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SPECIAL ISSUE: SUPPLY CHAIN GOVERNANCE AND INTERNATIONAL TRADE

Pragmatism and Principle in Supply Chain Governance – An Introduction to the emerging financing themes

The ongoing COVID19 has thrown up serious issues around the supply chain in all manner of trade and transportation of vital necessities to various parts of the world. Although this Special Issue was conceived at a time prior to the outbreak, the matter of supply chain regulation and legal governance of the supply chain has now taken on an even more important significance as a result of crisis. Concerns are continually being expressed about the loss of protective measures for the environment, human rights, health and safety, and financial stability in the emergency conditions many countries find themselves in.

This Special Issue brings together researchers from Sweden and the UK who have been working on supply chain governance. The research articles published reflect the multidisciplinary and interdisciplinary nature of the subject. The methodologies used are also multifaceted lending to a multi-lens perspective on the related themes in the subject matter.

The central theme in the four pieces of research concerns the integration of governance standards into the supply chain. The subject matter, of course, is not new but there is yet to be achieved consensus as to how, at a principle level, this integration or incorporation should be established. Free marketers tend, as a matter of habit, to prefer a less regulated approach. On the other hand, the proponents of market regulation would argue for a state or authority driven system to ensure that high standards of governance (whether as regards crime prevention, sustainability, environmental protection, human rights or health and safety).

The research articles in this Special Issue demonstrate that a more nuanced and perhaps pragmatic approach is often able to produce a more expeditious and acceptable solution. Expedition is important as the slowness of market regulation by states or international bodies is often as good as no protection. Acceptability of standards by the private participants, also, is crucial where the private sector continues to play a vital role in maintenance of the supply chain. The state's role therefore must be to provide a framework to enable and encourage responsibility and ownership of standards and rules by private participants.

It is in this context that Basu Bal, Rajput and Mishra use an empirical study of certain coffee trading platforms in India to demonstrate how

although voluntary sustainability standards (VSS)¹ are deemed exceedingly important in the governance of the supply chain in the west (notably the EU and US), farmers and small medium enterprises often see the certification process as a technical, burdensome, costly and valueless box-ticking exercise. More fundamentally, the research shows, from the farmers' perspective, that the existing VSS have been largely "inefficient in capturing the sustainability benefits endowed by the natural biodiversity and traditional practices of the region". The farmers' frustration is that whilst they do much which is consistent with the needs of biodiversity and sustainability in their localised fields, this information is not easily fed into the VSS system. The reason is that the VSS system can often be a somewhat closed and narrow reporting system. Supply chain financing to some extent which relies on certifiable VSS would consequently dry up where the farmers are unable to satisfy the check-box exercise. The loss of financial access has resulted in farmers ceasing entirely to supply to the west; the consequence, being impecuniosity and impoverishment. The authors argue for the legal facilitation of an electronic spot market for the fragmented coffee markets in India which would better encourage and incentivise the provision of sustainability related information to the supply chain. The work's importance lies in the premise that although VSS as required by the state are essential to promote better sustainability standards and practices in the developing world, the practical details and aspects for improving the system are best democratised and technology could be deployed to help matters.

In a work which focuses on the weakness of private regulation, on the other hand, Iqbal's research, drawing on the ready made garment supply chain in Bangladesh, demonstrates that where governance is primarily transferred or outsourced to the producers and importers (including multinationals), the risk of purely perfunctory compliance is appreciable. Her work articulates the economic importance of the sector to the home state but reasons that it is not sufficient for the west simply to rely on self-governance models, showing that often there are few legal remedies or sanctions for non-compliance. Iqbal also alludes to the COVID19 crisis which resulted in retailers in the west refusing to take delivery of orders and consequently, massive job losses in the ready made garment producing countries in South Asia and the stymying of supply chain finance options. She shows how voluntary self-governance standards of corporate social responsibility are highly susceptible to exigencies and commercial interests. Her central argument is that as the supply chain often has a stark transnational character, not only is private governance deficient but, state driven regulation by one state, whether the host state or the importing state, could also be limited in effect and reach. The query posed is whether the solution might lie in transnational regulation.

¹ Usually evidenced by a certification issued.

In this connection, it is especially interesting to see in Elliot, Lindblom and Söderström an empirical analysis of the unintended effects of over-strict transnationally imposed regulation on the provision of finance to the supply chain participants. Money laundering and terrorist financing legislation in European countries has been largely driven by principles established by international organisations such as the Financial Action Task Force and rules laid down by the EU. Herein lies an explicit example of transnational regulation. After all, the matter of money laundering and terrorist financing is seen as being too important to be left to private governance systems. However, here too as Elliot, Lindblom and Söderström proves, a fine balance is needed. The increasing compliance cost for European (or western) banks has risen in the light of these regulatory interventions; the result has been that suppliers in high risk (developing) countries are increasingly turning to alternative trade finance and payments services provided by less reliable and compliant providers. The authors' work draws on the Nordic experience to show that often the failure of compliance was caused by information asymmetry and argue thus for an adoption of better technologies, such as blockchain and artificial intelligence, to spot and deter the crime and criminal. One of the more thought provoking aspects of their research is the proffering of a model to show the cost-benefit tradeoff between a bank's spending on compliance activities and expected regulatory and reputational risk costs.

Continuing with the theme of governance, Rebelo's research argues for a pragmatic solution to the tension between self-governance and regulation of standards. Her work draws on the emerging practice of responsible lenders (and their trade associations) expressly to incorporate into the financial offerings, including supply chain financing, sustainability standards which have wide acceptance. Unlike voluntary self-governance systems, using private contract law to enforce standards has the advantage of being backed by a civil private remedy enforcement system, either through the courts of law or arbitration tribunals. However, drawing from the practices in both the finance and manufacturing sectors, Rebelo demonstrates that the main problem with this system of governance is often over definition and clarity of the obligations in question. She contends that as sustainability standards are fast becoming acceptable norms which are recognized by providers of finance and other industry stakeholders, the matter of interpretation of those standards should consequently become more manageable, especially in the common law tradition where the process of interpretation of contracts is flexible and highly contextualised.

It is hoped in some modest way this Special Issue goes some way at identifying the conflicts in supply chain management and governance – from finance to production – and offers an evidence-based dissection of the attendant problems and solutions.

As commissioning editor, I am grateful to the authors for their excellent contributions. This Special Issue is an interim culmination of a project on supply chain finance that I have been involved in with colleagues from the University of Gothenburg. I would like to take this opportunity to thank Prof. Per Cramér the Dean of the School of Business, Economics and Law and, Dr. Joachim Åhman, the Head of the Law Department at the University of Gothenburg for their support. Last, but not least, the editors are grateful to the reviewers without whose contribution and feedback this Special Issue would have been much poorer.

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