

Liability Aspects Related to Genetically Modified Food under the Food Safety Legislation in India

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Abstract : The question of legal liability over injury arising out of the import and the introduction of GM food emerges as a crucial issue confronting to promote GM food and its derivatives. There is a greater possibility of commercialized GM food from the exporting country to enter importing country where status of approval shall not be same. This necessitates the importance of fixing a liability mechanism to discuss the damage, if any, occurs at the level of transboundary movement or at the market. There was a widespread consensus to develop the Cartagena Protocol on Biosafety and to give for a dedicated regime on liability and redress in the form of Nagoya Kuala Lumpur Supplementary Protocol on the Liability and Redress ('N-KL Protocol') at the international context. The national legal frameworks based on this protocol are not adequately established in the prevailing food legislations of the developing countries. The developing economy like India is willing to import GM food and its derivatives after the successful commercialization of Bt Cotton in 2002. As a party to the N-KL Protocol, it is indispensable for India to formulate a legal framework and to discuss safety, liability, and regulatory issues surrounding GM foods in conformity to the provisions of the Protocol. The liability mechanism is also important in the case where the risk assessment and risk management is still in implementing stage. Moreover, the country is facing GM infiltration issues with its neighbors Bangladesh. As a precautionary approach, there is a need to formulate rules and procedure of legal liability to discuss any kind of damage occurs at transboundary trade. In this context, the proposed work will attempt to analyze the liability regime in the existing Food Safety and Standards Act, 2006 from the applicability and domestic compliance and to suggest legal and policy options for regulatory authorities.

Keywords : commercialization, food safety, FSSAI, genetically modified foods, India, liability

Conference Title : ICLS 2015 : International Conference on Law and Society

Conference Location : Bangkok, Thailand

Conference Dates : December 17-18, 2015