

FOOD QUALITY AND SAFETY IN INTERNATIONAL TRADE ASPECT OF DEVELOPING COUNTRY

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Abstract

Focusing on the international trade aspect of developing countries, this paper will provide a descriptive overview of the SPS and TBT Agreements. It aims to address issues related to trade and sanitary and phytosanitary measures/regulations and discuss on whether or not the new agro-food trading environment is favourable to developing countries. The contribution of the paper is the identification of concrete steps that could be taken to move forward liberalization efforts in which developing countries have a direct stake.

After the creation of the World Trade Organization in 1995, international trade with food and agricultural products left with remarkable reduction of tariffs and quantitative restrictions. The liberalization of international agro-food trade was almost simultaneously followed by world-wide integration of food-supply chains, and thus the assurance of food quality and safety has become a major concern. Although economic necessity makes it quite natural for countries to devote attention to meeting food safety standards in their export sectors; yet international regulatory measures are needed. Such measures, designed to ensure food safety, consumer protection, and plant and animal health, are regulated by two agreements annexed to the general trade accords: the Sanitary and Phytosanitary (SPS) Agreement and the amended Technical Barriers to Trade (TBT) Agreement. In order to ensure fair trade and market access, both agreements provide special assistance to developing countries.

Key words: *International trade, food quality, food safety, SPS, TBT, developing countries.*

1. Introduction

After the conclusion of the Uruguay Round in 1994 and creation of the World Trade Organization in 1995, international trade with food and agricultural products left with remarkable reduction of tariffs

and quantitative restrictions. A key factor in this has been the liberalization of trade in agricultural and food products through the General Agreement on Tariffs and Trade (GATT), and in particular the Sanitary and Phytosanitary (SPS) Agreement and the Technical Barriers to Trade (TBT) Agreement, that were signed as annexes to the general trade agreement. As a consequence to this, over the past 50 years considerable progress was made in lowering barriers to trade, such as tariffs and quantitative restrictions. This has benefited developing country export performance. Participation in international trade is generally recognized to favor economic growth, and due to the link with the rural economy, this is especially valid for agricultural export. However, it is argued that the gains from trade liberalization are offset by increasing food standards that are mainly imposed by high-income countries which have dominate position in the world's food trading system. This point of view reflects wider recognition that technical measures can act, either explicitly or implicitly, as a barrier to trade in a similar manner to tariffs and quantitative restrictions (Henson [1]). Namely, since the "traditional" restrictions on trade in agricultural and food products were liberalized, attention has been focused on technical measures such as food safety regulations, labeling requirements, and quality and compositional standards. These standards are argued to act as new barriers to developing country exports. Moreover, others argue that high standards concentrate the benefits of trade with processing and retailing companies and large farms, thereby casting doubt on the development impact of increased agricultural exports from developing countries (Greenhalgh [2]). As a consequence, standards would lead to an unequal distribution of the gains from trade and result in the marginalization of poorer farmers and small agri-food businesses.

Recent analysis by the FAO shows that food availability in developing countries will need to

increase almost 60% by 2030 and to double by 2050, equivalent to a 42% and 70% growth in global food production, respectively (OECD-FAO [3]). Accordingly, international trade will likely have to grow significantly in order to distribute the additional production to the places where the demand is increasing. This situation without any doubt creates a need for establishment of a multilateral framework of rules and disciplines that will ensure efficient trade with food and agricultural products, equity and fair access to markets and thus stress even more the role of the SPS and TBT Agreements.

This paper describes the nature of SPS and TBT Agreements and explores impact that food safety and agricultural health standards are having on the performance of developing countries with respect to agricultural and food products exports. It concludes with discussion of possible actions that will enhance effectiveness of the agreements and will foster fair trading environment for developing countries.

2. The Role of WTO: The SPS and TBT Agreements

Before establishment of the WTO in 1995, existing multilateral trade agreements were unable to control neither the use and impact of standards and technical measures on trade, nor the numerous trade related international disputes. After a long and difficult process of negotiations, the WTO has provided a basic mechanism that can ensure transparency in implementation of the technical regulations and/or standards in the context of international trade with agricultural and food products. With coming into force of the SPS and TBT Agreement, WTO has established rules by which Member states can apply standards and technical measures in a manner that is not discriminative and is less trade-distorsive. Both Agreements cover the full range of standards relevant to human, animal and plant health and wellbeing, as well as to labeling, consumer protection, biotechnology, food irradiation and the production of "organic" food. The core acquisition of this mechanism is that in case of promulgation of product standards and/or technical regulations that are not internationally accepted, Member states are required to notify these measures before their implementation under SPS and TBT Agreements.

Being that main objectives of SPS Agreement are to protect and improve human and animal health and phytosanitary situation, and to protect Member countries from discrimination due to different sanitary and phytosanitary standards, the Agreement enables Member states to undertake appropriate measures for protection of human, animal and plant life and health, as long as they can be scientifically justified

and proved not to be trade-distorsive. In a same time, member states are requested to recognize that measures proposed by other countries, even when different, can provide equivalent level of protection. Principle elements of SPS Agreement (GATT [4]), can be summarized as follow:

Basic rights and obligations: Members have the right to apply sanitary and phytosanitary measures based on scientific principles and clear scientific evidence and they must not be applied in a manner which would constitute a disguised restriction on international trade (except as provided for in paragraph 7 of Article 5. of SPS Agreement).

Harmonization: In order to ensure as wide a base as possible, sanitary or phytosanitary measures should be based on international standards, guidelines or recommendations, where they exist. For greater success of the harmonization process, Member countries are invited to participate in the work of international standard-setting bodies concerned with food safety issues, as well as animal and plant health issues (Codex Alimentarius Commission, International Office of Epizootics, and International Plant Protection Convention).

Equivalence: In bilateral trading relations, when control mechanisms differ, countries must accept each others sanitary and phytosanitary measures. The importing country, upon request, has rights to inspect, test and/or run all needed analysis to importing products, which in practice, to a certain extent limits the right of equal treatment.

Assessment of risk and determination of appropriate level of sanitary and phytosanitary protection: When introducing control mechanism more stringent than international standards, Member countries must apply appropriate risk assessment and provide scientific evidence to justify the need to protect human, animal and plant life and health. In order to avoid unjustifiable distinctions in the level of protection and avoid trade distortions, a consistency in the application of SPS measures is required.

Adaptation to regional conditions, including pest or disease-free areas and areas of low pest or disease prevalence: In trading relations, this means that SPS risks not necessarily correspond to national boundaries and there might be areas that have lower risk than others, determined by factors such as geography or ecosystems.

Transparency: Member countries are required to notify the SPS Secretariat and ensure prompt publication of all intended sanitary and phytosanitary measures and changes, as well as of the risk assessment methods. Being that main idea is to enable interested exporters to become acquainted and

adapt their products and methods of production to the requirements, a reasonable interval between the publication of the SPS measures and their enforcement is given (45-60 days before putting the regulation into force), except in urgent cases.

Technical assistance: Member countries agree to give special assistance (technical and financial support) to developing countries in order to secure adjustment and achievement of appropriate level of sanitary or phytosanitary protection in their export markets.

Special and differential treatment: In order to maintain opportunities for export, developing countries are given special and differential treatment (phased introduction of new sanitary or phytosanitary measures and longer time frames to comply with the SPS requirements).

Consultation and dispute settlement: There are detailed and structured procedures for the settlement of trade disputes and in a same time, an SPS Committee meets three times per year and provides a forum through which issues related to SPS measures applied by WTO Member states can be raised and discussed.

The **Technical Barriers to Trade (TBT) Agreement** covers all products, including industrial and agricultural, and practically guarantees that regulations, standards, testing and certification procedures do not create unnecessary obstacles in international trade. Regarding agricultural products, TBT Agreement includes the product characteristics, their related processes and production methods, nutritional content, labeling and other aspects not covered by the SPS Agreement. According to TBT Agreement, Member states shall ensure that their central government standardizing bodies accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards. Thus, unlike the SPS Agreement, TBT Agreement sets out a code of good practice for both governments and non-governmental or industry bodies to prepare, adopt and apply voluntary standards, without an explicit goal of harmonization, meaning it makes a clear distinction between mandatory technical regulations and standards that are voluntary.

2.1 Impact of SPS and TBT Agreement on Developing Countries Export

No doubt that the SPS and TBT Agreements introduced measures with transparent mechanism for their implementation, set-up clear dispute settlement procedures (Josling *et.al.* [5]) and indeed provided a solid base for international harmonization of national food safety and food quality measures and regulations. It is also true that all along, particular situations and

problems of developing countries and their needs for technical and financial assistance have been taken into consideration. However, in the same time, food safety and food quality standards have been significantly strengthened and increased, which has become a source of great concern among many developing countries. From their point of view, SPS and TBT measures and regulations are perceived as a barrier to the continued success of their exports, especially regarding the export of high-value agro-food products. In reality, many developing countries are still lacking technical, administrative and scientific capacities needed for compliance with emerging requirements, or they fear that standards can be applied in a discriminatory or protectionist manner (Lacovone [6]). In fact, standards and regulations in general, and especially sanitary and phytosanitary measures, involve a mix of protection and protectionist objectives which is very complex to disentangle (Roberts [7]). Thus, from developing countries perspective, SPS and TBT Agreement are hindering, rather than encouraging their access to export markets for some agro-food products and in practice, they are perceived as equivalent to a tariff barriers. Although the evidence for this perception are mostly of empirical nature and based on case studies, it is clear that in the context of international trade, food safety and agricultural health standards can significantly affect the performance of developing countries with respect to agricultural and food product exports.

Major impacts upon international trade with agro-food products are result to the absence of consensus about the importance of individual measures, followed by absence of reliable studies of their secondary effects (Henson and Blandon [8]). Thus the predictions of trade-distorting effects are mostly assumptions, which than differ from country to country and among different industries. Additionally, it is next to impossible to provide counterarguments that will prove what would have happened in the absence of the measure and how the actual trading of agro-food products would have been.

Most commonly used instruments that cause impact of food quality and safety standards on agro-food export from developing countries are full or partial import bans and request for certain technical specifications (for example product and process standards). Their actual effects on trade will derive from the relative abilities of different suppliers to comply with the SPS and TBT measures and requirements, the varied incidence of compliance costs and how each affects the relative competitiveness of different exporters (Buzby [9]).

Increased number of official notifications to SPS/TBT Committees in WTO for use of relevant measures suggests that in international trade context, animal health is

greatest concern (Figure 1.) As indicated in the latest data (OECD, WTO, UNCTAD [10]), during the period 1 November, 2009-15 May, 2010, 635 regular notifications and 50 emergency notifications were submitted by Members. This compares with 312 regular notifications and 132 emergency notifications for the same period in 2008-09. The higher number of notifications signals either an increase in regulatory activity or an improved implementation of the SPS Agreement. The data shows a significant increase in the proportion of notified SPS measures from developing country Members: around 79 per cent of the notifications submitted from 1 November 2009 through 15 May 2010 came from developing countries (the corresponding figure for the same period in 2008-2009 was around to 67 per cent). This data confirms that for many agro-food products, especially those with higher phase of finalization, question of international competitiveness have been shifted from price and basic quality parameters to greater emphasis on food safety and agricultural health concerns.

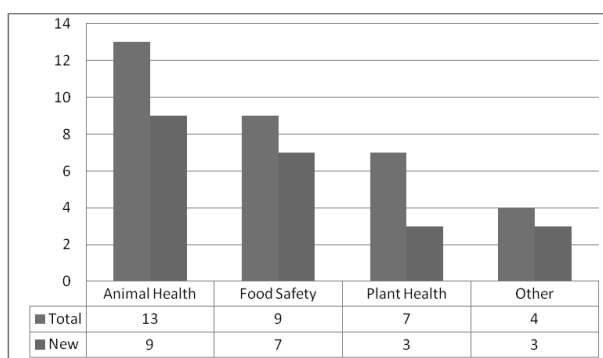


Figure 1. Trade concerns by subject-2010 (Source: WTO-Committee on Sanitary and Phytosanitary Measures, document G/SPS/GEN/204/Rev.11)

Although SPS Agreement calls for technical and financial help to developing countries, as food safety and agricultural health standards proliferate, capacity requirements are increasing over time, so provided external assistance is insufficient to meet remaining and new, even more stringent requirements (World Bank [11]). Namely, new food safety standards in developed countries are defining the expectations of consumers and many developing countries simply don't have necessary legal and industry structures, or available technical, scientific, administrative and financial resources to comply with emerging requirements. Together with the level of tolerance which is usually quite lower in developed countries, this reinforces the dubiety for discrimination against imports in the application of food safety and agricultural health controls and raise the question if suppliers from developing countries must comply with higher requirements than those from developed countries.

2.2 Concrete Steps to Improve Developing Country Export Performance

In order to overcome above mentioned difficulties, both on international and national level, concrete actions need to be taken to further promote the participation of developing countries in international agro-food exchange. Those actions should include:

- Raise the level of awareness in developing countries on the role and impact of SPS and TBT measures/regulations on international trade. This will change the perspective from "standards as a barriers" to "standards as a catalyst" and contribute to modernization of agro-food export from developing countries.
- Prolong the period for compliance for developing countries. Longer period will enable developing countries to achieve new standards and manage the needed costs of compliance
- Expand harmonization of SPS requirements and develop international food safety, animal and plant health standards for the largest number of food and agricultural products traded in world markets. This will facilitate international trade and will minimize technical barriers.
- Increase technical assistance. This will provide developing countries with the information, training and resources needed to comply with new standards and regulations.
- Enable developing countries to be more involved in standard setting so they can participate more fully in world trade. This will increase awareness of developed countries about ability of developing countries to comply with SPS/TBT measures and the impact they might have on their export performance.
- Provide legal assistance in dispute settlement over agricultural standards. This will help developing countries to overcome special difficulties and higher costs in demonstrating compliance with import regulations.

3. Conclusions

- Whether regulated or not with multilateral trade agreements, food quality and safety standards and regulations are affecting trade patterns and have significant impact on exporters ability to enter new international markets. Many developing countries face various problems associated with meeting SPS/TBT compliance. This not only applies to their agro-food sector but also to a number of other export sectors.

- According to latest WTO-FAO predictions, developing countries will provide the main source of growth for world agricultural production, consumption and trade. From this perspective, greater understanding of the impact of SPS/TBT requirements on developing countries is of immanent importance. Thus, addressing problems they face, and support their efforts to change institutional structures relating to SPS and TBT standard setting, are a definite need.
 - In much of the on-going debate about increased levels of food quality and safety standards through globalization, there is a growing concern on whether or not the benefits would be equally shared by all. Fair trade and access to markets are still the crucial unsolved issues. Regarding agro-food export sectors of developing countries, no doubt that improved transparency of SPS/TBT agreements; greater harmonisation of SPS/TBT standards; improved mechanisms for the provision of greater legal and technical assistance, including legal assistance to participate in dispute settlement; and longer periods in which to achieve compliance would certainly be more than welcome and beneficial.
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