

Qualified Market Access: An Economic, Empirical and Legal Analysis

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ABSTRACT

In the aftermath of the debate on trade and “collective preferences” launched by Pascal Lamy in 2004, this paper considers a proposal for non-product related production process measures developed within the European Parliament, which involved surcharges on the imports of products produced in ways which do not satisfy the EU’s rules mainly but not exclusively for agricultural commodities and in particular on animal welfare. The proposal called “Qualified Market Access” would also have made the revenues from surcharges available to exporting countries to finance compliance. This paper discusses the philosophy behind this specific proposal to qualify market access and address consumer preferences and competitiveness concerns, as identified in a number of other actual and proposed measures, including the ban on seal fur imports into the EU and the ensuing challenge to this measure in the WTO Dispute Settlement Body. The paper contends that it cannot be ruled out that such a measure would be welfare improving if consumers have strong preferences regarding what other people consume, in which case labelling alone will not work and the case for such a proposal cannot be excluded a priori, even from a legal perspective. However, in reviewing the evidence, the paper concludes that there is no empirical evidence to support such a proposal.

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