

## CONSUMER corner

# Food adulteration Consumers' rights is at stake

QUAZI FARUQUE

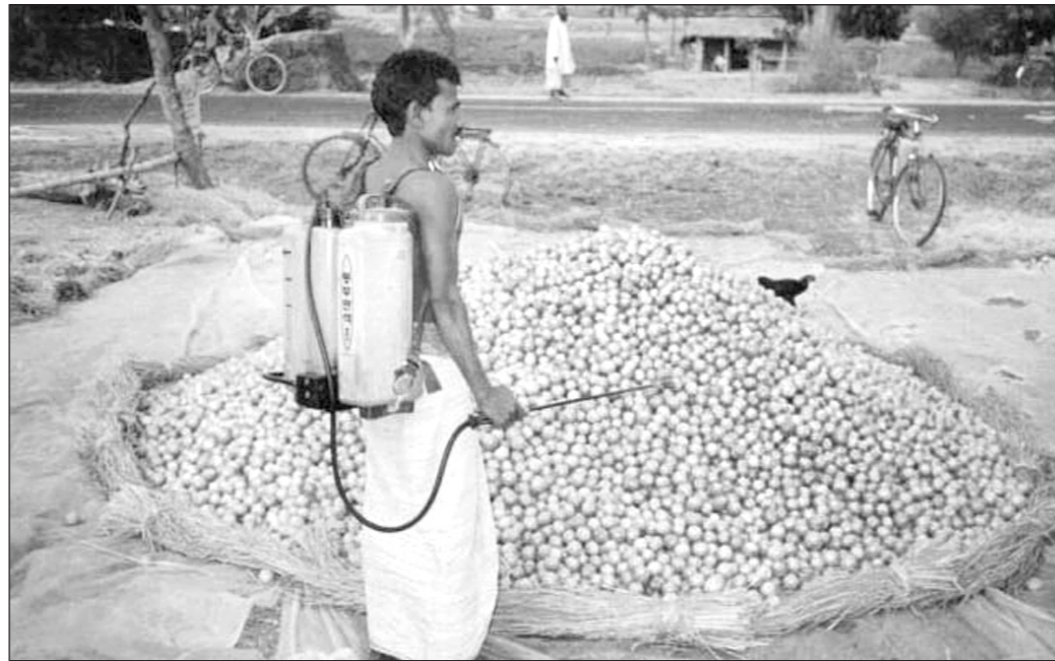
No doubt food is the vital source to keep the life alive, to create energy. It is essential for every human being. But the food which we take must have to be safe and secured. Access to safe and secured food is prerequisite to the right to life which is one of the constitutional rights of every citizen. Where as to-day there is tremendous scarcity of safe food for human consumption in our country. The foods which we generally take in our everyday life are either adulterated by the unscrupulous business community or microbiologically and chemically contaminated which are very much dangerous to health. These create many unseemly diseases and physical disorders. At the same time the drinking water which we take in our daily life are not always safe. Not even the bottled water. In the name of mineral and some times safe water are being sold millions of bottled water in the country. New companies are coming forward to start this sorts of business. Many of consumers depend on this drinking water and it has become a culture of drinking bottled water with the thinking that these are safe. Really are those safe?

Question arises. Because it has been learnt from the tests that most of the bottled water available in the market locally produced and imported are not up to the mark as claimed in the labelling the bottles. It was revealed from the general survey results, physico-chemical quality and related issues a few months back and that was disseminated through a seminar on the findings of the commercially available bottled water in Bangladesh. We can now easily assume how grave situation is prevailing in our country in the food and drinking water sector. Every one must agree that he loves himself the best and next his children. But taking this adulterated, contaminated food and unsafe water we are silently and gradually heading to wards health hazardous life. Ourselves, our children are becoming seriously affected day by day. And if this continuous for longer period and if proper measures are immediately not taken we will have face lot of sufferings.

Very recently in a National Seminar on Food Safety and Public Health, the Director of Institute of Public Health (IPH), Dhaka Prof. Dr. Muazahul Huq in his address of welcome told that food contamination and adulteration is a grave concern now in the country because of unprotected border, corrupt trading practices, their unholy alliance with administrative and low enforcing authorities. He hinted in his speech that if it continues, our future generation will suffer from many complicated disease and in the long run and they might get intellectually disabled. And in future there is a possibility of being created a Stupid Nation which none of us expects.

On the whole the food safety situation in our country is very alarming. Sometimes it is found that due to lack of awareness and necessary precautionary measures at different levels of the food chains microbiological or chemical contamination or both are taking place which cause many of the food borne illness. While most of our people do not have access to safe food the most important thing that is required by all of us is awareness on safe food and keep them free from hazardous effect of consumption of adulterated food. So, awareness is to be built up at the individual, family, social and national level. And we should start it just now.

The much needed change in the objectives contents, contexts and process of ensuring safe food for the nation have to be properly organised. First of all we will have to attach priority to awareness the awareness among the people irrespective of cast, creed, sex, age etc. Voices are to be



Making consumable!

Quality of sweetmeats, biscuits, breads and ice-creams in Dhaka city in 2003

Items	Having BSTI approval	No BSTI approval	Total
Sweetmeats	400	13 (3.25%)	387 (96.75%)
Biscuits	250	189 (75.6%)	61 (24.4%)
Breads	50	23 (46.0%)	27 (54.0%)
Ice-creams	200	82 (41.0%)	118 (59.0%)

raised. We need safe food. We need the guarantee of safe food. In this regard politicians, policy makers also will have to feel the urgency and develop innovative strategies and programmes to update the food laws and upgrade the existing laboratories facilities as to meet the health needs of our mass people.

If we look at the food state in some other countries a few years back such grave situation was also prevailing there. But to-day they have over come the problems and have ensured safety food in their countries by promulgating proper laws and ordinances, building up awareness and taking coordinated efforts which we are yet to start in our country. There are of course some laws and ordinances in our country. Those are so obsolete and inadequate that do not serve the purpose. At the same time proper food testing laboratory facilities are also absent. More over no aggrieved

consumer independently can reach there. In that case some times Consumers Association of Bangladesh (CAB) on behalf of the general consumers conduct test of different food items and disseminate the information through media and keep the people informed by arranging seminars, dialogues, publishing different message booklets and in some other forms. Not only that this pioneer consumer organisation provides information, data and other materials to the media people of the own and sometimes taking from different sources. Of course with the assurance sources must not be disclosed. And so the News Papers are in the position to make reporting items, features and other writings including editorials and post editorials.

It is really astonishing that the common fruit food materials like mango, banana, water lemon, papayas at are being chemically treated. Which once we conduct think of even. Possibly many of us by this time have learnt that the vegetables that we consume in our everyday life are often chemically contaminated. The health hazards of these chemicals are unthinkable. It is not only causing harm to our health but our mothers are also being affected leading to congenital problems to the new born.

Here I want to put the result of some food samples of common use like Biscuits, Jam-Jelly, Breads, Sweet Meats and Ice creams. Food samples were tested at the Public Health Laboratory (PHL) of Institute of Public Health (IPH) and Bangladesh Standards and Testing Institution (BSTI) during the second half of the current year. Samples are collected for the Dhaka City markets. It can easily be assumed that the situation out side Dhaka is more alarming, specially in the rural areas.

Now it is well understood that we are totally in the paws of food terrorism and which is rapidly being spread up due to lack of protective laws, awareness, Govt. initiatives and unethical practices of some of unscrupulous business people and bad manufacturing practices of the producers. We will have to work hard at different levels to reach the goal. Development of a Food Safety Council including formulation of Food Safety Policy with effective and co-ordinated implementation is urgently needed. At the same time update Rules, Regulations and ordinances on food quality control including street vended food are to be made and decade long awaited proposed Consumer Protection Law passed in the parliament immediately and enact the same for the greater interests means to ensure the access to safe food.

Quazi Faruque is General Secretary, Consumers Association of Bangladesh (CAB).

## HUMAN RIGHTS monitor

# Unheard juvenile voice in Guantanamo

OLI MD. ABDULLAH CHOWDHURY

US has not only failed to distinguish between Al-Qaida and Taliban but also among adults and children, while imprisoning all of them at Guantanamo Bay Base. US Secretary Rumsfeld called those detained at Guantanamo the 'worst of the worst'. Among those detainees, interestingly, there are at least three children, ages 13 to 15. Thus, imprisoning the children without any trial for an indefinite period is violating UN Convention on the Rights of the Child (UNCRC), which was adopted by 193 of total 195 members of UN.

Firstly, UNCRC is the most venerated international mandate in establishing rights of the child. After adopted by the General Assembly of the United Nations on 20 November 1989, the convention came into force on 2 September 1990 in less than any other human rights convention. Moreover, on 29-30 September 1990 the largest gathering of world leaders in history assembled at the United Nations to attend the World Summit for Children. Led by 71 heads of the State and government and 88 other senior officials, mostly at the ministerial level, the World Summit adopted a Declaration on the Survival, Protection and Development of children and a Plan of Action for implementing the Declaration in the 1990s. It simply reflects the commitment of world leaders as well as the inhabitants of this world despite US continuous refusal to comply with UNCRC considering juvenile prisoners in Guantanamo.

However, UNCRC is based on four key principles-

1. Non-discrimination
2. Best interest of the child
3. Survival & development
4. Participation

The detention of children in such a special prison like Guantanamo poses grave risk to the basic rights of the child.

"States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status" - stated in the Article 2 of UNCRC. UNCRC is equally applicable for the all children of the world since the rights set forth in the conventions are universal. US certainly is discriminating among children; nonetheless children from Afghanistan or other parts of the world have equal rights. If a child from US was being kept, what would be the reaction of Mr. Rumsfeld and Bush?

'No one shall be subjected to arbitrary arrest, detention or exile (Article 9)', as it has been stated in the Universal Declaration of Human Rights (UDHR). Furthermore, it implies: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. These are the basic rights of a human being and UDHR proclaims this basic rights.

However, the effects of the ruling by an American court that



Guantanamo Bay detainees cannot invoke the jurisdiction of United States courts because the territory is not a part of the country "can set a dangerous precedent", an expert of the UN Commissioner on Human Rights said. The Special rapporteur on the independence of judges and lawyers Dato Paren Cumaraswamy, thus reacted on the decision by the US Court of Appeals for the District of Columbia Circuit.

Though detention without trial offends the very first principle of the rule of law, detaining children without any trial seriously contradict the spirit of juvenile justice ensured by the UNCRC. The best interest of the child shall be a primary consideration as it is reflected in the UNCRC. "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." Courts of law should also consider this when dealing with juvenile offenders.

Even though US Secretary Rumsfeld called those detained at Guantanamo "the worst of the worst", it is hard to believe that a 13-year-old child could fit that category. A pentagon spokesman has said that the children are being questioned to obtain possible intelligence, but it is unjust to detain children simply for providing the United States with military intelligence. Becker, Advocacy Director for the Children Rights Division of Human Rights Watch also opined this.

Furthermore, most countries of the world except very few who didn't ratify UNCRC are committed to do the following apart from others as described in Article 40 of UNCRC. "Every child alleged as or accused of having infringed the penal law has at least the following guarantees: (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;" According to UNCRC, there is no scope to interrogate children. In spite of continuous request from Amnesty International, Human Rights Watch and other humanitarian agencies, US government seems to be very reluctant in dealing with those children humanely with equal respects.

To sum up, US must comply with United Nations Convention on the Rights of the Child (UNCRC) and make alternative arrangements for those children. State parties should create pressure since they vowed to establish the rights of the children without any discrimination. Those children of Guantanamo could neither participate no do they have any chance of development. Rather, their survival is at risk since there have already been as many as 25 suicide attempts reported at Guantanamo. Those isolated detainee children are up to eight times more likely to commit suicide than those held in facilities specially for juveniles. World community should raise their voice about Guantanamo for the sake of children even.

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## LAW news

# WTO rules against US safeguard measures on steel

ELIZA PATTERSON

ON November 10, 2003 the World Trade Organisation Appellate Body issued its report in the complaint brought by Brazil, China, the European Communities, Japan, Korea, New Zealand, Norway, and Switzerland against the US imposition of safeguard measures on certain steel products. The Appellate Body upheld a prior Panel ruling that the US measures were inconsistent with the WTO Safeguards Agreement and GATT 1994. Consequently the Appellate Body recommended that the WTO Dispute Settlement Body request the US to bring its measures into conformity.

### Background

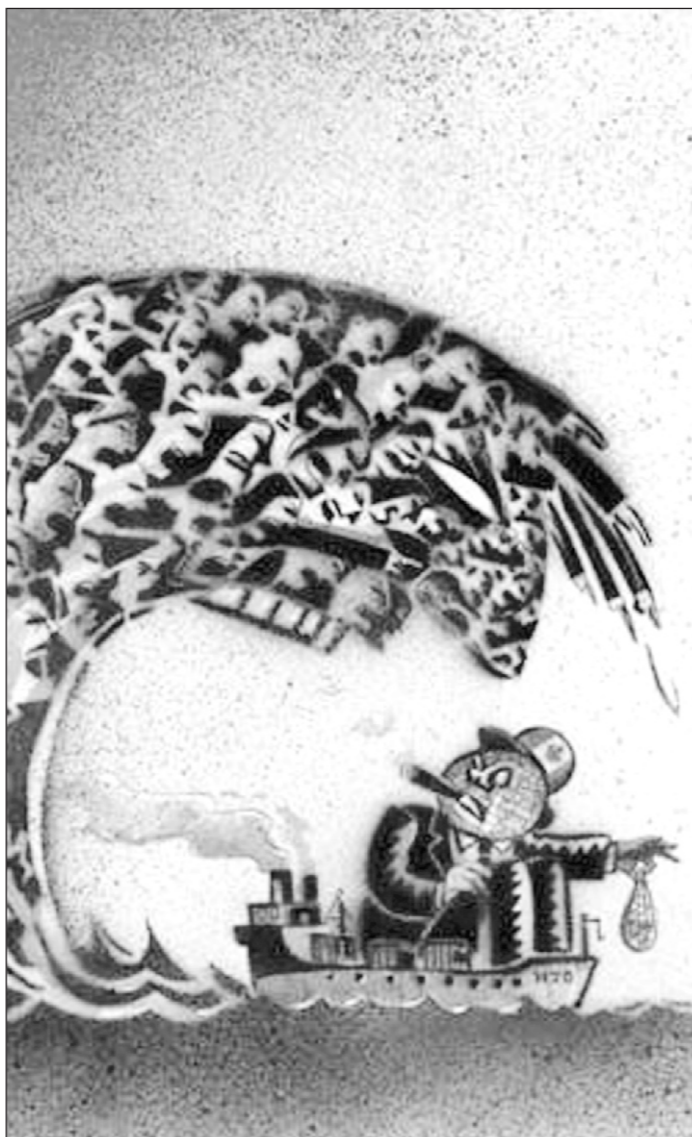
In June 2001, the US International Trade Commission (USITC) initiated a safeguard investigation under Section 201 of the Trade Act of 1974 at the request of the US Trade Representative in order to determine whether certain steel products were being imported into the United States "in such increased quantities as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products."

Pursuant to the investigation the USITC made affirmative determinations for numerous steel product categories under investigation and recommended that tariffs be increased on those products. Based on the USITC recommendation, President Bush, on March 5, 2002, signed a proclamation imposing increased tariffs on imports of ten categories of steel products. The duties, referred to as "safeguard measures," ranged from 30% to 8% and went into effect on March 20, 2002, for a period of three years.

On June 3, 2002, a WTO dispute settlement panel was established at the request of the European Communities to examine the consistency of the US safeguard measures with WTO rules. Complaints on the same matter by Japan, Korea, China, Norway, Switzerland, New Zealand and Brazil were subsequently submitted to the same Panel.

The Agreement on Safeguards and Article XIX of GATT 1994 provide that a WTO member may apply safeguard measures only if, following an investigation by competent authorities, it determines that imports have increased, that the increase was a result of unforeseen developments and that the increased imports have caused, or threatened to cause, its domestic industry to suffer serious injury. The Agreement further provides that the competent authorities must issue a "report setting forth their findings and reasoned conclusions reached on all pertinent issues of fact and law."

The Panel concluded that all ten US safeguard measures were inconsistent with the Agreement on Safeguards and the GATT 1994. Specifically, the Panel found that the US had failed to "provide a reasoned and adequate explanation of their conclusion" (1) that imports had increased; (2) that a causal link existed between the increased imports and serious injury to the domestic industry; and (3) that the increased imports had resulted from "unforeseen developments." The Panel recommended that the Dispute Settlement Body request that the US bring all the safeguard measures into conformity with its WTO obligations. On August 14, 2003, the US appealed the Panel ruling.



### The Appellate body's ruling

The Appellate Body's ruling on November 10 largely upheld the initial Panel's conclusions, specifically its focus on the inadequacy of the US explanation of how the facts supported the conclusion that each of the elements of a safeguard case had been met. It is noteworthy that the

WTO violation resulted from the inadequacy of explanation and not from a fault in US law. The Appellate Body emphasised throughout its report that safeguard measures were considered extraordinary measures and that consequently WTO members had an obligation to clearly set forth the rationale for their determinations.

On the question of increased imports, the Appellate Body ruled that the USITC failed to provide a reason and adequate explanation of how the facts supported its determination that the increase in imports had been recent enough, sudden enough, sharp enough and significant enough to cause serious injury.

On the issue of "unforeseen developments," the Appellate Body similarly concluded that the USITC report was wanting in reasoning. The USITC had found that the Asian and Russian financial crisis, together with the strong US dollar and economy, were the cause of the increased imports and that those economic developments were "unforeseen." The Appellate Body did not question the existence of those developments or the claim that they were unforeseen. Neither did it question that the developments might have caused the import surge. Rather, it ruled that USITC had failed to provide a logical explanation of how such causation actually occurred.

The Appellate Body declined to rule on the general question of whether the USITC had failed to demonstrate a causal link between increased imports and serious injury, viewing such a decision as unnecessary in light of the other violations.

### The aftermath

The Appellate Body Report is set to be adopted by the Dispute Settlement Body. If the US does not comply with the ruling by removing the safeguard

tariffs, the EU and other complainants are expected to seek, and receive, DSB authorisation to raise duties on imports from the US in amounts equal to the trade lost by their steel companies as a result of the illegal US safeguard measures. The combined retaliation will affect several billion dollars worth of US exports.

The US is currently seeking a compromise solution that will enable it to continue some protection for the US steel industry while avoiding foreign retaliation. To date the EU has rejected compromise, arguing that the WTO ruling was clear and that the US must withdraw the illegal safeguard measures or face retaliation.

Source: American Society of International Law (ASIL).

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