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Labels, Lies and the Law: Opportunities and Challenges in Mainstreaming Fair Trade

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Abstract

Can there be such a thing as 'consumption that cares'?

In the past ten years, the growth of fairly traded products has increased at a phenomenal rate. The purchase of a daily latte now becomes for consumers in the developed world an opportunity to assert affinity with producers worldwide, to proclaim resistance to globalised trade rules and to affirm their own identity as ethical consumers in a world of corporate greed. But as fair trade moves from a small 'alternative' niche market to the mainstream, does it risk losing its very *raison d'être* by conforming to conventional market practice?

This paper concludes that the operation of fair trade implies a number of intrinsic contradictions which are not easily resolved. The entry of fair trade products into mainstream retail space, facilitated by the development of a unified Fair-trade logo, has magnified some of these tensions. However mainstreaming in itself does not *automatically* imply an undermining of fair trade values in comparison to purist positions rejecting growth. Actor practices crucially influence whether fair trade products can reap the benefits of *both* recognition and redistribution. Furthermore, regulatory initiatives have some limited potential to address the contradictions involved in mainstreaming fair trade. It is crucial that these avenues are further researched if fair trade is to achieve the goals its proponents hope for.

Keywords

Fair-trade, ethical consumption, coffee, labelling regulation, commodity chain, convention analysis, actor-network theory, globalisation, development

1. Introduction

This paper examines the development of fair trade, demonstrating that the situation of fair trade 'in and against the market'[1] implies a number of intrinsic contradictions. The focus of this paper concentrates on the inconsistencies in fair trade arising from, or magnified by, 'mainstreaming'– a move which has recently been facilitated by the development of a Fair-trade label.

The purposes and evolution of the fair trade movement are first examined, evaluating these against the background of wider changes that have taken place within the global economy. Various theoretical frameworks are outlined, which are then built upon in subsequent discussion. Here, the role of convention in purchasing fair trade goods is explored, as is the 'social embeddedness' of fair trade, the governance of fair trade networks and the use of signs and symbols in fair trade marketing. Contradictions arise as network structures, means of co-ordination between actors and the motivations and practices of those involved in fair trade networks undergo transformation as a result of mainstreaming. The paper focuses on the example of supermarkets and fair trade to illustrate how mainstreaming can thus entail *potential* dilution of fair trade values.

These issues are further explored by means of a case study comparing the practices of three firms whose products have been awarded the Fair-trade label. In doing so, the contradictory effect of the label is explored. However, the discussion illustrates that the choices open to actors in fair trade networks do not lie along a single spectrum. No single 'trade-off' exists between purist marginality and mainstream growth – or between recognition and redistribution. The choice to mainstream fair trade does not *automatically* entail a dilution of fair trade values and hijacking of the movement. Rather, many avenues of choice are open to actors, with regulatory initiatives impacting upon the potential of fair trade to achieve its lofty goals.

For this reason, the last part of the paper considers a number of legal and other regulatory measures to examine if and how the advantages of fair trade can be protected as its benefits are disseminated more widely. In considering these, it is demonstrated that regulation is not always a straightforward means to protect fair trade's core values. Just as in the case of labelling schemes, regulatory action can at times have incongruous effects. Nevertheless, the paper concludes that certain regulatory initiatives can help to defend fair trade principles, and that these and other measures must be considered if fair trade is not become a powerful tool in the hands of the very corporations and systems the movement hoped to transform.

2. The Foundations of Fair Trade

2.1. What is Fair Trade?

The origins of what we today term fair trade can be traced back to various initiatives such as the emergence of 'worldshops' in the late 1950s. The labelling of these types of product began in 1988 under the 'Max Havelaar' label in the Netherlands. National fair trade labelling initiatives then developed and in 1997, seventeen initiatives formed an umbrella body, Fair-trade Labelling Organisations International (FLO) which later developed a unified logo[2]. Today, twenty national labelling initiatives make up the FLO, with the logo experiencing high consumer recognition[3].

There have been many attempts to define ‘fair-trade’, and to date there is **no** legal definition[4]. However the FINE[5] in 2001 developed the following widely-accepted definition[6]:

> Fair trade is a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers - especially in the South. Fair trade organisations (backed by consumers) are engaged actively in supporting producers, awareness raising and in campaigning for changes in the rules and practice of conventional international trade.

According to Moore[7], this definition illustrates two basic visions at the heart of fair trade. The first is to provide an alternative model of trade, that improves producers’ well being, promotes development and sets an example of equitable partnership. The second is to directly challenge contemporary business orthodoxy, via awareness raising, campaigning and other action.

In both cases, ‘fair’ trade defines itself in distinction to conventional market practices which are perceived to be inequitable. Organisations such as the Fair-trade Foundation have pinpointed a number of problems in current trading systems[8]. These include; low and volatile commodity prices, multinational dominance of markets, lack of producer access to markets, information and credit and harsh working conditions. Particular commodities may also face specific problems, e.g. the global overproduction of coffee beans in the past decade.

2.2. The Operation of the Fair-trade system

Whilst acknowledging that the causes of these conditions are complex and multi-faceted, an examination of Fairtrade mark criteria illustrates how this system attempts to address market weaknesses. All licensees using the mark agree to adhere to a set of core standards[9]:

- paying a price directly to producers covering costs of sustainable production and living
- paying a premium that producers can invest in development
- partially paying in advance
- signing contracts allowing for long-term planning and sustainable practices.

Fairtrade products command a social premium on top of market prices, and the FLO has also stipulated a minimum price floor for various commodities. Environmental, labour and health standards also need to be met by producers[10]. Standards are developed and reviewed via the FLO Standards Committee, with input from producers, traders and other stakeholders.

Essentially, the mark operates as a license, with the FLO retaining control over logo use. Adherence to standards is legally binding after partners sign a contract with the FLO[11], with an affliated but separate body, FLO-cert Ltd. responsible for certifying producers and traders. However, the FLO has repeatedly emphasised that logo use indicates approval of a *product* and not a company, so the mark cannot be used to suggest corporate endorsement[12]. Producers and traders pay an annual fee to the FLO to be licensed, including application, certification and inspection charges.

2.3. Fair trade in the Global Economy

The development of fair trade must be understood within the long-term evolution of global production processes and their associated regulation. Many authors[13] have outlined a major shift that has taken place in contemporary methods of accumulation. This can be broadly summarised as a move from 'Fordist' mass-production methods to flexible, 'just-in-time' production *networks*, dispersed across the globe.

Alongside these far-reaching changes in accumulation methods, regulation has undergone dramatic transformation. The Keynesian 'social contract' underwrote Fordism, but with the neo-conservative project of the late 70s, deregulation and privatization began to characterise policy-making. Changes in industrial organisation resulted due to these measures and also in an attempt to respond to a more diversified and volatile world market.

Many authors have read such changes as implying a far-reaching transition in societal organisation, not only economically but also socially and culturally. For Castells, networks are now the new social morphology of society[14], with Benkler claiming the emergence of a new modality of production[15] alongside traditional models; a decentralised, non-market mode based on *social* relations rather than market logic[16]. Meanwhile, the state has undergone a profound restructuring and change of role, alongside the emergence of multiple non-state 'nodes' of global governance. As a result, the subjects and spaces of fair trade fall under a variety of regulatory frameworks, as part of an emerging global legal pluralism[17].

How can we situate fair trade within these extensive changes? Essentially, fair trade can be read as a manifestation of, and a response to, the wider developments outlined above. As the state's role is restructured, organisations such as the FLO could be viewed as taking partial 'regulatory responsibility' upon themselves where the state can or will no longer do so. Tying back to Moore's two basic visions of fair trade, we encounter a paradox at the heart of the movement - the expression of dissatisfaction with current commercial systems, yet simultaneous engagement with these systems as fair trade operates both 'in and against the market'[18].

Secondly, the reorganisation of production has meant that it is often difficult for actors within a 'chain' (see below) to be informed about other segments of a chain. With increasing use of outsourcing and network forms of organisation, firms can 'hide' behind multiple layers of ownership[19] or be unaware of who is producing the goods supplied to them. In this context, fair trade can be read as seeking to 're-connect' actors within dispersed networks[20].

Furthermore, the central logic of competitiveness in a post-Fordist framework is no longer quantitative nor homogenising, but based on product differentiation and targeting of market 'niches'[21]. As a result, other considerations apart from price influence consumer decision-making, with such factors increasingly becoming codified through standards[22]. Renard notes an 'emerging model of consumption…developing around new socially constructed, shared values'. In this sense, fair trade goods can be viewed as adding moral / ideological considerations to a product which, in turn, increases its value[23].

At the same time, the way in which such value is communicated to the consumer is complex. Advertising, marketing and labelling of products can have both 'window' effects (informing the consumer) and 'mirror' effects (the impact of consumption on self expression and social identity)[24]. Hartwick goes so far as to argue that in the 'post-modern sign economy' commodities have first and second level meanings, the first pertaining to product function, and the second 'emanating from social status and cultural allusion'[25]. This is further explored below.

2.4. Theoretical Perspectives

As the discussion above indicates, the emergence of fair trade in the contemporary economy can be viewed from a range of theoretical perspectives. Underlying some of the above discussion lie various bodies of thought, including insights from global commodity chain analysis, convention analysis and actor-network theory. A brief outline of these theoretical perspectives is appropriate at this point, which will be built upon as necessary.

As mentioned above, Castells' concept of a network society centres upon 'a process of profound restructuring [of capitalism], characterized by...decentralization and networking of firms'[26]. Both global commodity chain analysis and actor-network theory fall within this broader category of **network methodology** – where networks as opposed to nation-states or firms become the primary unit of investigation.

Gereffi *et al*. define a commodity chain as 'sets of interorganizational networks clustered around one commodity or product, linking households, enterprises and states to one another in the global economy'[27]. Whilst a useful analytical framework, many have pointed to the partiality of the GCC approach[28], which due to its structuralist influence[29] risks ignoring wider social relations within which a particular chain is embedded.

For this and other reasons, insights from **actor-network theory (ANT),** will also be applied. This approach focuses chiefly on practices rather than structure *per se*. This focus on the *maintenance* of networks allows for a more dynamic viewpoint than GCC analysis. Using insights from both approaches enables a conception of network relationships that is *both* structural and relational[30], facilitating a more nuanced understanding of (power) relationships within and across commodity chains.

Thirdly, I will also draw upon **convention analysis**, a school of thought which examines how socially defined rules ('conventions') help agents to make decisions under uncertainty. Rather than the neoliberal 'economic man', within convention analysis the market is but one of several forms of convention, allowing the exploration of non-market influences on behaviour.

3. Tensions with Transformatory Trade

3.1. Mainstreaming Fair-Trade

The FINE definition of fair trade cited above illustrates that the situation of fair trade within the market does not indicate approval of current commercial practices. However, as Sugden notes, 'fair trade is not an ideology, and has no particular antipathy to the market'[31]. Across fair trade actors, positions differ, as will be illustrated later in the paper.

The 'inherent tension' at the heart of fair trade manifests itself in a number of ways. Firstly, as mentioned earlier, the two visions at the heart of fair trade mean that it exists simultaneously as an *alternative* model, but also one that seeks to engage with and reform dominant trading systems. Underlying these two visions lie differences of opinion regarding the desirability of mainstreaming fair trade.

A pertinent example here is the role of supermarkets in the production and distribution of Fairtrade products. To take a UK example, one in three Fairtrade products sold in UK supermarkets are bought in Tesco[32], including many own brand Fairtrade products. Yet Tesco has been accused of poor treatment of overseas suppliers, and of excessive mark-ups on fair trade goods going directly to company profits[33]. Retailer behaviour in this industry appears typical of Gereffi's concept of a 'buyer driven' chain, with the size and power of dominant retailers allowing them to exert governance over other chain actors. The influence of buyers such as Tesco in shaping overseas supply chains through fast-paced price-slashing strategies[34] then *creates* the 'unfair' conditions fair trade seeks to mitigate. As such, the existence of a Tesco Fairtrade brand appears a contradiction in terms.

Moreover 'the growth of supermarket own brand labelled products has brought [fair trade] further into the ambit of the more conventional agro-food system, and enhanced the power supermarket buyers can exert within fair trade networks'[35]. A case study of Fairtrade fruit found that supermarkets treated it as any other line, with the same processes for pushing cost and risk down the supply chain[36]. Although such behaviour contravenes the 4th FLO principle[37], supermarkets are not bound to meet this as FLO regulations only require those involved in the production, packaging and labelling of a fair trade product to be licensed[38]. Most supermarkets contract these activities out, and hence have no obligation to the FLO.

It would appear that the fair trade movement faces a stark choice. On the one hand, engagement with dominant retail outlets could enable the continued growth of Fairtrade lines, but also risks contributing to the very system the movement criticises, and neglecting fair trade principles. Yet a huge proportion of Fairtrade products *are* bought in mainstream retail outlets, and research indicates that the inconvenience of visiting an 'alternative' store is more of a consumer cost than the Fairtrade price premium[39]. This suggests that to remain outside such channels seriously endangers the future of fair trade. Moreover, for many fair trade products demand must be increased to absorb supply[40], again underlining the importance of growth for the sector.

Is the issue here 'a contradiction between the identity of the groups …. and the reality of business?'[41] In many ways, the 'dilemma' of going mainstream can be approached from the perspective of Fraser's distinction between recognition and redistribution[42]. Later in this paper we will examine how mainstream marketing practices, whilst helping to facilitate Fairtrade growth and hence redistribution, may lead to producer 'misrecognition'[43]. But Renard's quote above is in fact referring to the identity of fair trade groups as *activists*. Hence the concern here is whether the fair trade movement can maintain an identity that is 'different' (cherishing values opposed to conventional trading systems) whilst simultaneously making use of these systems to bring about redistribution. *This* is the dilemma of operating both 'in and against the market'[44].

As we shall see, Fraser's recognition / redistribution distinction provides a useful framework from which to approach some of fair trade's inherent tensions. But we must be wary of oversimplifying these dilemmas as simply the choice between being 'pure' (and marginal) or aligning with large distribution (and diluting fair trade values)[45]. In many cases, decisions faced by FTOs will be more complex than a straightforward trade-off between these two positions. One example is that growth in fair trade sales has led to an increase in the influence of organisations such as the FLO over supermarkets. This leverage can then be used to further 'campaign for changes in the rules and practice of conventional international trade'[46].

3.2. Actors, Convention and Networks

A commodity chain perspective is useful in illustrating how actors such as supermarkets can exert pressure over others in the supply chain 'at a distance'. However, analytical categories such as those of commodity chains carry discursive power within themselves[47], and can play a role in the discourses of hegemonic globalisation[48] in Santos' sense. We risk viewing the relentless pursuit of lower price as systemic and logical, eradicating social agency and struggle[49].

Reality, of course, is somewhat more complex. Rather than key actors in a chain exerting power 'over' others, the global reach of any actor is dependent upon 'intricate interweavings across the world, irreducible to a single logic or interest'[50]. Both Actor-Network Theory and Convention Analysis allow us to explore these 'interweavings' in more detail. This avoids the structurally deterministic approach of searching for a single chain 'driver', ignoring the mosaic of global, regional, national and local processes within which chains are enmeshed [51].

Convention analysis examines the many different norms co-ordinating economic activity, with market 'logic' as only one of many conventions influencing production and consumption decisions. Murdoch *et. al.*[52] identify *five* such conventions; domestic conventions (based on trust), industrial (based on efficiency), public (based on brand recognition) and civic conventions (based on societal benefit) - as well as commercial conventions based on price. Applying such a perspective allows us to examine dynamic contestations between different conventions by fair trade actors[53].

To a certain extent, all five conventions impact producer and consumer decisions in fair trade networks, but with different conventions at times contradicting or subsuming one other. For example, Raynolds notes that 'fair trade networks are ideologically and materially rooted in progressive domestic and civic conventions, [yet] continue to interact with and draw upon market conventions'[54]. Renard highlights the fact that whilst fair trade products occupy a niche *within* mainstream markets, 'this niche also responds to a logic *contrary* to market logic'[55], with agents accepting non-market conditions such as price fixing and pre-financing[56]. The determination of a 'fair price' exemplifies a tension between conventions, since consumers are prepared to accept a higher outlay, yet 'solidarity does have its limits'[57].

Applying convention analysis to the debate on 'mainstreaming' presents some interesting perspectives. The spaces of fair trade can be viewed as privileging domestic and civic conventions. However, by promoting the entry of fair trade products into mainstream retail, other conventions may have greater influence in this arena. The way that supermarkets have pushed Fairtrade producers into conventional supply practices (see above) demonstrates how the minimisation of cost and risk carry greater weight in conventional retail space. Mainstream retailers have been quick to 'subsume progressive domestic and civic conventions within commercial, public and industrial norms and practices'[58].

Such examples illustrate how specific actor practices both *shape* and are *shaped by* the networks and structures in which they are situated. Actor-network theory allows for an analysis of such practice, emphasising the hybridity and dynamic maintenance of networks. However, it is not only actors within the network that impact its operation. 'Alternative' networks 'exist alongside corporate and state networks of orthodox globalisation accounts, sometimes overlapping with them and sometimes challenging'[59].

The example of UK supermarkets illustrates the complex interaction between actors and conventions, both within and across fair trade supply chains and networks. For example, the general retail trend of supplier rationalisation means that potential suppliers need to offer 'something different' to break into the supply chain, such as Fairtrade accreditation. This *commercial* motivation to get involved in fair trade is a new development[60]. The introduction of commercially motivated actors can have various implications for the operation of fair trade, for example increasing the role of market conventions such as price competition. This threatens solidarity across producers, and hence the opportunity of using collective power to bring about change[61], a broader goal of the fair trade movement.

3.3. Labels and Lies?

The introduction of a Fairtrade label impacts upon some of the inherent tensions between conventions outlined above. Firstly, Smith and Barrientos note that 'traditional' fair trade networks were co-ordinated via relational ties, with mutual dependence and regular contact between civic actors[62]. In the earlier days of fair trade, *trust* played an important role in protecting the fair trade concept, with few formal monitoring procedures. However, as more actors began to enter fair trade networks, relational ties became increasingly complex, leading to the realisation that a formal monitoring procedure would be necessary[63].

The establishment of a Fairtrade mark is, however, fraught with internal tensions as it straddles civic, industrial and public conventions, yet is implemented via the market mechanism. Whilst the differentiation afforded by the label can help actors to avoid 'pure' price competition, its trivialisation can lead to re-absorption by market logic[64]. Crowther for example notes the proliferation of confusing labels[65] as well as public statements by companies without Fairtrade accreditation[66]. If such actions cause consumer confusion and loss of trust in the label, it no longer has any 'power' over the price mechanism. This does not appear to be the case at present, with labelled lines in various countries enjoying spectacular growth[67]. However, as more conventional actors penetrate fair trade networks, and mainstream retailers subject Fairtrade actors to commercial pressures, the dilution of the label could be at stake. Again, a difficult paradox emerges. The label enables Fairtrade products to move into mainstream retail space, facilitating growth of fair trade lines – yet the fact that this space may privilege commercial conventions over others threatens to undermine the movement.

Engagement with mainstream networks and actors by no means entails automatic privileging of commercial conventions however. Barham, for example, views the emergence of 'values-based' labels such as Fairtrade as seeking to *reappropriate* market mechanisms, thereby encouraging co-operative rather than competitive norms[68]. Certainly, this would fit with the FINE definition of fair trade as engaging to change conventional systems.

This argument echoes ideas put forward by Polanyi[69], who viewed the market mechanism as inherently destructive, but socially embedded in systems of norms and institutions that restrained its harmful effects. An analogous concept to some of Polanyi's arguments is Marx's notion of commodity fetishization. This examines the way in which capitalist exchange leads to the material and social origins of a product becoming obscured - price alone becoming the dominant characteristic.

The increasing tendencies towards deregulation outlined above could be viewed as unleashing the market mechanism from social restraints. In contrast, many authors[70] have viewed fair trade practices as *re-embedding* market practices in social relations, thereby 'defetishizing' commodities by informing the consumer about their origins. This reconnection of consumers and producers can have the effect of reducing 'social distance' along supply chains, as consumers learn more about those producing their commodities and vice versa. According to Goodman[71], this shortening of social distance can occur through various material and semiotic processes. Certainly, reconnection can occur to different extents and in different ways, and is very much dependent on actor practices.

Nevertheless, not all share in this optimistic view of fair trade's potential. We could also take the view that fair trade represents an *extension* of market practices– in the sense that resistance to unjust production practices is being commodified, offering consumers the chance to purchase an 'ethical identity' in a post-materialist culture (which in itself could be viewed as a claim for recognition). Again, this view highlights a dilemma at the heart of fair trade. The power of Northern consumption to affect livelihoods of 'distant others' cannot be denied, and hence an attempt to harness this power for good should be applauded. Or should it? As Johnston notes, fair trade essentially promotes *more* consumption, albeit in a 'moralised' form, as a solution to development problems, without a deeper reflexive take on current consumption patterns[72]. In fact, consumption patterns can often be implicated as *causing* many of the problems fair trade attempts to correct[73].

Moreover, making developmental goals dependent on the vagaries of demand is an issue of concern. The majority of consumers are identified as armchair ethicals[74] implying limitations to the potential transformation that fair trade markets can 'bear'[75], and also raising difficult questions as to the methods employed to engage disinterested consumers. As such, dilution of fair trade principles is not only at risk from powerful retailers, but also from consumers who may seek to appropriate benefits from fair trade products whilst not engaging with the values behind the movement. This again suggests a conflict between concerns of recognition and redistribution.

An examination of fair trade marketing practices begins to illustrate some of these concerns. Renard[76] explores the way in which firms in the post-Fordist era often seek to give products symbolic social meaning as part of a strategy of differentiation. Goodman takes this one step further, claiming that fair trade practices not only defetishize products by making their production and consumption processes more transparent, but go on to *reinject* imaginary / symbolic social relations into them[77] Rather than de-fetishization, a *re-working* of the commodity fetish takes place as icons of the exotic 'Other' are deployed to increase sales. Moreover, fair trade advertising practices may reinforce unequal power relations and privilege consumer pleasure, as will be explored later in this paper.

These arguments cast doubt on the ability of fair trade products to decrease social distance, if agents at one end of the chain are 'consuming' images that may not represent reality. Yet this is a complex area. Essentially, to assess the 'authenticity' of signs and symbols deployed in fair trade practice will be a value judgement. But the extent to which such practices communicate and support values at the heart of fair trade must be constantly kept in view.

As the discussion above has illustrated, fair trade is fraught with internal tensions. As the movement grows and enters mainstream retail spaces, commercial motivations begin to play a greater role in agents' decisions. The structure of fair trade networks may become more complex, with a loss of relational ties or increase in 'social distance'. However the choices open to actors in fair trade networks do not lie along a single spectrum. Rather than a trade-off between purist marginality and mainstream growth, or between recognition and redistribution, many different 'axes' of choice have to be made. Greater integration in mainstream systems could lead to a louder voice for fair trade values, but also risks privileging commercial conventions over civic or domestic goals. Particular marketing practices could grow fair trade product lines and acknowledge consumer desire for 'recognition, yet risk 'misrecognising' producers. These issues will be further explored as we examine three firms whose products have been awarded the Fairtrade label.

4. Labour behind the Label

4.1. Case study one: The Bishopston Trading Company

The Bishopston Trading Company (BTC) was set up in 1985 with the sole aim of creating employment in K. V. Kuppam, a village in India where six non-profit co-operatives supply BTC with clothing and textile items. Orders are placed in advance by BTC, but there is no written contract because BTC buy *everything* that is made by the societies, regardless of quality or delays. The relationship with K. V. Kuppam is 'completely based on trust'[78], and the majority of their U.K. customers have been personally involved with BTC for years. This illustrates the prevalence of domestic and civic conventions and the strength of relational links in this supply chain.

BTC have been registered with the fair trade associations IFAT and BAFTS[79] for years, but were only awarded the Fairtrade label for various products in 2005. Both BTC and the societies in India found that obtaining the label was extremely bureaucratic and incurred many costs. However, they felt obliged to obtain the label for multiple reasons. Whilst the majority of their customers have a personal relationship with and high trust in the work of BTC, when the label was introduced, new customers asked why BTC did not have it. This was particularly true of wholesalers who wished to reinforce their *own* credibility to customers. Furthermore, as the textiles industry faced increasing competition it was felt that the label could help the firm maintain market share, particularly when seeking new outlets where customers would not yet be familiar with the Indian projects.

However growth is *not* an explicit aim of the company, since 'we didn't go into [operation] for business reasons but for development reasons'[80]. Tesco wanted to order 500,000 fair trade cotton bags from BTC, but they refused as the risk was deemed too great. This volume meant many more tailors would need to be employed, but with no guarantee of future orders. After 20 years of exclusive trading, BTC staff know most of the workers in India personally and felt that potential fluctuations in demand associated with large-scale production could be catastrophic for the community.

The comments above illustrate some of the practical tensions involved in mainstreaming fair trade. The introduction of new actors (e.g. wholesalers) into the supply chain meant that relational ties from *these* actors to producers were weak or non-existent. The Fairtrade label was therefore necessary to 'replace' trust and knowledge of the projects within a more complex network structure[81]. However, as the founder's comments indicated, this replacement was unsatisfactory for various reasons. She expressed concern that consumers without a personal link to BTC projects (or other fair trade firms) would not necessarily be loyal to the firm (or more broadly to fair trade in general). Hence fair trade for many could be a 'fad' – and as such mainstreaming fair trade was inherently risky and undesirable[82].

In addition, comments from the founder highlighted the complex ways in which various areas of regulation impact BTC's operation. The EU quota system (under the Multi-Fibre Arrangement) had made it extremely difficult for the company to begin trading and grow, given that quotas were awarded according to past performance. However, the termination of the Multi-Fibre Arrangement[83] in 2005 then meant that large quantities of Chinese clothing arrived in the UK, heightening competition. Moreover, it was felt that FLO licensing requirements were biased towards larger firms – traceability and reporting procedures meant a lot of time and paperwork. As Goodman notes, the standards required for the Fairtrade label may mean that those *most* in need of alternative development are bypassed due to a lack of institutional structure[84]. Similarly, there was the impression that the Fairtrade Foundation was encouraging mainstreaming, and firms like BTC were worried about being 'left behind' as regulation evolved to encourage this.

Finally, can BTC's position be approached from the perspective of recognition and redistribution? The practices described above, as well as the relationships between BTC and producers would appear to represent network actors as 'full partners in social interaction' within a 'difference-friendly' operation[85]. However, BTC appeared to believe that a loss of relationship and trust were the inevitable consequences of growth. Their response was to reject growth in itself as a goal, thereby limiting potential redistribution.

The overall impression of BTC is a firm that would like to maintain a purist position, with operations based entirely on relational links, but has found itself obliged to use some mainstream criteria to survive in a 'squeezed' commercial environment. In many ways the concerns mentioned above illustrate the desirability of shortening social distance in fair trade supply chains[86]. A number of BTC's practices could be read as seeking to do this, such as information, maps and photographs on the firm website[87], and playing videos of the Indian factory in BTC shops.

4.2. Case study two: Cafédirect

Cafédirect was founded in 1991 by Oxfam, Traidcraft, Equal Exchange and Twin Trading. Originally offering only one type of coffee, today the company boasts numerous product lines sourced from over 250,000 producers. As the first organisation to lobby supermarkets to stock fair trade, they clearly support mainstreaming, with 2004 seeing a share issue of £5m making Cafédirect a public company[88].

Cafédirect acknowledges that due to the small size of the Fairtrade market, producers are often only able to sell a small part of their output as Fairtrade. They therefore work with producers through a Producer Partnership Program (PPP) to identify new markets for products and to encourage self-sufficiency. In addition, Cafédirect try to purchase greater Fairtrade quantities from smaller producers[89]. Rather than a contract, quantities purchased are set as advance targets, with some variance on final quantities purchased dependent on product line.

As a company that has run several large-scale advertising campaigns, an analysis of Cafédirect's marketing practices raises interesting points. Wright, in examining the company's newspaper campaigns, has argued that 'consumer gain is privileged over producer gain' in advertisements, with the attraction of new consumers potentially dependent on representations embedded in unequal power relations[90]. Crucially, product quality and consumer self-reward is repeatedly emphasised as the justification for purchase, rather than the Cafédirect business model[91]. Since social relations behind the product are only partially revealed, Wright argues that the commodity is only partly defetishized[92], with the flow of knowledge not reaching backward down the commodity chain to producers[93]. We could read practices such as putting producer pictures and stories on packaging as an attempt to shorten social distance, albeit an attempt that only flows 'one way'. Yet misrecognition occurs, both in terms of the unequal power relations reinforced by these representations, as well as the denial of difference between producers themselves[94].

Are such practices a necessary result of entering the mainstream? As mentioned earlier, if the majority of consumers are in fact 'armchair ethicals', it would appear that to engage them in fair trade, factors other than principled methods of production must feature as what is 'sold'. Moreover, Goodman speaks of the boundedness of fair trade. There is only so much information that can fit on a chocolate bar or coffee jar - and indeed only so much coffee, bananas etc. one can eat[95].

The discussion above does not necessarily entail a direct trade-off between recognition and redistribution though. Vigilant advertising practice and educative initiatives, or so-called 'social marketing'[96] of fair trade could simultaneously increase consumption whilst engendering greater understanding of fair trade values and an awareness of responsibility and recognition in Fraser's sense. However, if we compare the practices of Cafédirect and BTC, some interesting perspectives emerge. BTC have no advertising material as such, and the practices described above (website, store video) are primarily *informative*, aimed at existing customers. Conversely, Cafédirect's marketing campaigns have the dual aim of communicating the benefits of fair trade alongside the *commercial* purpose of encouraging greater consumption. So whilst a direct recognition / redistribution trade-off may not exist, the introduction of a redistributive goal such as increasing consumption can complicate the potential of a medium to achieve recognition.

Finally, legal and other regulatory measures have affected Cafédirect's operations in a number of ways. Relationships with producers are simultaneously more formalised and more complex than the BTC, given the scale and variety of producers. Cafédirect in many ways retain power through the PPP, effectively deciding which producers can access the Fairtrade niche, and to what extent. However, *this* system favours weaker producers, less likely to be chosen by commercial companies, in contrast to FLO standards which may favour stronger producers as mentioned above[97].

In a similar vein, Cafédirect are proud of their 'gold standard'[98] which goes over and above FLO stipulations. This shows that whilst the Fairtrade label has facilitated growth by providing a guarantee of standards to consumers, it cannot hope to capture full information behind firms' activities. Moreover, it is worth noting that Oxfam and Traidcraft were founder members of both the Fairtrade Foundation in 1991 (later a member of the FLO) and Cafédirect in 1992. Arguably therefore, it is less clear to what extent the label does provide a truly *independent* guarantee of standards for the firm.

4.3. Case study three: Nestlé Partners Blend Coffee

In 2005, Nestle launched its first Fairtrade product, a 'Partners Blend' coffee with beans from co-operatives in Ethiopia and El Salvador. The product is expected to appeal to 'a new consumer group that, while not currently regular purchases of Fairtrade coffee, are predisposed to fair trade and/or sustainable products'[99]. The line represents approximately 0.02% of Nestlé's annual trade in coffee, with quantities purchased based on projections of demand, as for Cafédirect.

However, the launch of the coffee was greeted with outrage by many, who felt the move represented an undermining of the Fairtrade label and a 'cynical marketing exercise' on behalf of the multinational[100]. Nestlé is the UK's most boycotted brand[101], and protestors pointed to the many human rights violations committed by the company, including marketing breastmilk substitute formula in developing countries and attempting to sue the Ethiopian government during a famine[102]. November 2005 saw the launch of both the Partners' Blend and a US campaign over Nestlé's alleged involvement in child trafficking in the cocoa industry[103]. One Colombian activist labelled the new initiative 'a big joke', claiming that 150,000 coffee-farming families have lost their livelihoods due to Nestlé policies[104].

Given the level of public feeling, why did the Fairtrade Foundation decide to award Nestlé the mark? The answer is not clear. Harriet Lamb, Executive Director of the Foundation appeared to welcome the move, stating that Nestlé's action was a breakthrough helping to strengthen fair trade[105]. And yet confusingly, Nestlé argues in its 2005 Coffee Report that fair trade must by nature remain a niche product[106]. Moreover, the Fairtrade Foundation's own report names multinational dominance (including *specifically* criticising Nestlé[107]) as a key reason for distortion in coffee markets, whereas Nestlé emphasises the problem of 'too many beans'[108]. In addition, some of Nestlé's marketing practices suggest aspects of misrecognition, e.g. indigenous partners referring to Nestlé technicians as 'experts' in website material[109].

In response to critics, the Fairtrade Foundation have emphasized that the Fairtrade mark is given to particular *products* and so does not signify company endorsement[110]. However, this does not appear to be clear in consumers' minds[111]. In addition, the FLO Trader Application Evaluation Policy Article 6.2.5 states:

> The FLO reserves the right to exclude traders that engage in behaviours that, even though are not directly related to Fairtrade transactions, are so bad that FLO's association with the trader would seriously undermine the legitimacy of FLO Fairtrade in the minds of consumers[112].

Given that Nestlé was recently voted the world's least responsible company in a global internet poll[113] it would seem an ideal candidate for this article. Yet the FLO appears unwilling to use it, despite research by the BMA suggesting that awarding a Fairtrade mark to Nestlé has seriously undermined support for the label[114].

So why the decision to award the mark? The Fairtrade Foundation[115] emphasizes that Nestlé have met all the requirements for the label, stressing that they view this as the first positive, albeit small, step for the multinational. Yet other sources[116] have mentioned the credible threat of Nestlé beginning its own label. This would undermine the aim of the Fairtrade Foundation to harmonize labels, risking the introduction of lower standards.

This brief overview of three firms awarded the Fairtrade mark illustrates the practical difficulty of creating a 'tick list' to capture the essence of fair trade. Inevitably, some of the core values of fair trade are difficult to quantify, such as the desire of an organization to 'campaign for change'. Many firms are now entering the fair trade arena for commercial reasons (see discussion above) and may not subscribe to fair trade values, yet are capable of achieving the mark. At the same time, the very act of setting standards risks eliminating smaller organizations, who may trade 'fairly' yet do not have the institutional capacity to meet particular targets.

As can be seen here, the creation of a Fairtrade mark is in many ways a double-edged sword. The logic behind the formation of a harmonized label was to minimise consumer confusion, allowing greater transparency and growth of Fairtrade. Whilst this has occurred, these case studies illustrate the difficulties of replacing relational ties and information flows with a single label, within networks that have become more complex and include actors with different motivations. In addition, the fact that the FLO is committed to mainstreaming Fairtrade has meant that some feel it is biased towards organizations privileging growth. However, as the case studies illustrate, we do not encounter a straightforward trade-off between 'true' recognition and the redistributive benefits that larger organizations can offer. Whilst growth certainly complicates the potential of organizations to maintain personal relationships, information flows and recognition in Fraser's sense, the practices of actors within and outside fair trade networks also have an impact.

The limitations of the Fairtrade label in facilitating information flows also means that a wide spectrum of firms are grouped together in the eyes of the consumer, though their practices and values may be very different. In turn, these practices have different impacts on some of the issues discussed in the previous section, such as the capability of fair trade to shorten social distance. These different 'shades' of Fairtrade operation are subsumed under one label, which risks creating a 'Fairtrade Lite'[117] that dilutes the image of organizations with the highest standards whilst allowing companies with dubious practices to greenwash their image.

It is clear that the Fairtrade label in its current form is encountering a number of difficulties. Having considered some of the drawbacks of the label in a practical context, this paper shall lastly consider legal and other regulatory measures that could potentially empower and strengthen the label, to capitalize on its strengths whilst addressing its weaknesses.

5. The Future of Fair Trade

5.1. Towards Fair Trade and Global Legal Pluralism

As outlined at the start of this paper, the shift towards decentralised, network forms of organisation in recent years has restructured traditional forms of governance. As a result, FLO regulation (for example) is but one of *many* bodies of legislation and other forms of regulation governing the subjects and spaces of fair trade, as part of a wider global legal pluralism. Hence there are various areas of regulation to be considered in the quest to empower fair trade.

Firstly, the protection of the Fairtrade mark relies heavily on intellectual property law, contract law and national legal systems in countries of operation. Licensees are legally bound by contract to abide by logo usage guidelines[118]. In the case of infringement, after a warning and decertification where applicable, the FLO would resort to legal action in national courts. To date, the FLO have intervened in several cases, but these have been resolved without legal action[119]. However, the FLO states that it works closely with trademark protection lawyers[120], indicating that this would be the first body of legislation drawn upon to protect the label

Secondly, the twenty labelling initiatives forming the FLO originate in countries that all have WTO obligations. These impact the operation of labelling schemes in various ways. For example, during the infamous 'Dolphin-Tuna Dispute' in 1999 (which took place under GATT) Mexico challenged a U.S. 'dolphin-safe' labelling scheme, arguing that this violated GATT articles 1 and 3 (most-favoured nation and national treatment principles). The dispute panel ruled that tuna caught by dolphin-safe and non dolphin-safe means were 'like products' and hence discrimination on this basis was not permitted. However, crucially for social labelling schemes such as the Fairtrade system, the 'dolphin-safe' label was ruled not to discriminate against these like products, as long as the scheme was voluntary[121].

The case highlighted the difficulty in applying trade measures to so-called 'unrelated PPMs'; processes involved in production that do not affect a product's final characteristics. The majority of Fairtrade stipulations would fall under this category. However it can be difficult to decide whether a particular label provides information about related or unrelated PPMs[122]. In addition, other areas of trade law will impact fair trade, such as quotas, tariffs and customs codes[123]. Moreover, in an era of increasing voluntary self-regulation, particular fair trade products or company lines may simultaneously fall under 'soft law' agreements such as corporate codes of conduct.

Given that fair trade products and the Fairtrade label are subject to a number of regulatory frameworks, a variety of different actions could potentially be taken in an attempt to strengthen the label and improve the operation of the fair trade system. Some of these measures are considered below.

5.2. Strengthening the Label

One of the first questions to address is the effectiveness of the Fairtrade label in providing a credible guarantee to consumers. Essentially, if a label lacks legitimacy it loses power over other conventions (e.g. price) in influencing consumer decisions[124]. Alternatively, dominant actors may look to 'cash in' on the market power of labels, producing similar labels which may not meet comparable standards[125]. Eventually this proliferation of symbols could undermine the authenticity of the Fairtrade label.

How then can the label be empowered? The unification of labelling initiatives under the FLO has helped to reduce consumer confusion, providing independent certification of the label[126]. The FLO is also currently working towards gaining ISO 65 certification, thereby guaranteeing a transparent, independent operation with adequate appeals process. However, this could be viewed as the introduction of an industrial convention with the potential to undermine civic conventions. The move aims to ensure consistency across FLO certification, but prohibits the FLO from discriminating between producers. Barrientos and Smith note that 'this potentially opens the gate for *all* conventional companies to enter fair trade, regardless of their background and motivations'[127]. Moreover, discrimination towards weaker producers would be forbidden– all the more worrying given that FLO standards currently appear to favour stronger producer groups[128].

Another suggestion made by IFAT members, in particular Cafédirect, is the introduction of gold, silver and bronze Fairtrade labels, to improve informational flows to the consumer and reward companies with best practice. By providing more detailed information, this could help to tackle the issue of the boundedness of fair trade labels. However, some IFAT members have warned that larger firms unhappy with their rating could be prone to pulling out of the scheme[129], risking undermining the label if they then begin to issue their own logos or claims.

Unfortunately, addressing the issue of self-declaratory claims by companies is complicated due to the fact that there is no *legal* definition of fair trade. The EFTA definition, whilst widely supported, is vague and not supported by any body with legislative status. The stipulations of the FLO are more specific, but binding only upon licensees using the Fairtrade label or 'Fairtrade', as a result of contract law rather than legislation. Hence a company's claims that its product is 'fairly traded' for example could not be contested by FINE or the FLO.

The use of labels with a similar design to the fair trade logo could be liable to legal action under trade mark legislation e.g. the Trade Marks Act 1994[130]. However, regarding more 'ambiguous' claims, Macmaoláin suggests that these could be addressed by use of misleading advertising legislation[131] – for example the Council Directive 84/450/EEC in the EU. However, the potential of such legislation to address this area is unclear. Whilst labelling *does* fall within the definition of advertising, to meet the definition of labelling for scrutiny, information presented must be subject to complementary regulation. So, for example, a claim that a yoghurt is 'virtually fat-free' can only be contested with reference to a regulation defining this as less than 0.3% fat[132].

This is not the case for fair trade claims, given the lack of hard law in the field. Therefore the creation of a legal definition could be a valuable step to protect fair trade standards, but could also be a lengthy process given the number and variety of actors involved, and would require the backing of a body with legislative capacity (see below). Care would be needed to ensure smaller producers could meet the definition, as with the Fairtrade label. Scott[133] has suggested the possibility of a minimum threshold of fair trade purchased or produced before a company can make fair trade claims about its business. If this was incorporated into a legal definition, it could reward smaller producers with widespread ethical practices whilst preventing larger companies from 'greenwashing' their conventional activities. However, how this would work alongside the current *product* endorsement of the FLO is unclear.

The legal loophole highlighted earlier is also a cause for concern, and needs to be addressed to increase label legitimacy. As mentioned previously, it is possible in the UK[134] for a supermarket name to appear next to the Fairtrade logo without any retailer obligation to the FLO. This risks misguiding consumers, and provides little incentive for mainstream retailers to engage with fair trade principles. Moreover, it is extremely difficult for actors lower down the chain to adhere to fair trade principles if those governing the chain disregard them[135].

5.3. Beyond the Label

As the comments above indicate, there are some immediate actions that could be taken by the FLO to strengthen the label. However, the case of supermarket own-brand Fairtrade illustrates the danger of focussing exclusively on the Fairtrade mark and ignoring supply chain dynamics that powerfully shape actors behaviour[136]. Ironically, labelling has facilitated fair trade's move into the mainstream – but has also encouraged the entry of commercially motivated actors into the fair trade arena, subjecting it to market pressures and conventions[137].

In this sense, measures taken to strengthen the Fairtrade *label* can only play a limited role in addressing some of the inherent inconsistencies involved in mainstreaming fair trade. Fair trade networks operate alongside a number of other actors that can influence their effects. Hence it is imperative to also examine wider policy measures which could provide a supportive environment for just trading practices to flourish. In this sense, fair trade can form part of a 'multi-pronged' approach resulting in positive change.

A recent UK Food Group briefing[138], whilst acknowledging the benefits of fair trade, also examines public and private sector measures to ensure 'a supportive and coherent policy environment for companies to do the right thing'. Without this policy 'background', efforts to mainstream fair trade without its dilution may be continually frustrated. Some of the actions examined overlap with areas of traditional fair trade activism – e.g. reform of the international trading system. Moreover, Fox and Vorley[139] also focus on the role of the *state* to create incentives for actors such as supermarkets. These include the French 'loi Galland' which prevents retailers from selling at excessively low prices, and the UK Supermarket Code of Practice[140]. Competition policy could also play a role - Tallontire and Vorley suggest lowering the 'trigger' ceiling on supermarket share to fight against highly uneven market power and aggressive expansion[141]. This kind of policy background would help to mitigate some of the pressures imposed upon fair trade actors in mainstream retail spaces.

Apart from the state, regional organisations could also have an influential role to play in fair trade development. In July 2006, the European Parliament passed a 'Resolution on Fair Trade and Development'. This urged the European Commission to issue a 'Recommendation on Fair Trade' recognising its role in the pursuit of the EU's Development and Trade policy, in the form of a non-binding legislative act. Furthermore, the Resolution calls on the Commission to 'liaise with the international fair trade movement in *supporting clear and widely-applicable criteria* against which consumer assurance schemes can be assessed'[142]. This could potentially form the first step towards a legally recognised definition of fair trade, given that the Commission has legislative capacity.

Macmaoláin however goes one step further, suggesting the introduction of a European Community endorsed label. She argues that introducing such a scheme under the article 251 procedure would increase consumer confidence, becoming law in 15 member states simultaneously[143]. The scheme would have to remain voluntary to fulfil WTO obligations, but could clarify and codify the Fairtrade system to a much higher standard[144] than the current FLO scheme, and provide legal recognition. However, the Commission has thus far refused to promote such a scheme. Macmaoláin suggests that this is because the reputation of the EU's *own* producers is its overriding priority[145], and this suggestion also sheds doubt on the significance of the Resolution.

Lastly it is not only states or large organizations that can facilitate fair trade. In 2002, a citizen's initiative spearheaded by a young lawyer led to the famous 'Measure O' in Berkley, California – a ballot initiative that would have legally required all coffee served in the city to be Fairtrade[146]. However, the campaign illustrates with clarity some of the internal tensions within fair trade that cannot be tackled by legal means. The measure was strongly defeated, with opponents focussing on losses to *smaller* businesses that would result. As in the case of smaller producers, Fairtrade has the potential to exclude those most in need – whether these are smaller producers and retailers, or consumers who cannot afford the Fairtrade premium.

As can be seen then, FLO regulation is but one of *many* bodies of regulation influencing fair trade networks. As a result, the actions of a large number of actors can impact fair trade's operation. We have considered here legal and other regulatory initiatives that could both improve the Fairtrade label's legitimacy, as well as trying to tackle some of its weaknesses. An exploration of these measures also indicates the current lack of 'hard law' in the field, and the difficulties this can bring about.

Without a supportive policy background, Fairtrade standards can be easily undermined. As such, overreliance on Fairtrade standards can be a distraction from the wider agenda of policy change[147]. Moreover, as the actions examined above have illustrated, there is only so much that regulatory measures can achieve, and they can sometimes have incongruous effects. In this way, whilst legal and other regulatory efforts may go partway towards addressing fair trade's weaknesses, many of its inherent tensions remain - with regulative action at times complicating these tensions.

6. Concluding Remarks

This paper concludes that the operation of fair trade 'in and against the market' implies a number of inherent contradictions. Moreover, the entry of fair trade products into mainstream retail space has magnified some of these tensions and created new problems.

Fair trade's move into mainstream retail space has been hugely facilitated by the development of the Fairtrade logo, but this further complicates the difficulties associated with mainstreaming. As fair trade networks grow and become more complex, the label becomes a substitute for relational ties and trust in network coordination – but a substitute that has significant limitations. The standards required for the award of the label may mean that smaller producers most in need of development are excluded. Moreover, the boundedness of the label in disseminating information means that a wide spectrum of firms appear analogous in the eyes of the consumer. This discourages best practice and hinders information flows between network actors, casting doubt upon the potential of fair trade to shorten social distance across supply chains.

At the same time, 'mainstreaming' has encouraged commercially motivated actors to join fair trade networks. This has radically altered the structure and governance of fair trade networks, transforming the means of co-ordination between actors and leading to supply chain practices and marketing strategies that could potentially undermine the very *raison d'être* of fair trade. And yet, the choices faced by network participants are more complex than a straightforward 'trade-off' between purist marginality and mainstream growth – or between true recognition versus significant redistribution. Rather, many avenues of choice have to be made. Essentially the spaces of fair trade are contested - actors both shape and are shaped by network structures and other actors' behaviour, with the interaction of various conventions impacting production and consumption decisions.

Legal and other regulatory initiatives have some limited potential to address label weaknesses, and can also positively impact the policy background fair trade operates within. Nevertheless, as in the case of labelling regulation, such moves can also have an incongruous role, complicating the trade-offs faced by actors. Whilst a number of prescriptions have been made here, it is imperative that these measures are further investigated to seek protection of fair trade values as the movement grows. Currently, new research at the University of London[148] is seeking to establish rules and legal foundations for the fair trade movement to ensure its objectives are not undermined by its rapid growth. Without this groundwork, there exists a real danger that fair trade could become a powerful tool in the hands of the very corporations and systems the movement hoped to transform.

Endnotes:

[1] Barratt-Brown, M (1993) Fair Trade: Reform and Realities in the International Trading System (London: Zed Books) at p. 156.
[2] See http://www.fairtrade.net/sites/aboutflo/faq.html 1February 2009. Consumer confusion and ease of trade are cited as the principal reasons for streamlining the marks.
[3] See, for example, Fairtrade Foundation, Tipping the Balance 2008-2012 Vision statement http://www.fairtrade.org.uk/includes/documents/cm_docs/2008/F/Final.pdf 11 May 2009. 3 in 5 consumers now recognise the Fair-trade logo.
[4] See section 4 of this paper.

[5] FINE was created in 1998 and is an informal association of the four main Fair Trade networks: F - Fairtrade Labelling Organizations International (FLO), I - International Fair Trade Association, now the World Fair Trade Organization (WFTO), N - Network of European Worldshops (NEWS!) and E - European Fair Trade Association (EFTA). See http://en.wikipedia.org/wiki/FINE 20 May 2009.
[6] EFTA Fair Trade Definition http://www.european-fair-trade-association.org/efta/Doc/What.pdf 1 February 2009.
[7] Moore, G. (2004) 'The Fair Trade Movement: Parameters, Issues and Future Research', Journal of Business Ethics 5, pp 73 – 86 at p 74.
[8] See, for example, Mitchell, K. and Wells, P. (2002) 'Spilling the Beans on the Coffee Trade' http://www.risc.org.uk/readingroom/coffee/Spilling%20the%20beans.pdf 27 April 2009 at p. 14.
[9] http://www.fairtrade.net/standards.html [Accessed 11th May 2009].
[10] Ibid.
[11] The appropriate national body (e.g. Transfair in the US) must approve all promotional material bearing the logo.
[12] See Fairtrade Foundation Fairtrade certification and the Fairtrade mark http://www.fairtrade.org.uk/what_is_fairtrade/fairtrade_certification_and_the_fairtrade_mark/default.aspx 11 May 2009.
[13] See e.g. Tshuma L, 'Hierarchies and Government versus Networks and Governance: Competing Regulatory Paradigms in Global Economic Regulation', 2000 (1) Law, *Social Justice and Global Development (LGD)*. http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/2000_1/tshuma/.
and Castells, M. (1996) *The Rise of the Network Society* (Oxford: Blackwell).
[14] Castells, M. (1996) *op cit.*
[15] Benkler, Y. (2003) 'Freedom in the Commons: Towards a Political Economy of Information', *Duke Law Journal* 52(6), pp. 1245 – 1275.
[16] Benkler, Y. (2004) 'Sharing Nicely: On Sharable Goods and the Emergence of Sharing as a Modality of Economic Production', *Yale Law Journal* 114(2), pp. 273 – 359.
[17] See e.g. Snyder, F. G. (2002) 'Governing Globalisation', in Likosky, M. (ed.) *Transnational Legal Processes: Globalisation and Power Disparities* (London: Butterworths).
[18] Barratt-Brown, M. (1993) *op. cit* at p. 156.
[19] O'Rourke, D. (2003) 'Outsourcing Regulation: Analyzing Nongovernmental Systems of Labour Standards and Monitoring' *The Policy Studies Journal* 31(1) pp. 1- 29 at p 21.
[20] Whatmore, S. and Thorne, L. (1997) 'Nourishing Networks – Alternative Geographies of Food', in Goodman, D. and Watts, M. (ed.) *Globalising Food Agrarian Questions and Global Restructuring* (London: Routledge) pp. 287 – 302.
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[22] Barrientos, S. and Smith, S. (2006) 'Mainstreaming Fair Trade in Global Value Chains: Own Brand Sourcing of Fruit and Cocoa in UK Supermarkets', in Raynolds, L. and Murray, D. (eds.) *Whither Fair Trade: Negotiating a Global Movement* (London: Routledge) at p. 1.
[23] Renard, M. C. (1999) *op cit.* at p. 490.
[24] Zadek, S. (1998) *Social Labels as a Tool for Ethical Trade* (Luxembourg: Office for Official Publications of the European Communities) at p. 2.
[25] Hartwick, E. (1998) 'Geographies of Consumption: A Commodity-Chain Approach', *Environment and Planning* 16, pp 423 – 437, at p. 426.
[26] Castells, M. (1996) *op cit.* at p. 1.
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[28] See for example Dicken, P., Kelly, P. F., Olds, K. and Yeung, H. (2001) 'Chains and Networks, Territories and Scales: Towards a Relational Framework for Analysing the Global Economy', *Global Networks* 1(2) pp. 89 – 112.
[29] *Ibid.* at p. 101.
[30] *Ibid.* at p. 94.
[31] Sugden, C. (2000) 'Fair Trade and Christian Mission', *Transformation* 17(3), pp. 118 - 120
[32] Tesco (2006) 'Tesco Corporate Responsibility Review 2006' http://www.investis.com/tesco/ar/pdfs/Tesco_CRR_2006_Full_1.pdf 2 May 2009.
[33] Oxfam International (2004) 'Trading away our Rights: Women in Global Supply Chains',

www.oxfam.org.uk/what_we_do/issues/trade/trading_rights.htm 10 May 2009. See also Corporate Watch UK (2004) 'Tesco: A Corporate Profile', http://www.corporatewatch.org/?lid=255#labour 12 May 2009.

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[35] Barrientos, S. and Smith, S. (2006) 'Mainstreaming Fair Trade in Global Value Chains: Own Brand Sourcing of Fruit and Cocoa in UK Supermarkets', in Raynolds, L. and Murray, D. (eds.) *Whither Fair Trade: Negotiating a Global Movement* (London: Routledge).

[36] Smith, S. *op. cit.* '[the supermarkets] often say they 'may' need a certain quantity of fair trade fruit, but then decline it even after it has been packed and shipped under fair trade conditions'.

[37] See the introduction of this paper.

[38] Barrientos, S. and Smith, S. (2006) *op. cit.* at p. 16.

[39] Renard, M. C. (2003) 'Fair Trade: Quality, Market and Conventions', *Journal of Rural Studies* 19, pp. 87-96.

[40] *Ibid.* at p. 92.

[41] *Ibid.*

[42] See, for example, Fraser, N. (1995) 'From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age', *New Left Review* 212, pp. 68 – 93.

[43] Misrecognition is here referring to 'institutionalised patterns of cultural value that constitute actors as inferior, excluded, wholly other or simply excluded'. Fraser, N. (2001) 'Recognition without Ethics?' *Theory Culture and Society* 18(2/3), pp. 21 – 42 at p. 24.

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[45] Regnier, P. (2001) *Supplément sur le Commerce équitable* (Le Soir: Brussels) at p. 34 in Renard (2003) *op. cit.* at p. 92.

[46] From FINE definition of fair trade

[47] Dicken et. Al. (2001) *op. cit.* at p 90.

[48] See Santos, B. S. (2002) *Toward a New Legal Common Sense* (London: Butterworths) esp. chapter 5.

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[53] Raynolds, L. T. (2002) *op. cit.* at p. 409.

[54] *Ibid.* at p. 411

[55] Renard, M. C. (2003) *op. cit.* at p. 92

[56] Renard, M C (1999) *op. cit.* at p. 497

[57] *Ibid.* at p. 497

[58] Raynolds, L. T. (2002) *op. cit.* at p. 414.

[59] Whatmore, S. and Thorne, L. (1997) *op. cit.* at p. 294.

[60] Barrientos, S. and Smith, S. (2006) *op. cit.* at p. 12.

[61] *Ibid.* at pp. 16 - 17.

[62] *Ibid.* at p. 7.

[63] See *ibid.* at pp. 12 and 16. In the case of Thandi fruit (South Africa), an increasing number of exporters and importers became involved in the supply chain, as supermarkets wanted to work via established category managers. This led to the network taking on a more conventional structure.

[64] *Ibid.* at p. 88.

[65] Taylor, T. (2006) 'Here Come Our High Street Heroes', *New Consumer Magazine* at p. 12 quoting Barbara Crowther of the UK Fairtrade Foundation.

[66] Moore, G. (2004) *op. cit.* at p. 83.

[67] *Ibid.* at p. 91.

[68] Barham, E. (2002) 'Towards a Theory of Values-based Labelling', *Agriculture and Human Values* 19, pp. 349 – 360 at p. 350.

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[70] See e.g. Barham, E. (2002) *op. cit.* and Murray, D. and Raynolds, L. T. (1998) 'Yes We Have No Bananas: Re-regulating Global and Regional Trade', *International Journal of Sociology, Agriculture and Food* 7, pp. 7 – 44.

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[73] Goodman, M. K. (2004) *op. cit.* at p. 909.
[74] See Bird, K. and Hughes, D. (1997) 'Ethical Consumerism: The Case of Fairly Traded Coffee', *Business Ethics* 6(3), pp. 159 – 167 at p. 160.
[75] Bryant R. L. and Goodman M. K. (2004) 'Consuming Narratives: The Political Ecology of Alternative Consumption', *Transactions of the Institute of British Geographers* 29(3), pp 344 – 366 at p. 360.
[76] Renard, M. C. (1999) *op. cit.* at p. 489.
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[78] Telephone Interview with Carolyn Whitwell, the founder of the BTC. 12 June 2006.
[79] International Federation for Alternative Trade and British Association of Fair Trade Shops. See www.ifat.org and www.bafts.org.uk 3 May 2009. Both these associations have labelling schemes, but these signify membership of the association rather than any product endorsement.
[80] Telephone Interview with Carolyn Whitwell.
[81] See Raynolds' comments regarding FLO standards as destabilising notions of trust and partnership. Raynolds, L. (2002) *op. cit.* at p. 418.
[82] Telephone interview with Carolyn Whitwell.
[83] The Agreement on Textiles and Clothing provided for the gradual dismantling of MFA quotas.
[84] Goodman M. K. (2004) *op. cit.* at p. 909.
[85] See Fraser, N. (2001) 'Recognition without Ethics?' *Theory Culture and Society* 18(2/3), pp. 21 – 42. Whilst recognition has often been taken to mean recognition of a group identity, Fraser argues that true 'recognition' is a question of social status where 'what requires recognition is not group-specific identity but rather the status of group member as full partners in interaction' (p. 24). I use both meanings of recognition in this paper as appropriate.
[86] See Section Two.
[87] See Bishopston Trading Website, 'About Us' http://www.bishopstontrading.co.uk/shop/article.php?category_id=7&article_id=27 9 May 2009.
[88] See Connon, H. (2006) 'Put Your Money Where Your Ethical Mouth Is', *Guardian Observer*, 20 November 2006 http://observer.guardian.co.uk/business/story/0,,1646918,00.html 2 May 2009.
[89] Correspondence with Emma Betts, PPP Assistant, Cafédirect.
[90] Wright, C. (2004) 'Consuming Lives, Consuming Landscapes: Interpreting Advertisements for Cafedirect Coffee', *Journal of International Development* 16(5), pp. 665 – 680.
[91] In one advertisement, gains to the producer were mentioned 16 times, yet consumer benefits mentioned 31 times. Hence Wright argues that potentially 'drinking Cafédirect becomes part of an identity project to value oneself' (*ibid.* at p. 672).
[92] Wright, C. (2004) *op. cit.* at p. 671. Consumers learn about producers but not vice versa. Moreover, difference between producers is denied.
[93] Goodman, M. K. (2004) *op. cit.* at p. 910.
[94] See footnote 91.
[95] Goodman, M. K. (2004) *op. cit.* at p. 908.
[96] Defined as the application of marketing to the solution of social and health problems. See Institute of Social Marketing website http://www.ism.stir.ac.uk 2 May 2009.
[97] Barrientos, S. and Smith, S. (2006) *op. cit.* at p. 17.
[98] The FLO stipulates a minimum price for coffee per lb, and where market price is higher than this, will pay market price plus a 10 cent per lb premium. However Cafédirect add to this premium, guaranteeing a social premium of at least 10% higher than the prevailing market price, where this price is higher than the stipulated FLO minimum. See http://www.cafedirect.co.uk/pdf/gold_standard.pdf and http://www.cafedirect.co.uk/our_business/values/pricing_coffee.cfm 11 May 2009.
[99] Fairtrade Foundation (2005) Press Release on Launch of Nescafé Partners' Blend http://www.fairtrade.org.uk/press_office/press_releases_and_statements/archive_2005/oct_2005/launch_of_nescafe_partners_blend.aspx 30 April 2009.
[100] World Development Movement (2005) Press Release http://www.wdm.org.uk/news/archive/2005/nestle.htm 11 May 2009.

[101] Tran, M. (2005) 'Branded', *Guardian, Business Insight* http://blogs.guardian.co.uk/businessinsight/archives/2005/09/01/branded.html 20 April 2009.
[102]See the company entry for Nestlé at http://www.answers.com/topic/nestl 12 April 2009.
[103] Baby Milk Action (2005) 'Fairtrade Mark and Infant Health could be Damaged by Nestlé Application Warn Campaigners', http://www.babymilkaction.org/press/press6oct05.html#note1 2 May 2009.
[104] Interview with Sinaltrainal trade union researcher http://www.babymilkaction.org/ram/broadcasts.html#colombiafairtrade 2 May 2009.
[105] Fairtrade Foundation (2005) Press Release on Launch of Nescafé Partners' Blend http://www.fairtrade.org.uk/pr071005.htm 30 April 2009.
[106] Nestlé Ltd. (2005) 'Coffee report 2005 – What Can Be Done?' http://www.nestle.com/NR/rdonlyres/D07B9D8D-C9BD-4D67-A7D1-5CA18D4CF69D/0/Coffee_English.pdf 27 April 2009. Nestlé note that Fairtrade is a useful way to raise consciousness and allows consumers to express their solidarity, but claim that extending the scheme would further distort supply imbalances. They therefore point to direct purchasing as a better way to improve farmers' livelihoods (see p. 4).
[107] Wells, P. and Mitchell, K. (1997) *Spilling the Beans on the Coffee Trade* (London: Fairtrade Foundation). http://www.risc.org.uk/readingroom/coffee/Spilling%20the%20beans.pdf 27 April 2009 at p. 4. The paper criticises Nestlé for increasing profits and margins thanks to low commodity prices.
[108] Nestlé (2005) *Coffee Report 2005 op. cit.* at p. 3.
[109] See *Coffee Man For Life* http://www.growmorethancoffee.co.uk/communities_elsalvador_adan.htm 10 May 2009.
[110] Fairtrade Foundation, Question & Answer Sheet www.fairtrade.org.uk/qa071005.htm 30 April 2009.
[111] Baby Milk Action (2005) 'Nestle and the Fairtrade Foundation – What this Means for Infant Health', http://www.babymilkaction.org/pdfs/nestlefairtrade05.pdf 2 May 2009.
[112] Brady, M. (2005) 'Nestlé to be awarded Fairtrade mark?' http://www.indymedia.org.uk/en/2005/09/324356.html 9 May 2009.
[113] Public Eye Awards 2005. See http://www.evb.ch/index.cfm?set_lang=2&page_id=3346 20 April 2009.
[114] Baby Milk Action (2005) *op. cit.*
[115] Fairtrade Foundation, Press Release on Launch of Nescafé Partners' Blend http://www.fairtrade.org.uk/pr071005.htm 30 April 2009.
[116] Interview with Carolyn Whitwell, reflecting comments made at IFAT meetings. See also Baby Milk Action (2005) 'Nestlé and the Fairtrade Foundation – Background Paper', http://www.babymilkaction.org/pdfs/nestlefairtrade05.pdf 2 May 2009.
[117] See Tallontire, A. and Vorley B. (2005) *Achieving Fairness in Trading between Supermarkets and their Agrifood Supply Chains* (London: UK Food Group) http://www.ukfg.org.uk/docs/UKFG_Briefing_Fairness_in_Trade_Sept_2005.pdf 2 May 2009 at p. 16.
[118] Transfair USA, Frequently Asked Questions http://www.transfairusa.org/content/resources/faq.php#certifiedlabel 12 May 2009 . See also section three of this paper.
[119] Correspondence with Vincent Lagacé, FLO International
[120] *Ibid.*
[121] Dankers, C. (2003) *Environmental and Social Standards, Certification and Labelling for Cash Crops* (Rome: FAO, United Nations). See section 7 in 'The WTO and Environmental and Social Standards, Certification and Labelling', http://www.fao.org/docrep/006/y5136e/y5136e0b.htm 22 April 2009.
[122]For example environmental labelling may at first appear to refer to unrelated PPMs, but could imply a product characteristic such as lower pesticide content.
[123] FTOs have been working with UNESCO, the ITC and the WCO to establish a handicraft code to allow a globally accepted terminology for handicraft products, aiding in tariff determination. See Groos, A. M. (1999) 'International Trade and Development: Exploring the Impact of Fair Trade Organisations in the Global Economy and the Law', *Texas International Law Journal* 34, pp. 379 – 412 at p. 404.
[124] Renard (2003) *op. cit.* at p. 88.
[125] Many examples of this practice exist, e.g. Kenco 'Sustainable Development' coffee, Douwe Egberts 'peasant coffee'.

[126] Note however comments in section 3 regarding the role of NGOs in the creation of both Cafedirect and the Fairtrade Foundation.
[127] Barrientos, S. and Smith, S. (2006) *op. cit.* at p. 17.
[128] See sections two and three above.
[129] Interview with BTC founder, Carolyn Whitwell, 12 June 2006. This occurred when BAFTA tried to award 2 distinct categories for member listings.
[130] Correspondence with Marcus Robinson, Trading Standards Officer.
[131] In addition, the NGO Baby Milk Action in 2005 submitted 3 complaints to the UK Advertising Standards Agency regarding Nestle's advertisement for its Fair Trade Partners' Blend. The ASA have not yet published findings. See Baby Milk Action (2005) 'Nestlé reported to UK Advertising Standards Authority over Dishonest Fairtrade Product Advertisement', http://www.babymilkaction.org/press/press7dec05.html 2 May 2009.
[132] See, UK Advertising Standards Agency 'Fat free claims that added up to nothing', http://www.asa.org.uk/asa/focus/case_studies/Danone.htm 2 May 2009.
[133] Tallontire, A. and Vorley, B. (2005) *op. cit.* at p. 18.
[134] Not all national initiatives permit retailers to include the logo on packaging without registering as licensees. However, the Fairtrade Foundation permits this.
[135] Barrientos S. and Smith, S. (2006) *op. cit.* at p. 16. See also Blowfield, M. (2003) 'Ethical Supply Chains in the Cocoa, Coffee and Tea Industries', Greener Management International 43, pp. 15 – 24 at p. 17.
[136] Hughes A (2001) *Multi-stakeholder approaches to ethical trade: towards a reorganisation of UK retailers' global supply chains?* Journal of Economic Geography 1 pp 421 – 437. pp 434.
[137] Barrientos, S. and Smith, S. (2006) *op. cit.* at p. 16.
[138] Tallontire, A. and Vorley, B. (2005) *Achieving Fairness in Trading between Supermarkets and their Agrifood Supply Chains* (London: UK Food Group) http://www.ukfg.org.uk/docs/UKFG_Briefing_Fairness_in_Trade_Sept_2005.pdf 2 May 2009.
[139] Fox, T. and Vorley, B. (2004) 'Corporate Accountability in the UK Supermarket Sector', Final report of the Race to the Top project www.racetothetop.org 2 May 2009.
[140] Proposed by the UK Competition Commission, introduced by the DTI.
[141] *Ibid.* at p. 19.
[142] See http://www.europarl.europa.eu/sides/getDoc.do?objRefId=124435&language=MT 12 May 2009. Emphasis added.
[143] Macmaoláin, C. (2002) *op. cit.* at p. 314.
[144] *Ibid.* at p. 308.
[145] *Ibid* at p. 295.
[146] Burress, C. (2002) 'Berkeley Coffee Measure Gives Brewers Jitters', *San Francisco Chronicle*, 3 November 2002 http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2002/11/03/BA123791.DTL 9 May 2009.
[147] Tallontire, A. and Vorley, B. (2005) *op. cit.* at p. 17.
[148] See 'Academics Call for Regulation to Prevent Multinationals Undermining Objectives of Fair Trade Movement', http://www.qmul.ac.uk/news/newsrelease.php?news_id=217 12 May 2009. The project was awarded funding from the Art and Humanities Research Council just after this article was written.

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