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THE SPS AND TBT AGREEMENTS – IMPLICATIONS FOR INDIAN POLICY

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JUNE 2005

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Foreword

Regulations or standards on goods can impact trade in two ways. They can advance domestic social goals like public health by establishing minimum standards or prescribing safety requirements; but they can also act as hidden protectionist policies. The WTO Agreements on the Application of Sanitary (for protection of human and animal health) and Phytosanitary (for protection of plant health) Measures (SPS) and the Agreement on Technical Barriers to Trade (TBT) try to strike a balance between these competing uses of standards in international trade.

The SPS and TBT agreements acknowledge that governments have the right to take necessary measures for the protection of human, animal and plant health and allow some freedom for setting national standards to the extent required to protect them. But they do not permit Member Governments to discriminate by applying different requirements to different countries where the same or similar conditions prevail, unless there is sufficient scientific justification for doing so. These agreements also encourage countries to adopt international standards as a move towards global harmonization of product standards.

There is growing discontent among WTO members, particularly among developing countries, that developing and least-developed countries so far have played a very minor role in setting international standards and taking advantage of that, stringent standards have been set which sometimes are beyond the technical competence of developing countries. A number of developing countries, including India, have suggested that developed countries are using the SPS and TBT measures for protectionist purposes by prescribing overly stringent trade restrictive standards.

The author argues that standards are public goods and a greater premium is placed on public goods like standards at a higher level of development. At present level of development, many developing countries, including India, are not ready to accept the costs of externally imposed standards. He is of the opinion that the cause of standards will be better served by removing market access barriers and thus boosting income growth in developing countries. Ensuring standards through trade policy, in his opinion, is a second best option. However, the author also thinks that like SPS/TBT standards can act as an external stimulus to improve domestic standards in India.

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Arvind Virmani
Director & Chief Executive
ICRIER

June 2005

1 Introduction

The WTO has a disseminating document titled Understanding the WTO (WTO (2004a)). The section on standards and safety in this document states, "Article 20 of the General Agreement on Tariffs and Trade (GATT) allows governments to act on trade in order to protect human, animal or plant life or health, provided they do not discriminate or use this as disguised protectionism. In addition, there are two specific WTO agreements dealing with food safety and animal and plant health and safety, and with product standards." The reference is to the 1947 GATT agreement, now subsumed in the WTO package. More specifically, Article XX is a general exceptions clause and states, "Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures…" XX(b) mentions measures "necessary to protect human, animal or plant life or health", the purview of SPS and TBT. XX(g) mentions "relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption" and this is linked to the environment.

One should remember that GATT functions on the basis of the most favoured nation (MFN) clause or non-discrimination (enshrined in Article I) and national treatment (enshrined in Article III). These principles should also have applied to standards. However, the insertion of Article XX(b) as a general exceptions clause meant that these principles could be violated for standards designed to protect human, animal or plant life or health. For instance, higher standards could be imposed on imported products than on domestic ones. But this point should not be driven too hard. The chapeau (introductory clause) of Article XX (quoted above) requires that GATT-inconsistent measures should not amount to disguised restrictions on trade and that they do not result in arbitrary or unjustifiable discrimination. These principles have been followed in GATT and WTO jurisprudence and have thus restricted

GATT-inconsistency. Not only must environmental measures be under the purview of Article XX(b) or XX(g), they must also satisfy what is called the necessity test[1].

When criticizing the SPS or TBT agreements, a general point should be remembered. Protectionist pressures exist in every country. The obvious form protectionism takes is through tariffs. If tariffs on industrial products are disciplined through multilateral commitments, as they have been in various GATT rounds since 1947, and tariffs on agricultural products are also subject to disciplines, as they have been since the Uruguay Round (1986-94), protectionism will surface through other means. With price-based measures or tariffs disciplined, policy substitution will lead to increased use of non-price based measures or non-tariff barriers (NTBs)[2]. These may be anti-dumping or anti-subsidy investigations, safeguards and even standards. With industrial tariffs dropping, that's precisely the reason the Tokyo Round (1973-79) shifted emphasis to NTBs. An obvious point needs to be made. In confronting such NTBs, is it better to have multilateral agreements or is it better to function in the absence of such agreements? NTBs will still be used, but they will not be subject to multilateral disciplines. Unilateral recourse to such measures can at best be sorted out through bilateral negotiations. From the perspective of developing countries like India, transaction costs in negotiating bilateral deals are high, apart from lack of adequate countervailing power. Hence, the preference ought to be for multilateral agreements.

Tokyo Round agreements on assorted NTBs weren't multilateral. They belonged to the GATT-plus or plurilateral system, that is, they were open for signature to countries that wished to do so and were not binding on non-signatories, even if non-signatories were members of GATT. The 1979 Agreement on Technical Barriers to Trade (TBT), also known as the Standards Code, belongs to this category and entered into force in January 1980. India was a signatory to this 1979 version of

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[1] The necessity test has itself evolved over time, from what may be called a least-trade restrictive approach to a less-trade restrictive one. There is also a proportionality test, about whether a series of factors have been properly weighed and balanced. Criteria have also evolved to check disguised restrictions on international trade.

[2] In this paper we do not draw a distinction between non-tariff barriers (NTBs) and non-tariff measures (NTMs).

the TBT. This is the right place to mention sanitary (for protecting human and animal health) and phytosanitary (for protecting plant health) measures, collectively referred to as sanitary and phytosanitary (SPS) measures. The 1979 TBT code didn't cover SPS issues, although technical requirements from SPS and inspection and labeling requirements were covered. Some of the principles of the present SPS and TBT agreements can be tracked back to this 1979 code - first, the principle of harmonization and adherence to international standards, where possible; second, the transparency provision of notifying, through GATT, standards that deviated from international standards; and third, some kind of dispute resolution mechanism.

There were too reasons for dissatisfaction with the 1979 TBT code. First, it was a plurilateral agreement and wasn't therefore binding on all GATT members.[3] Second, it didn't cover SPS measures and these became important when agricultural liberalization was brought into the GATT fold during the Uruguay Round (1986-94). The Punta del Este Ministerial Declaration, which launched the Uruguay Round in 1986, had an explicit objective of "minimizing the adverse effects that sanitary and phytosanitary regulations and barriers can have on trade in agriculture, taking into account the relevant international agreements". In the course of the actual negotiations, other than harmonization, transparency and dispute resolution, there was also the issue of scientific criteria used to evolve standards, for both SPS and TBT. And the question of special treatment to developing countries. Finally, as part of the Uruguay Round package, the SPS and TBT agreements entered into force on 1st January 1995, as multilateral agreements. As with every other agreement in the Uruguay Round package, the present SPS and TBT agreements represent a compromise across diverse interests. Ipso facto, every WTO member has reason for dissatisfaction, and that is a trait common to any compromise document.

2 The SPS and TBT Agreements

The first step is to understand what is a SPS measure and what is a TB (technical barrier). Annex 1 of the TBT agreement tells us that TBs can be technical regulations, standards or conformity assessment procedures. A technical regulation is

[3] However, some plurilateral agreements continue even now.

a "document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method". A standard is a "document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method". Although international usage sometimes differs, a technical regulation is therefore mandatory, while a standard is voluntary. Finally, a conformity assessment procedure is "any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled".

The point to note is that agricultural products can also be subject to the TBT agreement. So can some elements of human, animal or plant health, such as labeling or packaging. However, SPS measures defined in Annex A of the SPS agreement are outside the purview of TBT. This definition lists, "Any measure applied: (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms; (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs; (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests." Hence, there is a difference in focus across the SPS and TBT agreements. The intention behind the measure is the determinant of a SPS measure, whereas the type of measure is the determinant of a TB measure. Also, general measures for protecting the environment, consumer interests or animal welfare are outside the purview of the SPS agreement, except to the extent that they are covered in the quote above. Indeed, part

of the problem with environmental issues and consequent unilateral measures is that there is no WTO agreement on environmental measures, apart from Article XX of GATT mentioned above. This is not very different from SPS issues before 1995 or TBT issues before 1979.[4]

The TBT agreement is simpler. It has 15 Articles and 3 Annexes, apart from a Preamble. The more important Articles are now highlighted. Article 1 has general provisions and through Annex 1, defines technical regulations, standards and conformity assessment procedures. What is noteworthy is that unlike the 1979 Code, technical regulations now include process and production methods (PPMs), in addition to products, provided these methods affect characteristics of the product, that is, provided they are incorporated or product-related PPMs. Article 2.1 states the MFN and national treatment principles and this should be borne in mind when reacting to Article 2.3 of the SPS agreement, which permits such deviations. Article 2.2 accepts environmental protection as a legitimate objective for imposition of technical regulations. Article 2.4 requires adherence to international standards, but also permits deviations. "Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems." Article 2.7 states that equivalent technical regulations of other countries must be accepted, even if those are different. The problem with implementing this, is in deciding what is a "like product". And when adopted technical regulations differ from international standards, Article 2.9 has a system of notification. Through Annex 3, Article 4 requires government standardizing bodies to comply with a Code of Good Practice. Article 11 provides for technical assistance to developing countries, while Article 12 provides for special and differential treatment for developing countries. There is indeed some ambiguity in the present TBT agreement, for instance in areas of non-product-related or unincorporated PPMs or

[4] The Doha Ministerial Declaration and the Doha Development Agenda (DDA) are restricted to compatibility between existing WTO rules and multilateral environmental agreements.

non-mandatory standards, as opposed to mandatory technical regulations. It is unreasonable to expect that a legal agreement will never have ambiguity or shades of grey. Had that been the case, there would have been no disputes and no case law. However, there haven't been too many dispute resolution cases under the TBT agreement. There are just four.[5]

Other than the Preamble, the SPS agreement has 14 Articles and 3 Annexes. It is necessary to highlight and quote some of the more important Articles. Article 2.2 states, "Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5." And in Article 2.3 we have, "Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade." This thus is a sanctioned deviation from the MFN and national treatment principles. However, the quote also makes it clear that this cannot be uncontrolled deviation from MFN and national treatment. Article 3 requires harmonization and Article 3.2 mentions adherence to international standards. However, there is also a sanctioned deviation from international standards in Article 3.3, provided there is scientific justification. "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, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5. Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protection different from that which would be achieved by measures

[5] None of these involve India. These cases are US (gasoline), Argentina (textiles and apparel), EC (hormones) and EC (asbestos). In all four, various clauses of Article 2 of the TBT agreement was invoked.

based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement." In cases of deviation from international standards, there is a notification system. Article 4 requires acceptance of equivalent standards used in other countries, subject to the TBT kind of problem about identifying an identical or like product. Article 5 requires risk assessment and choice of an appropriate level of SPS measures. Article 5.7 deserves to be flagged, because it incorporates the precautionary principle. "In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time." Article 9 has technical assistance for developing countries, while Article 10 has provisions on special and differential treatment.

Like the TBT agreement, there have been four cases involving the SPS agreement and none of these involve India.[6] The case law under the SPS agreement is however more important than the case law under the TBT agreement. For instance, there is the precautionary principle and the WTO is yet to take a position on the precautionary principle[7]. There are also grey areas in risk assessment, as distinct from risk management. Rather interestingly, most panels seem to have ruled in favour of the complainant. 4140 SPS notifications have been submitted since 1995, 137 WTO member countries have established and identified enquiry points to respond to requests and 111 have identified national notification authorities.[8]

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[6] These four cases are Australia (salmon), EC (hormones), Japan (fire blight) and Japan (varietals) and invoke Articles 2, 3, 5, 7 and 8 of the SPS agreement. These are instances where panel and appellate body reports have been issued. In addition, dispute settlement panels have been set up for EC (biotech products), Australia (fresh fruits and vegetables) and Australia (quarantine regime). See, WTO (2004b), *Annual Report*. However, when the EC imposed import duties on rice, India asked for consultations and this also involved the SPS and TBT agreements.

[7] One can argue that the ruling in the Japan (varietals) case is not quite the same as in the EC (hormones) case.

[8] WTO (2004b).

3 The official Indian point of view

Commerce Ministry brings out a monthly[9] publication known as *India and the WTO*. This enables us to form an opinion about India's negotiating position on the SPS and TBT agreements. In bulleted form, the points are the following.

(1) Developing countries like India have a marginal role in international standard setting bodies.

(2) "The criteria adopted for determining an international standard is rather general and broad-based. All standards, guidelines and recommendations developed by an international standardizing body or system are required to be treated as an international standard and a standardizing body has been simply defined to be international if its membership is open to "at least all Members of WTO". It is therefore clear that in the absence of a precise definition of an international standard, a standard adopted by the standardizing bodies is deemed to be an "international standard", even if only a limited number of countries may have participated in the technical work on developing the standard, and even if it may have been adopted, not by consensus, but by a slender majority vote."[10]

(3) There is no uniformity in standard formulation processes followed by different international bodies, or even in decision-making systems used to arrive at standards. Standardization has been subject to politicization.

(4) Regional standards should be considered in setting international standards.

(5) Article 2, in Annex B of the SPS agreement states, "Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member." The time-frame is not specified and different

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[9] There are of course months when the publication has not appeared. In other instances, issues have been combined.

[10] *Paper submitted by India in the WTO Committee on Sanitary and Phytosanitary (SPS) Measures*, quoted in *India and the WTO*, July 1999.

developed countries use different time-frames. Not enough time is given for reacting to notifications and often notifications lack specific information, such as on standards or risk assessment methodologies. Article 10.1 of the SPS agreement can be made mandatory.

(6) Article 12 of the TBT agreement and Article 10 of the SPS agreement are not implemented properly.[11] For instance, developing country exporters are not granted enough time to adjust to new standards. Article 10.2 of the SPS agreement can be made mandatory.

(7) Standards are beyond the technical competence of developing countries and there is no technology transfer at "fair and reasonable cost".

(8) Developed country importers should accept self-declaration by developing country exporters.

(9) There should be mutual recognition agreements between national standard setting bodies and equivalence of standards needs to be established. Mutual recognition agreements should have a rules of origin clause.

(10) Standards lead to market access barriers.

4 The market access issue

In principle, standards can be interpreted as public goods. They lead to costs, both direct and variable. And they also lead to benefits, mandated standards being required because there are market failures. As such, the welfare implications of standards are impossible to establish a priori. There is some empirical literature on trade effects of TBs and SPS measures.[12] However, some of this trade literature is on what better domestic standards do to a country's own trade flows and sometimes, this effect is positive, such as for exports from the home country. A separate issue is whether standards imposed by a home country constrain its imports and thus act as NTBs on exports from other countries. An oft-cited example is the EU regulation that dairy products come from milk from cows on farms and from cows that are milked mechanically. Not only does this restrict imports from small producers in developing countries, this regulation was used to stop imports of Mauritanian camel cheese.

[11] Both are on special and differential treatment for developing countries.

[12] See the review in Wilson (2002).

Maskus and Wilson (2001) found that standards[13] resulted in equivalent tariffs far higher than announced tariff rates.

Based on case studies undertaken by various authors[14], the following is an illustrative, but not exhaustive, list of items where standards are perceived to have acted as NTBs on India's exports. Because of domestic supply-side problems, India's exports of agricultural products are lower than what they should be. Had that not been the case, the number of SPS instances might have been higher still.

Alfatoxin in peanuts – In 1999, the EC imposed new tolerance limits for alfatoxin contamination in peanuts that were higher than those specified by Codex Alimentarius. And a new testing procedure was announced.

There is an EU requirement that records must be kept for each delivery of mangoes by farmers to pulp processors. Not only does this increase transaction costs, it gets into broader issues of product standards versus process standards[15].

(1) A similar issue arises for EU standards for milk and milk products, already mentioned. In addition to standards, norms are stipulated for animal care and types of feed, the minimum daily yields of cows and buffaloes are also stipulated. And these are higher than those laid down by the International Animal Health Code (IAHC) of the Office International des Epizootic (OIE).
(2) Tea exports to Germany have confronted complaints about pesticide residues and these complaints seem to be somewhat arbitrary.
(3) In 1997, the EC banned fishery imports from India on grounds o deficient infrastructure and lack of hygiene, high risks for public health and

[13] This study was restricted to TBs.

[14] Wilson (2002) and Khan and Saqib (2005) are two examples.

[15] A hazard analysis and critical control point (HACCP) system is an example.

contamination by micro-organisms. The EC standards are higher than HACCP ones[16].

(4) Egg-product exports to Japan confronted the problem of excessive BHC beta isomer levels, as reported by a testing laboratory in Japan, although laboratories in Bangalore and Belgium found that BHC levels were below the detectable limit.

(5) Egg powder exports to Europe have confronted a March 2003 EC directive on Maximum Required Performance Limit (MRPL), due to detection of nitrofuran metabolites.

(6) In both Brazil and Mexico, tire imports require certification in accordance with national standards. The certification process is costly and thus excludes small exporters.[17]

(7) For steel exports, Australia and New Zealand require treated wood or wood substitutes and fumigation of containers[18].

(8) Packaging and marking requirements, including language stipulations, lead to increased costs in European markets, across a variety of products.

(9) The US Bio-Terrorism Preparedness and Response Act, 2002, requires registration with the Food and Drug Administration (FDA), maintenance of unnecessary records and prior notice of exports to the United States, the latter including a container security initiative.

One should not jump to the conclusion that India is always at the receiving end when standards act as NTBs. Indeed, with tariffs dropping and quantitative restrictions (QRs) on imports eased, India has often used quality and testing requirements on imported products. Examples are labeling requirements on jute bags, registration procedures for pharmaceuticals, chemical tests for leather products, quarantine requirements for jute, certification and testing for cement and batteries and assorted SPS measures for agro and processed food products. These are often

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[16] The ban followed an original deadline of 31st December 1996 for adherence to EU's hygiene standards. Perhaps one should also mention the Kenyan and Tanzanian examples of complying with EU's food safety requirements.

[17] The Brazilian certificate is valid for one year and costs 20,000 US dollars. The Mexican certificate costs between 40,000 and 50,000 US dollars for each type of tire.

[18] Fumigation costs 400 US dollars per container.

directed, not at imports from developed countries, but at imports from developing countries, China, Bangladesh and Sri Lanka being examples. And some of India's FTAs (free trade agreements) do explicitly mention such standards-related NTBs.

5 The policy response

The policy response has two angles, an external one and an internal one. On the external response, one goes back to the issue of standards having costs, as well as benefits. Arguably, the trade-off between the two is a function of the level of development. At higher levels of development, measured by indicators like per capita income, there is a greater premium placed on public goods like standards. Given that higher global standards are global public goods, the cause of providing these global public goods may be better served by removing market access barriers in developed countries and thus boosting income growth in developing countries like India. Ensuring standards through trade policy may well be a second-best option. Stated differently, externally imposed standards, whether sanctioned by multilateral agreements like SPS or TBT or not, imposes trade-offs that developing countries are not ready for. The costs are perceived to be too high and the benefits too low. In terms of negotiating, one thus negotiates along the lines indicated in Section 3, by emphasizing transparency, lack of discretion and arbitrariness in determination and administration of standards and special and differential treatment in favour of developing countries. As an issue, revamping the dispute resolution mechanism is no less important, since developing countries often face large legal costs.

However, the internal policy response is no less important and there are several layers to this. First, India has too many small exporters. This is partly a historical legacy of policy regimes where export incentives were linked to physically exporting and partly a continuation of small-scale sector reservations. In general, most of the 300,000 exporters find it difficult to bear marketing costs and specifically, find it difficult to bear compliance costs associated with standards.[19] Second,

[19] There is no need to presume that the small-scale sector will wither away in the face of competition. In production, where there are often diseconomies of scale, the small-scale sector will continue to exist. All that is being said is that there are economies of scale in marketing. Nor is one suggesting that there should be a quota on the number of exporters. Market-forces and competition will automatically lead to a shake-out.

compliance costs have fixed and variable cost elements. In passing, one should mention the issue of government subsidization of these costs. Because of fiscal constraints at both Central and State government levels, fiscal support is impossible. At best, one can expect some government-funded infrastructure and information dissemination. If fixed costs have to be recovered from export markets alone, even if the costs are affordable, Indian exports are liable to be rendered price uncompetitive. One should not forget that most Indian exports are in low-value segments with little product differentiation and non-price-based competition and are therefore price elastic. It is thus desirable that fixed costs are also spread over domestic markets and this leads to the third point. Segmentation of domestic and export markets is no longer possible. One cannot cater to higher standards for export markets and lower standards for domestic markets. Yet, domestic standards are often non-existent and this is more of a problem for SPS than for TBT. Marine products are an example. There are no domestic standards for fish products[20]. Fourth, extrapolating the legal argument, it is not only the case that standards are non-existent, sometimes, there is a multiplicity of standards under different statutes and orders. Hence, there is a need for rationalization, harmonization and unification and announcing standards where they are missing today. Fifth, statutory announcement of standards is meaningless unless these are enforced. This gets into broader issues of governance and the present Indian pathology of over-legislation and under-governance. Perhaps one should also mention the product liability legislation in this context, there being a case for tightening it up and making it more stringent. Sixth, there are problems with testing and certification, there being capacity-constraints in both. Many consumer organizations now have research wings that routinely undertake product testing.[21] This illustrates that there is scope for outsourcing both testing and certification to the private sector, subject to certain regulatory norms. As a byproduct, this also ought to reduce avenues for corruption and rent-seeking. Seventh, particularly in the context of SPS measures, there is a broader issue of agricultural reforms and changing the nature of the domestic food processing sector. Refrigeration, cold storage facilities, transportation and post-harvest infrastructure are non-existent. Standards are easier to

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[20] Some standards are issued through orders under the Essential Commodities Act of 1955 and fish products are conspicuous by their absence.

[21] Consumer Education and Research Centre and Voice are two examples.

enforce when there is a transition, consequent to income growth, from consuming fruits and vegetables in processed rather than in fresh form. NSS (National Sample Survey) data from 1993-94 to 1999-2000 show that this has already begun to happen in India. However, this transition needs to be facilitated through relaxation of entry barriers against private sector entry into food processing.[22] And finally, through BIS (Bureau of Indian Standards), there is a need for information dissemination to producers about standards, both of the SPS and TBT varieties.

Most reactions to SPS and TB standards imposed by developed countries tend to be negative, the argument being that at present levels of development, India isn't ready for such standards. However, an analogy probably exists in the way Indian attitudes have changed towards the TRIPs (trade-related intellectual property rights) and services agreement of the Uruguay Round. In both instances, particularly in the former, there were serious internal systemic problems and one could have argued that India wasn't ready for these agreements either, as was indeed argued when the Uruguay Round's agenda was set. But thanks to the external trigger, the changes have begun to happen. This moral ought to extend to the SPS and TBT agreements also. In the last resort, reaction to any multilateral agreement is a function of the speed of domestic reforms. Arguably, for manufactured products, domestic standards today are better than they were in 1991, when the present cycle of reforms started. Thus, TBs are relatively less of a problem. Once the agro-sector reforms take hold, that ought to also happen for SPS measures.

[22] This is not the place to list out the long agenda of reforms in the food processing sector.

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