarily labelling ones product shifts the supply curve from S to $S + L$ in the 'Product of the USA' market. If there are consumers who are indifferent to the country of origin, they will still be able to buy cheaper foreign product, even if it is not labelled, at P_W . As labelling will increase price in the 'Product of USA' market but leave P_W unchanged, the price differential would increase and more consumers would switch to foreign product shifting D_{USL} to the left. Hence, the likelihood of a positive increase in producers surplus is reduced. Even with MCOOL, the cost of labelling for foreign exporters is likely to be less than that for domestic producers because they will not be required to put the expensive tracing systems in place that are required for domestic producers. It is relatively inexpensive to label final products – much of it is labelled already. As a result, the price differential between US and foreign prices is likely to increase.

US Market

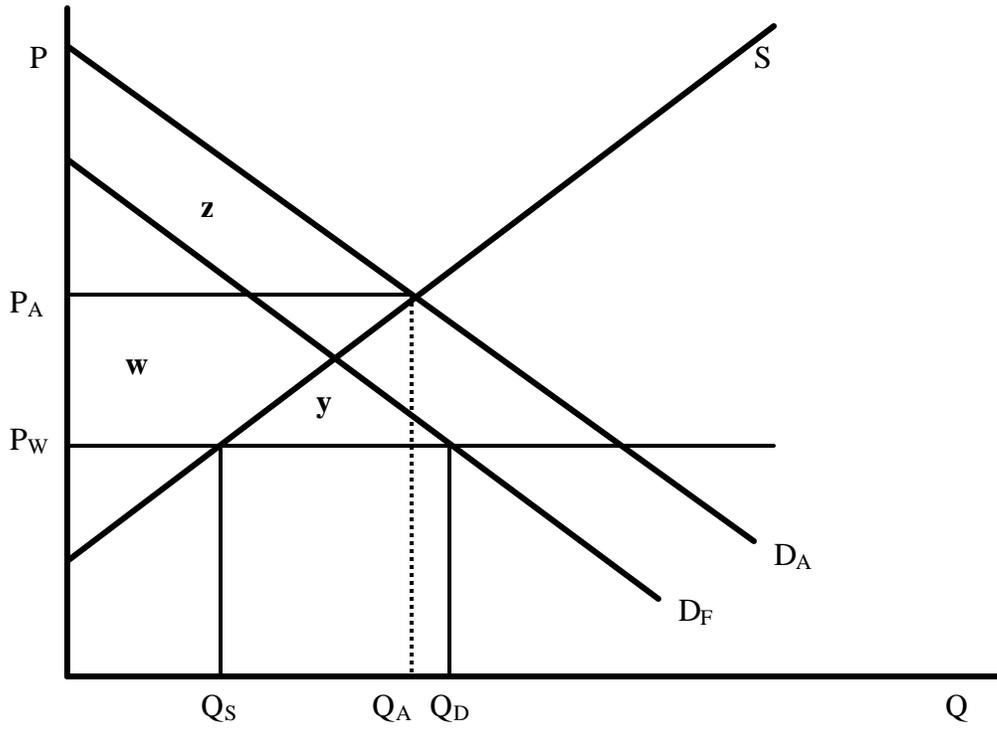
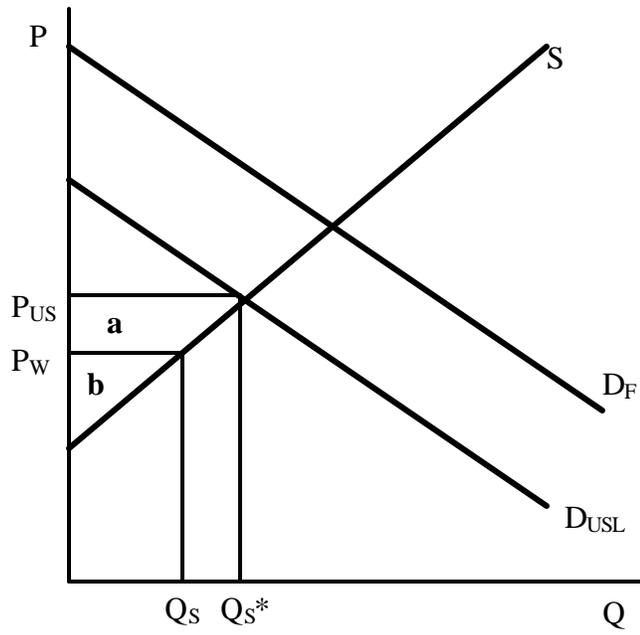


Figure 1 – Market Failure in the US

Market for 'Product of the USA'



Labelled Foreign Product

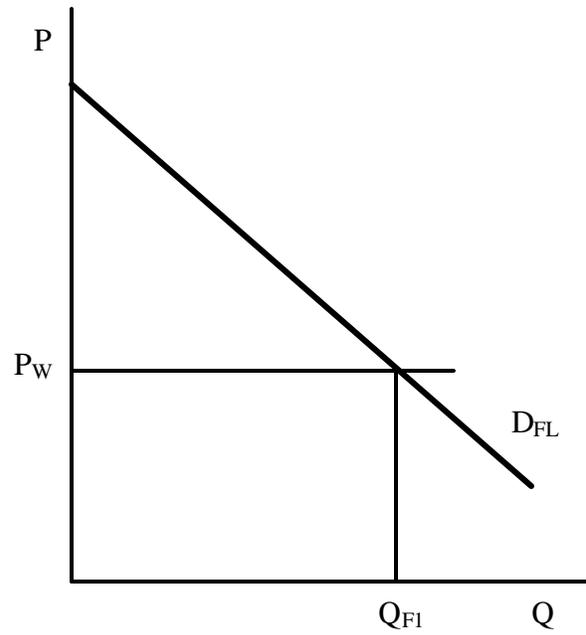


Figure 2 – Country of Origin Labelling Assuming Zero Labelling Cost

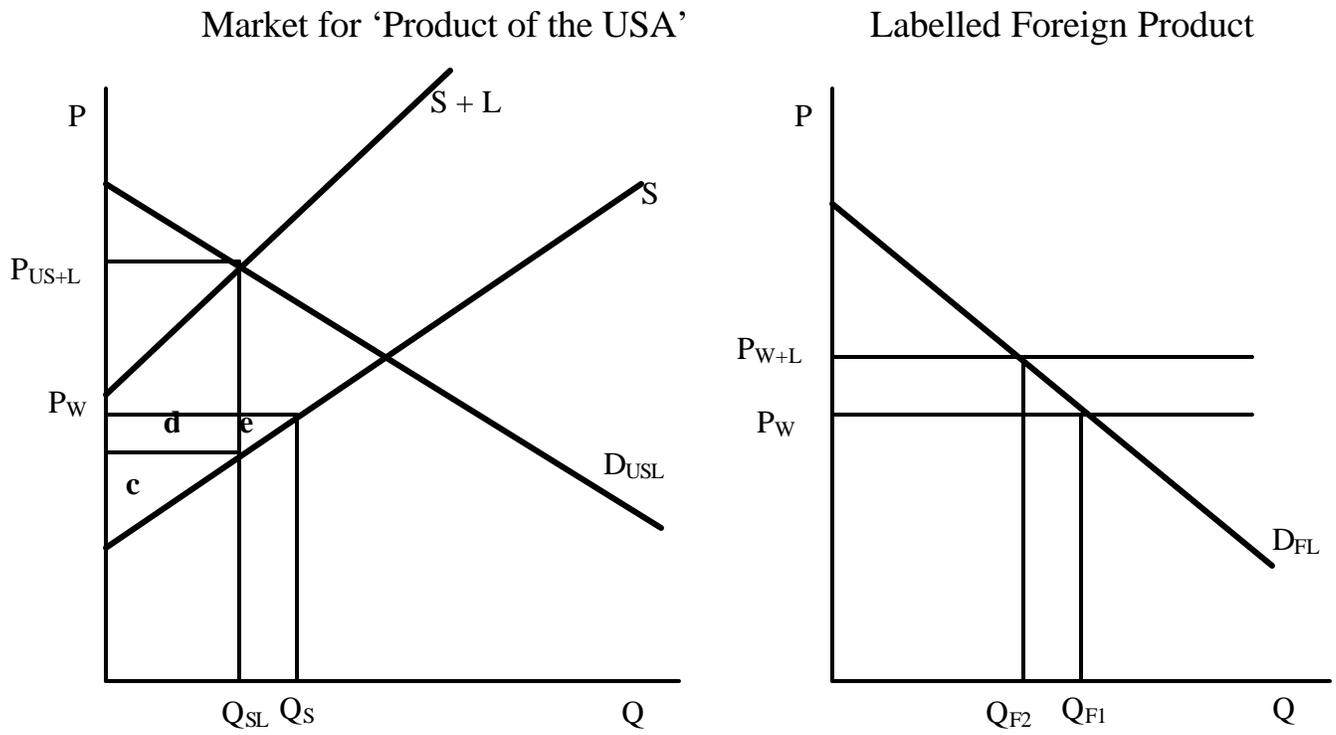


Figure 3 – Country of Origin Labelling with Labelling Costs Included

The Effect on NAFTA Partners' Red Meat Industries

The analysis in the previous section was undertaken to illustrate the effects of MCOOL on covered products, particularly red meat, produced in the US. Assuming perfectly elastic supply curves for foreign products effectively obscured any effects on foreign suppliers and focussed attention on the US market. Of course, given the relative size of the US market versus the Canadian and Mexican red meat markets, foreign suppliers have normal upward sloping supply curves. As suggested in the previous section, however, the relative cost of MCOOL for table ready cuts of beef and pork should be less for Canadian and Mexican products than US products. This is because Canada and Mexico will not have to put the tracing and monitoring systems in place back to the farm of origin that will be required of US producers. Table ready cuts originating from Mexico or Canada will only have to be labelled 'Product of Mexico' or 'Product of Canada' when it leaves processing plants in Mexico and Canada. Its origin does not have to be traced further. Products in this form already have to be labelled and the US distribution system has no particular difficulty dealing with such products. The label is on the product for consumers to see and retailers do not have to take any particular actions.

Over time, final table ready cuts will become the preferred export product from Canada and Mexico. This will mean more stages of production and processing will take place in Mexico and Canada meaning more jobs and investment. The problem is that under the current less restrictive trade regime, movements of less than consumer ready products across the US border is more profitable. According to Hobbs and Kerr (1999), competitive pressure will lead to the most efficient supply chains arrangements surviving.

In other words, the current efficient supply chain arrangements in North America lead to imports of boxed beef that are further processed into table ready cuts; imports of slaughter cattle and hogs to be processed in the US and the import of feeder cattle and weaner pigs for fattening and eventually processing in the US. It is these mixed country of origin supply chains that will be most affected by MCOOL, particularly in the short run.

The products of mixed country of origin supply chains will have to be labelled, for example 'born in Mexico, raised and processed in the United States' or 'born and raised on Canada and processed in the United States'. These mixed country of origin products will have to be kept separate throughout the supply chain until they are labelled for sale to final consumers. These products will require separate tracking systems and will create problems in terms of warehousing, transportation and processing line procedures – all of which will increase costs along the supply chain. There may also be shelf-space crowding problems in supermarkets that will add to the cost of marketing mixed country of origin products (Grier, et al., 2002).

The current mixed country of origin supply chains mean that supply chain capacity is located on both sides of the border. Thus, if retailers, for example, refused to put mixed country of origin products on their shelves, effectively eliminating those supply chains from the North American market, there would be a shortage of upstream facilities in the United States and a shortage of downstream facilities in Mexico and Canada. For example, currently Mexico exports feeder cattle to the US. If mixed country of origin beef is no longer to be sold in the US then cattle feeders that have been feeding Mexican steers will have to source them from the US. In the short run there will

not be sufficient cow-calf capacity in the US to provide those extra cattle. Similarly, if fed cattle from Canada were excluded from being slaughtered in the US, packing plants in the US may be forced to close because the capacity to provide alternate local supplies of fed cattle do not exist.

In a similar fashion, if weaner pigs from Western Canada were excluded from being finished in the US, there is not sufficient sow barn or farrowing capacity in the US to provide the additional weaner pigs required to ensure the full use of US hog finisher capacity (Grier, 2002). On the other side of the border in Canada, there is not sufficient capacity to finish and process the weaner pigs shut out of the US market. There is not enough cattle feeding capacity in Mexico to finish the current supply of feeder cattle that normally flows into the US. One way or the other, there will be a disruption to mixed country of origin supply chains. In part, this will be manifest in idle capacity and in part through changes in relative prices with prices in Canada and Mexico falling and prices for inputs in short supply rising in the US. If the price wedge becomes sufficiently high to overcome the costs of mandatory labelling, mixed country origin supply chains will survive or be re-established. These disruptions will be, however, short run phenomenon. The exact nature of the disruptions cannot be forecast because sufficient modelling capacity does not exist in Canada or Mexico, or one suspects in the United States.

The decline in prices of inputs in Canada and Mexico will provide an incentive to expand downstream capacity for finishing animals and processing them. In the long run, Canada and Mexico will simply ship increasing quantities of consumer ready beef and pork products to the US. These products that can be easily labelled when they leave the processing facility. Canadian and Mexican supply chains selling their final product in the

US will not be burdened with the cost of MCOOL labelling giving them a competitive advantage in the US market. The exact shape of international trade flows cannot be discerned as lower priced Canadian and Mexican product will also be more competitive with US exports both in their domestic markets and in overseas markets. Once the short-run mismatch of capacity on either side of the border has been rectified through increased investment, the US industry will find itself lumbered with the costs of MCOOL while its NAFTA competitors will not.

The cost of the short run disruption to mixed country of origin supply chains should not be trivialised. Those exporting through mixed country of origin supply chains from Canada and Mexico will suffer from low prices and a lack of markets. There will also be short run opportunities for windfall gains in the US for existing producers of inputs normally supplied by foreign suppliers. Given the relatively competitive nature of these industry segments in the US, the higher prices will be short lived. If the price increases are dramatic, it may set off a wave of 'destructive competition' (Hulleman and Kerr, 1998) that may make the input industry worse off in the long run.

In general, the long run configuration of the North American beef and pork sectors will change – mixed country of origin supply chains are likely to disappear. Supply chains for the US home consumption market will be of two forms; (1) those for products that were produced entirely in the US and labelled as such, and (2) foreign consumer ready products labelled as being from the country where final processing took place. There is also the possibility that new mixed country of origin supply chains will arise that exclusively serve the HRI trade. The latter would be segregated from the supply chains providing meat for the home consumption market.

Given the cost of the short run disruptions for the NAFTA trading partners of the US, the question arises as to whether MCOOL can be challenged in international trade law. Both the World Trade Organisation (WTO) and the NAFTA have country of origin labelling provisions. These are examined in the next section.

Challenging MCOOL in International Trade Law

It is becoming increasingly apparent that for Canada and Mexico, the WTO dispute resolution system better serves their interests than the system provided in the NAFTA (Kerr, 2001a). The WTO's country of origin provisions will be discussed first.

Country of origin labelling is allowed in the WTO, but there are some constraints on its use. Article IX, Marks of Origin, of the General Agreement on Tariffs and Trade (1994) allows imported products to be labelled with a specific country of origin at the time of import so long as the marking requirement does not seriously damage the imported products, *materially reduce their value, or unreasonably increase their cost*. It seems likely that either one or both of the italicised outcomes will be able to be strongly argued at the WTO. Unfortunately, they can only be argued after the fact – after there is evidence that value has been reduced or costs increased.⁹ As a result, much of the damage would have already been done as the costs of MCOOL are expected to be much larger for the Canadian and Mexican livestock industries in the short run than in the long run. The *materially reduce value* and *unreasonably increase their cost* criteria have never been tested at the WTO so there are no precedents to assist in determining what the

⁹ It might have been possible to argue the case ex ante to implementation if better modelling capacity existed in Canada or Mexico.

dispute panels would consider as *materially* or *unreasonably*. As a result, while I believe Canada or Mexico would have a strong case, they could well lose the case.

The provisions for Country of Origin Marking in the NAFTA are laid out in Annex 311. In Annex 311 (4) it states:

Each Party shall, in adopting, maintaining and applying any measure relating to country of origin marking, minimize the difficulties, costs and inconveniences that the measure may cause to the commerce and industries of the other Parties.

There seems to have been little attempt to ‘minimize the difficulties, costs and inconveniences’ when the MCOOL was passed. In particular, the provision that an animal must be born in the US for the final product to be considered as a ‘Product of the US’ seems designed to have just the opposite effect. It is, however, not clear how a NAFTA panel would deal with the key terms *minimise*, *difficulties* and *inconveniences* – again this is uncharted territory.

The major problem with a WTO or NAFTA challenge is that they could only be mounted after MCOOL came into effect. Given that the major disruptions for Canada and Mexico are expected to take place in the short run, a challenge would mean a considerable period of uncertainty while the case was working through the adjudication process. If there was a reasonable prospect of winning, investments designed to mitigate the difficulties caused by MCOOL would be delayed due to the risk that they would be wasted if MCOOL was overturned by a Panel. This will extend the period of short run disruption and increase its cost. If there were to be no challenge, investments in expanding capacity could take place in a climate of relative surety.

The provisions of international trade law, however, are operating in the background to improve the chances that MCOOL will be repealed. One of the basic

principles of the WTO is *National Treatment*. This means that foreign goods cannot be treated differently from domestic goods. This is why the MCOOL legislation forces US as well as foreign product to be labelled. If it did not, the MCOOL legislation could impose a higher standard on foreign products. Foreign suppliers could be required to label and certify their products while US firms would not. That would violate the *National Treatment* provisions of the WTO. As a result, MCOOL will impose much larger total costs on the US livestock industries than exporters given the relative sizes of the US domestic industries. Given that even those who lobbied for MCOOL may have realised that they will bear considerable costs without receiving any benefit, the chances that MCOOL will be amended or withdrawn are considerably increased.

I am not one who sees MCOOL as an opportunity. Can MCOOL provide an opportunity for Canadian or Mexican beef and pork producers to establish a positive brand image in the US that will allow Canadians and/or Mexicans to extract a premium in the market? Certainly, the Danes have been doing it for years. There is a lot NAFTA exporters can learn from the Danes¹⁰. Canada and Mexico should also make a close examination of the New Zealand lamb marketing program in the US. The real question is: if such a strategy can increase profits, why aren't Canada and Mexico doing it already?

Retaliation by imposing similar legislation in Canada and Mexico seems like a non-starter. It will impose increased costs on their industries with little benefit. Other countries may, however, have more to gain. It would be relatively easy for a country importing US meat products to devise an import regime that is sufficiently different procedurally to MCOOL to make it very costly, if not impossible, to comply.

¹⁰ See Hobbs, J.E., W.A. Kerr and K.K. Klein (1998); Hobbs, J.E. (2001a); and Hobbs (2001b) for a discussion of Danish competitiveness in export markets.

I think one of the major problems for the Mexican and Canadian beef and pork industries is how to prepare between now and when MCOOL is to come into effect in 2004. Certainly, nothing is going to happen in the voluntary period. Many of those I talk to in the US are acting as if they believe mandatory labelling will not come to pass. Certainly, political pressure for repeal is mounting, particularly in the US beef industry. There is also the possibility of delay of the mandatory provisions. All of this uncertainty makes planning in the Canadian and Mexican industries almost impossible. Making investments to meet the requirements of MCOOL if it does not come to pass will be largely wasted, yet not attempting to get ready will increase the disruption if it does come into force. There is no crystal ball to help reduce this business risk.

Conclusion

If it is implemented, mandatory country of origin labelling for beef and pork in the US will represent the first major set back in the market integration that has been progressing since the signing of the NAFTA. While the deepening of economic integration in the NAFTA has been an incredibly slow, and at times frustrating process (Kerr, 2001b) – e.g. the inability to accomplish something simple such as the harmonisation of beef grading, it has progressed all the same. The development of mixed country of origin supply chains is the proof that NAFTA is working. Given that the share of Canadian pork is approximately four percent of the US market and Mexican and Canadian beef imports a similarly small proportion of the US market, it is hard to see what the protectionists in the US expect to gain. The real anomaly of MCOOL is how the

public policy process could have allowed such a counter-productive policy to become law.

That protectionism is alive and well in the United States (and other countries) is not a surprise. Beyond the strict interpretations of the rules of trade agreements, the NAFTA is supposed to breed a spirit of co-operation among the three countries. It is even institutionalised in the NAFTA section on Country of Origin Marking. In Annex 311 (10) it states:

Each Party shall cooperate and consult on matters related to this Annex, including additional exemptions from a country of origin marking requirement ...

While this clause is unlikely to be enforced in trade law, it does belie the intent of NAFTA's framers. The countries of North America are expected to work together to ensure that thinly disguised and ill-thought out protectionist measures such as MCOOL are not allowed to become trade irritants. Only through this type of co-operation will the NAFTA countries be able to escape Adam Smith's 18th Century commercial environment in the 21st Century.

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