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WTO Verdict on Livestock Sector *A Threat or an Opportunity to Strengthen our System?*

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WTO panel has recently ruled that India's ban on importation of various agricultural products, such as poultry meat, eggs and live pigs from the US purportedly because of concerns related to Avian Influenza violated several global trade laws because they were imposed without sufficient scientific evidence. Though India has appealed to the Dispute Settlement Board of the World Trade Organisation (WTO), it is wise to develop and enhance India's own livestock sector, both in terms of domestic demand and in terms of exports to other countries. Besides, coming up with a more robust livestock policy to boost the exports and at competitive rates to countries from where India is importing at present.

Introduction

Global trade in agricultural products are expanding more swiftly and so is its share of trade disputes. According to the WTO, since 1995 till date nearly 77 cases are reportedly filed by various countries with regard to difference of opinion in various provisions related to Agreement on Agriculture and 42 cases concerning Sanitary and Phyto-sanitary (SPS) Measures. Though more clarity and certainty was achieved in trade through signing of multilateral pacts yet it did not stall the flow of disputes. Instead, the much stronger provisions of the dispute settlement understanding gave confidence to even smaller and less developed countries to try and settle long standing disputes.

Livestock Dispute

One such dispute related to agriculture sector between India and the US was recently

analysed and settled by the WTO panel.¹ The panel ruled that India's ban on importation of various agricultural products, such as poultry meat, eggs and live pigs from the US purportedly because of the concerns related to Avian Influenza (AI) violated several global trade laws because they were imposed without sufficient scientific evidence. By a 2011 notification,² India prohibited imports from the countries reporting Notifiable AI, both highly and low pathogenic one, certain livestock products like domestic and wild birds (including poultry and captive birds); day old chickens, ducks, turkeys, and other newly hatched avian species etc. India claimed the notification in conformity with the World Organisation for Animal Health's Terrestrial Code and in pursuance of its right, under the SPS Agreement³.

The US who claimed was largely affected by this notification and initiated the dispute in 2012, by requesting consultations with India. Once the consultations proved unsuccessful, a

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panel was established by the WTO at the request of the US. Their main contention was that the India's AI restrictions are inconsistent with the country's WTO obligations, since these SPS measures were not based on scientific evidences and they were more trade restrictive than required to protect human, animal or plant life or health.

After hearing both the sides, the WTO panel observed that the import restriction on livestock breached India's obligations, under the SPS Agreement because the measures adopted had the following features:

- Not based on international standards taking into account risk assessment techniques developed by relevant international organisations. Further, the measures were not based on scientific principles and were maintained without sufficient scientific evidences
- Arbitrarily discriminate between members of the WTO where identical or similar conditions prevail
- Constitute a disguised restriction on international trade
- Significantly more trade restrictive than necessary and further that the measures are applied beyond the extent necessary to protect human and animal life or health
- Failed to recognise the concept of disease-free areas and areas of low disease prevalence and
- Not properly notified in a manner that would allow the US and other WTO members to comment on it before it went into effect.

India has challenged the Panel report before the Appellate Body. The grounds for the challenge of the Panel Report are as following:

- measures undertaken were based on scientific evidence and that the Panel failed to make an objective assessment
- law restricting import was based on international standard and thus consistent with India's obligations under the SPS Agreement
- obligation to recognise the concept of disease-free areas is restricted to the domestic law of the member country under the SPS Agreement, and that India's

statutory law, the Livestock Act recognises this concept. There is no obligation to recognise this concept in the implementing measure, i.e. the statutory order

- Panel erred by not identifying a least restrictive measure with precision despite concluding that an alternative measure than the one adopted by India (and being challenged by the US) could fulfill India's appropriate-level of protection against AI
- Wrong delegation of the judicial function to the World Organisation for Animal Health and failure to review the issue in an objective manner by the Panel and
- Determination of the Low Pathogenic Notifiable Avian Influenza status of India was delegated to the individual experts, which was inconsistent with the rules of the dispute settlement understanding

Livestock Sector and Concerns

After successfully resolving the impasses over food security issues in WTO, India presently has to face this latest challenge posed by the WTO panel. If not suitably addressed, it is apprehended that the country would slowly turn into a dumping ground for most of the livestock commodities from surplus nations, thereby ruining the economy of our local industries and agriculture. Similar effects have been felt earlier in the case of other agriculture products like fruits, vegetables and grains.

In particular, it is expected that the ruling would see a surge in increased market access for the US livestock products. The US poultry industry, which directly employs, over 350,000 workers and consists of nearly 50,000 family farms, would largely be benefitted as it is estimated that the US exports to India of just poultry meat alone could easily exceed US\$300mn a year once India's restrictions are removed.⁴

Besides, this is in sideline with the recent proposal by the Indian Government to allow duty-free import of chicken legs from the US. The proposal is a *quid pro quo* arrangement in return for access to Indian *Basmati* rice and fruits in the American market and immigration reforms in the US.⁵ Unrestricted imports without adequate protection measures might

Table 1: US Export of Poultry Products to India from 2009-2014

Product	2009	2010	2011	2012	2013	2014	Period/Period % Change (Value)
	Value	Value	Value	Value	Value	Value	
1.1 Poultry & products	491	596	924	1,060	648	691	7
1.1.1 Chkn eggs/hatch	0	0	0	8	0	154	—
1.1.2 Bird eggs, fresh	0	0	0	488	427	147	-66
1.1.3 Albumin & drvts	152	12	204	227	181	127	-30
1.1.4 Egg albm, dried	0	0	8	0	0	6	—
1.1.5 Bird eggs/hatch	204	326	412	0	0	0	—
1.1.6 Bird egg fr, pr, ck	122	243	289	0	0	0	—
1.1.7 Bird eggs/hatch	0	0	0	39	0	0	—
1.1.8 Chickn egg fresh	0	0	0	248	39	0	—
1.1.9 ot egg albm, xd	0	0	0	50	0	0	—
1.2 Other poultry meat	0	0	0	0	0	240	—
1.3 Turkey meat	0	0	0	0	0	13	—
1.4 Broiler meat	0	0	11	0	0	4	—
1.5 Live poultry	9	15	0	0	0	0	—
1.6 Poultry, misc.	5	0	0	0	0	0	—
Total	491	596	924	1,060	648	691	7

* Values in Thousands of Dollars

Source: Global Agricultural Trade System Online, <http://apps.fas.usda.gov/gats/default.aspx>

Box 1: Some Arguments

Threat from foreign competition overdone

- Imported poultry products could not enter India's wet market, which has a 95 percent share of total sales and thus would not be in direct competition with local industry or small farmers
- Imports may not happen in the immediate future, due to India's limited system to store and distribute frozen meat
- Taste would be another hurdle as American and Brazilian chicken are not raised on the same feed as *desi* poultry and
- Opening the market to trade would prove beneficial because a sustainable supply of legs would provide confidence to the food service industry and attract more Foreign Direct Investment (FDI). This could eventually lead to Indian meat products coming into compliance with the US and the EU norms

Only temporary benefits to the consumers

- The US will start dumping cheap cuts, which would eventually wipe out small farmers and the industry
- Will be a one-directional trade, because these countries would use sanitary and phyto-sanitary rules to bar the US from exporting breast meat
- India is self-sufficient in poultry and has surplus to export
- Free imports might be temporarily beneficial to consumers, but in the long run there would be no benefits. Once low cost imported products takeover Indian market and destroy country's production infrastructure, these multi-national companies will hike the prices and
- There are also concerns in India, over genetically modified-fed poultry products imports from the US. Almost all corn and soybean used in conventional livestock and poultry production in the US is genetically modified

Source: Compiled from various sources

adversely affect the income and livelihood of the farmers who are already suffering from low food production due to negative impacts of climate change on crop. If they are not well prepared to tackle such situations then there is every chance for the livestock sector in particular and the agriculture sector, as a whole to further crumble down.

One way to combat the constant threat of cheaper imports of livestock products from countries like the US is to develop and enhance India's own livestock sector, both in terms of domestic demand and in terms of exports to other countries.

In view of the above, we need to have a look at the present situation in this sector in India. Livestock sector plays a critical role in the welfare of India's rural population and its economic contribution is much higher than that of food grain crops. It contributes four percent to Gross Domestic Product (GDP) and 27 percent to agriculture GDP.⁶ As a component of agricultural sector, its share in GDP has been rising gradually, while that of crop sector has been on the decline. In recent years, livestock output has grown at a rate of about 5 percent a

year, higher than the growth in agricultural sector.⁷

Besides, the country is one of the largest producers of most of the livestock products and has the potential to significantly increase and expand the export of livestock products.

The country holds 10 rank first in milk production, accounting for 17 percent of world production. During 2012-13, milk production peaked at 132.43 metric tonnes (mt). Egg production was around 69.73bn in 2013, while poultry meat production is estimated at 2.68 mt. Total fish production during 2013-14 is estimated at 9.45mt.⁸ Hence, from the equity and livelihood perspective it is considered as an important component in poverty alleviation programmes.

Livestock and Food Security Concerns

The importance of livestock in the agricultural sector has been emphasised in a number of FAO publications, notably, Investing in Livestock Sector: Why Good Numbers Matter? (FAO & World Bank, 2014), Livestock Sector Development for Poverty Reduction: An

Table 2: India's Total Export of Poultry Products in 2010-2014

	2010-11		2011-12		2012-13		2013-2014	
	Qty	Value	Qty	Value	Qty	Value	Qty	Value
Total	5,16,753.82	314.25	6,24,165.63	457.82	5,77,812.59	494.15	4,37,673.53	565.87

Value in ₹ Crores; Quantity in MT
Source: http://nmppb.gov.in/Page/Export_Poultry.pdf; http://foodprocessingindia.co.in/index.php?option=com_content&view=article&id=335&Itemid=719

Table 3: India's Exports of Other Major Livestock Products in 2013-14

Product	Quantity Exported (MT)	Value of Exports ₹ (crores)	Major Export Destination
Buffalo meat	14,49,758.64	26,457.79	Vietnam Social Republic, Malaysia, Thailand, Egypt Arab Republic, Saudi Arabia and Jordan
Sheep and goat meat	22,608.94	694.10	UAE, Saudi Arabia, Qatar, Kuwait and Oman
Marine products	9,83,756	30,213.26	The US, the EU, Japan, Southeast Asian countries

Source: <http://foodprocessingindia.co.in/>

Economic and Policy Perspective – Livestock’s many virtues (FAO, 2012), Livestock Policy and Poverty Reduction (FAO, 2008) and Livestock Sector Policies and Programmes in Developing countries – a menu for practitioners (FAO, 2010).

This is true for India since recent data shows that the livestock are important contributors to total food production. Moreover, their contribution is increasing each year at a higher rate than that of food grains. Most notably, during 2012-13,⁹ milk production peaked at 132.43 mt, thus becoming an important secondary source of income for 70mn rural households engaged in dairying and for 70 percent of the workforce that comprised women. That is why, other than the crucial role of livestock in the agriculture development, livestock also contributes drastically to food security. It helps generate employment and income stability among the rural population and is largely seen as an important component of rural development programmes. Besides, large number of women participation in this sector creates opportunity for their economic empowerment and thus nation’s development.

According to Hegde, in his paper entitled ‘Strategy for ensuring food security in India’,¹⁰ livestock is one of the primary sector towards which more attention should be diverted to ensure both food security and income generation for the rural poor.

Apart from socio-economic benefits, livestock sector also helps developing countries, such as India to address concerns regarding malnutrition. According to the ‘Agricultural Policy: Vision 2020 document’, livestock has the highest effect on reducing poverty and hunger. In rural India, 43 percent of the people who do not own even a single livestock are malnourished. Increase of a cattle or a buffalo to their assets reduces the hunger prevalence by 16 and 25 percentage points, respectively.¹¹ However, in another research paper¹² it has rightly been pointed out that ‘the number-driven growth in livestock production might not sustain in the long run due to increasing stress on the limited natural resources.’

So, instead of only increasing the numbers of livestock there is a need to additionally look at

increasing productivity of livestock both in terms of milk produced per cow/buffalo, and the quantity of meat per livestock. The average milk yield of Indian cattle is 1172 kg, which is only about 50 percent of the global average,¹³ and much less than in New Zealand (3343 kg), Australia (5600kg), UK (7101kg), the US (9332 kg) and Israel (10214 kg). Likewise, the meat yield of most species is 20-60 percent lower than the world average. This might be done through cross-breeding, genetic manipulation, better feed, more efficient slaughter-houses etc. Better and easy financial credit and building of an efficient supply chain are also issues that need to be looked into.

Also with regards to export, India has a competitive advantage in the world market for many livestock products though its share in world trade continues to be too little. Hence, more focus should be given to tap this vast market. To give a boost to export of livestock products, more stringent and effective measures need to be undertaken particularly in respect of requirements, under SPS regime. There is a need for the development of infrastructure like cold storage, pressured air cargo capacity besides adopting stringent measures to control and manage the diseases.

Maintaining surveillance; having enough laboratories to carry out tests on livestock to confirm/deny incidence of diseases in India; culling of infected birds immediately; preventing low pathogenic AI from turning into high pathogenic AI (high pathogenic AI leads to ban in trade); and most importantly setting up of research centres to track any, such diseases are some of the vital measures to be taken to boost the sectors’ overall growth and make it more competitive. A number of countries banned import of chicken (namely Saudi Arabia and Philippines) from areas in which AI was detected but it was on the basis of concrete evidences.

Conclusion

Since December 2014, China and the 28 members of the EU joined Thailand, South Africa, Sri Lanka and the Republic of Korea in banning all poultry meat exported from the US.

Besides, 30 other countries have banned or restricted the import of poultry originating in one or both of Oregon and Washington States.

The country's economy as well as the socio-economic growth is largely dependent on the livestock sector. Achieving growth rate of 5-6 percent, however, would require addressing many challenges. The sector has remained under-invested; and neglected by the financial and extension institutions. Under developed livestock markets are posing as a significant barrier to the commercialisation of livestock production. As days goes by, the sector comes, under significant pressure of increasing globalisation of agri-food markets.

Indian livestock farmers need to face these challenges by not only increasing the numbers of

their livestock, but also its productivity. They also need to go in for an export drive. The Government, on its side, needs to not only address ways to restrict imports, keeping in mind the recent verdict of the WTO, but also help, in every possible way, farmers in enhancing exports.

A more aggressive livestock policy needs to be put into place, which would boost our own exports and at competitive rates to countries from where we are importing at present. Labour is cheap in India and that could be a solid plus point. It might be realised that India cannot forestall for long free-global trade in any commodity, so it is always better in the long run to strengthen our systems, so that we can push our products into the global market.

Endnotes

- 1 India – Measures Concerning the Importation of Certain Agricultural Products from the US, DS 430. More details regarding the dispute accessible at: www.wto.org/english/tratop_e/dispu_e/cases_e/ds430_e.htm
- 2 The Indian Livestock Importation Act, 1898; and orders issued by India's Department of Animal Husbandry, Dairying, and Fisheries pursuant to the Livestock Act, including S.O. 1663(E), which was published in the Gazette of India on July 19, 2011 and which bans the import of the products listed above.
- 3 The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) sets out the basic rules for food safety and animal and plant health standards. It allows WTO members countries to set regulatory standards for food safety and for the protection of human, animal or plant life or health. Often, member countries implement these standards by enacting laws and regulations for goods being imported into their territories; like for example, the requirement that the product should be from a disease-free area, the inspection of products, specific treatment and processing of products etc.
- 4 <http://johnnyisakson.com/isakson-great-victory-for-georgia-poultry-farmers/>
- 5 Voice against duty-free import of US chicken legs gets louder, The Hindu Business Line, August 06, 2014. Accessible at <http://www.thehindubusinessline.com/industry-and-economy/agri-biz/indian-poultry-farmers-resist-free-import-of-us-chicken-legs/article6287950.ece>
- 6 www.agricoop.nic.in
- 7 Livestock Sector in India: Agenda for the Future. Accessible at: www.ncap.res.in/upload_files/policy_brief/pb7.pdf
- 8 <http://indiabudget.nic.in/es2013-14/echap-08.pdf>
- 9 <http://indiabudget.nic.in/es2013-14/estat1.pdf>
- 10 Accessible at: www.baif.org.in/.../Strategy_for_ensuring_Food_Security_in_India.doc
- 11 Agricultural Policy: Vision 2020 Accessible at www.planningcommission.nic.in/reports/genrep/bkppap2020/24_bg2020.pdf
- 12 insightsonindia.com/wp.../08/role-of-livestock-in-indian-economy.pdf
- 13 Planning Commission Working Report on Animal Husbandry & Dairying 12th Five Year Plan (2012-17), Accessible at: http://planningcommission.gov.in/aboutus/committee/wrkgrp12/agri/AHD_REPORT_Final_rev.pdf

Comments received from Dilip Shivpuri, Chief Commissioner, Income Tax (Retired) have been suitably incorporated.

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