

Food Safety Standards and Market Access: Developing Countries Scientists Get Into A New Engagement With Trade

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[A proper risk assessment requires Scientists and Food technologists' deep involvement with regulatory and policy making bodies.]

Indeed there are inherent advantages for the G20 coalition member countries in the "July 2004 package of WTO. The challenges however are manifold.¹ Having provided the top slot to agriculture and services in the new foreign trade policy (2004-09) the Indian government has now to give quality time to the food safety regulation issues. The issue of food quality and safety standards as a potent tool for denying market access in the developed countries has been bothering the developing countries since 1995. The Sanitary and Phytosanitary (SPS) measures, we may recall, came into force in an explicit manner as an integral part of the Agreement on Agriculture. Thankfully, the food safety standards are getting integrated into the seamless *lingua franca* of development and trade. The 'mad cow' disease episode, avian influenza as well as the Cola controversy in the developing Asian countries in terms of the trade negotiations at the World Trade Organisation appears to give out key signals to the negotiating countries on the non-tariff barriers.

What are these signals and messages that any discriminating scientific community would use to develop a better understanding of the trade and development paradigm? In this context, the recent 'bird flue' scare and the cola row as well as the earlier bottled drinking and mineral water exposé do suggest a distinct consumers' helplessness and suppliers' business astuteness getting into a serious engagement. The engagement has three entitles – food science, food safety

standards, and trade in foods and beverages.

It is important as the trinity is attempting an engagement on a serious note of scientific rigour that has taken the consuming population with greater shock of information asymmetry. That the multinational companies should be in the vanguard of this is, indeed, bad even if we wrongly agree that there are no credible domestic standards for many finished processed products.

Alongside, the growing concentration of firms handling food business in the developed countries and other dubious business practices have brought on board new challenges before the scientific community. For instance, price manipulation by Tyson Foods/Iowa Beef Packers (IBP)- the largest beef packer in the US obviously indicate a poor enforcement of antitrust laws as well as failure to address the dangerous levels of market concentration within a number of U.S. agricultural sectors. Concerns have been expressed about the compromise made in the standard sanitary operating procedures that heavily impact of the food safety.

As a further illustration one cannot help but quote what the U.S. Department of Agriculture's Inspector General found at ConAgra meat packing plant in Colorado. The regulators found contaminated meat at least 63 times in the weeks before 18.6 million pounds of beef was recalled last year. It is reported that contaminated meat from this plant, although now operating as Swift & Co.,

has been tied to 46 illnesses and one death.

At the same time the scientific community in a global environment cannot ignore the U.S. Senate Judiciary Committee hearing titled, "Monopsony Issues in Agriculture: Buying power of Processors in Our Nation's Agricultural Markets," on October 30, 2003.

As tariff and quota barriers to trade in beverages and food products have continued to decline since 1995, the ascendancy of product and process standards and technical regulations in recent times have not gone unnoticed. The UNCTAD study (TD/(XI)/BP/1 20 April 2004) clearly demonstrates that standards have indeed become market entry barriers. In fact the study estimates that as high as 90 per cent of goods produced in developing countries are facing some kind of standards' barriers in their pursuits to enter the developed country markets. In this endeavour, hopefully, the journey from Cancun to Sao Paulo (13-18 June 2004) and "July 2004 package" will take on board and crucial concerns of the developing countries. Here we must note a few significant developments. First, the second FAO/WHO Global forum of food safety regulators (12-14 October 2004) under the theme "Building effective food safety system" has given short shrifts to the genuine concerns of the developing countries while redeeming the Doha Mandate of 2001. For example, the forum would like to view food safety control services from the technical barriers to trade (TBT) spectacle rather the SPS mechanism.

That international trade in agricultural products is being increasingly dominated by concerns of quality to safeguard human health as well as animal and plant life and health. These dimensions have put an onerous task before the agro-food

processing industries to improve its operative procedures and pay attention to the quality and hygiene protocol that is expected to get integrated as good manufacturing practices (GMPs). Conversely, the regulators in the developing countries apparently are taking time to understand the international food safety ambitions and balance it with the domestic demand and supply considerations. Besides, the frequently shifting and stringent standards in the developed countries often smack of the scientific merit plait so assiduously built into the agreement on application of sanitary and phytosanitary measures of the WTO.

At this point, it is important to draw a parallel for the practice of information asymmetry when intangibles such as brainpower and a knowledge-driven economic growth path have become the order of the day. The information asymmetry is a validated inherent trait in the "trade secrets" domain of the intellectual property rights under which both the Cola giants operate their business.

The "repeated use" and the "non-exclusive" nature of information and knowledge about standards in a productive venture is what should ideally be encouraged but at the same time we do have to reckon with TRIPs that legitimizes "trade secrets" for deriving economic rent.

The Indian exporters of food items have faced "standards divide" in a stringent manner since the WTO's agreement of SPS measures came into force in 1995. The SPS measures are aimed to protect the human, animal or plant life or health in such a manner that scientific merit is not compromised and will not be disguised trade barrier. Towards this end, the agreement on SPS clearly laid out a path different from the TBT

agreement but basing on the GATT Article XX. (b). It has therefore become imperative to clarify the confusion often created between TBT and SPS agreements, which was primarily determined by the confidence and advantage of the developed countries in the use of TBT measures. The core of SPS can be highlighted as the HEART on SPS: H Harmonization Article 3,1-5; E Equivalence Article 4.1- ALOP (appropriate level of protection), 4.2- Bilateral nature; AR Assessing Risk Article 5, 1-8; T Transparency Article 7, Annex B along with the dispute settlement and the administrative issues.

It needs to be underscored that administration of SPS agreement as provided in Article 12, Para 1-7 is very important and all stakeholders need to familiarize themselves with this Article. Using the SPS Committee Documents certain specific trade concerns that have been raised in the SPS Committee during the period 1995 to 2002 can be highlighted. Indeed, the relative importance of food safety plant life and health and animal life and health issues of SPS measures in international trade unmistakably are noticed. Here what should baffle the scientists is the fact that out of 154 SPS related trade concerns raised and brought up at the WTOs SPS Committee during the seven years period referred above, only 28 solutions have been arrived at. Whereas 14 cases were partially resolved, about 112 cases failed to find any amicable solution. The reasons for such a high rate of indecision may be many but can be narrowed to the HEART of SPS in general and assessment of risk in particular. Thus, risks arising from additives, toxins or disease causing organisms in food, beverages or foodstuffs come into reckoning with scientific evidence.

It is important to keep in mind that Indian agriculture exports, including

spices and marine products, have either been detained, refused import permission at the importing countries' borders or destroyed because the consignment purportedly contained banned pesticide/antibiotic residues endangering human, animal and plant lives. The Indian exporters did not have the luxury of appealing or questioning the testing procedures. Getting a media blitz though is a far-fetched dream.

The knowledge about standards in contemporary discussion is adding value since the "scientific merit argument" is apparently acceptable to all parties concerned. That means the associated risk in ingesting with pesticide residue is not in question.

The food scientists and technologists need to get their analytical skills sharpened to handle the escalating levels of sensitivity. Instead, one sees that the "second best" option is being followed to question the credibility of testing infrastructure, procedure and highlighting absence of any specific domestic standards in this case. The spat between the EU and the US on safety standards of GMO foods is currently hot news since it follows the same pattern of "second best option" of claims and counterclaims.

However, instead of getting into the combat gear, one should underscore outreach and education as a strategy to assure the consumer's welfare. Encouraging innovative and expanded uses of certification, auditing and accreditation of such facilities can do this most effectively.

Inspection and compliance monitoring are functions that in addition to facilitating trade also safeguard human health and plant, animal life and health. In the US all the foods and beverages

majors give due credence to “public outpourings” or opinions.

And, therefore, civil society initiatives are to be positively appreciated. In 1996, the US Government undertook a wholesale revision of the pesticide residue standards. So much so that in 2000 and 2001 the US attained the solitary distinction for issuing the largest number of notifications (323) in the WTO’s SPS committee. Interestingly, nearly two-third of this pertained to pesticide, residue alone. Similarly the European Union has been revising its standards.

The crucial point here is to appreciate how lives are valued and how effectively the safety and scientific merits are brought to bear upon the trade concerns both in domestic and international market operations. The MNCs, naturally, are expected to uphold such concerns.

The knowledge, therefore, is seamless and can fruitfully be used as a benchmark to underscore the dynamism in the standards. However, we must also be aware that standards escalation do take place on dubious scientific merit and distort trade to a large extent. The balance of ambitious standards is falling adversely on the developing countries. The food scientists and technologists must consider this as a final call towards becoming a proactive agent in the trinity mentioned earlier. A small illustration will suffice to make this clear. The plant food exports from the developing

countries into the US accounted for a mere 17 per cent of US exports to other countries in the already existing markets along in 2001. This dropped to about 6.1 per cent in 2002. This is entirely due to standards escalation in the destination market – the US.

It is not the case for adopting either the EU or the US standards in India. Respecting the nations sovereign rights and the prevailing expanse of scientific knowledge base, the recent food safety episodes in the world is providing us an opportunity. The knowledge induced behavioural changes in these instances are the pivot that has impacted the MNCs severely. For instance, the lesson in India, from the bottled water episode in February is one that has resulted in new standards coming into force with effect from January 2004.

The adage “better late than never” indeed is a truism for different segments of the food processing industries in the developing countries. The moot point is are we attempting to move towards this engagement? Perhaps the civil society organizations have a role cut out for them. The Joint Parliamentary Committee that investigated the pesticide residue episode in 2003 has applauded the Indian case of the Centre for Science and Environment (CSE). The scientific community and the food technologists, indeed, need to be proactive by understanding the writings on the trade walls in the first instance. The scientific rigour has to be brought into the discourse, as risk management remains weak in its absence.

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