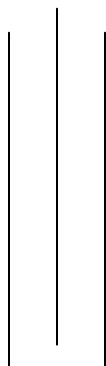
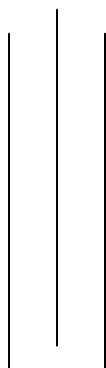


Public Private Community Partnership (PPCP)

(Project Commits by the UNDP, New Delhi)



(Analysis of Legal Framework for Dairy Sector)



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VALUE CHAIN IN DAIRY SECTOR

In the value chain analysis of the dairy sector there are three major players involved. At the very root level we have the livestock, then the persons and the system involved in the production and processing of milk and milk products and ultimately the consumers. The livestock from which we can produce milk such as cow and buffalo, can be purchased, may be genetically improved by cross breeding. For this we need government scheme to that effect and also aid and assistance for financial institutions. There is also a need of fodders to feed the livestock and veterinary services for the proper maintenance of the livestock's. At the second level once the milk is produced by the producers, there are three ways through which the milk reaches to the consumers.

1. through the co-operative dairy unions. In the Dairy sector basically the ANAND PATTERN is being followed in all over India. The Pattern is three-tire pattern, wherein at the very grass root level there is village Dairy Committees. The primary milk producers at the village are its members who sell their milk to the Committee. In this Committee the members themselves elect a secretary who buys milk on behalf of the Committee. At the second level there are District Dairy Unions, constituted by various Village Dairy Committees. The milk bought in the Village Dairy Committees is transported to the District Dairy Unions. At the District Dairy Unions the milk is processed and other milk products are prepared. At the apex level the District Dairy Unions constitute a Dairy Federation, which markets milk and other milk products. All these Committees, Unions and Federations are managed by their elected members and governed by Cooperative Laws and by-laws. In Chhattisgarh the structure of Dairy Sector is quite different and it is only two tire system. There is no federation in Chhattisgarh as there is only one Dairy Union i.e. Raipur Dairy Union. Milk is produced at villages by individual farmers and sold to village dairy committee. The milk collected at various village dairy committees is then transported to the Raipur Dairy Union. At Raipur Dairy Union the milk so collected is processed and

other value added milk products are prepared, packed and marketed. The ideal margin of the capital expenditure in the whole process is in between 20% to 30%. These milk and milk products are marketed through wholesalers and retailers who have their own margins. Raipur Dairy Union is managed by National Dairy Development Board and there is no elected board of members.

2. through the individuals who sell their milk directly to the consumers.

3. Through the companies, like Abees Dairy in Chhattisgarh, who produce and process milk and milk products in their own plants and sell it to the consumers.

In the whole process there are various other stakeholders involved apart from the three major players.

KEY STAKEHOLDERS

According to the analysis of the value chain the stakeholders determined are;

1. The fodder producers for the livestock,
2. The veterinary service providers,
3. Financial institutions that help to establish necessary infrastructure,
4. The milk producers
5. The village dairy cooperatives
6. The district dairy union
7. The transporters
8. The wholesalers
9. The retailers and
10. The consumers

LAWS GOVERNING DAIRY SECTOR

There is catena of laws governing dairy sector and as many as ten different ministries and department administers dairy sector. The laws affecting dairy sector are:

Prevention of Food Adulteration Act 1954 and Prevention of Food Adulteration Rules 1955.

The Prevention of Food Adulteration Act (PFA), 1954 focuses primarily on the establishment of regulatory standards for primary food products, which constitute

the bulk of the Indian diet. Ministry of Health and Family Welfare is the nodal agency for ensuring the quality and safety of food marketed in the country through this legislation. The provisions of the Act are mandatory, and their contravention can lead to both fine and imprisonment. The Act under Section 7(1) prescribes that no person himself or by any person on his behalf manufacture, sale or supply any adulterated food (milk). According to Section 2 of the Act any food is deemed to be adulterated when:

(i) the food (milk) is not of the nature, substance or quality demanded by the purchaser and is to his prejudice or is not of the nature, substance or quality which it purports or is represented to be;

(ii) the food (milk) contains any substance (inferior or cheaper) which affects, or if the article is so processed as to affect, injuriously the nature, substance or quality of the food (milk);

(iii) the food (milk) has been packed and kept in in sanitary conditions whereby it has become contaminated or injurious to health;

(iv) the food (milk) is obtained from a diseased animal;

(v) the food contains any poisonous or other ingredient which renders it injurious to health; To sum up any food (milk) under the Act is deemed to be adulterated when it is contaminated or has become injurious to health and unfit for human consumption. It is, therefore a food (milk) should be of the nature and quality which it purports to be and should not contain any substance which is injurious to health and which renders food (milk) unfit for human consumption. Further the Act provides for public analysts and food inspectors with an objective of inspecting food establishments, sampling and testing of food and investigating the complaints. The Prevention of Food Adulteration Rules 1955 made under the Act provides for the quantity of fats and solid nonfat in the milk. According to the rules the raw, pasteurized, boiled, flavored and sterilized buffalo milk should contain fats up to 5-6 % and solid non fats 9% and cow milk should contain fats up to 3- 4% and solid non fats 8.5%. Mixed Milk should contain fats 4.5% and SNF 8.5%, Standardized Milk should contain Fats 4.5% and SNF 8.5%,

Recombined milk should contain Fats 3% and SNF 8.5%, Toned Milk should contain Fats 3% and SNF 8.5%, Double Toned Milk should contain 1.5% of Fats and 9% SNF, Skimmed Milk should contain not more than .5% of fats and 8.7% of SNF and Full Cream Milk should contain 6% of Fats and 9% of SNF.

THE ESSENTIAL COMMODITIES, ACT 1980: -

In order to prevent unethical trade practices like hoarding and black-marketing etc., the Prevention of Black-marketing of Supplies of Essential Commodities, Act, 1980 is being implemented by the State Governments to detain persons whose activities are found to be prejudicial to the maintenance of supplies of commodities essential to the community. The Essential Commodities Act gives powers to control production, supply, distribution etc. of essential commodities for maintaining or increasing supplies and for securing their equitable distribution and availability at fair prices. Using the powers under the Act, various Ministries/Departments of the Central Government have issued Control Orders for regulating production/distribution/quality aspects/movement etc. The Central Government regularly monitors the action taken by State Governments to implement the provisions of the Essential Commodities Act, 1980. At present the list of essential commodities contains 15 items declared as essential commodities under the Essential Commodities Act, 1980, and are reviewed from time to time in the light of liberalized economic policies in consultation with the Ministries/Departments administering the essential commodities, in the interest of the general public. Under section 3 of Act provides "Powers to control production, supply, distribution, etc., of essential commodities"

- I controlling the price at which essential commodity may be bought or sold;
- I regulating by licenses, permits or otherwise the storage, transport, distribution, disposal, acquisition use or consumption of, any essential commodity;
- I requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any essential commodity;

I regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs or cotton textiles which, in the opinion of the authority making the order, are, or, if unregulated, are likely to be, detrimental to the public interest;

I collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

Central Government U/s 3 for controlling the rise in prices or preventing the hoarding, of any food-stuff in any locality, it may, by notification in the Official Gazette. Notification issued shall remain in force for period not exceeding three months. Where, after any person sells foodstuff of the kind specified therein and in the locality so specified, in compliance with an order made, shall be paid to the seller as the price agreed upon. Confiscation U/s 6A of essential commodity - Where any essential commodity is seized in pursuance of an order made under section 3, a report of such seizure shall, without unreasonable delay, be made to the Collector of the district in which such essential commodity is seized and whether or not a prosecution is instituted for the contravention of such order, then the Collector may, if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order may order confiscation. Now U/s 6B issue of show cause notice in writing informing him of the grounds on which it is proposed to confiscate the essential commodity, he is given an opportunity of making a presentation in writing within such reasonable time. Under section 6C any person aggrieved by an order of confiscation within one month from the date of the communication to him of such order, appeal to any judicial authority by the State Government concerned and the judicial authority shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against. Under section 6D the award of any confiscation under this Act by the Collector shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act. Penalties are provided under section 7 where, if

any person contravenes any order made under section 3 (a) He shall be punishable, with imprisonment to one year and shall also be liable to fine. (b) Any property in respect of which the order has been contravened shall be forfeited to the Government. Under section 10 provides for Offences by companies, where if any person contravening an order made under section 3 is a company, and was responsible shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

MILK AND MILK PRODUCTS ORDER (MMPO) 1992: -

Milk a significant nutrition, is a perishable commodity susceptible to contamination and adulteration and therefore production and distribution of safe, quality and wholesome milk is must for sound health. There for with a view to regulate processing, distribution, transportation, maintenance and increase in supply of liquid milk of desired quality in the interest of the general public the order is promulgated. This order regulated production, supply and distribution of milk and milk products throughout the country keeping in view the health of the consumers, and to ensure the observance of sanitary requirements for dairies, machinery and premises, and quality control standards for milk and milk products. In order to maintain the quality of milk and milk products the Milk and Milk Product Order, mandates that no person shall, without registration, set up a new plant or expand the capacity of any existing plant. The mandate of having being registered is applicable for such persons who have ownership or control over a plant capacity of which exceeds 10,000 liters per day or milk product exceeding 500 tones per annum. Thus it seeks to ensure the supply of liquid milk, an essential commodity, to consumers by regulating its processing and distribution. Salient Features of the MMPO Order are firstly; Registrations for units handling up to 10,000 liters of milk per day are granted by the State Governments and units with more than 10,000 liters per day capacity are registered by the Central Registering Authority. Every application for registration complete in all respects shall be disposed of within 45 days of making of application. Secondly; the Certificate also specifies the milk shed area, which,

under the order is defined as a geographical area demarcated by the Registering Authority for the collection of milk by the registered unit and thirdly maintenance of specified hygienic conditions in the premises where milk and milk products are handled, processed, manufactured or stored. If once the certificate is granted and then any alteration, modification or addition in the plant or the premises is required same has to be done only after the permission of the registering authority. For the maintenance of optimum standards of sanitary requirements of milk or to secure the quality standards of milk, the registering authority may grant permission to that regard.

CONDITIONS FOR REGISTRATION OF DAIRY ESTABLISHMENTS GENERAL CONDITIONS OF SANITARY AND HYGIENE FOR DAIRY ESTABLISHMENTS

Dairy Establishments shall have the following:

- a) facilities for the hygienic handling and protection of raw materials and of non-packed or non-wrapped dairy products during loading and unloading;
- b) appropriate arrangements for protection against pests;
- c) instruments and working equipment intended to come into direct contact with raw materials and dairy products which are made of corrosion-resistant material and which are easy to clean and disinfect;
- d) special watertight, non-corrodible containers in which to put raw materials or dairy products intended for human consumption. Where such raw materials or dairy products are removed through conduits, these shall be constructed and installed in such a way so as to avoid any risk of contamination of other raw materials or dairy products;
- e) appropriate facilities for the cleaning and disinfecting of equipment and instruments especially cleaning in place (CIP) system;
- f) an adequate waste water disposal system which is hygienic and approved by Pollution Control Board;
- g) a supply of potable water. However a supply of non-potable water is also permitted provided that it is intended only for the cooling of equipment, steam production, firefighting and refrigeration equipment, and provided that the pipes

installed for this purpose preclude the use of this water for other purposes and present no direct or indirect risk of contamination of the dairy products. Non-potable water pipes shall be clearly distinguished from those used for potable;

h) an appropriate number of changing rooms with smooth, waterproof, washable walls and floors and within the room or in its immediate vicinity, wash basins with non hand operable taps, hygienic hand-drying facilities and flush lavatories. The lavatories shall not open directly on to the work rooms;

i) a lockable room or a secure place for the storage of detergents, disinfectants and similar substances;

j) a rack or cupboard for storing cleaning and maintenance material;

k) Adequate facilities for cleaning disinfecting tanks used for transporting dairy products. However such facilities shall not be compulsory if alternative facilities which are acceptable to the registering authority are available to the dairy establishment for such purpose; and

(l) room with adequate capacity for storing raw materials and dairy products.

2. (1) Dairy establishments shall have working areas of sufficient size for work to be carried out under adequate hygienic conditions; their design and layout shall be such as to preclude contamination of the raw materials and the dairy products.

(2) The production of heat-treated milk or the manufacture of milk-based products, which might pose a risk of contamination to other dairy products, shall be carried out in a clearly separated working area.

(3) In areas where raw materials are handled and dairy products are manufactured, the areas shall have the following;

a) Solid, waterproof flooring which is easy to clean and disinfect and which allows water to drain away, and equipment to remove water;

b) walls which have smooth surfaces and are easy to clean, are durable and impermeable and which are covered with light-colored coating;

c) ceilings or roof linings which are easy to clean in those areas where exposed or no packaged raw materials or Dairy products are handled;

- d) doors made of non-corrodible materials which are easy to clean;
- e) adequate ventilation and, where necessary, good steam and water-vapor extraction facilities in accordance with Factory Act, 1948;
- f) adequate natural or artificial lighting in accordance with Factory Act, 1948;
- g) an adequate number of facilities with hot and cold running water, or water pre-mixed to a suitable temperature, for cleaning and disinfecting hands; taps in work rooms and lavatories for cleaning and disinfecting hands which shall be non hand-operable, these facilities shall be provided with cleaning and disinfecting materials and a hygienic means of drying hands; and
- h) facilities for cleaning tools, equipment and installations.

3. (1) Subject to sub-paragraph (2) of this paragraph, the rooms where raw materials and dairy products are stored shall comply with the requirements specified in paragraph 2(3)(a) to (f) above. (2) Raw Materials and dairy products shall not be stored in rooms which do not comply with all or any of the requirements of paragraph 2(3)(a) to (f) above.

4. Rodents, insects and any other vermin shall be systematically destroyed in the dairy establishment and any creature, including any harmful animal shall be prevented from entering rooms in which dairy products are manufactured or stored.

5. Instruments and equipment used for working on raw materials and dairy products, floors, ceilings or roof linings, walls and partitions shall be kept in a satisfactory state of cleanliness and repair, so that they do not constitute a source of contamination to raw materials or dairy products.

6. Equipment, containers and installations which come into contact with dairy products or perishable raw materials used during production shall be cleaned and if necessary disinfected according to a cleaning programme based on risk analysis principles.

7. Equipment, containers, instruments and installations which come into contact with microbiologically stable dairy products and the rooms in which they are stored shall be cleaned and disinfected according to a cleaning programme

based on risk analysis principles drawn up by the occupier of the dairy establishment.

8. Any container or tank used for transporting and storage of raw milk shall be cleaned and disinfected before re-use.

9. The processing establishment shall in principle be cleaned according to a cleaning programme based on risk analysis principles.

10. The occupier of a dairy establishment shall take appropriate measures to avoid cross contamination of dairy products in accordance with the cleaning programme specified in paragraph 7 above.

11. Disinfectants and similar substances used shall be used in such a way that they do not have any adverse effects on the machinery, equipment, raw materials and dairy products kept at the dairy establishment. They shall be in clearly identifiable containers bearing labels with instructions for their use and their use shall be followed by thorough rinsing of such instruments and working equipment with potable water.

12. Where a dairy establishment produces foodstuffs containing dairy products, together with other ingredients, which have not undergone heat-treatment, or other treatment having an equivalent effect, such dairy products and ingredients shall be stored separately to prevent cross contamination. The collection, transportation and processing of milk normally centers around the operations of a processing plant. The region from which the marketable surplus of milk production finds its way to a processing plant is called a 'milk shed'.

STANDARDS OF WEIGHTS & MEASURES ACT, 1976 2; THE STANDARDS OF WEIGHTS & MEASURES (PACKAGED COMMODITIES) RULES, 1977; AND THE STANDARDS OF W&M (ENFORCEMENT) ACT, 1985: -

The Act aims primarily at the prevention of trading involving false package, false weight or measure, and unverified weight or measures. The purpose of the legislation is to raise the standard of weights and measures of goods sold in India. The Act governs sale of packaged commodities and provides for mandatory registration of all packaged products in the country. These Rules lay

down certain obligatory conditions for all commodities that are packed form, with respect to declarations on quantities contained. These Rules are operated by the Directorate of Weights and Measures, under the Ministry of Food and Civil Supplies. Under Section 22 of the Act specially prohibits the manufacture of weight or measure unless such a manufacture conforms to the standards of weight or measure established under the Act. Section 21 provides that, no weight, measure or numeral, other than the standard weight, measure or numeral should be used. These are the prohibition of manufacture of non-standard weight or measure. There are number of provisions contained in the Act that punish those persons using any weight or measure or makes any numeration otherwise than in accordance with the standards of weight, measure or numeration. Under this Act offences and penalties are provided u/s 36 where whoever “makes or manufactures any weight or measure, sell, transfers, lets or hire, any weight or measure shall be punished with imprisonment for a term which shall not be less than three months but which may extend to one year, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than six months, but which may extend to three years and also with fine.” The Indian Penal Code, 1860 also contains number of provisions relating to the offences with regard to weights and measures. However they shall not apply to any offence punishable under this Act.

CONSUMER PROTECTION ACT, 1986: -

The Act provides for constitution of District Forum/State/National Commission for Settlement of disputes between the seller/service provider and the consumer. It is for checking the unfair trade practices and deficiency in relation to goods and services, in promoting welfare of the society by enabling the consumers to participate directly in the market economy because the public and private enterprises are in blind race for earning money by fair or foul means, the well-organized producers and businessmen lacking trust and honesty against the illiterate, ignorant unorganized consumers led to consumer exploitation. As per

the preamble, the act is to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected there with. The act, seeds, inter-alia, to promote and protect the rights of the consumers, and provides for the establishment of the central and state consumer protection councils and the establishment of three-tier consumer disputes redressal agencies consisting of the district forum, the state commission and the national commission. The provisions of the act are in addition to and not in derogation of the provisions of any other law for the time being in force. The complaint, containing the allegations about the defects in the goods or the deficiency in the services, can be filed in writing, without any court fee, by the consumer himself, or by any recognized consumer association or by the central or the state government. 4 The Act received the assent of the President of India on 24th December, 1986 and was published in the Gazette of India, Extra., Pt. II, Section 1, Page 1-12, dated 26th December, 1986. The code of conduct of the commission where following relevant measures taken for the protection of consumer:-

- (a) They should perform their operations in such a way that does not cause dangers to the health and safety of consumers and they should maintain consistent quality of products.
- (b) They should disclose to the appropriate authorities of the countries, in which they operate, the information relating to features of their products which are directly related with the health and safety of the consumers.
- (c) They should co-operate with governments of the countries in which they operate with a view to promote standards for the protection of the health and safety of the consumers in relation to their production of the health and safety of the consumers in relation to their production or marketing in the countries concerned.

THE INFANT MILK SUBSTITUTES, FEEDING BOTTLES AND INFANT FOODS (REGULATION OF PRODUCTION, SUPPLY AND DISTRIBUTION) ACT, 1992 AND RULES 1993: -

Every child has a right to be adequately nourished as a means of attaining and maintaining health. The mother and her infant form a biological unit. Breast-feeding is the natural and ideal way of feeding the infant. But baby food manufacturers created a doubt in the minds of mothers that artificial food is better for babies than mother's milk itself. Promotion of infant milk substitutes and related products has been more extensive and pervasive than the dissemination of information concerning the advantages of mother's milk and breast-feeding and contributes to decline in breastfeeding. And therefore in view of the vulnerability of infants in the early months of life to the aforesaid risks and the risks involved in inappropriate feeding practices including the unnecessary and improper use of infant milk substitutes, feeding accessories and infant foods, the Act seeks to regulate the marketing of such products. The Code envisages that there shall be no advertising or other form of sales promotion of infant milk substitutes, feeding bottles and teats. The Code, in accordance with this general principle, enjoins the health authorities to encourage and protect breastfeeding and also prescribes several measures to control the marketing and promotion -of infant milk substitutes, feeding bottles, teats and infant foods. It prohibits advertisement of infant milk substitutes and feeding bottles and also prescribes measures to ensure that in the marketing of infant milk substitutes no impression is given that feeding of these products is equivalent to, or better than, breast-feeding. Thus the Act aims at promoting breast feeding and ensuring proper use of infant milk substitutes and infant food. Under the Act Section 3, prescribes a prohibition stating that no person shall advertise, take part in advertisements, sale, supply or distribute; give an impression that feeding of infant milk substitute is better than mother's milk or take part in promotions thereof. Further Section 6 provides that if any person is doing any business above mentioned in relation of infant milk substitutes then he has to provide information on the containers and

labels of infant milk substitutes that mother's milk is the best food for her child; that the substitute should be used only on advice of health worker, ingredients used, the composition, storage conditions required, batch number, date of manufacture and expiry. According to Section 11 of the Act no person shall sell or distribute any infant milk substitute unless it conforms with the standards specified under the Prevention of Food Adulteration Act and the Rules made there under and the containers shall have the relevant standard mark as specified under Section 3 of Bureau of Indian Standards Act. Section 12 and 13 of the Act gives power to food inspector to enter, search and seize the materials contravening the provisions of the Act. The penalty for committing an offence under Act is imprisonment for a term which may extend to three years or with fine up to Rs. 5,000 or with both. Confiscation of the contravening materials will not interfere with the punishments. The Prevention of Food Adulteration Rules 1955 prescribes that the infant milk food shall conform to the following standards:

Moisture, per cent by weight (not more than)	4.5
2. Total milk protein, per cent by weight (not less than).....	12.0
3. Milk fat, per cent by weight (not less than)	8.0
4. Total ash, per cent by weight (not more than)	8.5
5. Ash insoluble in dilute Hydrochloric acid, per cent by weight (not more than)	0.1
6. Solubility:	
(a) Solubility Index maximum	
(if roller dried).....	15.0 ml
(if spray dried).....	2.0 ml
(b) Solubility per cent by weight (not less than)	
(if roller dried)	85.00
(if spray dried)	98.5
7. Vitamin A. (as retinol) mcg. per 100g. (not less than)	350
8. Added Vitamin D (expressed as Cholecalciferol) I.U. per 100 g. (not less than)	180

9. Iron, mg per 100g. (not less than)	5.0
10. Thiamine, mcg per 100g. (not less than)	185
11. Nicotinamide, mcg per 100g. (not less than)	1160
12. Riboflavin, mcg per 100g. (not less than)	275
13. Vitamin B6, mcg per 100g. (not less than)	160
14. Vitamin B12, mcg per 100g. (not less than)	0.7
15. Folic acid, mcg per 100g. (not less than)	20
16. Antithetic acid, mg per 100g. (not less than)	1.4
17. Biotin, mcg per 100g. (not less than)	7.0
18. Vitamin C, mg per 100g. (not less than)	35
19. Vitamin K. mcg per 100g. (not less than)	18
20. Copper mcg per 100g. (not less than)	280
21. Iodine, mcg per 100g. (not less than)	20
22. Manganese (Mn), mcg per 100g. (not less than)	20
23. Zinc, mg per 100g. (not less than)	2.5
24. Sodium (Na), mg per 100g. (not less than)	90
25. Potassium (K), mg per 100g. (not less than)	370
26. Chloride (Cl), mg per 100g. (not less than)	250
27. Phosphorus (P), mg per 100g. (not less than)	115
28. Magnesium (Mg), mg per 100g. (not less than)	22
29. Calcium (Ca), mg per 100g. (not less than)	230
30. Choline, mg per 100g. (not less than)	32
31. Bacterial count, per g. (not more than)	40,000
32. Coli form count.....	absent in 0.1g.
33. Yeast and mould count	absent in 0.1 gm
34. Salmonella and Shigella	absent in 0.1 gm

35. E. Coli absent in 0.1 gm
36. Vibrio Cholera and V.Paraheamolyticus..... Absent in 0.1 gm
37. Faecal streptococci and Staphylococcus areas absent in 0.1 gm

THE INSECTICIDE ACT, 1968: -

The Act envisages safe use of insecticides so as to ensure that the leftover chemical residue does not pose any health hazard. Under section 4 the Central government shall, constitute the “Central Insecticides Board” to advise the Central Government and State Governments on technical matters arising out of administration of this Act and to carry out the other functions assigned Section 9 is about registration of insecticides where any person who is desiring to import or manufacture any insecticide which is prescribed under the scheduled list u/s 2(e) “list of insecticides” has to apply “application” to the registration committee for the registration of such insecticide Such application shall contain all necessary particulars and on receipt of application the Committee may, after enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates, is safety to human beings and animals, on payment of such fee as may be prescribed, register the insecticide, and further allot a registration number and issue a certificate of registration, within a period of twelve months from the date of receipt of the application. If the Committee is of opinion that it is not sufficient to ensure safety to human beings or animals, it may refuse to register the insecticide. Now against this refusal an appeal against non-registration or cancellation can be filled under section 10 of the Act where it provide that “Any person aggrieved by a decision of the Registration under Section 9 may, within a period of thirty days from the date on which the decision is communicated to him, appeal in the prescribed manner and on payment of the prescribed fee to the Central government whose decision thereon shall be final” Under section 16 of the Act, shall be a central insecticides laboratory to carry out the functions

entrusted to it under this Act. Under section 17 provides certain prohibition on “any person” to “import and manufacture” of certain insecticides which are misbranded insecticides or prohibited U/s 27, or any insecticide in contravention of any other provision of this Act. Again some prohibition of sale, etc. of certain insecticides provided U/s 18 of the Act that “No person shall sell, stock or exhibit for sale, distribute if any insecticide is not registered, prohibited u/s 27 and if contravention of any other provision of this Act.” Under section 19 appointments of “insecticide analysts” by Central Government or a State Government and u/s 21 of Act provide “powers of insecticide Inspectors” that to enter and search, at all reasonable times any premises, to inspect, take samples of any insecticide, examine and make copies of, or take extracts from registers, records or any other documents kept by a manufacturer, distributor, carrier, dealer or any other person in pursuance of the provisions of this Act and seize the same for purposes of this Act. Now procedure to be followed by insecticide inspector is provided u/s 22, that after compliance of section 21 Insecticide Inspector shall inform a Magistrate and take his orders as to the custody. A report of Insecticide Analyst is required u/s 24 within a period of 60 days to person from whom the sample was taken. Offences and punishment u/s 29 provided whoever found contravention of the Act shall be punishable -

(i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees or with both;

(ii) for the second and a subsequent offence, with imprisonment for a term which may extend to three years, or with fine, or with both. When ever an offence been committed by a company, shall be liable to be proceeded against and punished accordingly provided u/s 33 of the Act, unless proves (a) without his knowledge & (b) that he exercised all due diligence, etc. Lastly certain exemption is provided u/s 38 of the Act that nothing in this Act shall apply to:-

(a) the use of any insecticide by any person for his own household purposes or for garden or in respect of any land under his cultivation;

(b) Any substance specified or included in the Schedule or any preparation containing any one or more such substances, if such substance or preparation is intended for purposes other than preventing, destroying repelling or mitigating any insects, rodents, fungi, weeds and other forms of plant or animal life not useful to human beings.

EXPORT (QUALITY CONTROL AND INSPECTION) ACT, 1963: -

The Act aims at facilitating export trade through quality control and inspection before the products are sold to international buyers. The Export Inspection Council is responsible for the operation of this Act. Under the Act, a large number of exportable commodities have been notified for compulsory pre-shipment inspection. The quality control and inspection of various export products is administered through a network of more than fifty offices located around major production centers and ports of shipment. In addition, organizations may be recognized as agencies for inspection and /or quality control. Recently, the government has exempted agriculture and food products, fruit products and fish and fishery products from compulsory pre-shipment inspections; provided that the exporter has a firm letter from the overseas buyer stating that the overseas buyer does not require pre-shipment inspection from official Indian inspection agencies.

ENVIRONMENT PROTECTION ACT, 1986: -

This Act incorporates rules for the manufacture, use, import and storage of hazardous microorganisms / substances / cells used as foodstuff.

POLLUTION CONTROL (MINISTRY OF ENVIRONMENT AND FORESTS): -

A no-objection certificate from the respective State Pollution Control Board is essential for all dairy plants.

INDUSTRIAL LICENCES: -

No license is required for setting up a dairy plant in India. Only a memorandum has to be submitted to the Secretariat for Industrial Approvals (SIA) and an acknowledgement obtained. However, a certificate of registration is required under the Milk and Milk Products Order (MMPO), 1992.

THE FOOD SAFETY AND STANDARDS ACT, 2006: -

The Government recently passed the Food Safety and Standards Act, 2006 (effective date yet to be notified) to regulate and optimally utilize the potential of the food processing industry and thus passed. This Act overrides The Milk and Milk Products Order, 1992 and The Prevention of Food Adulteration Act, 1954, along with all the other food related laws viz. The Act establishes Food Safety and Standards Authority of India, a new national regulatory body, to regulate and monitor the manufacturing process of food products and to develop science based standards for food. It would also regulate the processing, storage, distribution, sale and import of safe and wholesome food. All the food packed from August 2007 onwards would mandatory have labels with nutritional value and trans-fat measures. All imported foods will need to meet the standard as fixed under the Act. Presently the following are the significant orders which specify the standards to be maintained with regard to processed food.

PROBLEMS OF STAKEHOLDERS- OUR OBSERVATION

In Chhattisgarh the wholesalers, retailers and transporters have no problems as such. The problems lie with the primary milk producers and dairy co-operatives and to a great extent their problems are complementary to each other. Based on the SNF and CLR they are paid at the rate of 10-12 Rs. per Kg that is insufficient, according to the primary milk producers. A huge portion of the money paid is being spent on the maintenance of their milk animals and little profit is left with them. Meaning thereby milk production is not profitable business. The problem of the dairy cooperatives is that there is scarcity of milk and insufficient availability of milk. At present the capacity of chilling plant of Raipur Dairy Union is 80,000 to 1, 000, 00 liters per day but against this demand the average availability of milk is only 22,000 liters per day. Another problem of Raipur Dairy Union is that the village dairy committees are scattered thereby exceeding the transportation charges. According to the management (National Dairy Development Board) of Raipur Dairy Union the ideal margin of expenditure is 20 to 30 percent of the price paid to the primary milk producers but in Chhattisgarh due to insufficiency

of milk and heavy transportation charges this margin exceeds to 45 to 50 percent thereby raising the processing and production cost of milk and other value added milk products. According to Raipur Dairy Union if abundant milk is produced and made available the production and processing cost can be reduced to 20 to 30 percent. This money can be paid to the milk producer farmers solving their problem of insufficient selling price of milk. Therefore the solution lies in the abundant production of milk. Initiatives have to be taken both by the government and private sector by providing high productive milk animals, good fodders, technology, finance and above all by providing knowledge and skill in dairy.

FINDINGS

What we made out is that the very fundamental purpose of the PPCP project in dairy sector is to enhance the production of milk thereby ensuring a remunerative price for the milk producers and providing sufficient, quality milk and milk products to the consumers at appropriate price. As far as law is concerned all the legislations specifically the Consumer Protection Act intends to protect the consumer interest meaning thereby it mandates the producers to meet the statutory standard of quality of the milk and milk products which does not anyhow harms the health of the consumers. Apart from this other laws especially the Milk and Milk Product Order 1992, categorically lays down the minimum required hygienic standards to be maintained and it prohibits the processing and value addition of milk if all the requirements are not complied with by not granting licenses. It is, therefore, in order to develop dairy sector that is to enhance milk production, all the legislations cannot be liberalized ultimately affecting consumer interest and defeating the objects of the legislations which they are committed to achieve. We came to the conclusion that there are no legal restraints as such which hinders the development of dairy sector. If at any point of time any dairy project is failed then it is not because of law but because of some non legal inherent deficiency in the system itself be it corruption, insincerity, triviality ...etc of the persons involved in the project. As mentioned above we have Milk and Milk Products Order under the Essential Commodities Act which prescribes high

quality and hygienic standards to meet. We do have other laws such as Prevention of Food Adulteration Act, Pesticide Act...so on and so forth which regulate dairy. Apart from these laws there are market forces which make us to maintain high quality of milk foods. Improving quality of products poses a big challenge to the dairy cooperatives. In today's highly competitive market demand for superior quality products is on the rise. The dairy cooperatives are aware of this trend. They know that there is enormous scope to enhance their share in the world market too, given that India is the highest producer of milk and that too at the lowest cost. But to capture the world market the necessary prerequisite is product quality needs to match international standards. Improvements in product quality are required to enhance and retain their share in domestic market also. As quality up gradation is a long process, it calls for, besides commitment of the management, substantial investment in hygienic milk production, upgrading plants and machinery, upgrading manpower skills and setting up facilities for cold-chain storage and distribution of milk and milk products starting from the farm level. Presently, the dairy cooperatives do not have the capacity to make such huge investments requiring the Government and private sector support to create institutional facilities for research and development, credit, training and education etc. Poor productivity of milk animals constrains rapid development of the dairy industry. Systematic planning and integrated policies and programmes for animal breeding, genetic up gradation and feed and fodder management could only improve the situation. For all these to happen, the Government has to intervene and create funds (may be called Dairy Development Fund) for such programmes. One of the alternatives to lower down the production and processing cost of the milk and milk products is to revise many tax legislations and grant tax exemptions to the milk producers.

DIRECT TAXES INCOME TAX ON DAIRY COOPERATIVES: -

The District Dairy Cooperative Milk Unions should be exempted from payment of income tax. The village level primary dairy cooperative societies are exempt from payment of income tax. However, the district and state level dairy cooperatives

are levied income tax @ 35%. Basically, the primary cooperative societies at the village level form a milk union at the district level to process their milk in a plant owned by them selves. Similarly, the district level milk unions of the milk producers cooperatives federate into a state level milk marketing federation so that their products can be marketed in an efficient manner. Though, all the three levels of the cooperatives are part of the same farmers' setup, the district level milk unions which directly cater to the needs of the farmers need a very special consideration and need to be exempted from the payment of income tax.

CUSTOM AND EXCISE DUTY EXEMPTION OF EXCISE DUTY ON DAIRY EQUIPMENTS AND MACHINERY: -

A separate category should be created for "Dairy Equipment and Machinery" under Central Excise Custom Tariff and exempted from central excise duty. The quality of raw milk in India is quite poor and the initial bacterial count runs into millions. This is due to the fact that milk is a very quickly perishable commodity and due to unhygienic milking, storage, handling etc. The temperature all over the country is quite high during most part of the year which spoils the milk faster. It is, therefore, very essential to boost clean milk production and hygienic milk handling by adopting milking by machines, use of Aluminum or Stainless Steel (SS) milk cans, use of bulk milk coolers etc. However, due to excise, sales tax, octopi etc. the prices of these equipment become exorbitant. China has emerged as a major manufacturer of dairy equipment and machinery and its prices are much lower than those of Indian manufacturers. The material used for manufacture of equipments in China is not the same as universally used and does not appear to have been evaluated from food safety angle. This raw material being cheaper than the stainless steel being used in India and elsewhere, the prices of Chinese equipments are cheaper than Indian manufacturers. It is, therefore important to protect the domestic production and the need to make domestic dairy equipment production cost competitive by removing the excise duty. Taxes and duties amount to almost 35 to 40% of the basic prices of machinery. e.g. 16% Central Excise +15.3% Sales Tax + 4%

Octopi = 35.3% in Maharashtra. The heavy burden of taxes & duties reduces the use of these equipment and thus the quality of milk remains poor. Exemptions should be there in milking machines, bulk milk coolers and aluminum & SS milk cans and other dairy equipments required for clean milk production as well as processing of milk and milk products from the purview of Excise Duty. The dairy industry is happy on removal of the excise duty on milking machines and dairy machinery with respect to tariff heading 84.34. However, such an exemption has been granted only on milking machines for clean milk production and a very few items for milk processing. We have, therefore, reviewed the central excise manual and custom tariffs, and find that the major items of dairy machinery are classified under different categories other than 84.34. Therefore, in the event of exemption relief provided only to the items classified under 84.34, most of the essential items required for establishing a dairy plant would be left out. Consequently, we have listed the essential items that are required for establishing a dairy plant showing corresponding category of excise manual and custom tariffs. It is requested that a separate category should be created for "Dairy Equipment and Machinery" under central excise duties and custom tariffs. Besides, the "Dairy Equipment and Machinery", all the essential items for clean milk production should be exempted from central excise and custom tariffs.

EXEMPTION FROM CENTRAL EXCISE DUTY ON STAINLESS STEEL (SS) AND ALUMINUM MILK CANS ETC.

Stainless Steels and Aluminum Milk Cans, and other milk handling equipment should be totally exempted from central excise duty. Stainless Steel Cans, Collection trays, Sample bottles, SS Plungers and Aluminum Cans are used for milk collection and transportation. Due to enormous increase in the prices of stainless steel the prices of those items have risen very high. This affects their purchases by the milk handlers and they opt for the cheaper plastic cans, Mild Steel galvanized cans etc. which deteriorate the quality of raw milk. Hygienically safe and food grade alternatives to stainless steel have no where have developed/tested or permitted. China is using some cheaper substitute whose

food safety has not been verified. The raw material for these cans attracts 16% excise duty.

DUTY FREE IMPORT OF BACTERIA REMOVING CLARIFIERS: -

Exempt bacteria removing clarifiers from paying any Import Duty. The bacteria removing clarifiers are required for improving the quality of milk. These are not manufactured in India. Due to their high cost and additional import duties, their use is very limited in our country. Presently, these machines attract customs duty of 7.5%, counter veiling duty of 16.48% along with cess of 3% and SAD of 4%. If the cost is reduced by way of exemption of these duties/taxes, the use of these machines will result in producing better quality and safe milk. This will ultimately help both the milk producer and the milk consumer who will get a hygienic and safe product.

REDUCTION IN DUTY ON PACKAGING MATERIAL AND PACKAGING MACHINERY:

Exempt Pouch Filling Machines, Bulk Milk Vending, Aseptic Packing Machines, Polyethylene Film from Central Excise/CST/VAT. Almost 46% of the milk produced in India is consumed as liquid milk. However, only 15% of the milk is processed and packed. This leaves major portion of liquid milk open for alteration, unhygienic handling and distribution. It is, therefore, essential that only the pasteurized and packed or machine vended milk should be distributed. However, the huge costs of pouch filling machines, milk vending machines and polyethylene films prevent it. The adulterated milk poses major health hazards to the public. The cost of the packing and vending machines and packing materials can be reduced by exempting them from Central Excise Duty and CST/VAT.

EXPORT PROMOTION OF MILK PRODUCTS DUTY DRAWBACK THROUGH REP: -

Duty drawback through REP @ 14% may be given to export of all dairy products viz. ghee, SMP, WMP, butter, etc. in addition to casein. The Government of India provides Duty Drawback on products and goods exported by Indian manufacturers and merchant exporters on agro and milk products at varying

rates. Although, skimmed milk powder, full cream milk powder and casein are made from milk, the duty drawback benefit of 14 percent is allowed on casein alone. This has put SMP and WMP in a disadvantageous position in the export market. Casein export by the Union Government is treated as an integral part of country's economic endeavor, whereas milk powders are treated as activity, although the latter from the major exportable commodity from India. Production of SMP and WMP require stringent quality requirements from milk production stage up to packaging, needing extra efforts and initiatives and expenditure to achieve a quality matching with international specifications. India can take advantage of the current decline in world milk production especially in the Europe, Oceania and North America, which have traditionally been the major exporting countries for SMP, WMP, cheese and butter oil. Exports of dairy products from India can be greatly boosted provided the Union Government extends incentives such as duty drawback @ 14 percent for dairy product export at par with casein. The exporters of skimmed milk powder and full cream milk powder can multiply their export turn over many times with uniform rates of export incentives. The price realized by exports is not always remunerative and lack of incentives for exports will become a big limiting factor. This has further been aggravated by a hardening rupee. It may be stated that despite GATT agreement, EU is giving subsidy of more than US\$ 550 per MT on SMP, US\$ 850 per MT on Full Cream Milk Powder (FCMP, or WMP), US\$ 1200 per MT on butter and butter oil. In EU, US and Pacific region, milk producers subsidies are thus being replaced by processor subsidies which are ultimately passed on to milk producers making it difficult for the Indian dairy plants to compete with those countries in the international market.

CONSISTENCY IN EXIM POLICY ON DAIRY PRODUCTS:-

There should be a consistency and transparency in the EXIM policy so that the export potential of the dairy industry is not damaged. India has become net exporter of milk products for the last couple of years and has started earning a good amount of foreign exchange. The Indian dairy industry has invested huge

amounts to upgrade the quality and hygiene systems so that the quality of milk products being exported comes up to the international standards. The industry has, in fact, created a special position for itself in the international dairy market by way of providing consistently good quality products at a price cheaper than the traditional milk products exporters over the last couple of years. The position thus achieved, however, can be sustained only if there is a consistency in the EXIM policy. For example, the ban on export of SMP imposed during February 2007 was totally unexpected and has caused great damage to the country's export potential because even the confirmed export orders could not be accomplished due to the suddenness and surprise effect of the ban order. This has greatly tarnished the image of the country as a reliable supplier of dairy products. It may take a couple of more years for the industry to build up a reputation again in the international market. A consistency in long term trade policy would greatly help to avoid such situations.

OTHER ESSENTIAL INITIATIVES FOR DEVELOPING DAIRYING ESTABLISHMENT OF FODDER BANKS: -

Fodder Banks should be created in all drought prone areas of the country through Dairy Cooperatives. GOI should provide seed capital and revolving fund to dairy cooperative for this activity. Fodder is the major feed input for the dairy industry. But it is not available to many farmers. There are some areas where there is plenty of fodder production whereas in a number of areas there is acute shortage. It is, therefore, suggested that on the lines of 'Grain Banks' a government-supported initiative be taken up to establish 'Fodder Banks' and schemes for fodder procurement with support price. This will also help fodder producing farmers as well as farmers from drought-prone and fodder—deficient areas. Besides, in case of draughts, cyclones and other calamities, it can save cattle population from dying of hunger.

REVISING VAT RATES APPLICABLE TO DAIRY PRODUCTS

Today, most of our dairy products including Flavored Milk, Milk Powders, Infant Milk Food, White Milk Food, Butter, Ghee, Cheese, Ice-cream etc. are products

of mass consumption. These products are manufactured from the milk supplied by rural milk producers, majority of who are small and marginal farmers and landless laborers. Almost one fourth of them is women. To these milk producer families, income from milk supplied to the cooperatives constitutes a major source of their daily income. Levying high VAT rate would increase the prices of dairy products adversely impacting their consumption. Thus, we have a situation where on one hand there is increase in the prices of dairy products and on the other there is no input credit on milk available, which constitutes 80% of total input cost of dairy products. This would definitely adversely affect the income flow to these milk producers. The present VAT rate structure has only three categories of rate, i.e. exemption, 4% and 12.5%. This has resulted in shifting of majority of dairy products to a very high rate of 12.5%. In the pre-VAT scenario these products were attracting average 8% local sale tax. The input credit benefit is not available to dairy products as milk constitutes the more than 80% input cost, therefore, the benefit of input credit will not reduce the tax burden as anticipated but will increase in the effective tax rates on consumers. This will ultimately lead to increase in the consumer prices of dairy products and also adversely affect the common man. In view of this, introduce 8% VAT rate category for value added dairy products to avoid any steep increase in the consumer prices of dairy products. We wish to draw kind attention to the following: While the products like fresh milk and pasteurized milk are exempted from VAT, Flavored Milk, Fresh Cream and Sweetened Condensed Milk are classified under 12.5% VAT. Other milk powders like Whole Milk Powder, Infant Milk Food Powder and Dairy Whitener etc. are also classified under 12.5%. Flavored milk is fresh milk with sugar, flavor and colour. Children and young adults generally prefer flavored milk. It is nutritious and healthy product. In fact, the Government should encourage such healthy products. Thus, we feel that flavored milk should also be treated as fresh milk only and should be exempted from VAT. We would like to submit that all Milk Powder (Skim milk powder, Whole milk powder, Baby food (Infant Milk Food Powder, fortified with vitamins)

is merely dried milk. It is basically a product containing less than 2 percent moisture and with suitable packaging can have a shelf life of twelve months. Furthermore, milk powders are not normally consumed as such but transported over long distances area that is perennially short on milk supply. Milk powders are reconverted in to liquid milk by adding water. Milk is balanced source of nutrition to infants, lactating mothers and whiten tea and coffee. Since dairy cooperatives uses the milk powder for recombination during the lean season, the cost of milk so produced goes up significantly due to high rate of VAT. Thus, we strongly recommend all milk powder should be classified under 4% VAT. Further, the essential commodities like Ghee and Butter have been classified under 12.5% VAT category. Ghee and Butter are items of mass consumption. Ghee and Butter are used as a cooking medium since ages in India; therefore these products should attract the same rate of VAT as do Vanaspati and Edible oils, i.e., 4% only.