Overview of Main Provisions of the World Trade Organization’s SPS Agreement

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Outlines

• World Trade Organization (WTO)
• Non-tariff measures
• SPS Agreement
• Key Provisions: SPS Agreement
• Conclusion
Location: Geneva, Switzerland

Established: 1 January 1995

Membership: 164 countries (29 July 2016)

Secretariat staff: ~650

Head: Roberto Azevêdo (director-general)

Egypt Joined on the 1st of October 1995
World Trade Organization

WTO Principles

Promoting fair competition

Encouraging development and economic reform

Transparency

Trade without discrimination
### The Main Agreements in the framework of WTO

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## History

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<th>Year</th>
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Use of Non-tariff measures

≈ 40%

1947 GATT established
1962 Pre-Kennedy Round
1972 Post-Kennedy Round
1987 Post-Tokyo Round
1995 Post-Uruguay Round

> 4%
Use of Non-tariff measures

[Graph showing the decrease in tariffs from 1947 to 1995 and the increase in Non-Tariff Measures (NTMs) during the same period.]
Non-tariff measures

- Countervailing
- Safeguards
- Export Subsidies
- Import licencing
- Special Safeguards
- Quantitative Restrictions
- Tariff-rate quotas
- Anti dumping
- Sanitary and Phytosanitary
- Technical Barriers to Trade

Source: WTO, Integrated Trade Intelligence Portal (I-TIP) - 08/12/2015
SPS or TBT?

SPS Measures

- human or animal health from food-borne risks
- human health from animal- or plant-carried diseases
- animals and plants from pests or diseases
- examples:
  - pesticide residues
  - food additives

TBT Measures

- human disease control (unless it’s food safety)
- nutritional claims
- food packaging and quality examples:
  - labelling (unless related to food safety)
  - pesticide handling
  - seat belts
Why is an Agreement on SPS important?

- World food & agriculture trade 2014 (WTO)
  - **US$ 1765 billion** of agricultural products traded
  - **US$ 1486 billion** food traded

*But, on the other hand...*

*Source: WTO, World Trade Report 2015*
Plant pests

FMD

E. coli

Aflatoxins

BSE

Avian influenza

MRLs

SARS
Which may lead to...

• Heavy **economic losses** for producers and exporters
• **Loss of confidence** between trading partners
• **Trade bans** followed by more severe import controls
• **Loss of consumers’ confidence**!
Objectives of the SPS Agreement

Recognizing Members’ right to protect human, animal, plant life or health

Obligation to avoid unnecessary barriers to trade
“Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement”
What is the purpose of the SPS Agreement?

- Establishes a **multilateral framework** of rules and disciplines to guide development, adoption, and enforcement of sanitary and phytosanitary measures.
- Applies to SPS measures which may, directly or indirectly, **affect international trade**.
What are SPS Measures? (Definition - Annex A)

- A measure taken to protect:
  - Human or animal health from risks arising from additives, contaminants, toxins or disease organisms in food, drink, feedstuff
  - Human life from plant- or animal-carried diseases
  - Animal or plant life from pests, diseases, disease-causing organisms
  - Territory of Member from other damage caused by entry, establishment or spread of pests
SPS Agreement Articles and Annexes

• Article 1. General Provisions
• Article 2. Basic right and Obligations
• Article 3. Harmonization
• Article 4. Equivalence
• Article 5. Risk Assessment
• Article 6. Regionalization
• Article 7. Transparency
• Article 8. Control, Inspection and Approval procedures
• Article 9. Technical Assistance
• Article 10. Special and Differential Treatment
• Article 11. Consultations and Dispute Settlement
• Article 12. Administration
• Article 13. Implementation
• Article 14 Final Provisions

➢ Annex A : Definitions
➢ Annex B : Transparency
➢ Annex C : Control, Inspection and Approval procedures
Key Provisions: SPS Agreement

1. Non-discrimination
2. Scientific justification
   • harmonization
   • risk assessment
   • consistency
   • least trade-restrictiveness
3. Equivalence
4. Regionalization
5. Transparency
6. Technical assistance/special treatment
7. Control, inspection and approval procedures
1. Non-discrimination (article 2.3)

- Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between members where identical or similar conditions prevail, including between their own territory and that of other members. Sanitary and Phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.
2. Scientific justification

Measures must be based on:

- International standards
- Risk assessment
2. Scientific justification

Members shall ensure that any SPS measure is:

- based on scientific principles
- applied only to the extent necessary to protect human, animal or plant life or health (least trade restrictive)
- not maintained without sufficient scientific evidence
Codex = Joint FAO/WHO Codex Alimentarius Commission
OIE = World Organization for Animal Health
IPPC = International Plant Protection Convention (FAO)
3. Equivalence

Article 4.1

• An importing Member shall accept an exporting Member's measure as equivalent if it achieves the importer's ALoP.

• Appropriate level of protection (ALoP) is sometimes the Acceptable Level of Risk
4. Regionalization

Article 6

- Adaptation to Regional Conditions. Including Pest or – Diseases – Free Areas and Areas of Low Pest or Diseases prevalence

- Should trading partners restrict imports from all areas of Country A?

- Should trading partners only restrict imports from the Southern part of Country A?

- Should trading partners only restrict imports from the Northern part of Country A?
5. Transparency

A proposed SPS regulation, which will affect international trade, shall be notified when changes can still be made.

• **Obligations**
  1. Notification of draft SPS regulations
  2. Designation of notification authority
  3. Establishment of enquiry point
  4. Publication of SPS regulations
When to notify?

Regular notifications

When modifications are still possible (draft text)
Allow for 60-day comment period

Emergency measures

IMMEDIATELY!

Annex B, Para. 5
6. Technical assistance/special treatment

- Members agree to facilitate the provision of technical assistance to other Members
- shall take account of the special needs of developing countries

- Members agree to facilitate provision of TA...
  - help countries comply with SPS measures
    - technology, research, infrastructure
    - advice, credits, donations, grants
    - technical expertise, training, equipment
  - help countries maintain and expand market access
7. Control, inspection and approval procedures

- “Any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service.”
Conclusion
• WTO & Non-tariff measures
• SPS vs. TBT
• Key Provisions: SPS Agreement

Non-discrimination
Equivalence
Regionalization
Transparency

Technical assistance/special treatment
Control, inspection and approval procedures
Scientific justification
Thank you!

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SPS Gateway
https://www.wto.org/english/tratop_e/sps_e/sps_e.htm