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ETHICAL TRADING – A FORCE FOR IMPROVEMENT, OR CORPORATE WHITEWASH?

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Policy Conclusions

- The Ethical Trading Initiative's Base Code for worker welfare is likely to have only limited impact on the lives of farm workers in South Africa's wine industry. It is unlikely to impact significantly on livelihoods, and is unable to address workers' most pressing problem – the shedding of livelihoods and trends towards mechanisation, casualisation and externalisation
- The Base Code is unlikely to impose excessive costs on wine farmers, but it may contribute to the stratification of the wine production sector and, unless carefully implemented, may militate against smaller growers and the entry of new producers, and can create problems for rural development and land reform
- Additionally, there is a danger that the ETI's work, by reducing the issues to ethical *sourcing*, helps retailers to avoid addressing the broader ways in which they create inequitable power relations in trade and agrofood networks between North and South
- The negative potential of ethical sourcing initiatives can be minimised and their positive impact maximised through the creation of national-level forums of worker and employer organisations and NGOs, with real power to oversee the rolling out and monitoring of ethical sourcing codes and the threshold conditions for listing and delisting to Northern retailers
- The Ethical Trading Initiative's mission to 'learn by doing' means that it cannot simply limit itself to the implementation of its 'Base Code', but has to challenge retailers to avoid the perpetuation of unequal power relations in North-South trade

Introduction

Can private sector codes of conduct for 'ethical trading' make a positive impact on sustainable rural livelihoods? The agro-food networks that sustain rural livelihoods are being shaped by two very different trends. One is towards globalisation and deregulation, which have tended to impact negatively on the livelihoods of the rural poor. The other is towards complex processes of re-regulation – sometimes by governments but often also by way of private and voluntary regulation. 'Codes of conduct' and schemes for the certification of everything from environmental friendliness to worker welfare have proliferated at a dizzying rate – by one count, there are already more than 200.

What do these initiatives mean in practice? Clearly transnational corporations (TNCs) would not be involved in such schemes if they did not serve some of their interests. At the same time, they are underpinned by some intention – albeit negotiated and contested – of enhancing livelihoods.

This paper considers the challenges facing stakeholders in one particular case of private sector self-regulation: the Ethical Trading Initiative's pilot project in monitoring compliance with its 'Base Code' in the South African wine industry (Box 1). It explores questions arising both out of direct participation in ETI monitoring and inspection processes and out of independent research conducted on behalf of a 'Southern' NGO, the Centre for Rural Legal Studies (CRLS), in Stellenbosch (Du Toit, 2001). In particular, it considers some of the preconditions for positive engagement between different stakeholders in the development of 'socially responsible sourcing' codes such as the ETIs.

The ETI: piloting code implementation

The Ethical Trading Initiative is a forum of retailers, NGOs, trade unions and other bodies formed in the UK in October 1998. Supported by the UK's Department for International Development, it is an attempt by retailers to enter into dialogue with some of their most trenchant critics – trade unions and NGOs – who had been raising concerns about the content, implementation and indirect social impacts of company codes of conduct. The ETI's purpose is to develop common approaches to the formulation and implementation of codes of conduct. Members developed a 'Base Code' broadly based on 'internationally accepted' labour and social standards, and a set of implementation principles setting out 'best practice' in the adoption of the Code (ETI 1998). The ETI also sought to develop shared approaches to monitoring and verification. To this end, it adopted a 'learning by doing' approach and embarked on a set of pilot projects aimed at learning lessons on auditing and monitoring methodologies. Pilots focused on different sectors and in different locations in retailers' global supply chain: the first pilots involved the clothing sector in China, ready-made garments in Sri Lanka, the banana industry in Costa Rica, horticulture in Zimbabwe, and the wine industry in South Africa.

From early on, the ETI emphasised the importance of 'stakeholder involvement' in these pilots. In Zimbabwe and South Africa, pilots depended heavily upon the participation and support of academics, NGO staff and trade unions.

This significantly contributed to the success of these pilots for the ETI. At the same time, there were real tensions and differences about the terms of stakeholder involvement – particularly in South Africa. For one thing, pilot methodology still tended to be determined from the UK – particularly in the first two years of the pilot. For another, the ETI has seen the involvement of stakeholders in fairly limited terms, drawing on them for advice and local information, but not putting up for negotiation any of the broader aspects of ETI policy and conduct.

Box 1: The 'Base Code' of the Ethical Trading Initiative

- Employment is freely chosen
- Freedom of association and the right to collective bargaining are respected
- Working conditions are safe and hygienic
- Child labour shall not be used
- Living wages are paid
- Working hours are not excessive
- No discrimination is practised
- Regular employment is provided
- No harsh or inhumane treatment is allowed

(ETI, 1998: 5–8)

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South African participants in the pilot have felt uncomfortable with this limited role. The South African experience within the ETI pilot raises issues that go well beyond the aim of testing and monitoring. It poses real questions around the *general* course and direction of ethical supply chain monitoring in South Africa and elsewhere, highlighting, first, that the regulation of employment relationships may not be an effective strategy for protecting rural workers and, second, the real danger of exacerbating unequal power relationships in North-South trade.

Globalising ethics

These difficulties should be seen against the background of the broader development of private regulatory schemes in agro-food production and trade and beyond. These have grown up in response to the growth within wealthy industrialised nations of a complex and many-faceted 'new politics of consumption'. Questions have multiplied about the impacts of corporate behaviour in a wide range of areas, from consumer rights and health to environmental sustainability and social justice. A dizzying variety of regulatory approaches have been adopted, including opportunistic and PR-driven 'social' and 'green' labels which meant little in practice. Questions and criticism led to the development of independent, free-standing, and sector-specific certification, benchmarking, chain management or auditing schemes, often involving groups of companies and even 'consultations' with other interested and affected groups in society (Blowfield, 1999).

Although the ETI is often compared and even confused with 'fair trade' initiatives, its closest relatives are corporate schemes aimed at chain management and 'code harmonisation' within global commodity chains. In global agro-food trade, this includes CEPAA's SA 8000 scheme for labour standards, the Euro-retailer Fresh Produce Working Group's protocol for Good Agricultural Practices (EUREPGAP), the Forest Stewardship Council's framework for the certification of the sustainability of forest management practices in timber (FSC), and even the Hazard Analysis and Critical Control Points food safety regime (HACCP). All these involve the development of generic, 'harmonised' guidelines aimed at shaping in-company systems. All of them claim to be 'global' standards, homogenously applicable across different geographic spaces and cultural contexts. All emphasise the importance of reliable and valid monitoring and verification.

At this level, what is striking about these initiatives is their similarity in overall design. Although there is huge diversity in their subject matter and in the detail of their strategies, there is also a marked degree of convergence, particularly in the extension of the grammar and language of corporate accounting to environmental and social fields (Blowfield, 1999). Corporate social responsibility is approached in these initiatives through a broadly shared set of tools – an evolving and complex 'technology of ethics' pivoting on the development of strategies for measuring conduct against a set of clearly defined benchmarks.

A key aspect of these 'technologies of ethics' is that they are *globalising* institutional strategies. Compliance has to be audited within a wide range of spatially distributed, transnational commodity systems. This poses significant technical and political questions for design and implementation – and has implications for their impact on the empowerment of poor rural people and the promotion of sustainable livelihood strategies.

First, *this places powerful constraints on debates over code content*. Codes for labour and social issues converge around a set of standards that the more powerful interests (i.e. Northern) can argue to represent 'acceptable international norms', and these are intimately linked to their public credibility and defensibility *in retailers' home markets*.

This has obvious but often unacknowledged implications. Initiatives that purport to represent 'global', 'human' and 'universal' concerns all too easily involve concerns that are thoroughly rooted in the very specific assumptions of Western culture at that time – and which, as far as their implementation goes, can further institutionalise unequal power relations between North and South.

Second, to globalise corporate ethics requires not only the formulation of supposedly 'universal' standards, but also *modes of local articulation*. Ways have to be found of interpreting the supposedly 'universal' principles so that they can make local sense. Sometimes this task may be left up to individual auditors. At other times – as in the case of EUREPGAP and the ETI Base Code – implementation involves careful attention to the development of detailed checklists of 'auditables' and attempts to specify monitoring methodologies in detail.

This is never a simply technical process, but involves political and ethical judgement. This creates important terrains of contestation and engagement in which stakeholders can negotiate about what code implementation will actually mean.

But 'consultation' is still controlled from the 'North' and power is unequally distributed between 'Southern' stakeholders. Some – 'experts' and those from the managerial classes – will be better able to manipulate and use the new power-knowledge technologies than others. In the ETI pilot in South Africa, worker organisations were able to engage with the political and technical complexities of using these opportunities only with difficulty, while farm workers themselves were, in the words of a CRLS researcher, reduced simply to 'objects of auditing' (Kleinbooi, 2001).

The third challenge is to integrate these codes into the complex systems of chain management that retailers already have in place – internal systems, policies and frameworks that are often deeply integrated with business strategies or ingrained in company culture. In theory, multi-stakeholder sectoral code initiatives may create important new linkages and opportunities for influence, giving even southern NGOs and community organisations a chance of impacting on corporate conduct. The reality, however, is that corporations hold all the trumps. The ETI, for instance, can, at best, act as a 'learning hub', and cannot insist that its retailer members actually implement the lessons of 'learning by doing'.

Letting global retailers off the hook?

The ETI's tight focus on conditions of labour in supplier companies is a further important problem. While Fair Trade initiatives attempt to challenge the unjust power relations in

Box 2: SA Wine Industry: Some basic facts

- **Growers:** Wine in South Africa is produced mostly in the Western Cape. More than 104,000 hectares (ha) of wine grapes are farmed by some 4500 growers, for the most part members of a well-established white rural landed elite
- **Industry structure:** Wine is made by more than 330 wine cellars, of whom 69 are cooperatives, 92 are estates, 168 are private non-estate cellars and 8 are producing wholesalers
- **Production:** Production has been increasing in recent years, in response to increased export opportunities and generates some RI 500m annually. Some 600m litres (25% exported) are drunk directly, and some 200m litres used for spirits
- **Workers:** Permanent and seasonal employees total some 110,000. Recent research indicates a strong downward trend in regular employment. Average wages for farm workers in the Western Cape are less than R800 (GBP 70) per month

(*Source*: SAWIS 2000, Ewert 2000, 2001) trade between rich and poor nations, the ETI is an ethical *sourcing* project, ignoring these broader relations and concentrating tightly on the *conditions of labour within the place of work* where products were sourced. Seen from this angle, participation in the ETI serves retailer agendas by shaping the way in which questions about corporate responsibility are posed. By portraying ethics as a problem in *sourcing*, worker welfare is by implication a responsibility of suppliers, and so retailers can distance themselves from their own role in creating an environment for exploitation.

At a workshop in South Africa in 2001, a retailer's agent stated matters with admirable candour: 'We are here,' he said, 'primarily as insurance. We are here so that, if something goes wrong, and if the media start asking questions, we can point to the fact that we are trying to do something about it.' There is a real danger, according to one scholar of the South African wine industry, that the ETI can end up serving merely as a 'fig leaf' for an essentially unchanged sector (Ewert, 2001). In a world where vocal sectors of public opinion are raising questions about TNCs' conduct, where the media circulate information rapidly and where small shifts in consumer choice can make dramatic differences to market share, it makes good public relations sense to participate in an initiative such as the ETI. Regardless of its actual impact, the mere fact of participation can help head off troublesome journalists or campaigners and soothe the consciences of troubled customers – and at no significantly higher price. It is already abundantly clear – and explicitly acknowledged by at least some retailers – that the costs of compliance will be borne by suppliers themselves. They will not be passed on to consumers, and retailers will be reluctant to squeeze their margins.

From this perspective, ethical auditing of product sourcing seems to be not the exception to a trend but potentially part of its intensification – viz. the increasing concentration of power in the hands of 'Northern' retailers. The thresholds that have to be crossed in order to gain access to premium markets in the UK become slightly higher – and so do the obstacles for entry into high value agriculture by marginalised farmers in poor countries. There exists a real possibility that the long-term consequences for economic growth, rural development and agrarian reform can be negative.

Impact on rural people

But what does this mean in practice? It is hardly news, after all, that retailers are involved in ethical supply chain monitoring for reasons of private gain, or that power is unevenly distributed between and within the North and the South. Could not the positive impact for workers outweigh the costs and disadvantages? What is wrong with retailers appearing to have clean hands – if the process of washing leads to change on the ground?

Consider the realities that wine farm workers face in the Western Cape at the beginning of the 21st century. Here, there are two almost contradictory challenges.

- For those who remain in regular employment, the challenge is to accelerate the transformation of racially-based paternalism. The last fifteen years of labour organisation suggest that the dice are loaded against a trade union strategy that challenges management directly. Organisation is both necessary and possible. But the path to farm worker organisation and empowerment may – initially at any rate – lie outside the normal forms of adversarial trade union bargaining.
- The second challenge is in many ways more daunting and urgent. In rural employment the most important threat to poor rural people in the Western Cape is not necessarily the excesses of non-compliant employers but the systematic shift towards third-party labour contracting and labour brokering agencies (Du Toit and Ally, 2001).

The implications are disquieting. Together, they reduce the relevance and practicality of the ETI's Base Code. The protection of workers' rights *in* the employment relationship is a poor way of dealing with a situation where most of the serious problems arise out of the far-reaching ways in which labour and *productive* relations create a new climate of riskiness of work and, potentially, unsustainability of livelihoods.

Furthermore, 'outsourced' workers have very different interests from those of regular employees. Women make up almost two-thirds of outsourced harvesting teams, but these are poorly protected by the gender-blind provisions of the Base Code. (Barrientos, 2000).

Finally, these changes also have important implications for any strategy for worker organisation. For worker organisation to take root here it will be important for trade unionism to break out of its narrow focus on industrial-style organisation among permanent workers, and to take on many of the forms of activism characteristic of broadly based rural social movements.

In this context, any positive impact of the ETI's Base Code is likely to be limited. The ETI code is for most purposes the same as South African labour law. The one exception is the provision for a 'living wage' – a clause which is extremely hard to interpret and enforce.

And unfortunately there is likely to be a downside, particularly in terms of the medium to long term future of the wine industry. Though some have benefited from deregulation, wine farmers in general – particularly grape growers – are more exposed to risk and competition (Ewert, 2000). There is at present little danger that Ethical Trading will impose ruinous costs. But by more tightly regulating access to premium markets, placing more emphasis on the ability to demonstrate compliance with a host of regulatory regimes, Base Code implementation will exacerbate the dynamics that widen the inequality gap in South African agriculture, that concentrate power in the hands of those who already have wealth, capital resources and ready access to lines of credit, and that limit opportunities for access to high-value agriculture to wealthy, white farmers. The prospects for the present government's plans for integrating land reform with the development of commercial agriculture will be further reduced.

It is no coincidence that, in the May 2001 discussions about broadening code implementation, it is retailers and producers (those whose conduct, theoretically, will be constrained) who are most eager to proceed, while it is the NGO and trade

Box 3: Trends in the Western Cape agricultural labour market

A recent survey of wine and fruit farms in six Western Cape districts identified the following trends:

- Almost 60% of farms surveyed had reduced their permanent workforce in the previous three years, reducing the number of regular employees per hectare by half. Almost half of the farms in the sample indicated that they planned to make further reductions. Across all districts, 10% of wine farmers indicated that they would mechanise harvesting
- Almost a third of farms were planning to abandon the traditional Western Cape obligation of farm employers to provide housing
- Whilst permanent jobs are typically reserved for men, almost two-thirds of the temporary labour force was female
- More than half of farms made use of labour contracting and outsourcing arrangements. Case studies of labour contracting businesses suggested that workers typically earned only some R35 (about GBP 3) per day, and often only worked a few days per week

union participants (whose aims are supposedly being furthered) who are deeply concerned and hesitant.

Engaging with Ethical Trading

Do these limitations mean that the ETI should be written off? Far from it. The ETI itself came about as a result of public pressure for corporations to become more accountable for their actions. The question is whether NGOs, popular organisations, researchers and campaigners can continue this pressure, engaging with it and challenging it to transcend some of the limits that are being shown up by practice. What is the scope for more creative and challenging engagements? ETI is driven not only by corporate agendas, but also by the interventions of trade unions and NGOs. Much depends on how a number of challenges are met.

Above all, the ETI itself has to live up to its philosophy of 'learning by doing'. Although the ETI's core mission is the development of joint approaches to ethical sourcing, it should not artificially restrict itself to these: it cannot afford to dismiss as irrelevant questions raised about its role in larger North-South debates. Nor can the ETI ignore the broader processes that encourage noncompliant practices – the patterns of sub-sub-sub-contracting that foment sweatshop conditions in the apparel industry, the increasing power of UK retailers in agricultural commodity chains, the insecurity and unplannability arising out of retailers' approach to 'relationships', and the invidious terms set for supplier listing. Sooner or later, if the ETI is serious about its own charter, the issue of regulating *retailers* will have to be confronted.

Managing code implementation

This does not imply that Base Code implementation cannot benefit workers at all, but that codes such as the ETI's are interpreted and implemented in appropriate ways.

- *Code content has to be tailored* to ensure that negative impact is minimised and that changes to empower farm workers are encouraged. The ETIs insistence that regular employment should be provided creates real and important opportunities for discouraging job-shedding. Important space for worker organisation can also be won through the provisions for freedom of association and collective bargaining. The development of appropriate auditables can meet this need to some extent. But some problems, such as lack of protection for a feminised workforce, are rooted in the design of the overall code. Also, the provisions around freedom of association and collective bargaining presuppose a permanent, stable workforce and need to be re-interpreted to protect more broadly-based, social movement forms of organisation.
- Another neglected area relates to the *multiplicity of paths to compliance*. The reality is that there are many ways of moving towards compliance. This may be through improved practices and pay – or by retrenching workers and replacing them with a machine. Space needs to be made for assessment of whether workers have genuinely benefited from changes, and for a critical analysis of company strategy, particularly where workers are laid off.
- This means that careful attention has to be given to the way sanctions and incentives – and, ultimately, de-listing – are deployed. There needs to be a move from retailers' prerogative at present towards transparent assessments explicitly informed by an awareness of the local strategic issues facing farm workers.

To support such a move, retailers could accredit a *multi-stakeholder regional or national forum*. This is the path ETI implementation has taken in Zimbabwe, where the approach to code implementation will be controlled by the Agricultural Ethics Assurance Association of Zimbabwe (AEAAZ), a body representing labour, producers and NGO interests. In South Africa, consensus among local stakeholders has not been strong enough to achieve this.

The key to an equitable developmental impact for private sector codes such as the ETI is the ability of 'Southern' actors to create credible national or regional bodies that can interpret and mediate not just code content but code implementation. This is not simply a neutral process of stakeholder participation. It requires genuine and decisive local leadership, and the development of a coherent vision of the role of commercial agriculture in the creation of livelihoods, rural development and agrarian transformation. Here, the experience in Zimbabwe is doubly instructive. If agro-food trade in South Africa does not manage to establish real legitimacy and credibility, even the best technical solutions will not be enough to save it.

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