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Case study on SPS measures and TBT measures in India: An analysis

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Abstract
Ever since nations existed, they have exchanged food and other agricultural products. In earlier times, the trade system that existed for exchange of goods was the barter system. Slowly this gave a way to economic trade merchants from all across the nations and trade in agricultural products provided clear economic benefits. The SPS agreement under the Uruguay Round Agreement on Agriculture (URAA)1 defined Sanitary and Phytosanitary (SPS) standards as measures taken to protect human, animal or plant life or health from risks associated with imported agricultural commodities. The Technical Barriers to Trade are regulations and standards governing the sale of products into national market which have, as their primary objective, the correction of market inefficiencies stemming from externalities associated with production, distribution, and consumption of these products. This paper based on case study on International Sanitary and Phytosanitary measures and Trade Barrier Treaties in India.

Keywords: agricultural products, SPS measures, TBT measures

Introduction

Developing countries used their agricultural production as means of earning revenue for their countries. To ensure food safety, and to avoid the introduction of diseases and pests through trade, countries imposed regulations to protect human and animal health and plant health. Unlike most manufactured products, agricultural output requires additional care. In the case of agricultural products, apart from the productivity and quality considerations at the production level, there are some necessary precautions that need to be taken when the product is stored and transported. Absence of such kind of vigilant measures would have adverse effects on the quality of the product, resulting in increased wastage and decreased market value. Further, this holds true for both row and processed food products. Thus it is in the self interest of the producers as well as the exporters to ensure that certain hygienic and other safety conditions are met. The GATT, since its inception, emphasised on national food safety, animal and plant health. It was finally the Uruguay Round which gave prominence to areas which were never touched before in any of the rounds – food quality and food safety [1]. And finally the Agreement on Sanitary and Phytosanitary Measures came into force with the establishment of WTO on 1st January 1995 the agreement was entered into with the object to ensure provision of safe goods to the consumers of a country and also to ensure that protection measures of human, animal and plant health were not being used as a cause to protect domestic producers [2]. One of the most important issues in the GATT/WTO agreement has been the inclusion of agricultural trade into its provisions. This is for the first time in the history of GATT that agricultural trade has been brought into the international forum. This inclusion has meant a particularly serious development for the developing countries which are highly dependent on their farm sector not only for export earnings but also for peoples' incomes and employment. It is not that the inclusion of agricultural trade into WTO framework itself is being objected to, but the whole range of issues like subsidies, intellectual property rights, investments and new trade barriers like environment, and labour standard become controversial as soon as agriculture is brought in. Though a lot has been written about the benefits of WTO agreement to developing countries, most of the studies on supply response in agriculture in the developing countries show that it is likely to be highly inelastic to changes in terms of trade due to WTO implementation. In fact, some of the studies show a negative response but there are a number of positive benefits of trade in agriculture due to WTO provisions. These provisions are not likely to be very huge for developing countries as the markets in agriculture commodities are highly defective due to the fact that international commodity markets are controlled by a few multinational corporations, practically in each commodity sector.

Implementation of TBT and SPS agreements

Under the auspices of WTO, SPS and TBT agreements were signed along with many other agreements including AoA" [3]. In fact, AoA clearly endorses implementation of SPS agreement through its Article 14: "Members agree to give effect to the Application of Sanitary and Phytosanitary Measures." However, SPS and TBT agreements have not received the kind of attention they should have from industry and researchers alike. There is a lot of confusion regarding understanding the difference between SPS and TBT agreements. The distinction between the two is as follows – The SPS articles refer to food and agricultural sector alone, while TBT measures refer to all products including food products. SPS agreement aims to protect human, animal and plant life or health from pest and diseases arising out of imports of food and agricultural products. On the other hand, TBT agreement deals with product specifications which

include size, shape, weight and packaging material requirements including labelling and handling safety. The Sanitary and Phytosanitary measures that confirm to the international standards, guidelines and recommendations will be deemed necessary to protect human, animal or plant life or health." For food products, the international standards, guidelines and recommendations refer to the guidelines suggested by the Codex Alimentarius Commission (CAC). "CAC is a commission established by World Health Organization and Food and Agricultural Organization (FAO). Although the CAC guidelines have no backing of any international law, the WTO endorsement of these standards through SPS and TBT agreements has made these standards de facto mandatory" [4]. An important CAC guideline for food processing companies is to follow a food quality management system called Hazard Analysis and Critical Control Points (HACCP). In fact, "United States (US) and European Community (EC) have already made this system mandatory for food processing firms. EC put a ban on imports of fish from companies in Gujarat which did not adopt HACCP system (IE,1999). Moreover, about 100 crores of herbal product exports from India, targeted for 1997- 98, were severely affected as US planned to impose ban on imports of these products if they did not confirm to HACCP (EFP, 1997). Indian seafood processors, in their bid to remain competitive in the US market, are taking help from foreign consultants at exorbitant cost to implement HACCP in their production units (CP, 1997)" [5]. However, one need not focus on export markets alone. The dropsy-death episode in the edible oil market in 1998 is just an indication that Indian domestic industry has a lot of scope for improvement in agro-processing and food quality. Multinational companies like Nestle-India have already planned to implement HACCP for coffee growing and processing (ET, 1997). Article 14 of the agreement on agriculture requires members to give effect to the agreements on Sanitary and Phystosanitary measures. However, things are not as simple as they appear. No doubt, if India does not comply with the SPS articles, it may face non-tariff-barriers to trade. But one must remember that many of the SPS articles favour the western nations. For example, in continuation of Articles 3.1 and 3.2, Article 3.3 states: "Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification." [6]. The SPS agreement in Article 5.1 requires that these measures be based on an assessment of the risk to human, animal and plant life or health. It does not necessarily require that the importing country itself must do the risk assessment. Further, Article 5.2 explains what kind of information shall be taken into account when undertaking a risk assessment. Article 5.3 identifies the economic factors which shall be taken into account when undertaking a risk assessment for animal or plant health. However, Article 5.7 provides an exception to article 5.5 and 5.6 by permitting to adopt provisional measures when there is an insufficiency of scientific evidence with respect to particular health measure. Article 5.5 requires that countries must be consistent while applying their health measures in different situations [7]. Under Article 9 the member countries have a responsibility to facilitate technical assistance to other countries specially the developing countries that are economically weak and Article 10 deals with while imposing any SPS measures they should also take into consideration the need of the developing countries and the least developed countries in terms of providing term with longer transition period. Article 11 of the agreement provides that the rules of Dispute Settlement Understanding shall apply to the consultation and settlement of disputes under the Agreement. The agreement under Article 12 establishes the formulation of a committee on SPS measures to provide for a forum of consultation on food safety or animal and plant health measures which affect trade and aim at ensuring implementation of the agreement [8]. An important CAC guideline for food processing companies is to follow a food quality management system called Hazard Analysis and Critical Control Points (HACCP). In fact, United States (US) and European Community (EC) have already made this system mandatory for food processing firms. EC put a ban on imports of fish from companies in Gujarat which did not adopt HACCP system (IE,1999). "Australia imposed a ban on the import of chilled or frozen salmon in order to protect its domestic salmon population from a number of diseases. Canada claimed that the salmon imported for human consumption was unlikely to introduction from a number of diseases. The panel held that the import ban was violative of Article of article 5.5 as it was not based on any risk assessment only for ocean caught pacific salmon and the panel found no rational relationship between the measure and the risk assessment. There was no risk assessment carried out for other kinds of salmons. Thus Australia's measures violated articles 5.5 and 5.6 by imposing a measure which is more restrictive than necessary" [9]. The SPS agreement encourages the member countries to adopt measures which are in conformity with the international standards. These international standard are set by the following international bodies:

The Codex Alimentarius Commission (Food safety) [10] (as mentioned above).

1. International Office Epizootics (animal safety) [11], and
2. International Plant Protection Convention (plant protection) [12].

The member countries are allowed to fix standards higher or lower to these international standards. And if the standards are higher than the international standards are not enough to deal with food, animal and plant safety in the country imposing such a standard. While SPS is a legally binding document on the member countries to apply Codex, IPPC or OIE do not have a binding force. There is no legal obligation upon the member countries to apply Codex guidelines, standards and recommendations [13]. They are considered to be voluntary in nature.

Situation in India

India has managed to create suitable position for itself in the global food market and is currently amongst the largest producers for some food products in world. These include production of grains like wheat and paddy, dairy, fruits and

vegetables, marine products etc. The size of the Indian food market is well above INR 250 billion and it exports goods worth INR 1450 million, contributing around 10 percent of the country's total exports [14]. A large domestic demand ensured that there was a ready market and thus an incentive for the producers to employ efficient means of production resulting in a larger quantity and better quality of output. As a result the processing industry has a growth rate of around 15 percent per annum [15]. Agricultural growth though has been much less. Yet there remains a large untapped potential of growth which if exploited can help us emerge as the largest producer of major food items on the domestic front, better technology in all spheres of production and processing can result in greater efficiency. Better transportation and storage facilities are also required to mitigate the losses arising from spoilage and wastage of food. "Some estimates suggest that currently around 20 percent of all foods produced in India are wasted. Further, easy credit availability is necessary, absence of which creates a bottleneck in addressing other issues. On the international scene, focus has shifted to two themes. Firstly, the country would be better off if it exports processed food items, instead of primary output. India is the second largest producer of fruits and vegetables in the world, but only about 2 percent of it is processed. Similarly, even though we are the largest producer of milk, only about 15 percent of it is processed by the organized sector. On an average, value addition to the raw produce in India is only 7 percent. This is much less as compared to 23 percent in China, 45 percent in Philippines, and 88 percent in United Kingdom. Secondly, there is a need to prevent the import of sub-standard products from other countries. There have been incidents in past when developed countries exported low quality food products to from other countries. There have been incidents in past when developed countries exported low quality food products to India, which were considered unfit even for their domestic market. Now with a greater awareness and better bargaining power, India can hope to prevent its domestic markets being used as dumping grounds by the developed countries" [16]. As mentioned earlier, one big challenge before the country is to encourage the exports of processed food products. Thus in the following section, we take a look at the issues involved with the compliance of SPS Agreement in India, the measures taken and the agencies responsible for it. In the recent past awareness regarding importance of health measures and fear of health hazard has shown a definite upward trend even in not-so developed countries like India [17]. *Food products Orders, Essential Commodities and the Prevention of Food Adulteration Acts* specify the bindings for the producers and sellers of foodstuff. These aim at regulating sanitary and hygienic conditions at all levels of supply chain, and lay down the minimum requirements for:

- Sanitary and hygienic conditions of premises, surrounding environment and personnel
- Water to be used for processing
- Machinery and equipment
- Product standards

Besides this, maximum limits of preservatives, additives and contaminants have also been specified for various products. Ministry of Food Processing Industries, Ministry of Agriculture and some other agencies are responsible for implementing these legislations.

In fact this multiplicity of regulating agencies is one of the problems of implementation.

The producers are not sure which institute to approach for guidelines, and which institute has the authority to conduct inspection. A repetition of the process by more than one agency would result in waste of time and resources. The followings are gives the various legislations enacted, and the institutions responsible for their implementation:

Legislation and Institutional Setup

Ministry of Agriculture

- Insecticide Act
- Milk and Milk Product Control Order
- Meat Food Product Order 1973

Ministry of Rural Development: Directorate of Marketing and Inspection (DMI)

- Agriculture Produce (Grading and Marking Act)

Ministry of Health and Family Welfare

- Prevention of Food Adulteration Act 1954

Ministry of Food Processing Industries

- Fruit and Vegetables Product (Control) Order – FPO 1955

Ministry of Commerce

- Export (Quality Control and Inspection) Act 1963

Ministry of Civil Supplies, Consumer Affairs and Public Distribution

- Standards of Weights and Measures Act
- Standards of Weights and Measures (Enforcement) Act
- Solvent Extracted Oils, De-oiled Meal and Edible Flour Control Order 1967
- Vegetables Product Control Order 1976
- Bureau of Indian Standards Act 1986

Ministry of Environment and Forests

- Aquaculture Authority Notification 1997 and 2002
- Environment Protection Act 1986, Environment Protection (Third) Amendment Rule
- 2002
- Coastal Regulation Zone – Notification 2002

In addition to the above-mentioned institutes, there are others concentrating their efforts towards formulation and implementation of SPS standards. A few of these have been discussed below along with the activities they carry out:

Bureau of Indian Standards (BIS): "This is a premier organization for setting standards. So far it has set more than 17,000 standards, out of which 150 are mandatory, while others are voluntary. The procedure adopted by BIS is same as everywhere in the world.

A suggestion coming from a consumer or an organization is considered by a committee for its viability, before formulation of a final draft. All BIS standards are voluntary, unless specified otherwise by the government." [18].

Food and Agriculture Department (FAD): It deals with the standardization in the field of food and agriculture, including processed food, agricultural inputs, agricultural machinery and livestock husbandry. FAD undertakes the following activities:

- Review of an existing standard.
- Finalization of a standard when the procedure is completed.
- Recognizing of the area where a new standard needs to be set up, as no old standard exists.

Ministry of Food Processing Industry (MFP): As the name suggests, this ministry formulates the procedures and standards for the food processing industries. Thus rules are put together regarding the following thrust areas:

- Material to be used for the machine and equipment that touch the food.
- Quality of water used for production and for other purposes like washing and cleaning.
- Requirements of in-house laboratories.
- Assessment of the quality by food technologists.
- Standards pertaining to chemical content, physical characteristics, contaminant levels, and additive levels allowed in food.

Export Inspection Council (EIC): This is an apex agency that facilitates exports of SPS compliant commodities. It also gives advice to the government regarding measures to be taken for enforcement of quality control an inspection. EIC provides three kinds of inspection and certification:

- Consignment-wise inspection.
- In-process quality control.
- Food safety management system based certification.

Efforts of these organizations clearly don't suffice to address all issues concerning the food producing industry in India. The importance of role played by these agencies in enabling the producers to meet the health-safety standards, can't be undermined. Yet there is a need to take some measures at administrative and diplomatic level. The role of the Central Government assumes importance at this point. Such a requirement arises when some of the countries impose trade barriers under the disguise of technical barriers (SPS Measures). Under these conditions government raises the issue at WTO, Dispute Settlement Bodies or at other international tribunals [19].

SPS barriers faced by India

Some of the areas where India faced trouble in exporting its food products to other members are mentioned below:

1.1 Marine Products

SPS-related problems have always remained a major cause of concern for Indian marine exports to the EU, which has very stringent regulations in the field of marine products. In August 1997, the EC banned fisheries products exports from India. The EU stated that:

- Community inspection in India has shown there are serious deficiencies with regard to infrastructure and hygiene in fishery establishments and there is not enough guarantee of the efficiency of the controls by the competent authorities.
- There is a potentially high risk for public health with regard to the production and processing of fisheries products in this country.
- Results of checks of the community border inspection ports on fishery products imported from India have indicated that these products may be contaminated by microorganism, which may constitute a hazard to human health.
- Import of fishery products from India must therefore not be further allowed.

"Although the ban was subsequently lifted, the compliance with the stringent EU requirement involved heavy investment in infrastructure and equipment, apart from higher running costs. In recent years, exports of Indian marine products have faced several detentions/rejections in the EU, on the grounds of use of antibiotics and bacterial inhibitors. This is particularly significant because marine products exports to the EU can take place only from unit's pre-approved by EU authorities, and all export shipments require compulsory pre-shipment certification by the Export Inspection Council (EIC), which is the EU authorized agency for a number of food and agricultural products. This certificate is issued by the EIC as per the EU guidelines as prescribed from time to time." [20]. India's shrimp exports have also encountered SPS problems in Japan, notwithstanding the fact that India is one of the most important suppliers of shrimp to Japan. Mouldy smell25 is the most serious problem of Indian shrimp. Other periodic quality problems include non-freshness, inclusion of foreign materials (metal, plastics), mixture with smaller shrimp, and not enough weight.

1.2 Meat and Meat Products

India's exports of meat and meat products have faced diverse SPS problems, particularly in the EU. EU does not allow import of Indian buffalo meat due to prevalence of foot and mouth diseases (FMD) in Indian cattle. Like the Codex standards for food products, OIE guidelines are taken as international standards for trade in animal and animal products. According to article 2.1.1.22 of the OIE Terrestrial Animal Health code, fresh meat could be exported from an FMD infected country provided the veterinary requirements as stipulated in the OIE code are followed. India is of the view that the EU is adopting higher and more stringent standards than the international standards in this regard and has urged the EU to be guided by the OIE stipulations for trade in livestock products. The Scientific Standing Committee of the EC after examining the application of India for determination of BSE status, categorized India as the country of GBR level-II, i.e., BSE is unlikely but not excluded that domestic cattle are infected with BSE agent. In June 2005, India expressed concerns regarding the categorization of India in the suspected list of the GBR. According to India, the assumptions made by the EC while conducting the risk assessment needed to be reconsidered, as BSE had never been reported in Indian cattle and buffalos [21]. The EC categorization had the potential to disrupt India's beef trade not only with EC member States but also with its other trading partners. India had made these concerns known to the European Communities on several occasions [22]. India has

also made efforts to re-determine its status from GBR level II to GBR level-I (i.e. no risk of BSE) by submitting the requisite details. The Department of Animal Husbandry has provided additional details to the EC for this purpose. However, this is being delayed by the EC. The delay in re-determining the status of India is affecting India's exports. India has requested the EC to re-determine the GBR status of India at the earliest so that export of meat and meat products to the EU can resume. The EU maintains that the OIE as World Animal Health Organization should play a leading role in the categorization of countries according their BSE risk. Hence, it suggested India to apply to the OIE to be categorized in one of the three BSE risk categories. The problem still persists. Notably, India is not the only country facing problems pertaining to the EC's categorization of countries in terms of BSE status [23].

1.3 Various Food Products

Exports of many food items from India have long since been facing severe problems on the grounds of presence of aflatoxin beyond the maximum levels permitted by the EU. There is a requirement of meeting a certain MRL (minimum residue levels) value of aflatoxin in products, such as spices, peanuts, groundnuts, cereals, various other processed food, etc. The MRLs are often more stringent than the international standards set by the Codex Alimentarius Commission (CAC). Moreover, the sampling procedure for testing the presence of aflatoxin is so complex and expensive that it is technically and economically very difficult for a developing country like India to undergo. A few years back, with the aim of tackling the Aflatoxin problem in peanuts better, APEDA (Agricultural and Processed Food Products Export Development Authority) requested the UNDP (United Nations Development Programme) to organize special training for peanut farmers of Gujarat to improve their skill for management of aflatoxin [24]. Several farmers were trained under this special programme. The problems identified by the UNDP aflatoxin management during that time includes trade displacements, the permissible limits are different in different countries, lack of mutual recognition irrationality of the sampling size, lack of financial and technical resources etc.

1.4 Mango and Mango Pulp

"Most of Indian primary production takes place in small scale unorganised sector. EU demands that each mango farmer must keep records of the use of its mangoes in processing mango pulp. The reason provided by EU behind this is that in case a consignment of mangoes is found to be contaminated or harmful, the farmer can be traced. However, if the pulp processor observes strict quality checks at every point there will be no need to keep such records. In such a case than the pulp processor and exporter will be liable for standard compliance" [25].

1.5 Rice

India's exports of rice face SPS-related problems in countries, such as the EU, the USA, Japan, the Middle-East and Russia. In June 2007, Russia banned import of rice (along with sesame and groundnuts) from India on the grounds of detection of pests in rice Consignments. The problems in the EU and Japan largely relate to pesticide residues, frequent changes in standards and lack of clarity on the scientific justification of the standards. The difficulties of exporting to the Middle East arise primarily from a lack of clarity in the specification of standards and the extensive documentation required from their embassies. In the case of the US, Basmati rice is found to face more problems than other categories of rice. This sometimes gives rise to the suspicion that SPS issues are being used to protect domestic producers of high-cost rice in the USA, that are often 'passed-off' as 'Basmati' (rice), disregarding the fact that the name and reputation of 'basmati' is linked to its geographical origin in the Greater Punjab region, situated in the foothills of the Himalayas, now divided between India and Pakistan. The need to comply with stringent US standards significantly increases production costs. Moreover, there are problems relating to delays in clearing consignments, repeated tests, and bidding down of prices. As a result of all this, the incentive to export rice to the USA is very low [26].

1.6 Red Chilli Powder (Sudan Red)

Sudan Red (three grades: 1, 2, and 3) is a synthetic colorant used in the food industry several years ago. On grounds that Sudan Red is potentially carcinogenic, the EU banned its use in processed foods. "In October 2003, the EU specified the requirement of Sudan-free certificates for all spices, including red chilli powder and notified the appropriate agencies in India (the Spices Board and the Export Inspection Council) (EIC), after finding traces of Sudan Red in some export consignments of red chilli powder from India. Although spice processors in India do not use synthetic colorants in the processing plants, in line with the EU requirements, the Spices Board laboratories tested all export consignments for Sudan and issued certificates of compliance. Despite such steps, several consignments of red chilli powder continued to get rejected in the EU. Upon detailed enquiry, it emerged that advanced EU equipment could detect traces of Sudan Red at the parts per billion (ppb) level whereas the Indian equipment could detect traces at the parts per million (ppm) levels. Subsequently, the Spices Board invested Rs. 1.5 crores in modern Gas Chromatography Mass Spectrometry Mass Spectroscopy (GCMSMS) equipment, which could provide the same level of accuracy as the EU equipment" [27]. Upon testing with this equipment, several consignments in India were not allowed to be exported. However, given that the spice processors do not use colorants, it was difficult to trace the origin of the problem for several months. Eventually it was found out that chilli farmers in some belts of Andhra Pradesh added colorants to the dry chillies before sending them to the *mandis*, with the expectation of getting higher prices. These lots got mixed up with the other lots coming into the wholesale markets making it practically impossible to trace the origin of Sudan Red. The Spices Board is of the view that the harmful effects of Sudan Red can occur only at intake levels of chilli powder that are substantially higher than that even in countries like India, where chilli is a key ingredient in daily diets. Such high intake levels are unforeseeable in the European countries [28].

1.7 Milk Products

India is the world's largest producer in dairy sector. However, presently, Indian milk products are not allowed to be exported to the EU. This is the case notwithstanding the fact that the Export Inspection Council (EIC) of India is operating a food safety management system based certification (FSMSC) for export of milk products to ensure that the quality of the products exported meets the requirements of an importing country. During a recent visit of an FVO (Food and Veterinary Office) mission team from the EC to India to evaluate control of residues in live animals products, including controls on veterinary medicinal products in line with the Council Directive 96/23/EC, the residue monitoring system for milk in India was assessed. Overall the team was satisfied with the control measures in place in India from milk production level to processing level and also with the analytical facilities available in the country. Subsequently, India requested the EC to arrange for a visit of the FVO Mission team for assessment of Indian Milk products processing plants so as to allow export of milk products from India into the EU. Despite such initiatives, India is yet to succeed in exporting its milk products to the EU.

1.8 Tea

India is the world's largest producer and consumer of tea. Pesticide residue in Indian tea has been a major cause of concern for India with respect to market access in export destinations, particularly in the EU. For example, Germany complained about high residue levels of Ethicon in Darjeeling teas. Complaints were also received about high levels of bicofol in Assam, Terai and dooars teas. The justifications of some of these objections raised by the EU markets have been questioned by major tea exporting countries like India and China. For instance, in 1995, the residue limits of 0.01 mg of tetradifon and 2 mg of ethion per kg of tea, were allegedly imposed by Germany somewhat arbitrarily because of lack of data from India on its pesticide safety limits for tea. Later, the Teekanne Darjeeling Gold brand of tea was rejected because it contained 0.24 mg of tetrafidon per kg, which was 24 times the limit set by Germany. The rejection was soon followed by a report by the German Institute of Environment Analytics, Messzelle, branding it as unsafe [29]. On the other hand, there were no rejections from the UK, another European market. This gave rise to a view that the German ban was protectionist. "India raised the issue of tea in SPS committee meeting in March 2005, along with China. They pointed out that in July 2001, the EC had issued a directive on residual pesticide tolerance and inspection methods for tea in which the maximum residue limits (MRLs) stipulated by the EC for seven types of pesticides were higher than those of the Codex standards. India expressed concerns that tea was being singled out for rigid residual limits while other competing products consumed in larger quantities in EC were not affected. Recently, the EC has, through a new directive addressed to the member states of the Community, amended certain annexes to earlier Council Directives with regard to maximum permissible levels for pesticide residues in processed agri crops, cereals, fruit and vegetables, and tea among others. The measures provided for in the new directive are said to be in accordance with the opinion of the EU Standing Committee on the Food Chain and Animal Health" [30]. As per the WTO, the Community's trading partners have been consulted on the new MRLs and their comments on the pesticide levels have been taken into account while arriving at the new MRLs. The Directive required the member states of the EU to adopt and publish by 14 June 2008, at the latest, the laws, regulations and administrative provisions necessary to comply with the new directive.

The above are just some of the examples where India and other developing countries face trouble in complying with the day by day stricter standards that are being adopted by the developed countries. The Indian food basket has expanded from primary products to a whole new variety of processed and India is striving to bring its food security legislations in line with present needs. The Food Safety and Standard Act,2006, was passed consolidating all the previous Food Safety Regulation Acts, such as, the livestock Importation Act,1898, the Prevention of Food Adulteration Act,1954, the Milk and Milk Products Order,1992, the Food Products Order,1995,etc. It aims to provide a single reference point for all kinds of food safety and standards in India.

Hence with such rapid changes taking place at national and international level in the field of food products, it is also incumbent on the part of developing countries also to try to achieve higher levels of food security and on the part of developed nations to provide some reasonable time period for compliance. Developing countries should try to upgrade their technology and enhance their capacities to comply with the standard [31].

Conclusion

From the perspective of the developed countries, they may have to adopt a more sympathetic approach to the whole issue. "Simply imposing less stringent standards would not suffice. It is equally important to give equal weights to the voices being raised from the developing countries. Another issue to be addressed by the developed countries is regarding the availability of timely and complete information. This would surely lessen some unnecessary hassles for the exporting countries. Further, imposition of trade barriers under the disguise of SPS Agreement is something that should be condemned in all circumstances. This would surely impede the growth of 'fair and free' trade in world." [32]. As the developing countries, if they want to survive in the highly competitive world of international food trade then they need to update themselves. India as a developing nation does not have to update its processing systems to meet the hygiene requirements of Europe or USA, it has to think in a way that the benefit will ultimately goes to its consumers who have an equal right to consume food which is rich in nutrients and free from any contaminants. "In order to achieve the objectives of SPS agreement the developing countries, including India, have to bring in some domestic reforms. They have to focus on training their personnel in post harvest quality management practices and food processing activities. Another important reform in this direction with great significance is awareness and imparting education to citizens from school level regarding human, animal and plant health" [33]. Apart from it, transparency in the WTO system is also a urgent necessity for better harmonisation. However, the SPS agreement has

succeeded in providing a strong platform for trade in agricultural and marine products between nations and helped to some extent in harmonising the standards set by different countries but what is lacking is that while food laws are dynamic in nature the SPS has still not been modified to come in line with these dynamic food security regulations. It should be keep up with the changing needs of the countries.

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