

The Impact and Solution of the Trade Facilitation Agreement on Risk Management of Genetically Modified Foods*

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Abstract—The Trade Facilitation Agreement's coming into force has far-reaching influence on global trade, but it does mean huge risks and shocks for GM foods of which the existing rules and regulations are not well-established. The reasons for this shock are multifaceted: the rapid and simple requirements for TFA cargo clearance are fundamentally different from the safe and prudential requirements for crossing border of genetically modified organisms; the conflict between the low cost advocated by TFA and high investment in GM food risk management. The essence is that the conflicts between the purpose of the Trade Facilitation Agreement and the principles of risk management of genetically modified foods and the risks in the context of TFA are different from the meaning and scope of GM food risks. However, risk management of genetically modified foods in international trade itself faces bottlenecks. Since the promulgation of the Federal Act on the mandatory labeling of genetically modified foods in the United States, the GM food label has entered the “post-mandatory labeling era”. The labeling standards and requirements of different countries are obviously different, and it is more difficult to coordinate. Therefore, in the process of promoting trade facilitation, on the one hand, it is necessary to continuously improve the level of supervision. On the other hand, it is also necessary to pay attention to the special supervision of genetically modified organisms and the safety of genetically modified foods.

Keywords—*trade facilitation agreements; genetically modified foods; transboundary movement; bio-safety; risk management*

I. INTRODUCTION

The signing of the Trade Facilitation Agreement (hereinafter referred to as TFA) has undoubtedly had a profound impact on global trade. The level of trade facilitation is generally assessed by the four major indicators of port efficiency, customs environment, institutional environment and e-commerce. The assessment shows that the level of trade facilitation directly affects the ranking of countries' global competitiveness. [1]The reform with customs as the core is indeed of great significance for accelerating the flow of goods and promoting the efficient operation of trade processes. After the Doha Round

negotiations got into trouble for many years, the signing of the TFA was a booster for the multilateral trading system. However, the impact of TFA on the trade in genetically modified foods is not yet conclusive. Trade facilitation brings risks and shocks to GM foods and similar new technology products with imperfect existing rules and regulations. As part of the WTO agreement, TFA, along with the pace of the times, reflects the new needs and effectiveness of the trade. However, the promotion of trade facilitation has a great impact on the trade and safety management of genetically modified foods. The impact of TFA on the risk management of genetically modified foods is bound to trigger new trade frictions and disputes in the future. Therefore, solving this problem is of great significance to both global trade and bio-safety.

II. THE IMPACT OF TFA ON TRADE RISK MANAGEMENT OF GENETICALLY MODIFIED PRODUCTS

A. *The Rapid and Simple Requirements for TFA Cargo Clearance Are Fundamentally Different from the Safe and Prudential Requirements for Crossing-border of Genetically Modified Organisms*

TFA's requirements for customs clearance are based on quickness and simplicity. This requirement is also reflected in the "single window" requirement and "pre-cut customization" of TFA. Article 10 of Part 1 of the TFA stipulates the establishment of a “single window”, requiring Member States to provide a single access point. In fact, the “single window” of international trade has been implemented in the United States, Sweden, the Netherlands, and other countries, and is considered to be an ideal state of trade facilitation by the WTO, WCO and other international organizations. "Single window" can effectively avoid the rushing and repeated submission of information between the customs, inspection and quarantine departments. In addition, TFA requires member states to impose pre-cut customization on imported goods when they make certain restrictions on the content, timeliness and time of pre-cutting customization. The TFA also requires Member States to provide reconsideration and judicial review opportunities for administrative decisions, requiring non-discrimination and

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justification. Not only that, the importance of customs cooperation is emphasized in Articles 8 and 12 of the TFA. It not only requires establishing the Trade Facilitation Committee, but also requires member states to set up special institutions to promote customs cooperation, aiming at strengthening exchanges and cooperation between members. [2]

Unlike the simplicity and clarity of TFA, risk management of genetically modified foods focus more on prevention and prudence. Article 11 of the Bio-safety Protocol sets out procedures for processing of the genetically modified organisms that is directly used as food, feed or for processing. Although the Bio-safety Protocol establishes this provision to control the environmental release of genetically modified organisms, it has in fact made thorough and clear distinction between genetically modified organisms (LMO-FFP) directly used for food, feed and processed materials and traditional organisms of the same purpose. In the international trade of genetically modified organisms, LMO-FFP occupies a large part. Although GMO exporting countries did not initially wish to include LMO-FFP in the Bio-safety Protocol, after their inclusion, the discussion focuses on that the LMO-FFP should be subject to the AIA (pre-informed consent) process. The procedure requires the importing party to obtain prior informed consent of the importing party when the genetically modified organism crosses the national border. Finally, the LMO-FFP is exempted from the AIA program. However, paragraph 1 of Article 11 in the Bio-safety Protocol also requires a final decision on the domestic use and placing on the market of GMOs that is intended for transboundary movement for direct use of food, feed or processing, and one party should notify other Parties through the bio-safety information clearing house within 15 days of the decision. The information and materials specified in Annex 2 shall be included in the notice. The Party shall provide a written copy of the above information to the national contact point of the contracting Party that is unable to exchange information through the Bio-safety Clearing-House. [3]As is the first and only international law to regulate genetic engineering and genetically modified organisms (GMO) or (LMO), The Bio-safety Protocol has made great contributions to the risk management of genetically modified organisms and genetically modified foods. The risk prevention and prudence principles advocated by it have become important guiding principles for the current control of GMOs and food risk management. At this point, the rapid and simple requirements for TFA cargo clearance are fundamentally different from the safe and prudential requirements for crossing-border of genetically modified organisms.

B. Conflict Between the Low Cost Advocated by TFA and the High Investment in Risk Management of Genetically Modified Foods

Risk management of genetically modified foods has always been a matter of national concern, especially for living modified organisms (LMOs) used for food, feed and processing, and the debate over their potential economic impact is more intense. Since most of the world's agricultural

products are produced and traded for the ultimate use in the production of food, feed and processed raw materials, the cost of bio-safety mark of the LMO-FFP will be very high and will hinder global agricultural trade. In particular, the 2004 International Research Report of the International Committee for Food and Agricultural Products Policy pointed out that in the United States, for example, the cost for implementing bio-safety agreements, or effectively implementing control over GMO-LMO by analyzing and measuring the potential costs and benefits of bio-safety agreements will be very huge. These costs include the upfront cost of establishing a bio-safety regulatory mechanism, the cost of operating the mechanisms, the marginal cost of implementing the transport clauses for GM crops used for food, feed, and processing in safety protocols; and the relevant costs of material used for research and LMO cross-international transfer clauses in implementing bio-safety protocols and the relevant costs for the implementation of legal obligations and indemnities. In international trade, these increased costs are borne by the entire food system worldwide, but ultimately the importer is responsible for most of the costs. However, contrary to it, the previous negotiation theme and content of TFA indicate that the goal of trade facilitation is always based on customs procedures, including the simplification and standardization of customs formalities, customs data and documentation requirements, customs automation and information and technology utilization, etc. [4]TFA spares no effort in facilitating the simplicity of procedures, which is also a realistic need for international trade development.

C. The Existing Customs Regulations Set a Special Channel for Genetically Modified Foods, and the Difficulty of Risk Management of Genetically Modified Foods Has Increased

Article 11 of the TFA requires each member to cancel unnecessary rules and formalities for transit settings and to remove all restrictions that are inconsistent with WTO rules and other agreements. The treatment of transit goods given by TFA members is based on the principle of "no burden", which means the treatment given by the transit country is not lower than the treatment enjoyed by the goods through the transit of other countries. This is equivalent to the "most-favored nation treatment" in the trade of goods. Paragraph 5 stipulates that TFA members should try to provide separate channels for transit goods. The complexity of the transit procedures is limited to not exceeding confirmation of the characteristics of the goods and the satisfaction of the necessary conditions. Once the relevant transit procedures have been completed, transit goods should not be subject to additional fees and unnecessary detention during transit. TFA members may not apply the technical specifications and conformity assessment procedures in the Technical Barriers to Trade Agreement to goods in transit. If a TFA member requires the obligee to provide a guarantor, bond, other monetary or non-monetary guarantee for the goods in transit, such guarantee shall be limited to the extent necessary for completing the transit. [5]Unfortunately, as early as in EU genetically modified cases, the application of the SPS agreement was restricted by WTO rules.

The reality is that the general trade goods are declared to the customs, provided with documents, paid taxes, inspected by the inspection and quarantine department, and paid for the freight forwarding company's expenses before customs clearance. The three inspection barriers are the inspection of suspicious cargo by the customs according to the customs code, the sampling inspection by the Commodity Inspection Bureau, and the clearance of the goods after the customs inspection. However, according to the existing rules, the GM products cannot be identified only by the customs code. The inspection by the Commodity Inspection Bureau is only a process inspection. The final inspection of the customs mainly focuses on whether the type and quantity of the goods are consistent with the documents. Ideally, the GM cargo is identified on the cargo description of the packing list and enters into a separate GM cargo handling process. Or there is a separate process for the inspection and quarantine of genetically modified goods, and the inspection and quarantine report issued has a special labeling. Or the origin of the produced genetically modified product should be distinguished on the certificate of origin.

The import and export process of Customs focuses on documents and gimmicks. There is no separate risk management for GM goods. On one hand, it is related to the efficiency and convenience requirements required for customs work. On the other hand, it is related to the contradiction between rapid development and lag of risk management of new products GM products. Under the existing risk management rules for genetically modified foods, the more convenient customs clearance means more difficult risk management of genetically modified foods. The EU's RASSF pre-warning system has been in use for many years, and regional control standards should be used for reference. With the development of transgenic technology and the improvement of legislation, it will become inevitable to improve the import and export control rules of genetically modified organisms.

III. THE REASONS AND NATURE OF THE IMPACT OF TFA ON THE RISK MANAGEMENT OF GENETICALLY MODIFIED FOODS

A. *Conflict Between the Purpose of the WTO Trade Facilitation Agreement and the Principles of Risk Management of Genetically Modified Foods*

The sharp clash between the EU's mandatory labeling faction for genetically modified foods and the voluntary labeling faction represented by the United States has faded with the enactment of the US S.764 Genetically Modified Food Labeling Act. The significance of the new US S.764 bill is that it not only subverts the FDA's "substantial equivalence" of GM foods and non-GM foods, but also greatly impacts the WTO's criteria for identifying "similar products" for GM foods and non-GM foods. Most importantly, the new law has shaken the foundation of the "reliable facts principle" and the importance of the risk prevention principle has been highlighted. The principle of risk prevention is the basic principle of risk management of genetically modified foods. It has been accepted by

governments around the world as the basis for policy formulation. It also plays a pivotal role in international environmental law and international treaties. The risk prevention principle is an important part of the Cartagena Protocol on Biosafety (hereinafter referred to as the Biosafety Protocol). The Biosafety Protocol is the highest international treaty on genetically modified organisms, technology and food at the international level. It is stated in Article 1 that the goal of the Protocol is to follow the precautionary approach (i.e., the risk prevention principle) established by Principle 15 of the Rio Declaration to assist in ensuring to adopt adequate safeguard procedures in the safe transfer, processing and use of the field of genetically modified organisms that is obtained by modern biotechnology and may have adverse effect on the protection and sustainable use of biodiversity and take into account the risks to human health of genetically modified organisms when highlighting the transboundary movement of genetically modified organisms. The purpose of the Biosafety Protocol also points to the ultimate goal of risk management for genetically modified foods – protecting human health.

However, the TFA stated in the preface that the purpose of signing this agreement is to clarify and improve the relevant content of Articles 5, 8 and 10 of GATT 1994; to further accelerate the delivery and customs clearance of goods and goods in transit; the special needs of developing countries and especially the less developed countries are considered; hope to strengthen assistance and support for capacity building in this area; recognize the need for effective cooperation between member countries for trade facilitation and customs compliance issues, so this agreement is signed. As can be seen from the above, TFA highlights three main purposes: the main purpose is to speed up the flow of goods in cross-border trade, without improving trade efficiency; second is to promote the cooperation of customs departments in various countries at work and put the issue of compliance at an unprecedented height; finally, to promote the trade facilitation of developing countries and underdeveloped countries, thereby promoting the development of global trade.

In fact, no matter what attitude the WTO has on the risk management of genetically modified foods, the purpose of the WTO is unchanged. However, how to get along with the principles of risk management of genetically modified foods is an important issue that the WTO needs to solve. According to the existing WTO rules, an importing country must scientifically prove that the product is unsafe when it imposes legal restrictions on the imported food (although sometimes temporary measures can be taken when the evidence is insufficient). In the "EU Genetically Modified Case"[6], this is very prominent. The focus of the debate between the United States and the European Union is on the EU's temporary measures for genetically modified products. Ultimately, the scientific evidence requirements of the WTO and the application of the risk prevention principle will actually fall into the debate on the necessity of scientific evidence. However, in the EU genetically modified case, the jury avoided this issue. The conflict between the United

States and the European Union on the trade in genetically modified foods, especially the labeling of GM foods, has gradually faded over time. The US's long-standing "voluntary" attitude toward genetically modified foods has been revised. The WTO's criteria for identifying genetically modified foods and non-GM foods will not be determined, but it is certain that TFA will accelerate the exposure of trade problems in the field of genetically modified foods while accelerating trade flows.

On the other hand, as an important principle of risk management of genetically modified foods, the implementation level of risk prevention principles depends on the possibility of GM food risks, the level of uncertainty, the severity of damage caused by potential risks, and the selectivity of the methods. The implementation of risk prevention measures needs to be more scientific, as it depends on broader judgments and involves the implementation of basic research that identifies or excludes human, animal or plant health or environmental risks. In Europe, "sustainability" and "non-discrimination" have become the guiding principles for the implementation of the precautionary principle. As the risk prevention principle focuses more on environmental impacts and food safety, trade issues are not the focus of attention. The Biosafety Protocol regards trade as one of the causes of conflicts between the parties, and is one of the major challenges currently facing the Biosafety Protocol and the principles of risk prevention.

B. The Meaning and Scope of GM Food Risk and the Risk in TFA Context

Article 4 of the TFA specifically addresses the requirements for risk management: each member should adopt or maintain a risk management system to facilitate customs administration. Members should design and apply risk management to avoid arbitrary or unreasonable discrimination or disguised international trade restrictions. Member countries should focus customs control and other possible related border controls on high-risk goods and speed up customs clearance of low-risk goods. Member countries can also choose cargo controls at random as part of its risk management. Each member's risk management should be based on a risk assessment under appropriate selectivity criteria. Such selectivity criteria may include the "uniform system" specification, the nature and description of the goods, the country of origin, the country of shipment, the value of the goods, the compliance record of the trader, and the type of means of transport. From the above regulations, it can be seen that: First, TFA strictly follows the WTO's tenet and strives to avoid distortions in international trade while conducting risk management and control. Second, TFA has its own labeling and classification of risk management for customs clearance goods, and the classification complies with the division of high-risk goods and low-risk goods by customs. For example, if the company engaged in import and export trade has a high degree of integrity, it will be rated AA by the customs. After the classified clearance, most of the goods declared by the company for import and export are included in the "low risk fast release" channel, which is

automatically released after review by computer. Classified clearance is mainly the division of high-risk goods and low-risk goods. Low-risk goods are quickly reviewed and kept by computer, and high-risk goods are subject to key examination and inspection of customs declaration documents. Compared with the traditional mode, the customs clearance speed and efficiency of low-risk goods are greatly improved.

The risks mentioned in Article 4 of the TFA, including the "risk" of high-risk goods and low-risk goods, mainly refer to the classification of goods in customs, which is using enterprise classification, risk management and other means to conduct discrimination of risk classification of customs clearance goods and then treat them differently. It will make low-risk goods pass faster, and those high-risk goods will be controlled more tightly. Classified customs clearance, as an important manifestation of trade facilitation, is to quickly review the customs declaration documents of low-risk goods by computer, and the customs declaration documents of high-risk goods are subject to key review and inspection by the customs. Compared with the traditional model, the biggest advantage of classified customs clearance is to improve the clearance speed and efficiency of low-risk goods. [7]The risk specified by the TFA is a comprehensive result of internal customs assessment. In the context of TFA, the meaning and scope of risk are quite different from the meaning and scope of the risk of GM food.

First, the subjects that result in the risk are different. The main cause of risk in TFA is the enterprise engaged in cross-border trade. For example, in China, if import and export enterprises are in good faith and have a high declaration rate, they will receive an AA rating. Customs will quickly release the customs declarations of such enterprises. The main cause of the risk of genetically modified foods is the modified gene itself. Food producers and distributors are not the cause of the risk of genetically modified foods.

Second, the audience of risk is different. In the TFA context, the risk-bearing party is mainly the customs department, so the customs department has the supervisory power and responsibility for import and export goods. The audience of risk for genetically modified foods is the vast majority of consumers. Due to the particularity of food, the health of consumers is closely linked to genetically modified foods and has huge impact.

Finally, the degree of impact of the risk is different. High-risk goods include smuggling construction waste, domestic waste, medical waste and hazardous waste, or smuggling of imported solid waste that does not meet environmental control standards. The risks of customs clearance goods are relatively controllable, and the control of dangerous goods by various countries is also very strict. In contrast, the risk of genetically modified foods mainly refers to the risks to human health. The current impact on human health is not clear, but the high sensitization of new genes modified into plants can be said to be a major threat to genetically modified foods. Although the toxicity of genetically modified foods is not yet determinable, it has to

be acknowledged that genetically modified foods have greatly expanded the possibility of allergies.

In summary, the risks of goods identified by the Customs and the risks of genetically modified products fall into different categories. The risk of genetically modified products has not been included in the scope of the TFA. At present, cargo classification and risk management requirements of TFA do not take into account the risk of transboundary movement of GM products. The reason for this situation, on the one hand, is related to the WTO's "substantial equivalence" criteria for GM and non-GM recognition; on the other hand, it is related to the requirements of documents in international trade.

C. Bottlenecks Facing the Risk Management of Genetically Modified Foods in International Trade

At present, there is no international treaty at the level of international law to regulate the risk management of genetically modified foods. The reasons for this situation are manifold: First, the standards for mandatory labeling vary from country to country. Since the promulgation of the new S.764 bill where the United States requires for genetically modified foods to be identified, the requirements of the world for GM food labeling have entered a "post-mandatory labeling" era, which means most countries have imposed mandatory labeling requirements for GM foods, but when we deconstruct the requirements of these countries, it will be found out that whether it is in the form of the labeling, the content of the labeling, or the scope and threshold of the labeling, the regulations vary from country to country. Especially for the security requirements of the labeling - traceability, no country other than the EU has an effective tracing mechanism to ensure the effectiveness and implementation of the labeling. The EU's mandatory labeling requirements specify a "threshold". The 3rd clause, Article 21 of the European Directive 2001/18/EC stipulates that if the products are used for direct processing, those with no more than 0.9% of GMOs included for the accidentally or technically unavoidable reason do not require labeling. So far, a threshold of 0.9% traceability of genetically modified organisms in food has been established. In addition, the most important part of the EU's mandatory labeling is the requirement of traceability. The requirements of Directive 2001/18 form a chain of operational processes: certain products suitable for transitional exemptions; traceability of GMOs directly processed for food or feed; complex authorizations required before being placed on the market.

Furthermore, it is the key to the bottleneck of tracing management of genetically modified foods. The labeling that is not traced is meaningless. Although the US new S.764 bill compromises the mandatory labeling of genetically modified foods, there are no specific regulations and requirements for traceability. Section 293(a) of the new US S.764 Act only proposes the prototype of a traceable system: foods with animal origin are banned; thresholds for genetically modified substances are determined; processes for requests and offerings are established; the forms of disclosure can be a text, symbol, or electronic or digital link, but does not include the uniform resource location that is in un-

embedding connection and can select the manufacturer's website based on the food of the disclosure option; provide alternative and reasonable disclosure options for small packaged foods, etc. The specific tracing system has not yet been established. Due to the serious differences in domestic interests in the United States, it is difficult to judge whether the genetically modified food tracing system can be established and whether it will operate effectively. The reason why European Union's traceability is effectively enforced is that Commission establishes a unique identification code system for GMOs. All GMOs need a unique identification number to be placed on the market, which will be registered in the Commission and the Biosafety information center and established under the Biosafety Protocol. Each identification code is composed of 9 alphanumeric characters. For example, the identification code of the Pioneer DAS1507 is DAS-01507-1; the ID of Monsanto NK603 is MON-00603-6. The operator must ensure that the traceability information is handwritten at the first phase in the market and all subsequent phases. In addition, international legal conflicts over genetically modified foods have also brought this problem into a stagnant bottleneck. FAO, Codex, OECD, CBP, and WTO all involve GM food legislation, but many laws seem to be inadequate for solving practical GM food problems.

IV. GIVING CONSIDERATION TO TRADE FACILITATION AND RISK MANAGEMENT OF GENETICALLY MODIFIED FOODS AND THEIR ENLIGHTENMENT TO CHINA

The WTO believes that trade facilitation mainly refers to the simplification and coordination of tedious international trade procedures. The WCO pointed out that trade facilitation mainly refers to the simplification and standardization of customs procedures and at the same time closely links trade facilitation with trade security, hoping to achieve a balance between the two. [8]It needs to be pointed out that the trade security proposed by the WTO does not actually include GM safety, and the reasons have been analyzed above. In any case, giving consideration to the trade facilitation and the risk of genetically modified foods is not only the needs of trade development, but also the needs of the characteristics of new technology products; it is not only the needs of consumers in various countries, but also the unshirkable responsibility of customs and customs clearance cooperation departments.

A. Improve the Entry and Exit Warning Platform for Genetically Modified Foods

The implementation of the EU trade facilitation system has enabled Europe's commercial competitiveness to be enhanced through the use of simple, convenient and e-customs environments when ensuring the safety of citizens within the alliance and the interests of member states. In particular, the reform of the EU Customs Code, according to estimates by the European Commission, the reform of the EU Customs Code allows European companies to pay less than 2.5 billion euros a year in customs taxes. In general, the EU's trade facilitation measures are mainly composed of four parts: the AEO system, the unified customs clearance system,

the single window system and the electronic customs system. The implementation of the AEO system in the European Union is based on the consideration of supply chain security. Operators can obtain more convenient customs treatment in customs clearance in the EU, thus achieving the goal of saving time and money. Second, the EU adopted a "unified customs clearance" system. In 2009, the EU made arrangements for the implementation of the simple entry and exit declaration system, and allowed the customs to analyze the data information specified in the declaration to achieve the purpose of avoiding law enforcement risks. Then, the operator can submit the electronic data to the "single window", which simplifies the customs clearance process for the goods. Finally, the EU adopts the "electronic customs system" system. The EU's reform of a series of laws and regulations under the e-customs system and engineering framework has resulted in the establishment of a unified computer interconnection system between customs of member states and the introduction of uniform risk assessment and control standards.

Independent of the customs system, the European Union has established a Rapid Alert System for Food and Feed (RASFF) for the safety and risk of import and export goods. RASFF is one of the most important food safety databases in the world. The RASFF warning notice refers to the fact that after the EU member states checked the problem and confirmed that the risky food and feed have been put on the market, they take relevant measures and send a notice to the European Commission. Then the committee will issue it to other member states who must take action immediately. Since 2002, RASFF has included GM food risk monitoring. Since GM foods were notified, the number of notifications has increased significantly. Most importantly, the implementation of RASFF has not become an obstacle in the EU's trade facilitation road, but has become the most powerful detection weapon for preventing human and animal health risks and retrospectively the products placed on the market. Apart from this, RASFF is also an important tool for the EU Food Safety Authority and the WHO's International Food Safety Network to take measures.

China's efforts in the construction of trade facilitation are obvious to all. The existing statistical analysis, monitoring and early warning of the country's foreign trade import and export are the responsibility of the Customs. After joining the WTO, in order to maintain national industrial safety and economic security and effectively promote trade efficiency, the General Administration of Customs developed and applied an import and export monitoring and early warning system to conduct real-time monitoring, rapid response, scientific prediction and dynamic early warning of the whole process of import and export goods. For example, in 2013, the Harbin Inspection and Quarantine Bureau intercepted several boxes of GM corn seed from the United States. On September 26, 2017, the State Council issued an opinion on improving the early warning of quality and safety risks of import and export commodities, striving to establish a nationwide data integration risk information platform during the 13th Five-Year Plan period. Whether the risk of genetically modified foods is considered when the risk

information food platform is established at the request of the State Council, or the risk warning of genetically modified foods is incorporated into the existing early warning system of General Administration of Customs, it has positive significance for the control of GM food trade risks.

B. Establish a Genetically Modified Food Tracing Platform

On the basis of the EU's 1831/2003 regulations, traceability and labeling systems are applied to products containing or consisting of GMOs, foods manufactured by GMOs, and feed made by GMOs at any stage of placing on the market. Traceability refers to the ability of tracing the GMOs that is put on the market at all stages through production and distribution chain and producing products by GMOs. This goal was determined to better regulate the entire circulation chain of GM foods (from farm to table) and, if necessary, to withdraw the product for accurate identification, especially for genetically modified foods and feeds that are difficult to monitor. The article 4 of the Regulations points out the requirements for the traceability and labeling of products containing genetically modified organisms. The Regulations stipulate that for the first stage of placing products containing GMOs on the market, including batch quantities, the operator shall ensure that the following contents are informed in written form to the operator who will accept the product: (a) the product contains genetically modified organisms; (b) according to Article 8, these genetically modified organisms are marked with a unique identifier. At the subsequent stage of the launch of the product involved in clause 1, the operator shall ensure that the content of clause 1 is informed in written form to the operator accepting the product. For mixtures containing multiple genetically modified organisms, if it is only used directly in food or feed, or processed, the information in clause 1 (b) should be replaced by the operator's product instructions, with all genetically modified ingredients in the mixture attached. Without violating the provisions of Article 6, the operator shall have appropriate systems and standard procedures, and within 5 years of each transaction, the operators of the sales and acceptance products referred to in clause 1 all can receive the information and identification names held in clause 1, 2 and 3. So far, a unified traceable system has been established for GMOs and products and feeds manufactured from GMOs, to properly identify, monitor the impacts on environmental and health and, if necessary, implement the correct risk measures.

In fact, the General Office of the State Council of China put forward in the "Opinions of the General Office of the State Council on Accelerating the Construction of Tracing System for Important Products" in 2015 that the construction of the tracing system is the effective measure that collects and records the information on the production, circulation and consumption of products to realize the situation where the source can be checked, the direction can be traced and responsibility can be investigated, and strengthen quality and safety management and risk control throughout the process. In recent years, various regions and relevant departments in China have actively promoted the application of Internet of Things and cloud computing to construct tracing systems

centering on important products such as edible agricultural products, food, medicines and rare earth products. Articles 5 and 6 of the second part of the Opinion are respectively the provisions for the construction of tracing system for edible agricultural products and food. Article 5 stipulates to establish a whole-course tracing and cooperation mechanism for the quality and safety of edible agricultural products, with the main body of responsibility and flow management as the core, and the traceability code as the carrier, to promote the linkage between trace management and market access, and realize the whole-process tracing management of edible agricultural products "from farmland to table". We should promote the production operators of agricultural products to actively participate in the operation of the national agricultural product quality and safety trace management information platform. The regions where central financial funds support the construction of tracing systems for meat, vegetables, Chinese herbal medicines and other products must vigorously innovate the construction management model and accelerate the establishment of a long-term mechanism to ensure efficient operation of the tracing system. Article 6 stipulates to promote the construction of food tracing systems. Centering on the infant formula food, meat products, dairy products, edible vegetable oil, liquor and other foods, it should supervise and guide the production enterprises to establish a quality and safety tracing system according to law, and effectively implement the main responsibility of quality and safety, in order to promote the tracing chain to extend to the supply link of food raw materials, and implement traceable management in the entire industry chain.

As we all know, genetically modified foods are different from traditional foods. Whether from the perspective of food safety or consumers' right to know, a traceable platform for genetically modified foods should be established. The quote "from farm to table" of the General Office of the State Council actually refers the EU food safety standards. This just shows that the policy origin of China's government is based on establishing the highest standards for food safety in the world. Then, the construction of the GM food traceability system can be fully based on the safety traceability platform of the food.

C. The Connection of the Trade Facilitation Platform, the Early Warning Platform and the Traceability Platform and the Efficiency Operation

At present, in terms of trade facilitation, China Customs has implemented a series of measures. First of all, the project of "territorial declaration, and port inspection and release" was launched to achieve "one declaration, one inspection, and one release" of customs clearance operations. The paperless customs clearance has realized the paperless operation in the whole process, improved the automation degree of customs clearance data processing, shortened the time, enhanced the efficiency, and helped to strengthen the prophase and post-management of customs clearance. The "Measures for the centralized declaration and management of Import and Export Goods of the People's Republic of China Customs" stipulates that the centralized declaration

transforms from single declaration to multiple declarations, which shortens the customs clearance time of goods, so that the goods are no longer restricted by customs declaration time, and the customs clearance speed of goods and the regulatory efficiency of the customs are improved. The pre-categorization work carried out by the "Interim Measures for the Pre-classification of Import and Export Goods of the People's Republic of China" expanded the time and space of commodity classification operations, extended the customs supervision mode, shortened the on-site customs clearance time, and improved the level of customs trade facilitation.

In terms of trade security, in order to maintain trade security and facilitate international trade facilitation, WCO introduced a management system AEO system. In recent years, China Customs has also actively carried out research and practice on the AEO system. In 2014, the General Administration of Customs revised the original Classification Method to the Interim Measures for the Enterprises Credit Management of the People's Republic of China Customs. The "Credits" stipulates that the Customs will no longer classify enterprises as "AA, A, B, C, D", but will identify enterprises as senior certification enterprises, general certification enterprises, general credit enterprises and untrustworthy according to the credit status of enterprises. The "Measures" also clearly stipulates that the senior certification enterprise is the AEO of China Customs, and it can apply the preferential treatment and customs clearance measures granted by the customs of China and other mutually recognized countries or regions. However, there are some technical problems in the AEO system. For example, port coordination management lacks efficiency, AEO system certification technology is difficult, and weak existing basic conditions and high AEO system certification costs reduce the corporate certification willingness. At present, the standards for the review on AEO certification of customs include four main indicators: internal control, financial status, compliance standards, and trade security. Among them, compliance norms are the focus, and trade security is the core. However, the trade security of the AEO system focuses on the rating and management of the company and has its own application scope. It is subject to different categories from GM food risk management. Under the existing trade facilitation platform, how to effectively link the early warning and traceability system of genetically modified foods with it is a problem worthy of our deep thinking. The early warning mechanism and the traceability mechanism are important means for controlling the import and export genetically modified foods, and to solve the safety problem. The trade facilitation platform is to improve the speed of import and export goods, and to solve the efficiency problem. The relationship we must first sort out is that the efficiency of trade can only be effectively improved based on security; the efficiency with security guarantees has practical significance. There are three key points to be aware of in facilitating the connection and efficiency of each platform:

1) *Data connection*: Data connection is the most critical department for coordinating trade facilitation platforms, early warning and traceability platforms. In addition to the

difficulties that the technical level of each platform will face, the difficulties at the management level are far less than that of the commercial operation. While data connection seems to broaden the management radius on the surface, it is essentially the integration of resources on different platforms, which is the management of big data as well as the development path of management intelligence.

2) *Institutional connection*: Throughout the process of customs clearance at the port, China's port customs clearance adopts a multi-sector hybrid management approach. Customs, inspection and quarantine, border inspection and maritime affairs are parallel in the process of customs clearance. The law enforcement basis and functional priorities are different. There are phenomenon of cross-link in the supervision of people, goods, goods and transportation tools, and even repeated law enforcement. On the basis of data connection, the management of different departments in different links can not only optimize resource allocation and strengthen risk control capabilities, but also improve trade facilitation.

3) *Process connection*: China's trade in goods occupies an absolute majority of foreign trade, and customs clearance efficiency fundamentally determines the level of trade facilitation. The current bottleneck in customs clearance lies in the process setting of tax collection and management. The mode of review before release makes the tax collection and management become the front-end part of the customs clearance process. The three technical challenges of classification, valuation, and origin determination are built into the customs clearance process. Factor examination, technical consultation, and technical certification are time-consuming and labor-intensive, coupled with the examination of trade control and safety access, which restricts the efficiency of customs clearance at the import level. [9]On the existing trade facilitation platform, we can refer the EU's separating the early warning and traceability procedures from the customs process and adopt a parallel model. However, unlike the RASFF, the early warning platform and the traceability platform are independent. In this way, the traceability platform can rely on the food traceability platform advocated by the State Council document to avoid repeated construction and waste.

V. CONCLUSION

American jurist Pound has said: "Although the value issue is a difficult problem, it cannot be avoided by the legal science." [10]The value selection is also reflected in the issues discussed in this paper. In terms of the relationship between TFA and GM food risk management, the implementation of TFA is more focused on the efficiency value, while the risk management of GM highlights the safety value. Both have their importance and cannot be replaced or ignored. In accordance with the importance of a country's market economy in the national economy and the degree of state government's intervention in the economy, the WTO generally divides these countries into fully market

economy countries and non-market economy countries. Market economy status has now become an important concept used in anti-dumping investigations to determine the dumping margin. In other words, WTO and many trade agreements under its coverage pursue the "efficiency" value embodied in the market economy and the free economy. The TFA was developed to further promote the efficiency of free trade. The most important value orientation behind the risk management of genetically modified organisms is the justice value. The justice value includes both the free side and the equal side. According to the internal structure of "free rights priority - equal opportunity - reasonable difference" formed by these two aspects, equality is one of the guarantee means of freedom, and various types of freedom has irreplaceable status in biosafety law. In all freedoms, ensuring human health is the foundation for the realization of the right to freedom. GMO safety legislation should ensure the realization of security not only through safeguarding the safety of the public as well as normal physiological skills and mental state, but also through the right to compensation and the safety and security obligations of modern biotechnology research and development applications. It can be seen that the protection of the right to human health pays more attention to the free side of the justice value. How to balance multiple values is not only the key to solving the risk management of TFA and genetically modified foods, but also a difficult problem in balancing world trade rules with multilateral environmental conventions. While promoting trade facilitation, raising the level of supervision, especially the special supervision of new technology products such as genetically modified foods, is a situation that the customs department must face and a problem that must be solved.

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