CHAPTER II
GOVERNMENT POLICIES VIS-A-VIS FOOD PROCESSING INDUSTRY

The industrial policy of government of India was first formulated as a resolution in April 1948. Thereafter depending upon the state of the economy, availability of resources, and changes in the priorities, the government has modified it from time to time. The end of eighties and the beginning of the nineties saw the Indian economy in dire condition with high trade balancing gap, extremely low foreign exchange reserve, large debt burden, unmanageable foreign exchange outflow in debt servicing and the economy of the country in general bogged down. This was obviously the result of shackling the industry and the trade for the last forty-four years. It became imperative to create conditions in which producing more and expanding business and trade do not attract frowns and punitive action and exports were seriously pursued.

The government has liberalized its foreign investment policy and the industrial policy in the new trade and industrial policy announced in July 1991. The government removed the restrictions of concentration of economic power and the creation of monopolies opened many sectors of industries for the private sector and the foreign investors and opened the economy for much greater competition with better technologies and increased flow of foreign
investment in the country. The basic philosophy of the government towards the industry now is to produce more and export more.

In its new industrial policy the government does not allow new units except non-polluting industries declared by the government to come up in cities with a population of more than 1 million according to the 1991 census unless there are existing industrial estates in or around such cities and the unit is proposed to be located in one of such estates only. In the new policy of July 1991, the government has prepared a list of industries for which industrial licensing is compulsory. For setting up a unit for the manufacture of any item listed in this list, all entrepreneurs have to necessarily obtain an industrial license irrespective of the category to which they belong and the investment involved.

In the case of small-scale sector, units do not require an industrial license whether it is an existing unit or a new unit proposing to manufacture that item. There is some of the food and processed food related items and machinery's which are in the negative list of import. All other items can be imported freely.

**Duty and Tax Exemption and Reduction in Case of Food Processing Industry**

Government after 1992-93 budget declared in pieces many relief's, in duties and taxes pertaining to food processing industry, so that processed food
price becomes competitive both in the domestic and in the international market. Some of the measures taken in the last few years are as follow.¹

1. Vinegar: excise duty exempted from 15 per cent to nil.
2. Fruit pulp based drinks: excise duty exempted from 15 per cent to nil.
3. Soya milk including sweetened or flavored Soya milk: excise duty exempted from 15 per cent to nil.
4. Ice Cream and kulfi served in restaurant: excise duty exempted.
5. Mineral water not excisable.
6. Ice Cream, fruit juices and beverages served through vending machine: excise duty exempted.
7. Fruit and vegetable powder, sauces, ketchup, mustard: excise duty exempted.
8. Fruit and nut juices containing/not containing sugar in containers: excise duty exempted from 15 per cent to nil.
9. Packed dried vegetables: excise duty exempted from 15 per cent to nil.
10. Polythene and copolymer used for lamination of paper used for packing milk: excise duty exempted from 60 per cent to nil.
11. PVC: excise duty reduced from 60 per cent to Rs.25 per kg to 30 per cent.
12. Corrugated paperboard for banana packing for export: excise duty exempted from 10 per cent plus Rs.1680 per tonne to nil².

¹ S B P Handbook of Export Oriented Food Processing Projects, S B P Consultants and Engineers Pvt.Ltd., New Delhi, 1993, p. 37
² Ibid., p.38
**Customs Duty**

1. Custom duty on paperboard for making cartons for packing of horticulture product is exempted to nil.

2. The custom duty is 40 per cent on (basis 35 per cent and auxiliary 5 per cent) food processing and packaging machinery and marine food product processing machinery.

3. The custom duty on aseptic form fill machines is 50 per cent (basis 5 per cent + auxiliary 45 per cent).

4. The custom duty on machinery’s for making packaging media is 60 per cent (basic duty 15 per cent and auxiliary 45 per cent).

The government allows duty free imports of all raw materials, components, intermediates, consumable, spare parts and packaging material called inputs, for export production under its duty exemption scheme wherever imports of mandatory spares is allowed under this scheme, the CIF value of such spares is not to exceed 5 per cent of the value of the license and such spares are also required to be exported along with the main export product.

The Board of Trade identified 30 export items for the 'Extreme Focus Plan' of the ministry of commerce, where there is potential to attain annual growth rate of 30 per cent by volume or value in dollar terms in the short and medium term. The items related to food and processed food is
1. Rice
2. Sugar
3. Processed Foods
4. Fruits and Vegetables
5. Cut flowers
6. Spices and oleo resins
7. Molasses
8. Alcohol.

Processed food industry received close attention since the establishment of the ministry of food processing industry in 1988. A number of measures were taken to assist and accelerate its growth, keeping in view its high employment potential and its export capabilities. Preferential tax treatment has been given by finance ministry since 1991. The major step was the gradual phasing out of excise duties on a number of commodities and reduction in some others. As a result of this step, the industry and the consumer have responded strongly. Presently,

- the growth of production in processed food is three times the growth of overall industrial production.
- agri exports have increased at the rate of 34 per cent in the first 6 months of the current year.
- processed food industry has attracted over Rs.1260 crore of foreign investment.

The benefit to the country is much more than the foreign exchange earned or the employment directly provided by the processed food industry. That is because the industry has strong backward linkages with rural areas where, in fact, the bulk of employment and income are generated. Unless
there is a steady flow of agri raw materials, the industry will not develop. For that reason, the industry has got involved in the production of fruits and vegetables either directly or through sub-contracting. Modern technology has been introduced to increase productivity several fold. This has also generated additional employment.

Processed foods, it is true, are not as popular in our country as in some others. Nevertheless, a change in food habits is taking place rapidly because of social and economic factors with nuclear families and working housewives, the demand for processed ready-to-serve food will increase sharply in future. It needs to be appreciated that the price of processed food in India is high compared to that in most countries. To help industry bring down the price excise duties were reduced in the 1991-92 and 1992-93 budgets. This invited a positive consumer response. In 1992-93 when industry generally was under the pressure of recession, processed food industry was one of the few industries, which showed positive growth. This is an indication that the demand for processed food is highly price elastic. As such, a reduction in duty will expand demand, and consequently, industry's production and government's revenue. What is even more important is that it will generate a strong income and employment effect in the rural areas.

While excise duties on a number of commodities were reduced in 1993-94 budget, prices of processed food generally continue to be high. This is so, for three reasons
there are anomalies in the tax structure. Products, which are similar in contents, are taxed at different rates, or same machinery put to different uses would bear different rates of duty.

duties on many important commodities have not been reduced and, in fact, have been increased. This, for instance, is the case of confectionery, has reduced production quite substantially for example the duty in the case of chocolate products was put up from 15 per cent to 25 per cent and consequently, production declined from 10,162 tonnes to 8,955 tonnes.3

duties on the inputs, particularly packaging which constitute a substantial part of cost are high. Price of sugar, which is an important input in processed food, have also risen quite sharply.

Rectification of Anomalies

Firstly, (i) Snack foods like potato chips, nuts, namkeens, etc. have been exempted from excise duty. However, extruded snack foods bear a duty of 10 per cent. There is no distinction between the two categories and therefore, the extruded snack foods should be exempted from excise duty. (ii) guar gun based products are exempt from excise duty. This exemption should be extended to starch based products since they are similar products. (iii) since butter, cheese etc. are exempt from duties, malted milk food and malted food should also be exempt from duty.

3 Memorandum on Tax Relief to Food Processing Industry, CIFTI, New Delhi, Nov. 1993, pp 2-3.
Secondly, ice cream is no different from other dairy products like flavored milk, and should not, therefore, be subject to excise duty. In fact, the budget for 1993-94 actually puts up the duty.

Thirdly, it needs to be appreciated that a 10 per cent duty on machinery raises the cost of production by 3.5 per cent. Hence, duty on machinery should be minimal. (i) the reduction in excise duty on refrigeration equipment is applicable only to deep freeze cabinets, bottle coolers for soft drinks and ice makers for soda fountains etc. and not to refrigerating machinery falling under chapter 84.15. Considering the duty on other equipment used for food processing, the duty on refrigeration machinery should not exceed 10 per cent. Further, where there is no countervailing duty on imports, similar equipment or parts manufactured in India should not be subject to excise. (ii) Customs duty on all other machinery’s used in food processing should be at the flat rate of 25 per cent. (iii) since imports of machinery are not subject to sales tax, domestically produced machinery should also be exempt from sales tax.

Reduction in Excise Duties on Processed Food

In spite of reduction in duties and exemption in respect of others, there are quite a few products, which still continue to bear a high rate of excise duty. These include, for instance, cocoa and cocoa preparations, syrups and vinegars, etc.
Duties on Packaging Materials

More than the excise on the final consumer product, the duty that increases the cost of production more is the duty on packaging material. It is found that packaging constitutes 50-55 per cent of the price of the product compared to 15-20 per cent in other countries. This high incidence is mostly due to the duty, customs and excise, on packaging material. Recognizing this aspect, in the 1992-93 budget, some minor relief was given. It is necessary that the duties on packaging are further brought down to make it possible for industry to sell processed foods at prices which are within the reach of the middle class consumer.

Export Cess

In 1993-94 budget it was said that the export cess was imposed with good intentions. But, over the years, it has been reduced to an export tax. That is because the proceeds from the cess in respect of different commodities are not utilized for the purposes which were set out. In that view, export promotion would be facilitated if the cess were removed all together.

Impact on Revenue

In 1993-94 budget it was predicted that with the reduction in excise duties on finished products, and in customs duties on imported raw materials and packaging material, there is likely to be some immediate loss in revenue to the government. But, with the growth in production, that loss will be substantially made up. On the basis of the elasticity of demand it was said that
net impact on revenue in 1994-95 is likely to be of the following order

Loss in revenue on the basis of constant production. Rs. 150

Gain due to increase in production by 12 per cent. (It is expected that inflation will be at the rate of 6 per cent). Rs. 65

Net loss in 1994-95 Rs. 93

Net gain in 1995-96 Rs. 6

Given a little more time, demand and production will increase much more than the impact of price reduction in the very first year. It would not be correct to adopt policies, which limit the perspective to a single year. That would most certainly delay the process of reform and the growth that is required to meet domestic demand to exploit export possibilities. The small loss in revenue in the first year must, therefore, be looked upon as an investment in future revenue generation.¹

Further, revenue alone cannot be the only criterion to judge the efficacy of tax policy in regard to the processed food industry. Its impact on employment and exports need to be seriously considered. A 10 per cent increase in processed food production will generate, with a multiplier of 3, a 30 per cent increase in employment of rural workers in related agricultural raw materials sector. What is significant, this additional employment will be

¹ Ibid., pp 5-6.
highly productive unlike the employment created by rural employment schemes.

Similarly, exports of agri products are incrementally expanding. In the first 6 months of the current year, the growth was much higher than that of industrial products of the rate of increase in total exports. With the foreign investment coming in, exports will increase even further if the domestic base is strong enough. For that, the rate of taxation, both excise and customs has to be such as to bring final consumer prices within the purchasing power of an average household.

1997-98 Budget and its Impact on Food Processing Industry

Exemptions in few cases like jams, jellies, sauces and soups were withdrawn and a duty of 8 per cent was imposed. On a number of items of mass consumption like biscuits, sugar confectionery, excise duty was reduced from 10 per cent to 8 per cent.

Mean rate of 18 per cent would be applicable to commodities like cocoa and cocoa preparation, instant coffee, sherbats, agricultural and horticultural machinery was made fully exempt from excise duty. The exemption was further extended to milking machines, dairy machinery and their parts.

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Small Scale Industries

The small-scale sector makes an important contribution in the food processing industry. It increases overall production, provides gainful employment and also contributes to our export effort. In this budget the small-scale industry was freed from the rigours of cumbersome procedures. The scheme of excise duty concessions for the small-scale units was simplified. Full exemption from duty was allowed on clearance up to Rs.30 lakhs in a financial year. There after, a small-scale unit would be required to pay a flat rate of excise duty on clearances beyond Rs.30 lakhs and upto Rs.100 lakhs, if the small-scale unit does not avail of any modvat credit on duty paid inputs. The flat rate of duty would be 3 per cent advalorem on clearances between Rs.30 to Rs.50 lakhs and 5 per cent ad-valorem on clearances between Rs.50 to Rs.100 lakh. The flat rate would apply for all specified goods to which the small-scale exemption scheme is applicable.

With a view to reduce wastage in agricultural commodities and to improve quality and hygiene and promote exports, it was thought that 14 items now reserved for manufacture in the SSI sector might be dereserved. 822 items would still remain reserved for production in the SSI sector. Government accepted these recommendations. The dereserved items include rice milling, dal milling, poultry feed, vinegar, synthetic syrups, biscuits, icecream. It was expected that new investment and improved technology would flow into these businesses.
Impact of Dereservation on Ice-cream Industry and Biscuit Industry.

With the dereservation of ice-cream industry, doors were thrown open to foreign ice-cream majors such as Nestle and Maagen Daaz. The multinationals were waiting for dereservation of this sector for long, and now the companies would be able to invest as much as required and the number of manufacturing facilities for ice cream would also be increased. Dereservation will also enhance the competition manifold. The number of players in this sector will increase. Nestle, which is number two in the world in ice-cream sector, was waiting for quite some time to enter the ice cream sector in India.

Dereservation is expected to bring in huge foreign investments in the sector. It would be a welcoming change for the industry as till some time back, investment of Rs.60 lakh only in their facilities. Recently, this rule was changed and SSI units were permitted to put on investment up to Rs.3 crore. Due to this reason, the players could not put in the desired investments.6

With the availability of funds, market could be developed. Freezers and cooling cabinets can be provided to rural and sub-rural areas as well. This would lead to an increase in volumes. Excise duty on ice creams was increased to 13 per cent from 10 per cent but this will have negligible impact on this sector.

Biscuit Industry

The biscuit industry is expecting a growth of 12-14 per cent as a result of the two per cent reduction in excise duties proposed by the budget 1997-98. The budget has proposed a cut in duties from the existing 10 per cent to 8 per cent.

Simultaneously, the government also decided to dereserve the biscuit industry which would benefit the bigger players like Britannia Industries Limited, Parle, Bakemans etc. However some existing players were apprehensive about the impending entry of the multinationals like Group Danone, United Biscuits etc., as a result of dereservation.

Since the biscuit industry is very price-sensitive, the excise duty cut would reduce prices by an estimated 3.5 per cent7.

The existing production in the organized sector is estimated to be around 3,00,000 tonnes and there is a similar output in the unorganized sector as well, making the country the second largest biscuit manufacturer in the world.

Food Laws

The Indian food processing industry is poised for a big take off. It is not only planning to cater to the domestic market but international market as well. For a successful penetration it is necessary that good quality products be produced.

A multitude of factors ranging from use of good quality raw materials and intermediates, use of efficient processing techniques to strict inspection of final production, proper transportation, storage and up-to-date retailing system, influence production of good quality production. Food laws on the other provide guidelines for production of good quality products.

Food laws play an important role in the quality control strategy. A number of laws have been enacted in the country for the purpose of laying down quality standards. These include the following:

The Agriculture Produce (Grading and Marketing) Act, 1937, implemented by directorate of marketing and inspection. Various manufacturers and producers of agricultural products interested in marketing their products under AGMARK are required to apply for a license to implement the AGMARK scheme which is based on availability of internal quality control system created by the manufacturer or producer and overseeing by DHI by checking quality of the samples taken from time to time. For some products, a compulsory grading and marking by the agricultural marketing advisor has been prescribed under the Export Quality Control and Inspection Act.8

Bureau of Indian Standards Act implemented by Bureau of Indian Standards (BIS). The BIS is concerned with formulation of standards for food and agriculture commodities at the national level and promotion of these

standards by implementation of a voluntary certification scheme under the BIS Act of 1986. "For some products compulsory BIS certification has been made, taking into consideration the interest of the consumer, under the provisions of the PFA Act as well as the Essential Commodities Act, they are, food colours, food additives, milk powder, condensed milk, vanaspati and lately baby foods."

The prevention of Food Adulteration Act and rules implemented by the ministry of health. The statutory standard and regulatory systems have been introduced by the enactment of Prevention of Food Adulteration Act (PFA Act) 1954 and rules made thereunder. The standards laid down under the provisions of the PFA Act are the minimum standards and the violation of the provisions of this Act exposes the manufacturers and sellers of these products to various penalties prescribed under this Act.

Several other control orders have been formulated under the Essential Commodities Act with a view to regulate manufacture and distribution of different food and agricultural products. The Fruit Products Order 1955 lays down standards for processed fruits and vegetables, sweetened carbonated water, synthetic syrup, dehydrated vegetable etc. The ministry of food processing industries implements the fruit Products Order. The Meat Products Order regulates the manufacture, quality and sale of meat products and is implemented by the directorate of marketing and inspection under the agricultural marketing advisor. The Solven Extracted Oils, De-oiled Meal and Edible Flour Control Order deals with the production, distribution and quality
of solvent extracted oils, de-oiled meals and vanaspati for which a separate Vegetable Products Control Order has been formulated. The Directorate of Vanaspati Vegetable Oils and Fats implements both these orders.

Despite the plethora of laws and control orders, they have not been able to make the desired impact in the country due to the fact that

Some of the standards are unrealistic

There is undue emphasis prosecution as against prevention

There is stringent penalty of imprisonment even for small technical offenses leading to demoralization

There is too much emphasis on physical characteristics which are likely to change on account of climatic and other factors beyond the control of human agency. Small variations in the characteristics attract the wrath of law.

There is hardly any control on unorganized sector while organized sector is harassed.

Corrupt practices have crept into the implementation system making smooth functioning of industry and trade difficult and on the other hand giving boost to fly by night operators.

There is overlap in functioning of various Government departments leading to confusion and making industry run from pillar to post.
There is lack of proper infrastructure in the form of well-equipped laboratories and trained personnel. Quite often there are differences in results of central food laboratories and public analyst's laboratories.9

This list, however, is not an exhaustive list. The food laws and the implementation strategy have to be reviewed to orient them to meet the objective of provision of good quality wholesome food to consumers. While there has to be more stress on prevention as against prosecution, the consumers, farmers, industrialist and traders have to be educated about do's and don't. At the same time a Memorandum of Understanding has to be signed between government departments entrusted with the implementation of food laws.

The PFA Act and Rules is the most important legislation governing food industry and trade. The PFA Act was enacted in 1954 and as its preamble says it was meant to prevent the adulteration of foods. The act has however, failed to achieve its objective. There are a number of problems, which require urgent attention in order that the Act becomes more meaningful and ensures availability of safe, wholesome and nutritious food to the community. The following are some of the problems, which need attention.

Composition of Central Committee for Food Standards and its Sub-Committees

The central committee for food standards constituted under Section 3 of the Act comprise largely government officials implementing the Act. The

9 Ibid., p.3.
committee as well as the other sub-committees constituted by it are heavily weighted in favor of government officials with the result that the committee takes unilateral decisions on various matters concerning the implementation of the Act without taking into consideration the view of the food industry and trade who are actually concerned with manufacture, distribution and sale of the products. It is suggested that the practice adopted by the Bureau of Indian Standards of co-operating with trade and industry during finalization of all standards should be adopted by the ministry of health and composition of the central committee for food standards and its sub-committees should be modified to give larger participation to trade and industry. The food industry and government are equal partners in their endeavor to ensure availability of quality products and should have greater collaboration in taking decisions regarding food standard and other measures required for implementation of the Act.

Sample division and disposal

Under Section 11 of the Act, the sample taken by the food inspector is divided into three parts, out of which one part is sent for analysis to the public analyst and the remaining two parts are sent to the local (health) authority. The vendor is, thus, not given any part of sample taken from him, which is against all canons of justices. This section should, thus, be amended and four parts of the sample should be made and one part should be given to the vendor to enable him to get it analyzed privately or produce in the court for comparison with the other samples drawn and kept by the implementing
agency. This provision is available in the Drugs and Cosmetics Act and the same principle should be extended to the PFA Act.

Analysis of the samples by the Second Public Analyst

If according to the report of public analyst, the sample were adulterated, prosecution would follow in the ordinary course and if it is not adulterated there is no ground for prosecution. However, under Section 13(2E), if the local health authority is of the opinion that the report delivered by the public analyst is erroneous, he can forward another part of the sample of another public analyst for analysis and if second public analyst finds that the article is adulterated, prosecution would follow. Thus not only the part of the sample is given to the vendor under Section 11, the fate of the vendor remains hanging as the sample can be declared adulterated by the second public analyst and prosecution can be launched on the basis of the results of the second public analyst. The provision of the Act not only puts the first public analyst into dispute but is also most undesirable and should be withdrawn forthwith.

Finality of Certification under Section 13(2) of the Act.

The certificate of analysis issued by the central food laboratory is final and supersedes the report of the public analyst. There is no rational reason to make the certificate of the director, central food laboratory, final. This is highly unscientific as the central food laboratories are not infallible and thus their reports cannot be final. It should be left to the trying courts to determine whether the sample is adulterated or not on the basis of the analytical
evidence furnished by the public analyst as well as the central food laboratory. This provision thus needs to be amended.

**Penalties Under Section 16**

The penalties laid down under Section 16 have been graded according to the gravity of the offense and range from minimum imprisonment of six months to sentence for life depending on the nature of adulteration. There is no provision to award punishment less than the minimum imprisonment of six months even where there is a slight variation from the prescribed standards. No distinction has been made between sub-standard and adulterated articles. The provision under section 16 has taken away the discretion of the trying courts to enforce less than the minimum punishment even for trivial cases. Modifications in regard to the provisions of punishment depending on the gravity of the offenses committed have been under consideration by DGHS for quite some time now and several useful and logical suggestions have been made by the industry for incorporation. As the exercise has been going on for quite some time it is now necessary for the DGHS to take urgent action in modifying the various grades of punishment. A distinction should thus be made between sub-standard and adulterated articles and penalty clause is suitably revised.

**Changes in Certain Quality Characteristics of Food as a Result of Delay in Availability of Final Report from the Central Food Laboratory**

Although time limits have been prescribed for submission of report by the public analyst and the central food laboratory, but samples are not
expeditiously sent to the central food laboratory since there is a considerable time lag between the receipt of the report of the public analyst and launching of the prosecution. The absence of the time limit in launching prosecution results in a very large delay in submission of the second part to the central food laboratory for analysis with the result that some of the quality characteristics change during the lapse of time from the date of drawl of sample and its final analysis and when ultimately analyzed samples fail to meet some of the prescribed criteria. As all food articles are perishable, in nature, they undergo some deteriorative changes such as insect infestation, absorption of moisture, discoloration and development of free fatty acids such samples would no doubt fail to comply with the prescribed standards when examined after a lapse of six months to one year from the date of drawl. There should, thus, be a maximum time limit from the date of receipt of the report of the public analyst and launching of the prosecution so that the samples, when re-examined, are not found to have deteriorated in quality.

Sampling of Foods and Methods of Analysis

A sample is a small quantity of a lot whose quality and conformity is determined by physical and chemical analysis in the laboratory. The sample being the first step in any quality control system, it must be representative and worthy of confidence. All national and international standards in foods prescribe methods of sampling appropriate to the food and the exact methods of test to be adopted for determining conformity to the prescribed standards. The PFA rules however do not prescribe any methods of sampling with the
result that serious errors can be observed in the analysis of the same sample on account of its being non representative. Although there is a provision under Section 23 of the Act enabling the government to lay down methods of sampling and analysis, this has not been done so far with a result that analytical reports on the same sample differ from laboratory to laboratory resulting in unnecessary hardship and prosecutions against the vendors.

Accreditation of Laboratories Implementing the Law

Analysis of foods is quite complicated involving standardization of reagents, calibration of equipment and the competence of the persons undertaking these functions. There is no mechanism of checking quality performance of these laboratories and whatever results they give are considered sacrosanct and action is initiated for prosecution against defaulting parties. These laboratories are not open to the public and government has not taken any measures to ensure a sense of confidence in the trade and industry as regards the analytical functions undertaken by these laboratories. It is suggested that a system of accreditation of the laboratories by a team of experts drawn from government, industry and research should be introduced to ensure that there working is of an acceptable level and the industry is not unnecessarily harassed for poor performance of these laboratories. It is suggested that in addition to the public analyst laboratories, the laboratories controlled by the BIS, the AGMARK and reputed private laboratories should also be recognized for this purpose and the results of analysis given by these laboratories should be taken into consideration before launching prosecutions.
Definition of Adulterant

Under section 2(1) of the Act, ‘Adulterant’ means any material, which is or could be employed, for purpose of adulteration. This is a very vague and ambiguous definition and mere presence of several articles of foods in a place can be considered as presence of some adulterants for use in other articles of foods. This definition should be withdrawn since the definition ‘Adulteration’ given in section 2(1a) is quite elaborate.

Storage for Sale

Under section 7 of the Act, no person shall himself, or by any person on his behalf, manufacture for sale, store sell or distribute any adulterated and misbranded food. There have been differences of opinion by various courts whether the term ‘store’ means storage simplicitor or storage for sale. The Supreme Court has, however, held that the act of storing an adulterated article of food would be an offense if its is stored for sale. However, if it were stored for any other purpose it would not come within the definition of this section. The Act should thus be amended to read as ‘storage for sale’ wherever the expression ‘sale’ is mentioned.

Non-recognition of Certification Marks issued by BIS, AMA etc.

Food items which are manufactured and sold under the provisions of various certification schemes implemented by BIS and AMA are also lifted and declared adulterated under the provision of the PFA Act and prosecutions are launched against the vendors as well as manufacturers. The analysis of foods is quite expensive and there are limited number of laboratories
undertaking these functions under the PFA rules. The resources should not be unnecessarily wasted in checking such certified commodities. Besides, it brings the agency implementing various certification schemes into disrepute. The practice of lifting certified foods under the PFA Act can thus be stopped.

Non-availability of any Provisions for Improper Action by the Implementing Agency

There is no provision in the Act to ensure or take other administrative measures against various functionaries implementing the Act who do not perform their duties in a responsive manner. The law at present gives them a complete immunity against any action which can be taken for their default in implementing the provisions of the Act without due consequences of results of the error committed by them. The provision should be made to penalize such functionaries who are careless or do a deliberate mischief in undertaking their functions, which cause undue harassment and prosecution to honest and sincere manufacturers and traders.

STANDARDS

Categorization of Standards

Many of the characteristics in the specifications do not relate to detecting adulteration or the characteristics of the products are suggestive of quality of the product. Examples are moisture and free fatty acids in oils, moisture and alcoholic acidity in cereal products, moisture in ground spices, confectionery etc. These are dependent on weather conditions. These products do not become injurious or toxic though the quality may suffer on account of
such factors. It is therefore, suggested that the specifications/characteristics laid down in PFA rules should be divided into two categories, namely

mandatory characteristics covering the characteristics of the product or to detect adulteration or contaminants harmful to health, and

quality characteristics, which are liable to change on account of natural factors or environment but are non-injurious, like moisture, free fatty acids, etc.

**Rule of ISI Specifications under PFA Act**

While the standards under PFA Act are the minimum quality standards causing no injury to health, the ISI specifications aim at achieving quality specifications. The objectives of the two are distinctly different. Hence these should not be blindly adopted under the Act though assistance and guidance could be taken from them. Unfortunately, certain specifications are not by and large adopted under PFA Act. This exposes the industry to serious problems, which should be averted. It is, therefore, suggested that the quality of such foods which are to be compulsorily sold under ISI certification mark should be controlled by ISI and duplication avoided.

**Review of Standards**

It is well known that the composition of agricultural product changes on account of changes in agricultural practices and breeding of new varieties. There is no organized system to collect a large amount of analytical data on various food articles and the existing standards are not reviewed periodically. It is suggested that all standards must be reviewed periodically, let us say after
a fixed period of five years on the basis of data collected in different laboratories and revised wherever necessary.

**Lifting of Samples Without Any Suspicion of Adulteration**

Under section 10 of the Act, the food inspector has powers to take any articles of food from any person selling conveying or delivering the article to the purchaser. The samples are aimlessly lifted from retail level, which is the last point in the distributive chain, and 90-95 per cent of such samples on analysis is found to be genuine. The entire exercise is thus infructuous and involves wastage of huge national funds in the analysis of such samples. Samples should be lifted only when there is a valid ground of suspicion of adulteration and government should create a system of utilizing the services of some informers or public agencies about the places where adulteration is being undertaken so that samples are lifted only from such places. Such a system exists in other criminal laws but has not been given due importance in the PFA Act.

**International Standards**

Knowledge about guidelines for quality control is necessary. The literature about national/international specifications for products/services should be made available. Discussions and workshops can be organized to create the awareness about the need for adherence to quality specifications. Food processing industries have been identified as a priority area for exports. However, one of the pre-requisites for acceptance of a product in international
markets is adherence to standards laid down for the product. Indian industry should be acquainted with the international legislation/relevant standards.

Task Force on Food Laws Submits its Final Report

The Task Force constituted under the chairmanship of Justice Shri E.S. Venkataramaiah at the suggestion of Shri A.R. Antulay, Union Minister for health and family welfare at CIFTI’s annual general meeting in August, 1995 has submitted its final report to the minister of health and family welfare at a meeting held on 16th January, 1996.

The report suggests that the entire infrastructure necessary to implement food laws needs to be strengthened and the procedures for taking samples and the methods of analysis have to be uniform and scientifically devised. Concern has been expressed over the lack of adequate equipment and the chemicals used in analysis in the existing laboratories. The report recommends training of personnel involved in inspection sampling and analysis of food. The task force has also suggested that an ombudsman should be appointed so that a competent and independent authority may also be available to look into the grievances of all concerned. The task force emphasized the need for creating public awareness on hygienic and safe food and suggested that government should initiate a public awareness of program, which will impress on consumers, vendors, traders and manufacturers the essentials of food safety.