



Cancun Agenda: Environmental Requirements and Developing Countries' Exports

Lessons for National, International and Regional Action

The Context and Introduction

The emerging environmental trade barriers (ETBs), as they have been broadly defined, have become a very potent trade barriers threatening a substantial proportion of developing countries' exports. The WTO Agreements on SPS (Sanitary and Phytosanitary Measures) and TBT (Technical Barriers to Trade) aim to ensure that these standards and regulations are not used for protectionist purposes and do not cause adverse impacts on trade. There is considerable discretion being exercised by the available to importing countries to impose their own rules regarding these standards and other regulations such as inspection of imported products, specific treatment or processing of products, fixing of minimum allowable levels of pesticide residue, labelling and packaging requirements, good manufacturing practices, etc.

The flexibility in these Agreements has been exploited by developed countries to impose stringent environmental norms and standards that are acting as significant barrier for exports of developing countries. For instance, the SPS Agreement allows importing countries to impose SPS norms that are higher than international standards, provided there is a scientific basis. This provision has been used by various countries to check market access of specific countries.

A case in point is unmanufactured tobacco where Japan insists on a DDT residue level of 0.4 particles per million (PPM) while the international standard is 6 PPM. Indian tobacco has a DDT residue level of 1-2 PPM which is well below the internationally permissible levels. But Japan does not allow tobacco imports from India on phytosanitary grounds.

Very minute risks assessments are often used to justify imposition of these higher standards. For instance, adoption of a new aflatoxin standard in the European Union that would reduce health risk by approximately 1.4 deaths per billion a year. While there are not a billion people in the whole of EU, African

exports of cereals, dried fruits and nuts to EU are expected to decline by 64 per cent as a result of adoption of these standard with an estimated loss of export earnings of the order of US\$ 670 million. Even though international standards such as Codex are evolved by developed countries, they themselves do not adopt them.

Another problem is the wide variation in the standards adopted by different importing countries. Different countries follow different norms of aflatoxins and pesticide residue increasing the compliance cost for the exporting countries. The European Union countries have gone as far as to adopt a single currency. However, their standards with respect to pesticide residue vary widely, for instance, from 0.01 PPM in the case of the UK to 0.03 in the Netherlands to 0.10 PPM in Germany for Aldrin and Dieldrin.

Many of these environment related standards are imposed in a less than transparent manner and some times are accompanied by other requirements such as Good Manufacturing Practice. There are cases of detention of consignments of Indian spices in Spain, Italy and Germany without any satisfactory explanation forthcoming on the changes made in their regulations on microbial contamination and pesticide residue, despite transparency obligation under the Article 7 of SPS Agreement.

Sometimes additional standards are just imposed informally by the importing countries on their exporters as pre-conditions for doing business. Often importers use these standards to depress prices of imports. For instance, foreign buyers reportedly paid lower prices for leather products from Bangladesh because of the poor environmental conditions in the tanning sector in Dhaka. The experience of India in the case of export of flowers to Japan is also similar.

Another thing that is clear is that the cost of compliance is substantial and often beyond the competence of many of the enterprises especially the smaller ones. A rough estimate for setting up a moderate

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lab for testing and analysing samples of spices comes to about Rs. 4 million. Furthermore, in a number of cases the technology for compliance with the standards may not be available easily in developing countries.

Many developing countries have experienced losses in exports because of difficulties in complying with these emerging standards and regulations. South Asian countries, in particular, are affected badly as some of their major items of their export interest such as textiles, marine products, spices, among others, are those affected by these barriers. There is an urgent need to respond to this challenge. Besides the policy responses at the national level, actions at the international and at the regional levels would be often necessary for mitigating the adverse effect of these emerging trade barriers on developing countries. In this Policy Brief we provide an inventory of such policy responses to at the national, international and regional levels.

Issues for Action at the National Level

It is quiet clear that governments do have to play an important role because especially when the exporters are small and medium enterprises and it may be beyond their capacity to comply with the new standards.

Information Sharing

Governments should create mechanisms for disseminating information on the new emerging standards adopted by different countries to the exporters especially the SMEs. This information dissemination could help in reducing the rate of rejections of export consignments and thus help avoid the costly process of bringing them back or destroy them.

Capacity Building for Compliance

Given the high cost of compliance which may be beyond the capacity of smaller enterprises, it may be of critical importance to create common infrastructural facilities such as test laboratories with international accreditation. The government agencies may assist the smaller enterprises in compliance with the new standards through provision of technology and necessary raw materials. The capacity building could also include organization of extension programmes which cover training of entrepreneurs, managers and different levels of workers in compliance of the required standards. Governments could also facilitate formation of cooperatives and self-help groups of exporters so that they could share costs and create common facilities such as test laboratories, water treatment plants, affluent treatment plants besides information dissemination.

The patterns of clustering or agglomeration of exporters specialized in one product in certain areas that exist in the region (e.g. knitwear makers in Ludhiana) suggest that formation of these self-help groups/cooperatives could be effective. Furthermore,

the governments have a role to play in ensuring the availability of all necessary raw materials for compliance with specific standards. For instance, a case study shows, the non-azo dyes for the carpet industry are not available in Nepal; thus impeding the compliance with ban on azo dyes imposed in the European Union. So governments has to make sure that substitutes of azo dyes are available to the carpet manufacturers. The relevant government could consider setting up Exporters Assistance Centres as one-stop shops to cover all different tasks such as dissemination of information, creation of test facilities, the provision of technical assistance and training, etc.

Evolve National Standards

As a result of the liberalization of trade regimes, the South Asian economies have become increasingly open to import of goods from abroad. In particular, a lot of imported fruits and vegetables are finding their way to the South Asian markets. There is a fear that these imports might become carriers new pests and other harmful germs to the region. It is important for the governments to evolve their own environmental standards and quarantine regulations which should be strictly enforced.

Effective Participation in International Standards Setting

The experience of past years suggests that the international standards such those in Codex Commission are evolved with very little participation of developing countries. Therefore, what developed countries propose gets approved as a default. We need to participate in these events effectively with our own preparation of implications and other issues and concerns of alternative standards.

Generating Consciousness about

Environmental Concerns in the Industry

The governments can play an important role in generating the consciousness of environmental considerations in industry through media and other means. The Indonesian example of color grading of the companies on the basis of the environmental responsibility is a case in point. The increased environmental consciousness generated through the media of this scheme has led to a significant decline in market valuation of the companies that were labelled as relatively poor (black) in terms of environmental standards. It suggest that such schemes could build considerable pressure on companies to become environmentally more conscious.

Databases of Experiences

The studies bring out a variety of experiences of imposition of environmental standards by importers on exporters of the countries studied, sometimes in an informal manner and often under the cover of good

manufacturing practices. It is important to compile a database of such experiences so that necessary redressal could be sought through WTO Dispute Settlement if certain regulations imposed are not consistent with SPS and TBT norms.

Exploiting Opportunities for Environmentally-Friendly Goods and Services

The South Asian countries should take advantage of the growing environmental consciousness in the developed world by pushing exports of the environmentally friendly goods and services. The South Asian countries have a natural advantage in organic farming which should be exploited fully. The region has used vegetable dyes such as indigo for centuries in the textile industry. It may be fruitful to create a brand in the Western world on the basis of use of vegetable dyes. Similarly, exports of herbal medicines, cosmetics, eco-tourism among other environmentally friendly goods and services could be pushed. Bangladesh has rapidly got an eco-label for its jute-packaging bag which has enhanced the sales of these bags significantly.

Diversification of Export Commodities/ Markets

South Asian countries are heavily dependent on exports of few commodities and on few markets. For instance, Nepal's dependence on carpet exports, Bangladesh's dependence on garments, marine products and leather goods. Even though, India's exports structure is more diversified, the share of textiles and garments in India's exports is quite substantial at 33 percent. Similarly, there is a high dependence on specific markets. For instance, Germany accounts for 80 to 90 percent of Nepal's exports of carpets. The dependence on few products and markets for exports make these economies highly vulnerable. Therefore, in medium to long term, the objective of the government policy should be to diversify the composition of exports as well as the coverage of markets.

Issues for International Action

A number of issues which have to be taken up at the WTO and other international fora, are as follows:

Effective Technical Assistance

Both SPS and TBT Agreements in WTO contain provisions for technical assistance to be provided by the importing countries to assist the exporters in their compliance with the new standards imposed by them. The SPS Agreement under Article 9 includes 'provision of technical assistance to other Members specially developing country Members... in the areas of processing technology, research and infrastructure, including in the establishment of national regulatory bodies and may take the form of advice, credits, donations and grants including for the purpose of seeking technical expertise, training and equipment

to allow such countries to adjust to and comply with sanitary and phyto-sanitary measures necessary to achieve the appropriate level of sanitary and phyto-sanitary protection in their export markets'. Furthermore, the SPS Agreement provides 'where substantial investments are required in order for an exporting developing country Member to fulfill the sanitary and phyto-sanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Members to maintain and expand its market access opportunities for the product involved' (Art. 9.2). Similarly, the TBT Agreement under Article 11 provides for advice and technical assistance, if requested, on mutual agreed terms and conditions.

However, there is little evidence of the promised technical assistance forthcoming. Following the ban imposed by European Commission on exports of fisheries products originating in Bangladesh in 1997 in the light of deficiencies in the infrastructure and hygiene fisheries establishments in the country, Bangladesh Frozen Foods Exports Association had sought technical assistance from European Union experts. That assistance was provided but the Association had to pay for it from its own resources. It is clear, therefore, that the obligation for technical assistance has not been fulfilled by developed countries in an adequate manner.

In this light, it may be useful to seek, through reviews of the Agreements in the WTO, effective implementation of standards that are different from international norms, only after technical assistance has been provided.

Reviews of SPS and TBT Agreements

Developing countries may consider seeking reviews of the Agreements on SPS and TBT at the WTO Committee on Sanitary and Phyto-sanitary Measures and the Committee on Technical Barriers to Trade to reduce the discretion and flexibility available under these Agreements that is being misused, universal application of international standards, and to bring about greater transparency in the imposition of standards, good manufacturing practices and all other regulations.

Special and Differential Treatment (SDT)

Like other WTO Agreements, SDT in the case of SPS and TBT Agreements has also been reduced to a longer transition period for developing especially the least developed country Members. However, the longer transition period provided under these Agreements is of hardly any use because the importing enterprises start insisting on the new product standards due to high consumer consciousness for these standards. Therefore, the SDT has to be of a more substantive type. It could be, for instance, in the form of additional financing (along with technical assistance) to cover the costs of compliance by the developing country exports of the new standards.

Compulsory Licensing of Technology

Sometimes the compliance of new standards is constrained by non-availability of technology due to strengthening regime of IPR protection. The TRIPs Agreement should provide for compulsory licensing on environmental grounds.

Assistance for Effective Participation of Developing Countries in Setting of International Standards

The international standards are evolved without much participation of developing countries. The international community should subsidize the participation of developing countries in the meetings of international standards setting bodies besides assisting them in their technical preparations for their effective participation in these fora.

Trilateral Cooperation

Very often the appropriate technical skills for providing technical assistance are not available in developed countries. For instance, skills for dealing with dairying in tropical countries. Such skill are more likely to be available in other developing countries. To make technical assistance effective, trilateral programmes could be evolved which involve resources from a developed (donor) country combined with skills of a developing country assist another developing to country.

Issues for Regional Cooperation

There are a number of areas where a regional approach could be fruitful as we see below.

Coordination in International Negotiations

The countries of South Asian region export many products that are common to all. Hence their concerns are quite similar. Hence, a region-wide coordination in international standards setting events and in the WTO Committees on SPS and TBT and other negotiations would be serving their interest better.

Cooperation in Compliance with the Emerging Environmental Standards

The regional cooperation could be effective in sharing costs of compliance with the emerging environmental standards. The regional cooperation could cover joint

development of products which meet the new regulations and hence sharing the costs. In this context, a case in point is a highly successful project for development of Aflatoxin risk free groundnut jointly conducted by the Indian Council of Agricultural Research and the UNDP. This Project successfully brought down the Aflatoxin levels to 0-5 PPB in 80 percent of the samples at the end of three years term of the project in a high risk area of Andhra Pradesh, India against the permissible limit of 15 to 20 PPB in developed countries such as Australia, Canada, USA. Such projects could be fruitfully undertaken at the regional level. The regional cooperation could also cover creation of regional institutional infrastructure such as test laboratories where the costs are high and even translations of standards in local language. The geographical contiguity in the region would facilitate the optimal utilization of such infrastructure. Joint training programmes and other measures to build local capacity would also be fruitful.

Regional Eco-labels

A number of South Asian countries including India have tried to launch their own eco-label programmes. However, these programmes have had limited success. Another area of regional cooperation could be promotion of regional eco-labels which might be more acceptable and popular than national eco-labels.

Evolving Regional Standards for Products of our Export Interest

Another area of fruitful regional cooperation could be to evolve regional standards especially for products of our export interest and have them accepted them globally. Similarly, it would be fruitful to define environmentally sensitive goods from a regional perspective.

Concluding Remarks

We have put together here an inventory of policy lessons which cover some issues for action at the level of national governments that are likely to prepare the exporters in these countries face the emerging challenge more effectively. These issues need to be addressed at the international or WTO level. These will help in moderating the incidence of these new standards on the South Asian countries. Areas in which regional cooperation would be fruitful have also been identified.

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