

PolicyPennings by Daryll E. Ray & Harwood D. Schaffer

COOL: some are for it, some are not

More than a decade after mandatory Country of Origin Labeling (COOL) was first included in the farm bill, the debate continues.

Two weeks ago, we examined a legal opinion by the legal firm Stewart and Stewart (S&S)—paid for by the National Farmers Union, the United States Cattleman's Association, the Food and Water Watch, and Public Citizen's Global Trade Watch—that analyzed the ruling of the World Trade Organization (WTO) Appellate Body in the case that Canada and Mexico brought against the US COOL law. S&S said that the US could come into compliance with the Appellate Body ruling through rewriting portions of the COOL regulations. Specifically they opined that the information collected by the producers and packers concerning where an animal was born, raised, and slaughtered needed to be conveyed to the consumer in order to fulfill a legitimate regulatory objective.

In last week's column we examined the proposed United States Department of Agriculture (USDA) rule that eliminated the mixed origin label for muscle cuts—primarily used for beef and pork—and required that all retail labels specify the country for each step in the production process. The changes in the proposed rule appear to us to be consistent with the legal analysis of S&S.

Last November, well before the USDA issued the proposed rule, a Kansas State University study by Glynn Tonsor and others—"Mandatory Country of Origin Labeling [MCOOL]: Consumer Demand Impact"—found that 1) demand for covered meat products has not been impacted by MCOOL implementation, 2) typical US residents are unaware of MCOOL and do not look for meat origin information, 3) consumers regularly indicate they prefer meat products carrying origin information but reveal similar valuations of alternative origin labels, and 4) their conclusions hold across the species and products evaluated (www.agmanager.info).

As a result of their study that was based on scan and interview data from the few years immediately following COOL's implementation in 2009, they concluded that "given the costs of compliance introduced by MCOOL and no evidence of increased demand for covered products, [their] results suggest an aggregate economic loss for the US meat and livestock supply chain spanning from producers to consumers."

Some of those opposed to COOL have characterized the proposed USDA rule to bring the US into compliance with the Appellate Body ruling as doubling down on a faulty law, thus leaving the US still in violation of its WTO trade obligations.

That sentiment is consistent with a statement by the Canadian Cattlemen's Association (CCA) that says, "In the CCA's view, the USDA's proposed rule, if adopted, will in fact increase the discrimination against imported cattle by adding labeling requirements and eliminating some of the existing mitigating flexibility, thereby significantly increasing the costs of compliance. The net result is a rule that not only does not comply with the WTO Appellate Body's findings but will also violate WTO provisions not previously ruled upon."

In a similar vein, J. Patrick Boyle, President, American Meat Institute said, "Only the government could take a costly, cumbersome rule like mandatory country-of-origin labeling (COOL) and make it worse even as it claims to 'fix it.' That's exactly what they are doing with a new proposed rule that purportedly aims to bring the law into compliance with U.S. obligations under the World Trade Organization.... The bottom line: mandatory country-of-origin labeling is conceptually flawed, in our view and in the eyes of our trading partners."

In introducing the proposed rule, Agriculture Secretary Tom Vilsack said, "USDA expects that these changes will improve the overall operation of the program and also bring the current mandatory COOL requirements into compliance with U.S. international trade obligations."

National Farmers Union (NFU) President Roger Johnson said, "The proposed rule changes released by OMB are an excellent response to decisions by the World Trade Organization that called for changes to our COOL implementation. By requiring further clarity in labels and stronger recordkeeping, the set of rules...are a win-win for farmers, ranchers and consumers." In discussing COOL the NFU website says the "NFU has always fought for farmers' right to differentiate their product in the marketplace, and consumers' right to make educated decisions about the origin of their food."

The largest national farm organization, the American Farm Bureau Federation, has not posted a press release on their website on the proposed COOL rule. Over time and in contrast to the national Farm Bureau, some of the state Farm Bureaus have been less reticent in making known their positions on COOL.

One of the fundamental principles of economics is symmetry of information between the buyers of a product and the sellers. When we go into the hardware store to purchase a hammer, we can look at the package and determine where the hammer was made. In

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the produce section of the grocery store, it is easy to determine where our purchase was grown. In a time when consumers are paying more attention to the food that they eat, it makes sense to us that they should be able to go over to the meats case and read where the meat was born, raised and slaughtered. We understand that providing information is not costless, but then it seldom is.

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