

## 16. POSSIBLE IMPACT OF WTO ON INDIAN FISHERIES

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The founding of the World Trade Organization (WTO) in January 1995 marked the culmination of a series of complex, arduous and long drawn out negotiations under the Eighth Round of General Agreement on Tariffs and Trade (GATT). It also marked the beginning of a distortion free multilateral trade among the economies of the World. The core principle of the WTO is institutionalization of global framework for deregulated competitions. India, being a founder member of the GATT, is a signatory to the commitments made during the negotiations. The provisions under the various agreements are expected to have an impact on the different sectors and this paper highlights the possible impacts of the WTO on the Fisheries Sector. The main provisions of WTO agreement are:

- Trade related intellectual property right (TRIPS) and imposition of patent regime
- Trade related investment measures (TRIMS)
- Reductions of domestic and export subsidies
- Tariff reduction and bindings to provide market access
- Removal of quantitative restrictions (QR)
- Application of sanitary and phytosanitary (SPS) measures

### Trade Related Intellectual Property Rights (TRIPS)

In the post WTO era, the subject of IPR has assumed greater importance in the scientific research and development and is being regarded as more valuable than traditional asset. The establishment of WTO, which now is the administrative and dispute resolving agency for all the matters related to trade related IPRs, has made it obligatory for India to honour all its commitments to safeguard the intellectual property rights of the owners.

There are seven areas of IPR that are covered by the TRIPs, namely Trademarks, Trade Secrets, Industrial Designs, Copyrights, Integrated Circuits, Geographical Indication and Patents. In the first six areas, Indian laws, regulations, administrative procedures and judicial systems are at par with the rest of the world; the norms of enforcement and protection proposed in the WTO are in conformity with the Indian system. In the last area, namely in issues related to Patents, Indian laws are however, substantially different from the provisions of WTO.

The TRIPS agreement states that patents shall be available for any inventions in all

fields of technology provided they are new, involve an inventive step and are capable of industrial application. Biotechnology firms will benefit from improved IP protection for a technology having inventive step with commercial utility under such a system. The increased investment in animal biotechnology research and development implies an increased likelihood of finding solutions to some of the fish diseases (like White Spot Syndrome Virus) that currently defy treatments. In this way, consumers and farmers benefit from the improvements in the practices that may take place in aquaculture. But, the patenting of higher animal life forms was left unresolved, with signatories having the option to use or not use patents to protect such intellectual property rights. The US., EU, Japan, Australia and a few other countries have legalized the patenting of animals even though none of them has as yet patented a farm animal. India has decided not to patent farm animal though it adopted *sui generis* system for protection of plant varieties. However, India being a signatory to the GATT is obliged to adopt a patent system for microorganisms that may open up new avenues in this sector.

### **Trade Related Investment Measures (TRIMS)**

At present investments are not a part of the WTO mandate. However, the proposals of a Multiple Agreement on Investment (MAI) spell concerns for the fisheries sector. The provisions of MAI would fundamentally alter the climate for international investment by preventing governments from providing more favourable conditions for their citizens and domestic companies than for other investors. Under proposed agreement, countries would be required to treat foreign investors no less favorably than domestic ones. It allows foreign fishing fleets the same access to domestic waters that local fleets enjoy.

One of the most contentious aspects of fisheries management is the allocation of the total allowable catch (TAC). Most countries give preferential access to their domestic fishermen, only allowing others in for those species which are not fully utilized. If all foreign investors are to be treated at least as favourably as domestic companies it may not be possible to give continuous support to our poor fisher folk. Further, governments and regional management organizations usually set the TAC based upon some variant of Maximum Sustainable Yield as a target. There are many other possible targets, though, based upon other biological or even economic criteria. If, as a conservation measure, a country wishes to maintain fish stocks at somewhat greater abundance, it may not be possible to do so under the provisions of MAI. Thus, WTO has great impact on the global fishing industry, the conservation of fisheries resources and the communities who depend upon them.

### **Tariff Reduction and Subsidies**

WTO's binding powers force member nations to continuously lower tariffs and reducing tariffs on imported fish lowers prices and stimulates consumption, magnifying pressures on dwindling stocks and ecosystems. WTO also predicted that the last round of

tariff reductions would increase the trade in fish. But, to date there has been no impact assessment.

Many countries have developed extensive programmes of subsidies to support certain parts of the fisheries sector, including unemployment and reconversion schemes, shipbuilding and modernisation support, fuel subsidies and others. But, as per the WTO agreement, developed countries would reduce subsidies and tariff. So, better overseas markets will be available for Indian fish products. It is important to note that the subsidies reduction requirement under WTO is not applicable to India. The countries having less than \$1,000 per capita income annually do not fall under this category.

### **Quantitative Restrictions (QR)**

Quantitative Restrictions (QRs) refer to measures other than tariffs or duties taken to restrict imports (or exports). Article XI of the GATT generally prohibits quantitative restrictions on the import or the export of any product. The Quantitative Restrictions are considered to have a greater protective effect than tariff measures and are most likely to distort free trade. When a trading partner uses tariff to restrict imports, it is still possible to increase exports as long as foreign products become price competitive enough to overcome the barriers created by the tariff. When a trading partner uses QRs, however, it is impossible to export in excess of the quota no matter how price competitive products may be. Thus, QRs are considered to have a greater distortional effect on trade than tariffs and their prohibition is one of the fundamental principles of the GATT. Although multilateral trade rules, in general, prohibit QRs on import (or export) of any product, the GATT provides exceptions to this fundamental principle. These exceptional rules permit the imposition of quantitative measures under limited conditions and only if they are taken under policy grounds justifiable under the GATT such as critical shortage of food stuffs (Article XI: 2) and Balance of payment (Article XVIII: B).

Developing countries like India were permitted to maintain Quantitative restrictions (QRs) due to Balance of payment (BoP) position and initially committed to phasing out the QRs in a phased manner. The Government has accordingly phased out these QRs on imports with respect to 714 items. Commodities such as fish and fishery products figure prominently on the list of items that can now be imported freely and such a step is going to have a impact on the Fisheries sector.

The Indian seafood factories, which are mostly idle during the monsoon season due to trawl ban, can process imported raw material in the changed scenario. Due to the low capacity utilization, seafood has become a low profit industry. The new policy would enable the import of tuna. Since tuna prices are high in the Indian market, exporters do not enjoy a comfortable margin. The situation will change dramatically once cheaper tuna is imported into the country.

US based Red Chamber, the largest importer of Indian seafood, is aiming to shift its re-processing base from China to India with an investment of \$ 1.3 billion directly in areas like marine product procurement, processing and value addition. Japan is also keen on tie-ups in this sector. This is a welcoming sign and such collaborations will generate more employment in pre-processing facilities and factories and also bring about a general upgradation in qualitative standards.

The significance of international trade in fish and fish products is further enhanced by the fact that the net foreign exchange earning from seafood exports is one of the highest in India. However, tariff and non-tariff barriers hamper the access to international markets. If all the member countries remove QR's in compliance with WTO provisions/agreements, Indian seafood products may find new markets which will enable the fish processing industry more vibrant in the coming years. This may lead to many new enterprises coming in this sector by exploiting the available cheap labor and skilled manpower. In case of any possible inflow of fish/ fish products into Indian market due to removal of Quantitative restrictions, the consumers may be benefited to have the taste of cold-water species such as trout and salmon.

#### **Sanitary and Phytosanitary (SPS) Measures**

The SPS agreement confirms the right of WTO member countries to apply measures necessary to protect human, animal and plant life and health. This right was included in original GATT (1947) as a general exclusion from the other provisions of the agreement provided that "such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same condition prevail, or a disguised restrictions on international trade". Despite this general conditions for the application of national measures to protect human, animal and plant life and health, it had become apparent that national sanitary and phytosanitary measures had become, whether by design or by accident, effective trade barriers. The SPS agreement therefore sets new rules in an area previously excluded from GATT disciplines.

The purpose of the SPS agreement is to ensure that measures established by government to protect human, animal and plant life and health are consistent with obligations prohibiting arbitrary or unjustifiable discrimination on trade between countries where the same conditions prevail and are not disguised restrictions on international trade. It requires that, with regard to food safety measures, WTO members base their national measures on international standards, guidelines and other recommendations adopted by the FAO/WHO codex alimentarius commission where they exist. This does not prevent a member country from adopting stricter measures if there is a scientific justification of doing so, or if the level of protection offered by the codex standard is inconsistent with the level of protection generally applied when deemed appropriate by the country concerned.

The SPS agreement covers all food hygiene measures and food safety measures



such as the control of residues of veterinary drugs, pesticides and other chemical used in meat production. In addition, it also covers animal and plant quarantine measures. The SPS agreement states that any measures taken that conform to international codex standards; guidelines or other recommendations are deemed to be appropriate, necessary and non-discriminatory. Furthermore, the SPS agreement calls for a programme of harmonization of national requirements based on international standards. This work is guided by the WTO committee on sanitary and phytosanitary measures, to which representatives of CAC, the International Office of Epizootics (OIE) and the International Plant Protection Convention (IPPC) are invited.

It is estimated that India's export earnings through seafood products alone is approximately Rs. 6300 crores. This market has been rapidly growing. However, it might be affected by the recent insistence of USA and other developed countries on imports of food products only from those suppliers who have established HACCP system at their plants. India is a signatory to the WTO, SPS and TBT Agreements. With about one hundred sixty two nations being a part of WTO, basic food safety standards as per CODEX Alimentarius becomes mandatory. When the member countries have started implementing HACCP and our industry does not follow the same standard, our goods exported to those countries may be rejected.

In order to have safe food and larger Foreign and Domestic market for the Indian seafood products, and also to challenge any possible threats under SPS measures it will become increasingly necessary for all the seafood processing companies to follow the guidelines of HACCP and get their products and plants HACCP certified. These SPS measures also protect Indian industry from discriminate policies of developed nations and disguised restrictions imposed on Indian seafood exports.