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DISCLOSURE, CONSUMER CHOICE, AND THE LIBERALIZATION OF AGRICULTURAL TRADE

*Michael Ilg**

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The WTO is not the GATT. No new round can start, and more importantly, no new round can conclude without Least Developed Countries (LDC) and developing country interests being addressed and resolved. To secure LDC support, and maintain LDC support, progress must be real.

- Former WTO Director General Mike Moore

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I. Introduction

The issue of agricultural liberalization is among the most contentious facing the WTO. Beyond the implications for the international trade regime, agriculture is representative of a modern debate over globalization in which international forces encroach upon domestic autonomy. A distinction forms that has the benefits of trade liberalization opposed to the non-economic functions of agriculture support. Although the issue of liberalization is readily divided, the distinction is problematic because a resolution implicates both international and domestic concerns.

This paper advocates consumer choice as the means of reconciling the conflict between international trade liberalization and domestic social purpose. It is an attempt to form a theoretical framework that facilitates the benefits of trade while preserving domestic autonomy. First, agricultural liberalization is necessary in order to minimize the extreme costs of protectionism that are placed upon the consumer, the taxpayer, and the foreigner producer alike. Second, the inefficiencies and trade distortions that flow from protectionism are but misguided means to serve legitimate ends. Democratic principle requires that domestic interests are not excluded from international policy decisions.

The essential characteristic of a consumer choice model is that decisions are made by individuals in the domestic market and not by states in the international system. Trade promotion coupled with individual choice, therefore, mandates an altered role for the state. Rather than using outmoded mechanisms that obscure subsidies and externalize their effect, states must adapt to globalization with options that promote informed accountability. Globalization has greatly reduced the sovereignty of states and has created an international marketplace. It is necessary for citizens to become attuned to their increased responsibility. States need to develop a

system in which traditional policy objectives may be satisfied in nontraditional ways. It is a complex situation in which the individual self-interest of the consumer must gain a social context. Consumers will need to decide whether to assume the costs of achieving social objectives. Only in this fashion will the fair functioning of open markets produce results that are both transparent and democratic.

II. Agriculture and the GATT

Development of the GATT and Agricultural Trade

The tremendous growth of international trade in the post-WWII period did not extend to all products equally, and the agricultural sector is among the most notable exceptions to a general trend of trade growth. “An analysis of the history of the GATT as it relates to agriculture would conclude that this is an area in which the GATT has had ‘meagre success.’”¹ The failure to liberalize trade in agriculture should not be viewed merely as an oversight of the insignificant, but rather as a conscious exclusion of the controversial.

The contentiousness of agriculture is recognized by its prominent place within the history of the GATT’s dispute settlement system, with over 40 percent of all disputes involving agriculture.² The relative insulation of agriculture from trade liberalization is, therefore, representative of concerted diplomatic design. It represents an entrenchment of domestic policy protection into the international framework for trade promotion.

The institutional preferences for agriculture are most clearly viewed in the GATT provisions on quantitative restrictions, Article XI,

¹ Joseph A. McMahon, *Going Bananas? – Dispute Resolution in Agriculture*, in *DISPUTE RESOLUTION IN THE WORLD TRADE ORGANIZATION* 128 (James Cameron and Karen Campbell eds., 1998).

² *Id.*

and subsidies, Article XVI. Quantitative Restrictions: In addition to the looser interpretative exceptions of Article XI (2) (a) and (b), which permit prohibitions of a temporary nature and those necessary for meeting domestic standards respectively, XI (2) (c) permits import restrictions on any agricultural or fisheries product where necessary to enforce domestic restrictions of similar or substitutable products.³ As initially constituted, these provisions do not expressly establish a regime of domestic protectionism, as there is the requirement of ensuring the maintenance of foreign market share, theoretically indicating that “it should make quantitative restrictions a rather unattractive instrument of agricultural protection, since foreigners end up with a market share equal to that which would exist in the absence of protection.”⁴ This theoretical constraint found little translation into actual practice, however, as the major trading powers consistently seek a broad interpretation of agricultural exceptions, often straining if not threatening the entire trade regime.

Export Subsidies: The general prohibition on export subsidies is subject to an exception for primary products, so long as “they not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product...”⁵ A working definition of “equitable share of world export trade” proved allusive and international trade distortions in agriculture continued at an incredible pace. As with the interpretation of Article XI, so too were the provisions of XVI broadly construed to the point of an almost carte blanche exclusion of agriculture from GATT applicability.

³ MICHAEL J. TREBILCOCK & ROBERT HOWSE, *THE REGULATION OF INTERNATIONAL TRADE: POLITICAL ECONOMY AND LEGAL ORDER* at 192 (Routledge 1995).

⁴ *Id.* at 193.

The Agricultural Compromise

The exceptionalism afforded agricultural products can be seen as containing both a normative movement and a degree of unresponsiveness to institutional regulation. The GATT agreement was formed with a weak normative commitment to the equal consideration of traded goods, to which any subsequent attempts at strengthening resulted in the avoidance of obligations. In the *Pasta* or *Banana* disputes for instance, the EU collectively chose to block the adoption of panel decisions that found GATT contrary subsidy and import restriction policies. Although these disputes were eventually settled in negotiations with the US, it remains that the EU was willing to face costly retributive tariffs for the sake of fulfilling domestic policy objectives that took precedence over GATT compliance. And far from unique, the examples of EU noncompliance are but recent manifestations of a long pattern of agriculture protection that has extended beyond satiating domestic interests and into the normative foundation of the system of post-WWII multilateralism.

As early as 1955 a compromise was reached: “the US requested and received a waiver under Article XXV largely exempted its domestic farm programmes from GATT scrutiny. This waiver obtained by the world’s largest and supposedly most liberal trader did serious damage to the legitimacy and the functioning of the GATT.”⁶ A simple compromise: the US was able to protect its agricultural producers; the GATT was permitted to exist.

Embedded Liberalism and Agriculture

“Embedded liberalism” could be said to be the normative compromise between the economic systems that had failed so terribly in

⁵ *Id.* at 194.

⁶ ROBERT WOLFE, FARM WARS 59 (Macmillan 1998).

the first half of the Twentieth Century, “unlike the economic nationalism of the 1930s, it would be multilateral in character; unlike the liberalism of the gold standard and free trade, its multilateralism would be predicated on domestic interventionism.”⁷ Embedded liberalism, therefore, reflects the shared belief in the need to promote international stability through transparency and predictability, while at the same time maintaining the ability of states to pursue what John Ruggie terms “legitimate social purpose”.⁸

The social embeddedness of trade is often overlooked, both in elemental conceptions on the nature of economics and the more rudimentary analysis of trade. Simply viewing agricultural products to be analyzed in terms of comparative advantages and relative inefficiencies obscures the extent to which agriculture has developed as a component of social policy within developed countries.

That many developed nations have articulated agricultural policies can be seen as a response to the diminishing role of the farmer and the changing patterns of production; it is essentially a means of domestic interventionism. When the majority of people are involved in farming, it is hardly necessary to distinguish an agricultural policy from that of the general economic policy of the national government. “States do not have sectoral policies until the sector’s interest can be seen to diverge from those of society as a whole.”⁹

The distinctly rural characteristic of agricultural production has ensured that policy makers in developed nations afford it different

⁷ John Gerard Ruggie, *International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order*, in STEPHEN D. KRASNER, *INTERNATIONAL REGIMES* 209 (Cornell University Press 1983).

⁸ *Id.*

⁹ WOLFE, *supra* note 6, at 54.

treatment, for unlike industrial producers that may support a city or region, farmers approach something nearer to a definable “class”.

When there are more farmers than other people, today generally in developing countries, agriculture tends to be taxed; when the share of farmers in the population starts to decline to trivial levels, as it has in OECD countries, agriculture tends to be supported, usually with the stated objective of maintaining farm income.¹⁰

Policy Misconceptions of Developed Nations

Representing the sustenance of rural communities, agricultural support was viewed as a means of promoting the dual function of easing the growing inequalities between rural and urban life as well as insulating farmers from international market fluctuations. The special characteristics of agriculture would, however, result in a form of application unique within the embedded liberalism compromise. “Unlike the rest of the welfare state, however, farm policy provided *indirect support to people* through the mechanisms of *direct support for the prices* received by producers.”¹¹ The indirect support given to agricultural producers was dissimilar to other aspects of the welfare state as interventionism directly impacted upon world markets, despite hopes otherwise. “The CAP, for example, was based upon on two misguided assumptions, first that the EU would remain a net importer of many farm products; and second, that growth in the world market would contain the cost of CAP while minimizing disruptions to world trade.”¹² The effect was both increased inefficiency for protected farmers and massive distortions for the world economy.

Premised upon conceptions of the agricultural crises of the 1930s, policies of many developed nations were unprepared for the changing

¹⁰ WOLFE, *supra* note 6, at 46.

¹¹ WOLFE, *supra* note 6, at 55.

dynamics of food production that led to the curious circumstance of spiraling food surpluses emanating from comparatively inefficient producers. Slow growth in food demand coupled with rapidly expanding production ensured that domestic producers required increasing amounts of aid to cover the decreasing value of overabundant foodstuffs. The cost of subsidization strategies such as the EU's mammoth Common Agricultural Policy skyrocketed as distorted price realities supported inefficient producers, and under the cover of protection the growing efficiency gap, and thereby the costs continue until the system faces collapse. Indeed, an OECD study suggests that multilateral trade reform in agriculture could yield over \$450 billion per year in net welfare gains.¹³ Clearly agricultural protectionism contains profound distortions that spiral damage outward with increasing intensity.

The impact of agricultural subsidization upon the world market, and specifically developing producers, was overlooked for far too long. Agriculture support was not only premised upon misconceptions on the nature of productive realities, it was also contemplated with a narrow worldview. International liberalism was envisioned as a multilateral method for ordering economic growth and stability, but the conception of "international" was decidedly limited, more accurately resembling the developed western world. Ostensibly designed to facilitate trade in goods, the GATT facilitated the trade of industrial goods while agricultural products were insulated. While this may be evidence of the power - influence arrangements in the post WWII period and their translation into institutional preferences, this situation is simply untenable in a global economy that has become completely "international". In 1955, the

¹² WOLFE, *supra* note 6, at 77.

¹³ See JONATHAN COPPEL & MARTINE DURAND, TRENDS in MARKET OPENNESS, ECONOMICS DEPARTMENT WORKS PAPERS NO. 221, at 6 (1999).

continuing participation of the United States and the success of the GATT depended upon agricultural preferences and exemptions. Now, the success of the GATT process depends upon agricultural trade concessions and the equality of advantage.

III. Agriculture and the Uruguay Round

Progress – The Uruguay Round

The first major breakthrough toward reducing agricultural protectionism occurred in the Uruguay Round of GATT negotiations with the creation of Agreement on Agriculture and the numerous individual commitments attached to the Marrakesh Protocol.¹⁴ Many significant developments may be found in the Agreement on Agriculture, amongst the most interesting is the categorization of domestic support methods into conceptual “boxes” of acceptability. For instance, “Green Box” measures are methods of domestic support that are not viewed as trade distorting and therefore may continue indefinitely and are beyond GATT scrutiny. “Amber Box” measures, however, are those that are conceived of as trade distorting and must be phased out. For example, agricultural research or training provided by the government is regarded as falling in the Green Box category, whereas government buying-in at a guaranteed price (market price support) counts as Amber Box. This classification program has the obvious advantage of permitting governments a domestic function while at the same time ensuring that the costs for it are not borne externally.

In addition to addressing domestically distorting policies, the Agricultural Agreement also contains significant provisions for reducing the external barriers to trade. The measures, which limit market access,

¹⁴ See Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994, available at http://www.wto.org/english/docs_e/legal_e/13-mprot_e.htm (last visited Mar. 17, 2005).

are conditioned for removal by the creation of a tariff-only regime, or “tariffication,” as non-tariff barriers are converted into regular tariffs and duties, which may in turn be more readily removed.¹⁵ As seen throughout the history of the GATT, the process of tariffication has the dual benefit of increasing transparency as well as encouraging negotiated concessions; with the costs of protection clearly visible, their negotiated reduction is further facilitated. While tariffication has been a pattern for success, it remains that states then must be willing to exchange the explicit added costs for gains in other areas. Substantial “non-economic” factors in conjunction with domestic interest may make the transparent costs acceptable or even defensible.

Gradual diplomatic negotiations eventually culminated in the compromise that is the Agriculture Agreement, representing not the assumption of one ideal by all but the conciliation of differing positions around an acceptable core. While the Agricultural Agreement was a far cry from the abolition of subsidies hoped for by the US and Cairns group of countries, for the EU membership it was an undertaking of difficult and reluctant concessions.¹⁶ The wide discrepancy of interest that surrounds the issue of agricultural support cannot be resolved by trade diplomats alone, it must gain the legitimacy of applicability from national governments.

A Hollow Victory?

Evidence would suggest that the diplomatic success of the Uruguay Round is limited to a framework for compromise as there is still a significant lag in the normative maturation of this collectively assumed

¹⁵ See generally WTO documents on agricultural trade and market access, *available at* http://www.wto.org/english/tratop_e/agric_e/ag_intro02_access_e.htm (last visited Mar. 17, 2005).

¹⁶ WOLFE, *supra* note 6, at 96.

undertaking. For instance, an OECD working paper from 1999 found the past decade a bleak one for trade barrier reductions in agriculture:

While much progress has been achieved in lowering protection on industrial goods, barriers to trade in agriculture remain pervasive in most OECD countries. Protection in the agricultural sector, as measured by producer support estimates (PSEs), has remained broadly constant at a very high in Japan at around 60 per cent and at about 40 per cent in the European Union and 20 per cent in the United States over the past decade.¹⁷

A more detailed examination of the OECD's empirical data reveals that in the five years following 1994 Canada and Australia alone had declining agricultural protection while the major trading powers, Japan, the EU and the United States, actually had increased levels of protection.¹⁸ Obviously, it is unrealistic to expect instantaneous transformations resulting from trade negotiations, but the evidence of increasing protection in the wake of a supposed agricultural breakthrough is perhaps an alarming signal of the status quo.

Moreover, in the months preceding the Ministerial Conference scheduled for November of 2001 in Dohan, there was explicit diplomatic initiatives on the part of developing members to table the issue of implementation regarding the Agricultural Agreement. The proposed issues of implementation were divided into three categories: 1) Export Credits and Insurance; 2) Decision on Net Food-Importing Developing Countries; and 3) Tariff Quotas. The broadness of the proposed issues reveals the extent to which pervasive obstacles remain embedded within the issue of agriculture. Although the issues raised appear technical in nature, the underlying problem is fundamentally basic; a lack of normative will. Cooperative structures certainly aid in the facilitation of stable and

¹⁷ *Supra* note 13, at 6.

predictable state interaction, but for frameworks to produce institutional or systemic change there must be the necessary political will. So as constructual agreements prove seemingly ineffectual at coalescing reluctant powers like the EU, agriculture may well present a poignant example of a paradigmatic shift.

New Pressures

As the international trade regime stands facing increased calls for broader accountability, the paradigm of trade theory will be unresponsive unless a more expansive conception of trade is developed. Beyond the merely binary argument of whether trade is beneficial or not, and the radicalized positions that view trade as an evil or protectionism as irrational, a real attempt should be made to articulate which principles are to guide the trade regime. Trade purely for the sake of trade will not be sufficient to overcome the remaining obstacles.

As the words of the Director General of the WTO help illustrate, “the WTO is not the GATT.”¹⁹ The route with which the GATT progressed is not available to the WTO for the very success of the GATT has meant an altered system. While the GATT has been successful in promoting trade liberalization, each round of success ushered in a degree of change that has left the WTO as an heir to both the gains and the accumulated antagonism. A unique circumstance, success that is not an absolute quality; the more that is attained the more contentious a matter becomes. As the focal point of what the GATT was, and now as the most obvious representation and institutionalization of the international trading system, the WTO faces burdens that the previous manifestation could not possibly have encountered.

¹⁸ See *id.* at 20 (Figure 1).

¹⁹ General Mike Moore, Keynote Address at the Partnership Summit 2000 (Jan. 10, 2000), available at http://www.wto.org/english/news_e/spmm_e/spmm21_e.htm.

The minimalist basis that has been prevalent within trade theory, namely the notion of individuals as rationalistic and maximizing actors, is particularly well suited to a jurisprudence of diplomacy. Namely a process in which basic rationalism and game theory models are all that is necessary for explanation and justification. However, as more diverse social actors claim access, and as the WTO creates legal jurisprudence, it becomes evident that a rational model based on self-interest alone is inadequate as precept of trade growth. Legalism, even without the legitimacy afforded by sovereignty, imputes a measure of authority, an authority derived from constituting principles. And so as the trade regime receives increasing international attention from diverse social actors, the focus must no longer lie solely with trade wonks and instead extend to trade as a socially constituted practice.

Certainly the social component of trade shall be invoked if the next round of multilateral negotiations is in fact, as the Director General of the WTO suggests, a development round. Apart from the attention paid to clamoring NGOs, it is clear that before any further developments of the WTO can be contemplated a reconciliation of the present regime is required. Towards reconciling the systemic inequalities and developed world preferences, the controversy over agriculture demand a resolution. The debate contains a highly symbolic element, putting the changing dynamics of the trade regime into full relief. With the economic costs of subsidization now bordering on the impossible, the EU shall certainly have to compromise; the question will be how the political costs are to be minimized. Agriculture has captured the imagination to such an extent that there will be considerable political consequence to simply surrendering this sector. The previous practice of severing support to an inefficient industry and weathering the localized political storm is untenable in these circumstances.

With non-economic factors potentially impacting across entire societies, policymakers require a more comprehensive response than the binary framework of whether “to liberalize or not to liberalize?” Initiative should be shown in extending the paradigm of trade to include an adaptive social setting in which the role of governments is to illustrate policy concerns and the linkages to personal consumption. A government may have a goal of furthering the educational standing of its citizenry, but that this aim would be realized through excluding highly educated foreign nationals sounds preposterous. Few governments need actively coerce individuals into higher education; rather societal influences ensure that there is such a demand if not the means. With governments maintaining a developmental role it may help ensure that the benefits of trade, and the strengthening of the trade regime, may occur alongside of domestic goals and individual involvement.

A New Paradigm?

The GATT has been brilliantly successful at a simple task; a system of contractual agreements that allowed diffuse benefit through exchange concessions that parties had been previously unwilling to concede. The trade regime acted as an instrument by which states could temporize inefficient sectors of the economy, using a far distant international agreement as a means to reorder domestic interests. A decidedly pluralistic model; competing sectoral interests are effectively traded to exploit comparative advantages and sever inefficient producers. This romantic notion may well be at an end. The attributes of the GATT, which have been so conducive to diplomatic tradeoffs, namely its flexibility and obscurity, have ended with the appearance of the WTO and its centrality within invigorated international attention. Appearing concurrently with the rising publicity centering upon the WTO has been the issue of agriculture after its long enforced slumber, changing the

dynamics of trade negotiations and perhaps creating an impasse for efficiency that has not been seen before. Beyond conceptions of the sectoral interests of pluralism, agriculture presents a situation of extensive domestic interest that essentially demands a more cognitive approach than traditional trade theory provides.

Countries with large agricultural support programs have often claimed that the vast sums spent are not the simply the waste of inefficiency but are instead manifested in other essentially non-economic forms. Trade critics have often view with derision the claims of non-economic objectives, as the title of Professor Alan Winter's OECD working paper is indicative of, "The So-Called 'Non-Economic' Objectives of Agricultural Support."²⁰ Viewing non-economic purposes in a so-called objective manner, Winters attempts a quantification of the unquantifiable. In an interesting paper, Winters details the ways in which stated policy objectives are misdirected through agricultural support in such as areas maintaining farm income, preserving rural communities, environmental and pollution concerns.

Detailing each objective, Winters then analyzes the economic merits of each and invariably reaches the conclusion that direct support would be preferable to the indirect subsidization method. For instance, Winter suggests that maintaining farm income would be best served by direct income support, "While these are real problems, they do not seem sufficiently serious to rule direct income support of the set of acceptable policies."²¹ That direct income support is basically social assistance is not addressed, and it is unclear upon what basis farmers would continue in

²⁰ L. ALAN WINTERS, THE SO-CALLED "NON-ECONOMIC" OBJECTIVES OF AGRICULTURAL SUPPORT, OECD ECONOMIC STUDIES NO. 13 (1989-1990), *available at* <http://www.oecd.org/dataoecd/0/43/34318482.pdf>.

²¹ *Id.* at 247.

their rural function if given government incentives that have no geographical tie and contain an implicit pressure to retrain.

Arguably the most unquantifiable objective of agricultural support is that of the value of landscape or what Winters terms amenity. Winters again uses a specific analyses to find misdirected funds, “results suggest serious problems of consistency when, for example, the U.K. central government provides direct support of £73.4 million for the Royal Parks, countryside and nature preservation, and £2,342 million for agriculture, fishing and forestry.”²² But is this really a conflict of consistency or simply a matter of overlap? Does agriculture not sustain the countryside in a manner consistent with the aims of the British government?

Conducting a sectoral economic study which details the manner in which each non-economic objective may be accomplished in a cheaper way begs the question of whether it may achieve all the stated objectives at once. How does one quantify the cost of supporting the incomes of rural communities and the cost of maintaining rural landscapes when both of which are predicated on the existence of the farmer? Assumptions on the cost of non-economic factors such as the maintenance of the rural landscape cannot be calculated in the same model that also advocates direct income support for farmers, as it eliminates farmers and inevitably alters the landscape regardless of current expenditures.

The objectives of agricultural support are not simply policy proposals, they are the stated defense of conditions as they currently exist; they may be achieved at less cost in theoretical models, but would they exist in reality without the basic support of agriculture? The question remains that if funds now allocated to supporting farmers are redistributed in a more economical and direct fashion to meet myriad non-economic

²² *Id.* at 255.

objectives, would these objectives even be met in the absence of the farmer?

IV. A New Role for the State

Globalization

So much has been made of the phenomenon of globalization that it would be redundant to produce an in depth analysis here. Instead it will suffice to acknowledge that there has been a fundamental change in the ways in which actors communicate and business is conducted. The essential point is that the power of the state to regulate its domestic economy has been reduced. The various manifestations all have had a hand in the general process of lessening state power, including the instantaneous spread of information, electronic funds transfers, and increased capital mobility. Against the backdrop of this altered landscape, schemes such as the EU's CAP are a remnant from a simpler time. The costs of this inefficient holdover can no longer be borne by domestic consumers and taxpayers, and it will no longer be tolerated by developing countries that will demand concessions before any further trade negotiations proceed. That is, agricultural subsidization is a remnant that may no longer be conciliated domestically or internationally.

WTO Compliance

The most obvious avenue for easing the effects of liberalization may be found in the "Green Box" category of the Agreement on Agriculture. Spending initiatives that fall into this category have the dual benefit of permitting agricultural spending while remaining WTO compliant. Any number of policies that support agriculture may be contemplated so long as they are direct payments and not the indirect price supports that are trade distorting. For instance, direct social spending for agricultural research would be WTO compliant while conceivably

furthering efficiency and rural landscapes. Admittedly, this is not a complete solution and the larger problem remains of how to support farmers without unfair subsidies. Direct welfare to families that continue to farm would only be a shift of support, and subsidization would continue to distort price realities. Thus, the cost must be borne in the market and in the prices paid.

Coordinating Civil Society

Globalization has not ended an era of domestic autonomy but simply shifted its focus. Governments may still foster autonomous domestic policy by educating the public on the consequences of agriculture, and indeed all, consumption. A report from the EU's Committee of the Regions entitled *Opinion on the Common agricultural policy and the conservation of Europe's cultural landscape*²³ illustrates the extent to which policymakers' perception of agricultural policy as a mechanism of price support has broadened to include the diverse linkages of agriculture. These non-trade benefits of agriculture, such as sustaining rural communities, protecting the environment, rural landscapes and tourism, should also be the responsibility of individuals.

Governments need to coordinate public awareness with regulatory schemes that facilitate the articulation of domestic opinion. Information campaigns and political debate could easily inform citizens of the consequences upon the non-trade objectives mentioned above. Citizens must know that simply buying the cheapest product will come at the expense of promoting certain political issues. Therefore, regulation will be required to differentiate between not only products, but also political

²³ The Committee of the Regions, Opinion of the Committee of the Regions of 14 June 2000 on the Common agricultural policy and the conservation of Europe's cultural landscape, *available at* http://coropinions.cor.eu.int/CORopinionDocument.aspx?identifier=cd\commission2\do ssiers\com2-013\cdr285-1999_fin_ac.doc&language=EN (last visited Mar. 17, 2005).

issues. Of the many possibilities for regulatory differentiation, four appear especially salient; environmental, health and safety, geography, and brand name.

Both environmental and health labeling would entail distinguishing between products based upon whether they conform to EU standards of agricultural production. Although foreign products are not necessarily distinguished, consumers would receive the benefit of knowing whether a foodstuff is produced with a minimum of environmental degradation or genetic modification. While WTO rules may not permit excluding a product, consumers should be informed of the practices that European governments do not support. For instance, if cattle are raised in an environmentally harmful manner or are injected with various hormones the consumer should have the right to make an informed decision.

The second group of labeling options is explicitly based upon location. First, a form of geographic labeling could distinguish which products are produced locally. This serves the dual aim of helping support local farmers and ensuring freshness. The second geographic labeling measure, brand name, is much more complex. It advocates treating agricultural products as other goods and protecting the usage of renowned names. For example, French Rochefort cheese or Italian Parma Ham would not be universal food types but specific labels for food actually produced in that region²⁴. As Europe possesses a highly regarded agricultural tradition, especially in such areas as wine, cheese, or pasta, this presents an opportunity to develop Europe's comparative advantage in agriculture. But agriculture as source of brand names is problematic, for unlike the previous options that promote information, protecting

²⁴ EU Trade Directorate, at <http://www.europa.org> (last visited Mar. 17, 2005).

agricultural names is restrictive and has international implications beyond the scope of this paper.

The options given a thumbnail sketch above are not meant as concrete policy proposals but rather conceptual examples that indicate the role of information. It is easy to be cynical of the ability of individuals to overcome self-interest, but the issue is much more elemental than daily choices in which consumers will have to pay more for the collective good. Public opinion may form collective conceptions that become accepted and then form part of the collective consciousness. Consider the declining incidence of cigarette addiction in countries that have articulated strong anti-smoking campaigns, where information on the health risks associated with smoking gradually moves it to the periphery of social acceptance. It is not inconceivable that articulated public opinion might extend from health to environmental or human rights issues. For example, warning labels on Nike shoeboxes which alert the consumer to the use of child labour could do much toward furthering social concerns.

V. Conclusion

Francis Fukuyama's *The End of History and the Last Man* was received with much attention in the early 1990s. Fukuyama's belief in liberalism as the final epoch of human development coincided nicely with congratulatory sentiments that were prevalent with the end of the cold war. Basically an affirmation of the Hegelian dialectic, *The End of History* argues that liberalism of the 18th Century remains the pinnacle of philosophical development. Fukuyama reminds us that liberalism is a stable paradigm of thought that traces back to John Locke and Adam Smith, equally embracing liberty and the "invisible hand of the market". But as state power is redefined in the process of globalization, the concept of individuals left under the invisible hand will have to be rethought.

It is useful to remember that the post WWII compromise of embedded liberalism was premised on both economic liberalism *and* legitimate social purpose. Globalization has reduced the functioning of the state and removed the main instrument of protecting this legitimate social purpose. The economic effects upon individuals are beyond contact, and beyond accountability as the political is subsumed into the international economic marketplace. What it is occurring is not the simple extension of issues into the international arena, but the elimination of a level of political accountability. Individuals may no longer have a political voice in economic issues that affect their society. Only the market remains, and “a market is not necessarily democratic.”²⁵

If only the “invisible hand of the market” is left to order society, then absent will be fundamental democratic ideals. As the Canadian political scientist C.B. Macpherson commented, “We may still call it consumer sovereignty if we wish. But the sovereignty of an aggregate of such unequal consumers is not evidently democratic.”²⁶ The state must make the market a place where ideals have force. Required is a system of informed and nuanced consumer choice in which the state articulates objectives that a majority of citizens support. A form of nuanced consumption in which the costs support domestic concerns in the face of international trade hegemony. If traditional institutions have less force in the articulation of democratic agendas, then democratic expression requires alternative forums. In the end, the market must be made more accountable.

²⁵ C.B. MACPHERSON, *THE LIFE AND TIMES OF LIBERAL DEMOCRACY* 86 (Oxford University Press 1977).

²⁶ *Id.* at 87.