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Rules on Sanitary and Phytosanitary Measures in Bangladesh for International Trade: An Overview Study in Bangladesh

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ARTICLE INFO	ABSTRACT
Received date: Sep. 22, 2022 Accepted date: Dec. 11, 2022	The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade among the nations. While, WTO rules help to ensure that these products are traded safely and that health protection measures are not used as an excuse for protecting domestic producers. In this perspective, this study aims to meet two basic questions, these are how to work SPS measure agreement and what are the challenges and opportunities of SPS measures for market access implications. The research method is based on explorative research of inquiry. The agreement on the application of sanitary and phytosanitary measures sets out the basic rules for food safety and animal and plant health standards. It allows countries to set their own standards. The basic aim of the SPS Agreement is to maintain the sovereign right of any government to provide the level of health protection it deems appropriate, but to ensure that these sovereign rights are not misused for protectionist purposes and do not result in unnecessary barriers to international trade. The SPS agreement, while permitting governments to maintain appropriate sanitary and phytosanitary protection, reduces possible arbitrariness of decisions and encourages consistent decision-making. It requires that sanitary and phytosanitary measures be applied for no other purpose than that of ensuring food safety and animal and plant health. In particular, the agreement clarifies which factors should be considered in the assessment of the risk involved. This agreement is fully applicable in Bangladesh. Measures to ensure food safety and to protect the health of animals and plants should be based as far as possible on the analysis and assessment of objective and accurate scientific data. The SPS Agreement encourages governments to establish national SPS measures consistent with international standards, guidelines and recommendations. This process is often referred to as harmonization. Sanitary and phytosanitary measures sometimes vary, depending on the country of origin of the food, animal or plant product concerned. The WTO itself does not and will not develop such standards. Therefore, the findings of this paper can more trades in the products to impose SPS measures and achieve significance economics gains in Bangladesh.

Keywords: Harmonization, Hazard, Phytosanitary, SPS agreement, SPS measures, WTO

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1. INTRODUCTION

World Trade Organization (WTO) rules on Sanitary and Phytosanitary (SPS) Measures can improve capacity development of the industries (Henson & Loader 2001). Bangladesh can access more market in world due compliance of SPS measures. Still, the challenges are implementing and introducing compliance rules of SPS measures of WTO in Bangladesh. This study has been selected WTO rules on SPS measures in Bangladesh for simplification, harmonization specification and comparison of national rules and regulations to improve international trade capacity of Bangladesh. In order to protect human, animal and plant life and safety, WTO rules allow member countries to adopt SPS regulations and measures. However, the buyers and sellers of Bangladesh are challenged with SPS measures which are perceived to be trade-constraining (Marceau & Trachtman, 2002). Various types of SPS measures such as laboratory testing, registration, certification of sanitary and phytosanitary certificate are crucial in international trade for exports. In spite of Bangladesh's Rank in world trade, 2017 are 57 for exports; 49 for imports and GDP in million current US \$ 261374. Bangladesh's total exports to India, 20 percent are garments and the rest are others, especially agro-products (Unnevehr, 2000). Around 170 million people live in Bangladesh. Contribution of GDP of Bangladesh is around 15% (2017-2018) from agriculture and the rest around 85% from industry and service sector. SPS measures in supply side of Bangladesh can increase and access in international trade. It is now a trade-legal and awareness problem for Bangladesh. Bangladesh has signed the Agreement on the Application of SPS measures of the World Trade Organization (WTO) rules for resolving the Sanitary and phytosanitary (SPS) problems since 1 January 1995 (Rahman, 2001). It concerns the application of food safety and animal and plant health regulations. Moreover, the government of Bangladesh has also sign the agreement as the South Asian Regional Standards Organization (SARSO), a common certification panel for the SAARC region, is yet to be fully effective though it started journey in April 2014. The present research work will try to conduct a legal analysis on various types of SPS measures to the National Context of Bangladesh on the issues. This research includes an overview of the WTO rule on SPS measures for a legal analysis to the National Context of Bangladesh. WTO is a combination of 12 agreements on goods, services, intellectual property. SPS measures are one of the agreements among above 12 agreements. According to Article 14 (WTO, 2020) the final provisions is, "The least-developed country members may delay application of the provisions of this agreement for a period of five years following the date of entry into force of the WTO agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products." Bangladesh is already spent more than 5 years after sign WTO's SPS measures agreements. Thus, this agreement is fully applicable in Bangladesh exported and imported products without any doubt. In this regard, the SPS measures take the

form of import bans, conformity assessment certificates, inspection, quarantine requirements, permission to use certain additives in foods, determination of maximum levels of pesticide residues; and the designation of disease free area or zones. The agreement on SPS of WTO recognizes the need for ensuring protection to health, safety and sound living of human and plant. In this perspective, a study regarding SPS measures is needed for more legal capacity and compliance for market access in international trade of Bangladesh. World community was widely believed that protectionism and restrictions on trade dating back to the end of World War I had been largely responsible for the worldwide depression leading to world to its rock-bottom level. For the above reasons, the creation of multilateral legal framework (origin of GATT) has been through Bretton Woods Conference. The participants at the conference concluded that joint management of the political-economic order was the solution to the ills that plagued the interwar period. Joint management meant that the foremost industrial democratic states must lower barriers to trade and the movement of the capital and set up international institutions for safeguarding against protectionism. Agreements signed by the delegates included establishment of three institutions: International Bank for Reconstruction and Development (IBRD), which is presently the part of the World Bank. International Monetary Fund (IMF) for providing long term loan and International Trade Organization. The goal of IMF was to maintain exchange rate stability and help states with balance of payment problems. The World Bank was to provide technical assistance to emerging market economies. The ITO was to oversee negotiations and administration of a new international trade regime. GATT 1947 was concluded as a provisional agreement to function as a stopgap measure. GATT turned out to be a series of negotiating rounds. GATT 1947 was concluded as a provisional agreement - to function as a stopgap measure. GATT turned out to be a series of negotiating rounds regarding Liberalized policy for industrial products; Protected/restricted policy for trade in agricultural and raw materials; Principle of non-discrimination; GSP as an exception to principle of non-discrimination; Dispute settlement; Positive consensus and Multilateral trade liberalization. It is a process of incremental trade liberalization by substantial reduction of tariffs and tariff related other barriers to trade and elimination of discriminatory treatment; Reduction of tariff barriers: part 1, Art.2; Import restriction is prohibited (Art.11); Absolute injunction upon import restriction (Art.16); Balance of Payment problem as an exception to import restriction barriers (Art.12 safeguard measure); Equal treatment for all importers; Any advantage, privilege, favor or immunity given to any member shall be accorded to all members 'immediately and unconditionally'. It is called Most-favored-nation Treatment; National treatment on internal taxation and regulation. Once a foreign product is available in any domestic market (after compliance of all border measures/payment of all tariffs and taxes); it must be treated equally with national/domestic products (like products) in terms of internal (indirect) taxation. It means

treatment by a member state with each of others as favorably as it treats its 'most-favored' member, that is, the nation with which it has the most unimpeded commerce. It seems to establish sovereign equality of states with respect to trading policy. Art. 1 of GATT embodies MFN treatment with respect to custom duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports. The method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation'; and all matters in relation to national treatment of internal taxes and charges for imported goods (GATT, Art. III (2), and 'all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use' (GATT, Art. III {4}) MFN treatment is a contractual obligation of a country towards other trading countries under an international treaty, namely GATT. It obliges a trading country to accord to another the same favorable treatment that the former has granted to any third trading country under the treaty. The trading countries, which are entitled to MFN treatment, can claim as a matter of right all advantages and benefits associated with the treatment immediately and unconditionally without being required to compensate or reciprocate. The requirement of MFN includes concession granted in both the past and future. The main objective of MFN principle is to maximize the equality of opportunity by stamping out all discriminatory treatment. The terminology of SPS has no place in GATT 1947. GATT Article 20 outlines some general exceptions to MFN and NT principles under which it permits the adoption and enforcement of measures necessary to protect human, animal and plant life and health. GATT attempts to prohibit the abuses of measures which is arbitrarily discriminatory, creates undue barriers and disguised restriction to trade. It seeks to balance between the state's right to protect the life of its national and plant and its duty to liberalize the trade. History: It was first pursued in the Seventh Tokyo Round of GATT talks in 1973 to 79. 9 (nine) Plurilateral Agreement were adopted of which Agreement on TBT or the Standards Code dealt with the technical requirements to be fulfilled in ensuring food safety, and animal and plant health including pesticide residue limits, inspection requirements, and labelling. 43(forty-three) GATT members became the parties to this Code. In Uruguay Round the Working Group modified and improved the Code text and prepared a draft text on SPS regulations on Nov 20, 1990. In 1991 Arthur Dunkel presented his own draft on SPS that closely followed the Working Group Text and finally approved at the end of the Round which was largely based on the Dunkel text. Preambular objective: to improve human and animal health and Phytosanitary situation in all member countries. The Agreement recognizes the right of each member to adopt or enforce measures necessary to protect human, animal and plant health. WTO seeks to control the unjustified, arbitrary and discriminatory use of SPS measures. It intends that it would not be applied in such a way that constitutes a disguised restriction on international trade. It seeks to

minimize the restrictive effect on WTO trade liberalization scheme and therefore talks about a need for harmonization, which is voluntary, not obligatory. The present review discussed the rules on sanitary and phytosanitary measures in Bangladesh for international trade with the following headings.

2. CONCEPTUAL ISSUES ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and other regional arrangements have been introduced to facilitate trade in agricultural and food products by establishing minimum requirements to protect animal, plant or human life or health. Examples of these measures include those to prevent the introduction and spread of animal and plant pests and diseases in a country, which directly affects agricultural productivity (and the income of persons' dependent on agriculture) and also food security. Increased production costs resulting from the implementation of SPS measures are the main factor undermining LDCs' ability to access foreign markets. Even when access to markets is gained, repeated rejections of shipments on SPS grounds typically result in stricter scrutiny by the importing countries, increased transaction costs, damage to reputation of the product from that country, and a loss of confidence in the competent authority's export certification system. The aim of lowering trade barriers among nations through multilateral negotiations the world leaders who met at the Bretton woods created, along with the International Monetary Fund, another institution called General Agreement on tariffs and Trade (GATT) in 1947 with headquarters Geneva (Switzerland). From 1948 to 1994, the GATT provided the rules for much of world trade and presided over periods that saw some of the highest growth rates in international commerce (Silverglade, 2000). It seemed well-established but throughout those 47 years, it was a provisional agreement and organization. The agreement was intended to uphold and implement the fundamental principles in trade relations namely (i) nondiscrimination (called most Favored Nation, MFN, principle according to which any trade concession bilaterally negotiated should automatically be extended to all participating nation (ii) elimination of non-tariff barriers and (iii) consultation among nations for settling trade disputes within the GATT framework. The participating countries, meeting in various rounds of negotiations such as the Kennedy Round (1964-67), the Tokyo Round (1973-79), have substantially brought down the tariff and non-tariff barriers (with liberal exceptions for extra- ordinary circumstances. In spite of the major achievements of the various rounds of negotiations including the Tokyo Round many unresolved issues remained. These were taken up in the Uruguay Round, the eighth and the most ambitious attempt in the history of multilateral trade negotiations. This round began at Punta del Este in Uruguay in 1986 in which 117 countries took part. After seven years, protracted and

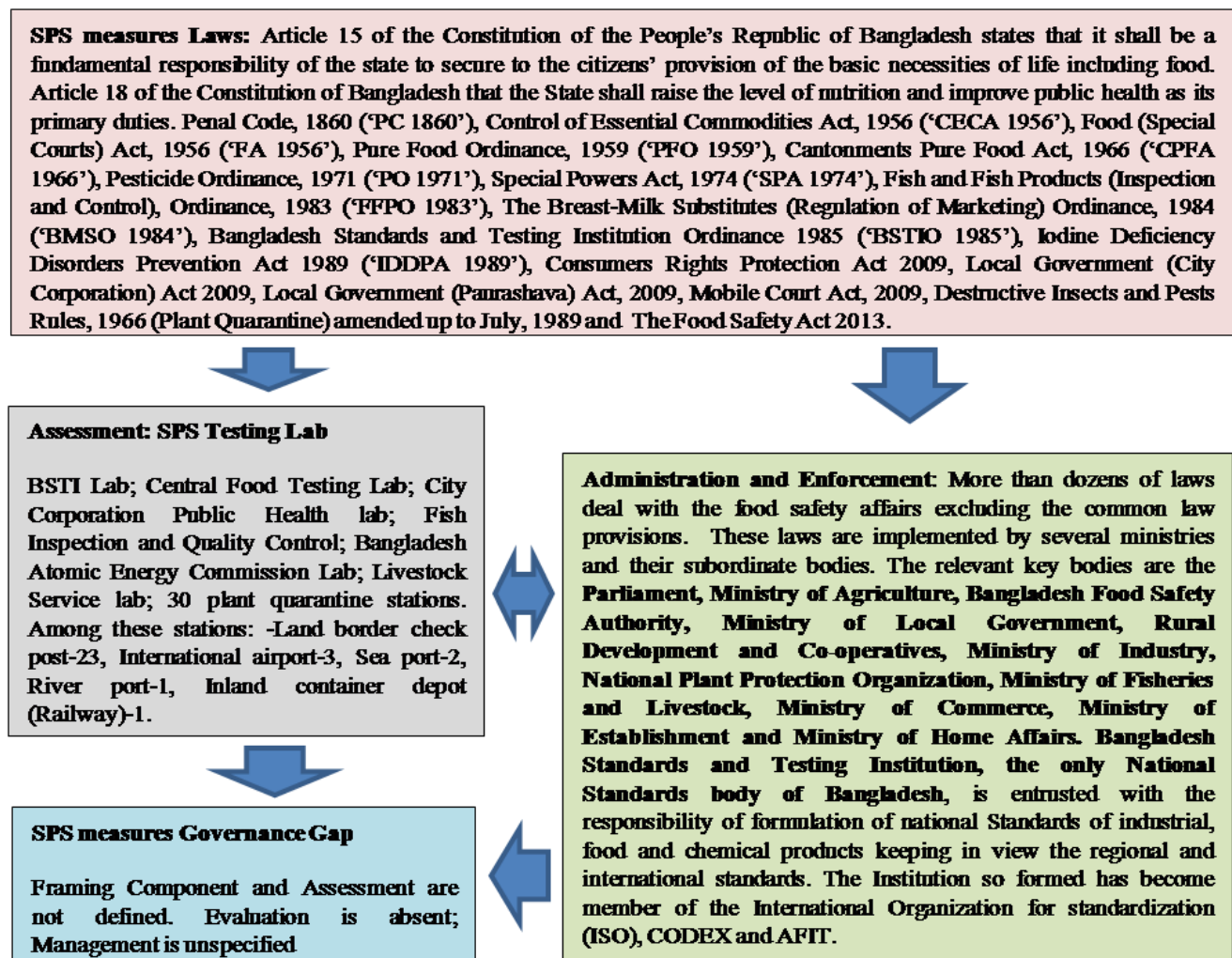


Fig.1 Model of SPS measures Laws and Governance in Bangladesh.

complex bargaining (in which the US economic influence and diplomatic pressure played a significant role) the negotiations were concluded December 1993. Several of the notable features of the Uruguay Round were the following: restriction new protectionist tendencies; bringing trades in agriculture and services into negotiations; obtaining agreements with respect to trade related investment; measures (TRIMS) devising rules for the for the amendment of the patent regime to cover; trades in intellectual property rights (TRIPs) and setting up of a new institution to be called The World Trade Organization (WTO) replacing the GATT. Among the issues, trades in agriculture and services, TRIPs and TRIMs were quite controversial and largely account for the long time taken to conclude the negotiations and the round was supposed to be completed by December, 1990. The WTO's creation on 1 January 1995 marked the biggest reform of international trade since the end of the Second World War. Whereas the GATT mainly dealt with trade in goods, the WTO and its agreements also cover trade in services and intellectual property. The birth of the WTO also created new procedures for the settlement of disputes. An important aspect of the Marrakesh Agreement of April 1994

following trade negotiations under the Uruguay Round relates to provisions concerning Trade Related Investment Measures (TRIMs). The Marrakesh Agreement rules out these. The Uruguay Round negotiations concerning the intellectual property rights (IPR) met with objections from many developing countries led by India and Brazil. But they came to nothing with the signing of the Marrakesh Agreement. The basic structure of the WTO agreements are the six main areas fit together the umbrella of WTO Agreement, goods, services, intellectual property, disputes and trade policy reviews.

3. LEGISLATIVE BACKGROUND AND PRESENT LEGAL SYSTEMS OF BANGLADESH AND SPS MEASURES

Bangladesh is part of the common law jurisdiction. It is a member of the Commonwealth of Nations. The legal system of Bangladesh has its roots in the laws of British India. Since independence in 1971, statutory law enacted by the Parliament of Bangladesh has been the primary form of

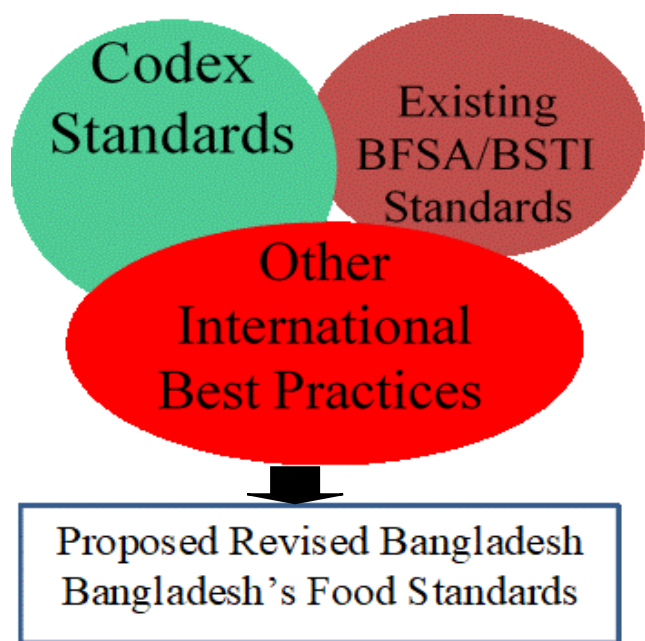


Fig. 2 Proposed revised Bangladesh's food standards with international standard.

legislation. Judge made law continues to be significant in areas such as constitutional law. Unlike in other common law countries, the Supreme Court of Bangladesh has the power to not only interpret laws made by the parliament, but to also declare them null and void and to enforce fundamental rights of the citizens. The Bangladesh Code includes a compilation of all laws since 1836. Bangladesh has significant international law obligations. Governance Gaps in Bangladesh as per our proposed Model, which is described in figure-1 is shown the SPS Safety Laws and Governance in Bangladesh. At the Strategic level, framing the governance design is as per laws, regulations, institution and resources. Purpose and procedures are setting in terms of reference, procedures and focus using, e.g., law, institution and regulations. Implementation status in Bangladesh is partially exercised without defining goals as governance model. While, moreover, the Bangladeshi Parliament passed the Plant Quarantine Act 2011 on March 20, 2011. This Law provides for the controlled export and import of plants, microbes, and soil. It strengthens the authority of the government to take steps to prevent the introduction of alien insects and diseases into the country. The new Law replaces a prior statute, the Destructive Insect and Pest Act 1914, which was thought to provide inadequate power to Bangladesh's quarantine authorities to protect the country's modern agricultural system. In this level existing gaps are science-based screening and testing labs, non-functional, precaution, concern and risk-based assessment gaps. The Law prescribes a maximum punishment of two years of imprisonment and a fine of 500,000 Bangladeshi Taka (about US\$7,000) for producing, carrying, or distributing prohibited plants or related products. Moreover, The Bangladesh National Parliament has passed the Food Safety

Act, 2013 on October 10, 2013 (after repealing and re-enacting the existing outdated laws in this regards) in order to make provisions for the establishment of an efficient, effective, scientifically based Authority and for regulating, through coordination, the activities relating to food production, import, processing, stockpiling, supplying, marketing and sales as well as to ensure the people's right toward access to safe food through appropriate application of scientific processes and state of the art technology. In order to meet the aspirations of the citizens of the country it was felt to be desirable to ensure their rights towards access to safe food for the protection of human health and life. Obligated by the citizens' aspirations and being respectful towards the present government's desire, the Bangladesh Food Safety Authority, which has been set up on February 2, 2015, is committed to make a united start with its full strength and unstinting efforts. The Law prescribes a maximum punishment of two years of imprisonment and a fine of 500,000 Bangladeshi Taka (about US \$7,000) for producing, carrying, or distributing prohibited plants or related products. Moreover, The Bangladesh National Parliament has passed the Food Safety Act, 2013 on October 10, 2013 (after repealing and re-enacting the existing outdated laws in this regards) in order to make provisions for the establishment of an efficient, effective, scientifically based Authority and for regulating, through coordination, the activities relating to food production, import, processing, stockpiling, supplying, marketing and sales as well as to ensure the people's right toward access to safe food through appropriate application of scientific processes and state of the art technology. In order to meet the aspirations of the citizens of the country it was felt to be desirable to ensure their rights towards access to safe food for the protection of human health and life. Obligated by the citizens' aspirations and being respectful towards the present government's desire, the Bangladesh Food Safety Authority, which has been set up on February 2, 2015, is committed to make a united start with its full strength and unstinting efforts. The Authority whole-heartedly can welcome the all-out support of all food control agencies, food business operators and people of the country towards the landmark goal of establishing a Modern and Technological Food Safety System in Bangladesh to contribute to the government's Vision 2021 and compliance SPS-TBT for international trade. At the Tactical level, assessment can be screening, prevention, precaution concern or risk-based assessment through gathering knowledge by identifying risks using, e.g. sound science, or by social scientists or economists. Still Bangladesh could not full compliance and harmonization of Bangladesh's food standards with CODEX alimentarius. At the operational level, assessment decisions are evaluated through value-based judgment, e.g., on tolerability prior to management decision. Still absence and not exercised found as governance process. Management/government/ Food safety authority/ National Plant Protection Organization (NPPO) can take proper decision, implementation and monitoring through selection of appropriate safety decision for risk by management board or regulator and decision are

based on prevention, precaution, and concern or risk analysis. To increase successful export capacity building in addressed areas is of prime interest. To be practical, it is, therefore necessary to try to comply with EU Directives, international SPS rules and regulations, both mandatory and voluntary for improving Citrus, fresh Vegetables & other Plant and plant products export and import. As a signatory to the IPPC we have to follow the ISPMs adopted by the IPPC for international trade. In order to comply with the WTO-SPS agreement we must update our Phytosanitary capacity on a regular basis (Cottier & Schefer, 1998). To ascertain the phytosanitary task, we need high degree of quality control equipment's, trained manpower and necessary laboratory facilities in the field of quality control and Plant Quarantine. Therefore, necessary to try to comply with EU Directives, international SPS rules and regulations, both mandatory and voluntary for improving Citrus, fresh Vegetables & other Plant and plant products export and import for both raw and process food. In this clause is described methodology of the study in focus SPS-TBT agreements of WTO rules in harmonization of Bangladesh's both raw and process food standards with CODEX Alimentarius and ISPMs of IPPC for international trade.

4. ROLE OF WTO RULES ABOUT SPS MEASURES IN DOMESTIC LAWS

Bangladesh was one of the signatories to the concluding declaration of the Uruguay Round of GATT and a founding member of the WTO. As may be expected, Bangladesh lacks adequate human resource capacities to deal with the relevant SPS-TBT issues in the appropriate global trade. There is a lack of trained manpower at all levels. In this perspective a model has been developed which is described in Fig.1. According to study, raw food and phytosanitary purposes the Plant Quarantine activities at national level of Bangladesh are under the Director of Plant Quarantine Wing of the Department of Agricultural Extension under the Ministry of Agriculture. He is serving as National Plant Protection Organization (NPPO) of Bangladesh. Therefore, the following key bodies are the Parliament, Ministry of Agriculture, Bangladesh Food Safety Authority, Ministry of Local Government, Rural Development and Co-operatives, Ministry of Industry, National Plant Protection Organization, Ministry of Fisheries and Livestock, Ministry of Commerce, Ministry of Establishment and Ministry of Home Affairs, Bangladesh Standards and Testing Institution are responsible for SPS measures in Bangladesh (Jaiswal, 2003). National legal frameworks are a key pillar in an effective food control system. In all countries, food is governed by a complexity of laws and regulations which set out the government's requirements to be met by food chain operators to ensure the food is safe and of adequate quality. Generally, food law is used to apply to legislation which regulates the production, trade and handling of food and hence covers the regulation of food control, food safety and relevant aspects of food trade. Minimum quality requirements are included in the food law to ensure the

foods produced are unadulterated and are not subjected to any fraudulent practices intended to deceive the consumer. In addition, food law should cover the total chain beginning with provisions for animal feed, on-farm controls and early processing through to final distribution and use by the consumer. Although food law is used in a singular term, it is recognized that in many countries more than one law may exist which contains provisions for ensuring safe and quality food production. The situation can be further complicated where laws and regulations may not have been updated or may have constantly been amended, creating a maze of rules which regulators, industry and consumers find it difficult to understand. Countries often face the additional challenge of updating their food laws in line with international agreements such as WTO and Codex standards. Finally, implementation of food laws and regulations is essential. We provide support to governments in developing modern, effective national food laws and regulations. This technical support is provided through teams of legal advisors working closely with food safety experts. Due consideration is given to harmonizing legal frameworks with WTO requirements and where relevant, basing them on Codex standards, guidelines and related texts which constitutes the benchmark for food safety at the international level. Safety and Health Management System is defined a safety and health management system means the part of the Organization's management system which covers the health and safety work organization and policy in a company; the planning process for accident and ill health prevention; the line management responsibilities and the practices, procedures and resources for developing and implementing, reviewing and maintaining the occupational safety and health policy. The system should cover the entire gambit of an employer's occupational health and safety Organization. The key elements of a successful safety and health management system are: Firstly, Policy and commitment of the workplace should prepare an occupational safety and health policy programme as part of the preparation of the Safety Statement required by Section 20 of the Safety, Health and Welfare at Work Act 2005. Effective safety and health policies should set a clear direction for the Organization to follow. They will contribute to all aspects of business performance as part of a demonstrable commitment to continuous improvement. Responsibilities to people and the working environment will be met in a way that fulfills the spirit and letter of the law. Cost-effective approaches to preserving and developing human and physical resources will reduce financial losses and liabilities. In a wider context, stakeholders' expectations, whether they are shareholders, employees or their representatives, customers or society at large, can be met. The workplace should formulate a plan to fulfill its safety and health policy as set out in the Safety Statement. An effective management structure and arrangements should be put in place for delivering the policy. Safety and health objectives and targets should be set for all managers and employees. Secondly of implementation and operation for effective implementation, organizations should develop the

capabilities and support mechanisms necessary to achieve the safety and health policy, objectives and targets. All staff can be motivated and empowered to work safely and to protect their long-term health, not simply to avoid accidents. These arrangements can be underpinned by effective staff involvement and participation through appropriate consultation, the use of the safety committee where it exists and the safety representation system and, sustained by effective communication and the promotion of competence, which allows all employees and their representatives to make a responsible and informed contribution to the safety and health effort. There should be a planned and systematic approach to implementing the safety and health policy through an effective safety and health management system. The aim is to minimize risks. Risk Assessment methods should be used to determine priorities and set objectives for eliminating hazards and reducing risks. Wherever possible, risks should be eliminated through the selection and design of facilities, equipment and processes. If risks cannot be eliminated, they should be minimized by the use of physical controls and safe systems of work or, as a last resort, through the provision of PPE. Performance standards should be established and used for measuring achievement. Specific actions to promote a positive safety and health culture should be identified. There can be a shared common understanding of the organization's vision, values and beliefs on health and safety. The visible and active leadership of senior managers fosters a positive safety and health culture. The Organization should measure, monitor and evaluate safety and health performance. Performance can be measured against agreed standards to reveal when and where improvement is needed. Active self-monitoring reveals how effectively the safety and health management system are functioning. Self-monitoring looks at both hardware (premises, plant and substances) and software (people, procedures and systems, including individual behavior and performance). If controls fail, reactive monitoring should find out why they failed, by investigating the accidents, ill health or incidents, which could have caused harm or loss. The objectives of active and reactive monitoring are: to determine the immediate causes of substandard performance; to identify any underlying causes and implications for the design and operation of the safety and health management system. The Organization should review and improve its safety and health management system continuously, so that its overall safety and health performance improves constantly. The Organization can learn from relevant experience and apply the lessons. There should be a systematic review of performance based on data from monitoring and from independent audits of the whole safety and health management system. These form the basis of complying with the organization's responsibilities under the 2005 Act and other statutory provisions. There should be a strong commitment to continuous improvement involving the development of policies, systems and techniques of risk control. Plant Quarantine "means the effort to prevent entry, establishment or spread of a foreign pest in the country through legal restriction on the movement of plant and plant

products," Our lives & well-being are based on plant growth and cultivation Invasive alien species greatly endanger our food production, medication etc. Expanding global trade, tourism & climate change also increases the dangers. The impact of invasive alien species has serious implications for the economy and ecology. Quarantine Service Started from 14th century in 1799 USA introduced Quarantine Act. In 1825 UK promulgated Quarantine Act. In 1914 British Indian Governor General Promulgated the "Destructive Insects and Pest Act". In 1951 FAO started International Plant Protection Convention (IPPC). In 1966 Pakistan endorsed 'Destructive Insects and Pests Rules'. In 1974 Bangladesh became the member of IPPC. In 1989 Bangladesh amended the Destructive Insects and Pests Rules'1966 and the rules is still on 'Plant Quarantine Act-2011' has been passed in 2011. The SPS Agreement is intended to ensure that SPS measures needed to protect the safety of food, and human, animal or plant life or health are not applied in a manner which constitutes arbitrary or unjustifiable discrimination between Members (where the same conditions prevail) or a disguised restriction to international trade, while recognizing the right of Members to adopt such measures when scientifically justified. The SPS Agreement applies to all measures whose purpose is to protect for human or animal life or health from food-borne risks i.e. risks arising from additives, contaminants, toxins or disease-causing organisms in their food, feed or beverages; human life or health from animal or plant carried diseases; animal and plant life or health from pests, diseases or disease-causing organisms; a Member's territory from damage from the entry, establishment or spread of pests (including weeds). These include sanitary and phytosanitary measures related to products and to process and production methods. The SPS Agreement applies to measures taken to protect the health of fish and wild fauna, as well as of forests and wild flora, from the risks stated above. Furthermore, we analyzed the relationship between the SPS and TBT Agreements, and found out that the SPS and TBT Agreements are mutually exclusive in the measures they cover. The SPS Agreement covers all measures taken for one or more of the purposes identified above. The TBT Agreement covers all technical regulations, standards and conformity assessment procedures regardless of their objectives, except when these are sanitary or phytosanitary measures as defined by Annex A of the SPS Agreement. Finally, we understand now that the SPS Agreement is, among other things, a further specialization. SPS measures considered to be in accordance with the relevant provisions of the SPS Agreement shall be presumed to be in accordance with the obligations of a Member under the provisions of GATT 1994. We also have to keep in mind, regarding the institutional coverage of the SPS Agreement, that it applies to a wide range of authorities: (i) central government bodies; (ii) local government bodies (which include provincial/state government bodies); and (ii) regional and non-governmental bodies. Members' obligations vary according to the type of body. Furthermore, the SPS Agreement applies to SPS measures in legal force

regardless of the date they were enacted by the member. In this module, we are going to see some examples of SPS measures and discuss the basic obligations contained in the SPS Agreement, as set forth in its Article 2. In the final part of this module we will explain the disciplines on procedures for control, inspection and approval. SPS measures aim to the SPS Agreement applies to SPS measures which may, directly or indirectly, affect international trade. The development and application of these measures shall be in accordance with the provisions of the Agreement. SPS measures include all relevant i.e. laws; decrees; regulations; requirements; and procedures. These include measures related to, inter alia end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety. Remember that sanitary relates to human and animal life or health protection, while phytosanitary relates to plant protection. Moreover, animal includes fish and wild fauna; plant includes forests and wild flora; pests include weeds; and contaminants include pesticide and veterinary drug residues and extraneous matter. The term SPS measure may seem quite abstract or even vague when anybody can first hear about it, right? With some examples anyone can be collected below that it will become clearer what SPS measures may mean. Presently divided into three categories, so as to facilitate comprehension measures aimed at food safety; those aimed at the protection from pests and diseases of human life or health; animal or plant life or health; and measures to prevent the entry, establishment or spread of pests and diseases. The distinction between the different categories of risk, i.e. food-borne risks, and pest or disease risks, is very important because the kind of risk assessment to be conducted is different for each of these risk categories (Dahlstrom et al., 2011). By the way, do we know which were the latest SPS measures adopted by our country? These questions can meet notified in advance to trading partners and published. Food safety measures are those measures aimed at protecting human or animal life or health from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs. Contaminants include pesticide and veterinary drug residues and extraneous matter. First example: Maximum residue limit for pesticides on fruits and vegetables some consumers have become increasingly concerned about the adverse impact's pesticides may have not only on the environment, but also on human health. Most countries impose limits on pesticide residue levels in or on fruits and vegetables, and systems for testing and inspection have been put in place to ensure the fulfillment of requirements by both foreign and domestic producers. The Codex Alimentarius Commission, one of the three standard-setting bodies named in the SPS Agreement, has a Codex Committee on Pesticide Residues

(CCPR), whose prime objective is to reach agreement among governments on maximum residue limits (MRLs) for pesticides residues in food commodities moving in international trade. Such MRLs are sanitary requirements relating to end product criteria when, for example, apples imported and domestically produced are required not to contain more than 10mg/Kg of Diphenylamine, a type of pesticide. However, MRLs may also relate to processes and production methods, since the application of pesticides during the growing period of the fruit is what determines the residue levels found in or on the fruit at harvest. Furthermore, governments may put in place sampling and testing requirements, to control the fulfillment of the MRLs proposed by the importing country. Harmonization is to bring consonance or accord on adjustment of differences and inconsistencies among different measurements, methods, procedures, schedules, specifications, or systems to make them uniform or mutually compatible. Harmonization is urgent to be at par with international standards; ensure availability of safe food to our citizens; to enhance exports, to comply with international commitments and improve production practices. Hence, BFSA can always put in place regulatory measures for the protection of their territories against health risks contained in food and agricultural products. In recent years, these measures have proliferated, creating an important impact on trade.

5. COMPARATIVE STUDY BETWEEN DOMESTIC SPS MEASURE WITH INTERNATIONAL STANDARDS

Bangladesh's Food Standard with compare to CODEX and other International Best Practices are discussed in this section. Bangladesh became codex member in 1975 and Bangladesh Food Safety Authority was set up in 2015 according to Food Safety Act, 2013. For this reason, harmonization is defined firstly with to bring into consonance or accord, adjustment of differences and inconsistencies among different measurements, methods, procedures, schedules, specifications, or systems to make them uniform or mutually compatible. Harmonization will be need to be a par with international standards; ensure availability of safe food to Bangladesh's citizens; enhance exports; comply with international commitments and improve production practices. BFSA is to regulate and monitor the activities related to manufacture, import, processing, storage, distribution and sale of food so as to ensure access of safe food through exercise of appropriate of scientific methods , and BFSA can take steps to inter alia provide scientific advice and technical support to the Government in formulating food and nutrition policy or rules or regulations; analyze scientific and technical information concerning the risks to human health; develop methods of risk assessment and to cooperate with international organizations in relation to food safety, quality and testing; harmonize safety and quality standards between domestic and international food articles ; BFSA to make Regulations

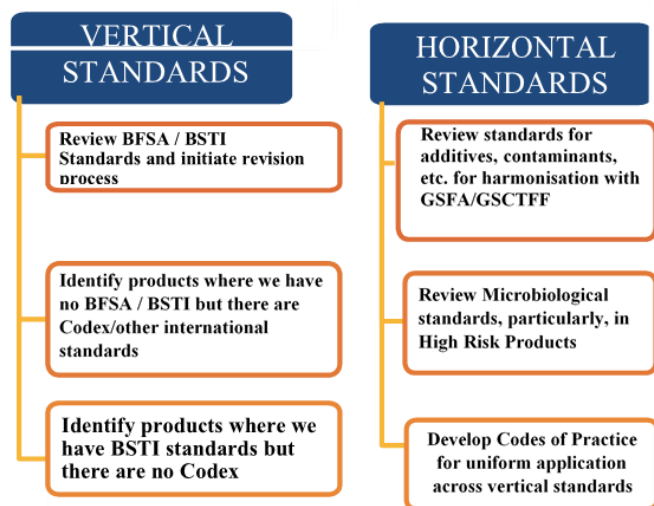


Fig. 3 Vertical and horizontal standards.

to carry out the purposes of Section 13. BFSA may form required number of Technical Committees consisting of subject matter experts to assist and advise the BFSA in conducting its functions. Technical Committees may, if necessary, invite the relevant industry and consumer representatives and experts in the meeting. Issue directives related to food safety and quality to any authority, organization or person concerned directly or indirectly with food safety management, and such authority, organization or person shall be bound to comply with such directives. Require any authority, organization or person to render necessary assistance, and such authority, organization or person shall be bound to comply. Codex 'Vertical Standards', 'Guidelines' and Codes of Practice: 'Vertical Standards' currently available under BSTI but may need harmonization, Format for Standards: Name of the Standard; Scope; Description; Composition and Quality Factors; Food Additives; Contaminants, and Residues; Hygiene Packaging, Labeling and Claims Methods of Analysis and Sampling and Processing Aids. While Codex 'Horizontal Standards', 'Guidelines' and Codes of Practice: 'Horizontal Standards' currently available under BSTI but may need harmonization, Format for Standards: These can be by Food Additives and guidance for work on food additives; compile list of Codex FA as per BFC and recommend Max. Use Level; make comparative chart of FA MLs; max. In figure-2 is shown the proposed revised Bangladesh's Food Standards with International Standard.

Use levels; parts: make list of FA: As per GMP; Milk, butter milk, cheese, fresh fruits, vegetables; Food Cat. & Items excluded from Gen. Conditions; GMP and Food Contaminants i.e. Mycotoxins, NOTS, Heavy Metals, Vet. Drugs, Pesticides, Microbiological, Proc. Aids, Others; make list of MLs as per BFSA / BSTI and recommend new MLs make comparative chart of MLs; GSCTFF; General Standards of Labeling of Pre-packaged Foods; Nutrition Labeling; Gen. Guidelines on Claims and Guidelines for Use of Nutrition and Health Claims. Bangladesh Food

Categories (BFC) including non-food item: animal / bird feed are following:

- BFC 1: Cereals, pulses and their Products (incl. bakery products)
- BFC 2: Oilseeds, Fats and their products (including fat emulsions)
- BFC 3: Milk and Milk products and their analogues
- BFC 4: Fish and Fishery products (including molluscs, crustaceans etc.)
- BFC 5: Meat and Poultry (including eggs) and their products
- BFC 6: Salts, Spices and condiments, Soups, Sauces, Salads and Protein Products
- BFC 7: Tea and Coffee
- BFC 8: Sugar/Sugar products (incl. confectionery & sweets), Sweeteners, Honey
- BFC 9: Fruits & Vegetables, roots, tubers, sea-weeds, dry fruits/nuts
- BFC 10: Processed Fruits and Vegetables
- BFC 11: Starch derivatives etc.
- BFC 12: Soft drinks and Beverages (excluding dairy and juices)
- BFC 13: Edible ices and sorbet
- BFC 14: Ready-to-Eat Food Products
- BFC 15: Foodstuff for Nutrition and Special Dietary Purposes
- BFC 16: Miscellaneous including traditional foods.

In Fig. 3 is shown the vertical and horizontal standards. BFSA Strategy for Harmonization provisions of the Act, scope of work, procedure, TOR of WGs, criteria to come on WGs are also including following areas: detailed guidance to implement strategy ; the guidance for WGs; Codex Standards, Guidelines ;Food Additives ; Contaminants and Residues ; Packaging, Labeling and Claims; Examples of BSTI standards that may require review; Nomination Form to participate in WGs; Have clear understanding of the BFSA Strategy; Should have relevant experience in handling matters related to BFSA / BSTI standards and regulations; Have adequate exposure to food safety, quality and standards issues; Willing to work collaboratively as a member of a Working Group as assigned; Be available, willing and capable of working with BFSA for at least one year for successful execution, and will be available for subsequent consultations; Prominent SPS case is the hormone-treated beef case.

6. CONCLUSION

Therefore, the clauses of the World Trade Organization (WTO) Sanitary and Phytosanitary (SPS), Agreement in a developing country Bangladesh context have been studied. It describes the regulatory and institutional infrastructure developed to meet new obligations under the SPS Agreement using in-depth of legal study. The findings indicate that, as a developing country, Bangladesh has achieved a reasonable degree of compliance with its commitments towards the WTO. BAB, a national

accreditation body has been set up. A number of transparency mechanisms have been put in place such as a National Notification Authority, a Sanitary and Phytosanitary Enquiry Point and a national SPS committee involving the public and private sectors for communicating and discussing about SPS measures of trade relevance. Bangladesh participated, to different extents, in the WTO SPS committee and in the activities of international standard-setting organizations. It can be updated some SPS-related laws. There have been operational changes in local organizations dealing with SPS issues. However, constraints such as the insufficient capacity to do risk assessment and to carry out equivalence might prevent Bangladesh from meeting all its obligations towards the WTO.

REFERENCES

- Henson, S., & Loader, R. (2001). Barriers to agricultural exports from developing countries: the role of sanitary and phytosanitary requirements. *World Development*, 29(1), 85-102.
- Marceau, G., & Trachtman, J. P. (2002). The technical barriers to trade agreement, the sanitary and phytosanitary measures agreement, and the general agreement on tariffs and trade a map of the world trade organization law of domestic regulation of goods. *Journal of World Trade*, 36(5), 811-881.
- Silverglade, B. A. (2000). The WTO agreement on sanitary and phytosanitary measures: Weakening food safety regulations to facilitate trade. *Food & Drug L.J.*, 55, 517.
- Cottier, T., & Schefer, K. N. (1998). The relationship between World Trade Organization law, national and regional law. *J. Int'l Econ. L.*, 1, 83.
- Dahlstrom, A., Hewitt, C. L., & Campbell, M. L. (2011). A review of international, regional and national biosecurity risk assessment frameworks. *Marine Policy*, 35(2), 208-217.
- Rahman, M. (2001). *EU Ban on shrimp imports from Bangladesh: A case study on market access problems faced by the LDCs*. Center for Policy Dialog Pub., Dhaka, Bangladesh.
- Unnevehr, L. J. (2000). Food safety issues and fresh food product exports from LDCs. *Agricultural Economics*, 23(3), 231-240.
- Jaiswal, A. K. (2003). WTO Agreement on SPS: Strategic implications. *Economic and Political Weekly*, 38(45), 4737-4742.
- WTO, (2020). "The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)", available at: https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm (accessed 12 January 2021).