

Recommendation Report

By Stephen Wells

**Regulation of Fair Trade Products:
Calls for a National Definition of Fair Trade**

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**Minister of Agriculture and Agri-Food and Minister for the Canadian Wheat Board
The Honourable Chuck Strahl**

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The Issue

In response to over 460 tonnes of products fraudulently labeled as Fair Trade were sold in Canada last year, Canadians have called for the enforcement of the certification by the Canadian Food Inspection Agency (CFIA). However, the CFIA cannot impose fines or enforce the certification because there is no national definition of what Fair Trade means.

Recommendation

Based on the analysis in the subsequent sections of this report, we recommend the development of a national definition of Fair Trade. Until such a definition is created, Fair Trade labeling cannot be regulated by the CFIA. Additionally, TransFair Canada is powerless to prevent the misuse of the Fair Trade name

In response to the sale of items fraudulently labeled as Fair Trade, the Canadian Food Inspection Agency (CFIA) should be empowered to enforce the Fair Trade certification standards. With the creation of a national definition of Fair Trade, the CFIA will be able to review these imported products and impose fines against retailers selling sweatshop produced items fraudulently labeled as Fair Trade

Rationale

The final solution must effectively protect Canadians from having their trust in ethical products abused without causing a large financial burden.

The three main ways to resolve this issue are to create a national definition of Fair Trade, create a national certification program, or to redirect the issue back to the private sector.

Since at present Fair Trade certification is performed in the private sector, it might be reasonable to suggest that the issue should be resolved in there. However, many companies have begun to see that Fair Trade products command a higher price than items without that identifier.

Companies are exploiting the success of Fair Trade through fraudulent sales and inferior ethically-branded products. Both of these threaten to damage the public's trust in the benefits of Fair Trade. If consumers stop trusting FairTrade products, this will damage many Canadian businesses as well as FairTrade certified producers in the developing world. Leaving the solution to the private sector will not resolve the issue.

Of the two remaining options, a simple review of the requirements shows that while a national certification program would have a great many positive benefits, it would be expensive to implement and set a number of far-reaching precedents. In comparison,

creating a national definition would adequately address the issue without any changes to Canadian law or major costs.

Further, creating a national definition will enable the Canadian Food Inspection Agency (CFIA) to perform the functions that Canadians expect it to complete, such as the enforcement of certifications like Fair Trade certification.

Background

Definition of FairTrade

According to TransFair Canada, FairTrade is "an international system of doing business based on dialogue, transparency and respect. It contributes to sustainable development by offering better trading conditions for producers and workers in developing countries."

TransFair Canada is a non-profit body that identifies ethically made items produced in the developing world with the FairTrade logo to help consumers find products that meet strict FairTrade rules:

- Sustainable, earth-friendly production practices
- Economically sustainable business practices
- No sweatshop or child labour
- Part of the money goes to economic and social development
- Democratic procedures and public accountability

FairTrade in Canada

In Canada, FairTrade products have traditionally been available through health-food stores. However, the introduction of FairTrade products in mainstream grocery stores has pushed the explosive growth in the volume of FairTrade products sold in Canada. The highest-selling FairTrade item in Canada is coffee: according to a recent CBC report, Canadians drank 4272% more certified FairTrade coffee between 1998 and 2004. This increasing demand shows that Canadians are interested in sweatshop free, environmentally friendly products. Currently the efforts of Transfair Canada are being further damaged by companies who are developing their own brands of ethically produced goods. However, these companies have been accused of not making any changes to their exploitive production policies.

Options

Option 1: Private Sector Solutions

Introduction

Fair Trade and similar ethical standards were developed in the private sector and have gained considerable success in Canada without government support or regulation. One way the issue may be addressed is to redirect concerns back to

the private sector. If the government does not become involved, TransFair and Fair Trade related businesses will have to find their own solution.

Advantages

FairTrade Certification promotes consumer awareness. A national definition of FairTrade may cause Canadians to become more complacent about the origins and ethical production of a product because the government will be expected to ensure these standards are met. This would remove Canadians' responsibility to be informed about their purchases.

Two other issues are eliminated if organizations such as TransFair Canada resolve the problem: Canada will avoid a further expansion of government supervision over commerce and Canada would not have to spend money on creating and enforcing a definition.

Disadvantages

There may not be a private sector solution. Despite the misuse of the Fair Trade name there is no legal action that TransFair can take to protect the name or enforce the certification—until a national definition of Fair Trade is created it has no legal basis in Canada.

If the private sector cannot create a solution, this issue will return. Many Canadians depend on Fair Trade labeling to identify items that were not produced under sweatshop conditions. Vocal Canadians in support of a Fair Trade definition may create a political backlash if the issue is unsuccessfully resolved.

As Fair Trade products are more expensive, they operate under a significant market disadvantage in comparison to non-Fair Trade products. Without greater government support it is unlikely that Fair Trade products will gain a significantly higher market-share in the long term. In particular, the effectiveness of Fair Trade is also being damaged by companies who are marketing their own ethical-production brands without making significant changes to their exploitive practices.

Option 2: Develop a Canadian Fair Trade certification program

Introduction

A precedent for a nationally-mandated certification program has already been set in regards to organic foods. In Canada, organically grown foods which meet the Canadian criteria are called Certified Organics. The certification of these products is administrated by small government-approved bodies across the country. For example, in British Columbia the Certified Organic Associations of British Columbia (COABC) is designated to implement Certified Organic program under the *Food Choice and Quality Act*.

(NOTE: This program only applies to organic products grown in Canada. Organic products imported from other countries may be labeled organic without meeting Canada's stringent Certified Organic requirements.)

A nationally-mandated Fair Trade certification program might work in a similar way to the organic certification program, or TransFair Canada could be designated the appropriate organization to administrate Canada's certification.

Advantages

A Canadian national certification program would set a new international standard in production ethics, raise awareness of trade inequities, and positively impact all parties associated with Fair Trade.

A certification program would compliment Canada's foreign policy priorities, as outlined in Canada's International Policy Statement document entitled *Canada in the World*, to support economic growth and stability in the developing world.

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A certification program would protect existing Canadian companies who are invested in selling Fair Trade products and help to eliminate the fraudulent sale of uncertified goods labeled as Fair Trade. A certification program would also protect the effectiveness of Fair Trade, which is being damaged by large companies who are marketing their own ethical-production brands without making significant changes to their exploitive practices. A certification program could require such companies to meet a minimum standard.

Disadvantages

Although there are tremendous benefits to the idea of a national certification program, Canada may not be able to support a program that is as ethically stringent as TransFair's certification. One major problem with a certification program is how the program is funded and enforced. Structured incorrectly, the program might increase the cost of Fair Trade products or cost taxpayer dollars.

In addition, Fair Trade products are all produced in international locations. Although a Fair Trade certification program would support Canadian retailers selling these products, it could negatively impact products of competing products in Canada.

Option 3: Create a National Definition of Fair Trade

Introduction

In February, a CBC report announced that over 460 tonnes of Fair Trade products sold in Canada last year were not certified. Since that time, Fair Trade businesses, as well as concerned citizens, have called for enforcement of the certification by the Canadian Food Inspection Agency (CFIA). However, without a national definition of Fair Trade, the CFIA cannot legally impose fines or enforce the certification. In essence, although uncertified products sold under the Fair Trade name are a breach of Canadians' trust—they do not technically break any laws.

Advantages

A national definition of Fair Trade would allow the Canadian Food Inspection Agency (CFIA) to examine products sold under the name Fair Trade and penalize retailers whose products who are not appropriately certified. The national definition would simply enable the Canadian Food Inspection Agency (CFIA) to perform its function to protect certified products, as Canadians expect it to. A national definition would not require special laws or programs and it would not cost Canadians tax money. Costs incurred from enforcement could be recouped from fines imposed on violators of the certification.

FairTrade is a growing part of Canadian business. A national definition will help FairTrade businesses grow.

Disadvantages

The establishment of a national definition of Fair Trade would increase the CFIA's workload. Despite revenues earned from fines the enforcement of the certification may end up requiring the agency to expand and cost Canadians money.

The creation of this definition sets a further precedent for intervention in Canadian commerce. As Canada operates on a limited free-market economy, the government tries to limit intervention. FairTrade products have a very small market share—for example, FairTrade coffee accounts for less than 3% of Canada's total coffee consumption. Such a minor piece of the market may not be worth the potential costs.