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Original scientific paper

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INTERNATIONAL TRADE WITH FOOD AND AGRICULTURAL PRODUCTS: ASPECT OF NONTARIFF BARRIERS

Abstract

Focusing on international trade with food and agricultural products, this paper aims at addressing issues related to sanitary and phytosanitary measures and regulations and discusses whether or not they are acting as nontariff barrier, especially for developing countries. Such measures, designed to ensure food safety, consumer protection, and plant and animal health, are regulated by two agreements annexed to the general trade agreement: 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. Following the introduction, this paper will provide an overview of the SPS and TBT agreements and will address the issue on whether or not the new trading environment with agricultural and food products has been favourable to developing countries. In this sense, the paper tends to identify the problems that limit participation of developing countries in the SPS and TBT Agreement and their concerns about the way in which it currently operates. It concludes with discussion of possible actions that will enhance effectiveness of the agreements and will foster fair trading environment for developing countries.

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

JEL classification: Q1, Q17, Q19

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Introduction

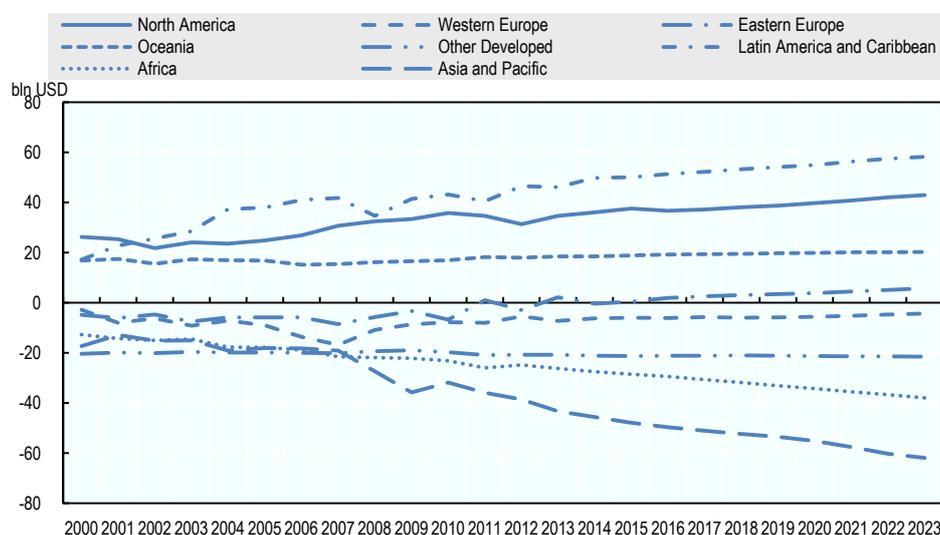
After the conclusion of the Uruguay Round in 1994 and creation of the World Trade Organization in 1995, international trade with food and agricultural products was left with remarkable reduction of tariffs and quantitative restrictions. A key factor in this was the liberalization of trade with agricultural 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 has been made in lowering barriers to trade, such as tariffs and quantitative restrictions. This was a benefit for developing countries' 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, which are mainly imposed by high-income countries which have dominating position in the world's food trading system. This point of view reflects wider recognition that technical measures can employ, either explicitly or implicitly, as a barrier to trade in a similar manner to tariffs and quantitative restrictions.² Since the "traditional" restrictions on trade with 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 on 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.³ 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.

² Spencer Henson: *How do Exporters in Developing Countries Choose Where to Source, and Who Benefits?*; Institute of Development Studies (IDS), University of Sussex, January 29, 2009.

³ Peter Greenhalgh: *Trade Issues Background Paper: Sanitary and Phyto-Sanitary (SPS) Measures and Technical Barriers to Trade (TBT)*; FAO, July, 2004.

Recent analysis by the FAO shows that rising income levels and a growing global population that is increasingly urbanising, especially in populous developing countries, together with increasing non-food use of agricultural products, will require a substantial expansion of production and distribution through the coming decade. 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.⁴ This projection goes in favor of a conclusion that developing world remains the epicentre of most agricultural production growth. Accordingly, international trade from developing countries will likely have to grow significantly in order to distribute the additional production to the places where the demand is increasing. According to the projections made with calculating weighing exports and imports by the international reference prices for the period 2004-06, the traditional global export leaders will continue to dominate the world market, but the net trade in value term from developing regions also will grow more than 2% p.a. between 2011-13 and 2023 (Figure 1.).

Figure 1: Value of net-exports in agricultural and food products in the period 2000-2023



Source: OECD-FAO AGRICULTURAL (2014): *Agricultural Outlook, 2014-2023*.

⁴ OECD-FAO AGRICULTURAL (2014): *Agricultural Outlook, 2014-2023*.

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 for developing countries as main producers of agricultural and food products, and thus stressing even more the role of the SPS and TBT Agreements.

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

Before establishment of the WTO in 1995, existing multilateral trade agreements were unable to control both the use and impact of standards and technical measures on neither 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-distortive. 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.

Minding 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 live and health, as long as they can be scientifically justified and proved not to be trade-distortive. In a same time, Member states are requested to recognize that measures proposed by other countries, even though different, can provide equivalent level of protection.⁵

⁵ General Agreement on Trade and Tariffs: The Results of The Uruguay Round of Multilateral trade Negotiations, The Legal Texts, Geneva, 1994, p.8.

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, the 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. Impact of SPS and TBT Agreement on Developing Countries Export

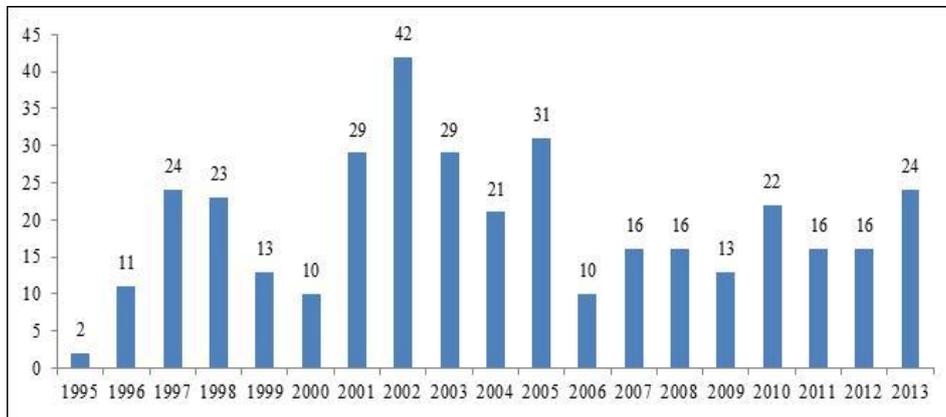
There is no doubt that the SPS and TBT Agreements introduced measures with transparent mechanism for their implementation, set up clear dispute settlement procedures and indeed provided a solid base for international harmonization of national food safety and food quality measures and regulations. It 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, at 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.⁶ 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

⁶ Hillman, J.S.: *Non-Tariff Agricultural Trade Barriers Revisited*, In *Understanding Technical Barriers to Agricultural Trade*, proceedings of a conference of the International Agricultural Trade Research Consortium (IATRC). Edited by D. Orden and D. Roberts. St. Paul, MN: IATRC, 2007 p.76.

fear that standards can be applied in a discriminatory or protectionist manner.⁷ 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.⁸ Thus, from developing countries prospective, 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 and represents both administrative and financial burden. Indeed, Graph 1 shows that despite all efforts, there are many trade issues in international trade with food and agricultural products. Altogether, 368 specific trade concerns were raised in the 19 years between 1995 and the end of 2013. Graph 1. shows the number of new concerns raised each year; 24 new concerns were raised in 2013.

Graph 1: Number of New Issues Raised in WTO in the period 1995-2013



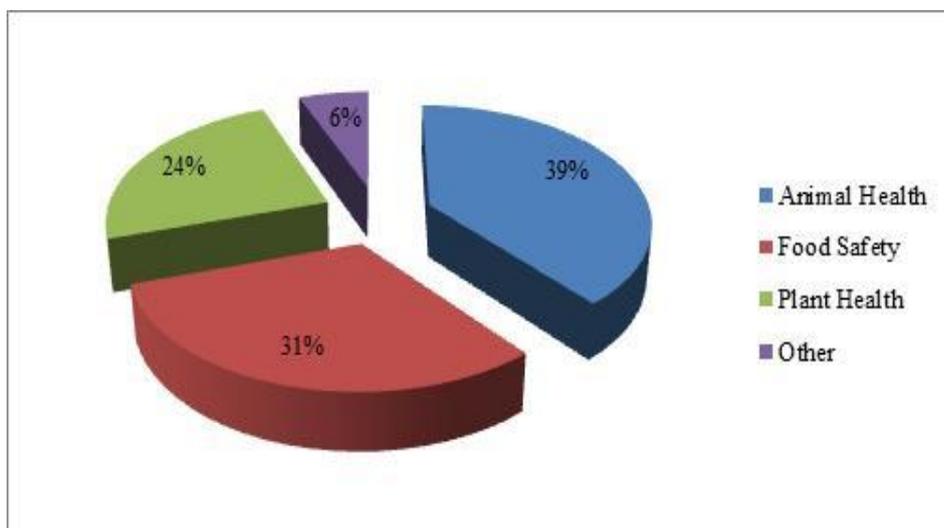
Source: WTO-Committee on Sanitary and Phytosanitary Measures, document G/SPS/GEN/204/Rev.14 .

⁷ Lacovone Leonardo: *Analysis and Impact of Sanitary and Phytosanitary Measures*, University of Sussex, 2003, p.43.

⁸ Roberts Donna: *Preliminary Assessment of the Effects of the WTO Agreement on Sanitary and Phytosanitary Trade Regulations*. *Journal of International Economic Law* 1(3), 2001, pp.377-405.

Graph 2. categorizes the trade concerns raised over the 19 years into food safety, animal or plant health issues. Overall, 31% of trade concerns relate to food safety concerns, 24% relate to plant health, and 6% concern other issues such as certification requirements, control or inspection procedures. 39% of concerns raised relate to animal health and zoonoses.

Graph 2. Trade Concerns by Subject in the period 1995-2013

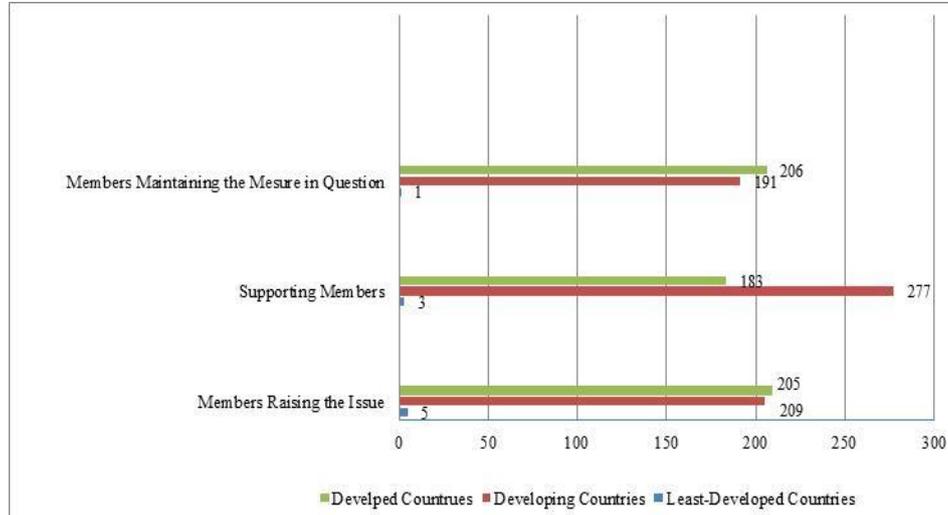


Source: WTO-Committee on Sanitary and Phytosanitary Measures, document G/SPS/GEN/204/Rev.14

Major impacts upon international trade with agro-food products are result to the absence of consensus on the importance of individual measures, followed by the absence of reliable studies of their secondary effects.⁹ Within the WTO, the debate over implementation of individual measures is continuous and quite live. Developing countries are participating actively under this agenda item in the SPS Committee meetings.

⁹ Henson Spencer and Jose Blandon: *The Impact of Food Safety Standards on an Export-Oriented Supply Chain: Case of the Horticultural Sector in Guatemala*; University of Guelph, 2009, pp.17-21.

Graph 3. Participation by WTO Members in the period 1995-2013



Source: WTO-Committee on Sanitary and Phytosanitary Measures, document G/SPS/GEN/204/Rev.14 .

Graph 3. indicates that over the 19 years, developing country Members have raised 205 trade concerns (on many occasions more than one Member has raised, supported or maintained an issue) compared to 219 raised by developed country Members and five raised by least-developed country Members. A developing country Member has supported another Member raising an issue in 277 cases, compared to 183 for developed country Members and three for least-developed country Members. In 206 cases, the measure at issue was maintained by a developed country Member, and in 191 cases it was maintained by a developing country Member. One trade concern regarding measures maintained by a least-developed country Member has been raised.

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). 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.¹⁰ Furthermore, having on mind the overall level of economic development, provided technical assistance often is insufficient to resolve the fundamental, current problems present in developing countries.¹¹

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 doubt for discrimination against imports in the application of food safety and agricultural health controls and raises the question if suppliers from developing countries must comply with higher requirements than those from developed countries.

The length of time allowed between the notification and implementation of SPS requirements and the level of technical assistance provided by developed countries are also considered to be problems. This suggests that the concerns of developing countries about the operation of the SPS Agreement are closely related to the actions of developed countries in setting and managing SPS measures.¹²

Finally, it has to be noted that achievement and sustained implementation of food standardization is a long and costly process. The compliance cost with SPS-related obligations on some developing countries can require a lion share of total governmental development budgets.

¹⁰ Rios Gonzalo, K.: *Technical assistance needs of developing countries and mechanisms to provide technical assistance*. Paper presented at the conference International Food Trade Beyond 2000: Science-Based Decisions, Harmonization, Equivalence and Mutual Recognition, Melbourne, September, 1999, p.62.

¹¹ Greenhalgh Peter: *Trade Issues Background Paper: Sanitary and Phytosanitary (SPS) Measures and Technical Barriers to Trade (TBT)*; FAO, July, 2004, p. 48.

¹² Henson, S. J., Loader, R. J., Swinbank, A., Bredahl, M., & Lux, N.: *Impact of sanitary and phytosanitary measures on developing countries*. Reading: Department of Agricultural and Food Economics, The University of Reading, 2000, p.51.

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 supporting their efforts to change institutional structures relating to SPS and TBT standard setting are a definite need.

In order to overcome difficulties, both on international and national level, concrete actions need to be taken to further promote the participation of developing countries in international trade with agricultural and food products. Those actions should include:

- Raising the level of awareness in developing countries on the role and impacting 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.
- Prolonging the period for compliance for developing countries. Longer period will enable developing countries to achieve new standards and manage the needed costs of compliance
- Expanding harmonization of SPS requirements and developing 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.
- Increasing technical assistance. This will provide developing countries with the information, training and resources needed to comply with new standards and regulations.
- Enabling 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.

- Providing 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.

In much of the ongoing 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 the export of agricultural and food products from 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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